Effective Use of Jurors

Measure 8

Definition:

Juror Yield is the number of citizens selected for jury service who are qualified and available to serve, expressed as a percentage of the total number of prospective jurors summoned. *Juror Utilization* is the rate at which qualified and available jurors are used at least once in trial or voir dire, expressed as a percentage of the total number of qualified and available jurors (yield).

Purpose:

The objective of this measure is to minimize the amount of effort expended to summon and qualify prospective jurors and to maximize the rate at which they are used to select juries.

Method:

Courts differ in their approach to drawing a pool of qualified jurors. The Juror Yield Computation Worksheet below accommodates most one-step or combined qualifying and summoning practices.

Juror Yield Computation Worksheet

Potentially Available		Not Available	
A. Summonses Sent	_____	**D.** Non-response/Failure to appear	+ _____
B. Postponed to Serve this Period	+ _____	**E.** Undeliverable	+ _____
C. Total Potentially Available	= _____	**F.** Disqualified	+ _____
		G. Exempt	+ _____
		H. Excused	+ _____
		I. Postponed to Future Period	+ _____
		J. Total Not Available to Serve	= _____

K. Total Qualified and Available = C - J

L. Juror Yield (%) = (K / C) x 100

Notes:

A. Summonses Sent: The total number of summonses sent to prospective jurors.

B. Postponed to Serve this Period (Postponed In)**:** The number of people summoned and postponed from a previous measurement time period who are required to serve during this time period.

C. Total Potentially Available: Total number of people expected to report for jury service, calculated as the Number of Summonses Sent plus the number Postponed to Serve this Period (A+B).

D. Non-response/Failure to appear: The number of people not responding to the jury summons and not reporting for jury service as instructed.

E. Undeliverable: The number of summonses sent out that were returned by the post office as undeliverable.

F. Disqualified: The number of people not allowed to serve by statute (e.g., those who are no longer residents of the jurisdiction).

G. Exempt: The number of people allowed by statute to be excused at their own request who have made and been granted such a request.

H. Excused: The number of people excused at the court's discretion (e.g., financial hardship). Excuse guidelines should be set by statute or court rules.

I. Postponed to Future Period (Postponed Out)**:** The number of people postponed at the court's discretion during this measurement period to serve at a future date.

J. Not Available to Serve: Total number of people not available to serve due to items D through I (D+E+F+G+H+I).

K. Total Qualified and Available: The total number of persons potentially available to serve minus the total number not available to serve (C-J).

L. Juror Yield: The percentage of citizens selected for jury duty who are qualified and available to serve, expressed as a percentage of the total number of prospective jurors potentially available ((K/C) x 100).

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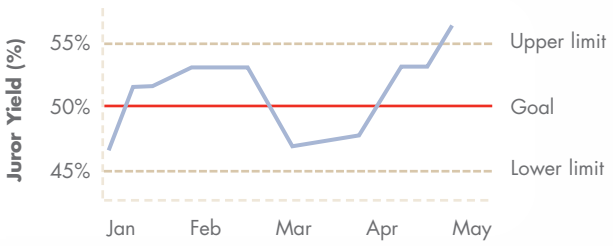
The Juror Yield Worksheet provides an overall measure of juror yield. A commonly used goal for yield is 50 percent or higher, a value demonstrated to be realistic in many well-managed courts. The worksheet also provides courts with more detailed and diagnostic feedback on specific areas in which the court might improve. For instance, courts with high percentages of undeliverable summonses (E on the worksheet) might seek to improve the accuracy of source lists. Courts with a high number of excused (H on the worksheet) might choose to evaluate their policy for granting requests to be excused or implement procedures that reduce the burden of jury service (e.g., using shorter terms of service or providing childcare). If the court has a large number of potential jurors failing to appear (D on the worksheet), it may choose to implement stricter summons enforcement.

Analysis and Interpretation

Juror Yield Over Time



Courts may track juror yield over time and evaluate unusual variations. Although variations are expected, points falling well above or well below the average can alert the court to the need for possible adjustments. For example, any time the yield rises above an upper limit (e.g., 55%), the court can reduce the number of persons summoned. Similarly, any time the yield falls below a lower limit (e.g., 45%) the court should examine its jury management practices to make appropriate improvements.

Postponement Ratio

Ratio of Postponed Out to Postponed In

	Jurors Postponed		
Month	Out	In	Ratio
March	260	250	1 to 1
April	255	253	1 to 1
May	250	245	1 to 1
June	290	220	1.3 to 1
July	300	210	1.4 to 1

From the Juror Yield Computation Worksheet, the court can calculate the ratio of potential jurors postponed out to the number postponed in to evaluate postponement practices. The ratio is calculated by dividing the number of *Postponed to Future Period* (I) by the number *Postponed to Serve this Period* (B). Ideally, this ratio should be in balance at 1:1 and stable over time so that the court is not short of potential jurors in some periods while having a surplus in others. As shown above, the court's postponement ratio has become problematic in the summer months, as more potential jurors are allowed to postpone their service.

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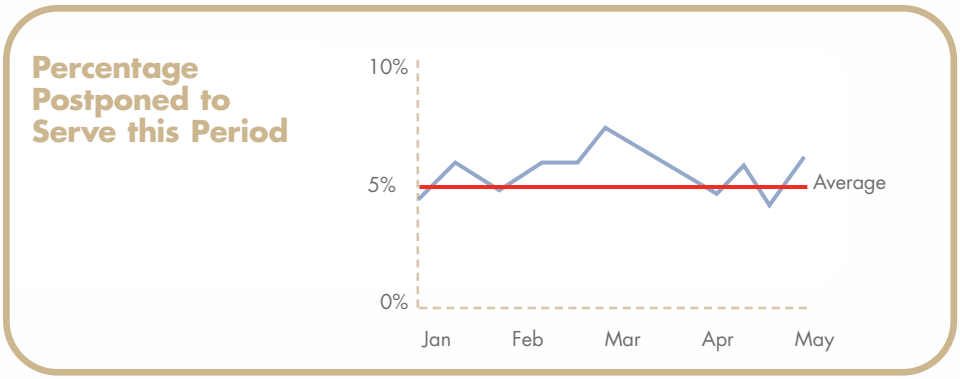
As a complement to the previous calculation, the court can also calculate the proportion of potential jurors *Postponed to Serve this Period* as a share of *Summonses Sent* **(B/A) x 100.** This allows the court to monitor deferral rates and prevent high deferral rates, since this may skew the jury pool (e.g., all "snowbirds" showing up for jury service during summer months). Based on this analysis, the court might need to restrict the time periods into which people postpone.



Juror Utilization

The second element of this measure, *Juror Utilization*, helps the court maximize the rate at which the qualified and available jurors are used to select juries. By implication, this measure minimizes the number of unused jurors (jurors who are qualified and available, but told not to report for jury service, not sent to a courtroom for jury selection, or not sworn, challenged or excused during jury selection). This element address the problems of non-use of panels due to day-of-trial cancellations; sending jury panels that are larger than needed to select a jury; and over-summoning practices that result in large number of prospective jurors being told not to report for service.

Once the prospective juror is summoned and qualified for service, the person will fall into one of six categories defined below. Note that courts need to distinguish between completed jury selection (defined as once the jury is sworn) and incomplete jury selection (defined as any time a case is disposed during the jury selection process by settlement, plea, or continuance, prior to the jury being sworn), in order to obtain an accurate picture of their *Juror Utilization*.

The categories are:

M. **Never Told to Report:** The number of jurors who were qualified and available for jury service on the date summoned who were told not to report for service.
N. **Never Assigned:** The number of jurors who were not assigned to a jury panel and sent to a courtroom for jury selection; the jurors remained in the assembly room until dismissed.
O. **Utilized in Incomplete Jury Selection:** The number of jurors assigned to a jury panel and sent to a courtroom for jury selection, when a jury was not sworn.
P. **Selected in Completed Jury Selection:** The number of jurors impaneled to serve on a jury as a sworn juror or alternate, when a jury was sworn.
Q. **Challenged or Removed in Completed Jury Selection:** The number of jurors excused by peremptory challenge, challenge for cause, or hardship, when a jury was sworn.
R. **Not Selected, Challenged, or Removed in Completed Jury Selection:** The number of jurors who were assigned to a courtroom and attended jury selection, but not questioned or needed to impanel a jury, when a jury was sworn.

Juror Utilization has three components. The first component is the *Percent of Panel Used*, which assumes the court does not impanel multiple juries for different trials from the same jury panel. This percentage is calculated as **((P+Q) / (P+Q+R)) x 100**. A suggested goal for this component is 90% or greater. The second component is the *Percent Sent for Jury Selection*, which is defined as the percentage of jurors who reported for jury service and were assigned to a jury panel and sent to a courtroom for jury selection, regardless of whether a jury was ultimately selected. The formula for this component is **((O+P+Q+R) / (K-M)) x 100** . The suggested goal for this component is also 90% or greater. The third component is the *Percent Told to Report*, which is calculated as **((K-M) / K) x 100**. For this component, 90% or more of the total jurors who are qualified and available for jury service should ultimately be told to report for jury service. The overall juror utilization rate should be 73% or greater (90% x 90% x 90%). The extra 10% of unused jurors for each component ensures that the court always has a sufficient number of extra jurors to meet unanticipated demands on any given day.

Examination of the different components of juror utilization can help the court identify specific factors that may result in under-utilization of jurors. When the *Percent of Panel Used* is consistently less than 90%, for example, it indicates that panel sizes are larger than needed and should be reduced. A consistently low *Percent Sent for Jury Selection* is often caused by day-of-trial cancellations due to settlement, plea agreement or continuance. Improved pretrial management can help courts increase the rate at which trials will proceed as scheduled so that jurors are not told to report unnecessarily. The *Percent Told to Report* reflects the precision with which the court predicts the future demand for jurors. The third component can be the most difficult to control because it requires an accurate estimate of the future demand for jurors and a relatively consistent juror yield. If the court finds that it consistently tells more than 10% of the qualified and available jurors not to report, it should reduce the number of summonses accordingly.

Calculations for *Juror Yield* and *Juror Utilization* act as a starting point for a discussion on how to improve the court's ability to effectively manage jury service. The interplay between *Juror Yield* and *Juror Utilization* demonstrates the need for using both elements of this measure. High yields affect the ability of the court to utilize all of the qualified jurors available for service. On the other hand, low yields may create a shortage of prospective jurors and may indicate that the court's efforts to summon and qualify jurors are ineffective.

Terms You Need to Know

Jury Trial: A category of case dispositions in which a jury is impaneled to determine the issues of fact in a case. A jury trial should be counted as beginning when the jury has been sworn, regardless of whether a verdict is reached.

Summons: A first-time summons sent to a prospective juror during the measurement period. This is not a count of people, but a count of all the mail sent, and should not include reminders or re-summonses (a second summons sent to a prospective juror who was postponed from a previous period).

Undeliverable: A summons that cannot be delivered. A summons that is reprocessed after obtaining change-of-address information should not be counted as undeliverable.

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