

IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

Arizona Jury Trial Innovations

1. Note Taking

Note Taking by Jurors

The court shall instruct that the jurors may take notes regarding the evidence and keep the notes for the purpose of refreshing their memory for use during recesses, discussions and deliberations. The court shall provide materials suitable for this purpose. After the jury has rendered its verdict, the notes shall be collected by the bailiff or clerk who shall promptly destroy them

16 A.R.S. Rules of Civil Procedure, Rule 39(p)

Jurors shall have access to their notes and notebooks during recesses, discussions and deliberations.

16 A.R.S. Rules of Civil Procedure, Rule 39(d)(3)

2. Juror Handbooks/Notebooks

Juror Notebooks

In its discretion, the court may authorize documents and exhibits to be included in notebooks for use by the jurors during trial to aid them in performing their duties.

16 A.R.S. Rules of Civil Procedure, Rule 47(g)

Jurors shall have access to their notes and notebooks during recesses, discussions and deliberations.

16 A.R.S. Rules of Civil Procedure, Rule 39(d)(3)

3. Juror Questions and Questioning of Witnesses

Communication to Court by Jury

When the jurors desire to communicate with the court during retirement, they shall make their desire known to the officer having them in charge who shall inform the court and they may be brought into court, and through their foreman shall state to the court, either orally or in writing, what they desire to communicate.

16 A.R.S. Rules of Civil Procedure, Rule 39(g)

Questions by Jurors to Witnesses or the Court

Jurors shall be permitted to submit to the court written questions directed to witnesses or to the court. Opportunity shall be given to counsel to object to such questions out of the presence of the jury. Notwithstanding the

foregoing, for good cause the court may prohibit or limit the submission of questions to witnesses
16 A.R.S. Rules of Civil Procedure, Rule 39(b)(10)

4. Juror Pay/Compensation

Each juror shall be paid by the county:

1. For each day's attendance upon the superior court or justice court, twelve dollars.
2. For each mile necessarily traveled from his residence to the court and back to his residence, an amount equal to the amount paid to state officers and employees pursuant to section 38-623, subsection A. Reimbursement shall be at the computed mileage rate regardless of whether the travel is accomplished by private, rented or chartered motor vehicle. When a juror necessarily returns to his residence and travels back to court during the period of service because of a recess ordered by the court, he shall be paid on the same basis for such travel.

(A.R.S. § 21-221(A))

A juror will receive a mileage reimbursement for each day they serve. Compensation for mileage is the same amount paid to state officers and employees by statute.

<http://supreme.state.az.us/jury/expect1.htm#Compensation>

If a person is selected to sit on a trial, they will also receive a \$12 per diem. Some courts pay the \$12 per diem to jurors even if they are not selected to sit on a trial. Additional compensation is available to those jurors who serve on longer trials (lasting more than 10 days) if their employers do not pay them while they serve.

<http://supreme.state.az.us/jury/expect1.htm#Compensation>

Arizona Lengthy Trial Fund

Beginning on July 1, 2004 and subject to the availability of monies, for jury trials that commence on or after July 1, 2004, monies in the fund shall be used to pay full or partial earnings replacement or supplementation to jurors who serve as petit jurors for more than ten days and who receive less than full compensation. The amount of replacement or supplemental earnings shall be at least forty dollars but not more than three hundred dollars per day per juror beginning on the eleventh day of jury service and at least forty dollars but not more than one hundred dollars per day from the fourth day through the tenth day of jury service.

A.R.S. § 21-222(C)

Arizona Lengthy Trial Fund

Beginning on July 1, 2004, a juror whose jury service lasts more than ten days may submit a request for payment from the fund. The amount a juror receives from the fund is limited to the difference between the state paid jury fee and the actual amount of earnings a juror earns, not less than forty dollars, up to the maximum level payable under subsection C of this section, minus any amount the juror actually received from the juror's employer during the same time period. A juror who requests payment from the fund:

1. Shall disclose on the form the juror's regular earnings, the amount the juror's employer will pay during the term of jury service starting on the eleventh day and thereafter, the amount of replacement or supplemental earnings being requested and any other information that the jury commissioner deems necessary.
2. Before receiving payment from the fund, shall submit verification from the juror's employer, if any, regarding the earnings information that is provided under paragraph 1. This verification may include the employee's most recent earnings statement or a similar document.
3. In order to verify the weekly income if the juror is self-employed or receives compensation other than wages, shall provide a sworn affidavit attesting to the juror's approximate gross weekly income, together with any other information that the supreme court requires.

A.R.S. § 21-222(D)

Arizona Lengthy Trial Fund

Jurors who are unemployed and are not eligible for payment pursuant to subsections C and D of this section are eligible to be paid forty dollars per day, even if they receive income in the form of spousal maintenance, pensions, retirement, unemployment compensation, disability benefits or other similar income. Commissioners shall not deduct these other forms of income in calculating the amount these jurors are to be paid from the fund.

A.R.S. § 21-222(E)

Costs and Expenses; state grand jury

In addition to the fees and amounts stated in section 21-221, persons serving on a state grand jury shall be provided by the county in which the assignment judge is serving with reasonable per diem expenses as established by the Arizona supreme court.

A.R.S. § 21-428(A)

Recommendation

The committee recommends that the judicial branch form a joint task force – composed of representatives from the legislative and judicial branches, the counties and municipalities, and the public – to explore creative ways to increase juror compensation.

Final Report and Recommendations of the Arizona Supreme Court Ad Hoc Committee to Study Jury Practices and Procedures, August 2002

5. Alternate Jurors

Alternate Jurors

The court may direct that not more than six jurors in addition to the regular jury be called and impanelled to sit as alternate jurors. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. If alternate jurors are impanelled, their identity shall not be determined until the end of trial. At the time of impanelment, the trial judge should inform the jurors that at the end of the case, the alternates will be determined by lot in a drawing held in open court. The trial judge shall also explain the need for alternate jurors and the procedure regarding alternates to be followed at the end of trial. The alternate, or alternates, upon being physically excused by the court at the end of trial, shall be instructed to continue to observe the admonitions to jurors until they are informed that a verdict has been returned or the jury discharged. In the event a deliberating juror is excused due to inability or disqualification to perform required duties, the court may substitute an alternate juror, choosing from among the alternates in the order previously designated, unless disqualified, to join in the deliberations. If an alternate joins the deliberations, the jury shall be instructed to begin deliberations anew. Each side is entitled to 1 peremptory challenge in addition to those otherwise allowed by law if 1 or 2 alternate jurors are to be impanelled, 2 peremptory challenges if 3 or 4 alternate jurors are to be impanelled, and 3 peremptory challenges if 5 or 6 alternate jurors are to be impanelled

16 A.R.S. Rules of Civil Procedure, Rule 47(f)

6. Discussions pre-deliberation

Admonition to Jurors; Juror Discussion

If the jurors are permitted to separate during the trial, they shall be admonished by the court that it is their duty not to converse with or permit themselves to be addressed by any person on any subject connected with the trial; except that the jurors shall be instructed that they will be permitted to discuss the evidence among themselves in the jury room during recesses from trial when all are present, as long as they reserve

judgment about the outcome of the case until deliberations commence. Notwithstanding the foregoing, the jurors' discussion of the evidence among themselves during recesses may be limited or prohibited by the court for good cause.

16 A.R.S. Rules of Civil Procedure, Rule 39(f)

7. Deliberation

Verdict, Deliberations and Conduct of Jury; Sealed Verdict; Access to Juror Notes and Notebooks

When the jurors retire to deliberate, they shall be kept together in some convenient place in charge of a proper officer. The court in its discretion may permit jurors to separate while not deliberating, or, on motion of any party, may require them to be sequestered in charge of a proper officer whenever they leave the courtroom or place of deliberation. The court shall admonish them not to converse among themselves or with anyone else on any subject connected with the trial while not deliberating, or to permit themselves to be exposed to any accounts of the proceeding, or to view the place or places where the events involved in the action occurred, until they have completed their deliberations.

16 A.R.S. Rules of Civil Procedure, Rule 39(d)(1)

The court may direct the jury to return a sealed verdict at such time as the court directs.

16 A.R.S. Rules of Civil Procedure, Rule 39(d)(2)

Jurors shall have access to their notes and notebooks during recesses, discussions and deliberations.

16 A.R.S. Rules of Civil Procedure, Rule 39(d)(3)

8. Length of Service

N/A

9. Length of Time Restrictions on Trials

Recommendation

- *Jurors: The Power of 12:* In fairness to potential jurors and others, report dates should be limited by law to two in counties where the term of service is one day/one trial.
- As of August, 2002, five counties in Arizona did not use the one-day/one trial process

Final Report and Recommendations of the Arizona Supreme Court Ad Hoc Committee to Study Jury Practices and Procedures, August 2002

10. Judge's Responses to Jury Questions

Questions by Jurors to Witnesses or the Court

Jurors shall be permitted to submit to the court written questions directed to witnesses or to the court. Opportunity shall be given to counsel to object to such questions out of the presence of the jury. Notwithstanding the foregoing, for good cause the court may prohibit or limit the submission of questions to witnesses

16 A.R.S. Rules of Civil Procedure, Rule 39(b)(10)

11. Jury Size

A jury for trial in any court of record of a civil case shall consist of eight persons, and the concurrence of all but two shall be necessary to render a verdict.

A.R.S. § 21-102(C)

In a court not of record, a jury for trial of any case shall consist of six persons. The concurrence of all in a criminal case and all but one in a civil case shall be necessary to render a verdict.”

A.R.S. § 21-102(D)

Juries of less than Eight; Majority Verdict

The parties may stipulate that the jury shall consist of any number less than eight but not less than three, or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

16 A.R.S. Rules of Civil Procedure, Rule 48

Grand jury

A grand jury shall be composed of not less than twelve nor more than sixteen persons, nine of whom shall constitute a quorum for all proceedings before it.

A.R.S. § 21-101

12. Number of Jurors Needed to Return a Verdict

The general rule in civil cases is that a minimum of three-fourths of the jurors who hear and deliberate a case must agree in order to return a verdict.

150 Ariz. 505

13. Juror Admonition

Admonition to Jurors; Juror Discussion

If the jurors are permitted to separate during the trial, they shall be admonished by the court that it is their duty not to converse with or permit themselves to be addressed by any person on any subject connected with

the trial; except that the jurors shall be instructed that they will be permitted to discuss the evidence among themselves in the jury room during recesses from trial when all are present, as long as they reserve judgment about the outcome of the case until deliberations commence. Notwithstanding the foregoing, the jurors' discussion of the evidence among themselves during recesses may be limited or prohibited by the court for good cause.

16 A.R.S. Rules of Civil Procedure, Rule 39(f)

14. Jury Nullification

N/A

15. The Use of Plain English

N/A

16. Absence of the Jury

N/A

17. Jury Instructions

N/A

18. Child-Care for Jurors

N/A

19. Jury Room

A room shall be provided by the board of supervisors of each county for use of the jury upon its retirement for deliberation, with suitable furniture, fuel, lights and stationery.

A.R.S. § 21-121(A)

20. Accommodation

While the jury is kept together, either during the progress of the trial or after retirement for deliberation, the court shall, at the expense of the county, provide the jury with suitable and sufficient food, lodging and other reasonable necessities, and the expense shall be a county charge in criminal cases. Such charges shall be assessed against the losing party in civil cases.

A.R.S. § 21-122

21. Juror's Bill of Rights

The committee recommends that trial courts statewide adopt the proposed Bill of Rights for Arizona Jurors (included in this report as Appendix B).

Final Report and Recommendations of the Arizona Supreme Court Ad Hoc Committee to Study Jury Practices and Procedures, August 2002

NOTE: This report, which includes the proposed Bill of Rights may be downloaded in .pdf format at <http://supreme.state.az.us/jury/juryrpt.pdf>)

22. Materials Permitted in Possession of the Jury

N/A

23. Various Rules

N/A

24. Various Recommendations

Recommendation

The committee recommends that a statewide jury management reference manual be prepared. The reference manual should be disseminated and utilized as part of the curriculum at training sessions developed to educate jury commissioners and their staffs. To achieve this goal, the committee further recommends supporting the continued efforts of the Jury management Reference Manual Workgroup established by the committee chair.

Final Report and Recommendations of the Arizona Supreme Court Ad Hoc Committee to Study Jury Practices and Procedures, August 2002