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Current Issues Facing Juries in State and Federal Courts

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American Bar Association



Principles for Juries and Jury Trials

American Jury Project

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PREAMBLE

The American jury is a living institution that has played a crucial part in our democracy for more than two hundred years. The American Bar Association recognizes the legal community's ongoing need to refine and improve jury practice so that the right to jury trial is preserved and juror participation enhanced. What follows is a set of 19 principles that define our fundamental aspirations for the management of the jury system. Each principle is designed to express the best of current-day jury practice in light of existing legal and practical constraints. It is anticipated that over the course of the next decade jury practice will improve so that the principles set forth will have to be updated in a manner that will draw them ever closer to the principles to which we aspire.

GENERAL PRINCIPLES

PRINCIPLE 1– THE RIGHT TO JURY TRIAL SHALL BE PRESERVED

- A. Parties in civil matters have the right to a fair, accurate and timely jury trial in accordance with law.
- B. Parties, including the state, have the right to a fair, accurate and timely jury trial in criminal prosecutions in which confinement in jail or prison may be imposed.
- C. In civil cases the right to jury trial may be waived as provided by applicable law, but waiver should neither be presumed nor required where the interests of justice demand otherwise.
- D. With respect to criminal prosecutions:
 - 1. A defendant’s waiver of the right to jury trial must be knowing and voluntary, joined in by the prosecutor and accepted by the court.
 - 2. The court should not accept a waiver unless the defendant, after being advised by the court of his or her right to trial by jury and the consequences of waiver, personally waives the right to trial by jury in writing or in open court on the record.
 - 3. A defendant may not withdraw a voluntary and knowing waiver as a matter of right, but the court, in its discretion, may permit withdrawal prior to the commencement of trial.
 - 4. A defendant may withdraw a waiver of jury, and the prosecutor may withdraw its consent to a waiver, both as a matter of right, if there is a change of trial judge.
- E. A quality and accessible jury system should be maintained with budget procedures that will ensure adequate, stable, long-term funding under all economic conditions.

PRINCIPLE 2 – CITIZENS HAVE THE RIGHT TO PARTICIPATE IN JURY SERVICE AND THEIR SERVICE SHOULD BE FACILITATED

- A. All persons should be eligible for jury service except those who:
 - 1. Are less than eighteen years of age; or
 - 2. Are not citizens of the United States; or
 - 3. Are not residents of the jurisdiction in which they have been summoned to serve; or
 - 4. Are not able to communicate in the English language and the court is unable to provide a satisfactory interpreter; or
 - 5. Have been convicted of a felony and are in actual confinement or on probation, parole or other court supervision.
- B. Eligibility for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, sexual orientation, or any other factor that discriminates against a cognizable group in the jurisdiction other than those set forth in A. above.
- C. The time required of persons called for jury service should be the shortest period consistent with the needs of justice.
 - 1. Courts should use a term of service of one day or the completion of one trial, whichever is longer.
 - 2. Where deviation from the term of service set forth in C.1. above is deemed necessary, the court should not require a person to remain available to be selected for jury service for longer than two weeks.
- D. Courts should respect jurors' time by calling in the minimum number deemed necessary and by minimizing their waiting time.
 - 1. Courts should coordinate jury management and calendar management to make effective use of jurors.
 - 2. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both

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