

MANAGING JURY SELECTION EFFECTIVELY

Module #4: Respecting Juror Privacy & More During Jury Selection **[1 hour]**

Learning Objectives:

After this session, the participants will be able to:

1. List the major categories of information collected from jurors before, during and after jury selection;
2. Distinguish between information that is relevant or not for discovering prospective juror bias or unfitness.
3. Describe which jury selection practices impair jury privacy and which ones protect it;
4. Describe how judicial techniques or practices can hamper the litigants obtaining essential information about prospective jurors; and
5. Describe at least one new jury selection practice that the participant will utilize in the future at least once on an experimental basis as a way to respect juror privacy or comfort during jury selection.

Learning Activities:

1. **Opening and mini-lecture:** The instructors (perhaps a judge & a jury commissioner) begin by stating the major categories of information typically collected from citizens called to jury duty. (5 minutes)
2. **Lecture and discussion:** A faculty member together with at least two former jurors from the host jurisdiction discuss common concerns expressed by former jurors with respect to their privacy, safety and comfort during jury selection. (20 minutes)
3. **Lecture and discussion:** A faculty member and at least one professional legal journalist will discuss the legal and practical issues that arise when public trial rights compete with juror privacy. (20 minutes)
4. **Closing:** The instructor, ideally a judge, closes by describing several practical methods that accommodate the privacy concerns of jurors while remaining mindful of the public trial rights of the parties and the news media. She/he suggests Principle 7 of the ABA *Principles for Juries & Jury Trials* as a model practice guide. (15 minutes).

Materials:

1. For use during class: Principle 7 of the ABA *Principles for Juries & Jury Trials* 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. Principle 7 of the ABA *Principles for Juries & Jury Trials*.
- c. Sample jury management orders.
- d. Sample jury-qualification questionnaires and jury-selection questionnaires.

Bibliography

Core Documents

- AMERICAN BAR ASSOCIATION, *PRINCIPLES FOR JURIES & JURY TRIALS* (2005),
http://www.abanet.org/jury/pdf/final%20commentary_july_1205.pdf.
- Paula Hannaford-Agor, *Safeguarding Juror Privacy: A New Framework for Court Policies and Procedures*, 85 JUDICATURE18 (2001)
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Journals/Periodicals

- Robert T. Balch et al., *The Socialization of Jurors: The Voir Dire as a Rite of Passage*, 4 J. Crim. Just. at 271 – 283 (1976).
- Bella M. DePaulo, *Nonverbal Behavior and Self-Presentation*, 111 Psychological Bulletin at 203-243 (1992).
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- Susan E. Jones, *Judge- Versus Attorney-Conducted Voir Dire: An Empirical Investigation of Juror Candor*, 11 Law and Human Behavior at 131-146 (1987).
- Norbert L Kerr et al., *On the Effectiveness of Voir Dire in Criminal Cases with Prejudicial Pretrial Publicity: An Empirical Study*, 40 Amer. U. L. Rev. at 665-771 (1991).
- Gregory E. Mize, *Be Cautious of the Quiet Ones*, VOIR DIRE (2003)
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- Mary R. Rose, *A Dutiful Voice: Justice in the Distribution of Jury Service*, 39 Law & Society Rev. at 601-634 (2005).
- Abbe Smith, *Nice "Work If You Can Get It": Ethical Jury Selection in Criminal Defense*, 67 FORDHAM L. REV. 523 (1998).
- John Paul Stevens, *Foreword: Symposium on the Jury at a Crossroad: The American Experience*, 78 Chi. Kent L. Rev. at 907-908 (2003).

Gerald T. Wetherington et al., *Preparing for the High Profiles Case: An Omnibus Treatment for Judges and Lawyers*, 51 Fla. L. Rev. at 425-488 (1999).
Andrew J. Wistrich et al., *Can Judges Ignore Inadmissible Information? The Difficulty of Deliberately Disregarding*, 153 U. of Pa. L. Rev. at 1251-1345 (2005).
Kimba M. Wood, *The 1995 Justice Lester W. Roth Lecture: Reexamining the Access Doctrine*, 69 S. CAL. L. REV. 1105, 1118-20 (1996).
Marvin Zalman & Olga Tsoudis, *Plucking Weeds from the Garden: Lawyers Speak about Voir Dire*, 51 Wayne L. Rev. at 163-441 (2005).

Books and Other Works

Elizabeth Aries, **Men and Women in Interaction: Reconsidering the Differences**, Oxford University Press (1996).
Lee Epstein & Jack Knight, *The Blackwell Companion to Law and Society* at 170 – 194 (**Courts and Judges**), Blackwell Publishing (2004).
Reid Hastie et al., **Inside the Jury**, Harvard University Press (1983).
Seymour Sudman & Norman M. Bradburn, **Asking Questions**, Josey-Bass (1982).
Neil Vidmar & Valerie P. Hans, **American Juries**, Prometheus Books (2007).