EFFICIENT JURY UTILIZATION TECHNIQUES . . . OR PROPOSITION 12

The Honorable Newt Draheim†

In recent years there has been an explosion of research on jury utilization. The first published work on the subject did not appear until 1969.[1] It was quickly followed by the first guidebook to efficient jury utilization practices in 1972[2] and by several other studies.[3]

These studies revealed a number of problems resulting from inefficient jury usage. One of these is needless jury costs. Section 607.5 of the Iowa Code requires payment to grand and petit jurors of ten dollars per day of service or attendance plus mileage and parking expenses.[4] Thus, summoning excessively large pools of individuals for selection of juries and permitting protracted proceedings requiring the jury's presence may cause waste of this expense. Besides this direct cost are the indirect costs to the economy caused by the juror's inability to work in his usual occupation. Although some employees are paid wages by their employers, others lose their wages during jury service. In both cases, somebody pays for the lost working day.[5]

Another problem is waste of the juror's time by long periods of waiting without being used at the courthouse. Aggravating the unpleasantness of

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1. Coe, *Juror Utilization in Three Selected Oklahoma District Courts*, 29 OKLA L. REV. 65, 66 (1976) (noting F. MERRILL & L. SCHRAGE, A PILOT STUDY OF JUROR UTILIZATION (1970)).

2. Coe, *supra* note 1, at 68 (noting FEDERAL JUDICIAL CENTER, GUIDELINES FOR IMPROVING JUROR UTILIZATION IN UNITED STATES DISTRICT COURTS (1972) [hereinafter cited as FEDERAL GUIDELINES]. For a more recent guide, see LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, A GUIDE TO JUROR USAGE (1974) [hereinafter cited as 1974 GUIDE].

3. *See, e.g.*, Lasdon, Waren & Madson, *Juror Management in a Metropolitan Trial Court*, 57 JUD. 402 (1974); Simon, *The Juror in New York City: Attitudes and Experiences*, 61 A.B.A.J. 207 (1975); Stoever, *The Expendable Resource: Studies to Improve Juror Utilization*, 1 JUST. SYS. J. 39 (1974). *See also* Broeder, *Voir Dire Examinations: An Empirical Study*, 38 S. CAL. L. REV. 503 (1965); Levit, Nelson, Ball, & Chernick, *Expediting Voir Dire: an Empirical Study*, 44 S. CAL. L. REV. 916 (1971) [hereinafter cited as Levit].

4. Mileage expenses are determined at the rate of 15¢ per mile. IOWA CODE § 607.5 (1977). The jury fee is taxed as part of court costs under IOWA CODE § 625.8 (1977).

The Constitution does not protect a litigant against the normal costs inherent in bringing an action before a jury. Commonwealth v. Coder, ___ Pa. Super. Ct. ___, ___, 382 A.2d 131, 133 (1977); Strykowski v. Wilkie, 81 Wis. 2d 491, ___, 261 N.W.2d 434, 449 (1978). Adams v. Corriston, 7 Minn. 456, ___ (1862) concluded: "The Constitution does not guarantee to the citizen the right to litigate without expense, but simply protects him from the imposition of such terms as unreasonably and injuriously interfere with his right to a remedy in the law, or impede the due administration of justice."

5. Coe, *supra* note 1, at 66; Stover, *supra* note 3, at 41.

idleness for the juror is the lack of any explanation for the cause of delay. One commentator described the juror's likely reaction as follows:

> It is simply beyond the comprehension of the average juror, who has a regular eight-to-five job, to understand how a court can be efficient when it begins at 9:30 A.M., recesses for a half hour at 10:00 A.M., breaks for lunch from 12:00 to 2:00, and then recesses at 3:30 P.M. for the day. In fact, every minute of the judge's day may have been crammed full of activity, but it does not appear so to the jurors.[6]

Idleness thus leads to dissatisfaction of the juror with his own jury duty and disrespect for the jury system in general.[7]

Finally, and most importantly, jury inefficiency contributes to the delay of justice. Civil actions are not brought to trial for considerable lengths of time in many jurisdictions.[8] This situation may threaten public confidence in the American judicial system and has, in fact, led some individuals to advocate elimination of the jury in civil cases.[9]

Rather than attack these problems with such a drastic measure, this Article proposes more moderate methods for improving jury usage. They are grouped for discussion under three categories: (1) effective scheduling of trials, (2) effective scheduling of the optimum number of jurors and (3) managing the trial for efficient jury usage.

I. Scheduling of Trials

One of the reasons for needless over-supply of jurors is last-minute postponement or cancellation of trials. After potential jurors have been summoned or even selected for trial, their services may become unnecessary because the parties settle, a jury trial is waived or the defendant files a guilty plea.[10]

To take advantage of the possibility of cancellation and thus reduce the number of jurors necessary per trial session, all cases should be scheduled for trial as promptly as they are at issue. This is wise practice because a trial date is very conducive to the settlement of cases or the entry of guilty pleas. Early settlement of a case not only thus reduces litigation costs but also makes room for additional cases on the trial docket.[11]

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6. Coe, *supra* note 1, at 94.

7. *See id.* at 66; Stoever, *supra* note 3, at 41. *See also* Schatz, *The Trials of a Juror*, 49 N.Y. St. B.J. 198, 200 (1977).

8. Landis, *Jury Trials and the Delay of Justice*, 56 A.B.A.J. 950 (1970). For a description of the historic delay in the New York courts, see H. Zeisel, H. Kalven & B. Buchholz, Delay in the Court 19-24 (1959).

9. *See, e.g.*, Landis, *supra* note 8; Steuer, *The Case Against the Jury (a brief without citations)*, 47 N.Y. St. B.J. 101 (1975).

10. Coe, *supra* note 1, at 83; Stoever, *supra* note 3, at 47.

Stoever explains that frequently the jury clerks and judges are not informed of last minute cancellations. *Id.* at 47. Moreover, cancellation is not an uncommon event. For example, a study of the Southern District of New York performed in 1971 indicated that only rarely did more than two-thirds of scheduled trials proceed to voir dire. *Id.* at 48.

11. Also conducive to early entry of guilty pleas is Iowa R. Crim. P. 13, which requires the

To facilitate timely communication to the court of cancellation or postponement of the jury trial, procedures should be established for determining settlements and changes of pleas in advance of the trial date. Often settlements can be reached during pretrial conference. If the parties cannot then settle, the court may set forth in a pretrial order that negotiations for settlement should be completed before a certain date prior to the commencement of trial.[12] It has also been proposed that the parties or attorneys be taxed jury costs upon a post-deadline settlement of a civil case.[13]

A second recommendation to promote advance notice of changes in trial plans is that the judge request the clerk of court or administrator to contact the attorneys in every case scheduled for jury trial at least two days before the trial to determine whether or not a settlement or change of plea is contemplated.[14]

Thirdly, the court should include in a pretrial order that any pending or anticipated motions be disposed of prior to the date scheduled for jury selection and that motions to dismiss be filed as soon as the grounds exist. Pretrial disposition of such motions may obviate a trial or persuade the defendant to waive a jury trial.

A fourth suggestion, applicable to criminal trials, is that of assuring that the defendant is physically present within the court's jurisdiction before the date of trial. This can be accomplished by requiring the sheriff to contact defendant's counsel at least two days prior to jury selection to learn if the defendant has been in recent contact with his counsel. If the sheriff learns that there has been no such contact and that counsel does not know where the defendant is nor if the defendant intends to appear at trial, the court should revoke the defendant's appearance bond and issue a bench warrant, requiring the sheriff to place the defendant in custody. If the sheriff is then

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court to permit discovery of some of the state's evidence by the defendant upon pretrial motion of the defendant. By thus requiring the county attorney to disclose all available evidence that will be used against the defendant a certain number of days before trial, the rule increases the likelihood of the defendant's pleading guilty before jury selection.

12. Coe, *supra* note 1, at 68 (citing FEDERAL GUIDELINES, *supra* note 2).

13. *See* Stover, *supra* note 3, at 50 n.15. Assessment in federal courts may be authorized under 28 U.S.C. § 1927 (1976), which states: "Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case as to increase costs unreasonably and vexatiously may be required by the court to satisfy personally such excess costs."

14. Coe, *supra* note 1, at 83.

Some federal judges' courtroom deputies are required to call the lawyers to assure that the cases are ready for trial and that settlement has been adequately considered. Stoever, *supra* note 3, at 50. Contact by court personnel of the parties to learn if they have settled is recommended even though court rules make it the duty of the attorneys or parties to immediately notify the court. *See, e.g.*, IOWA R. CIV. P. 181.3. The possibility of needlessly calling in jurors is not worth the risk of depending upon compliance with the court rule.

Alternatively, lack of communication within the court system itself may be the source of the communication gap. To remedy this problem, the Eastern District of New York has established a "Daily Trial Log," in which the judge's courtroom deputy informs the jury clerk of jury needs. Also, judges should consider the need for improved communication of their plans for jury usage to their deputies. *See* Stoever, *supra* note 3, at 50.

unable to locate the missing defendant, the court will have been so notified in time to cancel jury selection. Ample warning of this procedure may be provided in a pretrial order, distributed to the defendant, his counsel and the sheriff.

A final suggestion is that the court dismiss the jury after having witnessed the proceedings which explain why their services are no longer needed. For example, the jury should be present in the courtroom to hear the court's ruling on a motion to dismiss for mootness.

II. Scheduling of Optimum Jurors

A. *Determining Need for Jurors*

1. *Typical and Atypical Needs*

Any plan for improving juror utilization must follow the rule of supply and demand: juror supply should match as closely as possible the need for jurors. Thus, studies recommend reducing to the minimum necessary the number of people summoned for the jury pool or panel[15] and the number of those sent from the pool for voir dire.[16] However, before reductions can be made safely, the court system's particularized needs for jurors must be determined. This is necessary to prevent the court from being caught with an insufficient number of jurors to meet its needs for any one trial.

Diligent record-keeping of actual daily demand for jurors over a period of several months, including the number of unanswered summons sent and the number of excuses granted, will generally supply adequate information for determining the appropriate size of the jury panel.[17] Additionally, it is important to identify special jury needs, *e.g.*, the multiple party or multiple issue cases,[18] the protracted cases and the highly-publicized cases, likely to

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15. 1974 Guide, *supra* note 2, *noted in* Coe, *supra* note 1, at 69; Stoever, *supra* note 3, at 48. According to a study financed by the National Institute of Law Enforcement and Criminal Justice, a reduction of 20% to 25% of the number of people called for jury duty would not adversely affect court operations. May, *Courts Move to Make Jury Duty More Welcome; Time of Service Is Cut, Load is Spread Around,* Wall St. J., Nov. 29, 1977, at 48, col. 1.

"Panel" is used to refer to the whole body of individuals summoned as jurors for a particular term of court. It also commonly describes the group selected by the jury clerk to participate in voir dire, or questioning for the selection of particular juries. State v. Gurlagh, 76 Iowa 141, 142-43, 40 N.W. 141, 142 (1888). However, only the former meaning is intended by use of the term in this Article, in conformity with Iowa Code § 609.19 (1977). Those randomly selected for voir dire are herein denoted as "veniremen."

16. Federal Guidelines, *supra* note 2, *noted in* Coe, *supra* note 1, at 68; Stoever, *supra* note 3, at 50-51.

17. Stoever, *supra* note 3, at 48.

Generally, the number should be such that the judge must wait a short time approximately every 20 venires. Thus a small panel can be used than that required to immediately fill every request. "The savings in money and time for jurors is believed to offset the inconvenience caused by an occasional short wait." Coe, *supra* note 1, at 93. Coe proceeds to suggest that 22-24 veniremen would be sufficient to select a 12-member jury in a jurisdiction where 22 would have been sufficient in every case in one month except an exceptionally difficult one. *Id.*

18. *See* Iowa R. Civ. P. 186, providing that "the court may, for convenience or to avoid

require a sequestered jury in advance of trial.[19] Often these cases will require larger than usual panels from which the juries may be selected. However, as an alternative to summoning more prospective jurors to meet these additional needs, courts should consider scheduling cases requiring larger panels at times when few voir dires normally take place.[20] For instance, in some jurisdictions few trials commence on Fridays;[21] hence the normal panel alone might be large enough Fridays to accommodate these big cases.

Alternate jurors, who may be impaneled at the court's discretion,[22] should also be considered in determining need for jurors. Commonly, stipulations and waivers by counsel will avoid the need for alternate jurors. However, each criminal case requiring more than one day of trial time should have at least one alternate juror.[23]

2. *The Six-Member Jury*

Finally, juror need itself may be reduced by use of six-member juries. In *Williams v. Florida*,[24] the Supreme Court held that provision of only a six-member jury by the state of Florida did not violate the accused's sixth amendment rights.[25] It reasoned that the purpose of the jury trial, to prevent

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prejudice, order a separate trial of any claim, counterclaim, cross-claim, or of any separate issue of fact, or any number of any of them. Any claim against a party may be thus severed and proceeded with separately."; IOWA R. CRIM. P. 6(4)(b), providing for separate trial of defendants charged with the same crime unless, in the court's opinion, a joint trial would not result in prejudice.

19. *See, e.g., Court Devises Venue Test for Schrier Trial*, Des Moines Register, Jan. 4, 1979, at 3B, col. 1, describing an innovative procedure used to discover whether or not a change of venue was necessary for the highly publicized Richard Schrier trial. Members of the local panel were questioned merely to ascertain local attitudes toward the case rather than to select actual jurors. Thus, if no change in venue had been granted, two entirely different groups would have been examined in preparation for trial: one to ascertain local attitudes and another to select the actual jury.

20. Coe, *supra* note 1, at 90.

21. *See* Lasdon, Waren & Madson, *supra* note 3, at 408. Other common slack times, are afternoons and the first two days of the jury term. Coe, *supra* note 1, at 93.

If no extraordinary need for jurors is anticipated, the number of jurors summoned should be reduced during periods when the scheduled number of voir dires is typically low. Stoever, *supra* note 3, at 48. Alternatively, court operations should be rescheduled so that new trials are more evenly distributed throughout the jury term. Coe, *supra* note 1, at 69 (quoting 1974 GUIDE, *supra* note 2). As another alternative, certain days each week or particular seasons may be eliminated entirely from the voir dire calendar. Hence juror usage would be increased during those periods when they were available. Stoever, *supra* note 3, at 52.

22. *See* IOWA R. CIV. P. 189; IOWA R. CRIM. P. 17(17).

23. IOWA R. CIV. P. 189 and IOWA R. CRIM. P. 18(5)(c) require that alternate jurors sit at the trial. Thus, selection of alternates after the trial had begun would probably be impermissible. If a regular jury member became unqualified or otherwise unable to serve and no alternate had been selected, the question of the validity of a jury of less than 12 might arise. Waiver by counsel should overcome this difficulty, at least in civil trials. *Cf.* notes 24-28 *infra* and accompanying text (discussing constitutionality of juries of less than 12 people).

24. 399 U.S. 78 (1970).

25. U.S. CONST. amend. VI provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the

government oppression by interposing laymen's common sense judgments between the accused and his accuser, is not defeated by changing the number of jurors. Furthermore, the goals of group deliberation, freedom from outside intimidation, representativeness by a fair cross-section of the community and reliable fact-finding also were found unlikely to be diminished by a six-member jury.[26] In support of its views the Court cited several studies which indicated "there is no discernible difference between the results reached by the two different-sized juries."[27]

In those jurisdictions which do not statutorily permit six-member juries for criminal trials, the smaller juries may nonetheless be used for civil trials. The constitutionality of this practice was verified in *Colgrove v. Battin*,[28] which held that six-person juries satisfy the seventh amendment guarantee of trial by jury in civil cases.

Based on the holdings in *Williams* and *Colgrove*, many jurisdictions have adopted a rule for six-member juries. One principal benefit of the rule is its

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crime shall have been committed . . . ."

26. 399 U.S. at 100-01.

27. *Id.* at 101.

That proposition has met considerable criticism by the commentators. *See* Beiser & Varrin, *Six-member Juries in the Federal Courts*, 58 JUD. 424 (1975) (revealing study results that propensity to find for plaintiff and amount awarded affected by jury size); Lempert, *Uncovering "Nondiscernible" Differences: Empirical Research and the Jury-Size Cases*, 73 U. MICH. L. REV. 643 (1975) (criticizing the typical empirical investigation as unreliable and concluding that 12-member jury verdicts are of a higher quality than 6-member verdicts); Nagel & Neef, *Deductive Modeling to Determine an Optimum Jury Size and Fraction Required to Convict*, 1975 WASH. U.L.Q. 933 (using deductive analysis to conclude that decreasing jury size probably does increase the likelihood of conviction of an innocent person); Zeisel, . . . *And Then There Were None: The Diminution of the Federal Jury*, 38 U. CHI. L. REV. 710, 713-15 (1971) (describing the *Williams* Court's cited studies as "scant evidence by any standards."); Zeisel, *Twelve is Just*, 10 TRIAL 13 (Nov./Dec. 1974) (arguing that a reduction in size decreases representativeness and accuracy of the group). *See also* Rosenblatt & Rosenblatt, *Six-Member Juries in Criminal Cases. Legal and Psychological Considerations*, 47 ST. JOHN'S L. REV. 615 (1973) (describing the impact of group size on decision-making); Wick, *From Duncan to Williams to Colgrove: a Triple Play Against the Jury System*, 41 INS. COUNSEL J. 106, 110-11 (1974) (describing as inconclusive the studies relied upon in *Colgrove v. Battin*, 413 U.S. 149 (1973), which approved use of the smaller jury in civil litigation); Zeisel & Diamond, *"Convincing Empirical Evidence" on the Six Member Jury*, 41 U. CHI. L. REV. 281 (1974) (criticizing as unreliable the studies cited in *Colgrove*). *But see* Thompson, *Six Will Do*, 10 TRIAL 12 (Nov./Dec. 1974) (stating that a comparison of three years experience with a six-member jury in the Civil Term of the Supreme Court in New York with that court's prior experience with a twelve-member jury showed that the percentage of verdicts as against cases settled had remained constant and that the amount of the average verdict had remained almost the same); *Six-Member and Twelve-Member Juries: an Empirical Study of Trial Results*, 6 U. MICH. J.L. REF. 671 (1973) (finding no statistically significant differences between six-member and twelve-member jury verdicts in approximately 500 civil cases decided in Wayne County). For a summary of earlier commentary, see *id.* at 673 n.12.

28. 413 U. S. 149 (1973).

However, the Supreme Court has made it clear that the jury process would be impaired if the number were reduced below six. *See* Ballew v. Georgia, 435 U.S. 223 (1978), in which the Court examined the studies concerning jury size which have been generated by the *Williams* and *Colgrove* decisions and concluded that a five-member jury substantially impairs the right to a trial by jury guaranteed by the sixth and fourteenth amendments.

capacity to save time. As one of the commentators cited by *Williams* states,

> It would save time in the initial calling and impaneling of the jury. It would also save time in the voir dire examination, in counsel's review of personal data, and in the actual trial time, since six can view exhibits much faster, can get in and out of the courtroom more quickly and can probably reach a verdict in less time.[29]

Cost savings are another advantage of reducing the jury's size. The expenses of paying the jurors, judges, attorneys, witnesses and all court personnel would be reduced by the time savings.[30] In view of the constitutionality and time and cost savings, a court should consider recommending the use of six-member juries during all pretrial conferences in civil cases.[31]

3. *The Nonunanimous Jury Verdict*

The question whether the federal mandate that verdicts in criminal trials must be unanimous was also a requirement for state courts was resolved in *Apodaca v. Oregon*[32] and *Johnson v. Louisiana*.[33] After deciding that the purpose of the jury is served without a unanimity requirement,[34] the Supreme Court in *Apodaca* held that unanimity is not necessary, under the sixth amendment, to effectuate the reasonable doubt standard mandated by due process.[35]

From an efficiency standpoint, less than unanimous verdicts would undoubtedly decrease the number of hung juries[36] and thus the need for additional jurors and expenses for a retrial.

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29. Wiehl, *The Six Man Jury*, 4 GONZ. L. REV. 35, 40 (1968). *But see* Beiser & Varrin, *supra* note 27, at 428-31 (stating study results that only jury deliberation time was reduced by the smaller jury); Pabst, *What Do Six-Member Juries Really Save?*, 57 JUD. 6 (1973) (describing studies that show no savings in voir dire and trial times).

30. Wiehl, *supra* note 29, at 40.

31. Iowa has not adopted the use of six-member juries in criminal cases. Presently, all criminal trials, petty or serious, must be tried by a jury consisting of 12 persons. *See* IOWA R. CRIM. P. 17(16). *But see* IOWA R. CRIM. P. 16(1), which permits the defendant to waive a jury trial. However, the Iowa Constitution, as well as the *Williams* decision, now leave the door open for Iowa to enact legislation providing for six-member jury trials. *See* IOWA CONST. art. I, § 9, which authorizes the General Assembly to enact legislation providing for trial by jury of less than 12; note 24 *supra* & accompanying text.

32. 406 U.S. 404 (1972).

33. 406 U.S. 356 (1972).

34. 406 U.S. at 410-11.

35. *Id.* at 411-12. *Accord*, Johnson v. Louisiana, 406 U.S. at 359-63.

Louisiana law not only permits six-member juries for serious crimes, but also allows for convictions on a five-to-one vote. *See* LA. CONST. art. I, § 17; LA. CODE CRIM. PRO. ANN. art. 782 (West). However, a case sustaining the constitutionality of the five-to-one verdict under the sixth and fourteenth amendments' right to jury trial will soon be reviewed by the Supreme Court. *See* State v. Wrestle, Inc., ___ La. ___, ___, 360 So. 2d 831, 837-38 (1978), *cert. granted sub nom.* Burch v. Louisiana, 47 U.S.L.W. 3301 (U.S. Oct. 30, 1978) (No. 78-90).

36. It has been estimated that the number of hung juries would drop by 42% if 10/2 or 11/1 verdicts were permitted. H. KALVEN & H. ZEISEL, THE AMERICAN JURY 461 (1966).

B. *Selecting Jurors Efficiently*

1. *Selection of Veniremen*

a. *Pooling*

Efficiency must be measured in terms of time usage by all the actors involved in litigation: the judge, the jury, the parties and their counsel. Thus procedures aimed at efficiency are not successful if they are at the expense of needless waiting by any one of these actors. It is for this reason that "pooling" is frequently unsuccessful from an efficiency standpoint.

"Pooling" is the calling of all panel members to the courthouse every day of the jury term that there is a chance voir dire may occur. "Pooling" is efficient from the court's viewpoint because it supplies veniremen immediately upon the court's demand. In one sense, it also promotes efficient use of jurors because it reduces the number of individuals that need be called into the pool. Through "pooling," the jury clerk can plan for anticipated cancellations and postponements by calling in fewer jurors than theoretically needed for all scheduled voir dires.[37] However, it is not efficient from the individual juror's viewpoint because he is forced to remain idle at the courthouse while waiting for his name to be drawn for voir dire.

To overcome the problem of juror waiting, frequently associated with "pooling," various innovations have been implemented. One of these is to create jury divisions and use each division of the panel for a particular time segment of the jury term. Another is to discharge jurors after serving on two juries in one term, as provided by section 609.10 of the Iowa Code. Thus less jurors sit waiting to be drawn for voir dire at any one time.

Courts in Middlesex County, Massachusetts; Alllgheny County, Pennsylvania; Harris County, Texas and Wayne County, Michigan have adopted a so-called "One Day, One Trial System," which provides that if a juror is not selected on the day required to appear, nevertheless, the juror has fulfilled the obligation for at least one year.[38] If the juror is selected, the most time served is the duration of the trial. This system not only reduces juror waiting for selection to one day but also diminishes expenditure of court time in processing numerous applications for exemptions and hardship excuses. The system itself eliminates the need for such exemptions. Since Wayne County inaugurated the system in 1975, at least twenty-eight physicians have agreed to serve even though not required by law to serve, and since 1973 in Texas even judges and lawyers are serving on some juries.[39]

Other courts permit the juror to wait at home rather than the courthouse for selection. Several judicial districts in Iowa use a call-in system,[40] which enables the jurors to find out by telephone if they will be needed the following

37. Stoever, *supra* note 3, at 48.

38. May, *supra* note 15, at 48, col. 1.

39. *Id.*

40. Linn County and Polk County, for example, have implemented such systems. The Instructions for Jurors, mailed with the summons in Polk County, including description of the call-in system, is provided in Appendix B *infra*.

day. Some courts in Hennepin County, Minnesota have a home alert system that places jurors in an "hour alert group." These jurors are available on very short notice in the event a shortage of jurors develops.[41]

Another method to reduce juror waiting is to select veniremen for magistrate courts or grand juries from the same pool as petit jurors. This obviates the calling in of two different groups of potential jurors and enhances the possibility that those called will actually be used.[42]

b. *Multiple and Simultaneous Jury Selection*

An efficient method of juror selection which has proved workable for me in the Second Judicial District of Iowa has been the multiple jury system.[43] Under this system, as many juries as may be needed by the district for the entire trial session of five weeks are all selected on the first day of the session. Not only the veniremen, but the actual juries, selected from among the veniremen, are determined that day. Those voir dired but not selected for one jury are "recycled" for the next jury selection. In such manner, four juries have been selected in one day. All but one trial are then recessed until a later date. Once a juror is selected, he is informed of the tentative date for continuation of the actual trial and is released until such date. However, he must remain available, although not in the courthouse, for jury service at an earlier date in case the trial date is subsequently advanced. The last jury selected remains for the trial, which commences immediately following the jury selection.

A variation of the multiple jury system, which I have also used in the Second Judicial District of Iowa, is that of simultaneous jury selection. By this method, the jury panel is divided into two divisions. Twenty-two names are selected for one division. That division reports to one courtroom, where the counsel for the parties to a civil suit conduct the voir dire. Each counsel may exercise the five peremptory challenges granted by Iowa statute for civil suits.[44] Any challenges for cause[45] are handled by the counsel's excusing the

41. May, *supra* note 15, at 48, col. 1.

42. Stoever, *supra* note 3, at 52.

43. "Multiple juries" as discussed in this Article does not refer to the multiple jury trial, whereby two or more separate juries witness the same trial, involving two or more defendants. The purpose of multiple jury trials is to avoid any prejudice resulting from a jury's hearing testimony admissible against one defendant but inadmissible against the defendant whose case the jury is trying. Juries may be selected simultaneously for these trials as well. *See* United States v. Sidman, 470 F.2d 1158 (9th Cir. 1972), *cert. denied*, 409 U.S. 1127 (1973), *noted in* 2 FORDHAM URB. L.J. 407 (1974).

44. These challenges, or objections to veniremen, are permitted by both parties, to be exercised at their discretion. No reasons justifying the challenges may be stated. *See* IOWA R. CIV. P. 187(e), (g); IOWA R. CRIM. P. 17(9). *See also* Note, *Voir Dire: Establishing Minimum Standards to Facilitate the Exercise of Peremptory Challenges*, 27 STAN. L. REV. 1493, 1493 n.6 (1975) [hereinafter cited as *Voir Dire Standards*]. In Iowa, each party may peremptorily challenge three jurors and must strike two jurors from the list of sixteen in civil suits. IOWA R. CIV. P. 187(g). The number permitted for criminal suits varies with the class of crime. *See* IOWA R. CRIM. P. 17(10).

45. Challenges for cause are potentially unlimited in number, subject to the court's deci-

challenged venireman and the court's subsequent replacement of him or her with another venireman. Meanwhile, the judge presides in another courtroom over the voir dire for all the juries needed for criminal cases that term. In the rare instance of a problem occurring in the unsupervised voir dire, the judge may call a short recess of the criminal proceedings to solve the problem in the neighboring courtroom.

The use of divisions to select juries might be challenged under Iowa Rule of Civil Procedure 187(a), which provides that each prospective jury shall be drawn from a box containing ballots with the "names of all persons returned or added as jurors."[46] However, this requirement has been labeled directory and is waived unless demanded before the selection process commences.[47] Regardless, the pretrial conference should be utilized to preclude any disputes pertaining to the size of the jury panel and the use of divisions to select the jury.

The multiple and simultaneous jury selection systems were developed in response to the high number of criminal filings and the requirement that an accused be brought to trial within a short time period following the indictment, arraignment or arrest. The Iowa legislature has interpreted the sixth amendment right to a speedy trial to require than an accused by brought to trial within ninety days after the indictment.[48] If the selection of a jury consti-

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sion to grant or deny them. They are based on either an admitted bias of the venireman or one that is clearly implied, *i.e.*, presumed from certain interests or relationships of the venireman. *Voir Dire Standards, supra* note 44, at 1499 n.29. For permissible bases for challenges for cause in Iowa, see IOWA R. CIV. P. 187(f) and IOWA R. CRIM. P. 17(5).

46. The rule, in full, states:

> The clerk shall prepare and deposit in a box separate ballots containing the names of all persons returned or added as jurors. At each jury trial he shall select sixteen jurors by closing and shaking the box to intermingle the ballots, and drawing them from the box without seeing the names. He shall list all jurors so drawn. Before drawing begins, either party may require that the names of all jurors be called, and have an attachment for those absent who are not engaged in other trials; but the court may wait for its return or not, in its discretion.

IOWA R. CRIM. P. 17(1) makes this rule applicable to criminal proceedings as well.

47. *See* State v. Jones, 193 N.W.2d 509, 512-13 (Iowa 1972). The rationale is that the litigant is entitled only to a fair and impartial jury, not to any particular jurors. *Id.* at 513. *Accord,* State v. Brewer, 247 N.W.2d 205, 210 (Iowa 1976).

48. *See* IOWA R. CRIM. P. 27(2)(b).

Prior to the enactment of the new criminal code, this time period was 60 days. IOWA CODE § 795.2 (1977) (amended by IOWA R. CRIM. P. 27(2)(b)).

Absent a waiver or good cause for delay, a case brought to trial after 90 days following indictment must be dismissed. *Id. See* State v. Leonard, 240 N.W.2d 690, 691 (Iowa 1976), which stated that the statutory provisions relating to a speedy trial must be complied with unless the defendant waives his right, the delay is attributable to the defendant or the State shows good cause for the delay. *See also* State v. Iverson, 272 N.W.2d 1, 3 (Iowa 1978). The effect of a waiver by the defendant is limited to one year because IOWA R. CRIM. P. 27(2)(c) provides that all criminal cases must be brought to trial within one year after the initial arraignment. Generally, court congestion or cumbersome jury selection procedures will not constitute good cause for delay. Commonwealth v. Beckett, 77 Mass. Adv. Sh. 1922, 366 N.E.2d 1252 (1977); State v. Mack, 89 Wash. 2d 788, 576 P.2d 44 (1978). *But see* State v. Hines, 225 N.W.2d 156, 158 (Iowa 1975) (finding that nonchronic court congestion may amount to "good cause" for delay). This

tutes "bringing the case to trial," use of the multiple and simultaneous jury systems will stop the ninety-day clock on the first day of the trial session.

Various jurisdictions espouse varying views on the question of what constitutes "bringing the case to trial." The United States District Court for the Southern District of New York has held that a jury trial commences at the beginning of voir dire.[49] Other jurisdictions require the actual trial to commence.[50] The exact question has not been decided in Iowa. Yet, it can be argued under rule 18 of the Iowa Rules of Criminal Procedure that the trial does not commence until the clerk or prosecuting attorney reads the indictment and defendants plea to the jury.[51] Nonetheless, the better view appears to be that the impaneling of the jury constitutes a bringing to trial because it is a significant event in determining when a defendant has been placed in jeopardy so that the action against him cannot be dismissed without prejudice.[52]

It is arguable that delay between the jury selection process and the actual trial deprives the defendant of a fair trial by diluting the effectiveness of exercising peremptory challenges. Between the time of jury selection and commencement of trial, events, such as other jury service, may create new biases in the selected jurors. Thus, in *United States v. Garza*[53] the Fifth Circuit concluded that a thirty-nine-day delay between jury selection and trial mandates the trial court to conduct supplemental voir dire.[54] The counterargument is that the sixth amendment requires only an "impartial jury," which is adequately safeguarded by properly conducted jury selection some reasonable amount of time prior to trial.[55]

Although the multiple and simultaneous jury selection procedures were instituted primarily to enable the court to bring defendants to trial within the required ninety days after indictment, savings in jury expenses and in both juror and court time further justified use of those systems. The savings in jury fees resulting from one multiple selection of four juries alone in Wright County, Iowa were estimated at $2,400 plus mileage costs. The savings were easily calculated, by multiplying the number of potential jurors in the panel (eighty for that session) by the number of trials scheduled that session less

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general rule logically follows from the fact that it is the obligation of the State to insure that prosecution is timely. *See* State v. Lybarger, 263 N.W.2d 545, 546 (Iowa 1978); State v. Palimore, 246 N.W.2d 295, 297 (Iowa 1976).

49. *See* United States v. Mejias, 417 F. Supp. 579, 581 (S.D.N.Y. 1976).

50. *See, e.g.*, State v. Fogle, 25 Wis. 2d 257, ___, 130 N.W.2d 871, 873 (1964).

51. Rule 18(1)(a)(1) provides that the trial must begin with the clerk's or prosecuting attorney's reading the indictment and stating the defendant's plea to the jury.

52. *See* People v. Katzman, 258 Cal. App. 2d 777, ___, 66 Cal. Rptr. 319, 327 (1968).

53. 574 F.2d 298 (5th Cir. 1978).

54. *Id.* at 303. However, defendant waived his right to supplemental voir dire in *Garza* by failing to raise the issue of lengthy delay immediately before the commencement of testimony. *Id. See also* United States v. Price, 573 F.2d 356, 363-64 (5th Cir. 1978).

55. Delay which occurs during the trial is not affected by the 90-day requirement. However, it should not be ignored because it has been the subject of a recent recommendation which would place limits on such delays. *See* THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE COURTS 84-90 (1967), *noted in* Note, *The Speedy Trial Act of 1974: Defining the Sixth Amendment Right*, 25 CATH. U.L. REV. 130, 132 n.11 (1975).

one and multiplying the product by the daily fee paid each juror. Obviously, routine use of the system can result in substantial savings of jury fees in just one year of several trial sessions.

The system also saves juror time. The entire panel reports only one day; jurors are released immediately after they have been selected for a particular jury. The fruitless experience of reporting to the courthouse and not being selected for jury duty can only occur once per session. Additionally, the system saves the time of the judge and all court personnel by reducing to one the number of days spent on jury selection.

Simultaneous jury selection results in additional time savings for all participants in the selection process. Less total court, counsel and juror time is spent on voir dire because two separate voir dires are taking place simultaneously. Thus the length of time necessary to conduct the voir dire for one trial is saved.

One more, less tangible but nonetheless important benefit of the system is the favorable reaction of jurors.[56] Such reaction contributes significantly to a restored confidence in the management of our court system.

2. *Voir Dire*

Voir dire is the process by which the court or counsel for the parties question the veniremen, randomly selected from the panel, for relevant biases, qualifications and competency. Its function is to secure an impartial jury. In some cases, it is also necessary to avoid an aborted trial, which may result if an incompetent or biased juror is selected.[57]

The extent and nature of the voir dire examination is within the discretion of the court.[58] Thus, there are broad opportunities for the court to insti-

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56. Of the numerous Jury Service Exit Questionnaires (see Appendix C *infra*) returned over a period of approximately five years in the Second Judicial District of Iowa, not one reflected an objection to either the multiple or simultaneous jury selection methods. The following are examples of juror comments regarding those selection methods:

- Multiple selection saves my time and helps with my scheduling.
- Selecting more than [one jury at a time] saves time and we can schedule our activities better.
- Good idea. Saves time reporting.
- Saves money.
- Like it when 21 or 22 jurors' names all picked [and] then questioned rather than 12, then 12 again, made things go faster.
- Without this method I would have had to appear for five different sessions.
- Saves the taxpayer money and our time in the long run.
- [I liked it] because you could plan for your day in court.
- Saves time and trips.

57. *See* Schwickerath v. Maas, 230 Iowa 329, 336-39, 297 N.W. 248, 251-53 (1941); State v. Baxter, ___ La. ___, ___, 357 So. 2d 271, 274 (1978) (dictum). However, if the complaining party failed to make appropriate inquiry of the incompetent juror and that juror's incompetence probably served appellant's cause, the judgment is affirmed. *Id.* at ___, 357 So. 2d at 275.

58. Smith v. United States, 431 U.S. 291, 308 (1977); State v. Menke, 227 N.W.2d 184, 187 (Iowa 1975); State v. Dalton, 254 Iowa 96, 99, 116 N.W.2d 451, 453 (1962).

tute measures designed to promote efficiency, while preserving the purposes, of the examination.

a. *Court-Conducted Voir Dire*

One such measure is for the trial judge, rather than counsel, to conduct the voir dire examination. In fact, the trend has recently been in this direction.[59] Jurisdictions which have implemented rules giving the judge primary responsibility for voir dire have discovered marked reduction in the amount of time expended for voir dire examination.[60] Moreover, the time savings accrues to all actors in the litigation: attorneys, judge and jurors.[61]

A number of challenges have been raised toward judge-controlled voir dire. Perhaps the gravest of those is that it infringes upon the sixth amendment right of the accused to trial by an "impartial jury" as well as the fifth amendment rights of "confrontation" and "due process."[62] The short answer

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59. Note, *Judge Conducted Voir Dire as a Time-Saving Trial Technique*, 2 RUT.-CAM. L.J. 161, 168 (1970) [hereinafter cited as *Judge Conducted Voir Dire*].

For a recent compilation of the methods of conducting voir dire by state, see Van Dyke, *Voir Dire: How Should It Be Conducted To Ensure That Our Juries Are Representative and Impartial*, 3 HASTINGS CONST. L.Q. 65, 95-97 (1976). The table categorizes the methods used as: (1) "Judge" (indicating that the judge has complete control of voir dire but may allow supplemental questions suggested by the attorneys) (2) "Attorney" (indicating that the attorneys primarily conduct voir dire) and (3) "Judge plus attorney" (indicating that the judge usually begins the voir dire with standard questions, followed by the attorneys' questioning the jurors directly). Only 19 states now call for questioning primarily by counsel.

The Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure provide for primarily judge-conducted voir dire. FED. R. CIV. P. 47(a) states:

> The court may permit the parties or their attorneys to conduct the examination of prospective jurors or may itself conduct the examination. In the latter event, the court shall permit the parties or their attorneys to supplement the examination by such further inquiry as it deems proper or shall itself submit to the prospective jurors such additional questions by the parties or their attorneys as it deems proper.

See FED. R. CRIM. P. 24(a).

60. *See* Judicial Conference Committee on the Operation of the Jury System, *The Jury System in the Federal Courts*, 26 F.R.D. 409, 467-68 (1961) [hereinafter cited as *The Jury System*]; Levit, *supra* note 3, at 948 (stating that a six-month study in Los Angeles revealed that the average time required to impanel a jury by the "judge" method (*see* note 59 *supra*) was 64 minutes while the comparable "judge plus attorney" method required 111 minutes, or a time savings of 42% under the "judge" method. *See also Judge Conducted Voir Dire*, *supra* note 59, at 172, 181-82. *But see* Van Dyke, *supra* note 59, at 83-89 (charting results of recent studies and concluding that the time savings are not dramatic).

61. Levit, *supra* note 3, at 949.

62. *See* Mac Gutman, *The Attorney-Conducted Voir Dire of Jurors: A Constitutional Right*, 39 BROOKLYN L. REV. 290 (1972).

Cases support the notion that selection of jurors must comport with the constitutional guarantee of an impartial jury. *See* Witherspoon v. Illinois, 391 U.S. 510 (1968); Schwickerath v. Maas, 230 Iowa 329, 336, 297 N.W. 248, 251 (1941). This right also applies to civil trials because impartiality of the jury "is inherent in the right of trial by jury and is implicit in the requirement of the Fifth Amendment that 'No person shall * * * be deprived of life, liberty, or property, without due process of law * * *'" Kiernan v. Van Schaik, 347 F.2d 775, 778 (3d Cir. 1965). However, the cases do not specifically preclude a constitutionally proper voir dire examination by the judge.

to these constitutional challenges is that they have been rejected by the courts.[63] The more fundamental answer is that these guarantees are not abdicated merely by conferring control of voir dire to the judge. He too is subject to the limitations imposed by the Constitution. In fact, decisions have been reversed for failure of the court to propound a question necessary to reveal a relevant prejudice.[64] Thus, given the constitutional requirement of trial by an impartial jury imposed on both judge and counsel, the real issue in the debate over which of the two should conduct voir dire is: who can best ferret out the relevant prejudices of the veniremen?[65]

Those favoring voir dire by the attorneys argue that greater familiarity with the details of the case and techniques of examination render attorneys superior to judges in discovering juror biases.[66] The counterarguments, however are persuasive. First, there appears to be no convincing evidence that the greater depth of questioning supposedly provided by attorney-conducted voir dire actually uncovers more prejudices than the questioning provided by court-conducted voir dire.[67] Certain relevant information about juror attitudes will be denied both questioners. Jurors who lie or unintentionally fail to reveal important facts[68] will probably respond the same to either judge or counsel. Moreover, both judge and counsel may fail to ask relevant questions merely because they cannot be anticipated, *e.g.*, questions about the pretrial misconceptions of substantive law of a particular juror.[69]

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63. *See, e.g.*, Hawkins v. United States, 434 F.2d 738 (5th Cir. 1970); Murphy v. United States, 7 F.2d 85 (1st Cir. 1925); Parson v. State, ___ Del. ___, 275 A.2d 777 (1971); People v. Jackson, 69 Ill. 2d 252, 371 N.E.2d 602 (1977); People v. Hayek, 243 Mich. 546, 220 N.W. 790 (1928); Williams v. State, 124 Miss. 720, 87 So. 273 (1921).

64. *See, e.g.*, Aldridge v. United States, 283 U.S. 308 (1931); Kiernan v. Van Schaik, 347 F.2d 775 (3d Cir. 1965).

65. *See* Begam, *Voir Dire—By attorneys*, 61 JUD. 70, 72 (1977).

66. *See id.* at 76, 78; *Judge Conducted Voir Dire*, *supra* note 59, at 166-67; *Voir Dire Standards*, *supra* note 44, at 1505.

In particular, critics of court-conducted voir dire argue that the judge pays insufficient attention toward disclosing detailed and extensive information which will help the parties in exercising their peremptory challenges. Instead, the judge will be primarily concerned with discovering grounds for challenges for cause, for which the court is responsible. *Id.* *See* notes 44 & 45 *supra* for comparison of peremptory challenges with challenges for cause.

67. One empirical study, based on interviews with jurors for 23 cases tried in a federal district court in the midwest revealed the attorney-conducted voir dire to be "grossly ineffective not only in weeding out unfavorable jurors but even in eliciting that data which would have shown particular jurors as very likely to prove unfavorable." Broeder, *supra* note 3, at 505. *But see*, Begam, *supra* note 65, at 78 (stating that interviews with lawyers and mock jurors indicated that attorneys can identify juror attitudes). *See also Judge Conducted Voir Dire*, *supra* note 59, at 166 n.40 (stating that there is little evidence, other than "speculation by students or persons who play a trial role" on the operation of voir dire).

68. Evidently, veniremen do not always state the truth. Lying is often based on the desire to serve on the jury or a belief that the question asked is not important. Broeder, *supra* note 3, at 513.

Of course, prejudicial lying during voir dire may result in grounds for a new trial. Note, *Jury Misconduct in Iowa*, 20 DRAKE L. REV. 641, 641 (1971).

69. *See* Broeder, *supra* note 3, at 515. Moreover, even if the questioner elicits relevant information concerning events or acquaintances in the juror's background, he will not necessarily

Even if all the necessary questions have been contemplated, counsel may refrain from asking them for reasons unrelated to detecting juror bias. There is a generally accepted theory that a psychological time limit for voir dire exists, beyond which counsel's questions damage rather than aid his case. At that point, jurors become irritated with the length of the questioning.[70] Additionally, questions which probe too deeply individual attitudes may engender resentment by prospective jury members. They may feel that the examiner is somehow impugning their respectability or capacity to be fair.[71] Obviously, the judge does not share these fears of antagonizing jury members to his own detriment.

Finally, extensive voir dire examination by counsel may be ineffective because of the statutorily limited number of peremptory challenges that are allowed. Counsel who is forced to use all his challenges on jurors with blatant biases thus will hardly find it necessary to inquire as to more subtle biases in order to decide upon additional challenges.[72]

Secondly, systems calling for predominantly judge-conducted voir dires have safeguards to prevent inadequate inquiry into possible juror prejudices. Usually, the attorneys are permitted to propose additional questions to those already asked by the court.[73] Providing the court finds these questions appropriate, it may then allow counsel to ask them or may itself read the questions to the veniremen.[74] If the court fails to permit relevant questions, its decision is subject to reversible error for abuse of discretion.[75]

Another argument advanced by those who support attorney-conducted voir dire is that an adversarial method promotes the fairer result. In other words, questioning from both sides tends to offset any sensitivity by counsel toward particular prejudices. Questioning by the judge alone, however, will

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know the effect of those events or acquaintances upon the attitude of the juror. *Id.* at 518. For example, a juror who has previously suffered a personal injury may be sympathetic or callous to another's pain, depending upon his own ability to endure pain, the degree of his own pain and innumerable other factors.

70. *Id.* at 505. The study also showed that lawyers did not usually exhaust all their possible peremptory challenges. *Id.* at 507.

71. *Id.* at 526.

72. *See id.* at 506.

73. *See* Levit, *supra* note 3, at 954; Stanley, *Who should conduct voir dire? The judge*, 61 JUD. 70, 73 (1977).

For text of the federal rule permitting attorney questioning at the court's discretion, see note 59 *supra*. State rules providing for court-conducted voir dire may require the court to permit a reasonable examination of the veniremen, *see, e.g.*, CAL. PENAL CODE § 1078 (West 1970), or, like the federal rules, give the court complete discretion to allow or deny additional questions proposed by the attorneys, *see, e.g.*, ILL. ANN. STAT. ch. 110A, § 234 (West Cum. Supp. 1978).

74. *See, e.g.*, FED. R. CIV. P. 47(a), note 59 *supra*.

75. Stanley, *supra* note 73, at 73. *See* cases cited in note 64 *supra*.

However, the appellant must usually show actual or probable prejudice, unless the alleged error is failure to ask questions about the traditional grounds for challenges for cause or common prejudices, such as racial bias. *Voir Dire Standards*, *supra* note 44, at 1510. Moreover, practically speaking, there is little appellate interference with the trial court's manner of conducting voir dire. *Id.* at 1505, 1509-10, 1513.

reflect only his biases.[76]

The first answer to this argument lies in the previously described safeguards in the judge-conducted method: counsel can supplement the questioning with questions pertaining to any areas of concern untouched by the judge because of his personal viewpoints.

The second answer attacks the adversarial method of voir dire for the problems it has created, not only in lengthening the time of the examination but also in manipulating the substance of the questions for invalid purposes. As one critic stated, lawyers think of voir dire as "not so much a place to screen out undesirables as a place to argue, to prepare the jurors for particular items of evidence or rules of law and to ingratiate themselves with the jurors."[77] Judges, on the other hand, have no reason to attempt to advance the cause of either party; they seek only to secure an impartial jury.[78]

b. *Limiting the Scope of Voir Dire*

Even if the jurisdiction allows counsel to dominate the voir dire examination, the court, in its supervisory capacity, may prohibit improper questioning. This, in itself, should significantly shorten the length of the examination. It would appear that questions in the following areas are not proper:

- questions already asked by court or counsel,[79]
- questions on anticipated instructions of law,[80]
- questions dealing with the verdict of a juror based upon hypothetical facts[81] and
- questions that are in substance arguments of the case.[82]

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76. Begam, *supra* note 65, at 77-78. *See Judge Conducted Voir Dire, supra* note 59, at 166.

77. Broeder, *supra* note 3, at 522. Thus, voir dire is greatly prolonged by inappropriate questioning by counsel. Results of the study described in note 67 *supra* were described as follows: "Though only a rough approximation is possible, it appears that most of the questions and statements were either wholly or chiefly intended to indoctrinate. Conservatively, about eighty percent of the lawyers' voir dire time was spent indoctrinating, only twenty percent in sifting out the favorable from the unfavorable veniremen." *Id. See also* note 89 *infra*.

78. Stanley, *supra* note 73, at 74.

79. *See, e.g.*, People v. Crowe, 8 Cal. 3d 815, ____, 506 P.2d 193, 203, 106 Cal. Rptr. 369, 379 (1973).

This is particularly improper in jurisdictions where the attorney is relegated to only supplementing the examination of the court. *See Judge Conducted Voir Dire, supra* note 59, at 174.

80. *See, e.g.*, People v. Love, 53 Cal. 2d 843, ____, 3 Cal. Rptr. 665, 670 (1960); People v. Modell, 143 Cal. App. 2d 724, ____, 300 P.2d 204, 209-10 (1956); People v. Conklin, 175 N.Y. 333, 67 N.E. 624 (1903).

81. *See, e.g.*, Chavez v. United States, 258 F.2d 816, 819 (10th Cir. 1958) (improper to ask jurors whether they would place greater weight upon testimony of law enforcement officers than on testimony of defendants); State v. McKeever, 339 Mo. 1066, ____, 101 S.W.2d 22, 27-28 (1936) (improper to ask jurors if they would accept the testimony of an accomplice the same as that of an uncontradicted witness if they were told of a conflict between earlier statements of the accomplice).

82. United States v. DePugh, 452 F.2d 915, 921 (10th Cir. 1971), *cert. denied*, 407 U.S. 920 (1972); Gatlin v. State, 236 Ga. 707, ____, 225 S.E.2d 224, 225 (1976). *See, e.g.*, Breummer v. Becker, 492 S.W.2d 781, 782 (Mo. 1973) (where improper question was: "Is there anyone on the

c. *Questionnaires*

Another time-saving measure, which may be used in jurisdictions, such as Iowa, that permit counsel to conduct voir dire[83] is juror questionnaires.[84] Through questionnaires, mailed to jurors along with their summons, answers to standard voir dire questions may be learned. Typical questions asked are: "Have you or any member of your immediate family ever been a party to a lawsuit?; Are you related to, or are you a close friend of, any law enforcement officer?; Have you ever served as a petit or grand juror?"[85] The completed questionnaires may be kept on file for the court and parties to examine. Information thus gained will reduce the number of questions that need be asked at voir dire.

Additionally, time spent on processing excuses may be shortened by asking panel members in the questionnaire whether they wish to be excused from jury service and, if so, their reasons.[86] This saves the summoned juror from having to contact various authorities in search of the proper procedure for obtaining an excuse.

d. *Voir Dire for Multiple and Simultaneous Jury Selection*

A method of conducting voir dire in the Second Judicial District of Iowa may satisfy both the advocates of judge-conducted and counsel-conducted voir dire. By this method, used in conjunction with multiple and simultaneous jury selection, the court initially asks the venire questions necessary to discover bases for challenges for cause.[87] The attorneys for the case are then permitted to ask additional questions. Meanwhile, the attorneys for the other cases for which juries are to be selected that day are also present. These attorneys can thus gain information about potential jurors for their own cases because those veniremen questioned but not selected will be "recycled" through voir dire for other trials. Naturally, the time savings will be greatest when the cases for which juries are selected involve similar factual patterns

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panel who does not feel that adult drivers have an obligation to realize that young children playing near the street may unexpectedly carelessly dash into the street?").

83. IOWA R. CIV. P. 187(b) provides: "The prospective jurors shall be sworn. The parties may then examine those drawn. The court may conduct such examination as it deems proper. It may on its own motion exclude any juror." The same procedure is followed for criminal trials. *See* IOWA R. CRIM. P. 17(3).

84. In some Boston courts, counsel must base their challenges exclusively on information gleaned from lists of juror data. Van Dyke, *supra* note 59, at 82.

85. *See* Appendix D *infra* for copy of the questionnaire used by the Second Judicial District of Iowa. *See also The Jury System*, *supra* note 60, at 507-08 for sample letter to jurors and questionnaire.

There are, however, limits as to the types of questions that may be asked on questionnaires. *See, e.g.*, State v. Wade, 53 Ohio St. 2d 182, 373 N.E.2d 1244 (1978) (holding that asking prospective jurors their views on capital punishment by a questionnaire was improper).

86. The back of the questionnaire printed in Appendix D *infra* states the permissible grounds for exemption from jury duty under Iowa law. Those grounds are provided in IOWA CODE §§ 607.2, .3, 29A.41 (1977).

87. *See* note 45 *supra*.

so that the same biases will be relevant in all voir dire examinations. Thus, a venireman once questioned regarding particular attitudes as part of the voir dire for one trial need not be questioned regarding those same attitudes as part of a later voir dire for a different trial.

Both the court and panel members save time by the elimination of repetitive questions under this system. The attorneys, however, probably expend a greater amount of time on voir dire because they sit through a greater number of examinations than they would ordinarily. Nonetheless, they may find the extra time expenditure worthwhile because of the additional insight gained into panel members' backgrounds and attitudes. It is just such extensive questioning that proponents of the attorney-conducted voir dire desire.

The simultaneous method of jury selection affords the attorneys even greater opportunity for extensive questioning. As may be recalled, this method permits the attorneys to a civil suit to conduct their voir dire in a separate room, unsupervised by the court except for occasions when court intervention is requested.[88] The court time-savings is obvious. Moreover, it has been the experience of the Second Judicial District in Iowa that the attorneys rarely spend longer than forty-five minutes in conducting their voir dire. However, since the opportunities for abuse are greater because of the lack of court supervision,[89] it is recommended that the system only be used if the attorneys agree and the parties thoroughly understand the alternative methods of voir dire available.

Selection of multiple juries by a sequence of voir dires in which all veniremen and attorneys are present may be challenged by the argument that jurors are less likely to reveal prejudices when questioned collectively.[90] However, this argument has not garnered much support in other contexts of collective questioning. Generally, the issue of examining prospective jurors outside the presence of other jurors is considered within the discretion of the court.[91] Absent prejudice and abuse, collective and individual examination of panel members while all are present in the courtroom has been upheld by the Iowa Supreme Court.[92] Furthermore, a study has indicated that most jurors feel that voir dire should be conducted in open court.[93]

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88. This method of jury selection, conducted solely by counsel, is presently used for ordinary voir dire examinations by some courts in New York, in Los Angeles and in some federal districts. Van Dkye, *supra* note 59, at 82.

89. *See* note 77 *supra* & accompanying text. Those abuses include using voir dire: (1) as a fishing expedition to aid in selecting those to be peremptorily challenged, (2) to establish rapport with the jury, (3) to preinstruct jurors regarding facts or points of law and (4) to encourage the juror to commit himself to a particular position before trial. Levit, *supra* note 3, at 942-46.

90. *Cf.* Begam, *supra* note 65, at 77 (contending that potential jurors may fail to reveal their biases because they are intimidated by the judge's asking the questions, especially when they are questioned collectively).

91. State v. Elmore, 201 N.W.2d 443, 446 (Iowa 1972). *But see* Reardon, *The Fair Trial—Free Press Standards*, 54 A.B.A.J. 343, 349 (1968) (providing American Bar Standard that says under some circumstances each juror should be examined out of the presence of other jurors); *Voir Dire Standards*, *supra* note 44, at 1532-35 (proposing individual, private questioning whenever the reply might prejudice other jurors or embarrass the juror replying).

92. State v. Elmore, 201 N.W.2d 443 (Iowa 1972).

93. *See* Broeder, *supra* note 3, at 526.

III. Trial Management

A. *Orientation*

The duty of impressing jurors with an awareness of their obligations may be accomplished by an opening address to the panel, a letter to prospective jurors and the distribution of a jury handbook. The advantage of distributing printed material is that no court time is required.[94] Also, absent erroneous or coercive indoctrination,[95] appropriate, standardized content can be better guaranteed through written rather than oral briefing.[96]

B. *Pretrial Conference*

The pretrial conference may also be used as a valuable tool in trial management. Too often it is a mere informality which yields no effective results.

Ideally, the pretrial conference should be a time when counsel are brought together to truly reflect upon and evaluate the issues and merits of their case. Effective utilization of this time may result in a greater number of cases settled prior to the time the jury reports. Consequently, not only are litigation costs reduced, but room is provided on the docket for additional cases.

Aside from the possibility of early settlement, extensive use of pretrial conferences maximizes efficient juror utilization by shortening the length of the actual trial.[97] At that time, the parties should agree to the issues to which the trial will be limited, the admission of items of evidence and the number of witnesses to be called.[98] Also, counsel should be instructed by pretrial order to either number or alphabetize their exhibits before trial so that time is not wasted by this mechanical task during trial.

C. *Notes and Testimony*

There is a possibility that permitting jurors to take notes during trial may cause delay. It is argued that note-taking distracts the jurors from the evidence,[99] possibly requiring reprimand by the court.

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94. Judicial Administration Division of the American Bar Association, Jury 48 (text prepared by F. Woleslagel for the National College of the State Judiciary, 1970) [hereinafter cited as Jury].

95. *See, e.g.*, Parker v. Tuttle, 260 N.W.2d 843, 849 (Iowa 1977), which stated that a *Trial Juror's Manual*, given to each jury member at the time he reported for duty, which advised that failure to agree "generally means a new trial, which is a great expense to the parties and the state," should not have been brought into the jury room. *See generally* Annot., 89 A.L.R.2d 197 (1963); Annot., 2 A.L.R.2d 1104 (1948).

96. Jury, *supra* note 94, at 48.

97. Coe, *supra* note 1, at 78.

98. The Iowa rules of procedure provide for a host of matters to be discussed and resolved prior to trial. *See* Iowa R. Civ. P. 136. *But see* Iowa R. Crim. P. 15(2) (providing for a more restrictive pretrial conference).

99. *See* Article, *Taking Note of Note-Taking*, 10 Colum. J.L. & Soc. Prob. 565, 575-76 (1974) [hereinafter cited as *Note-Taking*]. Other arguments against juror note-taking are the

Except for those jurisdictions with statutes governing the subject,[100] it is within the discretion of the trial judge to determine whether or not jurors may take notes.[101] The general rule nationally is that it is "entirely proper."[102] Appellate courts say they will usually uphold the trial court's decision to permit note-taking "so long as it [does] not cause delay or undue consumption of time."[103]

Alternative means for refreshing recollection of testimony exist for jurors, however. Granting a reasonable and specific request by the jury to have a portion of testimony read to it after starting deliberation is permissible and proper.[104] Thus, a court should not feel constrained to permit note-taking if in its opinion this alternative is superior in terms of jury efficiency.

On the other hand, if a case is of the type that note-taking will assist the jury members in their understanding of the case and in their deliberations, the court should encourage its use. However, the jurors should also be instructed as to the use and effect of their notes.[105]

D. *Instructions*

A method of increasing juror comprehension of the significance of evidence presented at trial is for the court to give concise, simple, limited instructions before the introduction of evidence instead of giving all instructions at the end of trial. It is illogical to follow the conclusion of the case with all the instructions necessary for evaluating it. The best time would be after the jury is sworn and after the statements of evidence by counsel. In a crimi-

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undue reverence laymen have for the written word, the tendency of jurors to emphasize the irrelevant and minor details and the fear that note-taking jurors will dominate other members of the jury. *Id.* at 574-77.

100. For a list of the jurisdictions which have such statutes, see *id.* at 585 n.102.

In Iowa jurors are permitted by statute to take notes during trial and to have the notes during deliberation. IOWA CODE § 784.1 (1977); IOWA R. CRIM. P. 18(5)(e). *See* State v. Jones, 271 N.W.2d 761, 768 (Iowa 1978) (rejecting a defendant's claim of jury misconduct because a juror took notes during trial and carried them into the jury room).

However, § 784.1 would seemingly prohibit notetaking during opening and closing statements because it specifically permits notetaking only during the testimony of witnesses.

101. Boegel v. Morse, 251 Iowa 1253, 1258, 104 N.W.2d 826, 830 (1960); Fischer v. Fischer, 31 Wis. 2d 293, ___, 142 N.W.2d 857, 863 (1966). *See generally* 89 C.J.S. *Trial* § 456 (1955); Annot., 154 A.L.R. 878 (1945).

102. Fischer v. Fischer, 31 Wis. 2d 293, 304, 142 N.W.2d 857, 862 (1966). *See* United States v. Campbell, 138 F. Supp. 344 (N.D. Iowa 1956); Annot., 14 A.L.R.3d 831, 834 (1967).

103. *Note-Taking, supra* note 99, at 591. However, the cases use disparate definitions of the discretion to be accorded trial courts regarding this matter. *See id.* at 587-603.

104. However, "[t]here is considerable discretion vested in the trial court as to what is reasonable and proper . . . ." Hutchinson v. Fort Des Moines Community Servs., Inc., 252 Iowa 536, 546, 107 N.W.2d 567, 573 (1961). *Accord,* Klein v. Wagenheim, 379 Mich. 558, 153 N.W.2d 663 (1967).

Also, it is improper for the bailiff to grant the foreman's request to have testimony read back. Parker v. Tuttle, 260 N.W.2d 843, 849-50 (Iowa 1977), held that the trial judge must give the direct authority and that the jury should be returned to the courtroom.

105. *See, e.g.,* IOWA STATE BAR ASSOCIATION, 2 UNIFORM JURY INSTRUCTIONS no. 14 (1978). *See generally* Annot., 14 A.L.R.3d 831 (1967).

nal case the instructions pertaining to the function of the information, presumption of innocence, burden of reasonable doubt, credibility and the elements of the crime charged may be read by the court. In civil cases, the court may instruct on the type of case, definitions of preponderance of evidence, credibility, expert witnesses, impeachment and any other similar standard instructions.[106]

Instructions for both these standard matters and even more particularized legal issues may be supplied from uniform jury instruction sources.[107] Uniform instructions, like any forms, save research time because they are readily available and qualitatively reliable. However, the benefits of the presently available uniform instructions may be augmented by increasing their authoritativeness and effectiveness. To this end, it is recommended that a special representative group, consisting of laymen and legal consultants, be appointed by the Iowa Supreme Court to prepare uniform jury instructions and that a court rule be made to provide for mandatory utilization of such instructions for certain cases.[108] Such instructions should be written in simple, laymen's terms to facilitate maximum juror comprehension. Mandatory uniform instructions would save time by further reducing the amount of research necessary to prepare instructions, by eliminating instruction drafting and by reducing the matters to be decided in conference on the settlement of instructions.[109] For example, in Illinois, where pattern jury instructions are mandatory if they apply to the facts of the case, the only issue to be discussed in conference is the applicability of the pattern instructions to the case at hand.[110]

Another way to conserve time during trial is for the court to insist that prior to trial counsel stipulate and prepare the instructions pertaining to the elements needed to be proved.

E. *Deliberation*

The amount of time jurors spend deliberating must also be considered in assessing the efficiency of the jury process. Generally the trial judge has broad discretion in determining the length of time the jury should spend deliberating.[111] Requiring the jury to deliberate for an unreasonably lengthy period, however, may vitiate a verdict.[112] On the other hand, a reasonable and

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106. The use of preliminary instructions requires the cooperation of counsel because of the procedural rules requiring a particular sequence of trial events. *See* IOWA R. CRIM. P. 18(1), (5)(f).

107. *See, e.g.*, IOWA STATE BAR ASSOCIATION, UNIFORM JURY INSTRUCTIONS.

108. Seven states make pattern jury instructions mandatory: Arkansas, Colorado, Illinois, Michigan, Missouri, Nebraska and New Mexico. Nieland, *Assessing the impact of pattern jury instructions*, 62 JUD. 185 (1978). *See, e.g.*, ILL. REV. STAT. ch. 110A, §§ 239, 451 (1977).

109. Nieland, *supra* note 108, at 187-88.

110. *Id.*

Although it has also been contended that use of pattern jury instructions would result in fewer new trials or reversals on appeal because of error in instructions, a study of the Illinois experience has shown little or no effect on the appellate workload. *Id.* at 190-94.

111. Rasmussen v. Thilges, 174 N.W.2d 384, 388 (Iowa 1970).

112. *See, e.g.*, Kracht v. Hoeppner, 258 Iowa 912, 140 N.W.2d 913 (1966) (jury spent entire night deliberating).

proper period of deliberation may fail to produce a verdict at all. In both situations, the time and expense of an additional trial is the result. Hence, this is a very sensitive area, and it must be kept in mind that "[i]t is not the purpose of the trial to secure *a* verdict, but rather *the* verdict of the jury . . . ."[113]

The Iowa rule permitting less than unanimous civil verdicts also requires that the jury deliberate for at least six hours.[114] In *Parker v. Tuttle*[115] that rule was restricted to require that the deliberation for the prescribed amount of time be actual deliberation. Thus the court concluded that time spent for meals outside the jury room could not be included in determining the amount of time spent in deliberation before rendering a less than unanimous verdict.[116] The Iowa court distinguished a Nebraska decision which held that a verdict rendered only fifteen minutes beyond the statutory minimum resulted in a fair trial even though deliberation time included a meal.[117] The Nebraska Supreme Court followed the prior Minnesota case of *In re Hurlbut's Estate*,[118] which concluded that a juror may deliberate as wisely when considering and weighing the evidence in his mind as when he is discussing his conclusions with the other members of the jury.[119]

From an efficiency standpoint, the Nebraska rule is favored. Regardless, it can be argued that a stopwatch should not be employed to keep exact times for when a juror is deliberating and when he is not. The innumerable variables involved in each case, *e.g.*, factual complexity, weight of the evidence on each side and juror aptitudes, simply make it impossible to fix one amount of minimum deliberation time as necessary in all cases.

IV. Conclusion

In these days of taxpayer concern over excess government spending, as witnessed by Proposition 13 in California, courts should take heed of the frustration of jurors and litigants caused by inefficiencies in management of the jury system. It is particularly apt that Iowa courts reexamine their juror usage procedures at this time, as a special committee, appointed by the

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113. Clemens v. Chicago, Rock Island & Pac. Ry., 163 Iowa 499, 509, 144 N.W. 354, 358 (1913).

Although not error *per se*, the verdict-urging instruction should be carefully used in order to avoid retrial. *See* State v. Cornell, 266 N.W.2d 15, 19 (Iowa 1978); State v. Quitt, 204 N.W.2d 913 (Iowa 1973); Middle States Utils. Co. v. Incorporated Tel. Co., 222 Iowa 1275, 271 N.W. 180 (1937).

114. *See* Iowa R. Civ. P. 203(a).

115. 260 N.W.2d 843 (Iowa 1977).

116. *Id.* at 849.

117. In Cartwright & Wilson Constr. Co. v. Smith, 155 Neb. 431, 52 N.W.2d 274 (1952), the statute only required that the jurors have the opportunity for deliberation for not less than six hours. The Iowa rule, however, requires the jurors to have deliberated for not less than six hours. Parker v. Tuttle, 260 N.W.2d at 848.

118. 126 Minn. 180, 148 N.W. 51 (1914).

119. *Id.* at ___, 148 N.W. at 52.

Supreme Court of Iowa, undertakes study of litigation costs in Iowa trial courts.[120]

Drastic measures may be necessary. However, significant savings in time and money may result from minor changes, which may represent only a five or ten minutes' savings per trial. Cumulatively, they may shorten individual trials by hours and total trial sessions by days, without endangering the concept of a fair trial. At the same time, they will promote renewed confidence and increased willingness to participate in the American jury system. It is hoped that the easily implemented, cost-free measures suggested here will contribute to this important goal of jury efficiency.

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120. Recommendations shall be made to the court Oct. 15, 1979. THE NEWS BULLETIN OF THE IOWA STATE BAR ASSOCIATION, Dec., 1978, at 2.

Also, on February 6, 1979, for the first time in Iowa's history, the head of its judicial branch appeared before the legislature to give a State of the Iowa Judiciary Message. Chief Justice W. Ward Reynoldson recommended that the state government relieve the counties of responsibility for the costs of the district court system, including jury costs. This proposal, it was suggested, would provide local property tax relief. *Legislators cool to shift in financing state courts,* Des Moines Register, Feb. 7, 1979, at 1A, col. 5.

Appendix A

SUGGESTED TRIAL AGENDA

I. *Prior to Trial*

- A. Pretrial Conference or Order Without Conference
- B. Discuss with counsel in chambers
  1. Settlement possibilities
  2. Estimate of trial time
  3. Jury selection
     - a. Six member
     - b. Method of voir dire examination
     - c. Area of inquiry by counsel and limitations
  4. Problems that may arise as to attendance of witnesses, unusual questions of law, or trial procedure
  5. Instructions
     - a. Requested
     - b. Probable instructions
     - c. Preliminary instructions

II. *Roll Call by Clerk*

- A. Bailiff distributes Iowa State Bar Association jury brochure

III. *Opening of Court*

- A. Bailiff opens court
- B. Oath by Clerk while still standing

IV. *Introductory Comments by Court*

V. *Voire Dire Examination*

- A. Purpose of voire dire and agreed method
- B. Names drawn by Clerk
- C. Voire dire by the Court

VI. *Alternate Juror Selection and Continuation of Trial*

VII. *Statements of Evidence*

VIII. *Preliminary Jury Instructions*

INSTRUCTIONS FOR JURORS

TERM OF JURY DUTY	JUROR NUMBER

2

REPORTING AND PAYMENT

To assure payment for your service on the jury, CHECK IN WITH THE JURY CLERK, stationed near the center of the third floor of the Polk County Courthouse, AT THE FIRST OF EACH DAY YOU ARE DIRECTED TO REPORT FOR JURY DUTY. You will be paid $10.00 per day, plus 15¢ per mile, round trip, based on Court calculations. Payment will be made on your last reporting date.

While you are asked to be available for duty between the dates listed above, the usual number of days in which you can plan on being at the Courthouse are about one-half of the total number of service days. You will report only on the days a judge instructs you. Depending upon your selection, even on some days in which you report, you will be at the Courthouse only part of a day.

Our usual court day is 9:00 a.m. to 4:30 p.m., Monday thru Friday. You will not spend any evening at the Courthouse.

If you desire to be excused, please ask the jury judge.

PARKING

Reserved parking, 2 blocks south of the Courthouse, at 121 SW 5TH is available. On your first day of reporting, pick up a parking card from the Jury Clerk. The card must be displayed on your vehicle's dashboard so that you will not be issued a ticket for illegal parking at the 5TH STREET lot. Park in that lot. Should that lot be full, you may park at Keck NBR 19 (southeast corner, 9th & Walnut); Keck NBR 28 (northwest corner, 8th & Mulberry); or Keck NBR 29 (southeast corner, 9th & Locust). The County will not pay for parking at any other lot.

ATTIRE

Use good judgment, wear comfortable but conservative clothing. A limited number of lockers are available for storage of personal belongings. See the Jury Clerk for a locker key. A $1.00 deposit is required.

TELPHONE CALL-IN

Report for registration on the first day of your term.

Because the number of jurors needed varies from time to time, your services may not be required for every day of your scheduled jury term. Unless otherwise advised by the Court, telephone 284-6302 after five o'clock each evening to learn whether you are to report for duty the next day. No pay is allowed for reporting on days for which you have been instructed NOT to report. You will be instructed by the juror number assigned to you or by the name of the Judge to which you have been assigned.

ABSENCE DURING YOUR SCHEDULED TERM

If unexpected circumstances prevent your serving during a portion of your scheduled term, telephone 284-6485 for authorization to be excused.

BE SURE TO BRING YOUR SUMMONS WHEN YOU REPORT.

Appendix C

JURY SERVICE EXIT QUESTIONNAIRE*

Your answers to the following questions will help improve jury service. All responses are voluntary and confidential.

1. Approximately how many hours did you spend at the courthouse? _____

2. Of these hours in the courthouse, what percent was spent in the jury waiting room? _____

3. How many times were you chosen to report to a courtroom for the jury selection process? _____

4. How many times were you actually selected to be a juror? _____

5. Have you ever served on jury duty before? _____ How many times? _____

6. How would you rate the following factors? (Answer all)

	Good	Adequate	Poor
A. Initial orientation	☐	☐	☐
B. Treatment by court personnel	☐	☐	☐
C. Physical comforts	☐	☐	☐
D. Personal safety	☐	☐	☐
E. Parking facilities	☐	☐	☐
F. Eating facilities	☐	☐	☐
G. Scheduling of your time	☐	☐	☐

7. Did you lose income as a result of jury service? ☐ Yes ☐ No

8. After having served, what is your impression of jury service? (Answer one)

   A. The same as before—favorable? ☐
   B. The same as before—unfavorable? ☐
   C. More favorable than before? ☐
   D. Less favorable than before? ☐

9. In what ways do you think jury service can be improved?

_____

_____

_____

*Adapted from 1974 GUIDE, *supra* note 2.

The following information will help evaluate the results and responses to this questionnaire:

10. Age: 18-20 ☐ 21-24 ☐ 25-34 ☐ 35-44 ☐ 45-54 ☐ 55-64 ☐ 65-over ☐

11. Sex: ☐ Female ☐ Male

12. Did you feel that the lawyers had their respective cases prepared and organized? Yes ____ No ____

(Comments) _____

13. Did you feel that the lawyers wasted too much time? Yes ____ No ____

(Comments) _____

14. Did you feel too much time was wasted on waiting for witnesses? Yes ____ No ____

15. Did you feel that the lawyers asked too many questions and spent too much time selecting the jury? Yes ____ No ____

16. Do you like the Multiple or Simultaneous method of selecting juries? Yes ____ No ____

(Comments) _____

THANK YOU for your cooperation!

Appendix D

You are hereby notified that you have been selected as a Petit Juror for the next calendar quarter of Wright County District Court. You are requested under order of the District Court, to complete the following questionnaire and return it immediately. Answering the questions will save time at the trials and may prevent embarrassing questions. Please return questionnaire in the enclosed envelope.

QUESTIONNAIRE FOR JURORS

1. Name _____
   Name of husband or wife of Juror _____
2. Age _____ Telephone No. _____
3. If you have no telephone, how may you be reached? (Neighbor or Employer)? _____
4. Mailing Address _____
5. Are you residing in Wright County, Iowa? YES ___ NO ___
6. Number of miles from your residence to Courthouse _____
7. Marital status, Check one: A. Single ___ B. Married ___
   C. Widowed ___ D. Divorced ___
8. Total number of Children _____
9. Occupation: _____
   A. Name of Employer _____
   B. Location of Work _____
10. Occupation of husband or wife _____
11. Have you or any member of your immediate family ever been a party to a Lawsuit? _____ If so, in what Court? _____
    When? _____
12. Have you or has any member of your immediate family ever made a claim of damages for personal injury? _____
13. Have you or has any member of your immediate family ever had a claim made against you (them) for damages for personal injury? ___
14. Are you related to, or are you close friends of, any law enforcement officer? _____ If so, who? _____

15. Have you ever served as a petit juror? _____ If so, when? _____
16. Have you ever served as a grand juror? _____ If so, when? _____
17. Are you exempt from jury duty under the law? _____ (See enclosed statement of law).
18. Physical defects, if any _____
19. Do you intend to request to be excused from jury service? _____
    If so, reason _____
    _____
    _____
20. Have you ever been convicted of a felony? YES ____ NO ____

I hereby certify that the answers to the above questions are true.

Date _____ _____

Signature

FOR YOUR INFORMATION

The laws of the State of Iowa provide:

I. The following persons shall be *exempt from liability* to serve as jurors:

   A. Persons holding office under the laws of the United States or of Iowa.
   B. Practicing attorneys, physicians, chiropractors, osteopaths, veterinarians, dentists and clergymen.
   C. Active members of any fire company.
   D. Persons conscientiously opposed to acting as a juror because of religious faith.

II. Also, any person may be excused from serving on a jury when his or her own interests or those of the public will be materially injured by attendance, or when the state of his or her health, or the death or sickness of a member of his or her family requires that he or she be absent from court, and for any good and sufficient cause shown which the court deems proper.

III. In addition thereto, any officer and enlisted person in the national guard is exempt from jury duty.

IV. It is a punishable offense, under the law, for any person to knowingly make a false affidavit, statement or claim for the purpose of relieving himself or herself or another from serving as a juror.

Jury duty is a community service of the highest order. Please serve if possible.