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## **The Vermont Legislative Research Shop**

### **Jury Compensation**

Since the 1940s, members of the United States judicial system have been working to improve the experience of citizens called to jury duty. Some of these changes have included creating “guides or aides to jury members to help them understand the legal system and the trial process,...[by the 1960s and 70s], there were challenges to jury representativeness and randomness, calling for use of more inclusive practices and diversity within the juror pool.”<sup>1</sup> In the state of New York, this led to reducing the number of occupations that were automatically exempt from jury duty and striving to recruit “jury pools that are truly representative of the community.”<sup>2</sup> Jason Wilson, member of the Citizen’s Jury Project pointed out that before this change, there were “exemptions for professions like licensed physicians, but also for embalmers, podiatrists, Christian Science ministers and others.”<sup>3</sup> In New York, this change has allowed the defendant in a criminal trial to be judged by more of a cross-section of his or her peers.

### **Jury Reform in New York, California, Arizona, and Georgia**

Several states have proven that jury reforms have been successful. “The current leaders in the jury reform effort are the states of Arizona, California and New York.”<sup>4</sup>

#### **New York**

New York has undergone an extensive renovation of its jury system. Among the changes, “juror compensation has been increased, further reducing the hardships on those

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<sup>1</sup> Fisher, Crystal, Leah Garcia, Chidi James, Stacey Papp. “Jury Practice and Jury Reform.” George Mason American Inn of Court. September 27, 2000.

<http://www.gmu.edu/departments/law/innofcourt/pubs/jury.pdf> April 21, 2004.

<sup>2</sup> <http://www.nycourts.gov/admin/stateofjudiciary/stofjud8/juryref.htm> April 26, 2004.

<sup>3</sup> Wilson, Jason. “Fed-Up Jurors Demand a Little Respect.” Citizen’s Jury Project. <http://www.juryproject.org/wilson.html>

<sup>4</sup> Fisher, Crystal, Leah Garcia, Chidi James, Stacey Papp. “Jury Practice and Jury Reform.” George Mason American Inn of Court. September 27, 2000.

<http://www.gmu.edu/departments/law/innofcourt/pubs/jury.pdf> April 21, 2004.

summoned to serve.”<sup>5</sup> New York is in its fourth year of the court system’s program for jury reform.<sup>6</sup> The suggested proposals allow “jurors to pose written questions to witnesses during trial (the questions [are] screened by the judge and the lawyers in the case); permit jurors to talk about the case during trial and before formal deliberations (currently, jurors are admonished not to discuss the case until lawyers have presented all the evidence); provide jurors a trial “textbook” that sets out jury instructions, a glossary of legal terms and details specific to the particular case; jurors also [may] write notes in the books as the trial progresses,” previously, jurors were permitted to take notes in many cases, but the new textbooks are far more extensive; “speed up jury selection; protect jurors’ privacy; and limit sequestration of juries to extraordinary cases.”<sup>7</sup> These proposals met opposition within the legal profession, “which is steeped in tradition and generally distrustful of change.”<sup>8</sup>

## California

In 2003 the California Judicial Council received the Burton Award for Outstanding Reform for their clear and concise writing of statutes.<sup>9</sup> The state has also instituted what is called a “one day/one trial system.”<sup>10</sup> “One day or one trial means that prospective jurors have to come to the court only once. If you are not chosen for a trial, then your term of service is complete. If you do serve on a jury, you will not be required to report for jury service for at least another 12 months.”<sup>11</sup> Other reforms that have been incorporated into the California judicial system are, “juror telephone standby systems, one summons systems, and changes to the jury source lists.” Source lists are a random sampling of the population that is derived from the Department of Motor Vehicles. Other “innovations range from juror note taking and question asking to juror anonymity and the elimination of peremptory challenges.”<sup>12</sup>

## Arizona

Judge B. Michael Dann, “who received the 1997 Rehnquist Award for Judicial Excellence at the U.S. Supreme Court for his national work in jury reform,” is the chair of the Arizona Jury Trial Reform Committee.<sup>13</sup> Because of Dann’s work, Arizona is hailed as one of the foremost leaders in the transformation of how juries are used in courts. Increasing jury compensation is a commonly proposed reform.

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<sup>5</sup> *Jury Reform*. <http://www.nycourts.gov/admin/stateofjudiciary/stofjud9/2%20Jury%20reform.pdf>

<sup>6</sup> <http://www.nycourts.gov/admin/stateofjudiciary/stofjud8/juryref.htm>. May 3, 2004.

<sup>7</sup> Reform Of Jury Procedures Studied, By Ginny McKibben, Staff Writer. Denver Post. May 26, 1997. <http://www.levellers.org/jrp/orig/jrp.jryreform.htm>. April 26, 2004.

<sup>8</sup> *Ibid.*

<sup>9</sup> <http://www.courtinfo.ca.gov/jury/civiljuryinstructions/>. May 3, 2004.

<sup>10</sup> <http://www.courtinfo.ca.gov/jury/glossary.htm#one-day-one-trial>. May 3, 2004.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> [http://www.ncsconline.org/D\\_ICM/icm\\_fac/icm\\_fac\\_dann.html](http://www.ncsconline.org/D_ICM/icm_fac/icm_fac_dann.html)

## Georgia

Georgia Senate Bill 523, the Patriot Jury Act was introduced last session into Georgia's General Assembly. "Section 6 of that Act would have provided for the creation of a fund from additional civil filing fees to pay for increases in jury service payments for trials lasting longer than 4 days."<sup>14</sup> A fee of \$8.00 would be added to every case filed; these fees would accumulate into a "Lengthy Trial Fund".<sup>15</sup> From this fund, jurors would be paid \$100.00 from the fourth day of service to the ninth, and from the tenth day on, they would receive \$300.00 per day in order to relieve the financial hardship of the juror. Dennis Dunn of the Georgia Attorney General's Office said in an email interview on April 30, 2004, that "while the bill was introduced in the Senate and referred to a committee, it never progressed any further than the legislative process. The General Assembly has adjourned its regular session and that particular piece of proposed legislation is now dead. It may or may not be re-introduced in any upcoming legislative sessions."<sup>16</sup>

### Juror Compensation by State<sup>17</sup>

State	Minimum Daily Compensation	Maximum Daily Compensation	Additional Compensation
Alabama	\$10	\$10	5 cents per mile
Georgia	\$15 first 3 days (if not employed)*	\$40 from day 4 on	
Maine	\$5	\$5	
Mississippi	\$30	\$30	
Utah	\$18.50 (first day of service only)	\$49 thereafter	\$1 for each 4 miles in excess of 50 miles
Vermont	\$10**	\$25**	

\*Employers in Georgia are required to compensate employees called to jury duty for the first three days of a trial.

\*\* Compensation of Vermont jurors varies on the type of trial a juror is called to participate in.

### The Effects of Changes in Juror Compensation

Scholars argue that increases in jury pay improve jury turn-out and the inclination to participate. "Each year, approximately 15 million Americans are summoned to jury duty; only about one-third report to serve as jurors."<sup>18</sup> The Tennessee Bar Association Commission on Jury Reform notes that people who are self-employed, such as those "who may work on a farm or in the service industry, may be faced with the prospect of

<sup>14</sup> Dunn, Dennis. Email Interview, April 30, 2004.

<sup>15</sup> [http://www.legis.state.ga.us/legis/2003\\_04/fulltext/sb523.htm](http://www.legis.state.ga.us/legis/2003_04/fulltext/sb523.htm). April 28, 2004.

<sup>16</sup> Dunn

<sup>17</sup> <http://www.cga.state.ct.us/2000/rpt/olr/htm/2000-r-0975.htm> Viewed on April 28, 2004.

<sup>18</sup> Schneider, David. "Jury Deliberations and the Need for Jury Reform." *4Judges' Journal* 23. 1997.

earning so little as a juror that the experience is a significant monetary setback. Similarly, homemakers may have to pay more for child care than they earn as jurors.”<sup>19</sup> The Association also pointed out that with mileage, parking costs, and lunch, “the ten dollar fee may not come close to compensating the juror for out-of-pocket expenses incurred in the public service.” They counter that “Tennessee jurors should be paid a minimum of forty dollars (\$40.00) per day, plus parking costs, with a cost of living adjustment as appropriate.”<sup>20</sup>

New York is similar to Tennessee in its proposals for jury reform. In a poll of 2,000 New York jurors, Julia Vitullo-Maritin, director of the Citizens Jury Project at the Vera Institute of Justice found that “Jurors respect their prized civic duty and work hard at being responsible, attentive jurors.” However, this valued duty is undermined with their low pay. “...Jurors are paid very little. Like any free or very cheap resource, they are too often treated wastefully from the moment they first appear for jury selection until they are excused. Their time is rarely considered valuable, particularly when set against the convenience of judges and lawyers. Jurors are often made to wait for long periods while the court goes about what it considers to be more pressing business.”<sup>21</sup> Judge Dann agrees, saying that “it is one of the distinguishing features of American democracy...” he asks, however, “are jurors treated in a manner consistent with their exalted position? In far too many cases, the answer is a definitive no.”<sup>22</sup>

## Conclusion

Over the past half-century, jury reform has been a topic of much scholarly debate. Studies have shown that an increase in pay creates a more willing juror, many states have incited proposals for reform. Arizona, California, and New York have been the leaders in the restructuring of their judicial systems, and other states may soon follow suit. According to Miles Cortez, president of the Colorado Bar Association, “We need to make jury service more palatable to the citizens, more convenient to do their civic duty.”<sup>23</sup>

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This report was prepared on May 3, 2004 by J. W. Dunnivant, Selene M. Hofer-Shall, and Rebecca McCarty.

Disclaimer: This report was prepared by undergraduate students at the University of Vermont under the supervision of Professor Anthony Gierzynski. The material contained in this report does not reflect official policy of the University of Vermont.

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<sup>19</sup> Report of the Tennessee Bar Association Commission on Jury Reform. May 1999. p. 14-15.  
<http://www.tba.org/news/jurye.pdf>.

<sup>20</sup> Ibid.

<sup>21</sup> By Julia Vitullo-Martin and Michael Rothenberg *Bridge News*, February 17, 1997.  
<http://www.juryproject.org/arizona.html>. April 26, 2004.

<sup>22</sup> Ibid.

<sup>23</sup> Reform Of Jury Procedures Studied, By Ginny McKibben, Staff Writer *Denver Post* May 26, 1997  
[http://www.levelers.org/jrp/orig/jrp\\_jryreform.htm](http://www.levelers.org/jrp/orig/jrp_jryreform.htm)