

## MANAGING JURY SELECTION EFFECTIVELY

### Module #1: Obtaining Crucial Information from Prospective Jurors

[1.5 hours]

#### Learning Objectives:

After this session, the participants will be able to:

1. Recite the major tools for obtaining relevant background information from prospective jurors;
2. Describe several effective ways to inspire citizen candor during jury selection; and
3. Perform at least one new questioning technique that will likely elicit relevant juror information within reasonable time limits.

#### Learning Activities:

1. **Opening and mini-lecture:** The lead instructor begins by stating the guiding principles for impaneling a fair and impartial jury. With the aid of PowerPoint slides, he/she highlights the black letter text of Principle 11 of the ABA *Principles for Juries & Jury Trials* as a suggested model guide. (The participants already have the full text.) He/she focuses on these core inquiry methods: (1) written questionnaires, (2) “open court” questioning of the venire, (3) “open court” receipt of citizen answers, and (4) individualized voir dire of prospective jurors. The instructor then briefly recites the core facts and issues from a real case. The case will serve as laboratory model for undertaking demonstrative role play exercises. (5 minutes)
2. **Discussion:** The lead instructor asks the class participants to describe, based upon their experiences, what are the most effective inquiry methods for obtaining important information from prospective jurors. (10 minutes).
3. **Group exercise:** Three faculty-instructors play the roles of trial judge, prosecutor/plaintiff, and defense lawyer, while several audience members [pre-assigned] play the role of prospective jurors in the model case. An instructive demonstration occurs in two scenarios.

The first role-play scene is a pretrial bench conference during which both counsel ask the court to permit the lawyers to ask questions directly to the venire panel following the court’s open court questioning of prospective jurors. During this scene, the dialogue between judge and counsel illustrates the merits and demerits of lawyer questioning. For example, the judge recites her fears about attorney grandstanding, voir dire dragging on needlessly, etc. Counsel argue how they each know their cases better than the court, cite empirical studies and Principle 11 of the ABA *Principles for Juries & Jury Trials*, and promise to be economical in their questioning. The open-minded judge gives counsel a few pointers on questioning and sets down some time parameters for their questioning.

The second scenario moves to the courtroom and the beginning of jury selection. There, the lawyers demonstrate sensitivity to the court's concerns and undertake effective questioning of would-be jurors. During the abbreviated, open-court and individual questioning of prospective jurors, there is fairly equal participation of judge and lawyers as questioners. (45 minutes).

4. **Discussion:** The instructor requests that the class divide into groups. He/she asks the groups to answer the following questions: (1) which questions and questioning methods yield the most useful information from prospective jurors? (2) What are the challenges facing a trial judge in collaborating with trial counsel?, and (3) Under what circumstances can trial lawyers be relied upon to assist the court in gaining useful juror information? (20 minutes)
5. **Closing:** The instructor closes by stating the latest best practice suggestions for jury selection and highlighting available resources for improving information gathering. (10 minutes).

## Materials:

1. For use during class: ABA Principle 11, case hypothetical, jury questionnaires, and PowerPoint slides.
2. Reference materials
  - a. Annotated bibliography. Local instructor will add any state-specific reference materials that would be helpful for the participants (e.g., bench books, case law, statutes, court rules, etc.)
  - b. Sample jury management orders (generated by faculty & host judges)
  - c. Sample jury questionnaires  
[http://jurylaw.typepad.com/deliberations/sample\\_juror\\_questionnair.html](http://jurylaw.typepad.com/deliberations/sample_juror_questionnair.html)
  - d. Checklists

## Model Case

*Tennie Pierce v. City of Los Angeles*

**Background facts:** Tennie Pierce sued the City of Los Angeles after he was tricked into eating dog food at a Westchester fire station. Pierce was the only African-American employed at the fire station. He claims that the trick was perpetrated on him because of his race. Pierce, a 19-year veteran of the department, alleges that Fire Department supervisors purchased the dog food and did nothing to stop him from eating it. He charges that the incident fit an ongoing pattern of harassment against minorities and women. Pierce asserts that the City engaged in a cover-up of the incident and its practices. The firefighter finally contends that for more than a year following the trick feeding he was subjected to verbal slurs, insults and derogatory remarks including his colleagues "barking like dogs ... asking him how dog food tasted." The City denies all allegations of discrimination. It further asserts that the dog food feeding was an innocent joke designed to humble the plaintiff after he proclaimed himself "Big Dog" during a Fire

Department volleyball game.

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