

THE ABA AND THE AMERICAN JURY SYSTEM

During the ABA's Midyear Meeting, the House of Delegates will consider Recommendation 113, which urges the Association to adopt the ABA Principles Relating to Juries and Jury Trials. The recommendations stem from ABA President Robert Grey's initiative on the American jury system. To draw attention to the jury system and to study any reforms needed to improve the system, two separate projects were formally launched in August at the 2004 ABA Annual Meeting in Atlanta. The first, the Commission on the American Jury, "is an outreach effort to highlight the great democratic tradition of trial by jury." The goal "is to promote appreciation of our prized American jury system, and thereby to encourage participation by the public and reform by the Bar and the Courts." The project highlights the history of the jury system, its legal importance, and the responsibility of Americans to participate when called to serve on a jury.

The second initiative is the American Jury Project, which drafted the "ABA Principles Relating to Juries and Jury Trials." These proposed standards update existing ABA policy. Patricia Refo is the project's chairman, and co-chairing the project are Litigation Section Chairman Dennis Drasco, Judicial Division Chairman Louraine Arkfeld, and Criminal Justice Section Chairman Catherine Anderson. DePaul University College of Law Professor Stephan Landsman, an expert on the American jury system, serves as reporter for the project. They spearheaded an advisory committee whose members offered written comment and testimony at an October 2004 National Symposium on the American Jury System to

evaluate the proposed draft of the principles.

President Grey presented the draft proposals to U.S. Supreme Court Justice Sandra Day O'Connor, the honorary chairman of the Commission on the American Jury, in December. He described the principles' purpose as seeking "to spark a dialogue about how to decrease the percentage of people who view jury duty as a burden and increase the number of people who report when summoned."

A summary of the proposals follows:

- The right to a jury trial shall be preserved. It should be fair, accurate, and timely. A defendant may waive the right to a jury trial if the act is knowing and voluntary.
- Citizens have the right to participate in jury service if they meet the necessary age, language, and citizenship requirements, and their service should be facilitated. Jurors should receive a fair fee that would defray travel, parking, meals, and child-care. Employers should be prohibited from laying off employees who are called to jury duty, and they should be prohibited from requiring jurors to use vacation or leave to make up lost time for their service.
- Ideally, juries should have twelve members.
- Jury decisions should be unanimous.
- Courts should enforce and protect juror privacy.
- The courts should enforce and protect the rights to jury trial and service.
- Courts should educate jurors regarding the essential aspects of a jury trial in order to help them better understand of the judicial system. Instructions should be provided in understandable language.

- Jurors should only be removed for compelling reasons.
- Courts should conduct jury trials in venues required by applicable law or in the interests of justice.
- Juror selection should be open, fair, flexible, and representative. The process used should be effective in assembling a fair and impartial jury.
- Jury trial length should not be longer than necessary, and jurors should be informed of the trial schedule.
- The court and parties should promote juror understanding of the facts of the case and the law. Jurors should be permitted to take notes and should be permitted to submit written questions to witnesses in civil cases. In certain situations, they should be permitted to submit written questions in criminal cases.
- Jurors in civil cases may be instructed that they will be permitted to discuss the evidence with their fellow jurors in the jury room during recesses from trial when all jurors are present, as long as they reserve judgment about the outcome of the case until deliberations commence.
- Courts and parties have the duty to facilitate effective and impartial deliberations by the jury. Jurors should be offered assistance when an impasse is reported.
- Decisions should be offered the greatest deference consistent with the law. Courts should give jurors legally permissible post-verdict advice.
- Appropriate inquiries should be conducted into allegations of juror misconduct.

The House of Delegates is expected to consider this recommendation on February 14-15.

2005 DISTINGUISHED SERVICE AND SPIRIT OF EXCELLENCE AWARD WINNERS

The Individual Rights and Responsibilities (IRR) Section will award its former chairman, Cruz Reynoso, with its 2005 Father Robert F. Drinan Distinguished Service Award. The award, named for the controversial Catholic priest who also served as a past IRR section chairman, honors individuals "who have shown sustained and extraordinary commitment to the section and/or its mission of providing leadership to the profession in preserving and advancing human rights, civil liberties, and social justice."

Cruz Reynoso is a former associate justice on the California Supreme Court. Along with Chief Justice Rose Bird and Justice Joseph Grodin, Reynoso failed to win reelection under California's mandatory retention election system. They were the first supreme court justices who lost their seats

on the court because they failed to be retained by the voters. Along with his colleagues, Reynoso was accused of an anti-death penalty bias, as he voted to uphold only three of the 61 death penalty convictions that came before him on the court. Reynoso insisted he upheld the law in those cases.

In 2000, former President Bill Clinton awarded Reynoso with the Presidential Medal of Freedom. He most recently completed his service on the U.S. Commission on Civil Rights, where he served as vice-chairman. His tenure was controversial, as he and former Commission Chairman Mary Frances Berry were sharply critical of the civil rights record of President Bush and the 2000 presidential election.

Five attorneys will be honored with

the Commission on Racial and Ethnic Diversity in the Profession's Spirit of Excellence Awards. The award "celebrates the achievements of diverse lawyers and others who contribute to the legal profession and society."

The recipients include:

Senior Judge Arthur Louis Burnett, Sr. served on the Superior Court of the District of Columbia. Judge Burnett is the liaison to the Standing Committee on Minorities in the Judiciary from the Judicial Division's National Conference of State Trial Judges and serves as a member of the ABA Steering Committee on the Unmet Legal Needs of Children. Currently he serves as the executive director of the National African American Drug Policy Coalition. The Coalition hopes to persuade judges to recommend treat-