

Strategies for Increasing Responses to Jury Summonses

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**STOP
VIOLENCE
AGAINST
WOMEN**

25 U.S.C. § 1304(d) – Rights of defendants

“In a criminal proceeding in which a participating tribe exercises special domestic violence criminal jurisdiction, the participating tribe shall provide to the defendant

...

3. the right to a trial by an impartial jury that is drawn from sources that
 - A. reflect a fair cross section of the community; and
 - B. do not systematically exclude any distinctive group in the community, including non-Indians;”



Duren v. Missouri, 439 U.S. 357 (1979)

Three-pronged test to establish a prima facie violation of the fair cross section requirement of the Sixth Amendment

1. The group excluded is a “**distinctive group**”
2. Representation of the distinctive group is **not fair and reasonable** in relation to the number of persons in the community;
3. Under-representation is due to “**systematic exclusion.**”

If the defendant establishes a prima facie violation, the burden shifts to the State to demonstrate a compelling reason for the exclusionary practice.

States retain broad discretion to define qualification and exemption criteria for jury service.

What is a Jury Plan?

A written description of procedures used to summon and qualify prospective jurors for trial.

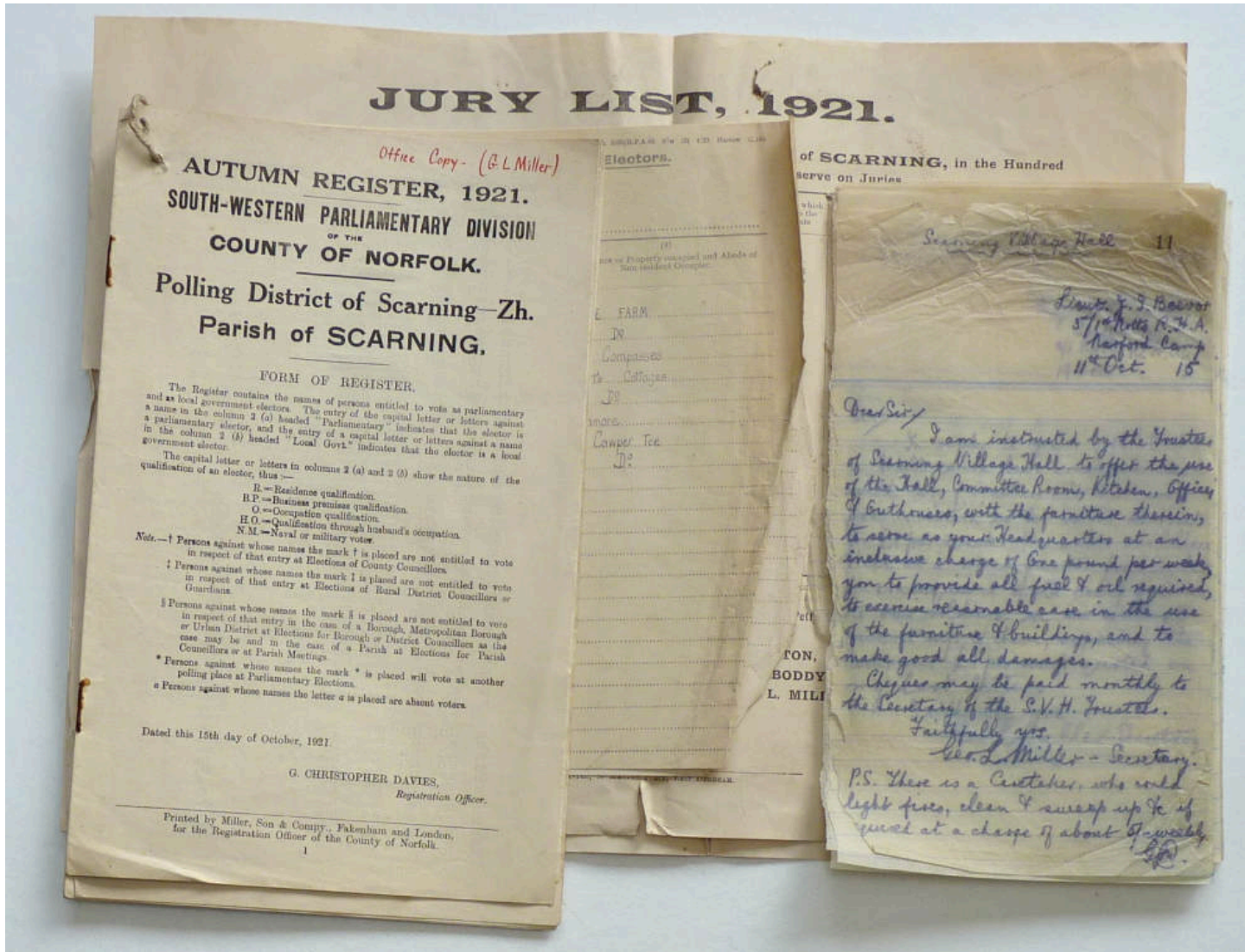
Usually adopted by the court as a formal expression of court policy.

Essential Components of a Jury Plan

- Statutory and regulatory authority
- Jurisdictional authority of the court
- Creation of the Master Jury List including
 - Description of source list(s),
 - Criteria for identifying and removing duplicate records
- Qualification and exemption criteria
- Randomization methods
- Jury Size
- Verdict decision rules (unanimous or non-unanimous verdicts)

Other Useful Components

- Excusal and deferral policies
- Term of service
- Compensation/Expense reimbursement
- Summons enforcement policies



The Ideal Master Jury List is ...

- Representative: Reflects the geographic and demographic composition of the population
- Inclusive: Includes every citizen eligible for jury service
- Accurate: Records are up-to-date and correct

Potential Source Lists

Tribal membership

Membership in other tribes

Spouses or adult children of tribal members

Residents of tribal land

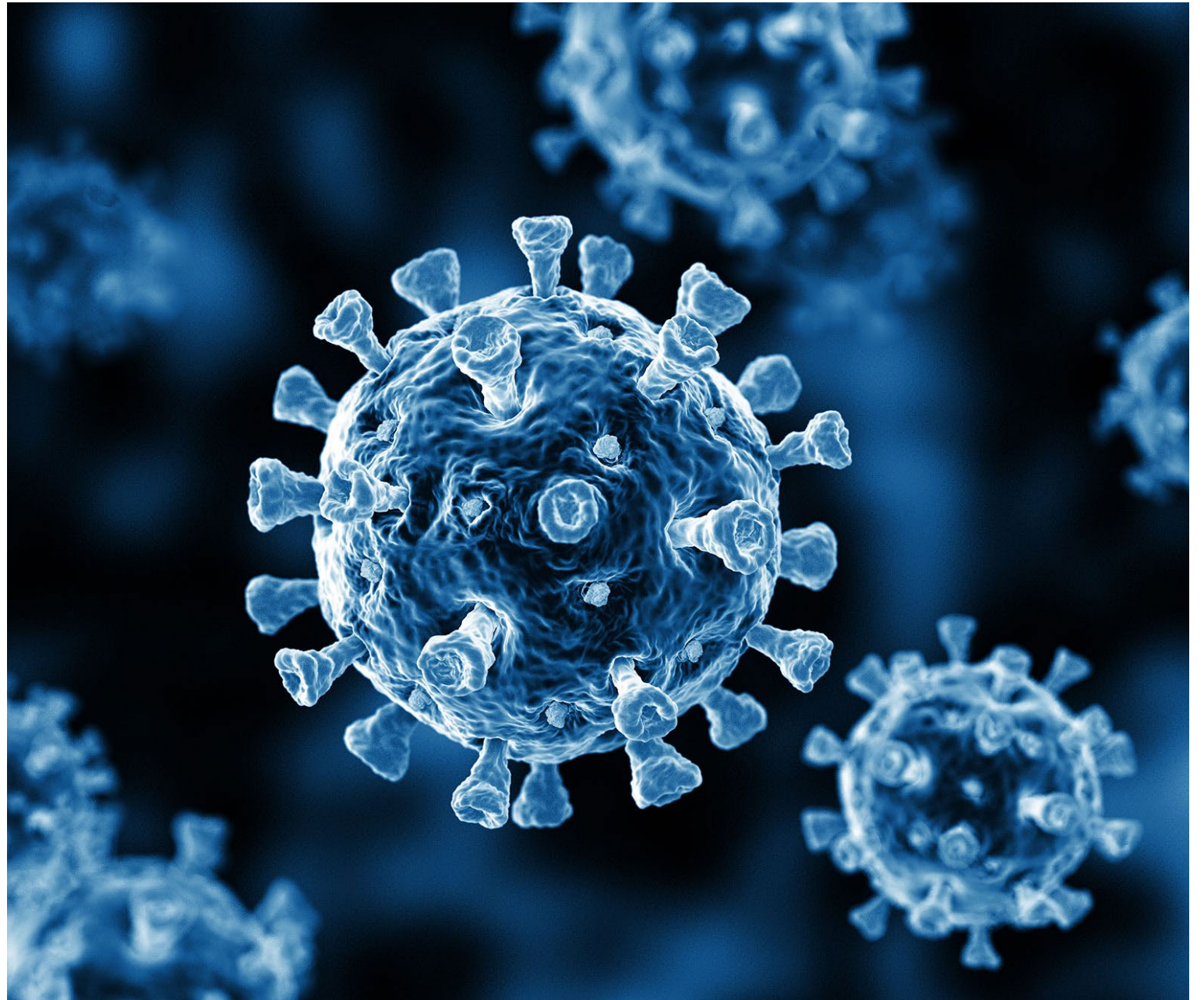
Tribal employees

Registered voters

Licensed drivers/state identification card holders

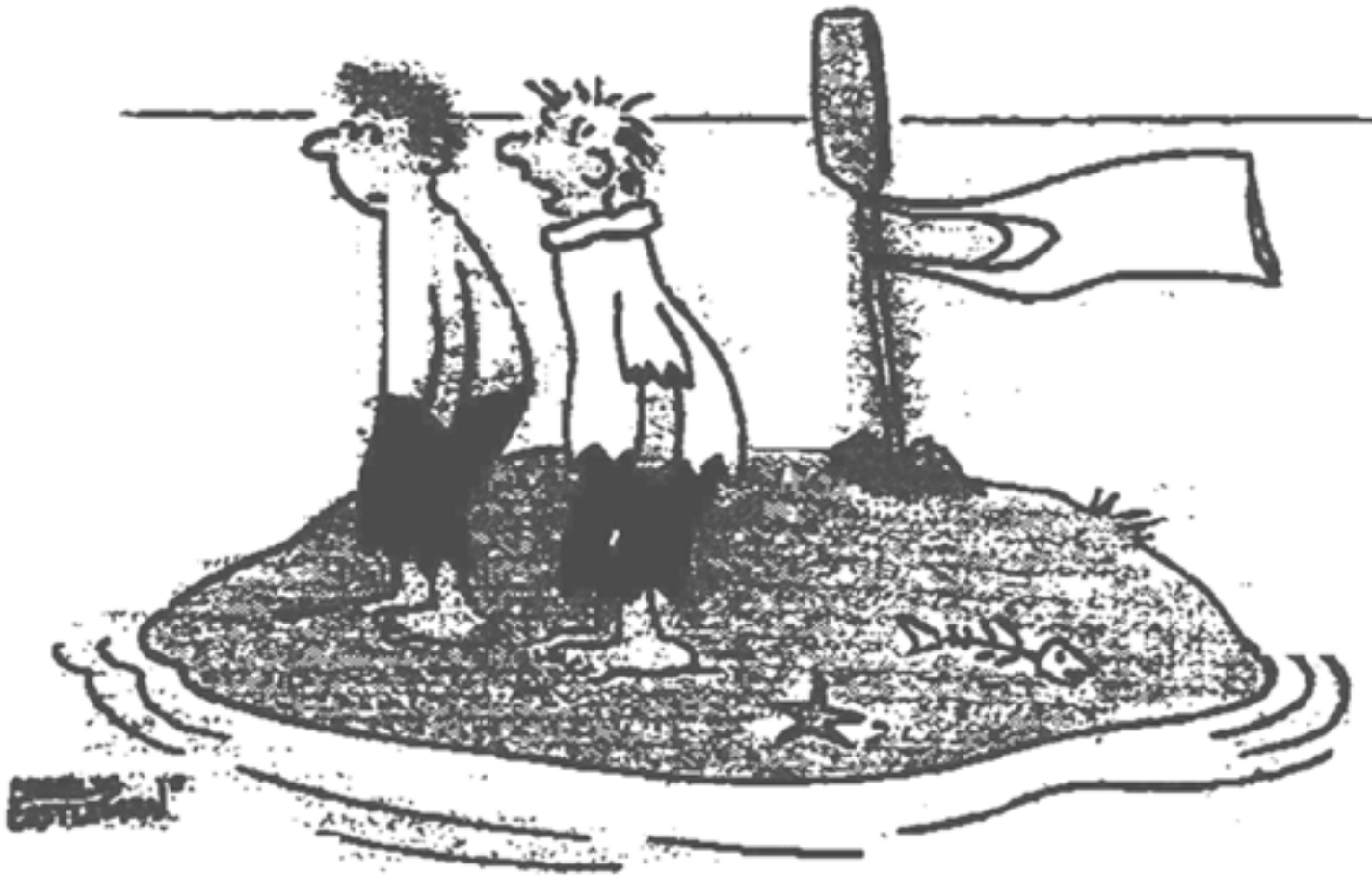
Slow, Careful Resumption of Jury Trials

- Most courts have experienced large backlogs of criminal and civil cases due to COVID-19
- Impact on demographic characteristics of the jury pool:
 - Undeliverable rates
 - Excusal rates
 - Nonresponse and FTA rates
- Importance of public outreach about health/safety measures at courthouse





Non-
response
and failure
to appear
rates



Single biggest predictor of whether a person will appear for jury service

THE CONSEQUENCES THEY BELIEVE WILL RESULT FROM FAILING TO APPEAR

“Oh, they’ll find us. I have jury duty.”



Best practices: Always follow up

- Objective: Serve if qualified and available
- Second summons/notice:
 - Single most effective approach
 - Reduce FTA rate up to 46%
- Order to Show Cause:
 - Time and labor intensive
 - If FTA rates are very problematic, conduct OSC calendars periodically, invite media
 - Random selection or worst offenders
 - Screen out "sympathetic" jurors

Preemptive FTA measures

Riverside, CA study of jury service postcard reminders

- Plain reminder postcard increased appearance rates by 6 percentage points (65% to 71%)



Fig. 3 Plain reminder postcard (front, back)

- Civic duty reminder postcard increased appearance rates from 65% to 70%
 - “Jury service – it’s important for your community. You have been called for jury duty at the Riverside Superior Court. All persons accused of a crime or involved in a civil dispute have a constitutional right to have a jury decide their cases. When you serve on a jury, you make important decisions affecting other people’s lives as well as your own community. The summons you received in the mail provides more information on how to fulfill your jury duty.”
- Enforcement reminder postcard increased appearance rates from 65% to 75%
 - “Jury service – it’s your responsibility. You have been called for jury duty at the Riverside Superior Court. The juror summons is an official court order. Failure to obey such an order could result in a finding of contempt; you could be arrested, fined, or jailed [Code of Civil Procedure Section 209]. The summons you received in the mail provides more information on how to fulfill your jury duty.”



Questions?
