

Minutes  
Public Service and Trust Commission – Jury Committee  
Voir Dire Subcommittee  
January 13, 2009

The first meeting of the Voir Dire Subcommittee was held at the Waterbury Superior Court, 400 Grand Street, Waterbury, CT in Courtroom 4 A.

Members in Attendance: Hon. Carl J. Schuman, Chair; Hon Barbara Bellis, Co-Chair; Hon. Linda K. Lager, Jury Committee Liaison; Attorney Timothy Patrick Brady; Attorney Michael R. Corsello; Hon. Maureen M. Keegan.

This meeting was open to the public.

Judge Schuman called the meeting to order at approximately 2:05 p.m. Judge Schuman welcomed all the members to the meeting and asked each member to introduce him- herself. Judge Schuman then reviewed the Agenda that had been established for the meeting.

Judge Lager distributed a Template for Subcommittee Recommendations to each member for use in submitting recommendations to the Jury Committee.

Judge Schuman and Judge Bellis alternated in introducing each Agenda Item for discussion.

1. Introduction of case to voir dire panels by a judge, and continued judicial supervision, in all civil cases. The issue of judicial supervision or judicial involvement throughout the voir dire process, particularly in civil cases, was discussed. Those subcommittee members who are on the Bench related their experiences at various court locations. Key issues that emerged included:
  - What should be considered the *best practice*? It was pointed out that the American Bar Association recommends judicial supervision throughout the entire voir dire process.
  - Who is protecting the constitutional rights of the venireperson?
2. Better prescreening methods, including written questionnaires in all cases. It was noted that Connecticut is considered to have the slowest jury selection process in the Nation. Effective use of written questionnaires can serve to ameliorate that issue.

Written questionnaires allow the court to identify those persons unable to serve as jurors for cause. They are an efficient way for the

court to identify those summoned persons who are relatively conflict-free.

The subcommittee members discussed the advantages and also concerns of using a written questionnaire. Key issues that emerged included:

- What should be considered the *best practice*? It was pointed out that the American Bar Association recommends written questionnaires for the purpose of pre-screening for both civil and criminal cases.
- Completing a written questionnaire may provide greater ease to persons who wish to self-exclude from jury selection. This could act to make the jury-pool less diverse than it would be otherwise.
- A written questionnaire may act as a barrier to that percentage of the population that is functionally illiterate.
- Difficulty within the legal community to accept written questionnaires.
- Manner of using written questionnaires should be standardized with variations among the courts kept to a minimum.

Subcommittee members also discussed the *Confidential Juror Questionnaire*, the form that is completed and presented to the Jury Clerk by jurors when they arrive for jury service. The issue that emerged was whether the Confidential Juror Questionnaire should be modified.

3. Encouraging the use of box or group voir dire in all cases. This method of jury selection, in practice since 2004, was described by Judge Lager.

Subcommittee members discussed this method of voir dire, often drawing-on their experience in private practice or on the Bench. It was noted that box or group voir dire has been less successful in cases that involve complex litigation, wrongful death, and medical malpractice. Also, the criminal bar has not embraced this method of jury selection perhaps due to a disinclination to waive the defendant's statutory right to sequestered individual voir dire.

Key issues that emerged included:

- Concern that venirepersons would not be as candid with other individuals included as part of the group voir dire.

- Venireperson may make a declaration that taints the panel.
4. Jurors who are excused in prescreening: use them again or send them home? During the discussion that arose from this issue, it was noted that by re-using jurors, the court is able to summons less jurors. This goes to the heart of efficient utilization of jurors.

A key issue that emerged from the discussion was the following:

- Would it be possible to continuously play the introductory video, Pursuit of Justice, II, thereby allowing the courts to stagger the arrival time of new jurors?
5. Improving Jurors comfort while waiting to be questioned. This issue prompted an animated discussion of ways by which jurors can be made more comfortable. These are some of the ideas:

- Conduct an exit-survey of persons who complete jury service and ask for comments/advice.
- Provide playing cards, lockers, and quiet-room.
- Have DVD-player available with selection of movies.
- Provide on-site child-care.
- Provide specific time by which jurors are needed back at the court.

Alternatively, alert jurors that they are needed by providing them with a buzzer that would light-up and buzz when they are needed back at the court.

- Provide more specificity on wait-time and trial-length times.
6. Any other voir dire issues, including ABA voir dire guidelines. Subcommittee members identified several areas of concern:
- Privacy issues: During questioning, when has counsel gone too far? This can be especially applicable in cases involving a self-represented defendant.
  - What happens to the Confidential Juror Questionnaires?
  - Concerns for juror safety: This can be especially applicable in notorious/high profile cases.

- Judge-initiated Batson<sup>1</sup> Challenge: The underlying rationale in Batson is the right of a venireperson to serve. Hence, the ABA recommends that, when deemed appropriate, the judge raise a Batson challenge if no attorney raises such challenge.

The Subcommittee members assumed Agenda Items as tasks to present at the next Voir Dire Subcommittee Meeting:

- Judge Barbara Bellis: Judicial supervision of all voir dire, including civil; Use of judge trial referees (JTR) in the process.
- Judge Carl Schuman: Prescreening of all voir dire; whether sequestered individual voir dire is the best practice.
- Atty. Timothy Patrick Brady: Voluntary use of box voir dire.
- Atty. Michael Corsello: Reusing jurors who are excused from the first case.
- Judge Maureen Keegan: Privacy and security issues of venirepersons.
- Attys. Daniel Ryan and Richard Silver: Improving juror comfort while waiting to be questioned.

The next meeting of the Voir Dire Subcommittee will take place on March 5, 2009 at 2:00 p.m. at the Bridgeport Superior Court, 1061 Main Street, Bridgeport, CT in Courtroom 6 C.

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<sup>1</sup> Batson v. Kentucky 476 U.S. 79 (1986). Access decision at [http://supct.law.cornell.edu/supct/search/display.html?terms=batson%20v.%20kentucky&url=/supct/html/historics/USSC\\_CR\\_0476\\_0079\\_ZO.html](http://supct.law.cornell.edu/supct/search/display.html?terms=batson%20v.%20kentucky&url=/supct/html/historics/USSC_CR_0476_0079_ZO.html)