

## **COLORADO JURY SYSTEM STANDING COMMITTEE**

Supreme Court Conference Room  
Friday, September 8, 2006; 3-5 p.m.  
Meeting Minutes

Attendees: Judge Leland Anderson (Committee Chair), Erika Englert, Molly Ferrer, Bob Grant, Lori Johnson, Karen Salaz, Jackie Senese

Staff: Carol Rigato

Judge Anderson opened the meeting at 3:10 p.m.

### **Subcommittee Reports**

#### **Ongoing Education and Training Subcommittee**

No progress to report. Erika Englert reported that this subcommittee had not yet met. Judge Anderson reviewed potential projects assigned to this committee, and will follow up with interim committee chair, Bill Keating.

#### **Juror Notebooks**

No progress to report. Judge Anderson stated that Donna Wheeler may be planning to resign from the committee. An overview of the purpose of "juror notebooks" was provided, and the goal of developing a generic notebook/standard format that could be used statewide was restated. Judge Anderson will follow up with Donna Wheel regarding progress of this project. Carol Rigato agreed to gather notebooks that are being used in a sampling of districts for review by the committee.

#### **Jury Instructions – Criminal**

Judge Anderson informed the committee that Janet Bacon has resigned from the committee after serving many years. She had agreed, however, to assist with future work regarding plain language jury instructions if needed.

Bob Grant stated that before the committee can proceed with plain language criminal jury instructions, the new criminal jury instructions should be completed/approved. It is believed that Justice Coats is in possession of the recommended changes (two different sets/recommendations), and is currently reviewing them. Judge Anderson stated that the committee will "watch and wait", and proceed with this project once more information is available.

#### **Juror Issues**

Jackie Senese provided an update on subcommittee progress made, and provided a handout for discussion. Two Jury Service Exit Questionnaires are being developed. The first is for jurors who served on a jury panel; the second is for jurors called to jury service who did not serve on a panel. Libbi Palmer will provide information regarding the development/implementation of these questionnaires at the December meeting.

Jackie Senese and Lori Johnson are developing a separate questionnaire for Jury Commissioners, to gather information regarding what is already being done in court locations regarding juror comfort issues. Results to follow.

The pamphlet, "Reactions to Jury Service" is already in use in districts to assist with Juror Stress issues. The subcommittee is pursuing ways to enhance this existing pamphlet, and perhaps tailor it more specifically to the needs of individual districts.

This subcommittee is gathering more information regarding juror privacy issues, investigating how disclosing juror personal information relates to juror stress and what the Federal system does in regard to protecting juror privacy, and will possibly develop a rule related to these issues. More information will follow in subsequent meetings.

Jackie Senese will make a request from JBITS as to what information may be available regarding "who reports for jury service". Limited information may be available, as the jury program does not gather demographic information on potential jurors, but only collects name, address, county, birthdate, etc. An added difficulty is that we cannot identify who is choosing to "fail to appear" (not report) for jury service (a profile of the individual).

Discussion continued regarding the jury wheel/program, "failures to appear", how to possibly study this issue, and decrease the number of jurors that may choose not to report for jury service, undeliverable summonses, etc. Judge Anderson asked the committee if they viewed issues related to the jury wheel/program as items that should be addressed by the committee. Bob Grant suggested that juror participation will likely be increased if we address the underlying issues of why jurors fail to appear. It was suggested that we focus on juror comfort issues, and then make efforts to pursue increasing public awareness of the "benefits" of serving as a juror, and the positive actions that have been taken in Colorado. Karen Salaz offered to solicit information from National Public Information Officers regarding what has been done in other states to increase participation in jury service and/or success stories regarding jury service/participation, and any studies/polls done regarding who may not be appearing for jury service.

Discussion continued regarding related issues regarding why jurors may be hesitant to appear for service, such as being self-employed, or having child-care issues. A survey, sent to jurors not appearing for service was suggested, or possibly conducting a focus group to gather information. Karen Salaz stated that at a recent national meeting, participants indicated a 30-40% return on juror summonses issued. Jackie Senese offered to follow up with the National Center for State Courts and investigate if any recent studies have been done regarding this issue.

Judge Anderson inquired if the committee wanted to pursue changes in legislation to help make the statutes clearer regarding juror pay, work hours and shift obligations, employer and employee obligations, and related issues. Judge Anderson suggested compiling an e-mail to round-robin among committee members, suggesting changes to statutory language. The decision was made to allow the Juror Issues Subcommittee to decide when they can make this a priority item. Karen Salaz suggested that it may be difficult to get a legislator to sponsor proposed legislation this late in the year, especially since elections are fast approaching.

Karen Salaz suggested compiling an on-line survey for citizens to fill out, print and mail in, seeking information as to why jurors have not reported for service in recent months. She felt strongly that we could gather information and that the press would back the court to push notice of the survey. Judge Anderson suggested that the committee hear the results of Karen's inquiry from the NPIO at the December meeting, then make a determination as to what actions the committee may want to pursue regarding this issue.

## **Pre-Deliberation Discussions**

Molly Ferrer provided an update regarding Subcommittee progress, and provided a handout for discussion. Arizona Jury Instructions were used as a guideline/example regarding a proposed civil rule change. Per Judge Anderson, the Arizona pre-deliberation study indicated that jurors would be more likely to speak with each other “outside of school”, rather than speak with others outside of the court (family, etc.); being allowed to pre-deliberate helped to diminish the likelihood that jurors may be speaking to each other individually, rather than waiting until all jurors are present.

The subcommittee presented a proposed civil rule change: Rule 39(f): Admonition to Jurors; Juror Discussions. The committee reviewed the proposed language, making clear that the jurors have discretion whether to pre-deliberate, but it is mandatory (absent good cause) for the Judge to give the option for pre-deliberation discussions in civil cases.

The committee proposed amending the current rule regarding pre-deliberation discussions, rather than create a new rule. The committee will finalize wording and recommendations, and present them at the December meeting. Judge Anderson agreed to take the proposed civil rule change to the Civil Rules Committee, once finalized.

## **Other Issues / Updates**

Juror Orientation Video: Karen Salaz informed the committee that she recently obtained a \$25,000 grant from the Cathlin Donnell Foundation which will be used to update the current juror orientation video. Plans are being made to move forward with creating a script, and filming a new video. Karen will update the committee as this project moves forward.

Carol Rigato informed the committee that NCSC has recently published a booklet “Communicating with Juries: How to Draft More Understandable Jury Instructions”. She will obtain a copy of the booklet for committee members. Available copies given to Judge Anderson and Karen Salaz.

Judge Anderson raised the issue of the role of Voir dire in the trial process, inquiring if the committee desired to pursue this issue, and possibly develop a corresponding rule regarding the proper use of voir dire, model questionnaire, time limits, etc. Due to lack of time remaining in the meeting, this topic will be added as an agenda item at the December meeting.

**As a reminder, Judge Anderson requested that subcommittees send an e-mail to him regarding their meeting dates, goals, action plans, progress, etc. Subcommittees should also come prepared to discuss these items at the next general committee meeting in December.**

The next **standing committee meeting will be held on Friday, December 1st**, from 3:00 – 5:00 p.m., in the 3<sup>rd</sup> floor conference room at the State Court Administrator’s Office, located at 1301 Pennsylvania Street, Denver. Underground parking is available.

The meeting was adjourned at 5:10 p.m.

Respectfully submitted,  
Carol Rigato