

October 13, 2004

Honorable Allan Kirschman and Honorable Jean Milko
Allegheny County Jury Commissioners
201 County Office Building
542 Forbes Avenue
Pittsburgh, PA 15219

UPDATE OF THE
REVIEW OF THE ALLEGHENY COUNTY
JURY COMMISSIONERS AND
THE JURY SELECTION PROCESS
(Issued October 24, 2003)

Dear Jury Commissioners Kirschman and Milko:

We have performed procedures to update our *Review of the Allegheny County Jury Commissioners and the Jury Selection Process* report, which was issued on October 24, 2003. Our updating procedures evaluated the operational changes in the Office of the Jury Commissioners since our last review and assessed the implementation status of the findings and recommendations contained in the aforementioned report.

The results of our updating procedures revealed that the Office of the Jury Commissioners has not completed the recommendation to document and implement a disaster recovery plan. Also, necessary enabling legislation has not been passed by the Commonwealth of Pennsylvania in accordance with the recommendation of the Montemuro report to eliminate the Office of the Jury Commissioners. The Montemuro

report was commissioned by the Justices of the Supreme Court of Pennsylvania to conduct a study in furtherance of the Order of July 26, 1996, which mandates state funding of the unified judicial system. The Office of the Jury Commissioners can be eliminated, at the earliest, in 2005 by referendum in accordance with Allegheny County's Home Rule Charter. We also noted the Court of Common Pleas has absorbed some of the jury selection process and certain functions have been outsourced. These actions have contributed to a personnel reduction in the Office of the Jury Commissioners. Additionally six of the eight recommendations in our report have been implemented.

We would like to thank the management and staff of the Allegheny County Jury Commissioners and the Allegheny County Court Administrator for their courtesy and cooperation.

Very truly yours,

Michael Wassil
Assistant Deputy, Auditing

MARK PATRICK FLAHERTY
Controller

cc: Mr. Rich Fitzgerald, President, Allegheny County Council
Honorable Joseph James, President Judge, Allegheny County Court
of Common Pleas
Mr. Ray Billotte, Court Administrator, Allegheny County Court
of Common Pleas
Honorable Dan Onorato, Allegheny County Chief Executive
Mr. James Flynn Jr., Allegheny County Manager
Mr. Joseph Catanese, Council's Chief of Staff, Allegheny County

PURPOSE

We have performed procedures to update our *Review of the Allegheny County Jury Commissioners and the Jury Selection Process* report, which was issued on October 24, 2003. Our updating procedures evaluated the operational changes in the Office of the Jury Commissioners since our last review and assessed the implementation status of the findings and recommendations contained in the aforementioned report.

SCOPE AND METHODOLOGY

Our updating procedures included interviews of Commissioners and Court of Common Pleas (Courts) employees to assess the operational changes implemented in the Office of the Jury Commissioners, including a review of the functions assumed by the Courts since October, 2003. Additionally, limited testing of the actions taken to implement our recommendations was performed, which encompassed a review of Commonwealth of Pennsylvania statutes relevant to County Jury Selection Commissions (Commissions).

BACKGROUND

In 1925, Pennsylvania passed Act 302 establishing Commissions in each County to provide an adequate supply of qualified prospective jurors for both civil and criminal courts. Each Commission consists of two independently elected Jury Commissioners and the President Judge of the Courts, who serves as Chairman.

The process of selecting juries in Allegheny County is currently spread among the offices of the Court Administrator, the Administrative Judges for the civil and criminal divisions, and the Jury Commissioners. The Court Administrator's Information Technology Department obtains source lists of registered voters and licensed drivers over eighteen years of age. These lists are merged to create a master list of potential jurors. A computer program randomly selects names from the master list to send prospective jurors questionnaires along with a return envelope addressed to the Jury Commissioners. As of April 2004, the printing and mailing of questionnaires to prospective jurors has been outsourced to the Pittsburgh Mailing Company.

The Jury Commissioners' office reviews returned questionnaires to determine if the prospective juror is qualified for jury service. Every citizen residing in Allegheny County is qualified for jury service unless they:

- are unable to read, write, speak, and understand English,
- are incapable, by reason of mental or physical infirmity, to render efficient jury service,

- have been convicted of a crime punishable by imprisonment for more than one year and have not been granted a pardon or amnesty, or
- are younger than 18 years of age.

All questionnaires that are returned are scanned to update the Jury Commissioners' and the Court's files. As of August 2004, this function, which was performed by the Office of the Jury Commissioners, was assumed by IMR Document Imaging Services.

If questionnaires are not returned to the Jury Commissioners' Office within 45 days, the mailing address is confirmed with the United States Post Office and a second request is sent. If a response is not received within 15 days, a summons is served by certified mail instructing the individual to appear in person at the Jury Commissioners' office. If there is no response, the person is referred to the Courts. An order of court, a bench warrant and contempt of court proceedings may all be pursued to compel the completion of the questionnaire. When evaluation of the questionnaire is complete and it is determined that the citizen is qualified as a prospective juror, their name is added to an electronic list of qualified jurors.

Every two weeks, the Administrative Judges' assignment room supervisors provide a schedule of anticipated juror needs. Their request is forwarded to the Court Administrator's Jury coordinator who accesses the online jury program which randomly selects the requested number of jurors from the list of qualified jurors. The selected jurors receive a jury summons to appear for jury service on a specified date, along with a list of frequently asked questions.

After receiving their summons, individuals may apply for and be granted a deferment or excusal to delay or rescind their obligation for jury service. Deferral of service may be approved for a period of up to one year for reasons such as temporary illness, vacation, job, and student or family hardship. Deferral for a medical condition requires a note from a physician.

Excusals are granted to persons who:

- are in active service of the armed forces,
- served on a jury for at least three days within the last three years,
- served on a jury for less than three days in the last year, or
- demonstrated to the Court an undue hardship or extreme inconvenience, with approval by the President Judge.

Excusals are considered to be temporary if they are granted for a period of one to three years. Permanent excusals are granted for reasons that may include serious health issues supported by a physician statement, relocation to a residence outside the County, a criminal record, or other reason authorized by the President Judge.

Deferrals and excusals are approved by the Jury Commissioners' Office and by individuals in several separate divisions within the Courts. Requests for relief from jury

service are granted by the Jury Commissioners' office and the Court's Jury Coordinator. They may also be granted at the discretion of the Assignment Room Supervisors based on daily trial needs.

Jurors summoned to duty report to the jury assignment room for either the criminal or civil division depending on which division summoned them. Staff in the jury assignment rooms check-in prospective jurors upon arrival, conduct orientation, and coordinate questioning to determine the competency of individuals to serve on a particular trial. The questioning process, or voir dire, is conducted by assignment room staff, legal counsel, or the judge. Prospective jurors that are selected to serve are escorted to the courtroom, and the others are dismissed.

Jurors are paid \$9 per day for the first three days of service and \$25 per day for each day thereafter. They are also paid \$0.17 per mile for transportation. For the year ending December 31, 2003 and 2002, jurors for the Courts were paid \$556,124 and \$612,350 respectively. Of these amounts, \$444,899 and \$491,576 were funded from the County's operating budget, while the remainder was reimbursed by the Commonwealth. There were nine Jury Commission employees in 2003. Three of these employees accepted the County's voluntary employee separation plan in June, 2004. Currently, there are six Jury Commission employees including the two Jury Commissioners, two assistants to the Jury Commissioners and two computer management employees.

The Supreme Court of Pennsylvania Order of July 26, 1996 (Order) mandates state funding of the unified judicial system. Subsequent to the Order, the Justices of the Supreme Court appointed Frank J. Montemuro Jr. to perform a study and provide recommendations in furtherance of the Order. The resulting Montemuro report includes a plan to give more oversight responsibility for the administration and funding of the court system to the Commonwealth. Additionally, the Montemuro report includes a recommendation to further streamline the administration of justice by eliminating the statutory office of Jury Commissioner.

FINDINGS AND RECOMMENDATIONS

Our updated review disclosed that six (75%) of the eight recommendations have been implemented.

The following recommendations have not been implemented:

- The recommendation that the Court Administrator develop and implement a disaster recovery plan that identifies specific procedures to be performed and assigns employee responsibilities in the event of a disaster has not been implemented. Although the Court Administrator is working with the Administrative Office of Pennsylvania Courts to formulate a disaster recovery plan, the plan has not been completed or documented.

- A recommendation of the Montemuro report to eliminate the Office of the Jury Commissioners has not been implemented by the Commonwealth of Pennsylvania since the necessary enabling legislation has not been passed. The Office of the Jury Commissioners can be eliminated, at the earliest, in 2005, by referendum in accordance with Allegheny County's Home Rule Charter. Additionally, the Court of Common Pleas has absorbed some of the jury selection process and certain functions have been outsourced, which has contributed to a personnel reduction in the Office of the Jury Commissioners.

The remaining six recommendations have been implemented or adequately addressed, including:

- The Jury Commissioners' Office should explore online and fax systems that will enable the electronic processing of prospective juror questionnaires.
- The Jury Commissioners' Office should work with the Court Administrator's Office to write and implement policies and procedures for excusing and deferring prospective jurors.
- Other recommendations regarding the use of juror source lists, excusal codes and other administrative matters.