

STANDARDS RELATING TO JURY USE AND MANAGEMENT

The following Standards Relating to Jury Use and Management were adopted by the Supreme Court effective July 15, 1983, as guidelines to assist the district courts in the management of jury systems within the State of Kansas.

PART A. STANDARDS RELATING TO SELECTION OF PROSPECTIVE JURORS

STANDARD 1: OBLIGATION OF AND OPPORTUNITY FOR JURY SERVICE

Jury service is the solemn obligation of all qualified citizens. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, disability, religious belief, income, occupation, or any other factor that discriminates against a cognizable group in the county.

STANDARD 2: JURY SOURCE LIST

(a) The names of potential jurors should be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the county.

(b) The jury list should be representative and should be as inclusive of the adult population in the county as is feasible.

(c) Each district court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the county.

(d) Should the district court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

STANDARD 3: RANDOM SELECTION PROCEDURES

(a) Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection.

(b) Random selection procedures should be employed in:

- (i) selecting persons to be summoned for jury service,
- (ii) assigning prospective jurors to panels, and
- (iii) calling prospective jurors for voir dire.

- (c) Departures from the principle of random selection are appropriate:
- (i) to exclude persons ineligible for service in accordance with Standard 4,
 - (ii) to excuse or defer prospective jurors in accordance with Standard 6,
 - (iii) to exercise challenges for cause and peremptory challenges in accordance with Standards 8 and 9, and
 - (iv) to provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

STANDARD 4: ELIGIBILITY FOR JURY SERVICE

All persons should be eligible for jury service except those who:

- (a) are less than eighteen years of age;
- (b) are not citizens of the United States;
- (c) are not residents of the county in which they have been summoned to serve;
- (d) are unable to understand the English language with a degree of proficiency sufficient to respond to a jury questionnaire;
- (e) are presently under an adjudication of incompetence; or
- (f) within the 10 years immediately preceding have been convicted of or pleaded guilty, or *nolo contendere*, to an indictment or information charging a felony;
- (g) have served as jurors in the county within one year immediately preceding;
- (h) are mothers breastfeeding children;
- (i) are otherwise excluded by the operation of law.

STANDARD 5: TERM OF JURY SERVICE

The period of time that persons' lives are disrupted by jury service should be the shortest period consistent with the needs of justice, financial considerations, and proper notice in order that the sacrifices and personal inconveniences of jury service might be minimized.

- (a) Unless otherwise prescribed by local rule, at least 20 days' notice of the initial date of jury service should be given whenever possible.

- (b) A procedure that utilizes first notification of jury service and summoning for a specific day is recommended.
- (c) Except in areas with few jury trials, persons should not be required to maintain a status of availability for jury service for longer than one week.
- (d) In areas with few jury trials, availability status should be the shortest time possible, but a period of no longer than one month is recommended. However, availability status of no longer than three months is acceptable. In either event, settings of the appearance date should be limited to three times during that period.
- (e) Telephone call-in systems should be utilized to inform jurors whether they are needed and, if so, when they should report to the courthouse.
- (f) Attendance of one day or the completion of one trial, whichever is longer, is recommended. However, attendance during one week or the completion of one trial, whichever is longer, is acceptable.

STANDARD 6: EXEMPTION, EXCUSE, AND DEFERRAL

(a) All automatic excuses or exemptions from jury service should be eliminated for all persons determined eligible under Standard 4.

(b) Eligible persons who are summoned may be excused from jury service by a judge or duly authorized court official only if:

- (i) their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and, if the impairment is due to a disability, that the impairment cannot be overcome through the use of a reasonable accommodation made available by the court;
- (ii) their service would be an extraordinary or compelling personal hardship;
- (iii) their presence elsewhere is required for the public welfare, health, or safety;
- (iv) they have a personal relationship to the parties or the person's information or interest in the case to be tried is such that there is a probability such persons would find it difficult to be impartial.

(c) Requests by eligible persons for deferral of jury service for a reasonable period of time should be liberally permitted by a judge or duly authorized court official to minimize the inconvenience and financial sacrifice of jury service.

(d) Guidelines for determining requests for excusal and deferral should be adopted by the judges of each judicial district.

PART B. STANDARDS RELATING TO SELECTION OF A PARTICULAR JURY

STANDARD 7: VOIR DIRE

A voir dire examination should be limited to matters relevant to determining removal of a juror for cause and exercising peremptory challenges.

(a) If the court determines that it will use juror questionnaires, they shall be made available to counsel for each party as soon as possible before jury selection begins.

(b) Counsel for the parties shall conduct the examination of prospective jurors. The court may conduct an additional examination at any time.

(c) The court may limit the examination by counsel if the court believes such examination to be harassment, is causing unnecessary delay, or serves no useful purpose.

(d) The judge should ensure that the privacy of prospective jurors is reasonably protected and the questioning by counsel is consistent with the purpose of the voir dire process.

(e) The voir dire examination shall be held on the record unless waived.

STANDARD 8: REMOVAL FROM THE JURY PANEL FOR CAUSE

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or on the judge's own initiative.

STANDARD 9: PEREMPTORY CHALLENGES

(a) The number of and procedure for exercising peremptory challenges should be uniform throughout the State.

(b) Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

(c) Peremptory challenges should be exercised following the completion of the voir dire examination. Counsel should exercise their strikes in an alternating manner out of the hearing of the panel. However, if the parties agree, then examination and challenging may be sequential.

PART C. STANDARDS RELATING TO EFFICIENT JURY MANAGEMENT

STANDARD 10: ADMINISTRATION OF THE JURY SYSTEM

The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.

(a) All procedures concerning jury selection and service should be governed by statute or court rules promulgated by the Supreme Court.

(b) A single, unified jury system should be established in each county.

(c) Responsibility for administering the jury system should be vested in an administrator acting under the supervision of the court.

STANDARD 11: NOTIFICATION AND SUMMONING PROCEDURES

(a) The notice summoning a person to jury service and the questionnaire, if used, eliciting essential information regarding that person should be:

(i) combined into a single mailing,

(ii) phrased so as to be readily understood by an individual unfamiliar with the legal terminology, and

(iii) delivered by first-class mail.

(b) A summons should clearly explain how and when the recipient must respond, the consequences of a failure to respond, the possibility of resetting the appearance date, and the amount of time involved in jury service.

(c) The questionnaire, if used, should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

(i) determining whether a person meets the criteria for eligibility

(ii) providing basic background information ordinarily sought during voir dire examination, and

(iii) efficiently managing the jury system.

(d) Policies and procedures should be established by each district court for enforcing a summons to report for jury service.

STANDARD 12: MONITORING THE JURY SYSTEM

District courts and the Office of Judicial Administration should collect and analyze information regarding the performance of the jury system on a regular basis in order to ensure:

- (a) the representativeness and inclusiveness of the jury source list,
- (b) the effectiveness of qualification and summoning procedures,
- (c) the responsiveness of individual citizens to jury duty summonses,
- (d) the efficient use of jurors, and
- (e) the cost effectiveness of the administration of the jury system.

STANDARD 13: JUROR USE

(a) Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

(b) Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity in an efficient manner. This information and appropriate management techniques should be used to adjust both the number of persons summoned for jury duty and the number assigned to jury panels.

(c) Courts should provide all prospective jurors with an opportunity to be called for service and assigned to a panel before others are called or assigned a second time.

(d) Courts should coordinate jury management and calendar management to make effective use of jurors.

STANDARD 14: JURY FACILITIES

Courts should provide an adequate and suitable environment for jurors to the extent feasible.

(a) The entrance and registration area should be clearly identified and appropriately designed to accommodate the flow of prospective jurors to the courthouse.

(b) Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.

(c) Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.

(d) Juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

STANDARD 15: JUROR COMPENSATION

(a) Persons called for jury service should receive such fees as are required by law.

(b) Such amounts and fees should be paid at least monthly, unless impracticable.

(c) State law should prohibit employers from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

PART D. STANDARDS RELATING TO JUROR PERFORMANCE AND DELIBERATIONS

STANDARD 16: JUROR ORIENTATION AND INSTRUCTION

(a) Courts should provide some form of orientation or instructions to persons called for jury service:

- (i) upon first contact before service, preferably in the form of a juror handbook or pamphlet;
- (ii) upon first appearance at the courthouse;
- (iii) upon reporting to a courtroom for voir dire;
- (iv) following empanelment but prior to the presentation of evidence;
- (v) during the trial;
- (vi) prior to deliberations; and
- (vii) after the verdict has been rendered or when a proceeding is terminated without a verdict.

(b) Orientation programs should be:

- (i) designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
- (ii) presented in a uniform, brief, and effective manner using written, oral, or audiovisual materials, or any combination of the methods.

(c) The trial judge should:

- (i) give preliminary instructions directly following empanelment of the jury that explain the jury's responsibility and basic relevant legal principles;
- (ii) give instructions on the law and on the appropriate procedures to be followed during deliberations, recorded or reduced to writing and made available to the jurors during deliberations; and
- (iii) to the extent possible, phrase all instructions so as to be readily understood by individuals unfamiliar with the legal system.

(d) Before dismissing a jury at the conclusion of a case, the trial judge should:

- (i) release the jurors from their duty of confidentiality;
- (ii) explain their rights regarding inquiries from counsel or the press;
- (iii) either advise them that they are discharged from service or specify where they must report; and
- (iv) express appreciation to the jurors for their service, but if a verdict has been rendered, the judge should not express approval or disapproval of the jury's decision.

(e) Before the jury is discharged all communications between the judge and jury panel concerning a case should be in writing or on the record in open court. Counsel for each party should be informed of such communication and given the opportunity to be heard.

STANDARD 17: JURY SIZE AND UNANIMITY OF VERDICT

A unanimous decision should be required for a verdict in all criminal cases. A less than unanimous decision should be permitted in all civil cases.

(a) Juries in criminal cases should consist of:

- (i) twelve persons, if a felony; or
- (ii) six persons, if a misdemeanor.

(b) Juries in civil cases should consist of no fewer than six and no more than twelve persons.

(c) The selection of alternate jurors shall be at the judge's discretion.

STANDARD 18: JURY DELIBERATIONS

Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making.

(a) The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16(c).

(b) A jury should not be required to deliberate after normal working hours unless the trial judge, after consultation with jurors and counsel, determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

(c) Training should be provided to bailiffs.

STANDARD 19: SEQUESTRATION OF JURORS

(a) A jury should be sequestered only when absolutely necessary to protect the jury or ensure justice.

(b) The trial judge should have the discretion to sequester a jury on the motion of counsel or on the judge's own initiative. The judge should have the responsibility to oversee the conditions of sequestration.

(c) Instructions regarding the proper methods for complying with sequestration procedures should be provided to persons who escort, protect, and assist jurors during sequestration.

[**History:** Jury Standards 1, 4, 5, 6, 15, and 17 amended effective September 8, 2006.]