

Jury Selection Working Group
Meeting Minutes: September 11, 2026

I. Call to Order

A quorum being present, the Jury Selection Working Group on September 11, 2026, was called to order by Co-Chair Hood at 1:04 p.m. in the Ralph L. Carr Judicial Center, Supreme Court Conference Room and via Webex.

The following voting members were present at the meeting: Kevin Cheney (Co-Chair); Justice William Hood (Co-Chair); Joyce Akhahenda; Chief Judge Michelle Amico; Amanda Blyth; Chief Judge Paul Dunkelman; Judge Kellie Eastin; Kim Graham; Judge Elizabeth Harris; Chief Judge Amanda Hunter; Rachel Maestas; Judge Dana Nichols; Jerry Pratt; and Tanja Wheeler.

The following non-voting participants were also present at the meeting: Megan Berry, Andrew Maestas, Catherine McDaugale, and Terry Scanlon.

The following voting members were absent from the meeting: Judge Jerry Jones, John Palmeri, Jessica Salerno, and Darryl Shockley.

The following materials were distributed before or used during the meeting: August 21, 2026 Meeting Minutes.

II. Minutes

The August 21, 2026 minutes were approved without amendment by unanimous consent.

III. Announcements from the Co-Chairs

Co-Chair Hood introduced Margaret “Megan” Berry as staff who will be helping with the working group.

IV. New Business

A. Solicitation of preliminary thoughts of each working group member (to establish a baseline for consensus-building moving forward) using the following prompts:

- 1. Should electronic questionnaires for prospective jurors be used in all cases if technologically and financially feasible? If yes, should courts use standard templates or case-specific questionnaires?**

Co-Chair Hood opened the topic for discussion. Some members supported the use of questionnaires and believed that any questionnaire was better than no questionnaire, while others were unsure whether their use would be beneficial, recognizing that there

were both pros and cons to their use. Concerns about case-specific jury questionnaires included:

- Use of court time when trying to manage both civil and criminal cases.
- Elongating the time for voir dire.
- Jurors' information being disclosed to pro se parties.
- Logistical challenges of distributing them to jurors in advance.
- Jurors' access to technology.
- Possible use of gamesmanship by attorneys.

On the other hand, the stated benefits might include:

- Better use of a juror's time as it could result in the juror not even needing to report for jury duty.
- Decreased voir time (e.g., Co-Chair Cheney cited Arizona as an example where it cut voir dire time in half).

The following potential areas to consider included:

- Use of case-specific questionnaire templates (e.g., theft, DUI, sex assault, etc.), acknowledging that questionnaires wouldn't be one size fits all and that there are differences between district, county, and municipal courts.
- Who should put the questionnaire together (i.e., the attorneys or the court).
- Current resources to distribute questionnaires in advance.
- Use of electronic questionnaires.
- Whether to make them optional or mandatory for a juror to complete (e.g., Co-Chair Cheney cited Arizona as an example where they made it optional but have a high level of completion).
- Whether to give each district's chief judge discretion regarding their use.
- Timing of sending them to jurors.

- Who would be responsible for making the judgment call to excuse a juror based on the juror's answers to the questionnaire.
- Technology: making iPads or tablets available for jurors to complete them at the courthouse.
- Ways to incentivize jurors to complete the questionnaires in advance to save time.
- Possibility of staging the process (e.g., Arizona started (1) with a simple system like Google forms and then eventually developed their own system and (2) by sending them the same day but then switched to sending them forty-eight hours beforehand).
- Making the voir dire process uniform in every county.
- Whether to recommend the use of questionnaires or make their use mandatory.

The working group members also discussed their experience with the use of questionnaires:

- Chief Judge Amico stated the Eighteen Judicial District has used questionnaires, and she's had a good experience with them, noting that (1) a general questionnaire gives a good baseline, (2) they save time and are able to completely eliminate people before they come up to the courtroom (that decision is made by the judge and attorneys on the record), (3) the last question on the questionnaire is whether they have anything they want to tell them about serving on a jury that wasn't asked, (4) the questionnaire helps attorneys to know whom they want to follow up with on certain issues, and (5) judges can use a case-specific questionnaire for cases that warrant it.
- Akhahenda stated that the use of questionnaires speeds up the process.
- Graham stated that questionnaires give jurors an opportunity to express certain things while not in open court and then can state if they would like to discuss it more in private (e.g., in a rural court, jurors know everyone else and may not want the whole community to know something).
- Chief Judge Hunter stated some questions on a questionnaire require more questioning, so it's wise to be conscientious of how many questions are on the questionnaire.

- Blyth stated there are more in camera conversations in jurisdictions that don't use questionnaires. Questionnaires can be a time saver when a juror expresses an inability to serve for a certain reason in response to a question.
- Co-Chair Cheney stated that the best voir dire he has seen was after using a case-specific questionnaire. In that case, he only received thirty minutes for voir dire, but it was much easier to use that time after having the questionnaire.
- Rachel Maestas stated that standard questionnaires are copied and given to the division clerk when a juror is assigned to the panel. Copying the questionnaires takes the longest but it goes quickly. The attorneys aren't given additional time to review the answers but get used to the process. She believes that the questionnaire does save time.

Ms. Salerno was unable to attend the meeting but sent the following response to this question in advance of the meeting:

Yes, if technologically and financially feasible, I think they should be an option for all cases. Based on the research and implementation in Arizona, I think they will provide better information given they are answered in private and not under time pressure—and at least in Arizona they provided better information while also making in-court time more efficient and cost effective.

I think some standard questions would be ok but that there should be at least some questions that the attorneys can choose themselves that are relevant and specific to the case. The research suggests the questions that best predict biased jurors are case specific, and also tend to be those generated by the attorneys who know the case the best. If we end up going with templates, in my view, the worst route would be templates that rely exclusively on demographics and the questions that ask jurors to come up with their own source of bias (e.g., can you think of any reason you might not be able to judge this case impartially?). Including one of those ok to catch those who are super self-aware, but should be supplemented with at least a few attorney-identified questions that they think are likely to be big drivers of bias in their case, specifically. That could also save time so they don't have to ask them all during voir dire in court.

2. What time constraints, if any, should judges typically impose for attorney voir dire in civil and criminal cases in county and district courts?

Co-Chair Hood moved the discussion to time constraints, asking (1) what the working group was accustomed to and (2) what judges should impose in civil and criminal cases and noting that most judges around the state would be reluctant to keep voir dire open-ended.

Working Group members noted how the time allowed for voir dire has shrunk over time, with Pratt stating that when he first started practicing, judges didn't set a maximum time for voir dire but have set limits over the years.

On the other hand, Chief Judge Dunkelman stated that sometimes in civil cases, the attorneys are given more time but don't use all of it. Co-Chair Cheney agreed but noted that depending on how forthcoming a panel is, you may need more time.

Others noted the inappropriateness of short voir dire times, with Chief Judge Amico stating that fifteen or twenty minutes was not appropriate, Akhahenda stating that you can't do anything in fifteen minutes, and Eastin agreeing that fifteen minutes is not enough.

Chief Judge Hunter noted that expanded questioning of jurors can cause juror confusion, while Akhahenda noted that it takes time for jurors to understand the facts and rules.

Some of the members proposed minimum and/or maximum times for voir dire based on the type of case (e.g., thirty minutes for misdemeanor cases and an hour and a half for felony cases), while others expressed the following concerns:

- Each case is different so establishing minimum times can be difficult in a vacuum.
- Researchers warned if you establish minimums, those minimums could become the maximum in every case.
- Time suggestions could be helpful, but minimums could become maximums.

Current practices include:

- Asking for more voir time in each case but being denied additional time 90% of the time (Co-Chair Cheney).
- Giving attorneys "a reasonable amount of time" (Judge Eastin).

- Using pretrial conferences to agree on some facts to read to the jury, which helps to shorten the voir dire time (Judge Eastin).
- Giving the attorneys three-minute openings that don't cut in on their voir dire time, which helps to get the jurors talking (Judge Eastin).

Co-Chair Cheney proposed a compromise that would maintain judicial discretion without setting an arbitrary number: no mandatory minimums or maximums but giving judges the discretion to cut off attorney questioning when the attorney asks poor questions, i.e., not making good use of the time. In response, members pointed out the following concerns:

- Judges might be uncomfortable using that discretion (e.g., giving the district attorney an hour but then cutting off the public defender after thirty minutes or cutting off the attorneys at all).
- Judges would interpret “not making good use of the time” differently.
- Without boundaries, it could make it difficult for judges to keep their dockets on track (e.g., if the trial isn't completed with the time allotted, it would spill over into the next week, affecting other cases).

Co-Chair Hood stated that the working group could (1) craft a rule, (2) make it discretionary, or (3) require training to reduce the number of judges around the state who will only give the parties fifteen minutes for voir dire in a case.

Pratt proposed a rule giving parties a presumptive amount of time for certain types of cases and giving judges discretion to increase that time. Many members liked the idea.

- Co-Chair Hood noted that presumptions have an aspirational aspect because they would be reviewed for an abuse of discretion.
- Co-Chair Cheney stated that presumptions would strike the right balance, noting that most judges would follow them and it would increase the low times now given.
- Chief Judge Dunkelman stated that presumptions would allow judges to increase or decrease the time when it makes sense (e.g., a very short trial with limited issues).

Ms. Salerno was unable to attend the meeting but sent the following response to this question in advance of the meeting:

I think attorneys should be given more time than many are getting now in Colorado and that attorneys should get time to ask case-relevant questions, but of course I'm sure there are restraints that would need to be put in place and avenues for judges to stop it if the attorney is not using that time in good faith or wasting the court's time. I think the specific length depends on if there are pre-voir-dire questionnaires. If so, perhaps less time is needed in court because much information would have been gathered already ahead of time—though the attorneys would still need in-court time to ask follow-up questions.

3. Should trial judges typically refrain from using leading questions to “rehabilitate” prospective jurors who arguably display an inability to be fair and impartial to both sides of a case? If so, should this issue be addressed through rulemaking or training or both?

Co-Chair Hood then directed the conversation into the issue of juror rehabilitation, asking how the issue should be addressed.

Co-Chair Cheney stated that rehabilitation is the clearest problem with the hardest solution. The issue was pulled out of the bill because they couldn't decide how to fix the problem. He agrees with Co-Chair Hood that training may be the best way to address the issue. Judges shouldn't try to rehabilitate people who are biased.

The language that was cut from the bill is as follows:

No person evincing significant enmity or bias that would bear on the merits of the claims or defenses of the parties, or expressing a previously formed or expressed opinion about the merits of the action, shall be deemed rehabilitated or qualified to serve as a juror regardless of the person's willingness to follow the law or set aside the person's enmity or bias. The Court shall allow both sides an opportunity to examine the jury panel before determining if significant enmity or bias, or a previously formed or expressed opinion, exists.

The working group noted the following problems with trying to rehabilitate a juror who has expressed bias:

- Once they're biased, they're incapable of setting that bias aside.

- You can't educate jurors out of their bias.
- The power dynamics between a judge and a juror can be intimidating to a juror; when a judge tells a juror what they're supposed to do, the juror is often unwilling to say they aren't willing to do that.
- Rehabilitating jurors who are obviously biased is offensive to justice.

Potential issues with drafting a rule to address juror rehabilitation:

- It's hard to write a rule because of the wide continuum. At one end, a juror may not understand the question, but on the other, a juror may state, e.g., that they don't trust police officers.
- Current case law that says you can rehabilitate a juror by silence.
- Judges need to retain discretion to intercede when an attorney's question is poorly framed.

A potential issue with training is that some judges don't respond to training.

Ms. Salerno was unable to attend the meeting but sent the following response to this question in advance of the meeting:

Yes, trial judges should typically refrain from using leading questions to rehabilitate prospective jurors who arguably display an inability to be fair and impartial—though I think they should also avoid it toward jurors who say they can't be fair and impartial to just one side (not just to those who can't be impartial to both sides).

I think whether it should be done through rule making might be outside of my expertise—though research would suggest that it will likely be more effective if there is accountability through rule changes rather than just training and hoping judges have the awareness and motivation to avoid doing it—all humans have a hard time with this kind of thing.

I think training is a good idea regardless of whether a rule change on this happens—I think it will help judges understand the reasons behind discouraging judicial rehabilitation (which research shows makes interventions more effective), but also training to help both

attorneys and judges question, argue and evaluate cause challenges more effectively could help attorneys and judges navigate voir dire without rehabilitation.

4. Please share any other thoughts you have about how to make this working group a catalyst for meaningful change.

Co-Chair Cheney suggested looking at allowing expanded opening statements before voir dire. Chief Judge Amico stated she might be willing to try that in civil cases; another place to give jurors that information is through a stipulated statement of the case on questionnaires, which is usually included in an Eighteenth Judicial District questionnaire. Chief Judge Dunkelman agreed it could work in civil cases. Chief Judge Hunter liked the idea of a three-minute opening.

The working group then discussed the use of opening statements before voir dire in criminal cases. Judge Eastin pointed out that it's helpful for jurors to answer a question with context.

Akhahenda thinks demographics should still be collected as part of voir dire, either on a questionnaire or during questioning for *Batson* purposes and because it's helpful to know in general. Blyth pointed out that it's helpful so you can use their preferred pronouns.

V. Future Meetings

The next meeting is a virtual meeting with Judge Gates on September 21, 2026, from 12:00 to 2:00 p.m.

Additional meetings are scheduled for:

- October 23, 2026
- November 13, 2026

VI. Adjourn

The Jury Selection Working Group meeting adjourned at 3:11 p.m.