

United States Court of Appeals  
District of Columbia Circuit  
333 Constitution Ave., N.W.  
Washington, DC 20001-2856

David B. Sentelle  
Chief Judge

July 6, 2011

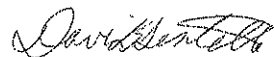
Phone 202-216-7330  
Fax 202-273-0174

Honorable Robert E. Jones  
United States District Judge  
1007 United States Courthouse  
1000 S.W. Third Avenue  
Portland, OR 97204-2902

Dear Judge Jones:

Thank you for your letter of June 24, 2011, concerning cost containment efforts in the judiciary. I will forward your letter to the appropriate committee and personnel so that they may take your suggestions into consideration.

Very truly yours,



David B. Sentelle

cc: Laura Minor, AO



*United States District Court*

DISTRICT OF OREGON  
1007 United States Courthouse  
1000 S.W. Third Avenue  
Portland, Oregon 97204-2902

June 24, 2011

Chambers of  
**ROBERT E. JONES**  
United States District Judge

Hon. David B. Sentelle  
Chief Judge  
United States Court of Appeals  
E. Barrett Prettyman U.S. Courthouse  
333 Constitution Avenue, N.W., Room 5108  
Washington, D.C. 20001

Hon. Julia S. Gibbons  
United States Court of Appeals  
Clifford Davis and Odell Horton Federal Building  
167 North Main Street, Room 970  
Memphis, TN 38103

Re: Cost-Containment Efforts of the Judiciary

Dear Judges Sentelle and Gibbons:

I suggest a simple cost containment measure. Although we are trying only three percent of our criminal cases and not much of a percentage of our civil cases, we still waste a great deal of time in selecting and excusing jurors, particularly using 16 peremptory challenges in criminal cases.

There has been a great deal of academic criticism against any peremptory challenges. After all the jurors have already been screened and excused for hardship and cause, the result is often that the most intelligent jurors are excused for no cause at all. Of course many are called to serve but are not utilized. See attached memo on petit juror utilization.


The calling in of citizens for jury duty is a great inconvenience to them, and then to be disqualified for no discernible reason is insulting, if not incomprehensible. As you know, most courts no longer take challenges in open court in front of the jurors because those excused feel shunned. Instead we use a strike system out of the presence of the jury--often telling them in advance that they are not to feel bad if they are not selected because any challenges are without

June 28, 2011

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cause. I took this issue up with the Ninth Circuit Jury Committee and received no response. Granted, the savings may be de-minimis, but at least the savings would be justified.

Sincerely,

A handwritten signature in black ink, appearing to read "R. E. Jones", written in a cursive style.

ROBERT E. JONES  
U.S. District Judge

Enc.

COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
WASHINGTON, D.C. 20544

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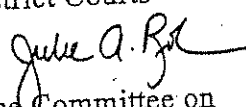
Chair  
Julie A. Robinson  
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Administrative Office of the U.S. Courts  
One Columbus Circle, N.E.  
Washington, DC 20544  
(202) 502-1560

September 15, 2010

MEMORANDUM

To: Judges, United States District Courts

From: Judge Julie A. Robinson   
Chair, Judicial Conference Committee on  
Court Administration and Case Management

RE: PETIT JUROR UTILIZATION STATISTICS

The percentage of jurors reporting for jury service but not selected, serving or challenged ("NSSC") has reached 40.1 percent according to 2009 statistics on petit juror utilization. This represents an increase of 2.2 percent from 2008 and is the highest percentage ever recorded. This means that more citizens have been put through the inconvenience of appearing for jury duty without ever truly participating in the process. As a result of these statistics, the Committee on Court Administration and Case Management at its June 2010 meeting took up the issue of petit juror utilization. After discussing the issue, the Committee agreed that, to improve awareness of best practices in juror utilization, the courts might benefit from a historical analysis of their juror utilization rates as part of an ongoing effort aimed at decreasing the number of prospective jurors who are "NSSC."<sup>1</sup>

Attached are instructions for activating a chart indicating how your district's juror-usage rates have changed over the preceding ten years, and how those rates have

<sup>1</sup> The Committee undertook a similar effort in 2003, when the NSSC rate had also been steadily increasing. Courts' efforts to improve their juror usage following the Committee's earlier memorandum paid off considerably in 2004, with a decline in the NSSC rate nationwide by more than 3 percentage points. The decline resulted in a savings of over a million dollars and more than 16,000 potential jurors not being brought into the courthouse unnecessarily.

## Petit Juror Utilization Statistics

compared with the national trend. In 1984, the Judicial Conference adopted a goal of 30 percent or less for jurors NSSC, but this goal has never been met. Until 1999, the average percentage fluctuated between 33 and 35 percent; since then, it has trended above 35 percent, and in 2009, as stated above, hit over 40 percent. The Committee noted, however, that this number does not indicate a widespread problem in jury management, since half of the districts saw a decline in their percentage of jurors NSSC. Rather, the increase was due to a few large courts, thereby increasing the overall NSSC rate. Nonetheless, the Committee believed that all courts might benefit from an analysis of their statistics.

There are several factors contributing to this increase that are outside a court's control, including an increase in high-profile or notorious trials and a decline in jury trials overall. However, the largest single factor in effective juror utilization is the number of jurors called for selection. Obviously, a court can significantly reduce this number by more accurately predicting the number of jurors needed to meet the court's needs, taking into account predictable excuses, undeliverable summonses, "no shows," and local circumstances.

Accordingly, the Committee encourages all courts, but particularly those with high percentages of jurors NSSC, to look carefully at the number of jurors they call for selection. If the number of jurors reporting greatly exceeds the number needed to serve, courts should consider reducing the number of jurors summoned. The Committee notes that some judges may call large pools for small cases or "over-summon" so as to avoid the risk of not having enough jurors; however, the Judicial Conference's approved utilization goal of 30 percent NSSC already contemplates that three in every ten jurors called will be reported as NSSC. Also, the Committee encourages courts to consider establishing a standard reasonable size range for jury panels in routine civil and criminal cases.

There are a number of practices that courts have used to improve juror utilization. They include consolidating or "bunching" trials so that they are scheduled to start only on specified days of the week, "pooling" or sharing a group of prospective jurors among several judges, and staggering trial starts throughout the jury selection day. Also, limiting the number of individuals called on any given day in notorious trials to those who can be *voir dire*d, either individually or as a group, helps maximize juror utilization. These practices and other techniques are discussed in detail in "Petit Juror Management Practices" (AO, 1985, rev. 1999). In addition, you may want to contact David Williams of the District Court Administration Division at 202-502-1583 or by e-mail at David.S.Williams/DCA/AO/USCOURTS for further information about effective juror utilization techniques.

The Committee has also asked the Federal Judicial Center to consider resuming its juror utilization and management workshops. As with past workshops offered, those courts invited will be able to send a judge and staff team to discuss such jury management and

## Petit Juror Utilization Statistics

utilization topics as size of jury pools, jury selection in notorious cases, juror satisfaction, and legal issues. For more information, contact Richard Marshall at 202-502-4120 or by e-mail at [rmarshall@fjc.gov](mailto:rmarshall@fjc.gov).

Controlling the size of jury pools and individual jury panels can improve a court's juror utilization rate, reduce costs to the courts, and ease burdens on jurors and jurors' employers. Accordingly, the Court Administration and Case Management Committee encourages you and the other judges in your court to review your jury selection practices and to identify measures you can take to make better use of jurors.

### Attachments

cc: Chief Judges, United States Courts of Appeals  
Circuit Executives  
District Court Executives  
Clerks, United States District Courts

**PERCENTAGE OF JURORS NOT SELECTED, SERVING OR CHALLENGED**  
**2000-2009**  
**(Instructions for Activating the Chart)**

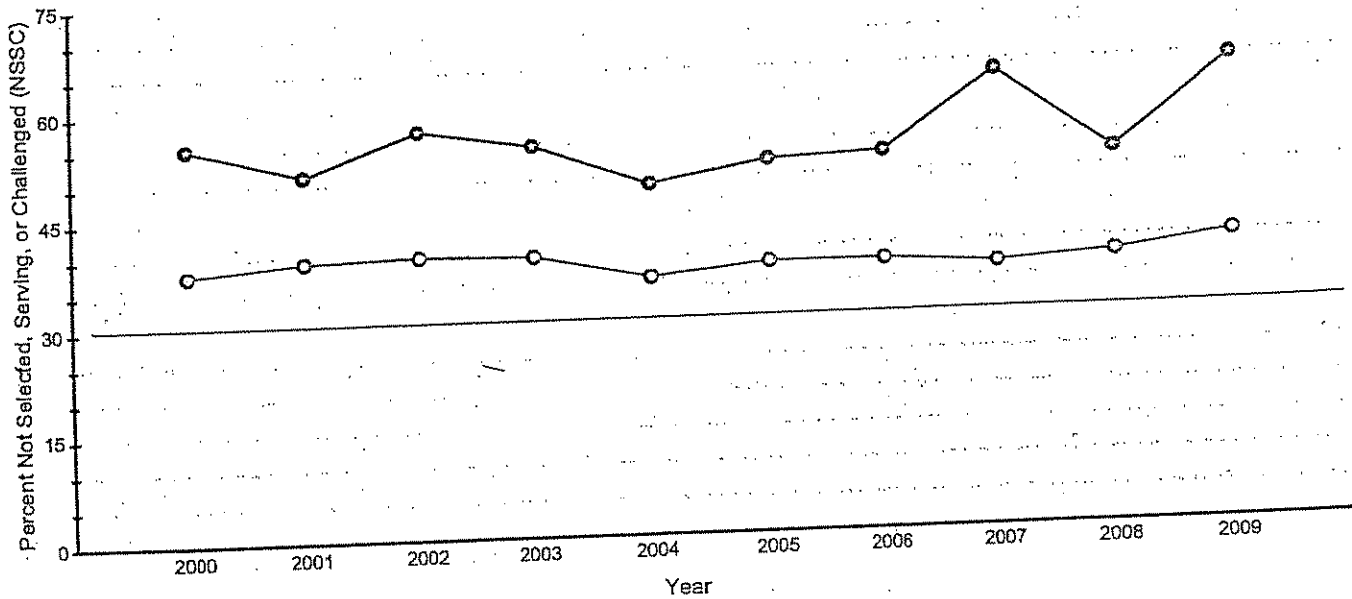
- To activate the chart, choose "trust this document one time only" from the yellow security bar at the top of this Adobe Acrobat file (if you closed the yellow bar when opening this document, you can bring it back up by clicking the red "X" in the left-hand side toolbar of Adobe Acrobat).
- Click anywhere on what appears to be a blank page and you should soon see an interactive presentation.
- You can navigate the presentation by selecting any district or circuit from the drop-down box in the upper left corner of the slide; doing so will update the chart and the table below with data from the chosen circuit or district.
- The graph is interactive – each data point can be moused over for the precise values for the district, the relevant circuit average, and the U.S. average.
- You can use the "print" button at the bottom of the chart (the chart will not print from Adobe Acrobat directly) if you prefer a hard copy.
- If you have any questions about the chart or encounter problems getting it to work, please contact Kevin Scott/DCA/AO/USCOURTS of the Statistics Division for assistance.

Select A Circuit or District

DC Circuit

Percentage of Jurors Not Selected, Serving, or Challenged (NSSC), 2000-2009

DC Circuit



■ DC Circuit ● Circuit Average ○ U.S. Average  
 Solid Line Indicates Judicial Conference Standard

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
DC Circuit										
Circuit Average	55.4	51.3	57.2	54.8	49.1	52.1	52.8	63.6	52.3	64.7
U.S. Average	37.7	39.2	39.6	39.3	36.1	37.8	37.7	36.8	37.9	40.1