

An Analysis of Jury Management Procedures in North Dakota

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An Analysis of Jury Management Procedures in North Dakota

Ross A. Munns

Abstract

This project analyzes North Dakota Jury Management practices to determine efficiency levels. This project is vital to the State of North Dakota and its Judiciary because it measures areas critical to maintaining public trust and confidence in the jury system. The research asks and answers the question whether current jury management procedures are producing efficient results for the State of North Dakota. The four primary fronts receiving attention include, the use of the citizens' time (citizens summonsed for jury duty), the use of the staff time (in facilitating jury management steps), the use of taxpayer dollars (in jury spending), and the assurance of the ultimate production of a proper forum (unbiased and well-represented) for justice in our courts.

A thorough literature review of topics related to this research provided a complete foundation for study and comparison of the current North Dakota jury features. Research Methodology included a one-to-one interview and case study of Morton County's jury management. Additional research methods required use of the Courthouse Technologies (JMS) Jury Management System – utilizing the reports feature produced data for all counties of the state. The third and final component incorporated in the study required the production and circulation of a Jury Manager Survey, which was ultimately completed by representatives of all 53 counties in the state of North Dakota.

Findings revealed both positive and negative results as it concerns the efficient use of staff work time and responsible use of citizen time. All counties indicate *good to excellent* Jury yield rates, however strong concerns exist over very low Jury Utilization percentages. This

dichotomy essentially shows, with the positive jury yield that the citizenry is doing its part by appropriately responding and appearing for jury duty; but the negative jury utilization shows excessive numbers of individuals are being asked to report for duty, which is a jury management issue and something the court needs to address. Similar areas of concern exist over the use of staff work time while implementing a two-step Summoning system, which takes longer than the one-step method due to the extra steps involved. Finally, questions remain as to responsible spending regarding jury management. Many jury managers report little to no monitoring of their jury spending; although current budget reports indicate spending is on track and within the appropriated amounts, the process stands to improve if and when jury managers gain a better understanding of the budget process and expectations.

From this project it is possible to ascertain an understanding of best practices and then set out implementation guidelines in a manner to systematically create improvements in all areas. The goal is to achieve a level of efficiency aligned with nationally accepted standards for jury management; and re-establish a system built in a way to maintain the public trust and confidence levels necessary to ensure the equality of the system.

Introduction

Thomas Jefferson once called the jury system “the only anchor yet imagined by man by which a government can be held to the principles of its constitution” (ABA, 2012, p.1). Public participation in the justice system is a recognized staple in a democratic society. Jurors are necessary in order to try cases, as they are the impartial peers of the defendant in criminal cases and the voice and conscience of society in civil cases. Therefore we must honor the fairness of the process by performing due diligence to balance essential citizen involvement with exorbitant costs of citizen time and taxpayer currency.

The role and makeup of juries has undergone an evolution throughout history. The modern jury system provides one of the few opportunities aside from electoral voting, to participate directly in self-governance (Marder, 2005). Deciding cases is a first-hand lesson in democracy, more so than voting, because the parties are in attendance when the ruling is announced. One major difference between the American jury of today and the system used in England prior to American colonization “pre-America” jury is that modern juries are much more the recipients of information whereas the old system required active independent fact-finding by the persons on the jury panel. The jury system as we know it on American soil no longer performs investigations outside the courtroom but is allowed to make modified inquiry and interpretation of the law. Our contemporary jury service stands in marked contrast to the discriminatory practices that dominated centuries of jury history. Pre-colonial juries in England were limited to a select group of individuals, specifically wealthy, male landowners. It was 1972 before England abolished the property qualification for jury service eligibility. Even in this country, “Blue Ribbon” juries, i.e., highly qualified persons selected by the court, were impaneled well into the 1960’s in U.S. Federal Courts (Abramson, 1994). The most important

changes in jury representativeness can be seen in the shifts regarding participation of racial and ethnic minorities as well as women. These groups only began serving in substantial numbers in the latter half of the twentieth century (Vidmar and Hans, 2007).

The American Bar Association (1982) has defined jury principles and standards. In its preamble it states, “The American jury is a living institution that has played a crucial part in our democracy for more than two hundred years” (p. 1). The American Bar Association (ABA) has recognized the legal need to refine and improve jury practice so that the right to jury trial is preserved and juror participation enhanced. The efforts for this preservation resulted in a set of 19 Principles that define fundamental aspirations for the management of the jury system. These Principles are designed to incorporate the best jury practices allowed, within existing legal and practical constraints.

Jury Management

The study of jury management is a necessary and critical component to overall court management. Because citizen time investment and tax payer dollars are associated with juries, those elements make it a solemn business which requires exacting regulation. The judicial system and American government in general has a vested interest in sound jury management techniques, in order to earn and retain public trust and confidence in our systems. There is no better ambassador to relay positive messages and experiences from within the courts than a citizen who has had the opportunity to partake in the jury process. An empanelled juror who observes and contributes to the justice process can forever recall the experience and appreciate the structure we are so fortunate to have in this country.

The jury demands presented in the North Dakota District Court require critical oversight. The purpose of this study is to examine the jury yield, utilization, and overall jury management

process in the North Dakota judicial system. Extremely high jury numbers, in comparison to the clerk office size may prompt exploration for options to improve the jury management procedures. Court Administration notes the work time investment associated with two-step jury summoning as a potential source of the problems. As it is incumbent on responsible court administration to continually look for ways to advance caseflow efficiency maximize staff time, and to save overall court costs (Aikman, 2007), court administration along with the clerk of court decided to transition to the one-step jury summoning process. Prior to recognition and implementation of accepted jury utilization standards, court managers were failing to properly measure and monitor efficient jury procedures. As the court staff and citizens' time and financial investments increased it became apparent there is need to supervise closely the jury process. All should agree nonessential citizen time investment and high costs cannot be the result of lack of management planning by court leadership.

This project was initiated due to the identification of jury utilization issues first presented by North Dakota State Court Administrator, Sally Holewa at the February, 2012, Administrative Council meeting. A report was presented to Chief Justice VandeWalle, where Administrator Holewa presented North Dakota's (in 2003) adoption of the National Center for State Courts recommended juror utilization rate of 90% (NCSC, 2009a). The report illustrates areas of concern in terms of reaching the desired percentage that would represent efficient jury management (Administrative Council, 2012).

Morton County was included as an in-depth case study, because even though it has the fifth highest population in the entire state at just over 27,000 people (U.S. Census Bureau, 2010), this county has a disproportionately high rate of jury trials and contributes to the highest rate of jury trials in the state, the South Central Judicial District (SCJD), tallying 106 of the 2011 state total

of 270 (North Dakota Court System Annual Report, 2011). The high rate of Morton County jury trials contributes to an inordinate amount of time spent by the clerk of court (jury administrator) addressing jury issues. A quick comparison of the Courthouse Technologies 2011 statewide jury report shows Morton County was home to 27 of the SCJD jury trials whereas Cass County with the highest population in the state at just under 150,000 totaled 33 jury trials.

Because of the aforementioned areas of concern, the topic of jury management is best studied by first focusing on Morton County as a case study to illustrate an example of recent transition from two-step to one-step summoning, then completing a data comparison of reports on jury yield and utilization – both generated via the ND Jury Management System software program, and then by surveying all 53 jury managers in the state to gain an understanding of current impressions of their respective jury summoning methods. The desired result is to identify areas of improvement and methods that may be applicable in other areas of the ND state judiciary.

Literature Review

Fazari and Holandez (2012) recognize the main objective of court administration efforts in the area of jury management is to maximize satisfaction of jurors so that all involved will consider the results of their time investments to be worthy of the cause for justice. The National Association for Court Management (2004) outlines the purposes and responsibilities of the courts. In it they differentiate between the usual justice in individual cases and the need to also consider the “appearance” of individual justice in individual cases. The provision of individual justice and creating the appearance of it, are areas impacted by a host of variables, including the appropriation of jurors (Fazari and Holandez, 2012). The courts rely on juries as an essential component and as such, the topic has garnered increased attention and study in recent years.

Study of Juror Utilization

Assessment of juror utilization is simple to obtain by plainly asking citizens about their jury service experience. Impaneled jurors are generally pleased by their experience and endorse the use of the jury system to resolve cases (Hannaford-Agor and Munsterman, 2007). There are, however, some jurors that express concern over how their time was used in the process of serving. Experiences during jury service can usually be classified in one of four categories:

1. They were sworn as a juror, heard evidence, deliberated and delivered a verdict.
2. They were sent to the courtroom and were questioned in the jury selection process, but were not selected as a sworn juror.
3. They were sent to the courtroom but were not needed for jury selection.
4. They reported to the courthouse but were not sent to a courtroom and were dismissed (Hannaford-Agor and Munsterman, 2007, p. 1).

Munsterman (1996) indicates – proper juror utilization provides the minimum sufficient number of jurors to accommodate jury trial activity. ABA Standard 13 on juror use states, “courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors” (Munsterman, 1996, p. 77).

Munsterman (1996) summarizes good juror utilization practices with seven rules:

1. Adapt panel sizes to jurors needed.
2. Do not call panels prematurely or unnecessarily.
3. Make special arrangements for exceptionally large panels.
4. Stagger trial starts.
5. Maintain intensive operation when pool is used.
6. Do not overcall jurors to the pool.
7. Dismiss and excuse jurors whenever possible (Munsterman, 1996, p. 78).

At the same time Munsterman cautions, simply listing the guidelines is easy compared to actually installing them in your system. By having rules in place, the jury manager provides a means to determine the levels of effective juror utilization. Having identified a measurement for proper utilization levels, one can make adjustments as needed to show improvement in prediction and usage. In the end this will result in a jury system that better meets acceptable standards, “maximizes the use of those called for duty, and follows the results of good juror utilization” (Munsterman, 1996, p. 78).

The study of juror utilization places an emphasis on saving time and costs (Hannaford-Agor, 2009). When jury managers are cognizant of proper juror utilization, they closely consider the number of jurors actually needed and determine efforts to streamline the process. The three primary factors contributing to poor juror utilization are:

- 1) excessive panel size;
- 2) day-of-trial cancellations due to plea agreements, settlements, and continuances;
- 3) over-summoning practices (Hannaford-Agor, 2009, p. 52).

Failure to acknowledge poor juror utilization creates problems for court managers as well as for the jurors. People who report for jury duty and are then not needed to serve contribute to hidden administrative costs to the system. Making improvements to guard for these scenarios is warranted because the short term costs will justify savings in the end (Hannaford-Agor, 2009).

The most important part of effective jury management should be the court's proper use of jurors once they arrive at the courthouse and are "qualified" as jurors. Part II of *CourTool 8 Effective Use of Jurors* (NCSC, 2005) provides necessary information to collect data for processing juror utilization rates.

Munsterman (1982) recommends one useful tool for increasing juror utilization efficiency is to develop a method of estimating the next day's court activity. Jury managers can learn to refine expectations from one trial to the next based on variables such as level of offense/type of case, and the amount of exposure in the media. The National Center for State Courts (2009a) suggests a useful way to calculate "ideal" numbers of jurors to summon is to start with the jurors needed for any given trial and work backward. "The National Center for State Courts (NCSC) recommends that courts summon only enough jurors to ensure that 90 percent are sent to a courtroom for voir dire, and that 90 percent of jurors sent to a courtroom are actually "used" (sworn as a trial juror or alternate, excused for cause or hardship, or removed by peremptory challenge) during jury selection" (Hannaford-Agor, 2009, p. 50). The NCSC emphasizes, in the current economic climate, courts would be better served by improving juror utilization and, thus,

reducing the wasted resources associated with poor juror utilization, rather than by cutting other budgetary lines in the jury operations budget.

Importance of Measuring Jury Yield

Jury yield is one component of the overall measurement of juror utilization. “Jury yield” is the rate of the number of summonses that must be sent in order to identify one qualified person for jury service. “It is one of 10 key measures of court performance included in the NCSC CourTools that court managers can use to assess court performance and is a common measure of the administrative effort and costs expended to secure an adequate pool of prospective jurors for jury selection” (Hannaford-Agor and Waters, 2008, p. 2). By studying jury yield, responsible court managers can develop procedures to maximize summoning efficiency, thereby saving citizen time and taxpayer dollars.

Munsterman (1996) provides excellent analysis of jury yield, the factors involved, and ways to improve it. “Yield” measures the quality of the source list because it measures percentages of names on the source list that actually end up in serving on the jury. Munsterman suggests closely monitoring jury yield and the coverage of the list to gain a solid understanding of the cause and effect relationship. “For instance, if the coverage is increased and the yield decreases, then the gain as indicated by the increased coverage may not be real” (Munsterman, 1996, p.46).

Determining the percentage of potentially available jurors requires dividing the number of jurors unavailable by the total number of potentially available jurors. This is a difficult measurement because the data elements continually change over the reporting period. A host of elements contribute to the challenges in measuring. Issues such as undeliverables, excusals, and

postponements are potentially systemic problems and should be accounted and adjusted for whenever possible (Slayton, 2007).

Jury Summoning Methods: One-Step v. Two-Step

The National Center for State Courts (2009b) describes the differences between the two methods and strategies for assessing the need for change. The two-step jury management system first qualifies prospective jurors, and then summonses those who are qualified to report for jury duty. The one step summoning process combines the two steps into one. Essentially the qualification process for two-step courts tends to result in duplicative efforts by jury staff to manage during the later summoning stage of jury selection. The two-step system also tends to be more expensive because of the two separate mailings necessitating additional printing and postage costs.

G. Thomas Munsterman (1996) provides a succinct breakdown and description of the different methods available for juror qualification and summoning. There are two primary ways to conduct the process; either separate qualification and summoning or combined qualification and summoning. In either process, the court selects names from the master or qualified list, usually by a computer, which also prints the name on the form (questionnaire or summons) and prepares it for mailing. The result of the qualification process is a qualified list, and the result of the summoning process is a list of the prospective jurors reporting to the courthouse.

Nationwide approximately 60 percent of the state courts implement the two-step jury system. Although there was once a time when multiple steps in jury management were justified due to political purposes, the political influences have since dissipated with the evolution our country and there no longer exists a need to be suspicious of foreign interests, as when the

original colonists were suspicious of influence from the King, in the pursuit of justice (Hannaford-Agor and Waters, 2010).

Hannaford-Agor and Waters (2010) give compelling reasons for consideration and adoption of the one-step summoning process (overall more efficient and less costly). A clear plan must be in place if and when the conversion takes place, in order to assist in the change. They emphasize the need to account for three principal parts to the new combined form used in the one-step approach – the jury summons, juror information, and general information.

Importance of Jury Management

Over the past twenty years the American jury system has become the focus of interest by both the legal community and the American public. The renewed interest has spawned debates by judges and others in the legal community to examine jury performance and to consider the potential areas of reform (Mize, Hannaford-Agor, and Waters, 2007).

Robert J. Grey, Jr. made the American jury the focus of his tenure as the 2004-2005 President of the American Bar Association (ABA). During that time period the ABA undertook efforts to update various sets of jury trial standards into a unified set of principles. The result being the new ABA Principles for Juries and Jury Trials, which rely heavily on a large body of empirical research about juror behavior (ABA, 2012).

As a means to enhance jury management, the National Center for State Courts (2010) created a review tool as part of the Jury Managers' Toolbox. The document provides overview on the need for fairness in the jury process. The challenge for jury managers is to strive for fairness and equal representation in the process. Remembering the phrase "a jury of one's peers" reminds the jury manager of the need to "mirror" its community in terms of demographics. In addition to referencing landmark case law that provides guidance for future efforts on equal

representation, the NCSC cites two areas as constitutional basis for ensuring fair cross section representation in juries, the first is the Sixth Amendment right to an impartial jury and the second is the Equal Protection Clause of the Fourteenth Amendment.

Juror Term of Service

The court recognizes the need to balance the citizens' civic duty with what would be considered reasonable investments of time to fulfill that duty. To protect the sanctity of the jury system, jury managers should not demand a level of citizen investment that creates undue hardship upon them. Efforts to regulate juries with minimal adverse impact on citizen lifestyle include the American Bar Association (ABA, 1993) principles for juries and jury trials, which specifically endorses the one-day/one-trial term of jury service.

Advantages of this system include:

1. Jury service that is limited to the longer of one day or one trial reduces the hardship associated with service, thus reducing the need for exemptions or excuses from jury service.
2. The reduced number of persons excused with one-day/one-trial jury service terms increases the representativeness and inclusiveness of the jury pool.
3. One-day/one-trial jury service terms encourage courts to make more efficient use of juror time (since they have only one day to use the prospective juror's services), thus increasing juror satisfaction with jury service.
4. Because one-day/one-trial jury service terms require courts to summon greater numbers of prospective jurors, more persons have the educational experience of serving on a jury, which is generally a positive experience.

Potential disadvantages to the one-day/one-trial jury system include:

1. Compared with courts that have longer terms for jury service, courts that use a one-day/one-trial system have to summon greater numbers of persons for jury service.
2. Compared with longer jury service terms, one-day/one-trial systems have increased administrative costs for postage, forms, and court staff.

3. One-day/one-trial systems necessarily preclude the development of “seasoned jurors” or the ability to track juror performance on prior trials.

4. One-day/one-trial systems require courts to conduct juror orientation more frequently.

5. Inefficient use of juror time by courts using one-day/one-trial systems can result in a wasted day and a poor jury experience for the person summoned for jury service (Munsterman, Hannaford-Agor, and Whitehead, 1997, p. 30).

The “one day or one trial” term of jury service involves the court calling prospective jurors with the goal being to have them serve for a period of only one day (or the completion of the trial if impaneled). If a prospective juror is not selected, the prospective juror is considered to have fulfilled the obligation of service until called again generally, many years later (Munsterman, Hannaford-Agor, and Whitehead, 1997).

Response to the Failure To Appear

In order to avoid what would be certain dissolution of equal representation of citizens in the jury system courts have established procedures for following up on citizens who do not respond to the jury summons. To avoid damage to the jury system on a national level, the procedures dealing with juror failure to appear (FTA) need to account for:

- 1) Individual failing to make arrangements with the court when they know they cannot report for jury duty,
- 2) Individuals that simply fail to appear on the date they are scheduled, and
- 3) When people fail to return their qualification questionnaires (Munsterman, Hannaford-Agor, and Whitehead, 1997).

Since juror FTA’s contribute to increased administrative costs, courts around the country are now more closely monitoring nonresponse rates. Citizens tend to report for jury duty when they know there are consequences if they fail to do so (Munsterman, Hannaford-Agor, and Whitehead, 1997).

Approximately 80% of courts do some sort of follow-up on jurors that fail to appear on the date listed on the summons. Of these responses, the methods which show the most promise in effectively reducing FTA's are those that issue a second summons to the juror in question. The courts employing the "second summons" plan showed rates 24% to 46% lower (NCSC, 2009d) than those that used other methods of follow-up after the fact (Hannaford-Agor, 2008, p. 28). The purpose of the program is to make FTA jurors aware that there are repercussions for those actions, and the court is prepared to enforce the jury duty summons the same way it does for any other court order (Hannaford-Agor, 2008).

Non-response and FTA rates can significantly undermine jury system efficiency. Judicious and regular follow up on all jurors who fail to respond to a jury questionnaire or who fail to appear for service is a necessary component to sound jury management. When jury managers are consistent with enforcement, it increases overall jury yield thereby improving the equal opportunity of the jury pool (NCSC, 2010).

Regulating Excusals

Court systems are increasingly more open to acknowledge the changes in societal demands and the need for discretion in regulating excusal from jury service. Every jurisdiction grants some level of discretion to the trial courts in order to excuse individuals from jury service when a hardship can be proven. Some statutes are more stringent when considering the extent of hardship a person needs to show before being excused from jury service. Generally there are three types of hardships that at least gain consideration by the jury manager - medical, financial, and extreme inconvenience creating an unreasonable level of personal sacrifice. Medical hardship excusal would require supporting details regarding the medical condition from a licensed health care practitioner. Financial hardship may be approved if a prospective juror

could show the expected loss of income due to the anticipated length of jury service could not be recovered after the service is complete (NCSC, 2009c, p. 2). Extreme inconvenience may include unemployed individuals with custody of small children, the jury manager may consider excusal or delay in service.

Court Administration Efforts to Improve Procedures

The field of court administration made major strides in improving jury management during the 1970's and 1980's. Initially the main focus was on making improvements in areas such as source lists, responses to summons, utilization, random selection, and overall information/orientation to improve system effectiveness. More recent efforts to improve have incorporated advances in technology to include software that eases the production and facilitation of the jury management process (Aikman, 2007).

Jury trials take place in an institutional framework established within each state. Because of the need to abide by statewide procedures, recent jury improvement efforts demonstrate the preferred approach in most states has been to appoint statewide commissions or a task force to examine issues of concern. These jury commissions and task forces generally confront only a few issues - the most common focus involves making recommendations for legislative and rule changes. Jury improvement efforts correlate with population size and jury trial volume. The courts with the most jury trials and those in the population centers were more likely than rural courts to instigate improvements in areas such as juror terms of service, juror compensation, or to consider altering juror summoning procedures (Mize, Hannaford-Agor, and Waters, 2001).

Methodology

The research design for this project consisted of three primary elements. The first was a case study of the Morton County District Court jury administration techniques, including an interview and subsequent follow-up information produced by the Clerk of Court, Ms. Lois Scharnhorst. Morton County's procedures were measured by reviewing data reports and measuring juror usage over 6-month timeframes both prior to and then after the transition to the two-step model for juror summoning.

The second element of the project design was a review of North Dakota's juror yield and juror utilization data reports, which can be accessed via the Courthouse Technologies Jury Management Software currently utilized by the North Dakota Court System. These data essentials provided county-by-county comparisons.

The third and final element of the study was a survey of jury administrators conducted in all 53 counties of the state. Each provided information specific to their court and jury management procedures.

The goals of this project were to: 1) identify significant factors undermining efficient jury management (i.e., steps included in jury summoning), as well as successes, 2) recommend implementation of the recognized successful methods across the state, and 3) compare utilization rates to the 90% recommended juror utilization efficiency rate (NCSC, 2009a).

Project Element One: Morton County Case Study

This project investigated and highlighted recent jury management adjustments implemented in the Morton County District Court, which is located in the South Central Judicial District of the North Dakota Court System. By focusing on the methods utilized in Morton County, one can analyze and evaluate efficiencies of the one-step and two-step jury summoning

practices. Studying the Morton County example gives valuable information for considering procedural adjustments statewide.

The decision to focus on Morton County was due to the size of the office as well as the volume of juries held on an annual basis – summoning between 3,000 and 5,000 potential jurors a year. In order to create a valid measure of jury yield and utilization efficiency, one must use a representative sample of high frequency jury trials within the state, which Morton County provides. The county seat is located in Mandan, North Dakota, which is located directly across the Missouri River from the capital city of Bismarck.

All of the typical challenges exist for maintaining successful jury administration. Issues such as short notice continuances change of pleas, settlements and dismissals, as well as requests from jurors for special accommodations, and outright failures to appear – all contribute to the already difficult task of managing a jury. As a response to these challenges, the Morton County jury manager made the decision to transition from the two-step method of summoning jurors to that of the one-step. This was the main reason for considering this county for the basis of the case study. By analyzing the reasons for the change, the process of the change, and the results of the now different process, information can be used to determine whether the adjustments paid off in terms of staff time savings for the clerk staff, which translates into cost savings. The process of investigating and considering the clerk responses to questions like, “What concerns did you have prior to making the transition from the two-step to the one-step summoning process?” and “What steps did you take to make the transition?” help to identify areas necessary for consideration prior to replicating these sort of changes in other areas of the state.

Interview with County Clerk – Jury Manager

To provide a preliminary foundation for the case study, the first stage involved an interview, which was conducted with the Morton County Clerk of Court. One of the major duties held by the clerk in this county is to oversee and administer the jury program. The interview provided background information in areas such as the number of years worked in the court system and positions held during the jury manager's career. This information provided a basis for determining sound decision making during everyday facilitation of jury duties. Quality experience with jury management procedures indicates strength in aptitude for detecting problems and making adjustments when necessary. Prior to the interview meeting, a copy of the questions was given to the jury manager so that she could prepare for the sort of issues we would discuss, providing her with a preview of the interview questions (Appendix B).

At the end of the interview discussion it was mutually agreed that it would also be beneficial to simply have her type out the information to more carefully answer each of the issues. A follow-up discussion at the conclusion of the interview produced a list of ancillary materials created by the Morton County jury manager, all of which may be considered for use during the transition process, such as:

- One-Step Instructions (for JMS)
- Number of Jurors to Summons for One-Step
- The Jury Line Procedure
- The Jury Line Message
- Jury Trial Procedures (Civil and Criminal)
- Mileage Calculation Tips

Since the main purpose for the interview with the jury manager, the Morton County Clerk of Court, was to find out whether the recent changes to the process have been considered a success and a worthwhile initiative, This initial stage created a solid foundation for the remainder of the project.

Jury Data Access and Report Generation

Implementing the second stage of the Morton County case study was made possible only after consulting the North Dakota Judicial Branch office of Information Technology (JBIT) to obtain permission (access) to the statewide jury data base. The researcher received permission in the Courthouse Technologies Jury Management System (JMS) to review jury data and generate reports for all districts in the state.

By choosing the Yield option in the JMS Statistical Tab the screen options shift to the heading titled, “Yield by Date Range” and has space for a date range to be entered, this allowed for specified timeframe measurements. In this case, increments of one-month time segments were entered beginning with a “From Date” of October 1, 2011 and a “To Date” of October 31, 2011 for 12 full months, ending with the final identified time segment of September 1, 2012 to September 30, 2012. The Yield reports generated over this range of dates allows for a six-month data comparison of Morton County yield results under the two-step method of summoning (October 2011 through March 2012), as well a six-month data comparison of the newly transitioned one-step method (implemented fully in April 2012 and measured through September 2012). By choosing the Utilization option, the JMS program provides data windows instructing users to select and identify a specific year and month for report generation. The Utilization reports allowed for computation formulas provided in the Trial Court Performance, CourTool Measure 8 (NCSC, 2005).

The goal of these comparisons was to gain knowledge through studying “jury yield” and overall “jury utilization” in this single court in Morton County, that can be replicated in courts across the state, if the judge or jury manager so decides.

Morton Jury Manager Survey Results

The final stage of Project Element One entailed the review and comparison of the Morton County Jury Manager Survey Results. By isolating and studying the responses in comparison to other courts in the same Judicial District (South Central), we gained valuable information for potential future jury process enhancements.

Project Element Two: Juror Yield and Juror Utilization Data Collection

As stated previously, statistical reports produced via JMS allow for measurements of jury “yield” and “utilization” thereby giving an indication of the courts’ overall efficiency in the use of jurors. Project element two analyzed jury yield and utilization reports measuring data over the same 12-month period, October 2011 through September 2012, for all counties that average over 20 jury trials per year. Again, the CourTool Measure 8 computation worksheet was employed to calculate the Juror Yield percentage (40% is considered adequate), as well as the two-part measure of Juror Utilization. Part I of the Utilization formula requires information used in calculating the yield regarding the total number of individuals serving, which is divided into the total number of jurors actually used plus any alternates. The generally acceptable goal is 30% for calculating Part I. Juror Utilization Part II considers all jurors plus alternates, any peremptory challenges or challenges for cause, and any jurors not used, which is then divided by the total number of jurors serving. This total is then multiplied by 100 to arrive at the overall Juror Utilization, which has a generally accepted rate of 90%.

For the statewide review, similar methods were utilized to produce the JMS reports, as in the Morton County review. Counties reporting eleven or more trials per year were identified as part of the jury yield and utilization study, including 15 out of 53 total North Dakota counties. The final reports indicating jury yield and utilization for each location were then analyzed to recognize patterns amongst similar court structures (e.g., the eleven one-step counties were grouped and the four two-step counties were grouped). Additionally, the reports were compared to the 6-month timeframes, which coincide with the similar summoning method used by Morton County. An example of this sort of comparison would be to review the data from October 2011 through March 2012 and compare data between Ramsey County and Morton County, because during that timeframe both Counties implemented the two-step summoning process. Similarly, comparing Cass, Burleigh, or Walsh and Morton Counties across the timeframe of April 2012 through September 2012 makes sense because they were all utilizing the one-step summoning procedures during that timeframe.

Primary areas examined in project element two included a measure of the Morton County management of juror utilization data (including jury yield) for the study period. By comparing Morton County data to the other state-funded counties, whether they were under the two-step or one-step summoning processes, provided positive or negative correlations.

Project Element Three: Statewide Survey Results

Project Element Three was designed to survey jury managers. The type of information collected was impressionistic in that, much of the information was simply the opinion of the jury manager on a certain topic. However, the line of questions included in the survey was deliberately intended to invoke the jury managers' true impressions of their respective current jury applications.

A survey (Appendix A) was sent via e-mail correspondence to all 53 of the clerks of court in North Dakota. The initial response was tremendously successful in receiving completed surveys from over half of the state within the first three days. In an effort to have complete and accurate data, two follow-up messages were sent and ultimately, after five weeks the response rate reached 100%. The survey produced valuable information on the number of occasions each court summons for a trial annually. Knowing the frequency of trial summoning for each of the 53 courts, and comparing that information to the number of days each prospective juror was on-call, can help in considering what is the best practice as it pertains to public involvement in the jury system.

The baseline comparison data given by individuals from both the one-step and two-step jury summoning process¹ allows for consideration of the most efficient methods for possible future implementation across the state. The information collected via the survey focused on jury administrator impressions of the adequacy of levels of the summoning stage (i.e., staff time spent for the summons procedures), juror utilization rates, juror costs, and juror terms of service (i.e., on-call expectations).

Combining the three different data elements of the study; the Morton County Case Study, the Juror Yield and Utilization Reports, and the Statewide Survey Results, provides a robust investigation into the topic of North Dakota Jury Management. The benefit of using multiple approaches or *triangulation* to gather data, offers additional levels of validity to the information and added credibility to final results of the research.

¹ There is an apparent misunderstanding of the definition of the one-step and two-step summoning methods. Some of the jury managers indicated they use the one-step method but then also indicated they have jurors for more than the minimum option of 1 to 30 days (on the survey). A true one-step summoning process should preclude the need for any individual being *on-call*, as they would be summonsed and qualified during the same one-time mailing, any additional mailings (for persons remaining on-call) would be considered a two-step process.

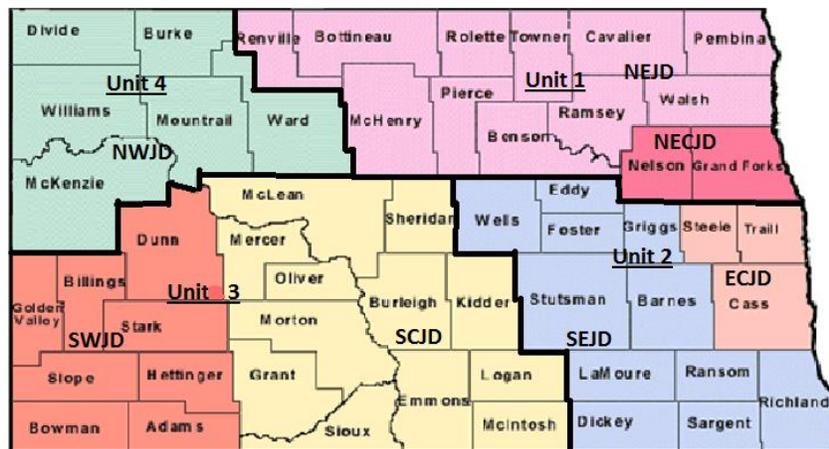
Findings

The findings from this project are presented in three parts; the Morton County Case Study, Statewide Juror Yield and Utilization Report review, and the Statewide Survey Results.

Morton County Case Study

The initial phase of this project studying North Dakota Jury Procedures involved a three-stage focus on the Morton County jury actions and results; including a One-to-One Interview with the Jury Manager – Lois Scharnhorst. To provide a perspective of the state court system, see the map of the Judicial Units and Districts (Figure 1). Morton County is one of 12 counties located in the South Central Judicial District (SCJD). The county seat is the city of Mandan, where the District Courthouse is located.

Figure 1: North Dakota Court System Unit And District Map



Unit 1 includes the Northeast and Northeast Central Judicial Districts (total of 13 counties)

Unit 2 includes the East Central and Southeast Central Judicial Districts (total of 14 counties)

Unit 3 includes the South Central and Southwest Judicial Districts (total of 20 counties)

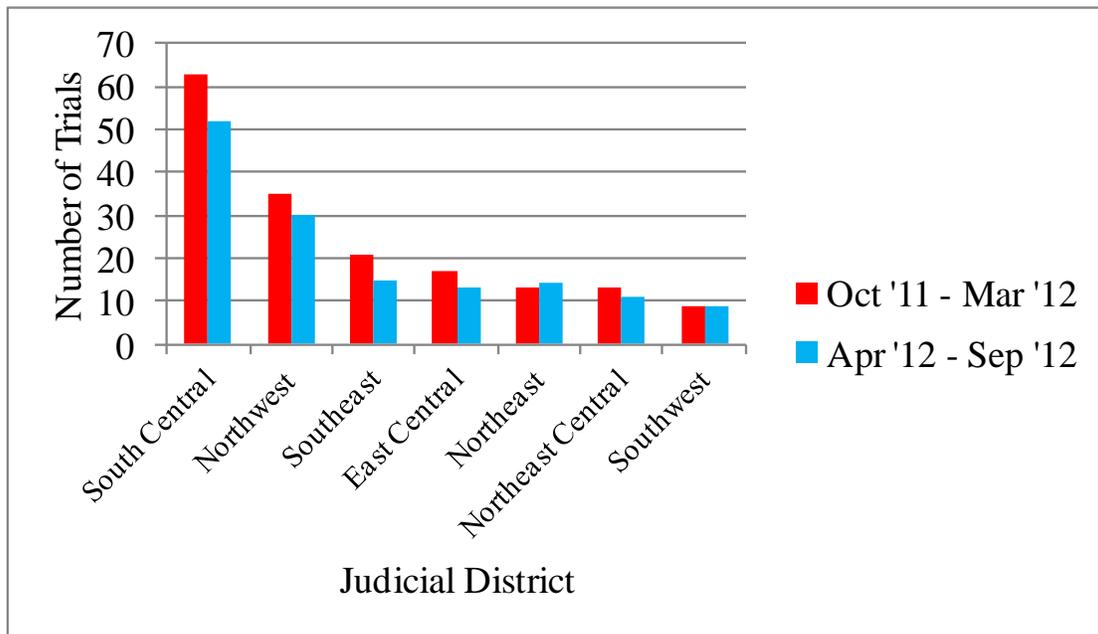
Unit 4 includes the Northwest Judicial District (total of 6 counties)

Figure 2, below, illustrates the exceptionally high rate of trials held in the South Central Judicial District, as compared to the other six judicial districts of the state. With a total of 63

trials during the first date range measured and a subsequent total of 52 for the second time period, it is clear the South Central Judicial District hosts the highest frequency of jury trials in the state of North Dakota. The next closest total comes from the Northwest Judicial District with 35 and 30 trials held respectively, per the date range measurements.

Finding Number 1: The South Central Judicial District has a disproportionately high rate of jury trials, compared to the other court districts in North Dakota.

Figure 2: Statewide Total Number Of Trials Held



Finding Number 2: Morton County has a disproportionately high rate of jury trials, compared to other South Central Judicial District Counties, as well as all other counties in the state from all other judicial districts.

Table 1 shows the high rate of jury trials held by Morton County, as compared to the other counties in the SCJD. Morton was chosen as the primary county for case study due to the proportionately high rate of trials held per year based on its size and volume, in addition to the

Table 1: South Central Judicial District - Total Trials

<u>County</u>	<u>October 2011 - March 2012</u>	<u>April 2012 - September 2012</u>
Burleigh	31	26
Morton	13	13
Kidder	2	1
McIntosh	2	0
Sheridan	2	1
McLean	1	5
Emmons	0	0
Grant	0	0
Logan	0	1
Mercer	0	0
Oliver	0	0
Sioux	0	1

recent decision to change from the two-step to the one-step Jury Summoning process.

Additional to the elements learned via the interview was the information gained by comparing the Morton Jury yield and Utilization during six-month periods prior to and then after the implemented transition from the two-step to one-step Summoning method. The final element of the Morton County Case Study required a close review of the survey responses to consider the current methods and impressions of their efficiency.

One-to-One Interview

The information gained from the interview with Morton County Jury Manager, Clerk of Court Lois Scharnhorst, provided valuable context for the overall study. The methods utilized, the jury manager’s positive attitude and constant quest for maximum efficiency provide an example for others to emulate. The lessons learned and adjustments made to the process by the

jury manager, continue to mold and shape the process in an effort to provide the best possible service to all participants in the jury system; both staff and the public. The interview discussions reveal a conscientious jury manager making a best effort to find success.

The interview (Appendix B) revealed the Morton County jury manager's experience within the court system as a whole and delves into the specific duties involved with managing the jury process. Highlighting the numbers of jury summonses provides context for the overall study, and gives an indication of the level of ability shown by this jury manager.

“In 2011 we summoned 3,416 people. Of those people, 638 appeared in court for jury service and 184 served as jurors. From January 1, 2012 through September 26, 2012, we summoned 4,948 people. Of those people, 417 appeared in court for jury service and 102 served as jurors.”

Discussing the recent transition from the two-step summoning practice to the one-step provides a framework for potential change statewide, should the need arise. The Morton Jury Manager discussed reservations and concerns that presented prior to making the changeover.

“I was concerned about the amount of time I would spend mailing out jury summonses and inputting the information when the jury questionnaires were returned. I also had some concerns about getting the proper number of jurors to show up in the courtroom the day of trial.”

Additional testimony by the Morton Clerk presented the steps taken to implement the transition.

“First, the Clerk of Court in Burleigh County trained me on the one-step system. Then I came back to my office and prepared cheat sheets for myself and staff and went from there.”

Since making the change to the one-step process, the Morton Jury manager states the following as a comparison, and gives the subsequent advice to anyone considering a change to streamline the process.

“I prefer the one-step method. The public is much happier, as am I. It is very easy to do and saves time for myself and staff. Go for it. You will not regret making the change. The one-step system is easier to manage.”

The reason for this line of questioning was to provide a foundation for decisions and adjustments made to the jury process.

The National Center for State Courts (2009) recommends two best practice options when considering a change from the two-step summoning practice to the one-step. The Morton Jury Manager discussed issues she considered prior to the decision to choose the *specified date* option. Clerk Scharnhorst wanted to have a clean break in the summoning process and felt enough confidence in her staff’s ability to implement the procedure to avoid the phased-in approach to making the change. With all necessary steps completed (see Table 2, and Appendices C, D, and E), the change from two-step to the one-step summoning practice in Morton County was completed without incident.

Finding Number 3: There appears to be a correlation between proper preparation and successful transition when changing jury administration procedures.

The jury manager also discussed the relatively high volume of jury summonses needed in this county and the subsequent creation of guideline estimates for summoning each case type (Table 2). Indications of number of persons (i.e., 12-person, 6-person, or 9-person) in the chart below refer to jury size needed for that specified case type.

Table 2: Morton County Jury Summoning Guideline
Number of Jurors to Summons Under One-Step System

<u>Criminal Case Type</u>	<u>Jurors</u>	<u>Summonses</u>
AA Felony ²	34	80
GSI Felony/AA ³	38	86
GSI Felony	34	80
12-Person Felony	27	64
6-Person Misdemeanor	17	44
6-Person DUI	18	45
<u>Civil Case Type</u>		
9-Person	20	50
6-Person	17	44

It should be noted, the Morton Jury Manager regards the information shown in Table 2 as a work in progress, and the targeted summonses are adjusted as needed, to ensure the requisite numbers of jurors are present on the day of trial. Additionally, the judge always reserves the right to direct summoning at higher rates. Sometimes based on the level of publicity a particular case has received by local media, and the added difficulties of finding impartial jurors, due to the high-profile nature of the incident(s).

The amount of staff time invested in processing jury questionnaires at a rate of 3,000 to 5,000 per year causes a strain on the workforce which requires an appropriate response in order to streamline, as much as possible, the procedures involved. Appendix C illustrates a set of instructions created by the Morton Jury Manager to assist staff with the one-step system while working in the JMS program. The instructional sequence provides consistency and accuracy in inputting necessary information. Additional efforts made to ease the burden on jury procedures include complete guidelines in using the Jury Line (Appendix D). Instructions and a script are

² AA Felony is the highest level of offense in the North Dakota Bureau of Criminal Investigation offense code (BCI, 2011).

³ GSI Felony/AA indicates the AA Felony level (most severe) Gross Sexual Imposition offense name as designated by the North Dakota Bureau of Criminal Investigation. Offenses included in this category include: Forcible Rape and Sexual Assault with an Object (BCI, 2011).

given to the staff, including Jury Trial Procedures (Appendix E) for both civil and criminal case types, to help ensure consistency and accuracy in communicating messages to the public.

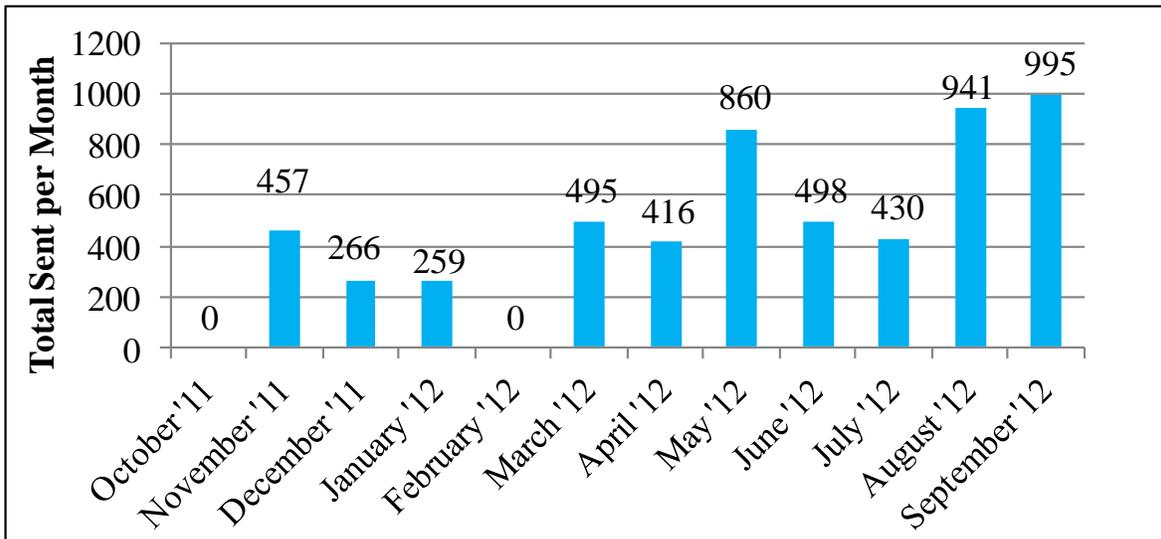
Since the change in the summoning process, Scharnhorst reports the time involved has been lessened by more than half. This stands to reason because the one-step process combines the summons letter and qualifying questionnaire.

Finding Number 4: The one-step summoning procedure requires a lower time investment.

Morton Juror Yield and Utilization

A simple comparison of clerk impressions of time and work involved in the process provides an indication of success or failure of the transition from the two-step to the one-step, from the manager’s perspective. The results shown in Figure 3 illustrate the total number of jury summonses processed for the months October 2011 through September 2012.

Figure 3: Morton County Total Summonses Sent Oct 2011 - Sept 2012



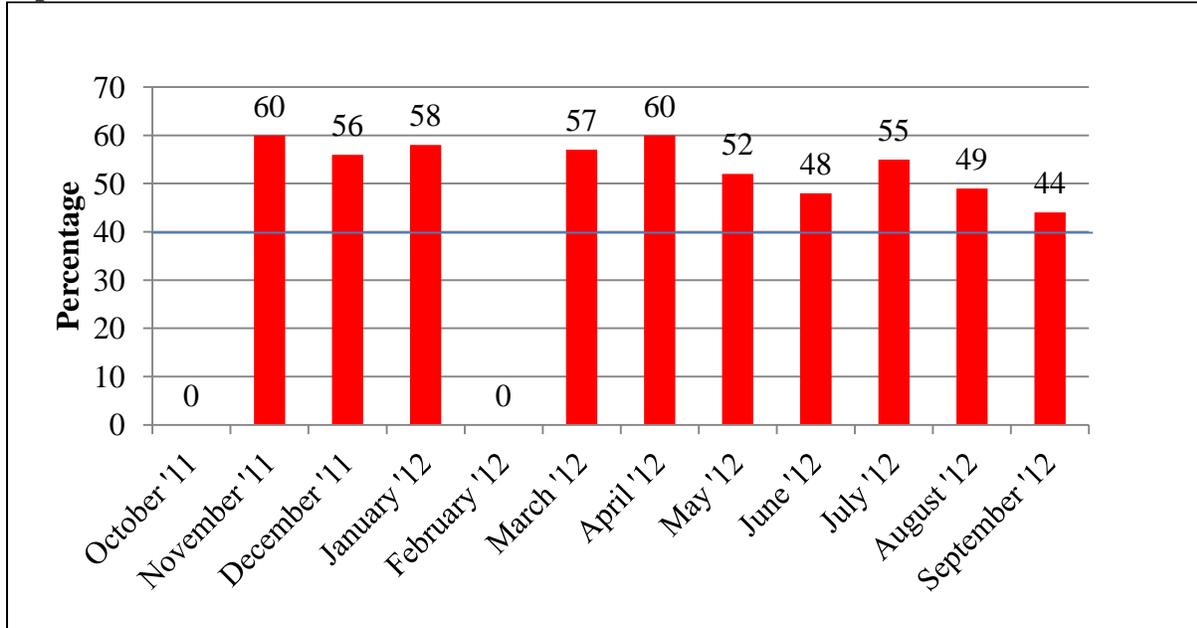
Summoning totals range from zero sent for the months of October 2011 and February 2012 up to 941 and 995 for August and September 2012, respectively. All but two of the months

show totals of 250 or more summonses having been sent. The broad ranges over the 12 month measured time-span indicate there is no particular time of the year to be used as a predictor of the need for more or less summonses. The summons totals are utilized in calculating the overall jury yield percentages.

Finding Number 5: There was an overall increase in the number of Morton County jury summonses sent since changing to the one-step process in April of 2012.

As seen in Figure 4, the jury yield percentages for the same months displayed in Figure 3 (October 2011 through September 2012), show Morton County generally yields a highly acceptable percentage. Averaging 54% for the months where jury summonses were mailed, this percentage is well above the NCSC preferred rate of 40%. With a high yield percentage of 60 for the months of November 2011 and April 2012, and a low total of 44 % for the month of September 2012, Morton consistently yields at a rate higher than the expected mark. The zero totals indicated in October of 2011 and February 2012 represent months where no jury trials were held.

Figure 4: Morton County Jury Yield Percentages by Month - October 2011 through September 2012



Finding Number 6: The average Morton County jury yield percentage decreased slightly since the transition to the one-step summoning method in April 2012.

Figure 5 provides actual totals for Morton County prospective jurors, generated by the JMS Technologies Juror Utilization Report generator for the following three categories:

- Total in Service⁴
- Report to Pool⁵
- Sent to Voir Dire.⁶

The graph clearly identifies noticeable anomalies for the first six months of the time period of measurement. Totals listed for the months beginning October 2011 and running through March of 2012 are inaccurate due to data input error. The deputy clerk staff were only recording the information for the *sent to voir dire* category (using the same number for all three areas). Hence,

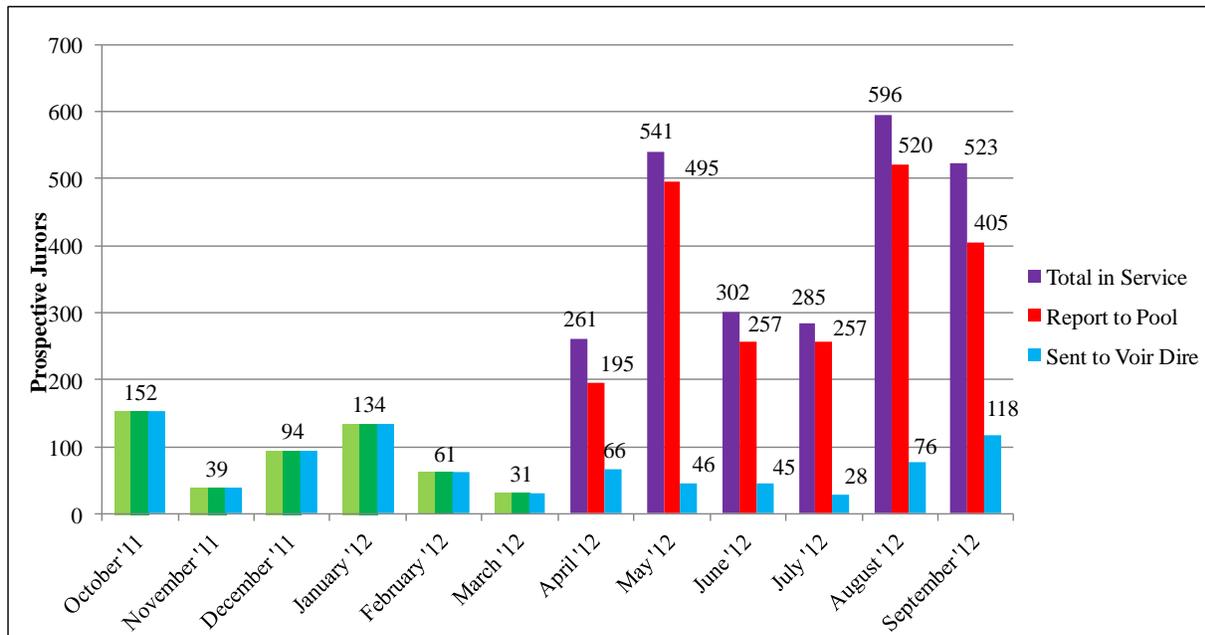
⁴ Total in Service represents all jurors or potential jurors due to attend court on the identified date.

⁵ Report to Pool represents the sum total of all individuals in the Total in Service category – minus any Carryovers.

⁶ Sent to Voir Dire represents the number of potential jurors sent to a trial.

the *total in service* and *report to pool* categories were incorrect for that time period. The Morton Jury Manager became aware of the inaccuracies beginning in April of 2012 and immediately changed the process for inputting to the appropriate method(s). As a result of the corrected process, the totals illustrated between April 2012 and September 2012 are accurate and provide valuable information as to the number of individuals reporting for jury service and actually proceeding to the courtrooms for trial. The common sequence shows continual high numbers of Total in Service and Report to Pool, but very few jurors are sent to the courtroom for the jury selection process, (*sent to voir dire* category).

Figure 5: Morton County Jury Yield Totals by Month – Oct 2011 - Sept 2012



Finding Number 7: Morton County displays a vast disparity in the number of individuals summonsed and qualified (*total in service*) for jury duty compared to the actual number of individuals reporting for duty and sent to voir dire.

***Morton Jury Administrator Survey Result/Review in Context of the South Central
Judicial District***

Survey categories were designed to solicit impressionistic responses from the participants. The Morton Jury Manager indicated responses describing the current one-step Jury Summoning system, with a 20+ Trial per Year Average in her courthouse. Without previous reference to the actual Morton County statistics, she rated the current summoning process as *adequate*, and rated overall juror utilization *adequate*. She reported that jury management is completed within the budget allowance provided. Finally, the Morton Jury Manager reported that the number of days *on-call* for prospective jurors falls within the smallest category of the five available on the survey options (1-30 days), and due to the one-step process along with the call-in system they employ (the day before the trial), individuals were able to fulfill their jury service efficiently and with complete knowledge of the status of their expected trial date. Appendix F shows the pdf version of the actual written response sheet for the Morton Jury Manager's survey.

Table 3 itemizes the survey results for all 12 counties of the South Central Judicial District, as compared to Morton. The county names are not identified (other than Morton) due to the disclaimer utilized on the survey questionnaire – an agreement to only identify information by Unit or Court District. As shown, Morton County is one of six courts that have implemented the one-step summoning procedure. The remaining six counties still employ the two-step system. Morton is one of two counties in the district averaging 20+ trials per year; one of nine counties that rated the Jury Summoning and Utilization as adequate; one of seven that reported jury management was administered within budget appropriations; and one of four counties where

prospective jurors were on-call for 30 or fewer days.

Table 3. South Central Judicial District - Survey Results (No County Identifier)

<u>Summons</u> <u>Type</u>	<u>Avg #</u> <u>Trials Yr</u>	<u>Rating</u>		<u>Jury on</u> <u>Budget</u>	<u># Days</u> <u>On-Call</u>
		<u>Summons</u>	<u>Utilization</u>		
1 Step	20+	extremely adeq	adequate	Yes	1 to 30
<i>1 Step</i>	<i>20+</i>	<i>adequate</i>	<i>adequate</i>	<i>Yes</i>	<i>1 to 30</i>
1 Step	11 to 15	adequate	neither	Unsure	91 to 120
1 Step	6 to 10	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Unsure	31 to 60
1 Step	0 to 5	inadequate	inadequate	Yes	1 to 30
2 Step	11 to 15	adequate	adequate	Unsure	61 to 90
2 Step	6 to 10	adequate	adequate	Yes	61 to 90
2 Step	0 to 5	adequate	adequate	Yes	120+
2 Step	0 to 5	extremely adeq	extremely adeq	Unsure	31 to 60
2 Step	0 to 5	adequate	adequate	Unsure	61 to 90

Finding Number 8: A high percentage of the South Central Jury managers, including the Morton Jury Manager, are satisfied with their summoning procedure and jury utilization rates, for both two-step and one-step counties.

Statewide Jury Yield and Utilization Reports

Tables 4 and 5 illustrate the Jury yield and Jury Utilization percentage for the 15 highest volume counties (jury trials) in the state of North Dakota. Table 4 represents six months of data from October 2011 through March of 2012. Table 5 represents six months of data from February 2012 through September 2012). As shown in both Tables 4 and 5, the overall yield percentages appear to be quite stable by measuring above the accepted rate of 40%. The average yield for the eleven one-step counties is 58%. For the four two-step counties, average yield is 45%. The jury utilization measures illustrate quite a different story, for both date range samples, the percentages demonstrate very low utilization for both Part 1 and Part 2.

Finding Number 9: The majority of high-jury volume counties (11 or more trials per year) utilize the one-step jury summoning method. Some 73% of the 15 high-volume counties employ the one-step procedure.

The CourTool Measure 8 computation worksheet was employed to calculate the juror yield percentage, which was ultimately compared to the NCSC's (2005) generally accepted rate of 40%. Some 93% of the high-volume counties report yields at or above this 40% standard.

The generally acceptable goal for Part I of the juror utilization formula is 30%. None of the high-jury volume counties report utilization rates at or above this national standard. Juror Utilization Part II considers all jurors plus alternates, any peremptory challenges or challenges for cause, and any jurors not used, which is then divided by the total number of jurors serving. This total is then multiplied by 100 to arrive at the overall juror utilization rate, which has a generally accepted rate of 90%. None of the high-jury volume counties in North Dakota report juror utilization rates at or above the 90% standard.

**Table 4. Yield And Utilization Rate For High-Jury
Volume Counties, October 2011 Through March 2012**

ND Counties	<u>Summons</u>	<u>Avg #</u>	Yield %	<u>Utilization %</u>	
	Type	Trials Yr		Rate - Pt. 1	Rate - Pt. 2
Sheridan	1 Step	11 to 15	75	6	6
Ransom	1 Step	11 to 15	63	5	19
Richland	1 Step	11 to 15	63	0	0
Burleigh	1 Step	20+	59	6	19
Stutsman	1 Step	20+	59	11	42
Morton	1 Step	20+	58	11	27
Wells	1 Step	11 to 15	55	9	24
Barnes	1 Step	20+	54	4	14
Cass	1 Step	20+	54	4	14
Walsh	1 Step	16-20	51	6	21
Grand Forks	1 Step	20+	48	7	26
Stark	2 Step	20+	52	5	14
McLean	2 Step	11 to 15	51	8	29
Mountrail	2 Step	16-20	49	8	27
Ward	2 Step	20+	28	29	84

Table 4 illustrates an average jury yield of 55%, with a range of 47, the highest percentage being Sheridan County with a yield of 75%, and the lowest of the group for this date range being Ward County with a yield of 28%. NCSC's accepted rate for jury yield is set at 40%. The Jury Utilization rate percentage average for the Utilization Rate - Part 1 column equals 8%, with a range of 25, the highest percentage being Ward County at 29%, and the lowest of the group for this date range being Barnes and Cass Counties with a Utilization rate of 4%. Richland shows no data, this may be due to input error. The next lowest rate for the measured date range is 5%, a total shared by Ransom and Stark Counties. Burleigh, Sheridan, and Walsh Counties report 6%. The NCSC (2005) generally accepted percentage rate for Part 1 of the Jury Utilization formula is 30%. The Utilization Rate – Part 2 column percent average equals 24% with a range of 78; the highest rate belonging to Ward County at 84% and the lowest being Sheridan at 6% (Richland had no data, possible input error). The NCSC (2005) generally

accepted percentage rate for Part 2 of the Jury Utilization formula is 90%. North Dakota is above the nationally recommended percentage for overall jury yield but falls woefully short of the national cut-off for both Part I and Part II of the jury utilization mark.

Table 5. Yield And Utilization Rate For High-Jury Volume Counties, April 2012 Through September 2012

<u>ND Counties</u>	<u>Summons</u>	<u>Avg #</u>	<u>Yield %</u>	<u>Utilization %</u>	
	<u>Type</u>	<u>Trials Yr</u>		<u>Rate - Pt. 1</u>	<u>Rate - Pt. 2</u>
Ransom	1 Step	11 to 15	70	5	20
Stutsman	1 Step	20+	60	3	15
Burleigh	1 Step	20+	58	4	13
Barnes	1 Step	20+	57	3	10
Sheridan	1 Step	11 to 15	54	7	23
Richland	1 Step	11 to 15	53	22	77
Cass	1 Step	20+	52	3	9
Walsh	1 Step	16-20	52	8	28
Morton	1 Step	20+	50	4	14
Grand Forks	1 Step	20+	45	5	19
Wells	1 Step	11 to 15	62	0	0
Mountrail	2 Step	16-20	59	7	2
Stark	2 Step	20+	49	4	21
Ward	2 Step	20+	45	14	52

Table 5 illustrates an average Jury yield of 55%, with a range of 25, the highest percentage being Ransom County with a Yield of 70%, and the lowest of the group for this date range being Grand Forks and Ward Counties with a percentage Yield of 45%. Recall, the NCSC's accepted rate for Jury yield is set at 40%. All counties exceeded this recommended rate. The average Jury Utilization rate for the Part 1 column equals 7%, with a range of 19 with the highest percentage being Richland County at 22%, and the lowest of the group for this date range being Wells County with a percentage Utilization rate of 0%. This may be due to data input error. The next lowest rate for the measured date range is 3%, a total shared by Barnes, Cass, and Stutsman Counties. Burleigh, Morton, and Stark Counties report 4%. The NCSC's (2005) generally accepted percentage rate for Part 1 of the Jury Utilization formula is 30%. The

Utilization Rate – Part 2 column percent average equals 24% with a range of 75; the highest rate belonging to Richland County at 77% and the lowest again being Wells at 0% (possible data error); the second lowest being Mountrail at 2%. The NCSCs (2005) generally accepted percentage rate for Part 2 of the Jury Utilization formula is 90%. Again, as was seen in the Table 4 illustration, Table 5 also demonstrates North Dakota is above the nationally recommended percentage for overall jury yield, but falls woefully short of the national cut-off for both Part I and Part II of the jury utilization mark.

Finding Number 10: All of the high-volume ND Counties exceed the NCSC standard of 40% for Jury yield.

Clearly, the jury yield for counties holding 11 or more trials per year (high-volume) exceeds the 40% threshold as set by the NCSC. Tables 4 and 5 along with Figures 6 and 7 illustrate consistent patterns over two separate six-month timeframes of 55% Jury yield for the 11 counties measured.

Finding Number 11: Summons type does not appear to be an indicator of high yields.

As tables 4 and 5 demonstrate, there is no indication that summons type, whether it is the one-step or two-step method of incorporation, yield acceptable rates. Table 4 represents the timeframe of October 2011 through March of 2012 and an overall percentage jury yield of 45% for the two-step summons counties. Table 5 represents the timeframe of February 2012 through September 2012 and an overall jury yield percentage of 53%.

Finding Number 12: All of the high-volume ND Counties are substantially lower than the NCSC preferred Jury Utilization Rates for both part 1 and part 2.

Tables 4 and 5 illustrate very low numbers as calculated results for both part 1 of the juror utilization formula as well as part 2 (the overall Utilization rate). Not one of the high-volume counties in either of the two six-month timeframes even comes close to the generally accepted rate of 90% for juror utilization.

Finding Number 13: Summons type does not appear to be an indicator of low jury utilization.

Tables 4 and 5 demonstrate an equal distribution of poor Jury Utilization percentages, no matter the use of one-step or two-step summoning, all of the high-volume counties (holding 11 or more trials per year) fall far short of the 90% Juror Utilization mark.

Figure 6: Jury Yield Percentage By Counties Using One-Step Summoning Procedures With 11+ Trial per Year

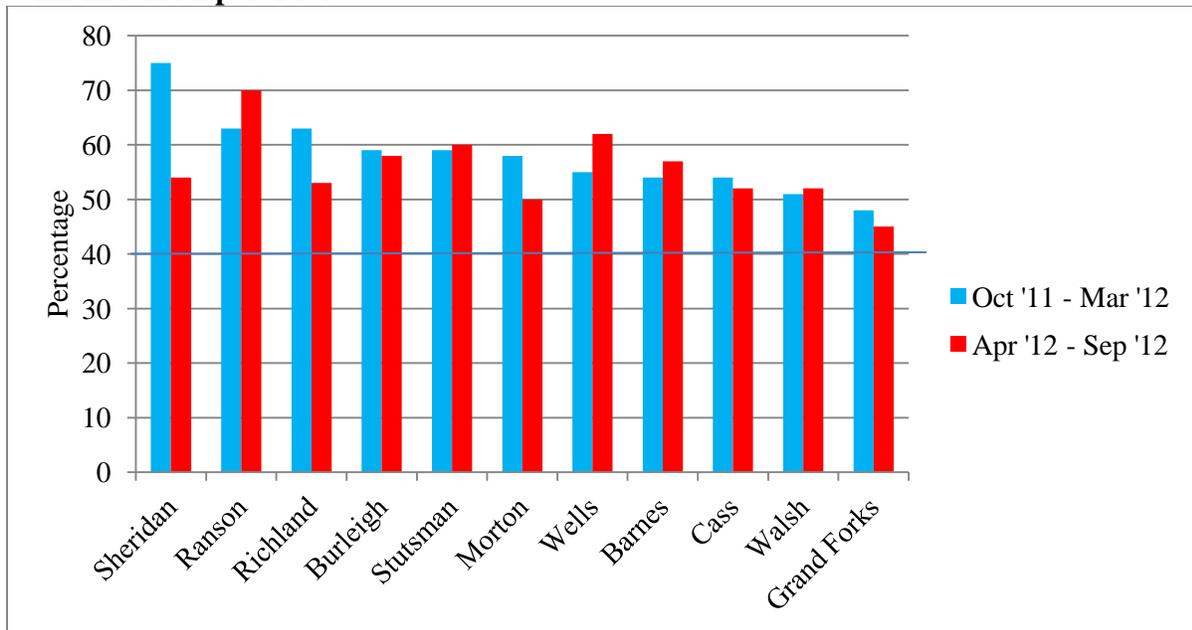


Figure 6 illustrates jury yield percentages for North Dakota counties utilizing the one-step jury summoning method. To accurately describe the yield percentages, it is important to isolate the counties with more than 11 trials per year. The side-by-side comparison distinctly shows a pattern better than the generally accepted rate of 40% (NCSC, 2005). The group of 11 one-step

counties has an average yield of 58% for the first six-month time frame (October 2011 through March of 2012). These same counties report an average yield of 56% for the second six-month timeframe (April 2012 through September 2012).

Figure 7: Jury Yield For Two-Step Counties With High Volume Jury Trials

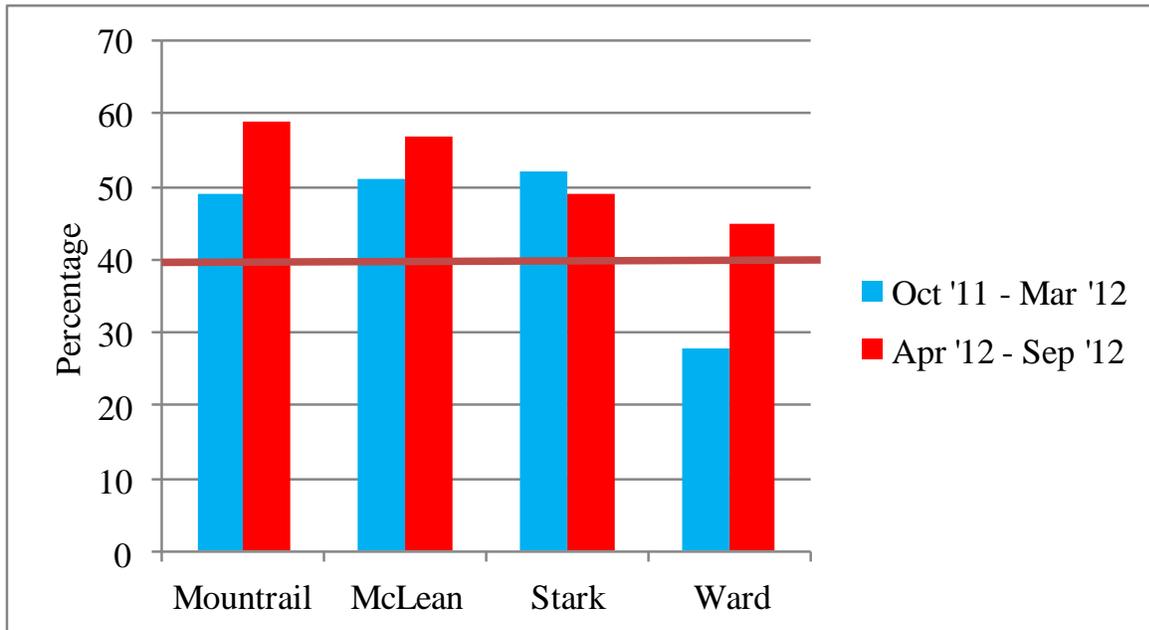
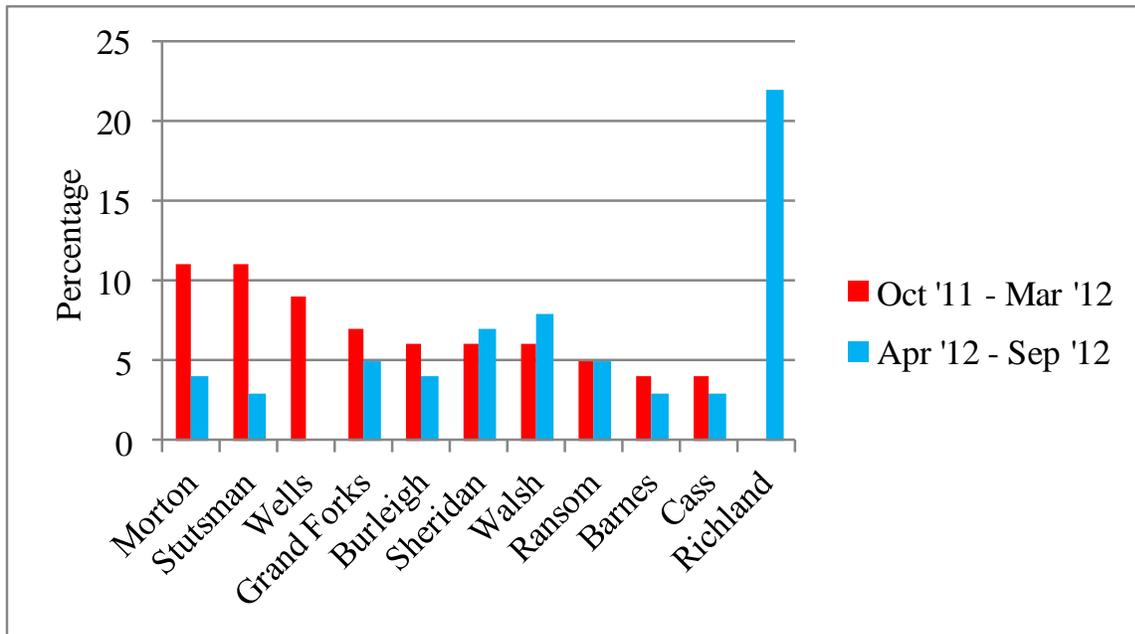


Figure 7 illustrates jury yields for North Dakota high volume counties utilizing the two-step jury summoning method. The side-by-side comparison shows a pattern better than the generally accepted rate (represented by the horizontal red line) of 40% (NCSC, 2005), the only substandard mark was Ward County which reported 28% during the first six-month timeframe. This group of two-step counties reports an average yield of 45% for the first timeframe; and an average yield of 53% for the second timeframe. Although the yield rates are quite similar for both the one-step and two-step methods, the composite percentage for the one-step is slightly higher at 57%, versus 49% for the two-step. It should also be noted that 11 of the 15 highest volume (jury trials per year) counties have made the decision to move to the one-step jury summoning process. Two of the two-step counties are located in Unit 3, Stark County is in the

Southwest Judicial District and McLean County is in the South Central Judicial District. The remaining two two-step counties are located in Unit 4, the Northwest Judicial District. Mountrail and Ward Counties share a border in addition to using the same judge pool.

Figure 8: Jury Utilization (Part 1) – High Volume One-step Counties



Recall, Part I of the Jury Utilization formula incorporates information used in calculating the jury yield - the total number of individuals serving, which is then divided into the total number of jurors actually used (plus any alternates). As noted previously, the generally accepted goal for the Part 1 calculation is 30% (NCSC, 2005). Figure 8 above demonstrates the results of the calculation for all of the one-step counties holding more than 11 trials per year. The data represent two separate six-month measurements. As can be seen, none of the counties (for either of the date range measurements) reach or even come close to the 30% goal. For the first time measurement, only Morton and Stutsman Counties break the 10% mark, with 11% each, followed by Wells County at 9%. The second six-month timeframe produced only one county

above 20%, Richland, which reports a 22% jury utilization rate. The remaining counties report less than 10%.

Figure 9: Jury Utilization (Part 1) – High Volume Two-Step Counties

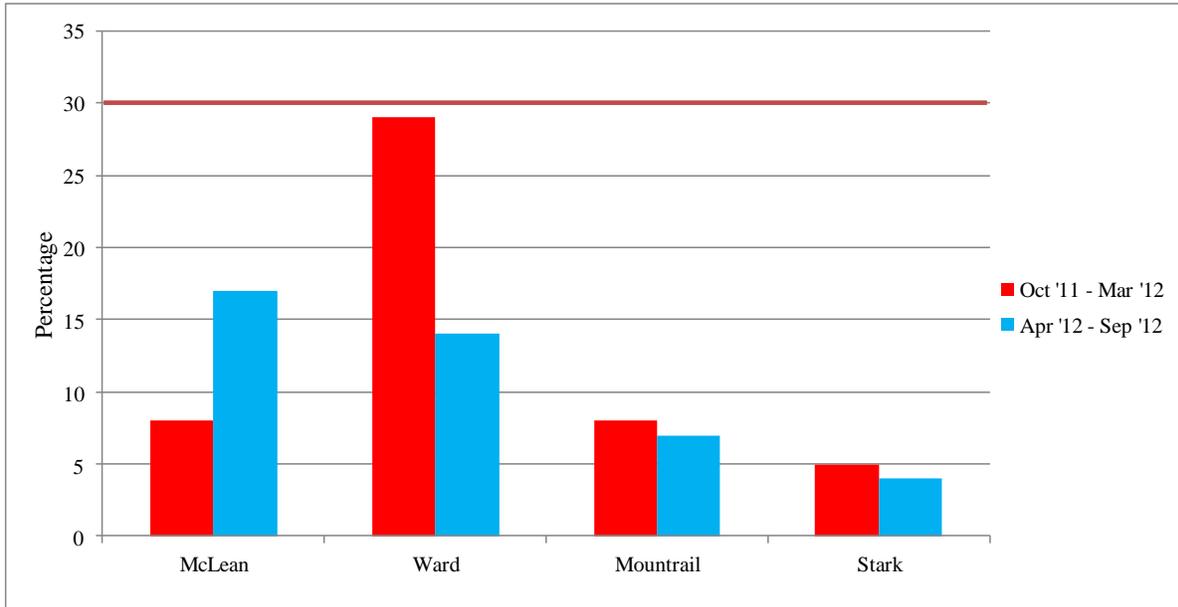


Figure 9, again demonstrates calculated totals for Part 1 of the Jury Utilization formula. However, this grouping illustrates the two-step counties with more than 11 trials per year. The display demonstrates two separate six-month time measurements in an effort to have comparison data versus one large sample. By comparing the two date ranges, it accounts for skewed totals that would be unseen if grouped all as one data set. The initial timeframe shows Ward County with a 29% rate. The other three counties report a jury utilization rate of 10% or less. The subsequent six-month timeframe shows all four counties fall short of the acceptable 30% mark. McLean County measures the highest at 17%.

Figure 10: Jury Utilization (Part 2) – High Volume One-Step Counties

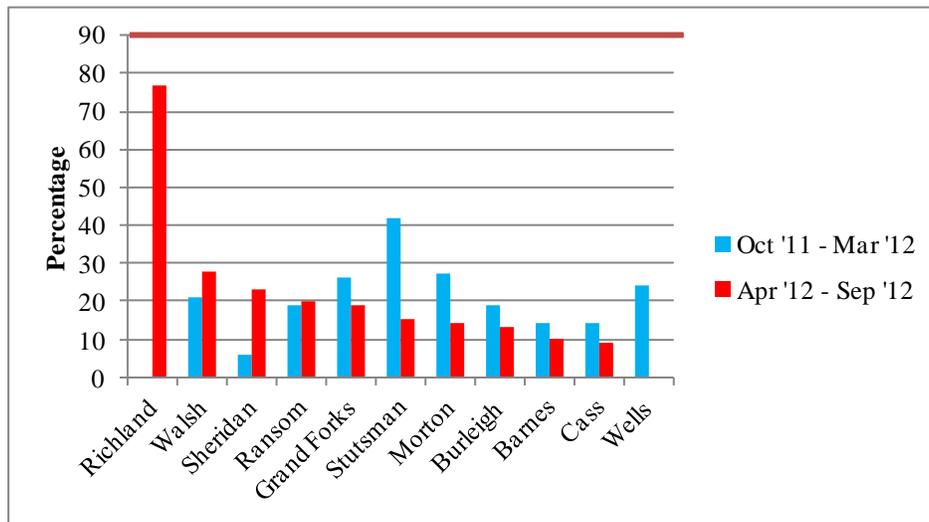
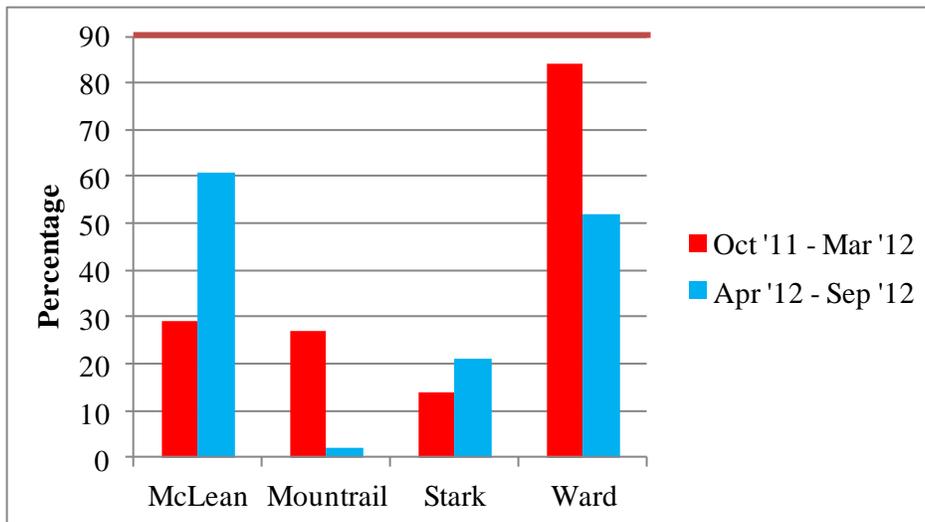


Figure 10 illustrates data for the second half of the juror utilization calculation. Recall, Juror Utilization Part 2 considers all jurors plus alternates, any peremptory challenges or challenges for cause, and any jurors not used which are all totaled and then divided by the total number of jurors serving, this total is then multiplied by 100 to arrive at the overall jury utilization rate, which has a generally accepted rate of 90% (NCSC, 2005). Figure 10 demonstrates the results of the Part 2 calculation for all of the one-step counties holding more than 11 trials per year. The data represents two separate six-month measurements. As can be seen, none of the counties (for either of the time-range measurements) reach the 90% goal. The first six-month timeframe indicates Stutsman County had the highest total with a 42% result, less than half of the NCSC 90% goal. The 10 remaining counties report a utilization rate less than 30%. In the second timeframe, Richland County stands out as it reports a 77% jury utilization rate, while the rest of the counties in the group report a juror utilization rate less than a 30%.

Figure 11: Jury Utilization (Part 2) – High Volume Two-Step Counties



Results for the two-step counties (Figure 11) show Ward County reporting the highest rate at 84%; the other three counties, including McLean, Mountrail, and Stark report a rate less than 30%. The later date range shows McLean County’s utilization rate was 61% and Ward County’s was 52%, both far below the 90% goal.

Statewide Survey Results

The information collected via the statewide survey focuses on jury administrator impressions of the adequacy of levels of the summoning stage (i.e., staff time spent for the summons procedures), juror utilization rates, juror costs, and juror terms of service (i.e., on-call expectations). The survey (Appendix A) was sent via e-mail correspondence to all 53 of the clerks of court in North Dakota, and achieved a 100% response rate.

The results are presented separately by Court District (See Figure 1 in the Findings Section), of which there are seven in the North Dakota State Court System. The counties are not specified due to confidentiality agreements. The jury managers were informed that their

information would only be presented by Unit or District.⁷

Table 6. Northeast Judicial District - Survey Results (11 of 53 N.D. Counties)

<u>Summons</u> Type	<u>Avg</u> Trials Yr	<u>Rating</u>		<u>Within</u> Budget	<u># Days</u> On-Call
		Summons	Utilization		
1 Step	0 to 5	adequate	adequate	Yes	120+
1 Step	0 to 5	adequate	adequate	Unsure	1 to 30
1 Step	6 to 10	adequate	adequate	Unsure	1 to 30
1 Step	6 to 10	adequate	adequate	Unsure	61 to 90
1 Step	6 to 10	adequate	inadequate	Yes	1 to 30
1 Step	0 to 5	adequate	neither	Unsure	120+
1 Step	16-20	extremely adeq	inadequate	Unsure	1 to 30
2 Step	0 to 5	adequate	adequate	Yes	91 to 120
2 Step	0 to 5	adequate	adequate	No	31 to 60
2 Step	0 to 5	neither	adequate	Unsure	120+
2 Step	0 to 5	adequate	adequate	Yes	31 to 60

Table 6 illustrates the survey response information for the Northeast Judicial District, as given by the 11 Jury managers (one from each of the eleven counties). It is interesting to note that seven counties use the one-step and four still employ the two-step jury summoning method. Ten of the 11 counties (91%) in this district report hosting ten or fewer trials per year. All of the one-step jury managers rate their process as adequate or better. Three of the four two-step jury managers rate their process as “adequate” and one rated the process as “neither adequate nor inadequate.” Four of the seven one-step jury managers rate their impression of the jury utilization rate as “adequate,” while two rate utilization as “inadequate” and one jury manager rates as “neither adequate nor inadequate.” All four of the two-step county jury managers rate their impression of the jury utilization rate as “adequate.” Four of the 11 feel their jury administration is within the allowed budget, six are unsure, and one manager suggests their jury spending totals are not within the budget constraints allowed (this was indicated by a two-step

⁷ The agreement to withhold county identifier was a compromise to ensure valid response(s) by the jury managers.

county). Four of the eleven counties ask jurors to be on-call between 1-30 days (prior to their date to serve) and are all operating a one-step procedure. All four of the two-step counties indicated an on-call period of at least 31 days, two of the managers reported a 90+ day on-call period for prospective jurors.

Table 7. Northeast Central Judicial District - Survey Results (2 of 53 N.D. Counties)

<u>Summons</u>	<u>Avg #</u>	<u>Rating</u>		<u>Within</u>	<u># Days</u>
<u>Type</u>	<u>Trials Yr</u>	<u>Summons</u>	<u>Utilization</u>	<u>Budget</u>	<u>On-Call</u>
1 Step	20+	extremely adeq	adequate	Unsure	1 to 30
1 Step	0 to 5	adequate	adequate	Unsure	31 to 60

The Northeast Central Judicial District results are displayed in Table 7. The district consists of only two counties due to high volume court filings in the city of Grand Forks, (the second highest population in the state). Both counties implemented the one-step method, with the larger of the two facilitating well over 20 trials per year. The summoning process and utilization was rated by both counties as at least “adequate.” Both jury managers were unsure as to whether they were within budget. One of the two counties indicated a 1-30 day on-call status and the other 31-60 days on-call.

Table 8. East Central Judicial District - Survey Results (3 of 53 N.D. Counties)

<u>Summons</u>	<u>Avg #</u>	<u>Rating</u>		<u>Within</u>	<u># Days</u>
<u>Type</u>	<u>Trials Yr</u>	<u>Summons</u>	<u>Utilization</u>	<u>Budget</u>	<u>On-Call</u>
1 Step	20+	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30

Table 8, portrays jury manager responses from the East Central Judicial District, only consisting of three counties due to high volume court filings in the city of Fargo (the largest city in the state of North Dakota). The jury managers all operate with a one-step summoning process with jurors on call for 1-30 days; all three rated the process as “adequate.” The

managers’ perception of utilization was also “adequate.” All three counties believed their jury expenses were within budget.

Table 9. Southeast Judicial District - Survey Results (11 of 53 N.D. Counties)

<u>Summons</u>	<u>Avg</u>	<u>Rating</u>		<u>Within</u>	<u># Days</u>
<u>Type</u>	<u>Trials Yr</u>	<u>Summons</u>	<u>Utilization</u>	<u>Budget</u>	<u>On-Call</u>
1 Step	20+	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30
1 Step	11 to 15	adequate	adequate	Yes	1 to 30
1 Step	11 to 15	adequate	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Yes	1 to 30
1 Step	20+	adequate	adequate	Yes	1 to 30
1 Step	11 to 15	adequate	adequate	Yes	1 to 30

There are 11 counties in the Southeast Judicial District. The East Central and Southeast Judicial District make up Unit 2 of the North Dakota Court System and are overseen by one Court Administrator. Both districts in Unit 2 comprise counties that responded consistently to the survey, in part due to their decision to have a *centralized jury* process⁸. All jury summoning procedures are facilitated by a single jury handler in one of the Southeast District counties (Richland). Unit 2 was the first in the North Dakota Court System to fully implement the transition to the one-step jury summoning methods. All jury managers in the Southeast District reported the jury summoning process to be “adequate” along with the jury utilization rates. All managers believed they were operating within budget. Jurors in this district are on call for less than 30 days. The only variation was in the number of jury trials held per year. Two counties

⁸ All jury processing for Unit 2 of the ND Judiciary is completed out of the Richland County Clerk of Court office. The information contained in Tables 8 and 9 is consistently similar due to the one office completing the surveys for each of the 14 counties where they do jury work.

hold more than 20 jury trials per year, three report 11-15 jury trials, and the remaining six hold five or fewer jury trials.

The South Central Judicial District is home to the Capitol City of Bismarck, which is located in Burleigh County. The Burleigh County filings, along with those of Morton County⁹ comprise 90% of the court activity for the 12 counties in the South Central Judicial District (SCJD). Table 10 denotes the survey information as reported by the SCJD jury managers. Six of the 12 counties report operating under a one-step summons method, with six reporting use of the two-step method. Four of the 12 show a rate of more than ten trials per year (on average), with six of the 12 reporting a total of five or less. The summoning process ratings show 11 of the 12 holding

Table 10. South Central Judicial District - Survey Results (12 of 53 N.D. Counties)

<u>Summons</u> Type	<u>Avg</u> Trials Yr	<u>Rating</u>		<u>Within</u> Budget	<u># Days</u> On-Call
		Summons	Utilization		
1 Step	20+	extremely adeq	adequate	Yes	1 to 30
1 Step	0 to 5	adequate	adequate	Unsure	31 to 60
1 Step	6 to 10	adequate	adequate	Yes	1 to 30
1 Step	20+	adequate	adequate	Yes	1 to 30
1 Step	11 to 15	adequate	neither	Unsure	91 to 120
1 Step	0 to 5	inadequate	inadequate	Yes	1 to 30
2 Step	0 to 5	adequate	adequate	Yes	120+
2 Step	0 to 5	extremely adeq	extremely adeq	Unsure	31 to 60
2 Step	0 to 5	adequate	adequate	Unsure	61 to 90
2 Step	11 to 15	adequate	adequate	Unsure	61 to 90
2 Step	6 to 10	adequate	adequate	Yes	61 to 90
2 Step	0 to 5	adequate	adequate	Yes	31 to 60

the impression the process is “adequate” or better, with just one county that reported the process was “inadequate” – from a county with less than five trials per year. The juror utilization rates are quite similar to usage, 11 of the 12 feel the rates are “adequate” or better with just the one

⁹ Morton County is located adjacent to and directly across the Missouri River from Burleigh County. Morton County is the focus of a major portion of this project.

(same county) that reported the process was “inadequate.” Seven of the 12 felt their jury budget was on track, with the other five reporting they were “unsure” as to whether they were operating within budget. For prospective jurors the most common length of time for being on-call was between 1-30 days, but there were also three counties that reported on-call terms of 31-60 days and two counties that listed more than 90 days as the on-call period. Results for the eight Southwest Judicial District Counties are shown in Table 11.

Table 11. Southwest Judicial District - Survey Results (8 of 53 N.D. Counties)

<u>Summons</u> Type	<u>Avg</u> Trials Yr	<u>Rating</u>		<u>Within</u> Budget	<u># Days</u> On-Call
		Summons	Utilization		
1 Step	0 to 5	neither	neither	Unsure	120+
2 Step	0 to 5	extremely adeq	extremely adeq	Unsure	120+
2 Step	0 to 5	neither	neither	Yes	31 to 60
2 Step	0 to 5	adequate	adequate	Unsure	91 to 120
2 Step	0 to 5	adequate	adequate	Yes	1 to 30
2 Step	0 to 5	adequate	adequate	Unsure	120+
2 Step	0 to 5	adequate	neither	Yes	120+
2 Step	20+	adequate	adequate	Unsure	1 to 30

All but one county¹⁰ indicated they follow a two-step summoning process. All of the counties except one reported holding less than five trials per year. The one exception was the population center for the district with 20 or more trials per year. The summoning process was rated as “adequate” or better by six of the eight counties, with two who reported it as “neither adequate nor inadequate.” The juror utilization response category showed five of the eight counties reporting “adequate” or better impressions, with three who reported “neither adequate nor inadequate” ratings. Three of the jury managers felt that their jury budget was within constraints, and the other five were “unsure.” The on-call expectations ranged from two counties

¹⁰ The one county indicating their use of the one-step process may need clarification of the definition of one-step processing, based on their listing for on-call length of more than 120 days for prospective jurors.

listing 1-30 days to four counties expecting prospective jurors to remain on-call for 120 days or more. Table 12 illustrates the response results for the Unit 4, Northwest Judicial District¹¹ and its six counties.

Table 12. Northwest Judicial District - Survey Results (6 of 53 N.D. Counties)

<u>Summons</u>	<u>Avg</u>	<u>Rating</u>		<u>Within</u>	<u># Days</u>
<u>Type</u>	<u>Trials Yr</u>	<u>Summons</u>	<u>Utilization</u>	<u>Budget</u>	<u>On-Call</u>
1 Step	0 to 5	adequate	inadequate	Yes	61 to 90
1 Step	0 to 5	neither	neither	Unsure	31 to 60
2 Step	0 to 5	adequate	adequate	Yes	120+
2 Step	16 to 20	neither	inadequate	Unsure	120+
2 Step	20+	extremely adeq	adequate	Unsure	91 to 120
2 Step	6 to 10	adequate	adequate	Unsure	91 to 120

As shown, two of the six report implementation of the one-step¹² summoning process, the remaining four utilize the two-step. Three of the six counties reported fewer than five trials per year, whereas two of the remaining three hosted more than 15 per year (as reported). The jury managers reported an adequate or better rating for jury summoning in four of the six counties, with two having impressions of neither adequate nor inadequate. The juror utilization ratings showed two counties reporting inadequate usage of jurors, one county felt neither adequate nor inadequate and the remaining three felt their use is adequate. Two counties reported they are on budget as it concerns jury, with the remaining four being unsure of their status. The on-call expectation showed 90 or more days for four of the six counties, with the remaining two listing 31-60 and 61-90 day ranges, respectively.

¹¹ Unit 4 of the North Dakota Court System is the only Unit with a single court district, the Northwest Judicial District. The other three Administrative Units have two court districts each (see Figure 1).

¹² The two counties indicating use of the one-step process may need clarification based on their listing for on-call length of more than 30 days for prospective jurors. If and when the one-step system is utilized there should be no need for prospective jurors to be on-call, ever.

Reviewing the results for the state overall, 21 of the 53 (40%) North Dakota Counties operate under a two-step jury summoning method and the remaining 60% operate under a one-step jury process

Tables (13 and 14) provide a comparison by *summons type*. Currently there are 32 counties in the North Dakota Court System reporting use of the one-step summoning process and 21 counties report using the two-step. Table 13 demonstrates a survey response grouping of the one-step counties.

Table 13. Summons Type: 1-Step

Unit	District	Avg # Trials Yr	Summons Rating	Utilization Rating	Jury on Budget	# Days On-Call
1	NECJD	0 to 5	adequate	adequate	Unsure	31 to 60
1	NECJD	20+	extremely adeq	adequate	Unsure	1 to 30
1	NEJD	0 to 5	adequate	adequate	Unsure	1 to 30
1	NEJD	0 to 5	adequate	adequate	Yes	120+
1	NEJD	0 to 5	adequate	neither	Unsure	120+
1	NEJD	16-20	extremely adeq	inadequate	Unsure	1 to 30
1	NEJD	6 to 10	adequate	adequate	Unsure	1 to 30
1	NEJD	6 to 10	adequate	inadequate	Yes	1 to 30
1	NEJD	6 to 10	adequate	adequate	Unsure	61 to 90
2	ECJD	0 to 5	adequate	adequate	Yes	1 to 30
2	ECJD	0 to 5	adequate	adequate	Yes	1 to 30
2	ECJD	20+	adequate	adequate	Yes	1 to 30
2	SEJD	0 to 5	adequate	adequate	Yes	1 to 30
2	SEJD	0 to 5	adequate	adequate	Yes	1 to 30
2	SEJD	0 to 5	adequate	adequate	Yes	1 to 30
2	SEJD	0 to 5	adequate	adequate	Yes	1 to 30
2	SEJD	0 to 5	adequate	adequate	Yes	1 to 30
2	SEJD	0 to 5	adequate	adequate	Yes	1 to 30
2	SEJD	11 to 15	adequate	adequate	Yes	1 to 30
2	SEJD	11 to 15	adequate	adequate	Yes	1 to 30
2	SEJD	11 to 15	adequate	adequate	Yes	1 to 30
2	SEJD	20+	adequate	adequate	Yes	1 to 30
2	SEJD	20+	adequate	adequate	Yes	1 to 30
3	SCJD	0 to 5	inadequate	inadequate	Yes	1 to 30
3	SCJD	0 to 5	adequate	adequate	Unsure	31 to 60
3	SCJD	11 to 15	adequate	neither	Unsure	91 to 120
3	SCJD	20+	extremely adeq	adequate	Yes	1 to 30
3	SCJD	20+	adequate	adequate	Yes	1 to 30
3	SCJD	6 to 10	adequate	adequate	Yes	1 to 30
3	SWJD	0 to 5	neither	neither	Unsure	120+
4	NWJD	0 to 5	neither	neither	Unsure	31 to 60
4	NWJD	0 to 5	adequate	inadequate	Yes	61 to 90

Of the 32 counties in this category, 29 jury managers report the process is “adequate” or better (three rate as “extremely adequate”), two indicate neither adequate nor inadequate, and one jury manager rated the one-step process as “inadequate.”

The jury utilization category shows the majority (75%) of the ratings were “adequate,” with no rating higher than adequate. Four of the jury managers feel the juror usage in their court was “neither adequate nor inadequate,” and four felt the usage was “inadequate.”

The high majority (23 of the 32 counties) list the on-call expectation as the lowest option available on the survey (1-30 days). The highlighted items in Table 11 have been discussed in previous sections of this paper, there is a strong possibility the selections other than 1-30 days in the on-call section, may indicate a misunderstanding of the one-step process.

Table 14 shows the survey response grouping of the two-step counties in the state. Of the 21 in this category, 18 jury managers report the process is adequate or better (three rate as extremely adequate), and three indicate neither adequate nor inadequate.

The jury utilization category shows the majority (18 of the 21) of the ratings at adequate or better, with two rating extremely adequate. Two of the jury managers feel the juror usage in their court is neither adequate nor inadequate, and one feels the usage is inadequate.

The on-call expectation was somewhat mixed, as could be expected due to the two-step process. The note of interest from this category (Table 14) is that there are only two counties indicating the possibility of less than 30 days on-call. The high majority (14 of the 21) list the expectation of a total of more than 60 days on-call for prospective jurors.

A close comparison of the On-Call categories for Tables 13 and 14 show that 72% of the one-step Counties report a prospective juror on-call period (period of availability) of 30-days or less and 90% of the two-step counties reported an on-call period of more than 30 days. This information is a strong indication that the two-step summoning method generally requires a longer period of availability, demanded upon the prospective jurors.

Table 14. Summons Type: 2-Step

Unit	District	Avg # Trials Yr	Summons Rating	Utilization Rating	Jury on Budget	# Days On-Call
1	NEJD	0 to 5	adequate	adequate	No	31 to 60
1	NEJD	0 to 5	adequate	adequate	Yes	31 to 60
1	NEJD	0 to 5	neither	adequate	Unsure	120+
2	NEJD	0 to 5	adequate	adequate	Yes	91 to 120
3	SCJD	0 to 5	extremely adeq	extremely adeq	Unsure	31 to 60
3	SCJD	0 to 5	adequate	adequate	Yes	31 to 60
3	SCJD	0 to 5	adequate	adequate	Unsure	61 to 90
3	SCJD	0 to 5	adequate	adequate	Yes	120+
3	SCJD	11 to 15	adequate	adequate	Unsure	61 to 90
3	SCJD	6 to 10	adequate	adequate	Yes	61 to 90
3	SWJD	0 to 5	adequate	adequate	Yes	1 to 30
3	SWJD	0 to 5	neither	neither	Yes	31 to 60
3	SWJD	0 to 5	extremely adeq	extremely adeq	Unsure	120+
3	SWJD	0 to 5	adequate	adequate	Unsure	120+
3	SWJD	0 to 5	adequate	neither	Yes	120+
3	SWJD	0 to 5	adequate	adequate	Unsure	91-120
3	SWJD	20+	adequate	adequate	Unsure	1 to 30
4	NWJD	0 to 5	adequate	adequate	Yes	120+
4	NWJD	16-20	neither	inadequate	Unsure	120+
4	NWJD	20+	extremely adeq	adequate	Unsure	91 to 120
4	NWJD	6 to 10	adequate	adequate	Unsure	91 to 120

Finding Number 14: There were 22 of the 53 (42%) jury managers unsure whether their jury system was within the allotted budget for the year.

Information presented in Tables 13 and 14 together, represents all 53 of the North Dakota Counties. One area of concern is the column listing the jury manager response regarding jury spending. No matter the use of one-step or two-step summoning, there are many counties that were unsure whether the jury spending was within the allotted budget.

Table 15 shows the Jury Expense Status for the four administrative units using data from the North Dakota 2011-2012 Budget Status Report – Month Ended 10/31/2012. The table illustrates actual cost amounts to-date in the biennial period and provides context to the importance of proper planning.

Table 15: North Dakota Jury Expense Status Month End 10/31/2012

<u>Administrative Unit</u>	<u>Amount Expensed</u>	<u>Percentage of Appropriation</u>	<u>Actual Appropriation</u>
1	\$145,346	60	\$241,990
2	\$259,043	64	\$407,850
3	\$260,981	68	\$383,750
4	\$131,377	58	\$227,160

The *Percentage of Appropriation* column indicates the current total percentage¹³ spent to-date (on October 31, 2012) by each of the Administrative Units. The total amounts expensed and percentage of appropriations is encouraging given the information referenced earlier where many jury managers report they are unsure of their current budget spending. The information is encouraging in the sense that overall the state is still within the appropriated budget.

Finding Number 15: Three of the four administrative units are at or under budget regarding jury spending. The one unit over budget is within one percentage point.

The amounts expended by Units 1, 2, and 4 appear to be in line with the expected appropriation allowed. Unit 3 is the only entity that appears to be higher than the allotted amounts for the 67% point of the biennial budget.

¹³ North Dakota's Legislative Assembly meets on a biennial basis. October 31, 2012 (the date of the Figure 12 measurement) marks the two-thirds (67% or 16 month completion of 24 months) point of the budget cycle.

Figure 12: North Dakota Jury Budget Status At The 16 Month Point Of A 24 Month Budget Cycle

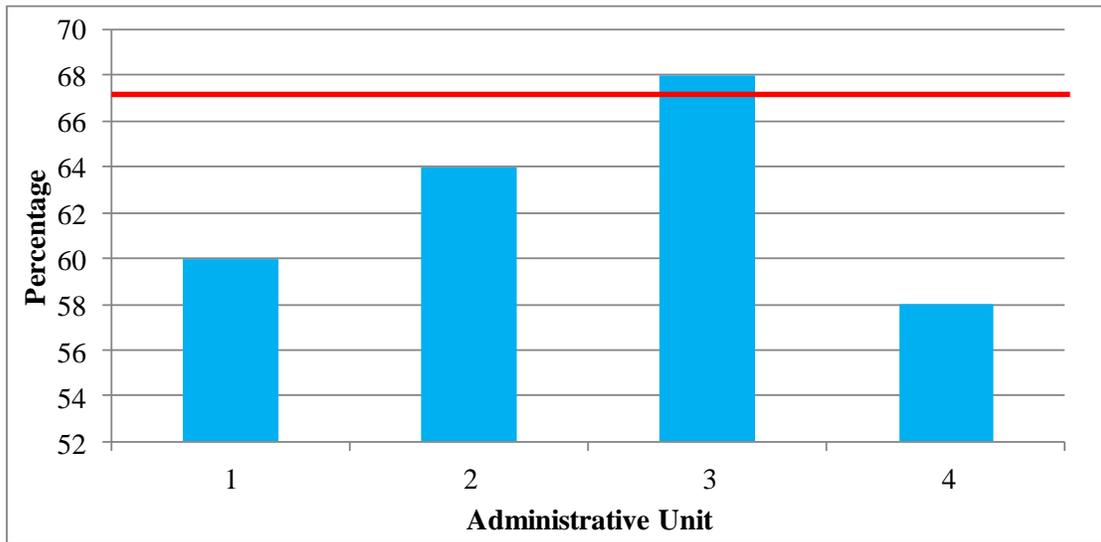


Figure 12 provides a visual comparison of the current status of jury spending. At the 16 month juncture of a 24 month appropriation ($16/24 = 67\%$), spending should be at 67%. Unit 3 is the only one of the four Administrative Units to show higher than the targeted amount for this juncture of the budget cycle. However, only 1% above this mark indicates that all units are on track with spending for the year. It is possible the number of trials thus far in the biennium has exceeded the initial projections.

Conclusions and Recommendations

This project revealed numerous significant findings from which many conclusions and recommendations can be made. To clearly present the key elements, the conclusions and recommendations section of the project is divided into subsections. The subsections are:

1. Morton Case Study, including -
 - A. Jury Manager Interview,
 - B. Morton Yield and Utilization,
 - C. Morton Survey Result,
2. Statewide Yield and Utilization Comparisons, and
3. The Statewide Survey Results.

This set of conclusions and recommendations will be the foundation for review and consideration to recommend adjustments to the North Dakota Jury Management System. All areas highlighted and deemed as relevant findings are those of the author of this paper, and no other individual.

Morton Case Study

Initial findings for this section served to recognize and justify the attention paid to Morton County and the South Central Judicial District.

Conclusion Number 1: Focusing on the Morton County jury management process in the South Central Judicial District is an example of efficient implementation.

Highlighting the disparities in total trials per year, first for the SCJD amongst the other six Districts of the court system and then for Morton County amongst the other 11 counties of the SCJD, placed an emphasis on the unique aspects and challenges faced by the Morton County

staff. This included the inordinately high number of annual jury trials for a comparatively low population in the county.

Recommendation Number 1a: Continue to study methods used in Morton County, but increase the timeframe(s) for measurement.

The data produced by the study are valid and meaningful. However, to strengthen the reliability it would be advantageous to increase the number of months from which to collect data. Because of the recent transition from two-step summoning to one-step, the procedures may need some adjustments in order to realize maximum efficiency. By studying the longer timeframe (more data after the changes were made), it should be easier to observe and discern patterns of efficiency.

Recommendation Number 1b: Identify other high volume counties and judicial districts worth pursuing as case studies.

Utilize statewide JMS Jury Reports to identify counties with similar trial frequency to Morton County and replicate the steps involved in the Morton review section of this paper. Consider interviews with identified jury managers to observe unique tendencies that maximize efficiency of jury management. By closely studying day-to-day operations in counties similar to Morton County in size (staff numbers) and frequency (number of trials per year) one can gain a sound understanding of methods which may be adopted across the state in similarly populated areas and which are unique to select areas based on lower populations and annual case filings/jury trials.

Conclusion Number 2: Based on information obtained from the Morton County case study, transitioning from the two-step to the one-step jury summoning method is a worthwhile venture.

Information produced during the Morton Case-Study, Jury Manager Interview, presented the options available for making the change from the two-step to the one-step. A variety of preparation options are available and can ease the strain on staff during the change-over time period. As reported by the Morton Jury Manager, once the transition was complete, the one-step process now reduces staff time investment in the jury management process.

Recommendation Number 2a: Present options to jury managers for the transition process.

Court Administration should provide jury administration research to all jury managers preparing for a change in summoning practice to assist the staff in deciding the best transition plan for their office and current workload. Strategies identified by the NCSC (2009b) for transitioning from the two-step to the one-step summoning practice highlight two main options. The first is to identify a date and make that wholesale change on that date. The second option is to gradually transition the jury system by only using the new method (one-step on a certain (low) percentage of the trials, in order to get staff experience and to avoid mass confusion. One element to consider is the degree of immediacy needed for the change, and then to proceed with the transition method best suited to the office level of need. The level of immediacy can be determined by considering issues such as staff time, postage costs, and increase in trial frequency. Theoretically, the one-step method saves time for the staff involved with the jury management implementation, and since it is only one round of mailings it also lowers postage costs. Any time and cost savings is a benefit for all courts, but especially the areas with very high jury trial frequencies where staff time is short and costs are high due to excessive juror candidates.

Recommendation Number 2b: Create and share transition aids to assist staff during the change.

When transition commencement is imminent, Court Administration should develop and disseminate transition aids, as created by the Morton Jury Manager, to provide helpful guidelines and checklists to assist staff in remembering the new procedures. Items such as the ‘One-Step Instructions’ (Appendix C) and ‘Jury Line’ (Appendix D) procedures were very helpful (for Morton County) and provide for a streamlined delivery. Additional aids can be considered, based on County need; Court Administration should work with individual Jury managers to develop useful tools for the transition.

Recommendation Number 2c: Provide additional training in use of the Courthouse Technologies Jury Management System (JMS) software.

As counties prepare for the change in summoning process, it is important to provide training on use of the software for creating jury pools. Without proper training, due to inexperience and very few repetitions using the software, the JMS system may fail or the process will take longer, mistakes will be made, and unnecessary frustration will occur.

Conclusion Number 3: Morton County reported a large increase in total number of jury summonses sent during the period of study.

During the period of study, there was a rise in the total jury summonses (Figure 3) sent between April and September of 2012 (the initial six-month period of the transition from the two-step to the one-step model). The total number of summonses between October 2011 and March 2012 was 1,477 – an average of 246 per month. The total number of summonses between April 2012 and September 2012 was 4,140 – an average of 690 per month. The disparity in the totals between the six-month period prior to the change in methods could be the result of a natural increase in jury trials (outside the control of the jury manager); or the increase could be a reaction (unintended result) of the recent change in summoning process. The

increased summoning may have been an effort to compensate for the “unknowns” involved with the one-step summoning method implementation. When the jury manager had been used to the comfort of the two-step summoning process, she was afforded more time and more contact (two sets of mailings) with the prospective jurors. When such a transition is made to one-step summoning there may be an initial over-reaction to avoid fear of being short jurors on the day of court.

Recommendation Number 3: Increase the timeframe for study, in order to obtain a larger data sample to accurately identify increased or decreased jury summons need.

In the Morton County case study, the measurement timeframe was compressed into two separate six-month samples. The rise in jury summoning could have been a coincidental occurrence not related to the recent change in summoning procedure. By studying a longer timeframe, it will become clearer if the reported increase in summoning is due to the change in procedure or rather simply due to a higher number of jury trials during those months.

Conclusion Number 4: SCJD Jury Manager Survey data (Appendix B) show similar results to the answers provided by the Morton County Jury Manager.

An almost even split representation between two-step and one-step jury managers from the South Central Judicial District overwhelmingly report they are satisfied with their current summoning practice. Similar to the levels reported by the Morton Jury Manager after the transition.

Recommendation Number 4a: Provide a follow-up survey with detailed breakdown of itemized features for each step of the summoning process; implement in each county.

A more detailed approach to the survey may help isolate positive elements of each of the summoning methods. Also, the added detail may help the jury managers clarify and

differentiate between similarities in the summoning procedures. During the first round of the survey, some respondents may have failed to consider all elements of the summoning process (i.e., use of the JMS software) when answering favorably regarding satisfaction with the current summoning process. The added information from the subsequent survey would help to clarify what should be considered when rating the current levels of satisfaction with the jury management process.

Recommendation Number 4b: Consider the differences in case filing volume, county population, and trial predictability when deciding which method is best for summoning.

Some of the clerks enjoy the elongated process provided by the two-step summoning method. The ability to keep prospective jurors on call for multiple months is appealing to the smaller counties because they have limited populations from which to summons in the first place. However convenient it is for small county jury managers to slow the process by extending juror availability timeframes, advancements in the area of jury trial predictability can assist in lessening the need for extended service times.

Recommendation Number 4c: Consider the factor of staff time savings when managing jury operations.

The investment of time must be considered for the staff in the clerk offices who are involved in jury procedures. Clerk staff time is at a premium in all court offices across the state. Any time saving ventures should be under serious consideration by the court administration/judges/legislators to increase productivity and streamline the jury summoning process as a whole. Court Administration and the jury managers must consider the long-term impact in this area as there may well be some difficulties during transition. The short-term challenges should not dictate the long-term positive effect(s).

Statewide Yield and Utilization Comparisons

Initial findings for this section served to highlight current jury yield and utilization rates. All data was produced via the Courthouse Technology Jury Management System (JMS).

Conclusion Number 5: Statewide jury yield and utilization reports show that all of the high-volume (the 15 counties with 11 or more trials per year) counties are at or above the accepted jury yield success rate of 40%. Jury yield rates are exceptional across the state.

The high percentage of individuals appropriately following through with their jury qualification indicates the citizens of North Dakota take the job of jury duty seriously and fulfill their civic duty when asked to do so.

Recommendation Number 5a: Consider the exceptionally high jury yield rates of the North Dakota citizenry when deciding on the number of jury summonses to send for trials.

Overall the North Dakota jury yield rates are high (Table 5) at a measured 55% during the study period, so this negates the need to send excessively high numbers of summonses, in order to achieve the required number of people on the day of court. However, the current jury utilization numbers are alarmingly low at a measured 22% during the study period, due in part to the consistently high yield and subsequent non-use of so many of the jurors (equating to low jury utilization).

Recommendation Number 5b: Jury managers and Court administrators should use caution when determining that the one-step method is the sole cause for successful jury yield rates.

Even though all of the one-step counties display successful jury yield rates (58%), it cannot be assumed the success is due to the method of summoning. This is true, because the

high volume jury trial counties currently still using the two-step counties display a successful jury yield rate of 45% (Figures 5 and 6).

Recommendation Number 5c: Consider adjusting the formulas used via the JMS reports feature to calculate jury yield and utilization.

The method of jury yield and jury utilization calculation requires extra work by the jury managers in order to achieve results under the NCSC CourTools (2005) formulas. The JMS report displays should be consistent with the recommended versions of the NCSC (40% for Jury yield; 30% for Jury Utilization, Part I; and 90% for Jury Utilization Part II – the overall utilization percentage). By adjusting the North Dakota JMS reports to be consistent with the NCSC CourTool efficiency standards, all county jury statistics can more readily be compared and the information would be much easier to understand. The North Dakota Jury User Group (the assigned committee in charge of tracking jury software issues and making recommendations for improvement) should take the recommendation under advisement for considered improvements.

Conclusion Number 6: Statewide Jury Yield and Utilization Reports reveal all of the high-volume counties fall well below the accepted jury utilization success standard of 90%.

The statistical reports indicate a concerning level of inadequacy in the area of jury utilization. Many factors contribute to this formula, but the most commonly reported issue is that of *over-summonsing* (sending too many or more than necessary). An additional factor affecting this poor jury utilization performance may include the aforementioned better than average jury yield for this state. Because so many show up, there are that many more jurors to potentially go unused. Another factor contributing to the under utilization may be inexperience in processing juries with the JMS software. That coupled with the infrequency of trial needs (in

some of the lesser populated areas) may assist in explaining difficulties in maximizing efficiency.

Recommendation Number 6a: Study the issue of poor jury utilization, identify the causes, and create a plan to correct the problems.

The extremely low percentages of jury utilization are a concern because it indicates a potential misuse of the public's time. Responsible jury management must include safeguards to unnecessary use of citizen time; anything less will jeopardize confidence in and the integrity of the jury process. The court system in this country relies on citizen participation. Therefore, the court should do everything in its power to ensure citizen time investment is of value to the process. Continued low jury utilization rates would be a demonstration of the court devaluing the citizen contributions to justice, and that would be unacceptable.

Recommendation Number 6b: Provide training to all necessary individuals involved in the jury management process.

Once methods for improvement are identified, court administration must invest time training the individuals in responsible implementation to improve the jury utilization results. Simply announcing one method is better or preferred over other potential options (whether considering summoning methods or jury software), does not prepare the staff (statewide jury managers) to implement procedures to achieve maximum efficiency (proper use of jurors). After the preferred methods are identified and chosen, there must also be a training stage to clearly summarize expectations and how to achieve them. Clear outlines of procedure should be given to ensure best possible outcomes.

Statewide Survey Results

Initial findings for this section serve to illustrate current information as reported by the jury managers from across the state. All 53 District Courts (all North Dakota counties) participated in the survey, which was designed to measure areas such as summoning methods being employed by each county, frequency of jury trials, the jury manager's level of satisfaction with the current jury management process, the jury manager's impression of juror utilization efficiency, the jury manager's impression of jury spending levels, and the number of days on-call (period of availability) for each county jury management system.

Conclusion Number 7: The counties utilizing the one-step summoning method are better at minimizing the time investment from the citizens involved in the process.

The one-step counties require a lesser time investment from the public. The statewide surveys showed 72% of one-step counties ask jurors for a *period of availability* of 30-days or less, while only 10% of the two-step counties have the same time requirement of 30-days or less. Generally, the one-step counties ask for minimal time investment because they are able to provide the actual court date on the day they send the summons letter (which also couples as the qualification directive). The two-step counties do not have the court date identified at the time of the summons pre-qualification. Hence there is a period of time where the individual is unsure of their status and on-call, sometimes waiting weeks or even months in some of the lower volume counties before getting the 2nd step notification, which contains the actual information for the court date and directive to report.

Recommendation Number 7a: Consider the benefits to the public when weighing options of the one-step and two-step jury summoning procedures.

Responsible use of citizen time is imperative to maintain full public trust and confidence in the jury system. Only the necessary numbers of individuals should be summonsed for only the necessary numbers of days, as the period of availability hinders the average citizen's ability to operate in their normal everyday manner. Determination of the necessary number of people and days (with a small cushion built in for unexpected situations), will enable jury managers and court administrators to reduce the burden on our citizens when calling them in for jury duty.

Recommendation Number 7b: North Dakota courts should consider adopting the jury requirement of One-Day/One-Trial.

Allowing the public to fulfill jury obligation by reporting for one day or one trial is considered a fair and responsible use of the citizens' time. Elongated or extended on-call status for prospective jurors places undue burden on the citizenry and over time will erode public trust and confidence in the system (Hannaford-Agor, 2009). Employing the one-day/one-trial formula for jury duty satisfaction minimizes the citizen time investment by making it a onetime event. Alternate jury management practices expect prospective jurors to clear their day to report, and then the juror goes to court. If the trial settles or there is some other reason for continuance/delay, the juror would be expected to return again at a later date. The one-day/one-trial (called one-trial in case it goes into a second or more days to complete the trial) requirement would safeguard against expecting jurors to report again in the above described scenario.

Conclusion Number 8: A substantial percentage of the statewide jury managers are not as aware as they should be of their current jury budget status.

Roughly 40% of the jury managers from across the state are unsure of their current jury budget status. When asked whether the jury managers regulate their jury system within the allotted budget amounts, surprisingly, they were unsure of the current status. These results

reveal that jury managers need to be more informed about jury spending and should factor the budget impact into decisions concerning overall jury management.

Recommendation Number 8a: Provide training to all jury managers regarding the importance of closely managing jury spending.

Jury managers need to be aware of the options they have for discretionary spending pertaining to jury. The fact that jury operations are mandatory does not justify overspending to fulfill the obligations. Areas to potentially address spending could include mailings (whether to include a stamped envelope for return qualifications), jury supplies (what to get and where to get them), the numbers of jurors summonsed (North Dakota pays \$25 for the first half day of service and \$50 if it goes into the afternoon on the first day, and \$50 for any part of additional days needed for trial completion).

Recommendation Number 8b: Court Administrators should assist their Jury Managers in reviewing current jury spending to determine efficiencies and inefficiencies.

Just because current spending appears to be in line with appropriated amounts, it is not an indication of efficient spending. The appropriated amounts may be based on a previous year's inefficient planning. Responsible jury management must consider all costs of the operation and only spend as necessary to fulfill the obligation of providing a sound forum for justice. Jury budgeting is appropriated by the North Dakota Legislature via the North Dakota General Fund (made up of tax monies). Therefore, responsible spending is critical in maintaining integrity of the process. Misuse or reckless spending of taxpayer funds is never acceptable.

Conclusion Number 9: The jury line-item of the North Dakota Judicial Budget shows jury spending at or below the appropriated level in 3 of the 4 Administrative Units.

Current budget status reports show spending in line with the appropriated amounts in three of the four Administrative Units. The one Administrative Unit above appropriation is currently only one percentage point higher (68% where the cutoff is 67% or two-thirds through the biennium). The study should include identification of the necessary spending amounts (to stay within budget) allowed for each trial. Perhaps the overspending can be explained simply by an increase in jury trials through a certain period of time. As long as the amount spent per trial is still in line with the expected amounts, the jury management process could still be considered a responsible use of taxpayer funds.

Recommendation Number 9: Measure the trial totals across the state and cross-compare the spending ratios to ensure efficiency in spending.

One can only get a true sense of efficient spending if you have accurate data. By listing the numbers of trials within each of the Administrative Units, then dividing the totals into current spending amounts, one can see the dollar totals spend per trial. Again, just because spending is at or below the appropriated amounts, does not necessarily indicate responsible spending and budgeting. If a Unit is at the appropriated amount but shows a decrease in total trial volume, spending would still be higher than necessary.

Summary

The overall conclusions gained from the study center around four basic points.

First, court workers should never allow any or commit any action that devalues or lessens the importance of the jury system. It is absolutely a cornerstone of our justice system. To that end, we must always ensure an unimpeded forum for pursuit of justice.

Second, citizen involvement in this process should be looked on as something quite sacred. The very freedoms we enjoy in this country are only possible because of the rule of law which we employ. Participation of our citizens in keeping this level of civility and lifestyle can only occur if we safeguard the citizens' time and contributions to the jury process.

Third, court administration must always provide the best available tools (equipment, training, methods/options) to the staff involved with the jury process. The job of jury management is difficult enough without adding levels of resistance to the equation. Court administration is in a position to assist in easing the strains involved with jury management, and should do everything possible to preserve the integrity of the process.

The final point is to always remember to consider the effective stewardship of taxpayer dollars, no matter what the task, but especially for events as important as jury management. This function still requires conscientious decision making when making expenditures. We owe it to the citizens to be responsible with spending while at the same time safeguarding the aforementioned parts of the system. Anything less would be considered an injustice to the process.

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Appendix A: Munns ICM “Fellows” Project Survey

Introduction: Please submit one survey per county, and it should be completed by the person in charge of organizing/facilitating the jury process... (from summoning stage, to the day of court and check-in).

Hello everyone, thank you for taking time to complete this short survey (should take you less than 10 minutes to complete). The information you provide will be used for two purposes: (1) as supporting documentation for my Institute for Court Management “Fellows” Project and Paper which focuses on the jury management system in North Dakota; and (2) to assist me with my duties as chair of the jury program user group in our state court system. For my project I am primarily measuring the process in Morton County, but I plan to make some general comparisons to other areas of the state. The overall purpose of my research is to try to identify the best, most efficient and cost effective method for jury management in the North Dakota Court System.

Of course this is voluntary to complete, but I am aiming for 100% participation from the jury manager from each of the 53 counties in the state (I realize that Administrative Unit 2 has “centralized jury” processing, so I will account for that). The information will be identified only by Administrative Unit and not by Individual County. I intend to use the results of my research to make improvements, if needed, to our system – hopefully saving the clerk staff time and money.

The person completing this survey should be the individual in charge of jury management for the county (including the summoning process).

Please answer the Preliminary Questions to provide foundation information for my study.

Preliminary Questions -

1) I facilitate the jury procedures for _____ (please list your county), of the ND Court System.

2) The method I use for jury summoning is the: (choose one)

*One-Step process _____ **Two-Step process _____

Definition:

* The 1-step summoning process combines the qualification of prospective jurors with the summons.

**The 2-step jury management system first qualifies prospective jurors, and then summonses those who are qualified to report for jury duty. (Jury Manager's Toolbox, NCSC)

3) (please estimate) In my county, the number of jury trials, for which we summons averages between _____ per year: (indicate choice below)

____ 0 - 5

____ 6 – 10

____ 11 – 15

____ 16 – 20

____ more than 20

Procedural Rating Questions –

4) Overall, I would say the “summoning” stage of the jury management process utilized in our county is_____:

____ Extremely adequate

____ Adequate

____ Neither adequate nor inadequate

____ Inadequate

____ Completely inadequate

5) Overall, I would categorize the juror utilization* rate in our county as _____:

____ Extremely adequate

____ Adequate

____ Neither adequate nor inadequate

____ Inadequate

____ Completely inadequate

*Effective juror utilization minimizes the number of jurors who are not ultimately needed to select juries, thus conserving court resources and enhancing citizens' jury service experience. Measuring juror utilization helps the court minimize the number of unused jurors – that is, the number of citizens who are summonsed, qualified, told to report for service, but then are not needed.

6) We regulate our jury system within the allotted budget amounts each year.

____ Yes

____ No

____ Unsure

7) The average number of days a citizen might be “on call*” for jury service in my county (estimate) is between ____:

____ 1 – 30 days

____ 31 – 60 days

____ 61 – 90 days

____ 91 – 120 days

____ more than 120 days

*on-call, meaning they could be called multiple times within a certain timeframe, if their trial dates continue to settle or don't occur for some other reason.

Appendix B: Munns ICM Fellows Project Interview

Questions for Morton County Clerk of Court

- 1) How many years have you worked in the court system?
28.5 years
- 2) What positions have you held within the ND court system? How long at each position?
Court Reporter – 24 years
Clerk of District Court – 4.5 years
- 3) Describe your experience with jury management procedures. **Since becoming Clerk, I take care of all aspects of jury management from summoning jurors, making sure we have the proper number of jurors and bailiffs at the courthouse for jury trials, assisting with jury selection in the courtroom, inputting jury information into the jury management system and paying the jurors.**
- 4) How many jury summonses do you send out per year (estimate for Morton County)? **In 2011 we summoned 3,416 people. Of those people, 638 appeared in court for jury service and 184 served as jurors. From January 1, 2012 through September 26, 2012, we summoned 4,948 people. Of those people, 417 appeared in court for jury service and 102 served as jurors.**
- 5) What are the primary reasons for not holding scheduled trials? **Continuances, change of pleas, settlements and dismissals.**
- 6) You recently transitioned from the “Two-Step” jury summons process to the “One-Step” - what prompted the idea to change? **The change was requested to me by our Assistant Trial Court Administrator and recommended by the Clerks of Court in Burleigh County and Stutsman County.**
- 7) Prior to making the change, did you have concerns or were you apprehensive to make the switch? **Yes.** If so, what were your concerns about making the transition from the Two-Step to the One-step summoning procedure? **I was concerned about the amount of time I would spend mailing out jury summonses and inputting the information when the jury questionnaires were returned. I also had some concerns about getting the proper number of jurors to show up in the courtroom the day of trial.**
- 8) What steps did you take to make the transition? **First, the Clerk of Court in Burleigh County trained me on the one-step system. Then I came back to my office and prepared cheat sheets for myself and staff and went from there.**
- 9) How would you compare the one-step method to the former two-step method? **I prefer the one-step method. The public is much happier, as am I. It is very easy to do and saves time for myself and staff.**

10) Has the change affected:

- a. FTA's? **No.**
- b. Juror Yield? **Somewhat improved. In 2011 it was 38.85% and so far in 2012 it is 40.80%.**
- c. Juror Utilization? **The percentage may go down initially while transitioning due to fear of not having enough jurors show up and inexperience in using deferred jurors. I would expect improvement after getting more familiar and comfortable with the one-step system.**
- d. Jury Costs? **About the same.**
(Run data report in Courthouse JMS – and share results with the Clerk – after allowing for review of the data, ask)
- e. What are your impressions of the data comparison in these areas? (a, b, c, and d from above) **Positive.**

What would you have to say to jury managers contemplating a conversion and to those that are reticent to change? **Go for it. You will not regret making the change. The one-step system is easier to manage.**

Appendix C: 1-step System - Instructions

The pools are already created. Create a case with just the basic information in it. Do not add the pools to the case until after the jurors have been mass attended in the courtroom.

Print a list of the confirmed and non-confirmed jurors to take into the courtroom and find out who is actually present. Confirm any non-confirmed jurors and add any jurors to the pool that may appear for whatever reason.

Then go to:

File - New - Attendances - Pool/Scan In

Select **Mass Attend** - Make sure the attend date is today's date and select the Pool you'll be working with. Uncheck anyone who is not present (or, in the alternative, make sure there is a check mark by everyone who is in attendance).

The screen will say, "Continue attending ____ candidates for (date). Click OK.

Click OK again.

Then go back to the Case you created and click on it. Make sure you enter the **Panelists Requested with the same number of candidates you attended in the courtroom**. Add the pool(s) to the case and make sure the jurors you attended in the courtroom are all checked and that anyone not present is not checked.

Then go to Panel Package and print the attorney list and random list. Make copies for distribution and use in the courtroom.

Appendix D: Jury Line Instructions and Script

Jury Line: 667-3379

Welcome to the Morton County Jury System.

The jury trials scheduled for _____ have settled without the need for trials, so you do not have to report as directed.

Your jury service is now complete. Thank you.

OR,

Welcome to the Morton County Jury System.

The trial scheduled for _____ is proceeding as scheduled. Jurors in Pool ID # _____ (felonies may have 2 ID numbers) will need to report by _____ a.m. to Courtroom _____ on the _____ floor of the Morton County Courthouse.

If a pool doesn't have to report that same day,

Jurors in Pool ID # _____ do not have to report for jury service as that case has settled.

Thank you.

Appendix E: JURY TRIAL PROCEDURES - CIVIL AND CRIMINAL

1. Go through the opening comments by the clerk and follow the One-Step System Instructions.
2. Number the jurors on the random list on the left-hand side, 1 through whatever.
3. Have the peremptory list filled out and ready.
4. Court begins. The bailiff announces the Court and the Court makes some opening comments.
5. The Court directs the clerk to administer the oath to the jury panel.
6. The Court directs the clerk to call the names of the jurors. Speak clearly and distinctly. Call as many names as were requested. Give the juror some time to enter the jury box before calling the next juror.
7. Counsel exercises their peremptory challenges and the Court will instruct on calling more names if necessary.
8. The Court will excuse the jurors that are not selected and the clerk will administer the oath to the jury. The clerk is excused after the jury has been sworn.
9. If the clerk is required to sit through the trial, the Court will inform the clerk beforehand as to his expectations.

**Appendix F: Morton Jury Manager Survey Response Sheet
Munns ICM “Fellows” Project Survey**

Introduction: Please submit one survey per county, and it should be completed by the person in charge of organizing/facilitating the jury process... (from summoning stage, to the day of court and check-in).

Hello everyone, thank you for taking time to complete this short survey (should take you less than 10 minutes to complete). The information you provide will be used for two purposes: (1) as supporting documentation for my Institute for Court Management “Fellows” Project and Paper which focuses on the jury management system in North Dakota; and (2) to assist me with my duties as chair of the jury program user group in our state court system. For my project I am primarily measuring the process in Morton County, but I plan to make some general comparisons to other areas of the state. The overall purpose of my research is to try to identify the best, most efficient and cost effective method for jury management in the North Dakota Court System.

Of course this is voluntary to complete, but I am aiming for 100% participation from the jury manager from each of the 53 counties in the state (I realize that Administrative Unit 2 has “centralized jury” processing, so I will account for that). The information will be identified only by Administrative Unit and not by Individual County. I intend to use the results of my research to make improvements, if needed, to our system – hopefully saving the clerk staff time and money.

The person completing this survey should be the individual in charge of jury management for the county (including the summoning process).

Please answer the Preliminary Questions to provide foundation information for my study.

Preliminary Questions -

1) I facilitate the jury procedures for Morton (please list your county), of the ND Court System.

2) The method I use for jury summoning is the: (choose one)

*One-Step process X **Two-Step process _____

Definition:

* The 1-step summoning process combines the qualification of prospective jurors with the summons.

**The 2-step jury management system first qualifies prospective jurors, and then summonses those who are qualified to report for jury duty. (Jury Manager’s Toolbox, NCSC)

3) (please estimate) In my county, the number of jury trials, for which we summons averages between _____ per year: (indicate choice below)

0 - 5

6 – 10

11 – 15

16 – 20

more than 20

Procedural Rating Questions –

4) Overall, I would say the “summonsing” stage of the jury management process utilized in our county is_____:

Extremely adequate

Adequate

Neither adequate nor inadequate

Inadequate

Completely inadequate

5) Overall, I would categorize the juror utilization* rate in our county as _____:

Extremely adequate

Adequate

Neither adequate nor inadequate

Inadequate

Completely inadequate

*Effective juror utilization minimizes the number of jurors who are not ultimately needed to select juries, thus conserving court resources and enhancing citizens' jury service experience. Measuring juror utilization helps the court minimize the number of unused jurors – that is, the number of citizens who are summonsed, qualified, told to report for service, but then are not needed.

6) We regulate our jury system within the allotted budget amounts each year.

Yes

No

Unsure

7) The average number of days a citizen might be “on call*” for jury service in my county (estimate) is between _____:

1 – 30 days

31 – 60 days

61 – 90 days

91 – 120 days

more than 120 days

*on-call, meaning they could be called multiple times within a certain timeframe, if their trial dates continue to settle or don't occur for some other reason.