

**NEW YORK STATE
JURY REFORM: THE ROAD TRAVELED
1993-2006
NEW YORK STATE UNIFIED COURT SYSTEM**

Introduction

Since 1993, New York's Chief Judge Judith S. Kaye has focused attention on improvement of the jury system in the state. This timeline traces the steps along the way to jury reform from 1993 to 2006.

Jury service is the court's direct link -- often the only direct link-with members of the public. In New York, owing to efforts to increase the pool of available jurors and reduce the burdens of service, the number of jurors annually called for service has grown from 430,000 in 1993 to 650,000 in 2005. The goal is to create a system that operates effectively and is considerate of the public's time and service.

As we look at the road traveled since 1993, one point predominates: that improving the jury system involves incremental change -- and persistence. Old habits die hard. That's one of the reasons this is a process of *continuing* jury reform.

THE ROAD TRAVELED: 1993-2006, Jury Reform in New York State

Before 1993, New York was using easily administered jury summoning methods and three source lists: registered voters, licensed drivers, state income taxpayers. But the state also had the longest list of occupational exemptions in the country. Once qualified, a juror was on a Permanent Qualified List that changed only on death or relocation. The result was that the same citizens were called every two years. Many were never called. In short, the state unfairly tapped the same people again and again.

Many of those summoned served for a week or more, whether chosen for a jury or not, spending time waiting in dilapidated jury rooms or courthouse corridors. Even in areas of the State having shorter terms of service, a juror could wait for days before being selected or dismissed. Nothing about service seemed to be juror-friendly. Jurors were not always treated with civility, respect or sensitivity. Convenience of lawyers and judges was paramount.

In civil cases, the state had a system of wholly unsupervised voir dire that allowed lawyers to spend days grilling potential jurors before selecting six to hear a case that often settled before the first witness was even sworn. In each and every criminal case, sequestration of deliberating jurors was mandatory. An adjournment of the date for jury service often required a personal appearance at the courthouse.

And for their service, juror compensation varied for \$5 to \$12 a day before 1993, becoming \$15 a day in 1993 (plus \$.15 a mile for transportation).

1993

- For most citizens, jury service is the only firsthand experience with the courts, and, often it was a bad experience.
- Immediately after becoming Chief Judge of the State of New York in 1993, Judith S. Kaye focused her attention on jury reform. In the spring, she convened a blue- ribbon group, called *The Jury Project*, composed of judges, lawyers, jury commissioners, jurors and others interested in jury improvement.
- Colleen McMahon, then a litigation lawyer (now a U.S. District Judge for the Southern District of New York), agreed to serve as chair. Members of the group were asked to think about how New York might achieve three objectives: jury pools truly representative of the community, a jury system operated efficiently and effectively, and jury service that is a positive experience for the citizens summoned to serve.
- In September 1993, the group began its work, aided by the American Bar Association's Standards Relating to Juror Use and Management, which became the organizing principles for The Jury Project's work.

1994

- On March 31, 1994, The Jury Project releases its report, and reform implementation begins.
- The court system begins drafting proposed legislation recommended by *The Jury Project*.
- Legislation adds both unemployment and public assistance rosters to the existing source lists, increasing the pool of available jurors by 500,000.
- The court system creates a hotline, 800-NY-JUROR, for juror comments, inquiries and complaints.
- The court system begins conducting a Civil Voir Dire Study to collect data and test improvements.
- The court system launches a public awareness program to ensure that all those in the courts-- jurors included-- are treated politely and appropriately.
- The court system begins following up on the huge volume of people who do not respond to the qualification questionnaire (approximately one third of the four million mailed annually).
- The Vera Institute launches the Citizens Jury Project, an OmbudService for jurors in several New York City courthouses, providing on-site juror assistance.

1995

- Legislation eliminates all automatic exemptions and disqualifications from jury service effective January 1996.
- Legislation increases juror fees for eligible jurors to \$27.50 per day in February 1997 and \$40 in February 1998.
- Legislation modifying rules on jury service postponements and excusals allows one automatic postponement, effective January 1996.
- Legislation grants discretion to criminal court judges-- for an experimental period of two years, and in all but the most serious cases-- on whether to sequester deliberating jurors. (Previously, the law required overnight sequestration.)
- Commissioners of Jurors statewide extend office hours outside traditional working hours, and in rural areas provide more toll- free telephones line and voice-mail service.
- Juror Exit Questionnaires are introduced to elicit feedback on the system's performance.
- *Guidelines for Postponement and Excusals* for Jury Commissioners and judges are added to the Rules of the Chief Administrative Judge.
- *Civil Voir Dire Study* is completed.

1996

- Permanent Qualified Pool is discontinued.
- Legislation eliminating automatic exemptions and disqualifications takes effect, increasing the pool of available jurors by one million. Combined with additional source lists, the total increase is 1.5 million.
- The State assumes responsibilities from localities for cleaning and repairing court facilities, signaling upgrade of juror facilities.
- Based on *The Voir Dire Study* and five-month public comment period, rules are adopted to make civil voir dire more efficient and dignified.
- The court system begins experiment allowing jurors to obtain an automatic initial postponement by phone.
- Juror orientation film, *Your Turn*, premieres.
- Legislation reduces peremptory challenges in civil cases from three per party to three per side, and one for every two alternates, while granting judges discretion to increase the number and allocate one side's challenges among multiple parties.
- *Juror's Handbook* includes answers to frequently asked questions, a statement of juror rights and responsibilities, and a glossary of trial-related terms.
- Annual Juror Appreciation Week is inaugurated statewide with special courthouse events honoring jurors. Other ongoing outreach efforts include judges and Jury Commissioners giving interviews on television

and radio about the value of jury service, and court system speakers explaining the jury's role to community and school audiences.

1997

- Increase in compensation for eligible jurors to \$27.50 per day takes effect.
- The court system finds that the experiment in discretionary sequestration of deliberating jurors spared nearly 6,000 citizens overnight separation from their homes and saved the State nearly \$2 million, with no discernible increase mistrials (as some had feared).
- Legislation makes permanent the grant of discretion to judges on whether to require sequestration; a similar 27-month experiment begins for the more serious cases excluded from the 1995 experiment.
- Legislation grants criminal court judge discretion to permit sworn jurors to leave the courtroom while jury selection continues.
- *Jury Pool News*, a quarterly newsletter for jurors, debuts and is available in all jury assembly rooms.
- Administrative Board of the Courts releases for public comment proposed rules on providing deliberating jurors written copies of the charge in civil cases and permitting jurors to take notes during trials.
- The Grand Jury Project is appointed to focus on improving the grand jury system. A blue-ribbon group of judges, prosecutors, defense counsel, jury commissioners, court administrators and academic convenes, using the American Bar Association Standards Relating to Juror Use and Management as a guide.
- Juror orientation film, *Your Turn*, receives the Golden Eagle Award of the Council of International Non- Entertainment Events (CINE).

1998

- Increase in compensation for eligible jurors to \$40 per day takes effect.
- Committee of Lawyers to Enhance the Jury Process begins to examine any procedural or ethical issues occasioned by repeal of the automatic jury exemption for lawyers.
- Legislation effective July 1998 provides that calculation of a juror's period of ineligibility for future service in all State courts will begin to include jury service in local Justice Courts.
- Legislation effective August 1998 provides a period of eight years' ineligibility for those who serve more than 10 days.
- Legislation clarifies that jury provisions apply to grand jurors well as petit jurors.
- Changeover from local to State responsibility for cleaning and repairing court facilities begins, with significant improvement in juror facilities. Coordinators in every courthouse monitor juror facilities.
- The court system reports that the streamlining of voir dire has dramatically reduced the duration of civil voir dire in New York City.

Judicial Hearing Officers now monitor civil voir dieres in high-volume counties.

1999

- The Grand Jury Project releases its report and recommendations, and implementation of improvements in grand jury service begins.
- The Committee of Lawyers to Enhance the Juror Process releases its report, finding that the lawyers were selected to serve on juries in both criminal and civil cases in the same proportion as non-lawyers, and recommending reforms in the jury process based on their experiences.
- New Court Rules set standards and procedures for a trial judge's exercise of discretion in permitting juror note-taking and giving jurors a copy of the judge's charge in civil cases.
- Legislation permits a criminal court judge to provide deliberating jurors, at their request, with a written list of witnesses who testified.
- The courts report that the 3-year experiment with discretionary (rather than mandatory) sequestration saved the State \$3.5 million and spared 15,000 jurors overnight separation, without causing more mistrials. Legislation extends the experiment to January 31, 2000.
- Call-in systems become available State-wide. In many areas of the State, jurors are placed on call or telephone standby for a limited period, and need not appear in court unless so instructed through the call-in system. Even if a physical appearance is not required during the call-in period, the juror receives credit for completing jury service.

2000

- Legislation extends the 1997 experiment allowing criminal court judges discretion to sequester deliberating juries in specified serious cases.
- Legislation allows a court to provide sworn grand jurors with written instructions about the proper performance of their duties.
- New Court Rule sets procedure for use, on consent, of non-designated alternate jurors in civil cases, which allows random selection of deliberating jurors at the close of the evidence.
- Jurors can make inquiries and learn about their service on the court system website for jurors (www.nyjuror.gov).
- Grand juror exit questionnaires are introduced to elicit grand juror feedback on their service.
- A huge number of juror qualification questionnaires are being returned as undeliverable--15 to 20% of the four million mailed annually. The court system expands its efforts to improve accuracy of addresses and remove duplicates from 18 million records in its source files.

- The Fund for Modern Courts assumes operation of the Citizens Jury Project from the Vera Institute, continues the OmbudService for jurors, and provides reports to the court system on juror concerns.

2001

- The New York State Court System co-hosts a national Jury Summit attended by 400 judges, federal and state court administrators, academics, and representatives of foreign countries.
- Legislation makes permanent the experiment giving criminal court judges discretion to sequester jurors in serious cases.
- Legislation clarifies that offering or giving money to jurors is a misdemeanor, following an incident in which a wealthy criminal defendant, after his case ended in mistrial, reportedly gave, or offered to give, each juror a check for \$2,500.
- The jury summons is revised in the form of a clear, readable, laser-printed mailer, incorporating a scannable juror identification badge.
- Most of the State's 62 counties achieve a "one day/one trial" term of service. In Bronx and New York Counties, the term is reduced from two weeks to "three days/one trial."
- Following recommendations of The Grand Jury Project, pilot projects on reduced terms of grand jury service begin. Kings County successfully reduces most grand jury terms of service to two weeks.

2002

- Legislation effective April 2003 requires the State to compensate jurors for serving in local Justice Courts, and increases the fee to match juror compensation in State courts.
- Legislation allows criminal courts judges--when two or more counts charge a violation of the same Article of law-- to add relevant dates, names of complainants and specific statutory language to verdict sheets to assist the jury.
- Grand juror orientation film, *Protect and Uphold*, premieres.
- A grand juror utilization program is piloted in 15 counties to monitor time spent hearing presentations versus downtime. This program ultimately leads to reduced terms of service in those counties.
- The State has 7,200 civil trials and 3,400 criminal trials. The court system mails 5 million juror qualification questionnaires, and 2.2 million summonses, which yield 648,000 serving jurors. The term of service for jurors has been reduced from Statewide average of 5.2 days to 2.3 days since jury reform began.
- The Center for Jury Studies of the National Center for State Courts announces its plan to seek funding for a National Program to Increase Citizen Participation in Jury Service to take advantage of the momentum generated by the national Jury Summit in New York

in 2001. The National Program will advance citizen outreach and education about the jury system and support improvement inside and outside courtroom.

2003

- The Jury Trial Project is formed-- a group of judges to study and implement innovations to aid juror's comprehension of trials.
- The Commission on the Jury, another blue-ribbon group, is convened to find ways to better utilize juror's time during jury service.
- The court system issues *Jury Service in New York State: A Guide for Employers & Employees*, highlighting information about jury service.
- New York City's "311" information system--its phone number for government information and non-emergency services--adds juror information to its database.
- Assisted-listening devices are distributed to all Commissioners of Jurors to assist jurors who are hearing impaired.
- The court system's juror website (www.nyjuror.gov) averages a million visitors annually.
- Many individuals previously excluded from jury service by exemptions and disqualifications have served, including United States Circuit Judge Amalya Kearse, Chief Judge Judith S. Kaye, Chief Administrative Judge Jonathan Lippman, Deputy Chief Administrative Judge for the New York City Courts Joan B. Carey, and Mayor Rudolph Giuliani. In addition, many celebrities have served and participated in Juror Appreciation events in Manhattan, including Katie Couric, Robert DiNiro, Harvey Keitel and, Barbara Walters.

2004

- Legislation increases from four to six years the standard period of ineligibility for future service by jurors who serve 10 or fewer days.
- The Commission on the Jury releases its report, with suggestions for more accurate estimating of number of jurors that should be summoned each day, reducing unnecessary waiting time, increasing communications with jurors and making voir dire process more efficient. The court system begins implementation, and starts planning to pilot proposed jury management reforms.
- The court system issues a standardized juror questionnaire.
- Juror qualification by phone or Web becomes available. Jurors can request an initial postponement using an automated system that is available 24/7.
- Grand and petit jury orientation films are available in DVD format for educational purposes.

- The National Program to Increase Citizen Participation in Jury Service through Jury Innovations of the Center for Jury Studies of the National Center for State Courts is launched in New York City.
- New York's Chief Judge serves as a co-chair of the American Bar Association Commission on the American Jury.

2005

- The President of the United States proclaims May 1, 2005 National Law Day, with the theme of The American Jury and encouraging celebration of Juror Appreciation Week in May. New York courts conduct special Law Day, Town Hall Meetings and Juror Appreciation events.
- The Jury Trial Project releases *The Final Report of the Committees of the Jury Trial Project*, recommending use of voir dire openings, juror note taking, allowing written questions of witnesses by jurors and providing the charge in writing jurors.
- The court system issues a guide for judges based on the Jury Trial Project report: *Jury Trial Innovations in New York State- Enhancing the Jury Process: A Practical Guide for Trial Judges*.
- Queens County is chosen as Model Jury Site to pilot the 2004 recommendations of The Commission on the Jury.
- The court system begins to make Internet access available in juror assembly rooms.
- The American Bar Association releases its *Principles for Juries & Jury Trials*, a set of 19 "gold standard" principles that define the bar's fundamental aspirations for the management of the jury system. These principles update the ABA Standards on jury trials, including the Standards Relating to Juror Use and Management that guided The Jury Project and The Grand Jury Project in New York.

2006

- *A Grand Juror's Handbook* answers frequently asked questions.
- The jury summons is redesigned with easier-to-read text and new information on reporting, postponement, excusal and website.
- A Statewide Coordinating Judge for Summary Jury Trials is appointed to oversee the use of summary (or "mini") trials as civil case alternative dispute resolution with a streamlined one-day trial.
- A guide for judges and administrators for conducting juror orientation is issued; Intertype machines are distributed to assist jurors with speech or language difficulties; and language screening guidelines are distributed. A pilot is conducted of an automated system to improve monitoring of daily utilization of jurors in assembly rooms.
- The court system publishes *Democracy in Action* for students.

- Jurors' first-time postponements can be made on the Web; and the enforcement of qualification questionnaire and summons responses, as well as initiation of noncompliance proceedings will be automated.
- New York representatives participate in the National Summit on the American Jury where plans for a U.S. Post Office stamp honoring jury service are unveiled.

2007: Jury Reform Continues

- *Jury Trial Project* judges and staff continue to promote the use of juror comprehension innovations through judicial training and continuing education seminars. The court system's unique pamphlet, *Jury Innovations in New York State: A Practical Guide for Trial Judges*, is distributed widely as a tool for inspiring and reassuring judges and attorneys about the utility and effectiveness of voir dire openings, juror note-taking, juror questions for witnesses, and providing deliberating jurors with the charge in writing.
- The Summary Jury Trial Program is being refined and the use of alternative dispute resolution expanded.
- Internet access is being planned for every jury assembly room, as well as a computer-based interactive juror orientation program, automated criminal background checks to assist in determining juror qualifications, and expansion of the automated monitoring of jury utilization.
- Commissioners of Jurors will use public service announcements created by the ABC Commission on the Jury for local radio stations. The announcements will also be posted www.nyjuror.gov.
- The State has efforts underway to improve jury service for grand jurors, including of grand juror utilization, upgrading of grand juror facilities and reduction in the term service.
- Chief Judge Judith S. Kaye, in her State of the Judiciary address, describes new jury initiatives to the legislature, press and public, as she has each year since 1993.

The Future:

Trial by jury is a bulwark of American democracy, a right guaranteed by every State Constitution and the United States Constitution. Ensuring that the experience of jury service matches the glorious rhetoric also helps foster public confidence in the justice system. It requires that court insiders work on improving in every possible way the jury experience for those called to serve.

No doubt about it: improving the jury system is a challenge-but well worth the effort.

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