



# JUDICIAL COUNCIL OF CALIFORNIA

A REPORT TO THE JUDICIAL COUNCIL

ON

## WAYS TO IMPROVE

### JUDICIAL SELECTION AND MANAGEMENT

#### (EXECUTIVE SUMMARY)

PREPARED BY

NATIONAL CENTER FOR STATE COURTS

WESTERN REGIONAL OFFICE

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A REPORT TO THE CALIFORNIA JUDICIAL COUNCIL  
ON WAYS TO IMPROVE  
TRIAL JURY SELECTION AND MANAGEMENT

(Executive Summary)

NCJRS  
JUN 28 1978  
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April 28, 1978

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April 28, 1978

Honorable Rose Elizabeth Bird  
Chief Justice  
California Supreme Court  
Room 4056, State Building  
350 McAllister Street  
San Francisco, California 94102

Dear Chief Justice Bird:

The National Center for State Courts is pleased to present to you reports on ways to improve trial jury selection and management and on witness treatment in criminal proceedings in California's municipal and superior courts. These reports stem from a project completed at the request of the Judicial Council of California and financed by a federal grant under provisions of the Omnibus Crime Control and Safe Streets Act of 1968 through the California Office of Criminal Justice Planning.

The objectives of this project were to develop, test and propose solutions to 13 high priority problem areas of jury selection and management, and to identify and review methods to reduce witness inconvenience by revised court, prosecutor and public defender policies or improved witness handling.

The project reports are presented in three separate volumes. One is an executive summary of the report on ways to improve trial jury selection and management. A second volume

Honorable Rose Elizabeth Bird

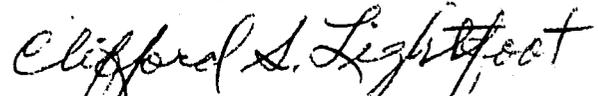
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contains the detailed report and supporting data on jury selection and management improvements. The third volume covers witness treatment in criminal proceedings.

The Project Advisory Committee, chaired by Mr. John Kazubowski, helped us to successfully complete this assignment. We appreciate the opportunity to serve the California Judicial Council by conducting this important project.

Sincerely,



Clifford S. Lightfoot  
Project Director

CSL:cs  
Enclosure

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Also, we extend our appreciation to the California Court Administrators' Association and California Jury Commissioners' Association; and Gary Bronson, Executive Officer, Riverside County Superior Court; Stan Collis, Court Administrator-Jury Commissioner, Alameda County Superior Court; Hank Rogers, Executive Officer, Ventura County Superior Court and Paul Takata, Chief - Civil Division, Oakland-Piedmont Municipal Court District; for their assistance in previewing and commenting upon this report.

A Project Advisory Committee consisting of John Kazubowski, Clerk and Executive Officer of the Santa Clara County Superior Court; the Hon. Lucian Vandegrift, Judge, Butte County Superior Court; the Hon. Theodore Krumm, Judge, San Bernardino County Municipal Court; Betty Middlecamp, Jury Commissioner, San Luis Obispo County; Bill O'Malley, District Attorney, Contra Costa County; John Pace, Assistant Public Defender, Alameda County, and

Bill Pierce, Assistant Jury Commissioner, San Diego County, provided encouragement and guidance throughout the project.

The views and suggestions expressed herein are solely those of the National Center for State Courts and do not necessarily represent the opinions of the Judicial Council of California, the members of the Advisory Committee nor of the Law Enforcement Assistance Administration.

This project was financially aided through a Federal grant from the Law Enforcement Assistance Administration and the California Council on Criminal Justice (Project Number 2792-1) under provisions of Title 1, Part C, Omnibus Crime Control and Safe Streets Act of 1968 as amended.

## INTRODUCTION

Savings in taxpayer dollars. Greater willingness of citizens to serve on juries. Greater sharing of the responsibility of jury service among more citizens. Reduced efforts by citizens to avoid jury service. Ease of implementation of improvements. Improved public attitude toward the courts generally. These benefits have been obtained by courts across the country which have improved their jury management. All of these benefits can be achieved throughout California as well.

In 1976, the National Center for State Courts surveyed jury selection and management practices throughout the State.<sup>1/</sup> That survey identified 37 problem areas. Following review of the National Center's report, the Judicial Council of California asked the National Center to focus on 13 areas, to devise responses to the problems and then to test those responses in several courts to assure their viability in the California context. This report documents the problems found in the 13 areas, the responses proposed and the test results of possible solutions. This study has confirmed that significant improvement is achievable. For instance, if only one change were made - reducing the number of jurors summoned to appear for service - almost \$6,000,000 could be saved annually.

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<sup>1/</sup> National Center for State Courts, Western Regional Office: A Report to the Judicial Council on Jury Selection and Management, September, 1976.

Many suggestions contained in the report are complementary. For example, if the number of jurors sent to a courtroom is reduced, the number of jurors called to the courthouse can be reduced; if the percentage yield of jurors from a given number of summonses is improved, the number of summonses mailed can be reduced; if higher fees are provided to jurors and courts adopt a shorter period of required service, the number of requests for excuse based on financial hardship should be reduced significantly.

The National Center recognizes that efficient use of jurors is not the only concern of courts. Although courts at times seem oblivious to the time or costs of jurors, it would be wrong for courts to adjust their schedules solely to achieve efficient jury operations. This report necessarily focuses on efficient jury management, but is not proposing the elimination of juror waste to the exclusion of other concerns. Rather, it proposes that courts manage their juror resources as they would any scarce and expensive resource. If they do, courts will achieve significant savings and other benefits without negative impact on their calendars or other aspects of their operations.

Detailed analysis, recommended solutions for the courts and the Judicial Council, a prototype jury selection and service act, suggested implementation procedures, data gathering forms for analyzing jury operations and other information which should help jury commissioners run their systems more efficiently are contained in the full report.

## SUMMARY OF METHODOLOGY

The project was divided into two phases. In phase one the National Center visited 30 courts in 18 counties and collected detailed information on the following:

- . multiple source lists
- . updating master jury lists
- . random selection
- . summoning
- . telephone systems
- . panel sizes
- . pooling jurors
- . compensation
- . length of service
- . facilities
- . measuring system efficiency
- . dissemination of information to courts
- . statutory consolidation

After reviewing data from these courts and basic resource materials in each subject area, tentative solutions were proposed for testing. In phase two, the National Center ran tests of proposed solutions in four test sites (seven courts). Data gathering and testing spanned eight months.

The superior courts and municipal court districts in which data were collected represent 22 percent of all such courts and these courts held 55 percent of all sworn jury trials in California in 1975-1976.

Extensive appendices to the full report contain detailed data on the courts surveyed, samples of forms used, and selected detailed results from the tests conducted. Many of the recommendations made by the National Center should be implemented by statutory amendment.

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The sections which follow are in sequence according to their presentation in the complete report. Each recommendation is preceded by a summary statement describing principal study findings and analysis.

### SOURCE LISTS

The United States Supreme Court has with increasing frequency invalidated jury selection schemes which resulted in a supply of available jurors not being "representative of the community." The most important aspect of a jury selection system in determining the representativeness of the supply of prospective jurors is the source of names of those jurors.

Voter registration lists have been shown to underrepresent certain classes and other lists have been suggested as sources of names not found on the voter lists. These alternative sources of names suffer from various disadvantages. It therefore appears that one list alone may not be adequately representative. Thus, the use of multiple source lists appears to be the most effective solution to the problem of obtaining a representative list of prospective jurors. Of the available lists, the Registrar of Voters' list and the Department of Motor Vehicles license/I.D. list have the most advantages and fewest disadvantages. Twenty six of the thirty-four courts reviewed use these two lists.

Various difficulties may be encountered in merging multiple source lists and removing duplicate entries. However, relatively inexpensive and simple procedures can be utilized to merge source lists manually or by using a computer.

The National Center's analysis indicates that the average increase in size of the master jury list using the license/I.D. list as a supplement is 71 percent. Values in individual counties ranged from a low of 35 percent to a high of 88 percent. Thus, use of multiple source lists should substantially increase the size of the master jury list. Although it is impossible to compile demographic statistics to explore the racial, age, economic and other backgrounds of those on the merged lists, the sheer increase in size of the supply of available jurors is significant. It is hypothesized that an increase in the list size results in greater representativeness.

#### Recommendations

Current California statutes allowing use of supplemental source lists should be made mandatory by prescribing that the master jury list be compiled from a combination of source lists. The Judicial Council of California should determine which source lists will be used and should periodically re-examine the source lists to determine if lists should be added or dropped. In the meantime, individual courts should voluntarily adopt use of the multiple source lists allowed by current California law.

A central repository of the knowledge held by courts currently using supplemental source lists should be established by the Judicial Council. Written descriptions of the methods of merging multiple source lists could be compiled and furnished to courts desiring to set up multiple source list techniques of their own.

## UPDATING MASTER JURY LISTS

Many changes occur in source list information over time. The longer one of these lists is used as the basis for generating a master jury list, the more inaccurate the information on the master jury list becomes. In addition, though new county residents are eligible for jury service after 29 days of in-county residence, they may not appear on juror lists for up to 11 months after they move into a county if the court updates its master jury list only once a year. Also, jurors who leave the county may be retained on the list needlessly.

The lag in updating master jury lists causes a significant reduction in the number of people returning qualification questionnaires. Thus, a reduction in overall yield from the master jury list results.

Twice-a-year or more frequent compilation of master jury lists and qualified lists would increase representativeness by picking up new registrations and would help eliminate erroneous information from master jury lists, thus increasing qualification yields.

### Recommendations

The National Center recommends that each court, or courts sharing jury operations, with five or more judges utilize a twice-a-year qualifying cycle in order to enhance representativeness of jury selection. All other courts should update master jury lists once a year. The most recently updated

source and master jury lists should be used during each qualifying cycle. Courts desiring to adopt one-step qualifying and summoning should obtain new source lists at the beginning of each qualification and summoning cycle.

The Judicial Council should propose legislative action requiring the Department of Motor Vehicles to furnish updated lists in May and November to those courts requesting lists twice-a-year; this will correspond to most courts' qualifying cycle.

#### RANDOM SELECTION

Random selection is required at numerous steps in the process of obtaining jurors by the broad statutory requirement of Code of Civil Procedure Section 205. The objective is to have a selection process untainted by bias.

A number of different techniques will result in a random selection. One method which has many advantages involves assigning a number to each prospective juror's name and then matching that number to a random number table.

Though all of the jury commissioners surveyed indicated they were using some form of random selection, many were unable to provide a comprehensive description of their system. This could be to their disadvantage if their system is challenged.

Because the court is responsible for seeing that the mandated random selection occurs, it is imperative that the court know, understand and approve the random selection method that is being used.

## Recommendations

Every jury commissioner should have a written description of random selection techniques used in the process of selecting jurors.

The random selection method used should be completely random, where mere chance and an unplanned sequence of selection guarantee that each name has an equal probability of being selected.

## SUMMONING JURORS

For a variety of reasons, courts summon too many people for jury duty. In the process of over-summoning they select too many names from source lists for master jury lists, mail too many questionnaires and qualify too many prospective jurors.

The estimated total annual cost of over-summoning in California is about \$5.85 million, including daily fees, mileage and administrative costs.

Most jury commissioners do not keep an on-going record of qualification yields, summoning yields and total yield for their courts. Yield information is helpful in controlling over-summoning, but jury commissioners also must be able to adjust the number available to serve to the number of prospective jurors actually needed. In order to make these adjustments, they must have statistical data available to predict these actual needs.

By collecting and using data, staggering trial starts, restricting the numbers of excuses granted, and adopting better

communication patterns within the courts, jury commissioners should be able to more closely match the number of jurors called with the number actually used.

#### Recommendations

The Judicial Council should adopt a Standard of Judicial Administration providing for the quarterly measurement by each court of its qualification yield, summoning yield, overall yield and comparison of the summoning yield (prospective jurors who serve) with actual concurrent use of jurors. Also, a quantitative standard should be set to the effect that if the number of unused prospective jurors for a three-month period exceeds ten percent of the total summoned, the number of summonses or notices to report for service should be reduced accordingly.

The courts should take steps to eliminate over-summoning prospective jurors as a means of reducing the cost of jury operations. The number of prospective jurors summoned should be reduced on average throughout the state about 27 percent by June 30, 1980. This must be done within the context of the forecast of jury cases for each court.

#### TELEPHONE SYSTEMS

It is often impossible to predict exact juror needs because court operations are subject to cyclical or sporadic requirements. Last minute changes are unavoidable even in the best-run courts. As a result, courts regularly have too many or too few people serving on jury duty. Consequently, people may be forced to wait hours before serving or may never serve

at all. Several types of telephone systems can aid courts in adjusting the number of jurors summoned to the number of jurors needed. These systems may supplement or replace written communications with prospective jurors.

Telephone systems may be used for different aspects of jury selection. Jurors may actually be summoned using a telephone alert system. Supplemental panels to continue an in-process voir dire may be obtained or entire panels cancelled by a telephone alert or by an answering machine (recorded message) approach.

Using an answering machine rather than jury personnel to cancel or confirm jurors can result in cost savings. For example, the Federal District Court for Northern California reported savings of \$63,000 in the first two years of use of a call-in system. The call-in system allowed the court to reduce personnel, overhead costs and juror fee payments. Also, analysis of the telephone alert system used in one California county indicates that conversion to a call-in system could result in cost savings of from \$18,000 to \$35,000 the first year.

#### Recommendations

Courts should send jurors written summonses and make night-before-appearance adjustments in the number reporting for service through the use of telephone answering machines.

Courts should obtain prospective jurors for supplemental panels by using a telephone alert system. Further testing should be done to determine if call-in procedures can be designed to obtain supplemental panels.

## PANEL SIZES

"Panel" means that group of jurors which is used to complete voir dire. The size of the panel is the number of prospective jurors in the panel when it arrives at the courtroom to start voir dire.

Judges and jury commissioners claim they know from experience the sizes of panels to send to courtrooms. Yet few have data to justify the panel sizes they use. Record keeping and simple statistical analysis are necessary to determine optimum panel sizes. After optimum panel sizes are determined the number of prospective jurors summoned may be adjusted. With anticipated downward adjustments, cost savings should accrue in most courts.

Panel sizes and the use of prospective jurors in the courtroom were tested in the four test sites during regular jury trial operations. Tests were conducted measuring all jury trials, all jury trial panels minus supplemental and unused panels, cases with supplemental panels and cases with panels returned unused.

The results of these tests are as follows:

In Orange County, the average panel size sent to courtrooms to start voir dire was 39. Of the prospective jurors sent to voir dire, about 42 percent were unused in voir dire. Of the peremptory challenges available to the parties, only 25 percent were used.

In Sonoma County, the average panel size sent to start voir dire was 36. Of those, about 35 percent were unused in

voir dire. Of the peremptory challenges available, only 29 percent were used.

In San Jose-Milpitas Municipal Court, the average panel sent to start voir dire was 31, of which about 34 percent were unused. Twenty-four percent of the peremptory challenges available were exercised.

Forty-three was the average panel size in Santa Cruz County. Of these 43 prospective jurors, about 19 (44 percent) were unused in voir dire. Only 34 percent of the peremptory challenges available were exercised.

These results suggest that for all cases (civil and criminal), for both municipal and superior courts, panel sizes are too large and the number of peremptory challenges available is not a sound reference to use in setting panel sizes.

#### Detailed Analysis of Panel Sizes and Prospective Jurors

On the basis of these general results, further analysis was conducted to determine if there was a disparity between panel sizes and jurors used in municipal courts and superior courts and for civil and criminal cases in each one. This included cases with and without supplemental panels.

At each level of detail and for each category of panel tested, the National Center analyzed the same factors. There was a significant difference between panel sizes for superior and municipal courts. However, there were no significant differences in panel sizes between civil and criminal cases. Results were similar for prospective jurors used in voir dire.

The average difference between panel size and number of jurors used in voir dire is about 15 prospective jurors for superior and municipal courts. These differences are significant.

The National Center conducted further analysis to identify the differences between jury cases which used only one panel and those that used supplemental panels to complete voir dire. For cases where supplemental panels were used, panel sizes were significantly larger than the number of jurors used in voir dire, indicating that supplemental panels are larger than they need to be, and that they should be set with greater care.

#### Reduced Panel Sizes Sent to Courtrooms

Based on an analysis of prospective jurors used in voir dire, some preliminary ranges for panel sizes were set for testing. Jury commissioners and judges in the Sonoma County Superior and Municipal courts and the San Jose-Milpitas Municipal Court agreed to experiment with smaller panels during January, 1978.

The National Center suggested that panel sizes for Sonoma County Superior Court be reduced from a mean of about 40 and median of 35 to a range of 27 to 32 prospective jurors, and that the number for Sonoma Municipal Court be reduced from a mean of about 30 and a median of 29 to a range of 18 to 23 prospective jurors. The National Center suggested that panel sizes in the San Jose-Milpitas Municipal Court be reduced from a median of 30 to a range of 21 to 24 prospective jurors.

Results of these tests suggest that judges and attorneys need to adjust their attitudes to accept smaller panel sizes in

most types of cases with the proviso that in certain types of cases, such as driving under the influence, slightly larger panel sizes are warranted. Also, the results indicated that the reduced panel sizes suggested by the National Center for superior and municipal courts were appropriate for fulfilling the requirement of at least 80 percent of all jury cases during the test period.

#### Statistical Analysis Conducted to Set Ranges of Panel Sizes

Using the results of the reduced panel size tests in Sonoma County and the San Jose-Milpitas Municipal Court, the National Center developed two panel size ranges for conducting further statistical analysis. The range of panel sizes proposed for municipal courts was 18 to 24 and for superior courts was 24 to 30. These ranges were applied to the 350 jury cases studied in the four test sites between September and December. These ranges would have fulfilled the requirements of about 80 percent of all cases and would have served to minimize the number of prospective jurors who were unused.

#### "Unusual" Cases and "Unusual" Panels

Many judges and jury commissioners argue that every case is unique. The National Center believes that this argument is over-simplified relative to setting panel sizes for jury cases. Analysis indicates that only about 20 percent of all jury cases required panel sizes larger than the proposed panel size ranges. Comparing the larger panel sizes with the number of prospective

jurors used in voir dire indicated that such cases are clearly distinctive and should be considered "unusual."

#### A Methodology for Setting Panel Sizes

The results of this analysis indicate that no single factor provides an accurate indication that a case is "unusual." However, when different factors were analyzed in combination several well-defined conditions emerged which can be used to accurately predict whether a case is "unusual." These are listed below.

Panel sizes for "unusual" cases should be set with care and should be based on the best judgment of the judge involved and the jury commissioners. Over time, data collected on "unusual" cases may assist in this decision process.

#### Criteria for Identifying "Unusual" Cases\*

If a case satisfies one of the following conditions there is an 85 percent chance that the case is "unusual" and will require a panel size larger than the ranges proposed.

#### For Superior Court

If the case is criminal, and:

- . The estimated length of trial is greater than seven days; or
- . The number of peremptory challenges available is greater than 26.

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\*These should be reviewed annually by the Judicial Council, Administrative Office of the Courts, to verify quantitative accuracy and the scope of the criteria.

### "Usual" Cases and "Usual" Panels

If a case does not meet any of these criteria, it should be treated as a "usual" case and therefore should be assigned a panel size within the proposed ranges for superior and municipal courts. These criteria should be used by jury commissioners on a day-to-day basis.

### Local Court Application

Other courts should obtain similar results by applying these criteria in setting panel sizes. However, some courts may prefer to monitor their jury cases, related panel sizes and prospective juror usage for three or four months, and develop their own set of statistical criteria similar to these. Large and medium-sized courts may benefit from doing so. However, small rural courts should use the criteria proposed as the number of jury trials per year would probably not merit development of local criteria.

### Panels Returned Unused

Panels are sent to courtrooms and then never used about 10 percent of the time. The main reasons panels are returned unused are: changes of plea, continuances, dismissals and waivers of jury trial in criminal cases, and settlements, continuances and waivers of jury trial in civil cases. About 75 percent of the panels returned unused stemmed from last-minute changes of plea and settlements.

It is probably impossible for courts to totally eliminate the occurrence of unused panels. However, jury commissioners should pay attention to this problem and attempt to reduce the number of panels and prospective jurors affected to as few as possible.

### Recommendations

The Judicial Council should adopt a Standard of Judicial Administration that provides for target sizes for panels in the "usual" municipal and superior court case. For municipal courts, the target range should be 18-24, and for superior courts it should be 24-30.

If a supplemental panel is required, the jury commissioner should send a smaller number of prospective jurors than that required for an initial panel. As a general rule, the jury commissioner should send four prospective jurors for each juror yet to be selected.

Statistical criteria have been proposed which will aid in determining "usual" and "unusual" cases. These should be used statewide. However, courts that desire to devise their own set of criteria should develop and implement them using an approach similar to the one used in this project. The Judicial Council, Administrative Office of the Courts, should annually review the criteria for accuracy.

## JURY POOLS

It has been argued that jury pool systems (where prospective jurors are summoned to a jury assembly room and then assigned in panels to courtrooms) utilize jurors more efficiently than jury panel systems (where prospective jurors are summoned directly to courtrooms). Despite obstacles to precise data collection, a general analysis shows that on the average jury pool operations require fewer juror service days than panel systems. Thus, jury pools, if properly operated, tend to increase the efficiency of juror utilization.

There are different types of jury pools and a court should decide which type is best suited to its operating characteristics. Once established, jury pools must be monitored to assure proper management. Efficiently run, jury pools can decrease the number of jurors summoned and save money.

### Recommendations

The Judicial Council should adopt a Standard of Judicial Administration which advocates jury pools and, where appropriate, consolidated jury pools in accordance with Code of Civil Procedure Section 203.1. The Standard should also provide for the sharing of prospective jurors in small courts.

The following courts should take steps to establish consolidated jury pools:

Municipal Courts

- . Monterey Peninsula
- . Northern Solano
- . San Francisco
- . San Jose-Milpitas
- . Santa Cruz\*

Superior Courts

- . Napa
- . San Francisco
- . Santa Clara  
(criminal division)
- . Santa Cruz\*

The following courts should take steps to establish jury pools:

- . San Luis Obispo Superior Court\*\*
- . Sunnyvale-Cupertino Municipal Court\*\*
- . Tulare Superior Court

The Judicial Council should conduct further studies to identify other courts in California that could benefit from a change in their method of jury operations.

JUROR COMPENSATION

Juror compensation is a highly controversial subject. Current practices seem inequitable from the jurors' standpoint, but equitable from the counties'. It is difficult to define an optimum amount to pay jurors but the trend is toward an increased rate of pay for juror services.

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\*Already in progress.

\*\*On a sharing basis in each court.

Nineteen of 21 jury commissioners interviewed felt that jury fees should be increased. Jurors surveyed felt that fees should be higher and suggested, on average, a fee of about \$15 per day. Compared with practices in other states, California's jury fees rank among the lowest.

After examining the various arguments for and against increased juror fees, the National Center analyzed a number of alternatives, including payment of no fee, payment of no fee for the first two or three days of service and then a much larger fee such as \$30 or \$40 for the fourth and additional days of service, paying all jurors a fixed per diem such as \$10 per day and a set rate for mileage, paying a set amount to cover expenses such as \$10 per day, and paying a fee such as \$20 per day to only those jurors who are not paid by an employer while serving jury duty. These alternatives were evaluated in terms of four criteria: adequacy of the amount, equity for the jurors, ease of administration by the courts and fiscal impact.

The results of this evaluation produced two alternatives with comparable ratings, but different merits.

The first alternative is to raise juror pay to a standard rate of \$10 per day and treat it as a coverage of jurors' expenses. There would be no separate mileage allowance.

The second alternative is to raise juror pay to a standard rate of \$20 per day and treat it as a combination fee and coverage of expenses. However, it would not be paid to those jurors who are employed and lose no income while serving.

These alternatives were discussed with members of the Project Advisory Committee. They were concerned about the disparities in the bases and rates for paying jurors throughout the state. They were also concerned that a statewide standard flat rate payment to all jurors might not cover the expenses of those who may serve that live in remote areas of large or medium-sized counties and who might have to travel an excessive distance to and from court (some of the counties mentioned were San Bernardino, Dan Diego and San Luis Obispo). The Committee concluded that counties should have the option of reimbursing jurors' mileage expense, and if a county elects to do so, the reimbursement should be at the rate of 17 cents per mile, both ways.

Each of these alternatives was contrasted with the estimated present county costs to pay juror fees and mileage allowance. If jurors had been paid \$10 per day at the level of usage in 1976-77, the estimated total cost for the courts would have been \$21,817,780. That would have been an increase of \$5,999,888 or 37.9 percent more than what the estimated payment was statewide. The estimated cost for civil litigants would have been a \$537,227 or 37.9 percent increase.

If a \$20 daily payment had been made only to those jurors who were not reimbursed by their employers and at the level of usage in 1976-77, the estimated total cost for the courts would have been \$26,181,340. That would have been an increase of \$10,363,448 or 65.5 percent. The estimated cost for civil litigants under this alternative would have been a \$924,487 or 65.5 percent increase.

Juror usage has been estimated at its current level in the comparisons above. If jurors were used more efficiently and the number summoned decreased, the fiscal impact would be different; it could be offset in large measure, if not completely, by improved management techniques.

Based on the results of the National Center's analyses, it appears that the best short-term solution is to raise jurors' pay to \$10 per day and increase juror usage efficiency about 27 percent.

### Recommendations

The Judicial Council should support legislative action to increase the amount paid to all jurors to \$10 per day, to cover juror expenses incident to serving such as mileage or transportation, parking and luncheon. Summoning reductions are proposed on page 10.

Recognizing that some jurors in some counties will have to travel distances which exceed the norm to serve, counties will have the option of paying mileage in addition to the standard juror reimbursement. If a county elects to reimburse jurors for mileage, it should do so at the rate of 17 cents per mile from home to court and return.

The Judicial Council should re-examine the adequacy and basis for paying jurors within five years of the date of this report. That review should include an assessment of the achievements in juror usage efficiency, especially reduction in the number summoned per jury trial scheduled.

## COMPLETION OF SERVICE

While some courts in California have reduced the jury service period to as little as one day or one trial, many courts, including larger ones and those in rural areas, continue to require longer periods of service ranging from 16 to 35 days.

A statewide, standard length of jury service should be set which permits some flexibility in application among the courts and yet places a reasonable upper limit on the time jurors are expected to serve in each county.

Reducing the length of service has certain advantages and disadvantages. Jurors are generally more favorable to shorter lengths of service. Shorter service usually poses less economic burden on jurors than does longer service. With shorter service requirements a larger number of citizens and probably a greater cross-section of the community get to serve; and there are generally fewer requests for excuses and thus a better overall yield of prospective jurors.

The disadvantages are shorter cycles and higher frequency in the administrative work of processing jurors and some attendant higher administrative costs. The National Center believes the advantages far outweigh the disadvantages.

### Recommendations

The Judicial Council should provide by statute for a maximum of 10 days of service in a year.

Different courts in the same county should resolve significant differences in service requirements within the 10-day limit to accommodate the implementation and contribute to the success of shorter service periods.

#### JURY FACILITIES

The National Center found that the types of facilities provided jurors range widely. No standards for the size or design of facilities for jurors appear to be in effect and often the type of facilities provided depends on the ingenuity of the jury commissioner in adapting space.

In a survey of attitudes, jurors indicated a higher than expected satisfaction with jury facilities. A notable exception in all but one court was the provision for parking facilities. And, the percent of jurors indicating that orientation facilities (23 percent) and waiting areas (42 percent) were either only average or poor suggests there is room for improvement.

Resolving existing problems with jury facilities is difficult because of practical and economic problems encountered in remodeling existing structures. Also, solutions to specific problems in one court rarely have applicability to another because of the unique conditions encountered in each court. Consequently, the National Center has concentrated on developing statewide standards for jury facilities rather than proposing specific solutions for specific courts.

## Recommendations

The National Center recommends that standards for jury facilities be adopted by the Judicial Council. These standards should then be adopted by county boards of supervisors, judges and jury commissioners as facilities standards. They should be used to measure the adequacy of jury facilities in existing court buildings and serve as guidelines in the design of new courthouses.

## WAYS OF MEASURING SYSTEM EFFICIENCY

Few jury commissioners in California have conducted juror utilization studies. Many of them collect data continuously or periodically but most do not use the data to measure and analyze their operations. Of the 34 courts reviewed, only six had conducted some type of utilization study. Of the other 28, 12 had collected statistics on jurors but 16 had not. There is little or no uniformity among the kinds of data kept and many statistics are essentially unusable for proper analysis and management.

Juror utilization studies should measure, analyze and suggest adjustment of the size of panels sent to courtrooms, the number of prospective jurors in the jury pool and/or the number of prospective jurors summoned.

If juror utilization studies are conducted, many courts could probably reduce jury operation costs by 25 percent or more. In some courts, this could mean savings in the hundreds of thousands of dollars. This type of self-evaluation is a prerequisite for efficient and effective management. Common

criteria should be used to measure juror usage efficiency so that the results of measurements are useful both to individual courts and for statewide comparison.

These statistics should be collected and reported monthly with other statistical reports submitted to the Judicial Council. Since many smaller courts (less than five judges) have not developed statistical reporting to the same extent that larger courts have, the reporting requirement for these courts should be optional. But smaller courts should develop the capacity for regular juror usage reporting within three years.

#### Recommendations

The Judicial Council should adopt a Standard of Judicial Administration which provides that each court, or courts sharing jury operations with five or more judges conduct juror utilization studies for at least three months per fiscal year using forms and procedures similar to those provided in the full report. These studies should measure panel size and prospective juror use in the courtroom, and jury pool status and transactions.

Each court, or courts sharing a jury operation, should analyze and report monthly to the Judicial Council, Administrative Office of the Courts, on forms provided by that office, the following:

- . Juror usage in voir dire measured by the number of prospective jurors sent to voir dire, the number of original panels (no supplemental panels) sent to

voir dire, the number and percentage of those sent who were sworn as jurors or alternates, the number and percentage of those sent who were challenged and the number and percentage of those sent who were not challenged or sworn (unused).

- . The number of prospective jurors in the jury assembly room at the start of the day, the number of prospective jurors sent to start voir dire, and the number of prospective jurors not sent to voir dire, for every jury trial start day.
- . The number of jurors summoned, the number and percentage of those summoned whose summonses were returned or undeliverable and were ignored, and the number and percentage who were disqualified, excused permanently, deferred and qualified.
- . Jury trial (voir dire) starts measured by the number scheduled, the number and percentage started and the number and percentage completed.
- . Juror cost measured by the average daily cost per juror paid and the total cost of prospective jurors not sent to voir dire.

The Administrative Office of the Courts should summarize the information described above and prepare comparative tables for municipal courts and for superior courts and include them in the Judicial Council's annual report.

The Judicial Council should arrange with the Center for Judicial Education and Research to expand the orientation for

new judges to include a special component which deals with jury selection, service, management and utilization efficiency. Once formulated, this program should be presented as a special workshop for existing judges.

#### DISSEMINATION OF INFORMATION TO COURTS

In some courts, particularly in the smaller jurisdictions, jury selection and management duties have been delegated to a person who has other duties, or no clear delegation has been made. In other courts, two people in different positions may handle different aspects of the jury system, with resulting gaps in responsibility and system management. Several problems may result, one of which is that statutory changes affecting jury operations may not be noticed.

No manual exists for jury personnel to turn to when questions regarding jury service arise. Communication patterns in local courts between judges, jury commissioners and other court personnel are informal and they do not exist on a state-wide basis. No regular report exists such as those sent to judges, clerks and court administrators aimed at informing jury personnel of statutory changes or innovations which could be used in the jury system.

#### Recommendations

The National Center recommends that a clear delegation of authority and responsibility for the jury function be made in each court.

So that they may keep their members informed of statutory changes, the California Court Administrators Association, California Jury Commissioners Association, jury commissioners and court administrators throughout the state should be added to the list of persons receiving the Administrative Office of the Court's Newsletter and Staff Report on Legislative Measures.

The Administrative Office of the Courts or the California Jury Commissioners Association should direct the drafting of a procedures manual for use by jury commissioners throughout the state.

The California Jury Commissioners Association should assume a more active role in training jury commissioners and keeping them informed of current developments in the field.

#### STATUTORY CONSOLIDATION

The importance of efficient utilization of jurors has gained increasing recognition and a consolidated jury act is seen as a tool in providing a framework for that efficiency. Current statutory provisions affecting jury service are found in six California codes (Business and Professions, Civil Procedure, Government, Health and Safety, Labor and Penal). There are examples of needless length or complexity, perhaps the most glaring of which are the 58 sections in the Government Code which provide for juror fees in the 58 counties.

The idea of a series of statutory sections in one code dealing with all jury selection and service requirements has found increasingly favorable reception in recent years. The

Federal government and the states of Maryland, Colorado, Hawaii, Idaho, Michigan, Minnesota, North Dakota, Indiana and Massachusetts have enacted unified jury selection and service acts.

By and large these acts are comprised of a relatively small number of sections dealing with the sources of names of prospective jurors, qualification, summoning, length of service, payment of jurors, and certain administrative or policy requirements. With the exception of the Massachusetts act, they are short, well-organized and establish a framework which gives courts within the jurisdiction some flexibility in adapting the plan to local requirements.

These acts were reviewed and a prototype California Trial Jury Selection and Service Act was drafted to consolidate statutory sections pertaining to jury operations into one code, update procedures and terminology, incorporate certain other recommendations in this report and provide for a clearly organized management scheme.

### IMPLEMENTATION PRIORITIES

The National Center has formulated suggested techniques and procedures which the Judicial Council and individual courts can use to implement the recommendations. They are contained in the full report. A checklist of priorities assigned by the National Center is included in this report. Although each of the areas is important, it is suggested that the Judicial Council and individual courts pursue and implement the recommendations in the priority order suggested.

The suggested techniques and procedures are intended to assist in implementing recommendations included in the report. They are not intended to be a substitute for a comprehensive procedures manual covering all jury operations. The development of such a manual is discussed in the full report.

PRIORITY CHECKLIST FOR IMPLEMENTATION OF RECOMMENDATIONS

1 = highest priority  
2 = medium priority  
3 = lowest priority

<u>Areas Tested</u>	<u>Priorities for the</u>	
	<u>Judicial Council</u>	<u>Individual Courts</u>
1. Multiple source lists	1	1
2. Updating master jury lists	3	3
3. Random selection	2	3
4. Summoning jurors	1	1
5. Phone systems	2	1
6. Panel sizes	1	1
7. Jury pools	2	1
8. Juror compensation	1	2
9. Completion of service	1	2
10. Jury facilities	3	3
11. Ways of measuring system efficiency	2	1
12. Dissemination of information to courts	2	3
13. Statutory consolidation	1	3

## AREAS FOR FURTHER STUDY AND IMPLEMENTATION

The members of the Project Advisory Committee have reviewed this report and support its recommendations. However, they have identified some additional areas which they believe deserve further study and implementation, and they requested these be brought to the attention of the Judicial Council. They are:

- . Extend and upgrade juror orientation programs for municipal and superior courts.
- . Establish a jury management team within the Administrative Office of the Courts to provide technical assistance and to help in implementing many of the recommendations in this report.
- . Review the feasibility of amending the California statutes to provide that civil litigants pay for each prospective juror on the panel as well as for those on the final jury.
- . Propose or support legislation to reduce the number of peremptory challenges available in felony cases.

**END**