

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
AMENDING ARIZONA CODE OF	)	Administrative Order
JUDICIAL ADMINISTRATION § 5-203:	)	<u>No. 2009 - 44</u>
TRIAL JURY MANAGEMENT	)	(Affecting Administrative
	)	Order No. 2007-105)
	)	

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Pursuant to the Arizona Code of Judicial Administration § 1-201 (E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 5-203 is amended as indicated on the attached document. All other provisions of § 5-203 as adopted, remain unchanged and in effect.

Dated this 29th day of April, 2009.

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RUTH V. McGREGOR  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 5: Court Operations**  
**Chapter 2: Programs and Standards**  
**Section 5-203: Trial Jury Management**

**A. through H. [no changes]**

**~~I. Selection of a Particular Jury.~~**

~~1. Voir dire. The following procedures shall apply to voir dire:~~

~~a. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to exercising peremptory challenges.~~

**I. Juror Biographical Information.** ~~b.~~ To reduce the time required for voir dire, basic background information regarding panel members, as required by Rules 47(a)(4) of the Arizona Rules of Civil Procedure and 18.3 of the Arizona Rules of Criminal Procedure, shall be made available to counsel for each party on the day on which jury selection is to begin. The jury commissioner shall obtain and maintain such information as to each potential juror in a manner and form to be approved by the supreme court.

~~e. The judge shall control the voir dire examination. The judge may permit counsel to question panel members for a reasonable period of time.~~

~~d. Where appropriate to further the purposes of voir dire, the judge may permit questionnaires to be submitted to the prospective jurors, in addition to oral examination. Before submitting them to the jurors, the judge shall review and approve the questions.~~

~~e. The judge shall ensure that the privacy of prospective jurors is reasonably protected, that the questioning by counsel is consistent with the purpose of the voir dire process, that voir dire proceeds expeditiously, and that jurors receive courteous treatment.~~

~~f. In courts of record, the voir dire process shall be held on the record in criminal cases. In civil cases, the voir dire process shall be held on the record unless waived on the record by the parties.~~

~~2. Removal from the jury panel for cause. If the judge determines during voir dire that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, the judge shall remove that individual from the panel. Such a determination may be made on motion of counsel or on the judge's own initiative.~~

~~3. Peremptory challenges. The number of and procedure for exercising peremptory challenges shall comply with Arizona law.~~

**J. and K. [no changes]**

**~~L. Juror Performance and Deliberations.~~**

- ~~1. Juror Instruction. Courts shall strive to instruct the jury in plain and understandable language regarding the applicable law and the conduct of deliberation. In instructing a jury, the judge should:
  - ~~a. Give preliminary instructions directly following empanelment of the jury that explain the jury's role, the trial procedures including note-taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles in the case at issue;~~
  - ~~b. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be recorded or reduced to writing and made available to the jurors during deliberations; and~~
  - ~~c. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system.~~~~
  
- ~~1. Courts shall give jurors legally permissible post-verdict advice and information. Before dismissing a jury at the conclusion of the case, the judge should:
  - ~~a. Release the jurors from their duty of confidentiality;~~
  - ~~b. Explain their rights regarding inquiries from counsel, the media or any person;~~
  - ~~c. Either advise them that they are discharged from service or specify where they must report; and~~
  - ~~d. Express appreciation to the jurors for their service.~~~~
  
- ~~3. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.~~
  
- ~~4. Jury size and unanimity of verdict. In determining jury size and number of jurors required to return a verdict in criminal and civil cases, courts shall comply with Arizona law.~~
  
- ~~5. Jury anonymity. When polling a jury at verdict, the judge and clerk shall not identify the individual jurors by name, but shall use such other methods or form of identification as may be appropriate to ensure an accurate record of the poll and to accommodate the jurors' privacy.~~

~~6. Jury deliberations. Courts shall ensure impartiality and enhance rational decision making during jury deliberations. The following conditions and procedures should be observed:~~

~~a. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with subsection (L)(1)(b).~~

~~b. The deliberation room should conform to the recommendations set forth in subsection (J)(5)(d).~~

~~c. The jury should not be sequestered except under the circumstances and procedures set forth in subsection (L)(7).~~

~~d. A jury should not be required to deliberate after normal working hours unless the judge after consultation with counsel and the jury determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interests of justice.~~

~~e. Personnel who escort and assist jurors during deliberation should receive appropriate training.~~

~~7. Sequestration of jurors. The following practices should be observed in sequestering a jury:~~

~~a. A jury should be sequestered only for the purpose of insulating its members from improper information or influences.~~

~~b. The judge has the discretion to sequester a jury on the motion of counsel or on the judge's initiative. The judge also has the responsibility to oversee the conditions of sequestration.~~

~~**M. Jury Assistance.** To ensure impartiality during jury deliberations courts shall ensure that appropriately trained personnel escort and assist jurors during sequestration and deliberation. Use of personnel actively engaged in law enforcement for escorting and assisting jurors during sequestration is discouraged.~~

~~**N.L. Frequency of Grand Juror Service.** A county grand juror shall not be asked to serve more than two days per week, and a state grand juror shall not be asked to serve more than three days per week, unless approved by the presiding judge.~~