

# IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

## Virginia Jury Innovations

### 1. Note Taking

The court, in the exercise of its discretion, may permit jurors to take notes during the trial. B. If notes are taken by any of the jurors, at the conclusion of each day of a trial, the court shall collect juror notes and provide for their security until the trial resumes. Upon conclusion of the trial, the court shall collect and destroy all juror notes.  
Sup.Ct.Rules, Rule 1:23, (WEST 2005)

### 2. Juror Handbooks/Notebooks

N/A

### 3. Juror Questions and Questioning of Witnesses

N/A

### 4. Juror Pay/Compensation

Jurors in Virginia are paid \$30.00 per day.  
[http://www.ncsconline.org/WC/Publications/KIS\\_JurManPayStates.pdf](http://www.ncsconline.org/WC/Publications/KIS_JurManPayStates.pdf).

### 5. Alternate Jurors

N/A

### 6. Discussions pre-deliberation

N/A

### 7. Deliberation

N/A

### 8. Length of Service

N/A

### 9. Length of Time Restrictions on Trials

N/A

### 10. Judge's Responses to Jury Questions

N/A

### 11. Jury Size

N/A

## **12. Number of Jurors Needed to Return a Verdict**

N/A

## **13. Juror Admonition**

N/A

## **14. Jury Nullification**

N/A

## **15. The Use of Plain English**

N/A

## **16. Absence of the Jury**

N/A

## **17. Jury Instructions**

A proposed jury instruction submitted by a party, which constitutes an accurate statement of the law applicable to the case, shall not be withheld from the jury solely for its nonconformance with the model jury instructions.

Va. Code Ann. § 8.01-379.2 (WEST 2005)

### **Sup.Ct.Rules, Rule 3A:16:**

**(a) Giving of Instructions.** In a felony case, the instructions shall be reduced to writing. In all cases the court shall instruct the jury before arguments of counsel to the jury.

**(b) Proposed Instructions.** If directed by the court the parties shall submit proposed instructions to the court at such reasonable time before or during the trial as the court may specify and, whether or not proposed instructions have been submitted earlier, the parties may submit proposed instructions at the conclusion of all the evidence.

**(c) Objections.** Before instructing the jury, the court shall advise counsel of the instructions to be given and shall give counsel the opportunity to make objections thereto. Objections shall be made out of the presence of the jury, and before the court instructs the jury unless the court grants leave to make objections at a later time.

**(d) Alternative Forms of Verdicts; Separate Verdicts.** The court may submit alternate forms of verdicts to the jury. The jury shall be instructed to return a separate verdict on each count of an indictment or presentment.

Sup.Ct.Rules, Rule 3A:16 (WEST 2005))

The preparation of instructions can be unnecessarily time-consuming and, without preparation, can lead to reversible error. Unless otherwise provided for in a pretrial scheduling order (*e.g.*, Paragraph X of the Uniform Pretrial Scheduling Order, Supreme Court Rule 1:18), instructions should be exchanged among counsel at least 2 working days before trial. All sets should be marked in pencil in the lower right-hand corner numerically for the plaintiff and alphabetically for the defendant. **One set of instructions -- to be read and given to the jury -- should not contain citations of authority.** Counsel should confer so that at the conclusion of the evidence, counsel can advise the court which instructions are agreed upon, which are disputed, and the basis for any disputes.

VA R HENRICO CIR CT Trials (WEST 2005)

### **18. Child-Care for Jurors**

N/A

### **19. Jury Room**

N/A

### **20. Accommodation**

N/A

### **21. Juror's Bill of Rights**

N/A

### **22. Materials Permitted in Possession of the Jury**

#### **Distribution of Exhibits to Jurors**

Circulation of exhibits among the jurors is time-consuming and disruptive of the orderly flow of the trial; therefore, exhibits will not be circulated among the jurors unless sufficient copies are available for each juror or the exhibit is of such size or enlarged to such size that the jurors as a body can examine the exhibit or enlargement. The courts discourage the introduction of bulky exhibits into the record as this imposes on the clerk's offices and the taxpayers in finding space to store such exhibits. They may be used for demonstration purposes. A smaller form of the bulky exhibit can usually be made and it should be presented for record purposes.

VA R HENRICO CIR CT Trials (WEST 2005)).

### **23. Various Rules**

#### **Views of Premises by Jury**

The jury may, in any civil case, at the request of either party, be taken to view the premises or place in question, or any property, matter or thing relating to the controversy between the parties, when it shall appear to the

court that such view is necessary to a just decision; provided that the expenses of the jury and the officers who attend them in taking the view shall be afterwards taxed like other legal costs.

Va. Code Ann. § 8.01-376 (WEST 2005)

### **Preliminary Voir Dire Information**

At the outset of jury selection in any civil or criminal case, the court shall deliver preliminary instructions that: (1) explain the purpose of the voir dire examination, (2) explain the difference between peremptory challenges and removals for cause, (3) summarize the nature of the case, (4) estimate how long the trial may last, and (5) indicate whether it is anticipated that the jury will be sequestered.

Sup.Ct.Rules, Rule 1:21 (WEST 2005)

### **Juror Contact**

#### Rules of Prof.Conduct, Rule 3.5

(a) A lawyer shall not:

(1) before or during the trial of a case, directly or indirectly, communicate with a juror or anyone the lawyer knows to be a member of the venire from which the jury will be selected for the trial of the case, except as permitted by law;

(2) after discharge of the jury from further consideration of a case:

(i) ask questions of or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence the juror's actions in future jury service;

(ii) communicate with a member of that jury if the communication is prohibited by law or court order; or

(iii) communicate with a member of that jury if the juror has made known to the lawyer a desire not to communicate; or

(3) conduct or cause, by financial support or otherwise, another to conduct a vexatious or harassing investigation of either a juror or a member of a venire.

(b) All restrictions imposed by paragraph (a) upon a lawyer also apply to communications with or investigations of members of the immediate family or household of a juror or a member of a venire.

(c) A lawyer shall reveal promptly to the court improper conduct by a member of a venire or a juror, or by another toward a venireman or a juror or a member of the juror's family, of which the lawyer has knowledge.

(d) A lawyer shall not give or lend anything of value to a judge, official, or

employee of a tribunal under circumstances which might give the appearance that the gift or loan is made to influence official action. (Rules of Prof.Conduct Rule 3.5 (WEST 2005)).

**24. Various Recommendations**

N/A