Are Your Jury Pools Representative of the Community?

By Judge William J. Caprathe on behalf of the STJ Conference

Preface:

In 2011, the jury management committee of the National Conference of State Trial Judges (NCSTJ) began the task of compiling a Best Practice Guide or Checklist for assembling jury pools/panels that include a fair cross section of the community. The then chair of the conference, Judge Stephanie Domitrovich of Pennsylvania, provided a Duquesne Law Review article that she had written in 1994, Jury Source List and the Community's Need to Achieve Racial Balance on the Jury. 33 DUQ. L. REV. 39. The article laid out the problem and its history, which we utilized as a starting point for our checklist. We also contacted Paula Hanniford-Agor, director for Jury Studies at the National Center for State Courts who provided us with valuable technical assistance.

Although the problem of a lack of community representation on jury panels manifests itself in the courtroom at the time of jury selection, the solutions ordinarily need to be pursued much earlier, when the jury pool is being assembled. The draft we prepared, entitled Checklist for a Representative Jury Pool, was approved by the executive committee of the NCSTJ for submission to the Judges' Journal for possible publication. The result was this article, which will address what can be done before the panel reports for selection to increase the likelihood that the jury panel will include a fair cross section of the community.

Introduction:

Picture a person who is a minority member in the community, charged with a crime that could result in a lengthy imprisonment. Jury selection begins from a jury panel of 75 people. Thirty percent of adults in the community where the incident occurred are in the same minority group as the defendant. But only three people on the jury panel are in that minority group. In view of this jury panel's make-up, is it likely that the jury selected to hear the case will be a representative cross-section of the community? Will the defendant expect to receive a fair and impartial trial?

Scenarios like this are taking place in criminal and civil trials across our nation. Many jury trials are being conducted without a representative cross-section of the community being available for selection as jurors. Selection of a jury from a cross section of the community is fundamental to the selection of a fair and impartial jury to hear the case. The Supreme Court in Taylor v Louisiana 419US 522(1975) stated:

When any large and identifiable segment of the community is excluded from jury service, the effect is to remove from the jury room qualities of human nature and varieties of human experience, the range of which is unknown and perhaps unknowable. It is not necessary to assume that the excluded group will consistently vote as a class in order to conclude, as we do, that its exclusion deprives the jury of a perspective on human events that may have unsuspected importance in any case that may be presented.

Will the relief come from the Appellate Courts? Although the US Supreme Court acknowledged in *Taylor*, supra, the importance of not excluding large and identifiable segments of the community, and the U.S. Constitution requires trial by an impartial jury, there is no guarantee that the jury panel will contain the same minority percentage that is in the community. *Duren v. Missouri*, 439 US 357, (1979) is considered to be the appellate standard for jury cross-section challenges. In *Duren*, the Supreme Court established a three-part test: (1) there needs to be a distinctive group in the community, (2) the group is not fairly and reasonably represented in the jury pool in relation to the number of persons in the population, and (3) the underrepresentation needs to be the result of a systematic exclusion of the group in the jury selection process. The *Duren* Court found that once a defendant establishes a prima facie violation of all three parts of the fair cross-section requirement, the burden shifts to the state to provide a compelling reason for the exclusion of the group. However, the 3rd part of the test, i.e., systematic exclusion, is extremely difficult to prove and rarely established.

In the recent case of *Berghuis v Smith* 559 US 130 Supreme Court 138 (2010), the Supreme Court cited *Taylor*, supra, for the principle that criminal defendants have the right to be tried by an impartial jury drawn from a panel that represents a fair cross-section of the community. They also affirmed the three part test of *Duren*, but ruled that defendant Smith did not meet the third part of the test, i.e. he did not establish a systematic exclusion. The defendant argued that the District Court was being assigned jurors out of the jury pool before jurors were assigned to Circuit Court, systematically excluding African Americans from being available as jurors in Circuit Court trials. The US Supreme Court agreed with the Michigan Supreme Court's finding that the defendant did not prove that African Americans were underrepresented in significantly higher percentages on the venires in Circuit Court than they were on the venires in District Court. Therefore, the defendant did not prove a systematic exclusion. In addition to this alleged "siphoning" argument, the defendant offered the following list of factors that "might" contribute to the underrepresentation. He ranks their mere existence as a systematic exclusion that satisfies the third part of the test, resulting in a prima facie case:

"the county's practice of excusing people who merely alleged hardship or simply failed to show up for jury service, its reliance on mail notices, its failure to follow up on non responses, its use of residential addresses at least 15 months old, and the refusal of Kent County police to enforce court orders for the appearance of perspective jurors." See *Berghuis*, supra, p. 14&15

The US Supreme Court ruled that the Michigan Supreme Court was not unreasonable when it required the defendant to prove that the underrepresentation was due to these factors. Merely proving their existence was not sufficient to satisfy the third part of the *Duren* test. The court also stated that there is no "clearly established" precedent for the defendant's argument and no need for them (US Supreme Court) to consider whether the social and economic factors listed by the defendant, if proven to be the cause of underrepresentation, can support a lack of cross-section claim.

In regard to the second part of the *Duren* test the US Supreme Court in *Berghuis* said that they "would have no cause to take sides" on a bright line rule for what are appropriate or inappropriate methods for measuring underrepresentation. They implied that a case-by-case approach, considering the results of all measurements that have been proffered by sufficient evidence could be considered. For example the trial Court considered "absolute disparity" by subtracting the percentage of the minority
members in the jury pool for the six months before trial (6 percent) from the percentage of jury eligible minority members in the community (7.28 percent). Under this measure, underrepresentation was 1.28 percent. They also considered "comparative disparity" by dividing the absolute disparity (1.28 percent) by the group's jury eligible population (7.28 percent). This showed that when compared to the overall jury eligible population, the members of the minority group were 18 percent less likely to be on the jury pool list. Based on this discussion by the US Supreme Court one could infer that, when analyzing the representativeness of their own jury pool, it would be important to use at least these two methods for measuring underrepresentation.

These cases, and others, lead to the conclusion that, except in rare instances, the appellate courts are not going to provide relief on representative jury cross-section issues. For a detailed discussion of the law in this area, see Paula Hannaford-Agor & Nicole L. Waters Safe Harbors From Fair Cross Section Challenges. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1633034. Therefore, we will discuss some steps that can be taken to help those responsible for assembling jury panels to achieve panels that include a fair cross-section of the community.

Can jury pool management help alleviate the problem?

The absence of a representative panel could be the result of many circumstances, some of which, may not be affected by jury pool management. For example, many minority members of the community may not be qualified for jury service because they may not be US citizens, may not be able to speak English, or may have a felony conviction. Other circumstances, may be affected by jury pool management, such as: refusal to answer summonses; requests to be excused because of employment, childcare, or transportation problems; undeliverable summonses and the methods used for composing the jury pool.

The methods used for composing the jury pool are crucial.

The problem usually needs to be addressed when the jury pool is put together. Thus, the judges and administrators who supervise the impaneling process bear the responsibility of doing what can reasonably be done to attempt to assemble jury pools that reflect a fair cross-section of the community. To protect the integrity of our jury system, appropriate action needs to be taken before courtroom jury selection is conducted. This article is intended to help guide chief/supervisory judges and jury managers/administrators to do what is reasonably possible to carry out this responsibility. Many of the procedures suggested here are an application and extension of the American Bar Association's 2005, Principles for Jury and Jury Trials. http://www.americanbar.org/content/dam/aba/migrated/2011_build/american_jury/principles.authcheckdam.pdf. These are nineteen principles that describe fundamental aspirations of best practices for management of the American Jury System. Principle 9,10,11, are listed under "Assembling a Jury". Principle 10 states "Courts should use open, fair and flexible procedures to select a representative pool of prospective jurors."

We hope the following information will help those in charge assess the extent to which jury operations in their courts result in jury pools that reflect a fair cross-section of the community and what can be done, if necessary, to improve representation. The first section focuses on reliable methods of measuring the demographic composition of the jury pool. The second section deals specifically with the composition of the jury pool. The third section provides tools for assessing the effectiveness of how jurors are selected for the pool and how to improve the process if needed. The checklist found at the end of this article is a summary of the suggested steps that can be taken.
I. Reliable methods of measuring demographics:

How can the court accurately and reliably document the demographic composition of the jury pool?

To answer the question of whether the jury pool reflects a fair cross section of the community, it is necessary to know two things: (1) what is the demographic make-up of the jury pool, and (2) what should the demographic make-up of the jury pool be? It is critically important that the methods used to answer both questions are identical. Otherwise, the court runs a substantial risk of making inaccurate comparisons and potentially drawing incorrect conclusions. U.S. Census Bureau demographic statistics are generally regarded as the “gold standard” for accuracy and reliability. Thus, to answer the first question, “what is the demographic make-up of the jury pool?” the court should use the same demographic definitions and basic data-collection methods as the U.S. Census Bureau. Specifically, the court should document the race, ethnicity, and gender of prospective jurors through confidential surveys in which jurors self-identify those demographic characteristics.

It is important that the survey questions use the identical question format and answer categories as those used by the U.S. Census Bureau. Be particularly careful not to aggregate race categories and not to include Hispanic/Latino as a race category because it will not be possible to accurately compare the results with the U.S. Census Bureau data. See the example below:

Correct Data Classification

Check all that apply
- White/Caucasian
- Black/African-American
- Asian
- Native American/Native Alaskan
- Hawaiian/Pacific Islander
- Other Race

Check one
- Hispanic/Latino
- Not Hispanic/Latino

Incorrect Data Classification

Check one
- White/Caucasian
- Black/African-American
- Hispanic
- Arabic
- Other

Explanation: the Incorrect Data Classification includes the following errors: (1) it requires the survey respondent to select only one race category, eliminating the possibility of a multi-race response; (2) it collapses Asian, Native American/Native Alaskan, and Hawaiian/Pacific Islanders into the “Other” race category; (3) it includes “Hispanic” as a race category, which the U.S. Census Bureau categorizes as an ethnicity category (e.g., a person can describe himself/herself as White and Hispanic, or Black and Hispanic, or Other race and Hispanic, etc.); and (4) it includes “Arabic” as a race category, which is not collected as part of the U.S. Census Bureau decennial census information.

For more information and sample juror surveys and survey tabulation tools, see the materials and instructions related to the “Fair Cross Section Tool” in the NCSC Jury Manager’s Toolbox at http://www.jurytoolbox.org.

For comparison purposes, it is important that the court use the most recent U.S. Census Bureau statistics available to answer the first question "What is the demographic make-up of the jury pool?" and the second question: “What should the demographic make-up of the jury pool be?” For example, using data from the 2010 Decennial Census, the court could estimate the jury-eligible population of the
jurisdiction—that is, the race, ethnicity, and gender of the adult population (age 18 and older in most jurisdictions) controlling for U.S. citizenship and English fluency, if possible.

II. The composition of the jury pool:

How inclusive is the master jury list?

Inclusiveness means the extent to which the master jury list encompasses (contains) a jurisdiction’s jury-eligible population. Generally, the more inclusive the master jury list, the more it reflects the various characteristics of the community (see representativeness below.) The National Center for State Courts (NCSC) recommends that the master jury list encompass at least 85 percent of the adult population. If the master jury list is less, the court could consider, if permissible and feasible, supplementing it with additional juror source lists such as welfare, unemployment, or state income tax rolls. See Paula L. Hannaford-Agar and G. Thomas Munsterman, National Center for State Courts, *The Promise and Challenges of Jury System Technology*, Ch. 2 (2003). If the master jury list encompasses more than 105 percent, the number of names on the master jury list is substantially greater than the number of jury-eligible persons in the community. This could mean that the master jury list contains several duplicate names or names who are no longer eligible for jury service (e.g., persons who are deceased or moved out of the jurisdiction). Although over-inclusiveness does not normally undermine representativeness, it reduces the overall efficiency of jury operations.

See ABA *Principles for Juries and Jury Trials* (2005), Principle 10(A) (“Juror source pools should be assembled so as to assure representativeness and inclusiveness.”) http://www.americanbar.org/content/dam/aba/migrated/2011_build/american_jury/principles.authcheckdam.pdf

How representative is the master jury list?

Representativeness means the extent to which the master jury list reflects geographic characteristics, i.e. where people live in the community and the demographic characteristics, such as their education, income, race, and ethnicity. Creating the master jury list is the first of several steps involved in creating the jury pool. However, if the master jury list does not reflect a fair cross section of the community, later steps in the juror summoning and qualification process become less likely to do so. Although juror source lists rarely include demographic information, the geographic composition of the master jury list can often serve as a proxy for the demographic representation. Therefore, to maximize potential representativeness, the geographic distribution of names on the master jury list should reflect the geographic distribution of the local population (e.g., by locality, by zip code, by census tract/block). It should also be geographically inclusive – that is, no locality, zip code, or census tract/block should be missing from the master jury list. If the list is not inclusive or representative, steps can be taken to correct the situation.


III. Tools for assessing the effectiveness of how juries are selected for the pool?
How frequently is the master jury list updated?

The master jury list should be updated at least annually to ensure the accuracy of the address records. Migration rates—that is, how frequently people move to a new address—correlate strongly with socioeconomic and minority status. That is, people with lower socioeconomic status and minorities are more likely to move than people with higher socioeconomic status and non-minorities. Nationally, the average migration rate is 17 percent. The US Postal Service will forward commercial mail, including jury summonses, for 12 months after a person moves and leaves a forwarding address. After that, jury-related mailings will be returned marked “undeliverable as addressed.” Thus, as the undeliverable rate increases, a larger proportion of people with lower socioeconomic status and minorities are excluded from the jury pool. Increased undeliverable rates also result in unnecessary printing, postage, and processing expenses for the court. Updating the master jury list annually helps to maintain the accuracy of the master jury list addresses, increasing the likelihood that people at all socioeconomic levels and minorities will receive their jury summons when mailed. In addition, annually updating the master jury list increases its inclusivity because it will reflect newly arrived persons to the community.

See ABA *Principles for Juries and Jury Trials* (2005), Principle 10(A)(1)(“The names of potential jurors should be drawn from a jury source list compiled from two or more regularly maintained source lists of persons residing in the jurisdiction. These source lists should be updated at least annually.”)

http://www.americanbar.org/content/dam/aba/migrated/2011_build/american_jury/principles.authcheckdam.pdf

What is the average jury yield?

Jury yield is the management term used to describe the percentage of individuals who are statutorily qualified and available to serve on the date summoned. It serves primarily as a measure of efficiency in court operations in that it reflects the amount of administrative work needed to have an adequate number of jurors available for jury selection. Nationally, jury yield averages about 50 percent—that is, half of all jury summonses result in persons who are qualified and available for jury service. Jury yields tend to be lower in urban areas than in rural areas. Unusually low jury yields indicate that one or more stages of the jury summoning and qualification process may be undermining the representativeness of the jury pool. This is particularly true concerning undeliverable, non-response/failure-to-appear, and excusal rates, which are all strongly correlated with socioeconomic and minority status.

What is the average undeliverable rate?

Nationally, 12 percent of jury-related mailings are returned by the U.S. Postal Service marked “undeliverable as addressed.” Most frequently it is because the person moved to a new address at least 12 months earlier, and the Post Office will no longer forward jury material to them. Undeliverable rates that are substantially higher than the 12 percent average generally indicate that the master jury list has become stale, potentially excluding disproportionate numbers of minorities and people with lower socioeconomic status. The U.S. Census Bureau can provide detailed information about state and local migration rates at www.census.gov.

Does the court use NCOA to update addresses on the master jury list?
The US Postal Service maintains the National-Change-of-Address (NCOA) database, which records the forwarding address for people who have moved. The US Postal Service also licenses private vendors to access the NCOA database to update address records for mailing lists. Industries that rely heavily on commercial mail advertising have used these services for several decades to minimize undeliverable rates. Courts using NCOA to update their master jury list as soon as possible each year can remove stale or incorrect addresses from the original juror source lists. The pricing structure for NCOA updates varies from vendor to vendor. However, most courts that have used these services report that the service generally pays for itself in reduced printing and postage costs.

For a list of licensed NCOA vendors, go to:
http://ribbs.usps.gov/ncoalink/documents/tech_guides/CERTIFIED_LICENSEESESFULL.PDF

**Does the court use NCOA to update addresses for jury summonses or juror questionnaires before mailing?**

Applying NCOA address updates to batches of jury summonses and qualification questionnaires before mailing is an effective way to minimize undeliverable rates after the annual renewal of the master jury list and any subsequent mailings. This is a particularly helpful technique in communities with higher migration rates.

**What are the non-response and failure to appear rates?**

Non-response and failure-to-appear (FTA) rates often contribute to underrepresentation of minorities in the jury pool. Nationally, FTA rates average 8 percent of all jury summonses, but some courts have reported FTA rates up to 50 percent or more. For example, NBC TV reported on June 18, 2012, that so far in 2012, in the District of Columbia, 64,333 people were summoned for jury duty. 21,700 appeared, while 42,000 did not. DC Judge Lee Satterfield summons as many as 80 people a week to explain why they failed to appear for jury duty. In 1998, the American Judicature Society published a study of juror non-response and failure-to-appear rates and found that when socioeconomic factors were taken into account, race and ethnicity were no longer found to be significant predictors of juror non-response and failure-to-appear. In other words, a lower socioeconomic non-minority was just as likely to fail to respond or appear as a lower socioeconomic minority person. But because of the strong correlation between socioeconomic status and minority status, the impact on the jury pool can be a significantly reduced minority representation.

**What does the court do to follow-up on persons who fail to respond/appear to a jury summons?**

In the American Judicature Society study, the single best predictor of whether a person summoned for jury service would respond or appear as directed was that person’s expectation about the consequences of failing to respond or appear. People who believed that they would be fined, arrested, or otherwise get in serious trouble for not responding were significantly more likely to respond. People who believed that nothing would happen to them were significantly less likely to respond. The jurors’ summons should let the juror know what is expected of them and the consequences of non-compliances.

Providing such information can significantly increase response rates. See Colin F. Campbell and Bob James, *Innovations in Jury Management from a Trial Court's Perspective*, 43 Judges J. No. 4 at 24 (2004). More recent studies by the National Center for State Courts found that the single most effective approach for minimizing non-response/FTA rates is a second notice/second summons program. Courts that implemented these types of programs reported non-response/FTA rates that were 24 percent to 46 percent lower than courts that had no follow-up program. The most effective follow-up programs were
those that were timely (within three weeks, at most, after the person’s non-response/failure to appear) and that were consistently employed on all non-responders and FTA jurors. Follow-up efforts must be employed on both the qualification and the summoning stages of the jury process.

Some courts use Order-to-Show Cause (OSC) proceedings and other more aggressive approaches (e.g., fines, fees, arrest warrants) to follow-up on non-responders and FTA jurors. The National Center for State Courts found that these approaches had only a marginal impact on non-response/FTA rates, possibly because they are typically so time and labor intensive that they are only employed sporadically. Nevertheless, these types of approaches, if used sparingly and strategically with appropriate pre-arranged media coverage, can serve a useful public-education role, particularly in dispelling community perceptions that the court will do nothing to non-responders and FTA jurors.

See ABA Principles for Juries and Jury Trials (2005), Principle 10(D)(2) (“Courts should adopt specific uniform guidelines for enforcing a summons for jury service and for monitoring failure to respond to a summons. Courts should utilize appropriate sanctions in the case of persons who fail to respond to a jury summons.”)

http://www.americanbar.org/content/dam/aba/migrated/2011_build/american_jury/principles.authcheckdam.pdf

What is the average excusal rate?

Because of the strong correlation between socioeconomic status and minority status, excusal rates are a major contributor to underrepresentation of minorities in the jury pool. Although medical-hardship excusals rarely have any impact on minority representation, excusals due to financial hardship, lack of transportation, and lack of child care often have a significant impact. Nationally, the average excusal rate in state courts is 8 percent, but this rate can vary significantly depending on the maximum term of service for jury duty, the amount of compensation paid to jurors, and the existence or lack of a liberal deferral policy.

What is the maximum term of service for jurors?

Term of service means the maximum amount of time that a juror is required to be available for service. The longer the term of service, the greater the potential burden on jurors—and the greater the likelihood that jurors will seek to be excused for hardship. Today, nearly two-thirds of the U.S. population lives in jurisdictions that have a one-day or one-trial term of service. In courts that do so, the average excusal rate is 6 percent compared with 9 percent in courts with longer terms of service. However, half of the courts that require longer terms of service have only 12 or fewer jury trials each year, suggesting that many of these are, in reality, functioning with a one-day or one-trial term of service, or could be with little or no administrative effort.

What is the compensation rate for jurors?

Juror compensation is designed primarily to reimburse jurors for reasonable out-of-pocket expenses incurred because of jury service (e.g., meals, transportation, parking and child care), but not to replace lost income. In jurisdictions that pay jurors a flat daily fee for jury service, the average amount is $22 per day. In jurisdictions that have a graduated juror-compensation structure (e.g., paying little or no compensation on the first day of service, but a higher rate for jurors returning on subsequent days of service), the average is $32 per day. The amount of juror compensation correlates with excusal rates. Courts with higher than average compensation policies reported excusal rates of 7 percent compared to 9 percent for courts with lower than average compensation policies. In most jurisdictions, the amount of
juror compensation is established by statute, but some states permit localities to supplement the mandatory state compensation using local funding.

**What is the court’s policy concerning requests to defer jury service to a future date?**

Many statutes authorizing courts to excuse jurors for medical or financial hardships include “extreme inconvenience” as one of the excusal criteria. However, jurors often ask to be excused from jury service not because jury service would pose a substantial hardship, but because preexisting commitments or a temporary hardship prevent them from being able to serve on the date summoned. Jurors who are allowed to defer their service to a more convenient time appreciate the accommodation and are more likely to appear for deferred service than jurors who are required to appear on the original date. Deferral rates and excusal rates are almost perfectly inversely related: for every one percentage point increase in the deferral rate, the excusal rate decreases by .7 percent. An effective deferral policy permits jurors to defer service one time, on their own, to a future date within six months of the original summons date; future requests to be deferred must be approved in writing by the court.

**Conclusion:**

There are many different circumstances that can affect the presence or absence of a representative jury panel. Some circumstances are beyond the control of the courts. In this article we have attempted to address some of the circumstances that can be assessed and influenced by court action. We need to be willing to analyze our local systems and take necessary steps to preserve our fair and impartial jury process for all.

The following is a step by step checklist, based on the points discussed above, that judges or administrators can use to find out what their courts do to assemble representative jury pools, and how to take corrective action, when necessary, to improve the likelihood of more representative panels.

**Checklist:**

**Step 1.** How many adults live in the community/jurisdiction covered by your court? This information can be obtained from the latest census report. What percentage of that number is on the master jury list? It should not be less than 85 percent.

**Step 2.** What source lists are used to create the master jury list (e.g., drivers license/state ID)? Is using drivers license/state ID plus voting lists really only one source if that ID is required to register and/or vote? A long-term solution might be to lobby the powers that be for additional juror source lists such as welfare, unemployment and state income roles.

**Step 3.** What percentage of the community’s adult population is jury eligible (e.g., adult, US citizen, and English-fluent in most jurisdictions)? The qualifications can greatly affect the demographic
composition of the jury-eligible population compared to the total population. A computer search of the US census report is available online and can provide that information.

Step 4. What percentage of the jury pool is made up of jury-eligible minorities?

Step 5. Does the master jury list include all localities, zip codes, and census track/blocks? If not, consider adding them.

Step 6. How frequently is the master jury list updated? It should be at least once a year.


Also see NCSC Jury Managers Tool Box at http://www.jurytoolbox.org and "best practice" monographs at http://www.ncsconline.org/d_research/cjs/jmt.html to conduct additional diagnostics on jury system effectiveness.

Step 8. If the undeliverable rate is substantially over 12 percent, the master list is probably stale. Verify how recently the court updated the master jury list. If more than one year, update the master jury list immediately. If less than one year, verify local migration rates with the U.S. Census Bureau. If migration rates are particularly high, consider updating the master jury list more frequently (e.g., semi-annually or quarterly).

Step 9. Is your court using NCOA to update addresses on the master jury list, and for summonses and questionnaires before mailing? If not, consider doing so.

Step 10. What are the non-response and failure-to-appear rates? Nationally, the average FTA rate on summonses is 8 percent, with some as high as or over 50 percent. Putting into the summons the possible consequences of failing to comply may help reduce the non compliance rate. A second summons/notice within three weeks is the most effective approach when used at both the qualification and the summoning stages. Orders to show cause and arrests, fines, etc. can educate the public if used sparingly and strategically.

Step 11. What is your average excusal rate? The national average is 8 percent. Try to keep it at or under that.

Step 12. What is your maximum term of service for jurors? One-day or one-trial terms of service will result in the lowest excusal rate.

Step 13. What are your compensation rates? Is it enough to cover reasonable out-of-pocket expenses? The amount will likely affect the excusal rate.
Step.14. What is your deferral policy? Deferral rates and excusal rates are inversely related. An effective policy is to allow jurors one deferral on their own to a date within six months. Future requests require approval by the court in writing.