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OHIO JURY MANAGEMENT ASSOCIATION

*"To promote and enhance jury service
through excellent jury management"*

JURY NOTES

SUMMER 2016



Paula Hannaford-Agor, Director of the National Center for State Courts Center for Jury Studies and Margaret Allen, Program Manager, Ohio Supreme Court Judicial College

TAXING ISSUES IN JURY MANAGEMENT

The Ohio Jury Management Association (OJMA) once again partnered with the Ohio Supreme Court Judicial College to present a program focused upon issues relating to jury management in Ohio.

The program also serves as the OJMA conference, with the annual membership meeting being conducted during the lunch break.

The course provided an opportunity to attend the program, learn about current jury issues and network with others on jury related topics. A brief summary of each topic presented during the day begins on the next page.



Michael Buenger, Administrative Director of the Ohio Supreme Court

Ohio Courts Update

Michael Buenger, the Administrative Director of the Ohio Supreme Court, opened the program with inspirational words about the American jury system. He shared his international experiences, highlighting the importance of the jury system to a free society. Administrative Director Buenger noted that serving as a juror 1) allows a citizen to stand between the power of the state and another individual and 2) maintains the connection between an individual/the community and justice. The remarks stressed the importance of the work

done by court staff in helping to deliver a well-managed jury system, which in turn, assures that jurors are valued and that both the community and justice are served. Mr. Buenger also provided updates on the Task Force appointed by Chief Justice O'Connor to review the grand jury process in Ohio; the study of fines, fees and bail practices; issues surrounding death penalty cases; and the financial impact on courts of unified versus home rule structures.

Judges as Jurors

Judge Berkowitz, from the Hamilton County Municipal Court, and Judge Routson, from the Hancock County Common Pleas Court, provided their perspectives on judges who are summoned and/or serve as jurors. OJMA Trustee Brad Seitz moderated the discussion. Both judges expressed their excitement at being summoned for service, how they managed the process and what they learned. Judge Berkowitz reported for jury service but did not serve as a seated juror. Judge Routson did have the opportunity to serve as a trial juror. The dynamics of the deliberation process, when there is a judge serving on the jury, was particularly interesting. The insight gained in seeing the jury system through the eyes of a juror was stated to be a definite benefit by the judges. It was the consensus of those in attendance that having Judges willing to serve themselves when called for jury duty makes it much easier to have the expectation that citizens should serve when summoned by the court.



Pictured (from left) Judge Reginald Routson, Judge Josh Berkowitz, Moderator Brad Seitz

Preventing and Addressing Internet-Related Juror Misconduct

Paula Hannaford-Agor, the Director of the National Center for State Courts Center for Jury Studies, has been a frequent presenter and contributor to the annual OJMA conference. Paula shared the results of relevant research showing that jurors reflect a “fair cross section” of Internet users, the



topics jurors typically want to research, the lack of understanding about the restrictions on Internet use and the number of jurors who said that they would not be able to refrain from using the Internet. The daily use of the Internet by more and more individuals for other purposes (i.e., banking, health care) creates an increasing challenge to control the use of the Internet by jurors. Paula presented suggested content for a court policy on Internet use, possible means to communicate the policy to jurors, and the need to provide continuous reminders. An interesting issue of the possible voir dire challenge of jurors who state that they will not be able to follow the court’s instructions concerning Internet use was raised. The reality of the increasing routine use of the Internet and the potential impact on the ability to seat fair and impartial jurors will be a definite future challenge for judges and jury managers.

Electronic Jury Questionnaires

Greg Popovich, Court Administrator for the Cuyahoga County Common Pleas Court, and David Ballmann, Jury Administrator for the Montgomery County Common Pleas Court (and President of OJMA) presented information on the implementation of electronic jury questionnaires. Since 2005, individuals in Montgomery County have been able to complete the questionnaire portion of their Jury Summons either by mailing the paper version to the Common Pleas Court or by completing the questionnaire on the Internet. The summons encourages the juror to respond by using the Internet and approximately 50% do complete their questionnaire electronically. Cuyahoga County has experienced a similar response to the opportunity to electronically complete the jury questionnaire. For both courts, jurors may request to be excused, disqualified, or deferred. Each request is granted or denied after being reviewed by a jury coordinator. Jurors are notified by email or letter as to the disposition of the request. Juror information received on the paper questionnaire is entered into the jury management system. The systems that support the electronic questionnaire model are evolving rapidly to maximize smart phone functionality. In Montgomery County, the ability to request being excused, disqualified, or deferred **will soon be able to be made via text messaging**. The jury management systems are able to respond automatically, via text messaging, to many requests, including how to find the courthouse.



Pictured (from left) : Andrea White, Kim Switzer, Elizabeth Stephenson, John VanNorman

Jury Records and Jury Management Plans

The panel for this session was comprised of Elizabeth Stephenson, Court Administrator for the Tuscarawas County Common Pleas Court, Kim Switzer, Director of Court Services/Chief Probation Officer for the Hancock County Common Pleas Court, Andrea White, Clerk of Court or the Kettering Municipal Court and John VanNorman, Senior Policy and Research Counsel for the Supreme Court of Ohio. OJMA Trustee Jean Atkin moderated the panel. Kim shared the court order from her court for the management of jury records. It was noted that Ohio law requires the Common Pleas Court to file and order with the Clerk of Court specifying the retention period for paper and electronic documents files with the Jury Commission. John reviewed the Rules of Superintendence for the Courts of Ohio that address records management and retention, the definition of court records, and public access to court records. The panel addressed jury record issues, including the retention of and access to medical excuses submitted by prospective jurors. The panel also discussed the preparation and updating of the jury management plan trial courts are required to adopt by local rule. Of particular interest was the inclusion of jury management practices such as permitting jurors summoned during the last few months of a jury year to postpone their service to the following jury year. **Copies of the jury management plans presented by the speakers will soon be available on the OJMA website.**



Planning For The OJMA 2017 Conference: The OJMA Conference Planning Committee will soon begin discussions about the content of the 2017 program. If you have any ideas for the conference, please let us know. It is important to the OJMA Trustees and the Ohio Judicial College to present topics that will be of interest to and benefit jury managers in Ohio!!

CONGRATULATIONS AND THANK YOU TO MARGARET ALLEN!!!

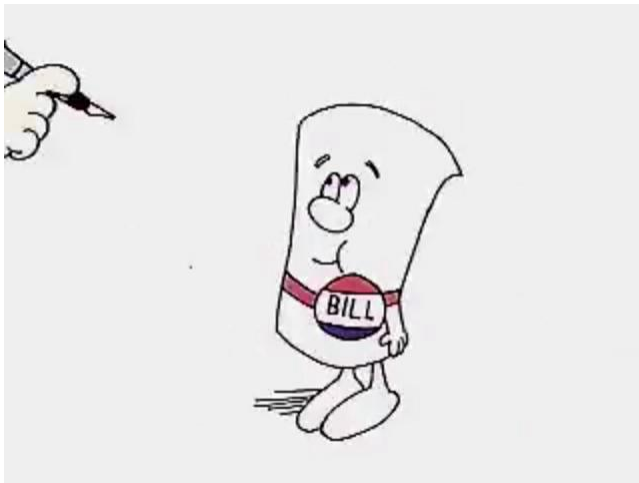
Margaret Allen, Education Program Manager for the Ohio Judicial College, has been instrumental in the planning and presentation of the OJMA annual conference since 2011. Margaret has accepted the position as the Director of National Programs at the National Center for State Courts Institute for Court Management. The OJMA Trustees and membership truly appreciate all of the time, expertise and support Margaret has provided to OJMA over the years. We wish Margaret all of the best in her new position!!!! We look forward to continuing to work with the Ohio Judicial College on our future conferences.

Ohio Jury Management Association Survey



As another example of the wonderful support OJMA receives from the Ohio Supreme Court, the statewide survey of jury practices conducted by OJMA in 2016 permitted courts to respond through the use of the electronic format, Survey Monkey. Ohio Supreme Court personnel assisted with the development of the questions and accommodated a link to the Supreme Court Survey Monkey application. While a printed format was still available, the use of Survey

Monkey was offered as a way to assist courts in responding to the survey and help OJMA prepare the results of the survey. The survey was expanded this year to include grand jury practices. While it did extend the length of the survey (which could still be completed in approximately 10 minutes according to feedback from respondents), it was determined that more information on grand jury practices would be of interest to OJMA members and others. It is anticipated that the results of the survey will be compiled and posted on the OJMA website before the end of September.



Legislative Update Summer 2016

Judge Reeve Kelsey, OJMA Trustee

Sub. H.B. No. 359 pending in the Ohio legislature provides protection for victims of domestic violence, menacing by stalking, human trafficking, trafficking in persons, rape, and sexual battery. If the victim fears for his or her safety, upon application to the Ohio Secretary of State, the victim can be certified as a "program participant." A certified victim can then use an address provided by the Secretary of State as that victim's address for all purposes. The Secretary of State will keep the victim's actual address confidential

and send all mail received at the provided address to the victim.

A certified victim can then have the victim's county board of elections keep the victim's address information confidential. The certified victim may then only vote by absent voter's ballot. When the jury commissioner requests the current voter list from the board of elections, the board is obligated to remove from the list all certified victims' addresses. A certified victim may use the address provided by the Secretary of State when obtaining a driver license. If a jury commissioner uses the driver license roster in compiling the annual jury source list, the registrar must exclude the names of all certified victims who are using the Secretary of State's address.

Bottom line: the number of voters or the number of drivers reported to the jury commissioner may decline slightly. The proposed law will not put any new obligations upon jury commissioners.

MARRIED GRAND JURORS

Robert Jackson, Mahoning County Jury Commissioner

After being married 23 years, Sharon and Todd Thomas have grown accustomed to making decisions together, whether child-rearing, car shopping, or even just what kind of cereal to buy. One thing they never imagined deciding together, though, was whether to hand up a criminal indictment against someone. It nearly came to that, though, when both were summoned as prospective members of the May 2016 term of the Mahoning County Grand Jury.

Sharon, 47, and Todd, 48, both had been seated in the past as petit jurors, for which their summonses arrived in the mail. So they found it odd, and a bit suspicious, when a deputy sheriff pulled up to their house, handed them summonses, and told them they'd both been summoned to the Grand Jury. They were even more wary because the deputy who served them was in plain clothes, not a uniform.

"It was so weird. We didn't realize that a grand jury summons was delivered by a deputy, and it just seemed sketchy that he said we had both been summoned," Sharon said, noting that the deputy told them he'd never seen a husband and wife summoned to the grand jury before.

Despite their trepidation, the Thomases appeared at the Courthouse as instructed on May 5, 2016. Based on the jury service numbers on their summonses, they thought there was a good chance Todd would be seated, but it was unlikely that Sharon would even see the jury box. They were surprised once again when not only were they both among the 13 people called forward and seated in the box as prospective grand jurors, but Sharon was seated directly behind her husband.

At that point, no one else in the courtroom was aware that there was a husband and wife in the box, and the Thomases wondered whether they should speak up. Eventually, Todd raised his hand, pointed to Sharon, and asked, "Is there a problem with my lovely wife and I serving together?" That prompted Judge Lou A. D'Apolito to throw his hands in the air and spin around in his chair with laughter. "Yeah," the judge said. "I think that might be an issue."

The judge said it was the first time in his career on the bench that he's encountered such a situation. And while there is no statutory prohibition against it, Judge D'Apolito said he felt it was not a good idea to have spouses on the same Grand Jury. "I just think it would be an inherent conflict," Judge D'Apolito said. "There could be unnecessary, unhealthy debate between two jurors without the other jurors being present.

Ultimately, he allowed the Thomases to decide which one would stay, and which would be excused. They opted to have Sharon remain so Todd would not have to miss time away from his job as a salesman. Even though the Mahoning County Grand Jury meets only on Thursday mornings, it's a four-month term, and the family's income depends on Todd's ability to see his clients regularly. Sharon is a stay-at-home mom.

"I'm the breadwinner for our family, and I had intended to go into the courtroom that day and try to be excused," Todd said. "But the more I heard Judge D'Apolito talk about what was involved, I really wanted to do it, and I would have done it. I hope I get called again."

Both Sharon and Todd said they believe they could have served together without problem if both had been seated, but understood and accepted the judge's concerns.