



Jury News

BY PAULA HANNAFORD-AGOR

Court Security Includes Jurors, Too

Increased security has been a priority for many courts in recent years. Certainly there have been a sufficient number of troubling incidents involving violent criminal defendants, aggrieved litigants in family disputes, emotionally unstable respondents to various court orders, and external threats from domestic and international terrorism. Many of the enhanced security protections are focused on judges and court staff to ensure that they are able to do their jobs free from fear or intimidation. Other measures are generic protections designed to safeguard everyone at the court — employees, litigants, lawyers, and the public.

But are generic security measures adequate for prospective jurors? By definition, jurors are a paradox for court security purposes. They are outsiders (non-court personnel) who are selected at random from the community. They have unknown backgrounds and personalities. The jury system is intentionally designed to have the collective pool of prospective jurors reflect community attitudes and demographics. Except for their badges, jurors are difficult to distinguish from other court users. At the same time, jurors are insiders who play an integral part in the justice system. As adjudicators, they are arguably at least as powerful as judges (and some might argue, more so). They enjoy a highly protected status while impaneled as trial jurors.

Juror security is not usually among the top priorities for jury management, which typically focuses on four primary objectives:

- Securing an adequate pool of prospective jurors from which to impanel juries
- Ensuring that the jury pool reflects a fair cross section of the community

- Conducting jury operations in an efficient and cost-effective manner
- Treating citizens with dignity and respect

It should go without saying (but I'll say it anyway) that dignified, respectful treatment includes adequate security for jurors, both to protect them from general harm and to insulate them from potentially biasing influences. This column focuses on basic security measures that courts should have in place to secure the safety and integrity of jurors.

Reporting for Service

- Parking areas reserved for juror use should be safe, well-lit, and located within reasonable walking distance of the courthouse. For elderly or disabled jurors, courts should provide closer parking areas or transportation to the courthouse.
- A separate courthouse entrance or security line for jurors can reduce the amount of time needed to process jurors through security, especially in the morning and immediately after lunch.
- When jurors check in to the jury assembly room, they should provide some form of positive identification.
- If the court prohibits members of the public from possessing cellular telephones, PDAs, or laptop computers within the courthouse, consider waiving the policy for prospective jurors while they are waiting in the jury assembly room.

Assembly Room Security

- To prevent jurors' exposure to ex parte or other potentially prejudicial information while in the courthouse, the jury assembly room should be restricted to prospective jurors and authorized court staff. Lawyers, litigants, witnesses, and other members should be denied access.

- In designing new courthouses, or redesigning existing facilities, avoid locating the jury assembly room in close proximity to other criminal justice agencies (e.g., prosecutors' offices, public defender offices, witness assistance programs, etc.).
- Provide jurors with reasonable access to restrooms, food and beverages, and (if you must) smoking areas, preferably within the restricted areas of the jury assembly room itself, but at the very least within the court's general security perimeter.
- Collect emergency contact information from jurors for use by court staff; provide jurors with instructions for contacting the court in an emergency.
- Instruct courtroom staff (clerks, bailiffs, court reporters, or other staff who might routinely come in contact with jurors) to treat jurors courteously, but to avoid becoming inappropriately friendly.
- Be careful that conversation by courtroom staff or other security personnel cannot be overheard by jurors.

Transport from Assembly Room to Courtroom

- Keep jury panels together to the greatest extent possible while in transit from the jury assembly room to the courtroom. (It's amazing how many prospective jurors get lost on the way.)
- Avoid exposing prospective jurors to detainees. This is both a public safety measure and a precaution against jurors drawing prejudicial inferences about the dangerousness of defendants.
- Strongly discourage the practice of using exterior courtroom hallways as waiting areas for jury panels. These hallways invariably have insufficient and inadequate seating and risk exposing prospective jurors to litigants and witnesses.

Security for Sworn Jurors During Trial Proceedings

- Upon empanelment, orient jurors to the jury deliberation room, including the location of emergency exits, restrooms, cloakrooms, amenities, and special parking.
- Tell jurors if they will have access to the jury deliberation room during court recesses, and if so, any policies or procedures they should follow during these periods.

Jury Deliberations

- Communicate to jurors all court policies and expectations regarding the hours, deliberations, lunch, and other recesses.
- Inform jurors that any questions that arise during jury deliberations should be communicated in writing to the trial judge.
- Instruct courtroom staff that they should not attempt to answer jurors' questions, suggest deliberation strategies, or comment on jury requests to review trial exhibits.

Overnight Sequestration (if you absolutely must)

Sequestering jurors overnight has become an increasingly rare occurrence, and for good reason. The cost of hotels, meals, transportation, and staff overtime make this practice exorbitantly expensive. It is disruptive to jurors' lives, exacerbating juror stress levels. For an instructive illustration of the impact sequestration has on deliberating jurors, read D. Graham Burnett's autobiographical memoir *A Trial by Jury* (2001). Finally, it is difficult to extend court security measures outside the courthouse facility. For cases in which overnight sequestration is essential to protect juror safety or to preserve

the integrity of the judicial process against the risk of jury tampering or intimidation:

- Conduct background checks on hotel and restaurant staff.
- Consolidate the focus of security personnel by securing hotel rooms in close proximity to one another.
- Set enforceable and fair policies for dining arrangements (e.g., individual or group dining, restaurant options, dietary restrictions, access to alcoholic beverages).
- Restrict access to televisions, telephones, and newspapers.
- Set policies concerning family visitation, attendance at religious services, and procedures for medical emergencies.

Before Releasing Jurors from Service

- Provide instructions and guidance on speaking with the media, with litigants, and with lawyers.
- Provide information concerning juror payment and employer verification of jury service.
- Provide contact information and instructions for securing additional assistance or information about jury service, if needed.
- If appropriate, provide information about symptoms and strategies for coping with juror stress, including contact information for other jurors.

ABOUT THE AUTHOR

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