

Jury pool rises as changes take hold, but nearly two-thirds remain absent

Amanda Bronstad

Taking a glass-half-full view of a series of reforms to the county jury system. Los Angeles Superior Court officials are touting gains that have brought responses to summonses up to 40 percent.

While nearly two-thirds of the potential jury pool either ignores summonses or cannot be located for service, the more than 1 million people who do answer the call represent a significant increase over the single-digit rates of the mid-1990s before the one-trial system was gradually implemented statewide.

Credit lot the gains is given to limitations on excused absences, the implementation of a program in which jurors are on call for live days and spend less time in courthouses, and increased fines for nonappearance that can reach \$1,500.

"The response rate is better and is getting better," said Superior Court Presiding Judge Robert Dukes. "And as the response rate gets better, then so does the experience of jury service."

Still, efforts to reach everyone eligible for jury service are hampered by a high proportion of address changes. About 20 percent of the 2.9 million summons sent out in the fiscal year ended June 30 were undeliverable, the same percentage as in earlier years.

The other 40 percent, more than 1.1 million potential jurors, simply don't respond to the summons.

And since more jurors are needed under the system, three times as many people need to be called to handle the load, forcing court officials to improve their methods of finding jurors. Those improvements, they say, helped raise the response rate.

"The one-trial system required a lot more jurors to respond and you had to have them available ASAP," said Gloria Gomez, director of jury services at L.A. Superior Court. "We tightened up excuses, tightened up how they use the jurors, added features to make sure the juror could contact us in one transaction rather than to call, write, have us respond and then have them write us back. We tried to eliminate most of it, and we have gotten a better response."

The result has been a simpler system for jurors to use, she said. Jurors may opt for service at a courthouse closer to their home or delay their service for 60 to 90 days. They also serve for fewer days, with 67 percent serving only one day.

Altered justice

The system has drastically changed the jury pool. Superior Court Judge Jacqueline Connor, chairwoman of the trial jurors committee, said 85 percent of jurors under the old system had served on a jury before; under the one-trial system, in which jurors are excused if they aren't selected for a trial their first day at the courthouse, new jurors make up 80 percent, including lawyers and physicians who had successfully sought exemptions in the past.

The change has not gone unnoticed by Kathy Kellerman, senior consultant of Trial Behavior Consulting, a jury-consulting firm in L.A., who said the jury pool is now better educated.

"In the prior system, when people had to commit a great deal of time, more educated jurors were in jobs they didn't want or believed they could not take time from," she said. "We're getting a more educated, more professional and more diverse pool than just postal workers and government employees."

Court officials are also less likely to grant jurors excuses based on financial hardships.

Last fiscal year only 7.4 percent of jurors who were excused for some type of "undue hardship" were sent home because of financial reasons, which includes not receiving pay from their employers. In fiscal 2001-02, more than 40 percent of those excused were for financial reasons.

"We're almost being totally unforgiving," Dukes said. "Because we know the vast majority of them only will be here for that one day, or three to five days, trial judges are no longer as hesitant to ask people for that period of time even though they know it will be a reduction of income for them."

To alleviate the burden on jurors, Dukes plans to push legislators to require companies to pay \$45 per day after the first day of jury service or, alternatively, receive some type of tax credit for paying for jury service.

At the same time, court officials say a burden was lifted on the individuals who constantly were called for service under the old system.

"Part of what we're trying to do with jury duty is make sure the burden is equalized among the populace," Gomez said. "Those who aren't responding are causing an undue burden on those constantly called for service."

Missing persons

Court officials' efforts to crack down on non-respondents was bolstered earlier this year when the California legislature passed a statute mandating courts to fine individuals on a tiered basis, with the first offense at \$250, the second at \$750 and the third at \$1,500. While no criminal penalties are brought against a violator, the juror still may have to serve after paying a fine.

A juror receives three notices before being ordered to pay. Through September, about \$1 million had been collected in fines, which wind up in the state's trial court fund, Gomez said.

Another challenge for court officials is to find an estimated 20 percent of those who were sent summons but either moved or did not update their address information. The Postal Service returns those summons as undeliverable.

Gomez said the percentage of people whose summonses are sent back has hovered around 20 percent since 1996. Most of the addresses come from voter registration rolls or the Department of Motor Vehicles, she said.

About 265,000 people changed their address in the City of L.A. last fiscal year.

Six months ago, court officials began contacting the Postal Service to track down people whose summons is returned three years in a row. But Dukes said court officials have not devised an effective way of dealing with the problem.

"That is a phenomenon of our society," he said. "We have a lot of people who move, a lot of transients in L.A. County, and we have a lot of people who aren't citizens who come through L.A. County."

Connor, however, said she considers undeliverable summons as a kind of response.

"We're having some communication with the juror," she said. "A lot of them aren't eligible, don't speak English, aren't citizens, are students, have moved, have died--there's 100 reasons why they can or cannot serve. But we know what's happened."

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An appeals court has ruled against a security firm that challenged Los Angeles County's requirement that its contractors pay employees for at least five days of jury service.

Burns International Security Services Corp. filed suit in January 2003 after being disqualified from two contracts to provide security guards at the county's Department of Public Works administration building and field facilities. County officials disqualified the firm because it failed to comply with a 2002 county ordinance requiring the paid time for California employees.

"All proposals were required to fill out a form saying they did have a policy saying they'd provide at least five days of jury service per year," said Robert Cartwright, senior deputy county counsel for the County of Los Angeles. "Burns did not respond they would do that. In fact, they indicated they don't have such a policy."

Burns, now a subsidiary of Sweden-based Securitas AG, argued that because the county ordinance was written to include all employees in the state, the county had exceeded its jurisdiction.

A lower court judge dismissed the case, and on Oct. 19, a three-judge panel of the 2nd Appellate District affirmed the dismissal.

In the ruling, Associate Justice Daniel Curry found "there is no evidence that the county is attempting to enlarge its powers or regulate outside its boundaries under the guise of seeking bids for security services. It is simply specifying the type of employer with which it wishes to do business."

The ordinance was passed to alleviate the financial strain on an increasing number of jurors brought into the one-trial system, said Joseph Charney, justice deputy for Supervisor Zev Yaroslavsky, who brought the motion for the ordinance.

William Tebbe, a partner at Musick Peeler & Garrett LLP representing Burns, argued that according to its reading of the law the company may be forced to spend \$1 million per year to accommodate its 19,000 employees regardless of whether they live in Los Angeles County.

Tebbe said Burns does not have a company policy covering jury service because it pays based on the circumstances of each contract. In this case, he added, Burns was willing to pay for the jury service of employees who worked on the two Los Angeles County contracts.

He could not say whether he plans to file an appeal to the California Supreme Court.

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