

**Citizens Jury Project  
Spring 2003 Report on Juror Concerns:  
December 1, 2002- March 31, 2003**

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## Preface

The Citizens Jury Project (CJP) was created in 1995 following the recommendation of the Jury Project, a blue-ribbon panel formed by New York State Chief Judge Judith S. Kaye to review and reform jury service in New York State. CJP serves as an advocate for individual jurors in the courts, and strives to make systemic reforms that improve conditions for all jurors.

The Citizens Jury Project responds to ideas and concerns of jurors, and assesses the conditions of New York courts through our ombudservice presence in the courts and ongoing data collection and analysis. The ombudservice booths, staffed by interns—currently one post-graduate law student recently admitted to the Bar, two Masters students from John Jay College of Criminal Justice, and a Master of Public Policy student from Baruch College—are the in-court presence of the project. At these booths, which are located outside the jury assembly rooms at 60, 100, and 111 Centre Street in Manhattan, and inside the jury room of 360 Adams Street in Brooklyn, interns interview and assist jurors, and gather the data presented in CJP reports.

The following report will focus on the issue of jurors' right to privacy, which may have particular relevance for jurors and the court system in the current political climate. The means by which to balance civil liberties with safety and protectionism have been extensively debated since September 11, heightened fear a factor in the force of the arguments. Some have argued, and various studies<sup>1</sup> suggest, that fear is ephemeral in a nation that values individuality and autonomy, whose jurisprudence has found civil liberties, such as privacy, within the protections of constitutional liberty. Indeed, privacy is an example of a civil liberty that is not always viewed in opposition to safety, but rather, also understood as a means to ensure it. *In re Pacific Railway Commission*, a case cited frequently by the Supreme Court, Justice Field stated:

Of all the rights of the citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves, not merely protection of his person from assault, but exemption of his private affairs, books, and papers, from the inspection and scrutiny of others. Without the enjoyment of this right, all others would lose half their value.<sup>2</sup>

When the right to privacy is recognized as a part of the public sphere, such as a courtroom, the relationship between privacy and safety is quite evident. Jurors' concerns and fears are not left at the doors of a court, yet in a courtroom—a

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<sup>1</sup> For a comprehensive review of recent polls and studies on privacy visit the Electronic Privacy Information Center, *Public Opinion on Privacy*. <http://www.epic.org/privacy/survey/default.html>. This site notes, for example, the public's dwindling interest in national ID systems. "Immediately after the attacks, a Harris Poll found that 68% of Americans supported a national ID system. A study conducted in November 2001 for the Washington Post found that only 44% of Americans supported national ID. A poll released in March 2002 by the Gartner Group found that 26% of Americans favored a national ID, and that 41% opposed the idea."

<sup>2</sup> *In re Pacific Railway Commission*, 32 Fed. 241, 250 (1887).

highly controlled environment that is valued for its openness—jurors are asked to expose themselves and their identities. The controversy underlying the concept of juror privacy centers on how jurors' rights conflict with competing rights, and evoke broader questions of law. This report will delve into some of these questions, and suggests that access to information helps to address and ameliorate jurors' privacy concerns, and enhance jurors' ability to serve effectively.

Jurors' concerns with privacy and access to information are echoed in the second half of this report, that presents and analyzes the 543 comments of 306 jurors interviewed by CJP from December 1, 2002 to March 31, 2003. These juror comments suggest that there are procedural and facilities improvements that need to be made, but also clearly indicate that jurors are cognizant and appreciative of the significant reform and improvements that have been made to the system.

Now well into our eighth year, CJP looks forward to continuing our collaborative work with the Office of Court Administration and courts throughout the state. Jury reform has improved the administration of justice in New York, and jurors' perception of and performance within the jury system. By giving jurors an active voice in our courts, and listening and responding to their concerns, knowledge is reciprocated and the groundwork is established for future administrative reform.

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## 1. Manhattan & Brooklyn Juror Comments: An Overview

### (A) Introduction

On January 13, 2003, Chief Judge Judith S. Kaye delivered the *State of the Judiciary 2003*, which addressed, among many substantive issues, continuing jury reform in New York State. The topic of jury reform in New York is broad: a wide-array of significant reforms has been implemented to improve the system. New York has introduced measures that promote diverse representation among panelists, such as expanding the number of source lists, abolishing automatic exemptions and disqualifications, and eliminating the antiquated permanent qualified list.<sup>3</sup> These measures, coupled with efforts to hold absent jurors accountable, have enabled the system to become more efficient and fair. Inclusiveness also lessens the burdens of service and allows the system to now offer shorter and less frequent terms of service, and automatic first-time postponements. The increase in juror pay and the elimination of mandatory sequestration also lessen the burden of service, and reflect the Judiciary's belief that jurors are not expendable, but valued and respected.

With this preponderance of accomplishments, it is easy to lose sight of service gaps—areas unaddressed or in need of improvement. The strength of New York's judiciary and judicial system is evidenced by the fact that Chief Judge Kaye did not simply mention jury system achievements in the State of the Judiciary address, but she also notes the areas in need of improvement. Efficiency, a residual issue in the justice system, is certainly an issue for jurors in New York. With eighty-two percent of the jury pool never serving on a case, jurors complain about wasted time while the system wastes money. To address this issue, the Chief Judge has formed The Eighty-Two Percent Project, a commission that will delve into the question of how to better utilize jurors. CJP greatly supports this initiative, and provides specific recommendation about how to diminish the wasted time—and jurors' feeling that their time is being wasted—throughout this report.

Although New York has been a leader in introducing pre-trial jury reform, the same cannot be said once jurors enter the courtroom. As Judge Kaye noted in her recent address: "Here in New York, the jurors' role has in actual practice changed very little over the last century—jurors generally remain a passive body until the very end of the case, when a judge sends them to deliberate." Indeed, until recently, New York did not broach the subject of jury trial innovations—such as allowing jurors to submit written questions during proceedings and providing jurors with exhibit notebooks—innovations that have been researched and are practiced in some other courts throughout the nation. However, beginning in the summer of 2003, the Office of Court Administration (OCA) will partner with the New York Judicial Institute (a newly-formed court-

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<sup>3</sup> The permanent qualified lists were composed of qualified jurors in each county in New York, and were roughly equivalent to the number of jurors needed for each summoning cycle. In some counties, new names were added only when a person passed away, moved, or became disqualified. NEW YORK STATE UNIFIED COURT SYSTEM, JURY REFORM IN NEW YORK STATE: A SECOND PROGRESS REPORT ON A CONTINUING INITIATIVE (MARCH, 1998)

related training center) to address this gap. The Jury Trial Project will study the effects of jury trial innovations in courts throughout New York and will conduct jury innovations training. CJP applauds this initiative, and appreciates being included in the planning process. The Jury Trial Project will also be a good learning opportunity for CJP interns, who will assist with the administration and evaluation of the innovative processes in New York courts.

In considering the viability of innovative measures in New York courts, and in examining administrative issues such as juror utilization, it is important to also consider basic concerns that jurors bring to the courts and concerns that are evoked within. Jurors' comments reflect the trying economic times; heightened financial, employment, and familial concerns are crosscutting, and lucent in CJP's data. Jurors also express social concerns: jurors comment on the strain that service can put on their lives, and also, their rights. Indeed, there is a direct connection between jurors' personal lives and their rights. The private details of a person's life qualify jurors or can inhibit their ability to serve, while disclosure of these details in courtrooms can also serve as the source of jurors' privacy and safety concerns. But, the idea of "jurors' rights" seems problematic and possibly contradictory to a process that is designed to ensure open and efficient trials. The following report suggests that jurors' rights and privacy must be recognized, but that such recognition does not require massive reform and need not significantly detract from competing rights.

The first part of this report delves into the issue of juror privacy by examining the use of anonymous juries, which have a history of being employed as a means to address juror privacy concerns. Court rulings regarding anonymous juries will be considered, as will opposing views on the topic. In this analysis, CJP hopes to elucidate some key components to juror privacy and the implications that jurors' right to privacy have on the system. Recommendations derived from this analysis and CJP's ongoing presence in New York courts will be provided at the conclusion of the section.

The second part of this report will focus on the 543 jurors' comments collected from 60, 100, and 111 Centre Street and the 360 Adams Street courthouse, during the time period of December 1, 2002 to March 31, 2003. The report will provide a summary of jurors' appreciative comments, and their comments on the physical environments in all four courts. Following this general analysis, the report will examine the court-specific positive and negative comments made by jurors. At the conclusion of each court-specific section, recommendations will be provided, based on the comments received from jurors and the feedback from Citizens Jury Project interns, whose weekly presence in each court gives them objective, informed perspectives on the courts. Finally, this report will conclude with a summary of the recommendations provided throughout the report, which proposes ways in which the Citizens Jury Project and the Office of Court Administration can foster greater knowledge of the system, while promoting awareness among jurors of their rights and responsibilities.

*(B) Court Procedural and Facilities Accomplishments*

Stemming from the collaborative efforts of members of the Judiciary, and court and city officials, the following environmental improvements have been made or are in the process of being made in both New York and Kings County courts:

1. **Elevators:** The elevators at 120 Schermerhorn are currently being refurbished. The elevators at 100 Centre, 60 Centre, and 60 Lafayette Street, are also scheduled for refurbishment. As of March 12, all contracts have been awarded for work on the elevators at 100 Centre, a project that will last for approximately two years.
2. **Wireless Access:** Jurors at 60 Centre Street and 360 Adams can now take advantage of wireless access throughout the courthouses. OCA is offering this service in partnership with Courtroom Connect, a wireless internet service provider who offers courthouse services in California and Delaware. Although wireless access is currently being piloted at only two courthouses, if successful, the service will be extended to jurors at 100 and 111 Centre also.
3. **Electrical System Upgrade:** 100 Centre has received an electrical upgrade, a long-lasting benefit for the entire facility.
4. **Accessible Coffee:** The City has agreed to allow a sink to be installed at 100 Centre, which will allow the Commission for the Blind and Visually Handicapped to offer coffee and refreshments to jurors on the 15<sup>th</sup> floor.
5. **Supplementary Cleaning Staff:** OCA officials have met with City officials and agreed that cleaning staff will be present at their maximum capacity in the Manhattan and Brooklyn courts. Particular attention will be paid to the assembly room and other juror areas, as the influx of individuals called to serve often creates a need for consistent maintenance.

While these improvements clearly suggest a pro-active approach to improving the facilities, there are procedural and facilities-related aspects of service that have been previously discussed and are in need of attention:

1. **Juror assistance during service:** Jurors at all four Kings and New York County courts continue to express procedural concerns and confusion about where to report once they are chosen to participate in a voir dire or serve on a panel.
2. **Summoning:** Jurors in New York County also continue to complain that the map provided on the summons is inadequate. The absence of the Canal Street subway station on the map particularly baffles jurors.
3. **Signage:** Specific improvements still need to be made to all facilities, so that signage clearly reflects the locations of the courts, jury assembly rooms, restrooms, and concessions.
4. **Drinking water:** CJP encourages court officials to continue to press the City to test the water in the New York and Kings County courthouses. Until the water tests safe and the water fountains are fully functional, jurors should be provided with an accessible water cooler or, at least, water should be available through concession and vending services.

## 2. Juror Privacy

### (A) Overview

In 1890, Samuel D. Warren and Louis D. Brandeis wrote that the right to privacy had evolved from “a remedy only from physical interferences with life and property, for trespasses *vi et armis*” to a right to life and a right to enjoy life—“the right to be left alone.”<sup>4</sup> 1890 was only twenty-six years after the Civil War, and also the year of the massacre at Wounded Knee.<sup>5</sup> “The right to be left alone” was a right held by certain people,<sup>6</sup> yet the assertion of the right allowed it to become more inclusive and expansively defined. Privacy now extends to areas such as personal decision-making in regard to contraception (*Griswald v. Connecticut*, 1965) and abortion (*Roe v. Wade*, 1973). These decisions help to guarantee a zone of privacy—new privacy—that places privacy within the “liberty” protected by the Due Process Clause of the Fourteenth Amendment. Privacy is now recognized as a fundamental liberty warranting extraordinary scrutiny and protection.<sup>7</sup> In *Roe v. Wade*, 410 U.S. 113, 152 (1973), Justice Blackmun stated:

The Constitution does not explicitly mention any right to privacy. In a line of decisions however...the Court has recognized that a right of personal privacy, or a guarantee of certain areas or zones of privacy, does exist in the Constitution. These decisions make it clear that only personal rights that can be deemed “fundamental” or “implicit in the concept of ordered liberty” *Palko v. Connecticut*, 302 U.S. 319 (1937), are included in the guarantee of personal privacy...<sup>8</sup>

To include very private zones within the realm of privacy is, in some ways, more facile than extending the right to privacy in public areas, such as a courtroom.

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<sup>4</sup> SAMUEL D. WARREN, LOUIS D. BRANDEIS, THE RIGHT TO PRIVACY, 4 HARV. L. REV., 195 (1890).

<sup>5</sup> On December 29, 1890, the 7<sup>th</sup> Cavalry intercepted 350 Hunkpapa Sioux (Lakota) people, included 120 men and 230 women and children. Once rounded up, the Sioux were placed in a camp on Wounded Knee Creek. Colonel James W. Forsyth ordered that the Sioux be disarmed. A shot fired, and the federal troops responded by killing approximately 153 Sioux and wounding 44, half of whom were unarmed women and children. Massacre at Wounded Knee. (Visited April 20, 2003) <<http://www-personal.umich.edu/~jamarcus/ammy.html>>.

<sup>6</sup> This disparity is illustrated in the words of General Nelson A. Miles, the man who assembled 5,000 soldiers to handle Native Americans in the area that Wounded Knee transpired. General Miles sent the following telegram from Rapid City, South Dakota on December 19, 1890, ten days before the massacre: “...While the Indians were urged and almost forced to sign a treaty presented to them by the commission authorized by Congress, in which they gave up a valuable portion of their reservation which is now occupied by white people, the government has failed to fulfill its part of the compact, and instead of an increase or even a reasonable supply for their support, they have been compelled to live on half and two-thirds rations, and received nothing for the surrender of their lands, neither has the government given any positive assurance that they intend to do any differently with them in the future...” General Nelson A. Miles on the “Sioux Outbreak” of 1890. (Visited April 20, 2003)

<<http://www.pbs.org/weta/thewest/resources/archives/eight/wkmiles.htm>>.

<sup>7</sup> LOUIS HENKIN ET AL., HUMAN RIGHTS (1999).

<sup>8</sup> *Id.* at 181.

This may be particularly the case for jurors, who are valued for their individuality, but regarded as a collective decision-making body, representing the community. When brought in to the courtroom, jurors' rights must be balanced in relation to the defendant's and community's right to an open and fair trial. In this context, do citizens summoned to the court have a right, at some level, to be left alone?

*(B) Anonymous Juries*

**“Openness enhances both the basic fairness of the criminal trial and the appearance of fairness so essential to public confidence in the judicial system. Public proceedings vindicate the concerns of the victims and the community in knowing that offenders are being brought to account for their criminal conduct by jurors fairly and openly selected.”<sup>9</sup>**

**“I attempted to participate in jury service today, and had two VERY large problems with the procedure: I can't believe my full name is read into the record in the presence of a man who's guilty as a dangerous criminal I am supposed to evaluate. I want my identity kept confidential from him.”** (Juror at 100 Centre, 1/15/03).

Jurors' right to privacy is an unresolved legal issue that is rife with conflicting views. The issue of anonymous juries<sup>10</sup> has been widely discussed and is occasionally used as a means to ameliorate juror privacy concerns and lessen perceived or actual threats to jurors' safety during trials. As the use of anonymous juries has a history and has been extensively discussed, analysis of the technique can give insight into the more general issue of juror privacy. To meet this end, this section will briefly review some rulings regarding anonymous juries, and then present two authors' arguments in favor or opposed to anonymous juries; the emphasis of this analysis will be on the voir dire process, the process in which jurors' privacy concerns are often first evoked. CJP will then review methods by which juror privacy is addressed in New York State. Through the analysis presented in this section, CJP hopes to identify some key components of the issue of juror privacy, and means by which privacy can be protected by the court system. This section will conclude with a discussion of some proposed alternative approaches to protecting juror privacy,

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<sup>9</sup> Press-Enterprise v. Superior Court of California, Riverside County, 464 U.S. 501, Syllabus, 1 (b) (1984).

<sup>10</sup> Although the technique can vary, G. Thomas Munsterman and Paula L. Hannaford of the National Center for State Courts define the routine use of anonymous juries as such: “As a matter of routine practice, the courts withholds the names, addresses, and other identifying information about jurors and their families from the parties, their counsel, the public, and the media. The technique can be used for either civil or criminal trials. Procedurally, “[T]o impanel an anonymous jury, the court assigns a number to all persons called for service. This number functions as the juror's identification number for the entire term of jury service. The summons for jury service instructs each member of the jury panel to report to court and to identify him or herself using the assigned number. Alternatively, the court assigns the juror identification number when the jury panel member first reports for service. All references to the juror (e.g., in jury questionnaires, voir dire, and trial proceedings) that are accessible to the parties, their counsel, or the public or media are made according to this identification number.” G. THOMAS MUNSTERMAN AND PAULA L. HANNAFORD, JURY TRIAL INNOVATIONS 81 (1997).

recommendations which suggest that promoting greater access to information for jurors can improve juror safety and address privacy concerns.

Voir dire, the process in which jurors are selected or dismissed, is also the process during which jurors are first introduced to the judge, the opposing parties, and other court actors. Concurrently, jurors are asked to introduce themselves, and expose aspects of their identities. The often-cited *Press-Enterprise v. Superior Court of California, Riverside County*<sup>11</sup> (Press Enterprise I) established that media has a right to be present in *voir dire*, while Chief Justice Burger also acknowledged, “[T]he jury selection process may, in some circumstances give rise to compelling interest of a prospective juror when interrogation touches on deeply personal matters that person has legitimate reasons for keeping out of the public domain.” In concurrence, Justice Blackmun noted that it was not the Court’s role to decide whether jurors have a right to privacy in the case, but that such a right could be detrimental to the administration of justice: “I am concerned that recognition of a juror’s privacy “right” would unnecessarily complicate the lives of trial judges attempting to conduct a voir dire proceeding.” Press Enterprise II<sup>12</sup> further clarified the media’s right to access can be violated, finding that, “(1) there is “substantial probability” that access would undermine a compelling interest, such as a defendant’s right under the Fifth and Sixth Amendments to an impartial jury, and (2) “reasonable alternatives” to closure cannot adequately protect” that interest.”<sup>13</sup>

The constitutionality of anonymous juries has been upheld in every circuit court that has considered the question; yet, no court has held that the routine practice of anonymous juries is constitutional.<sup>14</sup> The Second Circuit U.S. Court of Appeals has been the most active circuit in supporting the use of anonymous juries,<sup>15</sup> with cases such as *United States v. Thomas*<sup>16</sup> that recognized the significance of the presumption of innocence, while finding that jurors’ protection justified placing some burden on the defendant’s constitutional rights, *Thomas* introduced a two-prong test: The court must find “strong reason” to find the jurors in need of protection and “reasonable precautions” must be taken to minimize the impact of anonymity on jurors’ perceptions of the case.<sup>17</sup> In *United States of America v. Carmine Persico*,<sup>18</sup> the need to balance rights and protect the presumption of innocence were explicitly stated: “The court must balance government’s interest in safeguarding jurors against the defendant’s interest in avoiding erosion of the presumption of innocence.”<sup>19</sup> The court introduced a new test, centering on the following factors (citations omitted):

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<sup>11</sup> Press Enterprise Co. v. Superior Court of California, Riverside County, 464 U.S. 501 (1984).

<sup>12</sup> Press Enterprise Co. v. Superior Court of California For the County of Riverside, 478 U.S. 1 (1986).

<sup>13</sup> NANCY J. KING, NAMELESS JUSTICE: THE CASE FOR THE ROUTINE USE OF ANONYMOUS JURIES IN CRIMINAL TRIALS, 49 VAND L. REV. 152 (1996).

<sup>14</sup> Sandra F. Chance, Anonymous Juries: Justice in the Dark, in ACCESS DENIED: FREEDOM OF INFORMATION IN THE INFORMATION AGE 175-193 (Charles N. Davis & Sigman L. Spilichal eds., 2000).

<sup>15</sup> *Id.*

<sup>16</sup> *United States v. Thomas*, 757 F. 2d 1359 (2<sup>nd</sup> Cir 1985).

<sup>17</sup> *Id.* at 1365.

<sup>18</sup> *United States of America v. Carmine Persico* 621 F. Supp. 842 (2<sup>nd</sup> Cir.,1985).

<sup>19</sup> *Id.* at 898.

(i) whether defendants are alleged to engage in “dangerous and unscrupulous conduct,” with particular consideration of whether such conduct was part of a “large-scale organized criminal enterprise” (ii) whether defendants have engaged in past attempts to interfere with the judicial process (iii) whether there has been a substantial degree of pre-trial publicity, such as to enhance the possibility that jurors’ names would become public and thus expose them to intimidation by defendants’ friends or enemies, or harassment by the public.”<sup>20</sup>

The parameters drawn by the federal courts parallel many arguments for and against anonymous juries. Juror efficacy, safety, and jurors’ rights in relation to other more customary rights-holders and established legal principles, are issues that link court rulings, research, and opinion pieces on anonymous juries. For the purpose of this report, CJP has summarized the arguments presented in two articles, Nancy J. King’s *Nameless Justice: The Case for the Routine Use of Anonymous Juries in Criminal Trials*, and Abraham Abramovsky and Jonathan I. Edelstein’s *Anonymous Juries: In Exigent Circumstances Only*, both of which clearly represent their respective sides of the argument.

*The Case for the Routine Use of Anonymous Juries in Criminal Trials* argues that anonymous juries:

**Enhance reliability:** Juror anonymity enhances the reliability of the voir dire process, as it would decrease jurors’ fears and embarrassment and promotes truthful disclosure of pertinent information.

**Improve deliberations:** When jurors enter the process of deliberation with less anxiety, they are more likely to follow logical argument and less prone to be influenced by juror bias or courtroom drama.

**Improved safety:** Juror anonymity “safeguards jurors from intimidation during trials,”<sup>21</sup> intimidation that can lead to juror replacement, retrials or mistrials.

**Promote greater participation**

*Anonymous Juries: In Exigent Circumstances Only* argues that anonymous juries:

**Are unnecessary:** “The historical record demonstrates the lack of necessity for juror anonymity. In the 200-year of the American justice system, there are few if any instances in which jurors have been injured, and none in which a juror has been killed as a result of service on a jury.”<sup>22</sup>

**Provide inadequate protection:** Anonymous juries are inadequate protection against identity disclosure and the threat of jury tampering.

**Violate the presumption of innocence**

<sup>20</sup> *Id.* at 898-899.

<sup>21</sup> NANCY J. KING, NAMELESS JUSTICE: THE CASE FOR THE ROUTINE USE OF ANONYMOUS JURIES IN CRIMINAL TRIALS, 49 VAND L. REV. 138 (1996).

<sup>22</sup> ABRAHAM ABRAMOVSKY, JONATHAN I. ADELSTEIN, ANONYMOUS JURIES: IN EXIGENT CIRCUMSTANCES ONLY, 13 ST. JOHN’S J.L. COMM. 466 (Spring, 1999).

**Damage the integrity of the judicial system:** “In an attempt to alleviate the sever stigma imposed on a defendant in a trial before an anonymous jury, courts have issued a variety of curative instructions [...] which involve the concealment from the jury of the real reason why their identities have not been revealed.”<sup>23</sup>

**Diminish defendant’s rights:** Juror anonymity infringes on “the right of criminal defendants to make intelligent use of their peremptory challenges.”<sup>24</sup>

**Curtail outside investigation**

**Erode juror accountability**

**Set a dangerous precedent**

Looking broadly at the arguments, it appears that the argument against juror anonymity is system-oriented, with an emphasis on the defendant’s rights, whereas the argument in favor is juror-centered, understanding jurors as individuals. Although this may seem obvious, given the positions of each side, it is telling neither side frames conceptions of privacy and identity formation in terms of the group of jurors, but simply the individual jurors. Even in Nancy King’s discussion on deliberations, an indisputable group process, the focus is on the wayward individual (she quotes a jury consultant who states that “anxiety can produce loose cannon jurors”) and that the lack of anonymity may “stifle jurors from speaking out,” against the group, the reader assumes. By framing privacy concerns in terms of the individual juror, these arguments for and against anonymous juries follow the traditional definition of privacy, of the individual right against communal rights. Yet jurors are most commonly defined as a group, which, at its best, represents a cross section of the community. To propose that this group of individuals may have a right to privacy conflicts with competing rights (e.g., the rights of the defendant, the media, the community at large) but also requires balancing, as opposed to juxtaposing, the right to privacy with community needs and standards.<sup>25</sup> Privacy, in relation to jurors, is not a ‘freedom from’ right, but rather, freedom within. To understand jurors’ rights as not opposed to the system is to recognize that the system plays an integral role in the realization of jurors’ rights. From that perspective, juror anonymity, which moves an aspect of jurors’ identities outside of the courtroom, avoids addressing jurors’ concerns with the system and does not adequately deal with a multifaceted issue.

<sup>23</sup> *Ibid*, at 472.

<sup>24</sup> *Ibid*, at 477.

<sup>25</sup> This balancing extends and relates to identity formation: “The individual’s right to define a personal identity by freely choosing among conscientious beliefs, personal nomenclature, gender, and occupation can only be realized when the political community relaxes its demand for absolute universal adherence to community standards. Such relaxation requires the community not only to recognize each individual’s right to be different, but to practice those differences sheltered from public pressure to conform: whether political, social, cultural, or legal. The rights of nonconforming individuals thus require the protection afforded by an overarching right to privacy. Without it, individual identity-formation is inhibited by the pressure to conform to the communitarian norm, a pressure many persons find irresistible.” THOMAS M. FRANCK, *THE EMPOWERED SELF*, 191 (1999).

*(C) Alternatives to Anonymity: Systemic Change Can Address Privacy Concerns*

CJP has found that the complexity of jurors' experience, both individually and as members of a group, can often be encapsulated in juror narratives and comments collected in the courts. CJP has also found that jurors often provide suggestions that are insightful and sometimes parallel the responses of the judiciary and researchers in the field. In this section, we will present a juror's comments that were excerpted from a letter sent to CJP on February 10, 2003. The comments do not directly relate to juror privacy, but suggest an alternative approach to addressing jurors' privacy concerns and strongly reinforce the need to understand jurors as both individual and group actors. This section will also discuss some of the many recommendations that have been made by judges and researchers, which align with the suggestion made in the following letter.

"I served as a juror on a case in the criminal court [100 Centre] in August of 2002. I don't know how to tell you how upset I have been ever since. I have awoken in the middle of the night with the defendant on my mind, and I have found myself crying during the day and feeling deep in despair. I went to the sentencing for the defendant and I left feeling disillusioned with the system of justice.

After three days of testimony was, I thought, prepared to give my votes on seven counts to the other jurors. It was off-putting to watch how people were bombarded with question when they voted in a way that was in conflict with five or so jurors, and one of the tallest jurors resorted to name calling. I was the last one to fall and I must tell you that that fall has left me with a deep sense of question. I felt intimidated by the things I had seen and heard, by the behavior of the people who, after they had gotten their "way" wanted to apologize their way back into civility. [...]

How can I feel that I am of any use to my fellow man when I felt so easily broken? To add insult to injury, I could have stopped the torment I have been going through, for months since the verdict was rendered, if I had understood that polling a jury was an opportunity to make plain any disagreement I had. I thought it was a verification of the vote not a validation. It was one of the most painful things I have experienced in my life, to think that I had no options. Ignorance may not be an excuse, but I am ashamed to say that my ignorance has compounded my distress. [...]

I don't believe that a little information for a juror makes a good juror, unless you come to court with preconceived notions. Jurors need, in order to do the best job they can (and some of us want to be fair and faithful) a preliminary acquaintance with the little things that mean so much. Instead of waiting in the waiting room with the reading materials of choice, we should be reintroduced or introduced for the first time to the system that asks us to judge our fellow man. There needs to be an opportunity to ask questions pertaining to the Juror's Handbook without having to "frame" them in a certain way because asking a question that

will be legally scrutinized is different than asking a layman's questions and getting answers that are plain or simplified."

This juror's comments suggest that a lack of information provided by the courts has a profound effect on jurors' performance and perception of the system. In regard to privacy, both researchers and judges have also suggested this idea: providing jurors with procedural and case-specific information can improve their performance and diminish the fear and anxiety that they may harbor.

Case law on the issue of juror privacy is replete with constructive suggestions. In delivering the opinion for the Court in *Press Enterprise I*, Chief Justice Burger suggested a simple approach to alleviating juror privacy concerns during and following voir dire:

To preserve fairness and at the same time protect legitimate privacy, a trial judge should inform the prospective jurors, once the general nature of sensitive questions is made known to them, that those individuals believing public questioning will prove damaging because of embarrassment, may properly request an opportunity to present the problem to the judge in camera but with counsel present and on the record.<sup>26</sup>

This approach is discerning, in that the court recognizes that individual jurors may have unique privacy concerns, while it is also inclusive of the group of jurors, who are entitled to basic information on court procedure and their rights within the process. This approach also balances competing rights, as noted by Judge Robert Faulkner in *Dianna Brandborg v. Weldon Lucas*: "This method [cited above] would ensure the right of the public to access to the proceedings but allow the court to seal records of proceedings concerning private matters."<sup>27</sup>

*Brandborg* is another example of a case in which the court acknowledged the pivotal role that judges play in balancing the rights of the defendant, general public, and prospective juror. In his decision, Judge Faulkner suggests limiting the scope of voir dire, to only questions relevant to the assessment of whether jurors can be fair and impartial.<sup>28</sup>

The pivotal role that judges play in balancing rights and addressing jurors' privacy concerns implies that judges should be present during voir dire. In *Safeguarding Juror Privacy: A New Framework for Court Policies and Procedures*, Paula Hannaford cites the ABA Standards on Jury Management:

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<sup>26</sup> *Press-Enterprise v. Superior Court of California, Riverside County*, 464 U.S. 501, 512 (1984).

<sup>27</sup> *Dianna Brandborg v. Weldon Lucas*, 891 F. SUPP. 352, 24 (1995).

<sup>28</sup> The combination of these two reforms is evident in a comment added to Standard 7(d) of the Arizona Jury Management Standards: "A juror's right to privacy must be balanced with a party's right to be aware of a juror's relevant background and qualifications. Reasonable inquiry of jurors is mandatory. However, every juror ought to be given the opportunity to answer questions of a sensitive or embarrassing nature by written questionnaire or in private, with only the judge, the parties, counsel and the court reported present. The State of Arizona, Jury Selection (Visited April 19, 2003) <<http://www.supreme.state.az.us/jury/jury/jury1j.htm>>."

“No independent investigation by attorneys or any others is contemplated nor should it be countenanced by the court.” And notes, “[t]he standards clearly favor a jury selection process that takes place only in the courtroom, on the record, and under the direct supervision of a trial judge.”<sup>29</sup> The ABA also recommends that judges’ role in protecting juror privacy extends to the end of trial. The black letter to Standard 20 in juror privacy states: “...Before dismissing jurors from jury duty, the court should inform jurors of their rights to discuss or refrain from discussing the case.” And continues, “jurors should have the continuing protection of the court in the event that individuals persist in questioning jurors, over their objection, about their jury service.”<sup>30</sup> Thus, a concrete way to promote respect of jurors’ privacy and juror safety is to ensure that judges, who should be present for the entire proceeding, properly administer trials.

Establishing routine and fair administration within the court and among court officers is crucial toward protecting jurors’ privacy and safety concerns. Standard 20 of the American Bar Association recommends that juror questionnaires should differentiate between information collected for the purpose of juror qualification, jury administration, and voir dire, and that once jury selection is complete, non-selected juror information collected in connection with or revealed during voir dire, should be inaccessible to the public, the parties, and their attorneys.<sup>31</sup>

In addition to these established methods of protecting juror privacy, jury trial innovations can also play an integral role in providing information for jurors and addressing jurors’ concerns. In her article on juror privacy, Paula Hannaford argues that some of jurors’ privacy concerns during voir dire, may not even stem from privacy concerns, but from a lack of context: “Part of the reluctance to reveal sensitive information may be related to jurors’ lack of understanding about how the information is relevant in the context of a trial.”<sup>32</sup> From this perspective, juror anonymity side steps the issue, and would do very little to improve juror performance. Instead, Hannaford suggests: innovative measures such as brief opening statements<sup>33</sup> can alleviate jurors’ apprehensions by providing context, the necessary information.

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<sup>29</sup> Paula L. Hannaford, *Safeguarding Juror Privacy: A New Framework for Court Policies and Procedures*, *Judicature*, Vol. 85 No. 1, 23 (July-August 2001).

<sup>30</sup> American Bar Association, *Summary of Recommendations* (Visited April 18, 2003) <<http://www.abanet.org/leadership/98a-120.html>>.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 24.

<sup>33</sup> The technique of allowing for brief opening statements to the entire venire has been used in Arizona for several years; practitioners have indicated that the techniques has been successful in providing jurors with a context, and promoting more meaningful responses. Hon. Jacqueline A. Connor, *Los Angeles Trial Courts Test Jury Innovations and Find They Are Effective*, 67 *DEFENSE COUNSEL JOURNAL*, 187 (April, 2000).

*(D) Juror Privacy in New York*

New York, the state in which the first fully anonymous jury was empanelled,<sup>34</sup> is also a state that offers broad protection for the privacy for its citizens: the common law right to privacy is codified by legislation, N.Y. Civil Rights Law, Sec. 50. Specific protections against violations of privacy are also extended to New York jurors. Some noteworthy protections include:

- Information obtained for qualification purposes is separated from that which is used to assess the fairness and impartiality of a trial. Judiciary Law §509 provides that qualification questionnaires “shall not be disclosed except to the county jury board or as permitted by the appellate division.” New York’s Freedom of Information Law provides that records exempted from disclosure by either state or federal statutes “need not be made available for public inspection.”<sup>35</sup>
- In civil trials in New York, jurors complete a standardized carbonless questionnaire; at the end of the voir dire, non-selected jurors receive all copies of the questionnaire. Panelists’ questionnaires are retained until the end of the trial.
- New York State voir dire questionnaires do not ask for jurors’ specific addresses, but rather, the areas in which they live.
- Criminal procedural law<sup>36</sup> and case law<sup>37</sup> address the need to limit the scope of voir dire.

New York’s jurisprudence has directly addressed the issue of juror privacy, perhaps most notably in *Newsday, Inc. v. Robert J. Sise*.<sup>38</sup> In this case, Newsday petitioned for the disclosure of the names and addresses of jurors who had been selected to sit on the panel for the highly-publicized William Patterson murder trial. The tenor of the ruling in *Sise* is indicative of the Judiciary’s acknowledgement and consideration of jurors’ right to privacy:

While Judiciary Law 509 (a) refers only to the juror qualification questionnaires, its obvious purpose is to provide a cloak of confidentiality for the *information* which the questionnaires contain. It is the knowledge about the jurors—the private details obtained from questionnaires concerning their spouses’ names, the names and ages of their children, their home phone numbers, occupations, educational backgrounds, and criminal records, if any—which the statute is designed to protect from public disclosure.<sup>39</sup>

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<sup>34</sup> United States v. Barnes, 604 F. 2<sup>ND</sup> 121 (2<sup>D</sup> CIR 1979). Cited in: ABRAMOVSKY ET AL., supra note 22, at 7.

<sup>35</sup> Newsday, Inc. v. Robert J. Sise, 71 N.Y.2D 146, 149 (1987).

<sup>36</sup> Jury Formation and Conduct, NYCPL, § 270.15, Note 9.

<sup>37</sup> People v. Boulware, 29 N.Y. 2d 135 (1971).

<sup>38</sup> Newsday, Inc. v. Robert J. Sise, 71 N.Y.2D 146 (1987).

<sup>39</sup> *Id.*, at 152.

New York's statutes and jurisprudence provide protection to jurors and a strong base by which new reforms can be introduced and built upon.

CJP Juror Privacy Recommendations:

- Create standards that guide the procedure by which judges address juror privacy concerns. Consider:
  - Encouraging criminal term judges to limit the scope of voir dire, to only questions relevant to the assessment of whether jurors can be fair and impartial
  - Incorporating a statement into the voir dire judicial instructions that informs prospective jurors that they may request the opportunity to answer questions or present a privacy issue to the judge in camera, on the record with counsel present.
  - Developing standard closing judicial instructions that inform jurors of their rights to discuss or not discuss the case, and that jurors can seek the protection of the court if or when individuals harass or persist in questioning jurors.
- Utilize the recently founded Judicial Institute as a forum to teach judges about how to address juror privacy in New York courts.
- Ensure that a judge or J.H.O. (for civil trials) is present during voir dire.
- Address juror privacy in literature and materials provided to jurors. There is no mention of juror privacy in the handbook or on the Unified Court System's web site. In the one of the opening sequences of the juror orientation video, a woman comments, "I guess one of the concerns [she has about jury duty] is, you know, the exposure of your personal information." Yet, the issue of juror privacy is not subsequently addressed in the video.
- Continue to assess and address jurors' safety concerns. Jurors' privacy concerns are often related to concerns that they harbor about their personal safety.
- Dialogue with the press about the treatment of jurors post-verdict. Create mutually accepted guidelines that are respectful of juror privacy and First Amendment rights.

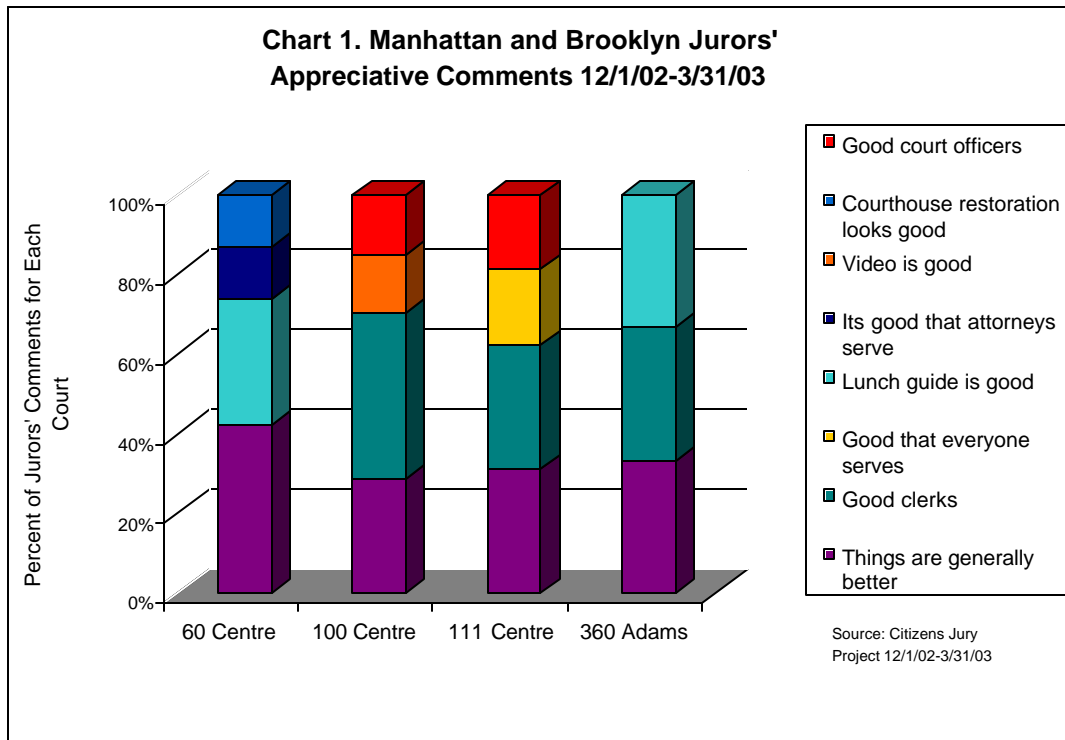
### 3. Summary of Jurors' Comments from New York and Kings County

#### (A) Appreciative comments

On March 27, an elderly juror serving at 100 Centre Street approached a Citizens Jury Project intern and stated:

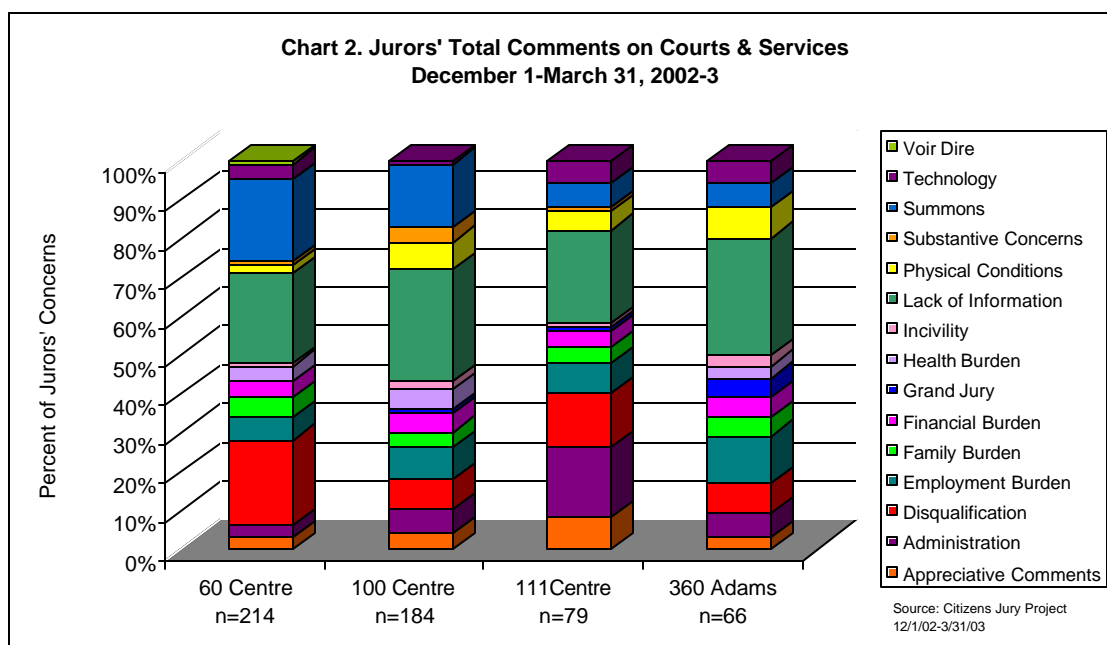
**“I’ve been coming here [courts in New York County] for many years, and I feel the change and see the improvements. It’s great that you have all of these materials, the movie is great, and the clerk is doing a really good job. I can see that a lot of effort has been put into the system.”**

The gentleman quoted above reflects the sentiment commonly held by New York jurors that “things are generally better” (Chart 1, purple). Jurors also recognize and appreciate procedural improvements. For example, in response to the abolishment of all professional exemptions in 1996, jurors note that “its good that everyone serves” (dark blue). Jurors also acknowledge improvements made to facilities; particularly at 60 Centre Street, jurors can’t help but notice that “courthouse restoration looks good” (sky blue). In all four courts, jurors recognize that the backbone of a good system is comprised of those who work within it: court officers (red) and clerks (dark turquoise) are often praised for their friendly manner and ongoing efforts to make service an efficient and enjoyable experience.



*(B) All juror comments*

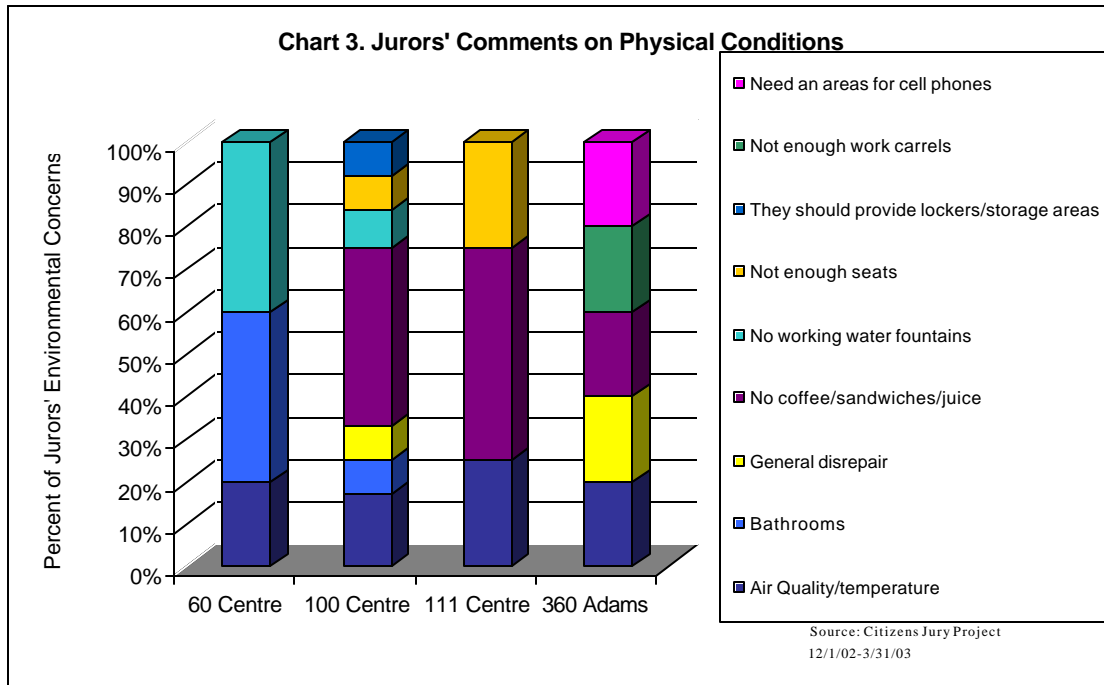
While jurors’ positive comments highlight the strengths of the system, jurors’ critical comments can suggest a need to balance or pay particular attention to procedural aspects of service or areas within the courthouse. Jurors in all four courts consistently comment on “lack of information” (green) provided before and during service. Jurors also frequently mention summoning (periwinkle) and disqualification (red) concerns. Indeed, in 2002, and thus far in 2003, lack of information, summons, and disqualification concerns consistently comprised the majority of the comments made by jurors. In addition to procedural and facilities (yellow) concerns, jurors comment on their lives outside of the court, voicing concern about how service will affect their employment (forest green), family (bright green), and health conditions (lavender).



*(C) Physical Environment*

In New York, a state which reports more filings than all of the federal courts combined, and employs approximately half as many employees as the entire federal judicial system,<sup>40</sup> it is not surprising that the maintenance and upkeep of its facilities is an ongoing, and sometimes arduous task. Jurors’ responses to the physical conditions in Manhattan and Brooklyn courts illustrate common problems in court facilities, but also court-specific issues. The conditions of the bathrooms (blue), represent a large portion of the comments made by 60 Centre Street jurors, while the air quality and temperature (dark blue) is a concern at all four courts. The lack of accessible coffee, sandwiches, and juice is particularly a concern at 100 and 111 Centre Street.

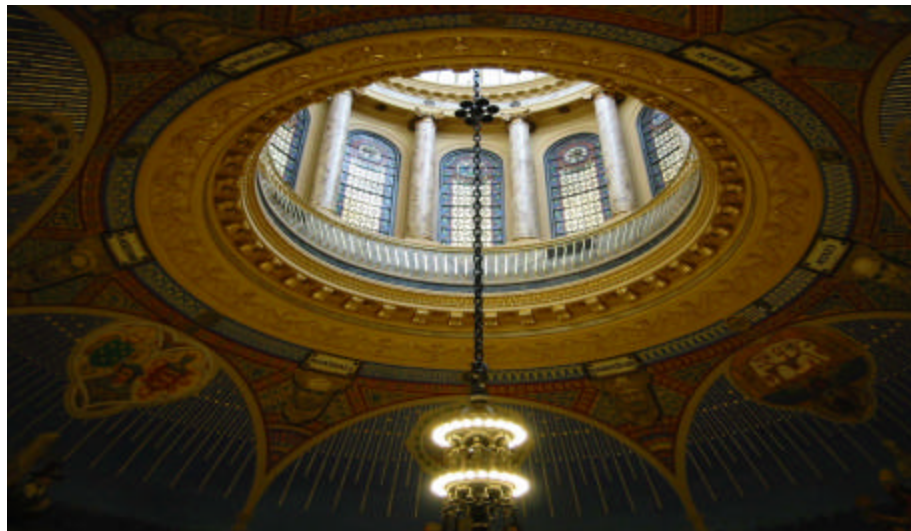
<sup>40</sup> QUINTIN JOHNSTONE, NEW YORK STATE COURTS: THEIR STRUCTURE, ADMINISTRATION AND REFORM POSSIBILITIES, 43 N.Y.L. SCH L. REV 915 (2000).



#### 4. 60 Centre Street

##### (A) Summary of juror concerns

Looking up at the rotunda at 60 Centre, or proceeding through the corridors of this courthouse built in 1927, gives jurors a sense of history and the weight of justice. Unquestionably, jurors' perceptions of justice are informed by the spaces that house the system. As Winston Churchill once noted, "we shape our buildings and they shape us."<sup>41</sup>



<sup>41</sup> John C. McConnell, *A History of Superior Court Architecture* (visited April 16, 2003) <<http://renovation.sociallaw.com/history.htm>>.

None of the top ten critical concerns at 60 Centre relate to the physical environment of the courthouse, but rather, jurors at 60 Centre express procedural concerns and concern about how service could infringe upon their personal lives. “Lack of information/incorrect information” is the most frequently mentioned concern, while many jurors also expressed a need to postpone or defer service. Jurors seek postponement largely due to personal reasons such as medical problems, old age, and employment and care taking responsibilities.

<b>Top Juror Concerns—60 Centre Street 12/01/02 – 3/31/03 (Total Concerns = 214)</b>	
<b>Top Appreciative Concerns</b>	
Things are generally better	3
Lunch guide is good	2
Courthouse restoration looks good	1
It's that attorneys serve	1
<b>Top 10 Critical Concerns</b>	
Lack of information/incorrect information	47
Would like a postponement/deferral	23
Problems with name/address	11
Medical problem/old age	9
Elder/child care	6
Very disruptive to my work	6
Needed information ahead of time	5
Received multiple summonses	5
In non-compliance	4
Wasted time	4

*(B) Breakdown of juror concerns*

With the introduction of additional cleaning staff in each court facility, jurors' recurrent complaint that the bathrooms at 60 Centre Street are improperly maintained should subside. Providing accessible water to jurors in the assembly room could also ameliorate their concerns over the lack of working water fountains within the facility.

<b>60 Centre: Physical Conditions</b>	<b>Count</b>
Bathrooms	2
No working water fountains	2
Air temperature/quality	1

Consistent with past reports, jurors' summoning concerns center on a need to postpone or defer service, which is often related to jurors' lives outside of the courts. Common concerns that arise relate to jurors' employment, health, and their responsibilities as caretakers. The transient nature of the general population in New York County also affects jurors' willingness and ability to

serve, and often accounts for a large number of concerns related to problems with names and/or addresses. In *The State of the Judiciary 2003*, Judge Kaye introduced a new online initiative, which will allow jurors to qualify for or postpone service via the worldwide web. This innovation will greatly benefit jurors who reside outside of the United States, as reflected in the following comments:

**“I no longer live in the United States and my mother keeps receiving a jury summons for me. She is worried that I would be arrested the next time I visit her. How do I go about informing the proper channels that I no longer live in New York or for that matter in the United States?” (1/7/03)**

**“I have just received a juror qualification questionnaire at my New York mailing address. Since I am a full-time resident of Mexico City, I would like to know if can answer the questionnaire on-line and e-mail you scanned copies of my Mexican FM-2 immigration document as a proof of residency outside New York.” (1/2/03)**

Online qualification and postponement will also ease the hardship faced by caretakers, whose schedule is often dependent on the needs of the child or adult being cared for:

**“I responded to a jury questionnaire dated July 26, 2002, however, it apparently was not received. I then received a Juror Summons Failure to Respond form which necessitates my appearance within ten days of the notice. [...] Is there any way this can be resolved through e-mail? I'm the sole caregiver of an elementary school-aged child and I do not have a babysitter so I have to be available from 2:30pm onward each weekday.” (1/2/03)**

60 Centre: Summoning	Count
Would like a postponement/deferral	23
Problems with name or address	11
Received multiple summonses	5
In non-compliance	4
Summoned within 2 years of service	2
Would like to volunteer	2

During service, 60 Centre Street jurors “lack of information” concerns often relate to the location of specific rooms or court procedural information. CJP interns continue to receive a disproportionate amount of comments from women jurors asking, “where’s the restroom?” Women jurors approach CJP interns with this concern entirely too frequently to record, and would comprise the top critical juror concern, if it were consistently recorded. The remedy of this problem is quite simple: CJP recommends placing proper signage in passageways that are used to access the restrooms. Currently, four signs hang directly outside of the women’s restroom, yet no signs are placed in the

passageways leading to the restroom. One of the four signs that are currently hanging on and around the women’s restroom should be removed and placed on or next to the door located to the right of the central jury entrance. (This door leads to a hallway that bypasses the assembly room and allows women jurors to proceed directly to the restroom.) Another sign should be removed and placed in the hallway circling the rotunda, next to the elevators and a sign that directs jurors to the men’s restroom.

More generally, jurors at 60 Centre express confusion about which rooms to report to once they have been selected or are participating in a voir dire:

**“I am already empanelled on a jury but I don’t know where the case is taking place. But, the clerk [who was giving orientation] would not speak to me. What should I do?” (3/3/03)**

Although a majority of the quotes that CJP receives are from jurors, occasionally a person with a different role in the courts also expresses this concern. The following quote is from a witness involved in a case, who didn’t know where the trial was being held:

**"I went to room 139 to find out where my case was being tried and they sent me to room 452. I don’t know what to do, the clerk was not willing to talk to me about my problem." (1/14/03)**

Giving jurors and other participants clear instructions about the time and place to report during proceedings is pivotal to efficient administration. Closing instructions are particularly important, as jurors reporting in the morning are forced to find the location of proceedings on their own.

60 Centre: Lack of Information	Count
Lack of information/incorrect information	47
Needed information ahead of time	5
Needed directions to the court house	1
No advance notice	1

“Wasted time” is the top administrative concern in all four courthouses:

**“It’s gonna be a long day. I don’t understand why so many jurors have to be kept together for so long too.” (3/18/03)**

Neither do most jurors. While The Eighty-Two Percent Project tackles the reasons why a majority of jurors spend most of their time waiting in the assembly room, the clerks in each courthouse should use downtime in the assembly room as an opportunity to inform and educate jurors. Clerks can inform jurors about the administration and process of serving and their rights and responsibilities without tainting the pool.

60 Centre: Administration	Count
Wasted time	4
Not enough cases for jurors	1
Service is too long	1
Service should be more flexible/accommodating	1

Employment concerns weigh heavy on the minds of jurors in New York and Kings County. Jurors at 60 Centre report that service is “very disruptive to my work.” This can be of particular concern for the large population of jurors who are not salaried, but paid hourly: with “one-in-five New York workers earns less than \$8.10 an hour,” and “three-quarters of those earning less than \$8.10 an hour are living in poverty,”<sup>42</sup> financial and employment concerns clearly intersect and can discourage jurors from serving.

60 Centre: Employment/Financial Burden	Count
Very disruptive to my work	6
Student feels entitled to exemption	2
My business will suffer	1
Concern with unhappiness of employer	1
Pay is not enough	1
Severe financial hardship	1

Jurors consistently suggest that one way to lessen employment burdens, and the sentiment that service is “a waste of time,” is to improve technology in the courthouse:

**“If they have a wireless network in the jury center, then someone could actually get work done. I would pay to use this. Charge \$10-\$15 a day. They could make money on this. It would pay for itself.” (2/27/03)**

OCA has responded to jurors request by piloting wireless access at the both 60 Centre and 360 Adams Street courthouses. Undoubtedly, many jurors will take advantage of this service, particularly if they are informed prior to their service. CJP recommends enclosing or providing information on the summons, the Unified Court System website, and the county web site. Additionally, information about online access should be included with the employee/employer handbook that will soon be distributed throughout the state. Employers and employees both appreciate the value of working while serving, and can make arrangements to sign up for wireless access, particularly if they are cognizant of the service ahead of time.

In relation to technology and communications, some individuals also report that it is difficult to contact court officials at 60 Centre to let them know that they are disqualified from or unable to serve:

<sup>42</sup> Jack Newfield, *How the Other Half Still Lives: In the Shadow of Wealth, New York's Poor Increase*, THE NATION, March 17, 2003 at 13.

**“I have been recently called to jury duty but have not legally resided in Manhattan since 2001. I moved to new Jersey 9/01. I think that I am not eligible for jury duty in NYC. How do I let the court know? I have tried 212 374-3810 but the line is always busy.” (1/8/03)**

Jurors also comment that they are slightly befuddled by the cost of the pay phones available for jurors in the courthouse:

**“Why is Verizon charging 50 cents inside the courthouse? It is 25 cents all over the city.” (3/12/03)**

CJP will contact Verizon to explore why there is a discrepancy between the price of the pay phones in and outside of the courts.

<b>60 Centre: Technology</b>	<b>Count</b>
Improve technology	3
Informational phone lines are always busy	3
Need phone lines for computers	2

CJP regularly hears from a variety of caretakers. A majority of these individuals care for children; occasionally, they are expectant mothers:

**“Surprisingly, I received a Juror Summons Failure to respond when I have mailed to you the requested questionnaire duly completed. Now, I find myself in a difficult situation because I am pregnant, my due date is very close (I can have the baby within the next two weeks), I cannot move very much because my advanced stage of pregnancy, and you request me to report in person, within 10 days, to the New York County Courthouse, 60 Centre Street, Division of Jurors, Room 139. I cannot contact you by phone because the lines are always busy. Please note that I have already answered the questionnaire and the notice I have received has to be a sort of mistake. In addition, let me inform you that I am a Spanish citizen (from Spain, Europe), and although I am able to speak and understand English, I do not think that my English is good enough to be part of a juror because the great importance of its judgment function. Furthermore, to have new baby will take me quiet busy for a while. Therefore, I will appreciate any further information/indication about the best way to proceed in my case.” (1/14/03)**

This woman’s comments exemplify how one individual can often have multiple concerns, which are exacerbated when information provided by the courts is slightly misleading (the qualification questionnaire) and communication is inhibited (busy phone lines). CJP received the message from this woman via email, which suggests that the Unified Court System’s new online initiative, which will allow jurors to qualify for or postpone service via the worldwide web, will be very beneficial to caretakers and individuals with health care concerns.

In this past trimester, CJP has also encountered many jurors who express the strain that these difficult and economic times put on their families:

**"I, I, I'm angry They tore down the World Trade Center and gave me a postponement. So now they call me up and I'm here, but I can't do this. My wife is sick, my kid is needing someone to care for her. It's a strain on me y'know? I don't mind serving--they can put me up on the roof for all I care--but I can't do it now." (3/5/03)**

Elderly caretakers can be in the difficult position of having to take care of themselves, while also caring for their loved one:

**"I cannot sit as juror because I am going through a lot of health problems. [Juror came to the courthouse with documentation of health status.] I am also the only caretaker of my wife who is diabetic and can go into shock/coma at anytime. My wife is also illiterate and cannot go to the hospital be herself. She needs me with her at all times. I tried to show my documents to a lady at 60 Centre, Room 139, and she refused to look at them and told me to come here and serve anyhow. I cannot sit here all day while my wife is at home by herself." (1/14/03)**

60 Centre: Family/Health Burden	Count
Medical problem/old age	9
Elder/child care	6
Elderly should not have to serve	1
Need to pick up children	1
Work from home to be with children, elderly, disabled	1

*(C) Recommendations*

1. Physical Environment:
  - Clean and maintain bathrooms on a regular basis--at least two to three times daily.
  - Provide a water cooler for jurors or at least make certain that the vending machines and coffee stand are consistently stocked with water. Until the water is tested and the water fountains in the courthouse are repaired, jurors need to have access to bottled water.
  - Maintain an adequate number of cleaning staff throughout the building.
  
2. Summoning:
  - Provide information about the wireless access services at 60 Centre in the summoning process.
  - Modify the map and information on the summons to reflect the Canal Street subway station. This station services nine subway lines and is located within blocks of the courthouse.

3. Lack of Information:
  - Improve signage for the women’s bathrooms. As noted in all CJP 2002 reports, CJP consistently receives comments on the need to post clear signs for the bathrooms. Upon inspection, CJP interns have found that it is not the quantity but placement of the signs. Clearly posted signs in the hallway leading to the central jury room are needed.
  - Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
  
4. Administration
  - Give jurors more comprehensive information about jury service during morning orientation and throughout process.
  - State clearly to jurors, in morning orientation, that postponements and deferrals can be made in room 139.
  - Treat all jurors with respect. CJP received some comments during this past trimester that suggest that jurors who report to room 139 do not always receive the kind of respect that they accustomed to in courts and assembly rooms throughout NY County.
  
5. Technology/Communications:
  - Offer information on County website ([www.manhattanjuror.com](http://www.manhattanjuror.com)) in Spanish and other predominant languages. Website translation services are often free (e.g., <http://world.altavista.com/>) and software is very affordable. Translating the site will promote inclusion and lessen the juror hardship faced by over 10% of New York’s residents, who do not understand and comprehend the English language well.
  - Provide more phone lines for jurors to call in with questions and concerns. Jurors report that the phone lines are frequently busy, and that they are often forced to make an in-person visit to room 139.

## 5. 100 Centre Street

### *(A) Summary of juror concerns*

Clerks at 100 Centre Street consistently receive the most appreciative comments from jurors. Jurors also recognize that 100 Centre has “good court officers” and that “things are generally better.”

“Lack of information” tops the list of jurors’ more critical comments. Jurors at 100 Centre also complain about “wasted time” and how jury service impinges on their personal lives. Indeed, personal concerns related to service—such as

employment, health, and care taking concerns—comprise the majority of critical comments.

<b>Top Juror Concerns—100 Centre Street</b>	
<b>12/1/02-3/31/03</b>	
<b>(Total Concerns = 184)</b>	
<b>Top Appreciative Concerns</b>	<b>Count</b>
Good clerks	3
Things are generally better	2
Good court officers	1
Video is good	1
<b>Top 10 Critical Concerns</b>	<b>Count</b>
Lack of information/incorrect information	46
Would like a postponement/deferral	14
Wasted time	8
Very disruptive to my work	7
Medical problem/old age	6
Religious/personal objection	6
Elder/child care	5
No coffee/sandwiches/juice	5
Student feels entitled to an exemption	4
Employers should pay salary	3

*(B) Breakdown of juror concerns*

Jurors’ comments related to the physical conditions of 100 Centre clearly reflect the need for improved air quality and temperature, and the need for consistent upkeep of the facilities, particularly the restrooms:

**“They keep you waiting in a hot, dirty room, with no water. There are people sleeping, people snoring, and other people are talking, while I'm here I'm losing money. It's horrible—the bathrooms are filthy and there's not a place to wash your hands.”** (2/10/03)

Increased cleaning staff at 100 Centre will help to improve the general conditions of the courthouse, especially if the restrooms are staffed adequately. In terms of amenities, jurors consistently express the need for more accessible coffee, sandwiches, and juice:

**“A suggestion might be selling coffee or tea in the jury room while we're waiting. Otherwise, you have to go all the way downstairs. Just might be feasible.”** (2/10/03)

As mentioned in section 1B of this report, New York City officials have agreed to allow a sink to be installed at 100 Centre, which will enable the Commission for the Blind and Visually Handicapped to offer coffee and refreshments to jurors on the 15<sup>th</sup> floor. CJP will follow-up with the Commission for the Blind

and Visually Handicapped, to ensure that coffee and refreshments will soon be available and accessible for jurors at 100 Centre.

100 Centre: Physical Conditions	Count
No coffee/sandwiches/juice	5
Air quality/temperature	2
No working water fountains	2
Bathrooms	2
General disrepair	1

Jurors' summoning comments at 100 Centre consistently center on the need to obtain a postponement or deferral. Non-English speakers or their friends/translators often express particular frustration with the summoning process. The following quote—from a man serving as a translator for his wife—exemplifies how some jurors misconstrue what the qualification questionnaire is designed for:

**“My wife has received a jury summons even though she has filled out the juror questionnaire twice—both times stating that she is NOT a citizen of the US. On top of that, she does not speak English well enough to sit on a jury panel. Can she get her name removed from the rolls without going to the courthouse?” (1/8/03)**

CJP believes that this confusion can arise from the lack of information for non-English speakers on the qualification questionnaire. After the questions regarding citizenship, county residence, and felony offences, the qualification questionnaire gives individuals the option of providing documentation of their status or residency. However, no further information is provided after the question: “Can you understand and communicate in the English language?” CJP understands that non-English speakers are an exceptional case, as they are required to participate in an in-person interview to assess their language ability. But often CJP encounters non-English speakers who assume that by marking “no” to the question on their language ability, that they are exempt from service. A simple solution to this problem is to add a line under the question, “can you understand and communicate in the English language,” that states: “if no, you will be asked to participate in a language interview, once you are summoned to serve.”

In addition to procedural questions related to summoning, 100 Centre Street jurors also comment that the map provided on the summons is not adequate, and that the courts, which don't have any signage in front of them, can be difficult to find:

**“One thing I'd say is on the back of the jury sheet [summons], the directions, you should put a line-like the estimated time it takes to walk from the subway stops. Also, state where the court buildings are. You**

**know I looked at it for a while and couldn't find it. I looked over here and over there, and didn't see it. And I'm a pretty observant guy.” (2/10/03)**

<b>100 Centre: Summoning</b>	<b>Count</b>
Would like a postponement/deferral	14
Disproportionate summoning	3
Switch from criminal to civil or vice-versa	3
Not fair—some people are never called	2
Unreadable summons	2
Would like to volunteer	2

During this trimester, 100 Centre Street jurors expressed twice as many “lack of information” concerns as the past trimester. Jurors comments reflected a need for more information prior to service:

**“My question is that I am a physician in training and as you can see I am pregnant. I thought if I didn't get selected today, I was going to be done. But, now I understand that it goes on for three days and if I get selected I may have to be here for about a week and possibly even longer. I don't know if I can do that. I really cannot take that much time off.” (2/27/03)**

Jurors also expressed a need for more information to be provided during service:

**“Do you have any information about jury duty, like a brochure? [Intern handed juror the juror handbook.] This is not detailed enough!” (2/24/03)**

**“I just got dismissed from a case. Do I still have to be here or am I done with jury service?” (2/27/03)**

**“I am confused about how the actual process works. They said that if you keep going to a trial and if you get dismissed from that trial, then you have to come back here and go to another trial for three days. How does that work? Don't trials last a lot longer than that?” (2/27/03)**

Lack of information can be particularly disconcerting when a juror has been transferred from one courthouse to another, which is not uncommon in New York County:

**“I was called for jury service yesterday at 111 Centre. But, they brought a whole bunch of us here (100 Centre) for a criminal case but I was dismissed after voir dire. Do I have to go back to 111 Centre since they have my summons there or just wait here?” (2/27/03)**

100 Centre: Lack of Information	Count
Lack of Information/incorrect information	45
Needed directions to the courthouse	3
Needed information ahead of time	3

Administrative efficiency was a large concern for jurors, whose primary concern in this category was “wasted time”:

**“People should be called for only one single day, to decide if you serve or not. [The court officials should] assess people’s qualifications to serve. It’s not the same thing to come kill your time and come to serve. People do not like to serve because they are losing time. The court needs to be more efficient.”** (2/11/03)

On the issue of qualifications, some jurors suggests that past experience predisposes them to being rejected for certain cases, and that it is a waste of time to participate in voir dire, as is evidenced in the following comments about a juror, written by a CJP intern:

**“The juror approached CJP concerned, because he was involved in an incident where he was injured by drug dealers. He felt as if he could be better utilized if he was used for non-criminal cases. He said that he has been excused from every voir dire he’s been called to, and feels as if that is a waste of resources and his time too.”** (100 Centre, 3/27/03)

One way that jurors suggest that their time can be more efficiently utilized is by starting morning orientation on time and not giving the jurors exorbitantly long lunch breaks:

**Everything should start on time and be tightened up—no two hour lunches. We want to serve and go home or back to work not read more newspapers or explore Chinatown!** (2/20/03)

100 Centre: Administration/Technology	Count
Wasted time	8
Need phone lines for computers	2
Process should start on time	1
Adopt a one-day-one-trial rule	1
Security must be improved	1

The economic down-turn felt throughout New York is verbalized by jurors at 100 Centre, who expressed a wide-range of employment concerns, often coupled with other personal concerns:

**“I have a lot of concerns. I am an RN. There is a national shortage of nurses right now. My pipes burst at home. I need my income to pay my**

**mortgage. The court clerk told me 'everyone has problems.' My head is not here, I have people in and out of my house because my basement is flooded. I think they need to take this into consideration.” (2/10/03)**

Small business owners also expressed some anxiety about having to serve, while their livelihood is dependant on their presence in the office:

**“I own my own business. Right now, I’m out of the office. If the courts verify that there is a business ran by one person, couldn't one defer on that basis?” (3/12/03)**

In light of the 9.1% unemployment rate in New York County and 6.7% in the State,<sup>43</sup> it is not surprising that CJP also encounters jurors who have both benefit and employment concerns:

**“Does jury duty affect my unemployment? They ask if there are any days that I’m unwilling or unable to work. If I say no isn't that fraud? I called and I spoke with a woman and she said it doesn't affect it, I just want to be sure.” (2/11/03)**

This and other jurors’ comments suggest that just as employer/employee jury information should be made available, so should information for unemployed individuals and employment agencies. Although the employer/employee information in the Jurors’ Handbook and on the Unified Court System’s web site is extensive and thorough, unemployment, and issues affecting the unemployed, are not discussed.

<b>100 Centre: Employment Burden</b>	<b>Count</b>
Very disruptive to my work	7
Student feels entitled to an exemption	4
Concern with unhappiness of employer	1
My business will suffer	1
Self-employed should be exempt	1

In addition to employment burdens, 100 Centre Street jurors commented on financial concerns, the majority of whom complained that they are only paid for the hours that they work, and thus lack the flexibility of salaried workers. Some jurors also stated that service exacerbates the financial hardship that they face.

<b>100 Centre: Financial Burden</b>	<b>Count</b>
Employer should pay salary	3
Financial hardship	2
Only get paid for hours worked	1

<sup>43</sup> As of February, 2003. The rate reported is not seasonally adjusted. New York State Department of Labor, *Unemployment Rates and Labor Force* (visited April 17, 2003) <<http://64.106.160.140:8080/lmi/laus.html>>.

Juror pay is not enough	1
Severe financial hardship	1

In the category of Family/ Health Burden, jurors primarily reported on medical problems or old age that could inhibit their ability to serve, while caretaker concerns were also prominent in the data. Caretakers are a population particularly in need of receiving information ahead of time:

**“I have a newborn at home and I start working in a month. I don’t have a babysitter but will they pay for one? This is my first day—I got the notice I late because it went to the wrong apartment. Can I do another date?”**

(2/26/03)

Caretakers often present multiple concerns, as illustrated by the following quote from a young boy who is serving as his mother’s translator, while she looks after her younger child:

**"My Mom got this summons but I filled out the thing for her 'cause she don't speak no English. I was gonna come to sit in for her but we couldn't find a babysitter. What do I do?"** (1/28/03)

<b>100 Centre: Family/Health Burden</b>	
Medical problem/old age	6
Elder/child care	5
Elderly should not have to serve	1
Judge seemed to have case decided	1

*(C) Recommendations*

1. Physical Environment:
  - Collaborate with the CJP and the Commission for the Blind and Visually Handicapped in our efforts to provide coffee stands for jurors that would be located outside of the jury assembly rooms.
  - Provide a water cooler for jurors consistently, or at least make certain that the vending machines are consistently stocked with bottled water. Until the water is tested and the water fountains in the courthouse are repaired, jurors need to have access to bottled water.
  - Clean and maintain bathrooms on a regular basis--at least two to three times daily.
  - Maintain an adequate number of cleaning staff throughout the building.
  - Reconstruct the door to the women’s bathroom in the jury room so that it is accessible for people with disabilities

- 2. Lack of Information:
  - Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
  
- 3. Administration
  - Give jurors more comprehensive information about the process of serving during morning orientation and throughout process of service.
  - State clearly to jurors, in morning orientation, that postponements and deferrals can be made with the clerks at 100 Centre.
  
- 4. Technology:
  - Provide wireless access for jurors. Wireless access will allow jurors to work and communicate with their places of employment while serving. This will not only ease employment burdens created by service, but decrease the amount of jurors who feel service is a waste of time.

**6. 111 Centre Street**

*(A) Summary of juror concerns*

Jurors at 111 Centre comment that “things are generally better” in the courthouse, and that the “good clerks” allow the process to run smoothly. However, sometimes praise is coupled with criticism, making general impressions somewhat mixed:

**“I think they're doing a great job given the number of people. It's a benign process. Maybe, if they had refreshments like coffee or something, it'd be a different story.”** (3/11/03)

As with the last trimester report, “lack of information/incorrect information” was the primary critical concern on which jurors commented. Jurors also noted that service wastes their time, and that it would have been useful to receive more information about service ahead of time. Jurors who approached CJP with questions about how to obtain a postponement or dismissal did so largely because jury service infringes on their care taking, employment, or student responsibilities.

<b>Top Juror Concerns—111 Centre Street</b>	
<b>12/1/02-3/31/03</b>	
<b>Total Concerns = 79</b>	
<b>Top Appreciative Concerns</b>	<b>Count</b>
Good clerks	2
Things are generally better	2
CJP lunch guide is good	1

Good court officers	1
<b>Top 10 Critical Concerns</b>	<b>Count</b>
Lack of information/Incorrect information	14
Wasted time	6
Would like a postponement/dismissal	4
Needed information ahead of time	4
Elder/child care	3
Improve technology	3
Service is too long	3
No coffee/sandwiches/juice	2
Student feels entitled to an exemption	2
Very disruptive to my work	2

*(B) Breakdown of juror concerns*

Like their fellow jurors at 100 Centre, jurors at 111 Centre commented on the need for accessible coffee, sandwiches, and juice. Jurors also remarked that the air quality and temperature is poor, and that the assembly rooms lack seating.

<b>111 Centre: Physical Conditions</b>	<b>Count</b>
No coffee/sandwiches/juice	2
Air quality/temperature	1
Not enough seats	1

Jurors frequently commented on “lack of Information/incorrect information,” and also provided some constructive suggestions. One juror suggested that the call-in time must be specific, and that the status of the jurors should be decided before the time jurors are asked to call in:

**“My suggestion is that on the card that has a number to call and it says 'call in the evening,' they should put specific times. I called in Monday at 7:30 and it said to come in. At 8:00, they changed the tape and it said don't come in. My evening may differ from theirs. If they specify a time it may make them come to a decision by a certain time. When I asked about it, he [the jury clerk] said that they just couldn't make a decision.”**  
(2/20/03)

Jurors often comment on the map printed on the New York County summons, and are particularly perturbed that the Canal Street subway station—a station that services nine subway lines and is located within blocks of the courthouses—is not listed on the map.

**“Why don't they include the train stop at Canal Street on the summons? The directions on the summons really stinks.”** (3/26/03)

The lack of information prior to service is also a concern to jurors, some of whom complain that more information should be made available ahead of time, to avoid scheduling conflicts:

**“I have a suggestion. Why don't they send a brief instruction of what the procedure is for jury service in the mail with the summons? I really thought I was just coming in for one day today, and happen to find out that it is a three day process at the minimum.” (3/20/03)**

In addition to giving information to jurors ahead of time, jurors should be provided with more verbal information about the process of serving during morning orientation, and while jurors are participating in the various stages of the process. This information can range from court-specific information, such as the fact that 111 Centre hears both civil and criminal cases, to general juror information, for example, discussing jurors’ rights and responsibilities during voir dire. Jurors should also receive clear instructions about where to report each day, in order to avoid the following juror’s predicament:

**“We were here yesterday. Do we wait 'till 10? We were assigned a case- they said go to impaneling room. Should I go back there or..?” (2/26/03)**

111 Centre: Lack of Information/Summoning	Count
Lack of information/incorrect information	14
Needed information ahead of time	4
Would like a postponement/deferral	1
Problems with name or address	1
Needed directions to the courthouse	1

Congruent with the last trimester report, jurors’ primary administrative concern at 111 Centre is “wasted time”, a concern that can relate to the summoning process and a lack of information:

**“This is a waste of time. I can't sit here anymore. They should tell you to bring some form of entertainment on the summons. They should also ban perfumes.” (2/20/03)**

During this past trimester, jurors at 111 Centre again suggested that wireless access could facilitate their ability to work while waiting:

**“People who work could connect to the internet like at the airport. But that would be icing on the cake.” (3/11/03)**

Jurors also expressed the common misunderstanding that New York County does not have a call-in system because, due to the high utilization rate, jurors in New York County are consistently called in. Now that jurors can check their status online, they may begin to feel that they have more flexibility, even if they will probably be asked to report.

111 Centre: Administration/Technology	Count
Wasted time	6
Service is too long	3
Should have a call-in system	3
Process does not start on time	2
Service should be more flexible/accommodating	2
Need phone lines for computers	1
Problems with video/tv/speakers	1

Hourly workers and the self-employed reported that service is taxing on their work and financial concerns:

**“I make \$18/hour and my employer doesn't pay for jury duty because he has less than 10 employees. \$40/day that the state pays as juror fees is what I make in two hours. This really is not fair. How am I going to feed my family if I take three days off of work?” (2/20/03)**

**“I went to room 139. I told them to speak slowly because I don't understand well. He said 'no, you're qualified' and stamped it and said good luck. I own shop. I had to close. Customers can't pick up their laundry. Look at my hands, cut because I work. I can't close. I'm scared. What do I do? I spoke to man, he said I go back and say hardship. I am very scared. Can I have a tissue?” (2/20/03)**

The laundromat owner quoted above is an elderly woman, who was characterized as “confused” and “scared” by the CJP intern that interviewed her. CJP recognizes that room 139 at 60 Centre receives a large number of jurors each day, and that a very small number of jurors report mistreatment. However, the comments above are disheartening: all jurors visiting room 139 must be listened to and treated with respect.

111 Centre: Employment/Financial Burden	Count
Student feels entitled to an exemption	2
Very disruptive to my work	2
Concern of unhappiness of employer	1
Financial hardship	1
Only get paid for hours worked	1
Juror pay is not enough	1

Occasionally, CJP receives a comment from an elderly juror, who feels that they have visited the courthouse as a juror one too many times:

**“I am an elderly person and I really don't feel like sitting here all day and wait until I get selected. Can I get excused for age? I have already served many times before and have carried out my civic duty?” (3/26/03)**

More frequently, as mentioned throughout this report, jurors who are caretakers approach CJP interns with a variety of concerns, often centering on the need to balance their responsibilities as a caretaker with employment and financial concerns:

**“Can I do this with my baby? What do I do? I could come back, but it's hard for me to take off work.” (2/27/03)**

111 Centre: Family Burden	Count
Elder/childcare	3
Medical problem/old age	1

*(C) Recommendations*

1. Physical Environment:
  - Collaborate with the CJP and the Commission for the Blind and Visually Handicapped in our efforts to provide coffee stands for jurors that would be located outside of the jury assembly rooms.
  - Provide a water cooler for jurors consistently, or at least make certain that the vending machines are stocked with bottled water. Until the water is tested and the water fountains in the courthouse are repaired, jurors need to have access to bottled water.
  - Clean and maintain bathrooms outside of the jury room on a regular basis--at least two to three times daily.
  - Maintain an adequate number of cleaning staff throughout the building.
  
2. Lack of information:
  - Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
  
3. Administration
  - Give jurors more comprehensive information about the process of serving during morning orientation and throughout the process of service.
  - State clearly to jurors, in morning orientation, that postponements and deferrals can be made in room 139 at 60 Centre Street.
  
4. Technology:
  - Provide wireless access for jurors. Wireless access will allow jurors to work and communicate with their places of employment while serving. This will not only ease employment burdens created by service, but decrease the amount of jurors who feel service is a waste of time.

## 7. 360 Adams Street

### *(A) Summary of juror concerns*

During this past trimester, the chief administrative staff, clerks, and court officers at 360 Adams have implemented or are in the process of implementing four improvements to court processes and conditions within the courthouse:

- **Audio communication with jurors will be improved:** In response to jurors' comments and concerns, better quality audio speakers are currently being bid for and will be installed at 360 Adams. This will facilitate the communication between the court and jurors, who have previously complained that the acoustics are poor in the large, oddly-shaped assembly room.
- **Televisions in the jury assembly room have been repaired:** Along with audio concerns, jurors at 360 Adams have previously expressed some concerns about the televisions in the assembly room, which were visible, but non-functional. The majority of jurors will appreciate the ability to watch while they wait.
- **Room 156 has been renovated:** Room 156 is the functional equivalent of New York County's room 139, in the sense that they both serve as the room in which jurors report if seeking postponements or dismissals in their respective counties. The renovations that have been completed will be beneficial to both staff members and jurors.
- **Wireless access is being piloted at 360 Adams:** As mentioned previously, 360 Adams and 60 Centre Street will pilot the wireless internet access. CJP provides recommendations in this report that may be useful in promoting the use of the wireless service among jurors.

The environmental improvements listed above are a positive step toward lessening the burden that service can put on jurors' personal lives. For example, making wireless access available to jurors in the assembly room will diminish jurors' employment concerns. However, discreet environmental improvements will be ineffective if not accompanied by general environmental improvements. As will be discussed in detail in this section, jurors complain that the assembly room at 360 Adams is not conducive to work in; contrary to the Manhattan courts, there are no work carrels at 360 Adams. Without the space to work, jurors will not be able to utilize online access services, and the benefit will be lost.

Top Juror Concerns—360 Adams Street	
7/1/02-11/30/02	
(Total Concerns = 66)	
Top Appreciative Concerns	Count
Good clerks	1
Lunch guide is good	1
Things are generally better	1
Top 10 Critical Concerns	Count
Lack of information/incorrect information	16
Wasted time	4
Would like a postponement/deferral	4
Elder/child care	3
Needed information ahead of time	3
Financial hardship	3
Am losing major work assignments	2
Very disruptive to my work	2
Medical problem/old age	2
General incivility	2

*(B) Breakdown of juror concerns*

Jurors at 360 Adams primarily expressed two environmental concerns: the lack of accessible coffee, sandwiches, and juice, and the need for workspace in the assembly room. Jurors’ comments on the lack of coffee and refreshments does not stem from a lack of food and drinks—indeed, a coffee stand is located directly down the hall from the jury assembly room—but feeling jurors express of being “trapped” in the assembly room. Unlike the Manhattan courts, 360 Adams does not provide a sign-out sheet for jurors. CJP encourages Brooklyn officials to provide a sign-out sheet, which will help to change the culture of the assembly room, giving jurors greater freedom and satisfaction.

As previously mentioned, jurors also suggest that the assembly room should provide areas in which jurors can work and study quietly.

**“Maybe you could tell me why there aren’t any tables to work from like 60 Centre? Like work stations. No wonder why people are so disgruntled in Brooklyn. I am an attorney and tables would come in handy.” (2/5/03)**

**“I recently sat in with my friend at the 60 Centre jury room and was delighted to see that cubicles with electrical outlets were set up for prospective jurors with laptops. It would be great if the same could be set up for Brooklyn courthouses. Considering the amount of time that is spent sitting and waiting, it would be wonderful if that time could be put to good use by those of us who could work at the same time while waiting.” (3/2/03)**

CJP encourages 360 Adams Street to look into the possibility of creating spaces in the assembly room where jurors can work, to lessen employment burdens and the sentiment that service is a waste of time.

360 Adams: Physical Conditions	Count
No coffee/sandwiches/juice	2
Not enough work carrels	2
Air/temperature	1
Need an area for cellular phones	1

Congruent with the last trimester report, the majority of summoning concerns were voiced by jurors seeking a postponement or deferral. Also consistent with the last report, most of the Brooklyn jurors requesting postponement do so as a result of the burden service puts on their personal lives. Caretakers of children, the elderly, and individuals with disabilities or an illness were the majority of jurors seeking postponement/deferral.

Jurors’ comments regarding “lack of information” centered on the lack of information providing during service. Jurors report confusion about where to report once they are on a case or participating in voir dire:

**“Where do I go if I have already been assigned to a case?”** (2/5/03)

**“I was here on Friday and they never finished the voir dire. Where should I go for that case today?”** (1/21/03)

CJP encourages court officials to communicate very clearly with jurors during all aspects of service. Clear instructions about where to report each day can lessen juror anxiety and allow court proceedings to start punctually.

360 Adams: Lack of Information/Summoning	Count
Lack of information/incorrect information	16
Would like a postponement/deferral	4
Needed information ahead of time	3

Jurors’ primary administrative concern at 360 Adams is “wasted time.” Jurors expressed frustration about arriving early to the courthouse, but then waiting until mid-morning for the process to begin.

**“Why do they tell us to come in so early in the morning when they don't get around to calling names until 10:30 or 11:00? These people have no concept of time.”** (3/12/03)

Although the reasons for the delay are explainable, the clerks in Kings and New York County rarely explain to jurors the cause for the delay. CJP encourages court officials to share some of the reasons behind the delay: information can ameliorate juror frustration.

360 Adams: Administration/Technology	Count
Wasted time	4
Problems with video/TV/speakers	2
Need phone lines for computers	1
Should have video/TV/speakers	1

In the current economy, financial and employment concerns wear on the minds of both the employed and unemployed. Although employed individuals may have a degree of financial security, they face a great deal of pressure compensating for laid-off workers:

**“I work as a computer programmer in a job that has gone through 5 rounds of layoffs—from 40 programmers to 4. I am one of the leads. I was summoned for Brooklyn Grand Jury duty and am supposed to serve starting Monday, January 27. If I postpone will I get on a grand jury again? Or is it random? If I serve will it be longer than 2 weeks? We're at a critical point in our project and taking off 2 weeks is not acceptable. I'll be expected to work nights also. The current status of my job will remain the case (because of the layoffs) until the economy turns around. What recourse do I have?” (1/21/03)**

The preceding quote indicates that individuals with employment concerns will benefit greatly from receiving information ahead of time.

360 Adams: Employment/Financial Burden	Count
Financial hardship	3
Am losing major work assignments	2
Concern with unhappiness by employer	2
Student feels entitled to exemption	2
Very disruptive to my work	2

Health concerns can inhibit jurors’ ability to serve, or at least, their perception of their ability to serve.

As with language assessments, it is important for court officials to clearly designate who is responsible for the assessment, and to respond to jurors’ concerns consistently:

**"I have a skin disease. I have these things all over me [juror pushed up sleeves to show arms]. I have tried to be excused. I've shown them doctors’ notes and they just sent me back here. They told me 'talk to the judge.' Who can I talk to about this?" (1/27/03)**

Caretakers report facing both financial and temporal concerns, as characterized in the following quote:

**"Is there any place I can go? I've got two children out from school this week and I ain't got no money to pay for no babysitter. I can come back after this week though."** (2/19/03)

Compared to New York County, Kings County is home to a larger number of children (38.2% compared to 19.7% of the households with children under the age of 18) but both counties have a large number of impoverished children (39.7% and 38.4% respectively).<sup>44</sup> A policy that is inclusive of caretakers will particularly improve representation of caretakers and low-income individuals on jury panels in Kings County.

<b>360 Adams: Family/Health Burden</b>	<b>Count</b>
Elder/child care	3
Medical problem/old age	2

### (C) Recommendations

1. Physical Environment:
  - Clean and maintain bathrooms on a regular basis--at least two to three times daily.
  - Provide more disability-accessible restrooms in the courthouse.
  - Maintain an adequate number of cleaning staff throughout the building.
  - Test water in Kings County courthouses and install filtering systems, if necessary.
  - Create a quiet work area for jurors. If possible, provide jurors with work carrels.
2. Summoning:
  - Provide information about the wireless access services at 360 Adams in the summoning process.
3. Lack of Information:
  - Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
4. Technology:
  - Offer information on County website ([www.nyjuror.com/kings.html](http://www.nyjuror.com/kings.html)) in Spanish and other predominant languages. Website translation services are free (e.g., <http://world.altavista.com/>) and software is very affordable. Translating the site will promote inclusion and lessen the juror hardship faced by over 10% of New York's residents, who do not understand and comprehend the English language well.

<sup>44</sup> United States Census Bureau, *United States Census 2000*, <<http://www.census.gov/main/www/cen2000.html>> (visited April 18, 2003).

#### 5. Administration:

- Provide a sign-out sheet to jurors during their service, just as all three Manhattan courts do. For a variety of reasons, jurors must temporarily leave the assembly room, and should be trusted to return. A sign-out sheet will improve jurors' experience in the courthouse, and lessen the administrative burden caused by missing jurors.
- State clearly to jurors, in morning orientation, that postponements and deferrals can be made in room 156.
- Give jurors more comprehensive information about the process of serving during morning orientation and throughout process of service.

### 8. Child Care in Relation to Service

#### *(A) State Policies of Inclusion for Child Caretakers*

In a recent article in *Judicature*, OCA researcher Elissa Krauss and Robert Boatright wrote about the national jury summit that was held in New York in January 2001. During the conference, plenaries and panels discussed ideas and policies that centered on the themes of representativeness and communication. Juror compensation was one of six issues that were examined under the theme of representativeness. The article mentioned on-site child care or child care reimbursement schemes as a means to promote representative panels and ameliorate juror hardship. Five states' approaches were specifically cited:

For example, the District of Columbia provides on-site child care for jurors. Colorado, Connecticut, and Massachusetts provide childcare reimbursement to unemployed jurors who must pay for child care as a result of being called to serve. Minnesota pays for child care for all jurors who require child care in order to serve (in addition to the \$30 fee plus mileage).<sup>45</sup>

CJP consistently encounters caretakers in each courthouse who express concern about the burden that service puts in their lives, their families, and the children that they care for. In order to obtain representative panels, it is necessary to explore and implement policies that promote the inclusion of caretakers. Acting on this objective, CJP has contacted court officials from the five states listed above, to better understand how their compensation schemes developed and are working in each state. The following questions were posed to and answered by either jury commissioners, jury clerks in each state, with the exception of the District of Columbia; the Director of the Child Care Center and the Director of Special Operations in District of Columbia were interviewed for the purposes of this research.

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<sup>45</sup> Robert Boatright & Elissa Krauss, *Jury Summit 2001*, 86 *Judicature*, 147, n.3 (2002).

1. How did your child care reimbursement scheme develop?
2. What is the citation of the state law that allows you to implement the child care program?
3. Have you encountered some problems in the process of implementation?
4. Do you require that jurors use certain child care facilities and personnel? For example, certified facilities and caretakers?
5. Do childcare reimbursements represent a large proportion of the jury budget? How do you budget for that expense?
6. Have you noticed a marked increase in the number of caretakers who serve?
7. Can I cite your name in research? If yes, can I ask what your title is and what court you work in?

For the purpose of this brief analysis, CJP will provide a summary of the answers clerks gave to questions 3-6, as they proved to elicit the most substantive responses. These responses are broken down in terms of state policies that were associated together in the *Judicature* article. However, it should be noted that, in the process of researching the topic and interviewing court officials, CJP found two slight inconsistencies between how the schemes were portrayed in the *Judicature*, and how they are implemented in the respective states. Specifically, Connecticut does not simply offer reimbursement for unemployed jurors, but all jurors except “jurors employed full-time who either work for themselves or others.”<sup>46</sup> Additionally, Minnesota does not pay for child care for all jurors who serve, but rather, day care is paid for by the state “if day care costs are not normally incurred.”<sup>47</sup>

Top Five Responses to Child Care Questions	Count
The reimbursement scheme is inclusive and favorable, though it is difficult to access “marked change” in care takers who serve	5
Child care reimbursement is not costly to the state/represents a minute portion of total jury budget	5
We have not encountered problems with our child care reimbursement scheme, just minor issues	4
We do not require that jurors use specific child care facilities and personnel	4
Jurors do not feel comfortable leaving their children with “strangers”	3

*(B) Colorado, Connecticut, and Massachusetts: Child care reimbursement to unemployed jurors who must pay for child care*

<sup>46</sup> Connecticut Supreme Court, *Your Guide to Jury Duty* (visited April 19, 2003) <<http://www.jud.state.ct.us/Publications/ja005.pdf>>.

<sup>47</sup> Stearns County Court Administration, *Jury Duty: Frequently Asked Questions* (visited April 19, 2003) <<http://www.co.stearns.mn.us/departments/other/court/jury.htm>>.

Responses from Colorado, Connecticut, and Massachusetts were quite consistent in regard to question three, "Have you encountered some problems in the process of implementation?" All three states noted that they have not encountered "problems" per se, but that issues have arisen in the process. Each clerk noted that (as a Massachusetts clerk stated), "people don't feel comfortable leaving their children with someone they don't know." Massachusetts offered the solution, "we give them up to one year to postpone it to a time when the child will be at school or away with grandparents." Connecticut also mentioned, "it is very difficult to get child care for just one day," but noted that the state "...sends out the summons two weeks in advance to give parents enough time so that they are able to find child care for that day. If they are not able to find anyone, then we give them another opportunity to postpone for another ten months. We think that is plenty of time for them to make some sort of child care arrangement."

None of the three states responded affirmatively to question four: "do you require that the jurors use certain child care facilities?" Connecticut noted it would be problematic for their court system to make private endorsements. Colorado and Massachusetts said that it was the caretaker's decision. Colorado mentioned that caretakers could even use babysitters, and that they don't even require a receipt. Both Colorado and Massachusetts stated that they do have a form on which the juror signs and writes the amount spent.

None of the three states suggested that the reimbursement scheme is costly to the state (question 5). Colorado suggested that child care reimbursement represents a very small portion of the total budget, as about 1 to 2% of the total number of jurors summoned each week ask for reimbursement, and "some people don't even ask for reimbursements because they get their husband or relative to take the day off and take care of the child." Massachusetts and Connecticut suggest that the limitations put on their reimbursement schemes (Massachusetts does not reimburse employed individuals, while Connecticut does not reimburse full-time or self-employed individuals) lessen costs.

All three states noted that it is difficult to assess whether there has been a "marked increase" in the number of caretakers who serve, but that the programs are favorable (question 6). Connecticut stated that they "have no way to track that," while Massachusetts notes that since their policy has been in effect since 1978, it is difficult to discuss the impact. The individual interviewed in Colorado said that he started working in the system after childcare reimbursement was instituted, but that "there used to be an exemption for caretakers. So, I guess I would say yes if you look at the exemption generally."

*(C) Minnesota: Child care reimbursement if day care costs are not normally incurred*

In response to the third question, have you encountered some problems in the process of implementation, the Minnesota jury clerk interviewed stated, "not really." He continued, "I guess the only problem we encounter is people who

attempt to recover more or claim a reimbursement even though they work outside of the home.”

The clerk responded “no” to the fourth question also, which asked, “do you require that jurors use certain child care facilities and personnel, for example, certified facilities and caretakers?” He added, “we have a two-tier reimbursement procedure. One is for licensed day care and the other is for unlicensed daycare. For unlicensed day care, we reimburse up to \$40 per day or \$5 per hour. In this instance, the child care can be provided by anyone, including a spouse, but we require a signature and social security number on the form. [...] For licensed caretakers, we require that they be licensed by the state.”

The Minnesota clerk provided a comprehensive answer to the fifth question: “do child care reimbursements represent a large portion of the jury budget?” He noted that child care is actually significantly less than fees and mileage: “For example, in 2001 we had only 133 jurors who requested childcare reimbursement. We process about 150 jurors a week. The reimbursement for childcare for that year was a little less than \$12,000. By contrast, we paid out three-quarter of a million dollars in jury fees for the same year, and we only pay \$30 per day in fees.”

To the sixth and final question: “have you noticed a marked increase in the number of jurors who serve, the clerk responded affirmatively, and noted, “even though I don’t have an official number, from my observation, we were excusing a lot of people because it was impossible for people to make arrangements.” He also noted that it is also near impossible to find childcare for just a few days. “For example, out of the 133 childcare reimbursements we made in 2001, only 10 were for licensed caretakers. The rest were all for unlicensed caretakers.”

*(D) District of Columbia: On-site child care for jurors*

The most comprehensive care is provided by the District of Columbia, which has on-site child care centers, available for litigants’, jurors’, and witnesses’ children, ages 2 to 12. In regard to the development of the service, the Child Care Director for the Superior Court of D.C. stated: “The program developed in 1974, by an organization called Friends of the Superior Court. [...] When we first started we were located in the basement of a church right across from the courthouse. But once the new courthouse was completed, we were given space in the courthouse. We have been in this courthouse for twenty-some years now.”

In response to question three, “have you encountered some problems in the process of implementation,” the Child Care Center Director responded, “We don’t really encounter that many difficulties. I actually don’t think we see any problems associated with jurors. We encounter some problems with litigants who are involved in custody battles. One parent may pick up the child without telling the other, and emotions run high. But, we have started asking for release forms for parents involved in custody battles.”

As the child care service is operated by the court system in D.C., question four was modified to: who provides the child care services (e.g., is it a non-profit group)? The clerk stated that it is part of the court system. "It is managed by the Special Operations Division, which is a department that provides a variety of services. For example, the Division provides sign language interpreters for the deaf, language interpreters for the witnesses, and other services for people with disabilities."

The Child Care Center Director responded to question five (do childcare reimbursements represent a large proportion of the jury budget? And how do you budget for that expense?) by noting that "the funding doesn't come from the jury budget." She continued, "it comes from the Special Operations Division's budget. It also gets partially funded by a non-profit group called the Friends of the Superior Court, but most of our budget comes from the Special Operations Division's budget."

In response to the sixth and final question, "have you noticed a marked increase in the number of caretakers who serve?" the clerk stated: "Well, we don't excuse jurors because of child care since we have an on-site facility here. But, we get a lot of parents who don't want to leave their children with strangers, even for a day. In those instances, we give jurors postponements/deferrals for two years. On the flip side, we have jurors who are nursing but they are back at work and really interested in serving. We accommodate those mothers by providing them with private nursing areas and they can pump milk in private rooms. We are very accommodating."

The demographics of New York emphasize the importance of a child care reimbursement scheme for jurors, particularly in the urban environments. Census 2000<sup>48</sup> reported that the per capita income is 308% of the United States per capita income, yet, it was also found that the percentage of people living in poverty in New York County (20.7%) is higher than the state (15.6%) and national (13.3%) levels. This is particularly the case for children living below the poverty line in New York County (38.4%), when compared to state (24.7%) and national (19.9%) levels. King's County, which has a low per capita income (at 82% of the national average) and a larger percentage of children per family, reports 39.7% of its children are living below the poverty line. These staggering statistics, coupled with the fact that the rate of poverty is much higher among minorities, suggests that providing child care reimbursement for care takers would improve the representation of caretakers, minorities, and low-income individuals on jury panels. The interviews of court officials from the District of Columbia, Colorado, Connecticut, Minnesota, and Massachusetts all suggest that child care reimbursement schemes promote representation and account for a minute proportion of the total state expenditures on their respective jury systems. Although any extra expense may be too great an expense for New York in this difficult economic time, expenditures also represent choices. CJP

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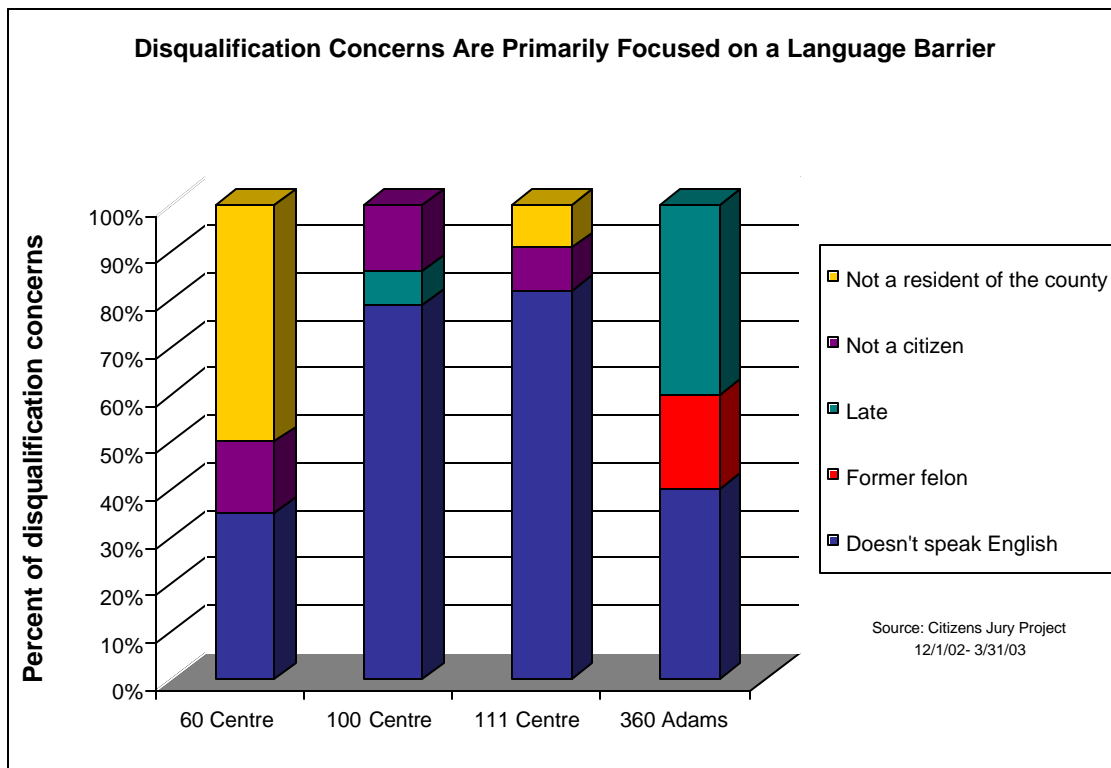
<sup>48</sup> All demographic data presented in this paragraph can be found at the U.S. Census 2000 website. United States Census Bureau, *United States Census 2000*, <<http://www.census.gov/main/www/cen2000.html>> (visited April 18, 2003).

encourages OCA to explore the possibility of implementing one of the reimbursement schemes presented above, all of which promote the inclusion of caretakers.

### 9. Disqualifications

#### (A) An Overview of Disqualified Jurors' Comments

Congruent with past CJP reports, disqualified jurors comprise a large amount (approximately 15%) of the total comments received by the Citizens Jury Project. Among the total disqualified population, those who are disqualified and seek information as a result of a language barrier represent 50% of the total. Following the graph and charts below, this section will discuss the implications of the Court of Appeals recent ruling on *People v. Pedro Sanchez*<sup>49</sup> and will provide recommendations on how the court system can better address individuals whose facility with English is limited.



60 Centre: Disqualifications	Count
Not a resident of the county	24
Doesn't speak English	17
Not a citizen	7

<sup>49</sup> *People v. Pedro Sanchez*, NY Lexis 278 (2003).

<b>100 Centre: Disqualifications</b>	<b>Count</b>
Doesn't speak English	11
Not a citizen	2
I'm late	1
<b>111 Centre: Disqualifications</b>	<b>Count</b>
Doesn't speak English	9
Not a citizen	1
Not a resident of the county	1
<b>360 Adams: Disqualifications</b>	<b>Count</b>
Doesn't speak English	2
I'm late	2
Former felon	1

On March 27, 2003, the Court of Appeals reversed a conviction made in *People v. Pedro Sanchez* because a juror during deliberations indicated that she did not understand what was going on, yet the verdict was accepted without resolving the problem. The Court of Appeals found the Queens court, from which the Sanchez conviction arose, conducted an inadequate subsequent interview to assess whether the juror was “grossly unqualified” (CPL 270.35).

The issue before the court is not whether the juror fulfilled the dictates of Judiciary Law section 510 with regard to general qualifications. Rather, the problem was whether the juror should have been entrusted with the responsibilities of fact-finding, after she told the court officer that she “didn’t understand what was going on” and did not understand the lawyers or judge. The court thus failed to make any inquiry—let alone a tactful, probing inquiry—to elicit what the juror meant by her statement. We caution that it would have been unnecessary and indeed inappropriate to subject the juror to questions relating to her thought processes, the deliberations or other matters that lie within the confines of the jury room.<sup>50</sup>

Certainly, this ruling speaks to the need for clear and consistent procedures in assessing jurors’ facility with English, including a clear designation of who is responsible for this assessment. However, CJP also believes that this ruling suggests two other aspects of the issue. First, non-English speakers called to serve as jurors represent a significant, increasing population in New York: 28% of our population in New York speaks a native language other than English and 13% of this group speaks English “less than very well.”<sup>51</sup> Of those individuals who report speaking English “less than very well,” approximately one half are Spanish-speaking. The Census Bureau reports that the Hispanic population increased 57.9% from 1990 to 2000, whereas the total US population increased

<sup>50</sup> THE NEW YORK COURT OF APPEALS, 2 NO. 26: THE PEOPLE & C., V. PEDRO SANCHEZ, 2003 NY INT. 31 (March 27, 2003) (visited April 19, 2003) <[http://www.law.cornell.edu/ny/ctap/I03\\_0031.htm](http://www.law.cornell.edu/ny/ctap/I03_0031.htm)>.

<sup>51</sup> United States Census Bureau, *U.S. Census 2000* (visited April 16, 2003) <<http://www.census.gov/main/www/cen2000.html>>.

only 13.2%.<sup>52</sup> A second and related point is that the enormity of this issue does not suggest greater exclusion of jurors whose native language is not English, but a need for the court system to be more inclusive of potential jurors early in the process, by providing multi-lingual information prior to service.

*(B) Outreach to Non-English Speakers in the Courts*

**“Hi, how are you? I am here with my father and he doesn't speak English. The woman in there spoke English to him and he doesn't understand. They told him to sit out here. We already went to room 156. They sent us up here and then they told us to wait.”** (360 Adams, 2/13/03)

New York State began summoning a broader array of individuals to our courts by expanding the number of source lists from which jurors are drawn, and instituting Article XVI of the New York State Consolidated Laws, which states that jurors must “understand and communicate” in English, but not necessarily read and write. Such inclusion is exemplary, but also carries with it the responsibility of communicating with a variety of populations, whose facility with English may be limited.

CJP interns typically encounter three types of jurors who have a limited ability to speak and understand English:

- Jurors who arrive in the courts alone, confused and uncertain how to proceed, with very little ability to communicate their questions and concerns in English.
- Jurors who arrive in the courts with a friend or relative, who serves as a translator and assists the juror in the court.
- Jurors who speak English as their second or third language and may have the competence, but not confidence to serve.

All three types of jurors—even those who speak English well enough to serve—will benefit from multi-lingual outreach. To reiterate a point highlighted in CJP's past two reports, the National Center for State Courts has found: “the more knowledge people have about the judicial system the greater their confidence in the judicial system overall as well as in a whole host of its components.”<sup>53</sup> This study also found that the jury system received overwhelming support from respondents. 78% of the respondents indicated that the jury system is the fairest way to determine the guilt or innocence of a person accused of a crime, and 69% agreed that juries are the most important part of the system.<sup>54</sup> Thus, in not providing resources for jurors in languages other than English, the court system loses the opportunity to increase a large portion of individuals' understanding of the judicial system, which increases their confidence in it. This

<sup>52</sup> THE UNITED STATES CENSUS BUREAU, THE HISPANIC POPULATION, CENSUS 2000 BRIEF (2001).

<sup>53</sup> NATIONAL CENTER FOR STATE COURTS, HOW THE PUBLIC VIEWS STATE COURTS: A 1999 SURVEY 41 (1999), available at: <http://www.ncsc.dni.us/ptc/results/results.pdf>.

<sup>54</sup> *Id.*

loss is particularly profound in regard to the jury system, which, by design, brings the diversity of the communities within New York to our courts.

Jurors should not reach deliberations before their facility with English is adequately assessed. Further, jurors should feel comfortable within and knowledgeable of the system, so that they are able to verbalize their concerns and assess their own ability to work within it. Paralleling the discussion on juror privacy (section 2) it is arguable that *People v. Pedro Sanchez* would have turned out differently if the juror could have received more information ahead of time; this may be particularly the case if this information was available in her/his native language, or the juror had been able to speak with someone in her native language.

The precedent for utilizing languages other than English on web sites, forms, and through hotlines has been clearly set by many agencies and systems of government, both federally and statewide. All of the agencies through which the jury system gathers its source lists communicate with the general public in languages other than English; therefore, an individual who may not be able to read, write, or speak English can fill out forms or utilize services that put his or her name on jury source lists.<sup>55</sup>

In response to this void, the Bronx County Clerks Office's website (<http://www.nyjuror.com/bronxhome.html>) recently became available in English and Spanish. CJP commends this as a positive step toward promoting inclusion and access to information. It is our hope that other websites and information sources of the Unified Court System quickly follow suit. Establishing multi-lingual resources now is both innovative and prudent, and will eliminate future individual and administrative burdens.

To conclude by speaking more broadly, language is the main vehicle by which we gain and communicate knowledge, rhetorical argument and logical reasoning, the defining features of law. As M.I.T. Professor Steven Pinker remarks: "The modern mind can conceive of a substance as a combination of atoms, the plan for a living thing as the combination of DNA nucleotides, and a relationship among quantities as a combination of mathematical symbols. Language, itself a combinatorial system allows us to share these intellectual fruits."<sup>56</sup> Law, in its complexity, is best represented through language, and realized through conjecture, but also reciprocity. The following list is a summary of recommendations provided throughout this report, which will directly address the dearth of information non-English speakers currently experience once summoned to serve:

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<sup>55</sup> For a more detailed analysis, please read the Citizens Jury Project Winter 2002 Report, available at: <http://www.juryproject.org/reports.html>

<sup>56</sup> STEVEN PINKER, *THE BLANK SLATE* 236 (2002).

- Provide a line on the qualification questionnaire after the question, “can you understand and communicate in the English language,” that states: “If no, you will be asked to participate in a language interview, once you are summoned to serve.” This will alleviate some of the confusion expressed by non-English speaking jurors who believe that marking “no” to the question “can you understand and communicate in the English language,” disqualifies them from service.
- Include a line on the qualification questionnaire in each county’s predominant languages, which instructs non-English speakers to call a hotline that will provide information and instructions in their native languages.
- Provide juror information on the Unified Court System’s website and county websites in Spanish and other predominant languages.
- Create toll-free information lines with recorded instructions for summoned non-English speakers about the jury process and how to seek postponement/dismissal prior to service.
- Increase communication between the courts and the press that report and publish in languages other than English.
- Advertise court reform and improvements, particularly jury-related reform, in public forums. Public transportation is an efficient way to advertise across income, racial and ethnic groups; the New York Department of Health and the Department of Education both regularly advertise in both Spanish and English on buses and subways. Public service announcements on the radio or television can also be effective means of communication. CJP recommends multilingual advertising that reflects the theme of diversity, a requirement for an effective jury system and a reality in New York.

## 10. Summary of Recommendations

**“The worth of the State, in the long run, is the worth of the individuals composing it; and a State which proposes the interests of their mental expansion and elevation, to a little more of administrative skill, or that semblance of it which practice gives, in the details of business; a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes—will find that with small men no great thing can be accomplished; and that the perfection of machinery to which it has sacrificed everything, will in the end avail nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish.”<sup>57</sup>**  
**(John Stewart Mill, On Liberty, 1869)**

The jury system distributes power while educating through participation. Although the system is not always the most proficient machine, the very

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<sup>57</sup> JOHN STEWART MILL, ON LIBERTY 106 (David Spitz ed., W.W. Norton & Company, Inc. 1975) (1859).

process of working to improve the machine is a process that improves the judicial system itself, and has far-reaching effects.

The following recommendations suggest that the court system and the Citizens Jury Project must broaden our analyses of and responses to the needs of New York jurors. Fair process entails expanding upon the information that is provided to jurors both in and outside of the courts. With adequate information and knowledge of their rights, jurors can do their important work well.

*(A) Recommendations for the Courts*

**Provide jurors with detailed information about where to report during all phases of service.** In order to alleviate juror confusion during the voir dire process or while serving on a panel, CJP suggests that courts be more clear and explicit about where jurors should report while serving. Lessening juror confusion and stress can allow jurors to focus on the proceedings and will promote comprehension.

**Provide more procedural information to jurors in the assembly room and throughout the process.** Jurors should be informed about their rights, and have a clear understanding of the process of serving. In addition, regularly providing jurors in the assembly room with regular updates on the day's schedule and why there may be delays will diminish jurors' feeling that service is a waste of time.

**Address juror privacy concerns.** Information on juror privacy should be readily accessible for jurors. Judges should be trained to address juror privacy concerns, and should consistently address the issue of juror privacy, beginning with the judicial instructions prior to voir dire, and as the issue arises throughout proceedings.

**Target environmental improvements in the courts.** Jurors clearly respond to improvements made to the physical conditions within our courts. Courts must continually assess whether their facilities are accessible and safe. Jurors' experience in the courts and ability and desire to serve are affected by structural improvements, such as constructing accessible entrances and bathrooms, and procedural improvements such as escorting jurors directly into courtrooms, instead of leaving them in the hall. Timely response to the recommendations provided in this report will help to create clean and safe court environments.

**Collaborate with CJP and OCA in devising ways to best accommodate caretakers, non-English speakers, minorities, and individuals with low incomes.** Part of the work in accommodating these individuals is systemic, yet it must also be addressed at a court and community-specific level. Court officials and individuals have a day-to-day and historical perspective on the populations and communities

that visit each court, and how staff and their facilities can be accommodating.

*(B) Administrative, Public Relations, and Research Recommendations*

**Summoning**

- Include a line on the qualification questionnaire in each county's predominant languages, which instructs non-English speakers to call a hotline that will provide information and instructions in their native languages.
- Create toll-free information lines with recorded instructions for summoned non-English speakers about the jury process and how to seek postponement/dismissal prior to service.

**In-Court Administration**

- Reconsider the possibility of offering child care reimbursement to jurors
- Implement CJP's juror privacy recommendations outlined in part one of this report.

**Public Outreach**

- Provide multi-lingual information about the courts and court processes. The Unified Court System website is an example of a resource that could be made available in, at least, Spanish.
- Address unemployment concerns in the juror handbook and on the Unified Court System's website.
- Include information on the wireless access services in OCA's employment pamphlet.
- Collaborate with other state systems and the private sector to promote jury service and positive practices in relation to service. For example, making court publications such as OCA's employment pamphlet available to the Department of Labor and large corporations could facilitate the distribution of the information to potential jurors—employers, employees and the unemployed—throughout the State.
- Increase communication between the courts and the press that report and publish in languages other than English.
- Create public service announcements that are multilingual and draw from the theme of diversity, a requirement for an effective jury system and a reality in New York.

**Future Research**

- Expand research and analysis to include the non-compliant and disqualified juror populations. Research has indicated that non-respondents generally want to serve but that personal

responsibilities/hardship and misconceptions about service inhibit their response.<sup>58</sup> A state-specific assessment of non-compliant and disqualified jurors can allow for a more in-depth analysis of many of the issues brought up in this report, such as the percentage of non-compliant and disqualified jurors who do not understand and comprehend English. This research will also help to further clarify where gaps in information exist, and how the system can best accommodate individuals with personal hardship and responsibilities that inhibit their ability to serve and contribute to the system.

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<sup>58</sup> ROBERT G. BOATRIGHT, IMPROVING CITIZENS RESPONSE TO JURY SUMMONSES, AMERICAN JUDICATURE SOCIETY (1998).

## Appendix A: Top Juror Concerns in Manhattan &amp; Brooklyn Courts

<b>Top Juror Concerns–Manhattan &amp; Brooklyn Courts 12/1/02-3/31/02 (Total Concerns =543)</b>	
<b>Top 5 Appreciative Concerns</b>	<b>Count</b>
Things are generally better	10
Good clerks	5
Good court officers	2
Lunch guide is good	2
Courthouse restoration looks good	2
<b>Top 25 Critical Concerns</b>	<b>Count</b>
Lack of information/incorrect information	123
Would like a postponement/deferral	45
Wasted time	21
Elder/child care	17
Problems with name or address	17
Medical/old age	16
Very disruptive to my work	16
Needed information ahead of time	15
Student feels entitled to an exemption	10
No coffee/sandwiches/juice	8
Religious/personal objection	8
Financial hardship	6
Improve technology	6
Received multiple summonses	6
Needed directions to the courthouse	5
Air quality/temperature	5
Concern with unhappiness of employer	5
Concern with unhappiness of employer	4
In non-compliance	4
Process does not start on time	4
Would like to volunteer	4
Service is too long	4
Service should be more flexible/accommodating	4
My business will suffer	4
Bathrooms	4

*Appendix B: Juror's Letter to CJP*

"I served as a juror on a case in the criminal court [100 Centre] in August of 2002. I don't know how to tell you how upset I have been ever since. I have awoken in the middle of the night with the defendant on my mind, and I have found myself crying during the day and feeling deep in despair. I went to the sentencing for the defendant and I left feeling disillusioned with system of justice.

After three days of testimony was, I thought, prepared to give my votes on seven counts to the other jurors. It was off-putting to watch how people were bombarded with question when they voted in a way that was in conflict with five or so jurors, and one of the tallest jurors resorted to name calling. I was the last one to fall and I must tell you that that fall has left me with a deep sense of question. I felt intimidated by the things I had seen and heard, by the behavior of the people who, after they had gotten their "way" wanted to apologize their way back into civility. [...]

How can I feel that I am of any use to my fellow man when I felt so easily broken? To add insult to injury, I could have stopped the torment I have been going through, for months since the verdict was rendered, if I had understood that polling a jury was an opportunity to make plain any disagreement I had. I thought it was a verification of the vote not a validation. It was one of the most painful things I have experienced in my life, to think that I had no options. Ignorance may not be an excuse, but I am ashamed to say that my ignorance has compounded my distress. [...]

I don't believe that a little information for a juror makes a good juror, unless you come to court with preconceived notions). Jurors need, in order to do the best job they can (and some of us want to be fair and faithful) a preliminary acquaintance with the little things that mean so much. Instead of waiting in the waiting room with the reading materials of choice, we should be reintroduced or introduced for the first time to the system that asks us to judge our fellow man. There needs to be an opportunity to ask questions pertaining to the Juror's Handbook without having to "frame" them in a certain way because asking a question that will be legally scrutinized is different than asking a layman's questions and getting answers that are plain or simplified."