



New Jersey Courts

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Jury Reforms: Case-Specific Electronic Questionnaires

August 2022

ACVD Pilot Program – Electronic Questionnaires

The Supreme Court in its [July 12, 2022 Order](#) authorized a pilot program on Attorney-Conducted Voir Dire (ACVD).

In addition to a shift from judge-led to attorney-conducted oral questioning, the pilot program involves use of **case-specific written electronic questionnaires**.

ACVD Pilot Program – Electronic Questionnaires

The judge and attorneys will conference before the trial date to determine specific questions to be posed to jurors in the electronic questionnaire before oral voir dire.

Jurors will complete the electronic questionnaire when they report to the courthouse.

Juror responses will be compiled and shared with the judge and attorneys before jurors are brought to the courtroom.

ACVD Pilot Program – Electronic Questionnaires

The use of a case-specific electronic questionnaire:

- Enables early dismissal of jurors who cannot serve based on hardship or cause;
- Protects privacy and encourages candid responses from jurors who might be reluctant to disclose certain experiences or views orally; and
- Supports effective voir dire by providing attorneys with detailed, relevant information about prospective jurors before oral questioning.

Overview

1. Development of case-specific electronic questionnaire.
 - Recommended timing of voir dire conference.
 - Guidelines for questionnaire content and length.
2. Drafting and filing of agreed-upon form.
 - Confidentiality of questionnaire.
3. Review of juror responses.
 - Confidentiality of juror responses.
 - In-court review process and next steps.

Development of Questionnaire

When counsel request to participate in the ACVD pilot program, the court will schedule a hearing (with the defendant) to memorialize consent on the record and in a written form.

After that hearing on consent, the court and counsel will conduct a conference to finalize the Trial Order on ACVD Process and to develop the content of the case-specific electronic questionnaire (subject if necessary to further edits).

Development of Questionnaire

In the beginning, electronic questionnaires should be relatively concise (not more than 50 questions, preferably closer to 30 for a 3rd or 4th degree charge).

All questionnaires must include standard questions about juror qualifications.

Questionnaires must not include questions that seek a juror's individual demographic information.

Types of Questions to Include

The following types of questions are well suited for a written format:

- Questions that can be answered: yes/no/unsure
- Questions with responses provided in a list
- Questions with short narrative responses, e.g., who in your family works in law enforcement?

Types of Questions to Avoid

Certain question types in general should be avoided:

- Compound questions
- Questions that use legal terminology or other language not familiar to jurors
- Detailed hypotheticals that attempt to pre-try the case

Types of Questions to Avoid

Additional question types also should be avoided:

- Intrusive questions, e.g., if a juror has indicated that they would be uncomfortable hearing a case about X, the questionnaire should not ask for a further explanation
- Numerous open-ended narrative questions

Conference to Finalize Trial Order and Written Electronic Questionnaire

This [video](#) shows an example of the pretrial conference on jury selection issues.

In the video, the judge and attorneys agree on additional questions to include in the questionnaire.

Conference on Electronic Questionnaire

Working from a template questionnaire, court staff will incorporate questions requested by the attorneys and approved by the judge.

This collaborative process will be conducted on the record.

Conference on Electronic Questionnaire

In some cases, the judge, attorneys, and staff may customize the questionnaire in real-time, similar to an in-courtroom finalization of an order.

This [video](#) shows how template questions can be modified, how new questions can be added, and how questions can be deleted.

Drafting & Filing of Questionnaire

If there is disagreement about a question proposed by counsel, the judge will make the final decision.

To the extent possible, the electronic questionnaire will be developed and finalized during the conference.

A copy of the questionnaire will be filed **under seal** along with the Order on ACVD Process.

Drafting & Filing of Questionnaire

A copy of the filed questionnaire will be provided to counsel. Edits may be made if issues are identified during review.

The questionnaire is **confidential** and must not be provided in hard copy or electronically to the defendant or any other person.

Attorney Review of Electronic Questionnaire

To illustrate the functionality of the questionnaire, the URL link that will be provided to jurors will be provided before trial to counsel, solely for review and testing.

That URL link is also **confidential** and must not be provided to any person.

Completion of Questionnaire by Jurors

When jurors report to the courthouse, they will receive a link to the electronic questionnaire.

While in Jury Assembly, jurors will complete the questionnaire on their smartphone or with Judiciary tablets.

Completion of Questionnaire by Jurors

At least at the outset of this new process, the target should be a questionnaire that can be completed by jurors in less than an hour, preferably closer to 30 minutes.

Jury management will compile the responses and provide the electronic spreadsheet of those responses to the judge and attorneys (who are present in the courtroom).

Receipt of Spreadsheet by Counsel

Counsel will receive an Excel spreadsheet with juror responses.

The spreadsheet is **confidential** under Rule 1:38-5 (as amended effective September 1, 2022).

Counsel may review the juror responses with the defendant but must not provide a copy of the spreadsheet to the defendant or any other person.

Review of Juror Responses

The court and counsel, with staff, will review the spreadsheet of juror responses in a **closed** courtroom.

While screen-sharing, staff can format the spreadsheet, including:

- to focus on initial sections;
- to strike through jurors who are dismissed; and
- To highlight jurors who will be brought for sidebar.

Review of Juror Responses

The projection is for review by the court and counsel to take less than 2 hours for a straightforward matter.

Based on that expectation, the spreadsheet would be provided to the court and attorneys by 10:30 a.m., and jurors would be dismissed (with cautionary instructions not to discuss the case) to return at 1:30 p.m.

Review of Juror Responses

This [video](#) provides detailed instructions as to how an attorney, legal assistant, or court staff can format the spreadsheet for efficient review by the judge and counsel.

Review of Juror Responses

The judge and attorneys will review the juror responses to the electronic questionnaire and address any questions as to qualification or hardship.

This [video](#) shows this pre-voir dire process, in which the judge with input from counsel determines certain pre-voir dire dismissals.

Review of Juror Responses

An attorney, legal assistant, or court staff person can also highlight specific content in the spreadsheet, such as jurors who provide a particular response to an important question.

This [video](#) provides detailed guidance on this type of spreadsheet review and highlighting.

Review of Juror Responses

The judge and attorneys can identify individual jurors whose responses to the questionnaire warrant a sidebar discussion before bringing the jury panel to the courtroom.

This [video](#) illustrates this part of the pre-voir dire conference.

Conclusion

The use of case-specific electronic questionnaires is intended:

- To enable prompt dismissal of jurors who are unable to participate in a particular trial;
- To encourage open disclosures by jurors who may be more candid in writing than in oral questioning; and
- To reveal relevant information that can be further probed during attorney-conducted voir dire.