VAWA ITWG WEBINAR: JURY SELECTION PART II

Friday, December 13, 2013



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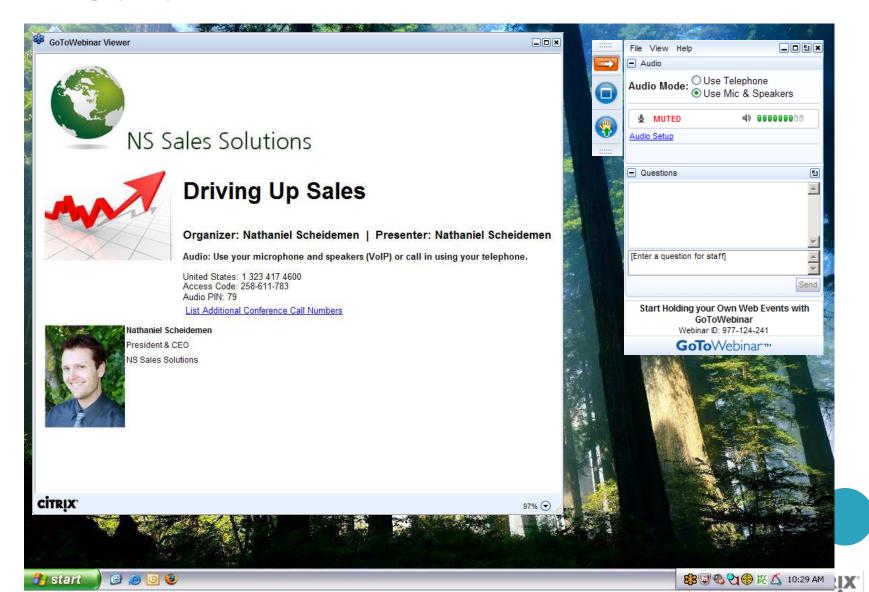
Our Focus Today:

Working on completing the VAWA <u>Application Questionnaire</u>? Consider the very first question:

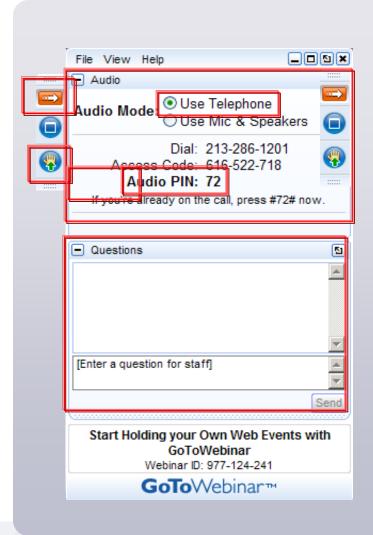
The Right to Trial by an Impartial Jury

1. In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe provide to the defendant the right to a trial by an impartial jury that is drawn from sources that reflect a fair cross section of the community and do not systematically exclude any distinctive group in the community, including non-Indians?

THE GOTOWEBINAR ATTENDEE VIEW



How to Participate Today



- Open and close your Panel
- View, Select, and Test your audio
- Submit text questions
- Raise your hand
- Q&A throughout today's session
- Recorded webinar will be made available

VAWA ITWG WEBINAR: JURY SELECTION PART II

PANELISTS:

Paula Hannaford-Agor, Director, Center for Jury Studies, National Center for State Courts

Hon. Steven Aycock, Judge-in-Residence, National Council of Juvenile and Family Court Judges

John Dossett, General Counsel, National Congress of America Indians

FACILITATORS:

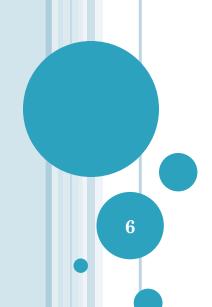
National Congress of American Indians Tribal Law & Policy Institute



VAWA Application Questionnaire:

The Right to Trial by an Impartial Jury

In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe provide to the defendant the right to a trial by an impartial jury that is drawn from sources that reflect a fair cross section of the community and do not systematically exclude any distinctive group in the community, including non-Indians?



QUESTION 1 comes directly from 25 USC § 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; and

WHAT ARE WAYS IN WHICH TRIBES CAN DEMONSTRATE THAT THEY HAVE PROVIDED THIS RIGHT TO DEFENDANTS?

• Review the concept of a Jury Selection Plan

WHAT IS A JURY PLAN?

- Detailed documentation of the procedures used to summon and qualify prospective jurors for trial.
- Usually adopted by the court as a formal expression of court policy.
- Essential Components
 - Statutory and regulatory authority
 - Jurisdictional authority of the court
 - Creation of the Master Jury List including description of the source list(s), criteria for identifying and removing duplicate records, suppression files, randomization methods
 - Jury Size
 - Verdict decision rules (unanimous or non-unanimous verdicts)
 - Qualification and exemption criteria
 - Excusal/deferral policy
 - Delegation of authority to determine eligibility, excusals?
 - Terms of service, compensation/expense reimbursement
 - Responsibility for jury system integrity including summons enforcement methods

BASIC PROCEDURES

- Identify and obtain juror source list(s)
- If using two or more lists, merge and identify/remove duplicate records
- Randomize the Master Jury List
- 2-Step or 1-Step Summoning/Qualification Process?
- Mail jury summons/qualification questionnaire
- Review summons/questionnaire responses for eligibility and availability to serve
- Jurors call in to learn whether to report for service

CHARACTERISTICS OF AN EFFECTIVE MASTER JURY LIST ...

- *Inclusive* of the jury-eligible population;
 - Includes the largest possible number of jury-eligible persons within the jurisdiction
- Representative of the jury-eligible population;
 - Proportionately reflects the demographic characteristics and geographic distribution of the jury-eligible population within the jurisdiction
- Accurate address records.
 - Jury-related mailings will be delivered to the addressee.

RANDOM SELECTION

• "Any selection method may be used, manual or automated, that provides each eligible and available person with an *equal probability of selection*"

ABA Principles for Juries and Jury Trials, Principle 10(B)(1).

- Generate a random number and assign to each record on the Master Jury List;
- Order the Master Jury List by the random number.

2-Step or 1-Step Jury Process

• 2-Step Process:

- Randomly select names from the Master Jury List to receive a qualification questionnaire for jury service;
- Place names of qualified jurors on a Qualified Jury List;
- Randomly select names from the Qualified Jury List to receive a summons for jury service.

• 1-Step Process:

• Randomly select names from the Master Jury List to receive BOTH a qualification questionnaire and summons for jury service.

Random Numbers

Using Excel to Assign a Random Number to Records on a Master Jury List

 Format the master jury list with the names, mailing address, and other personal identifiers in an Excel spreadsheet.



2. Create 2 new columns in the spreadsheet: Random 1, and Random Fixed.

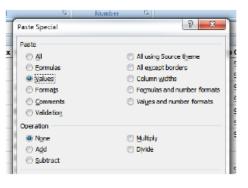


3. Use the Excel formula "=RAND()" to generate a random number in the first cell in the Random 1 column. Copy that formula to all of the cells corresponding to records on the master jury list. Note that the formula will generate a new random number in the cell every time it is activated.



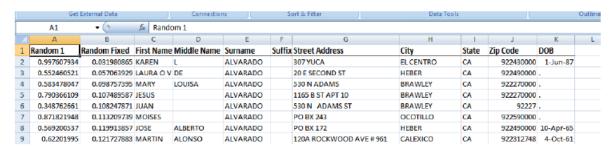
4. Copy the column of random numbers. Use the Excel "Paste, Special, Values" tool to paste a "hard version" (not formula) of the random number into the Random Fixed column. Note that the copied version of the random number in the Random Fixed column will not match the number in the Random 1 column. That's okay. Both sets of numbers are random!

Random Numbers





5. Sort the master jury list on the Random Fixed column. This is your randomized master jury list.



6. When your court needs to summon jurors for a jury trial, send jury summonses to the number of jurors needed for jury selection. Be sure to take into account that not all persons on the list may be qualified and available for trial; some summonses may be returned as undeliverable, some people may ask to be excused for hardship, etc. In state courts, the jury yield is about 50% -- that is, 50% of persons who are summonsed for jury service are actually qualified and available to serve on the date summonsed. If a court needed a panel of 30 prospective jurors, it would need to mail summons to the first <u>60</u> names on the randomized master jury list. The jury yield can vary dramatically from jurisdiction to jurisdiction.

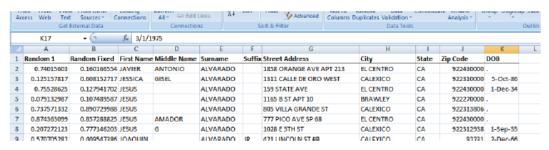
Identify & Remove Duplicates

Using Excel to Identify and Remove Duplicate Records from a Master Jury List

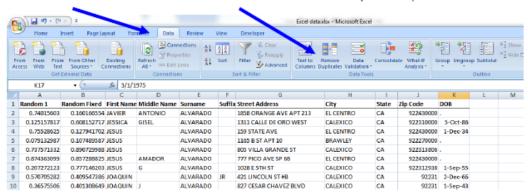
 Format the juror source lists into identical formats in Excel (e.g., identical column width, cell format, column headings, etc.). For each source list, include a column that identifies the type of source list from which the record originated. E.g., T=Tribal list; E=Employees, H=Indian Health Services, etc.



- 2. Using cut-and-paste tools, merge all of the source list records into a single Excel spreadsheet.
- Sort the file alphabetically by surname, first name, middle name/initial, suffix, and other identifying information (e.g., SSN or DOB).

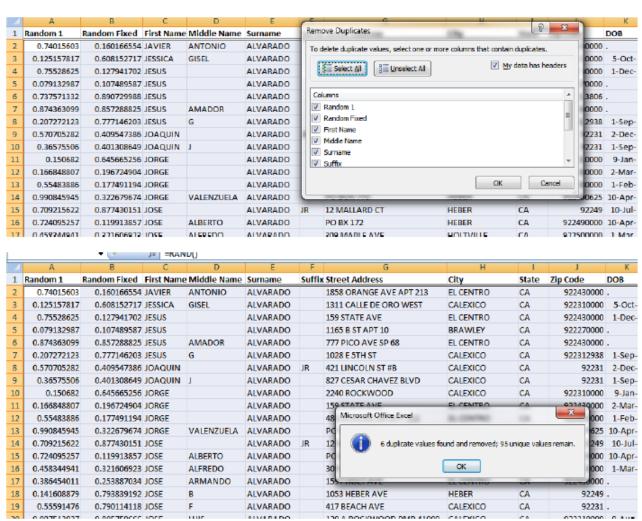


4. Click on the "Data" tab on the Excel menu and select the "Remove Duplicates" option.



Identify & Remove Duplicates

 Identify the fields on which to identify duplicate records. I recommend surname, first name, middle name/initial, suffix, and unique identifier (SSN or DOB) if available. Excel will report how many duplicate records were identified and removed, and how many remain.



NCSC LINKS: Technology Venders

- If you specify "Jury Systems" as the technology category, it provides a list of 16 vendors. Most of those are case management vendors that include a jury plug in component.
- The only vendors that focus primarily on jury automation are:
 - o ACS Government System,
 - o Courthouse Technologies,
 - o Judicial Systems, Inc., and
 - o Jury Systems Incorporated.

QUESTIONS AND ANSWERS