

**Question:** Can space complications and courthouse congestion be lessened through improved jury management?

**Answer:** Somewhat, but not without relocation, substantial remodeling, and procedural changes.<sup>1</sup>

**Background:** The jury system has long been the bedrock of American justice. To this day, the vast majority of Americans credit juries with preserving the fairness and independence of our judicial process. Because of this celebrated and ongoing importance, the physical facilities provided jurors have traditionally been a key focus in courthouse design, conveying a sense of dignity and importance to this core role played by everyday citizens in their government. Building on that history, however, the jury system has not remained a static institution. Over the past several decades, courts have implemented automation and developed procedures to manage juror service more efficiently and responsibly. Courthouse design needs to reflect these developments in order to provide an appropriate technical and physical environment in which jurors can best fulfill their traditional role.

Even though jurors are compensated modestly (Iowa has one of the lowest juror fees in the country; a \$10 flat daily rate), they can be tacitly regarded as one of the biggest groups of “citizen volunteers” in public service. The current jury assembly room, converted courtroom space on the third floor of the Historic Courthouse, is largely inadequate in many respects. It can accommodate approximately 100 people, but is often overflowing due to the number of jurors that report. The court operates on a one week / one trial term of service with jurors reporting to the Courthouse for a full week of service or the duration of the trial if the trial goes longer than one week. Most trials last between two and three days.

To meet the demand for prospective jurors, the jury commissioner summons an estimated 550 people each week, six weeks in advance of the date of service. Generally, jurors report on Mondays. When heavy jury calendars are predicted ahead of time, a second reporting group may be brought in on Wednesdays. Since the assembly room presents problems in seating and acoustics, orientation customarily takes place in a nearby courtroom. Routinely, around 250 summons are returned; after disqualifications (i.e. non-residency, non-citizen, prior felony conviction, or inability to speak or understand English) roughly a maximum of 200 are eligible for service. The proportion of persons summoned who are qualified and available for jury service is called the *jury yield*, approximately 36 percent in Polk County. A commonly used goal for yield is 40 percent, a value demonstrated to be realistic in many well managed courts.<sup>2</sup>

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<sup>1</sup> This issue paper was developed with the assistance of Paula Hannaford-Ago, Director, Center for Jury Studies, National Center for State Courts.

<sup>2</sup> Source: *CourTools Measure 8, Effective Use of Jurors*. CourTools is a set of ten concise performance measures for trial courts. Taken collectively, these metrics are universal, common sense ways to assess basic court operations regardless of court size, jurisdiction or location. They measure case delay, impartiality, attitudes and perceptions, data accuracy, customer service, stewardship of resources, and respect for the court and its decisions. They condense decades of research leading to quantifiable, vital outcomes.

From the pool of jurors who report, staff randomly selects jury panels averaging 25 prospective jurors for civil cases and 30 – 35 persons for criminal cases. Here, *CourTools*, statistical measures created by the National Center to assess court performance, would evaluate *jury utilization*, the rate at which perspective jurors are used at least once in trial or voir dire. The objective being to minimize the number of unused perspective jurors – the number of citizens who are summoned, qualified, report for jury service, and then who are not needed. The suggested goal for the number of jurors who attend jury selection, essentially those called from the jury assembly room to a courtroom for voir dire, should be around 90 percent in high performing courts. The goal for those who are actually utilized, in other words selected as jurors, should be 30 percent of those sent to the courtroom. These calculations will help in assessing both the appropriateness of the yield and panel size. Polk County statistics were not collected.

Another recommended measure of jury management effectiveness is a *juror questionnaire*. Juror attitudes, measured by a qualitative survey, are often very helpful in detecting problems and improving processes before they reach crisis proportions or have the possibility of further reducing yields over the long run. The District Court in Polk County does not routinely administer juror opinion polls.

**Analysis:** Overarching values suggested by the Center for Jury Studies at the National Center for State Courts in managing trial court juror systems is to *conduct operations in a manner that respects and protects citizen dignity, time and safety while demonstrating the importance and significance of their unique role in determining the facts of a case*. This obligation begins with the pre-service processing and screening of prospective jurors and continues through their arrival at the courthouse for jury service, the court's orientation to their duties as a petit juror, the safe and orderly transit of jurors from the assembly room to individual courtrooms, the juror selection process (voir dire), the presentation of evidence, argument and legal instructions to the impaneled jury, the jurors deliberations at the close of the case, and the release of the jury panel when the tasks are completed. Responsibility for these objectives in Iowa falls primarily on the court and trial judges for automation and procedures, and secondarily, on county leaders for space, infrastructure, overall security, and essential juror accouterments (i.e. adequate restrooms and a comfortable waiting environment).

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One of the measures is the *Effective Use of Jurors* which targets juror yield, juror utilization and juror satisfaction in comparison to national and state standards. The foundation principle in measuring juror performance is the supposition that if the jury system is perceived not to be overly onerous, and it values the time and service of jurors, public trust and confidence in the justice system is enhanced...an important ingredient for a stable, vibrant and healthy democracy. For more about *CourTools*, go to [www.ncsconline.org](http://www.ncsconline.org).

Needless to say, the biggest shortcoming in meeting the Center's recommended overall jury values in Polk County is the inadequate facilities faced by jurors in virtually all respects. The jury assembly room is too small for the number of jurors summoned and not secure from public, litigant, victim, lawyer and witness contact as universally advised by the National Center. The assembly room space should serve a number of functions including check-in, orientation, comfortable waiting, and provide a sense of civic purpose. It does none of these things well. A trend nationally has been to recognize that jurors spend a great deal of their time waiting in the jury assembly room and thus to make the area as comfortable as possible (i.e. break rooms, business center, quiet rooms, etc.).

Restrooms are scant throughout the Polk County Courthouse and do not provide the security jurors should be afforded. Many urban courts provide separate, segmented restrooms for jurors near the assembly room.

Deliberation rooms in the Courthouse are limited. They need not be attached to individual courtrooms in what many see as the traditional model, but may be clustered together in strategic locations provided they allow security and privacy for jurors. The rooms should serve three functions... a protected location for deliberation, a gathering place and waiting area for impaneled jurors and alternates when trial is not in session, and a staff meeting, assembly, training and break area when not used by a panel. Clustering jury rooms can permit reduced remodeling and construction costs by sharing amenities (e.g. restrooms, coat closets, small kitchen area). In modern courthouse design, deliberation rooms allow jurors to conduct routine personal business during non-trial times as necessary (i.e. checking email, making personal cell phone calls, etc.). Some judges may be concerned that jurors might use Internet access to obtain ex parte information about the trial. There may be similar concerns about jurors mingling with jurors from other cases in shared deliberation suite areas. These risks are no more likely for jurors waiting in deliberation areas than they would be for jurors who leave the courthouse during recesses for lunch. Moreover, empirical research suggests that if jurors are appropriately admonished to avoid conducting independent research or discussing the case with others, and given the underlying rationale for the prohibition, they are remarkably good about policing themselves.<sup>3</sup> Jurors can be given additional admonitions to concentrate on jury deliberations, rather than personal business, after the case has been given to them for decision.

**Advice:** There are some modest ways to lessen space complications in the Historic Courthouse through improved jury management, but the greatest impact would likely result from significant renovation of the building together with instituting more forward-looking approaches in juror facilities. Some of these suggestions may be accomplished with procedural changes; others with partial reconstruction within the building...

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<sup>3</sup> Data available at the Center for Jury Studies, National Center for State Courts, Williamsburg, VA.

- Consideration should be given to relocating the juror assembly room to the ground floor if other functions are moved from the building to permit additional space on that floor. This would ease congestion on the upper floors, reduce elevator traffic, and could indeed facilitate a more secure assembly room environment if designed properly, and may allow for more updated, dedicated restroom facilities.
- Consideration should be given to moving to a one trial | one day term of juror service. Sixty-eight percent of general jurisdiction trial courts in the U.S. serving populations of 400,000 people or more provide this service pattern. Two-thirds of the U.S. population lives in those jurisdictions.<sup>4</sup> Doing so alleviates much of the financial hardship associated with jury service, which in turn reduces the excusal rates for jurors and increases the jury yield. The average excusal rate for courts using the one trial | one day term is six percent compared to nine percent for courts using longer terms of service.<sup>5</sup> Also, it should be noted that low juror fees, such as exist in Iowa, correlate with higher excusal rates.

Two of the most common arguments against one trial | one day terms of service are that it requires summoning more jurors, and many judges prefer “seasoned jurors”<sup>6</sup> who are thought to be better at deliberation. It is true you have to summon more people, but a portion of that is offset by the increased yield due to a shorter term. Another mitigating aspect often overlooked is the number of days jurors actually serve. Since the District Court in Polk County only calls jurors on Monday and sometimes Wednesday, it would be a short step to one trial | one day. Another benefit of a reduced term of service often exhibited by courts in moving this direction is they generally find themselves using jurors more efficiently and thereby needing fewer jurors overall.

Regarding “seasoned jurors,” NCSC experience is that rarely do jurors have the opportunity to become “seasoned” in a week on jury service. Most are released before the week is finished since it is a rarity in Polk County, and many other general jurisdiction courts, to start a jury trial after mid-week.<sup>7</sup>

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<sup>4</sup> NCSC State of the States Survey of Jury Improvement Efforts, April 23, 2007.

<sup>5</sup> Ibid.

<sup>6</sup> “Seasoned jurors” are those who have served on a panel.

<sup>7</sup> Interestingly, the Superior Court of Arizona in Maricopa County (Greater Phoenix) experimented a few years ago with jury selection in civil cases on Fridays in anticipation of trial starts on Monday morning at 9:00 AM sharp. Three unanticipated, positive results were occasioned largely attributed to the fact that lawyers worked over the weekend to prepare their cases. First, fewer cases went to trial since settlements and pleas were more prevalent. Time certain drove serious, last minute scrambles to resolve issues in lieu of trial. Secondly, jury selection on Fridays caused cases that would have settled on Mondays to resolve early freeing more judges early in the week to take overflow cases. Third, the trials that did take place were generally shorter in duration by as much as 25 percent than similar cases where jury panels were selected early in the week. The speculation is that since lawyers had two days (i.e. Saturday and Sunday) to prepare in earnest, they were more on-point and succinct in trying their cases.

- Reduce juror waiting and peak congestion times with staggered starts. It is a well documented fact that the most objectionable aspect of jury service is the amount of time prospective jurors spend waiting, even if the waiting takes place in a “gilded cage.” Any reasonable effort to reduce the amount of waiting will always be viewed positively by jurors and ultimately will result in more efficient operations overall.

At the risk of characterizing prospective jurors as mere commodities, it may be useful for the District Court to consider some of the inventory supply chain practices developed by big box stores such as Wal-Mart and Target. These types of businesses have streamlined their inventory procedures to ensure “just-in-time” product delivery; excessive amounts of on-site inventory are kept to a minimum. Along the same vein, the District Court should operate the Jury Assembly Room with the expectation and intent that, for the vast majority of prospective jurors, a minimal amount of time will elapse between the time they report for service and the time they are sent to a courtroom for voir dire. This can be accomplished by wisely regulating both the “supply” of jurors reporting for service and the “demand” for jurors from individual judges.

To make appropriate adjustments on the supply side, the District Court should explore staggered reporting times for jurors, making it a routine practice. Technology (IVR, Internet) can assist in canceling jurors assigned later start times through “call out” options that can text, email, and telephone summoned jurors to inform them they need not report.

Check-in processes can be streamlined with technology. Forms completion work can be done on-line or via IVR concurrently with the submission of a juror affidavit questionnaire. Jurors using the Internet could view a digitized version of the orientation video before reporting. Some courts have moved to juror check-in at kiosks in the Assembly Room similar to airline check-in processing. Kiosks can scan barcodes on the summons or prompt jurors to enter their juror ID numbers, make name and address corrections, complete biographical data if not previously done, and direct those who have not watched the video over the Internet to a separate area in the Assembly Room where it is played on a continuous loop as jurors arrive.

On the demand side, judges and judicial staff have to strive for accuracy in specifying the time they expect to begin voir dire. Last minute settlements are sometimes unavoidable, but where they proliferate, it will confound improved jury management. For the most part, NCSC has found in dealing with the national community of urban courts that a majority of judges have highly predictable calendar patterns on trial days. To the extent feasible, judges on a jury trial calendar should pre-select regular, staggered start times.

- Study the possibility of moving the jury assembly room outside the courthouse to a nearby office facility where jurors could be oriented and wait to report to a courtroom. Admittedly, there are not many courts that do so, but then again, there are not many urban courts facing the constrained space options encountered in Polk County. There are metro courts that do move jurors between buildings when forced to do so. NCSC is not aware of any major difficulties in moving jurors between buildings that have resulted in disqualifications.

Another option is to have jurors report directly to a courtroom at a specific time, usually late morning or early afternoon, without ever passing through a jury assembly room. Travis County Texas (Austin) operates in this fashion with little difficulty.<sup>8</sup> There is no jury assembly room in the county courthouse. The later reporting times give judges the opportunity to address pretrial motions and accept day-of-trial settlements and plea agreements with sufficient time to cancel jurors if they are not needed for trial. The practice has had a particularly impressive effect on juror utilization, ostensibly because judges understand that jurors will be reporting directly to their courtrooms and they will be responsible for sending them home if they are not ultimately needed for jury selection. This creates substantial incentives for effective pretrial management and communication with attorneys and with the jury staff before telling jurors to report for service.

- Expand digitized respond-by-web and respond-by-phone jury technology to reduce paper and clerical work (i.e. limiting need for additional staff), improve overall response rates (i.e. summoning fewer jurors)<sup>9</sup>, and reduce time spent by jurors in the courthouse (i.e. relieving congestion). Polk County, as the largest court system in the state, should lead the way in technology and benefit most from its advance. Offering more efficient avenues for jurors to respond and manage their jury duty - including providing personal data, educating themselves about the role and responsibilities of a juror, managing their time in reporting and serving, and providing feedback - can promote staff and space savings in the Historic Courthouse. To that end, the Center of Jury Studies has discovered that a substantial factor in the success of online juror websites is the extent to which their courts publicize them and formally encourage jurors to use them (i.e. prominent notice on the jury summons about website services).<sup>10</sup>

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<sup>8</sup> Travis County Texas has a population of 1 million residents (2009 estimate: U.S. Census Bureau).

<sup>9</sup> Juror management software vendors have reported to NCSC that the more tasks that prospective jurors can conduct online, the more likely they will be to conduct all their juror communication online which in turn affect overall response rates. Thus, courts that restrict online communication only to documenting juror qualification questionnaires typically have lower overall response rates than courts which provide jurors with a broad array of options.

<sup>10</sup> There is great room for improvement. An informal survey of 35 courts conducted by NCSC's Center for Jury Studies that offer online qualification access to prospective jurors found great variation in online response rates ranging from less than two percent to as high as sixty percent. Most courts reported average online response rates between 25-35 percent; roughly a half to two-thirds of the households in the U.S. with Internet access.