

Appendix B

Implementation Plan - Jury Reform in Colorado Report dated March 12, 1998

Colorado Rules of Criminal Procedure

Crim. P. Rule 16

RULE 16. DISCOVERY AND PROCEDURE BEFORE TRIAL

Part IV. Procedure

(a) through (d) ***** [NO CHANGE]

(e) Pretrial Conference.

(1) Whenever a trial is likely to be protracted or otherwise unusually complicated, or upon request by agreement of counsel, the trial court may (in addition to the omnibus hearing) hold one or more pretrial conferences, with trial counsel present, to consider such matters as will promote a fair and expeditious trial. Matters which might be considered include:

- (I) Making stipulations as to facts about which there can be no dispute;
- (II) Marking for identification various documents and other exhibits of the parties;
- (III) EXCERPTING OR HIGHLIGHTING EXHIBITS;
- (IV) Waivers of foundation as to such documents;
- (V) ~~Excision from admissible statements of material inadmissible to a~~ ISSUES RELATING TO codefendant STATEMENTS;
- (VI) Severance of defendants or offenses for trial;
- (VII) Seating arrangements for defendants and counsel;
- ~~(VII) Use of jurors and questionnaires;~~

- (VIII) Conduct of ~~voir dire~~ JURY EXAMINATION, INCLUDING ANY ISSUES RELATING TO CONFIDENTIALITY OF JUROR LOCATING INFORMATION;
- (IX) Number and use of peremptory challenges;
- (X) Procedure on objections where there are multiple counsel;
- (XI) Order of presentation of evidence and arguments when there are multiple counsel;
- (XII) Order of cross-examination where there are multiple defendants; and
- (XIII) Temporary absence of defense counsel during trial;
- (XIV) RESOLUTION OF ANY MOTIONS OR EVIDENTIARY ISSUES IN A MANNER LEAST LIKELY TO INCONVENIENCE JURORS TO THE EXTENT POSSIBLE; AND
- (XV) SUBMISSION OF ITEMS TO BE INCLUDED IN A JUROR NOTEBOOK.

(2) **** [NO CHANGE]

(f) JUROR NOTEBOOKS

JUROR NOTEBOOKS SHALL BE AVAILABLE DURING TRIAL AND DELIBERATION TO AID JURORS IN THE PERFORMANCE OF THEIR DUTIES. COUNSEL SHALL CONFER ABOUT THE ITEMS TO BE INCLUDED IN JUROR NOTEBOOKS AND, BY THE PRE-TRIAL CONFERENCE OR OTHER DATE SET BY THE COURT, SHALL MAKE A JOINT SUBMISSION TO THE COURT OF ITEMS TO BE INCLUDED IN A JUROR NOTEBOOK.

Crim. P. Rule 24(a) is Repealed and Readopted with Amendments as follows:

RULE 24. TRIAL JURORS

(a) **Orientation And Examination Of Jurors.** An orientation and examination shall be conducted to inform prospective jurors about their duties and service and to obtain information about prospective jurors to facilitate an intelligent exercise of challenges for cause and peremptory challenges.

(1) The jury commissioner is authorized to examine and, when appropriate, excuse prospective jurors who do not satisfy the statutory qualifications for jury service, or who are entitled to a postponement, or as otherwise authorized by appropriate court order.

(2) When prospective jurors have reported to the courtroom, the judge shall explain to them in plain and clear language:

- (i) The grounds for challenge for cause;
- (ii) Each juror's duty to volunteer information that would constitute a disqualification or give rise to a challenge for cause;
- (iii) The identities of the parties and their counsel;
- (iv) The nature of the case using applicable instructions if available or, alternatively a joint statement of factual information intended to provide a relevant context for the prospective jurors to respond to questions asked of them. Alternatively, at the request of counsel and in the discretion of the judge, counsel may present such information through brief non-argumentative statements;
- (v) General legal principles applicable to the case including the presumption of innocence, burden of proof, definition of reasonable doubt, elements of charged offenses and other matters that jurors will be required to consider and apply in deciding the issues.

(3) The judge shall ask prospective jurors questions concerning their qualifications to serve as jurors. The parties or their counsel shall be permitted to ask the prospective jurors additional questions. In the discretion of the judge, juror questionnaires, posterboards and other methods may be used. In order to minimize delay, the judge may reasonably limit the time available to the parties or

their counsel for juror examination. The court may limit or terminate repetitious, irrelevant, unreasonably lengthy, abusive or otherwise improper examination.

(4) Jurors shall not be required to disclose personal locating information, such as address or place of business in open court and such information shall not be maintained in files open to the public. The trial judge shall assure that parties and counsel have access to appropriate and necessary locating information.

(5) Once the jury is impaneled, the judge shall again explain in more detail the general principles of law applicable to criminal cases, the procedural guidelines regarding conduct by jurors during the trial, case specific legal principles and definitions of technical or special terms expected to be used during the presentation of the case.

(b) through (e) **** [no change]

(f) Custody of jury.

(1) ~~In all cases, in the court's discretion, jurors may be sequestered~~ THE COURT SHOULD ONLY SEQUESTER JURORS IN EXTRAORDINARY CASES. OTHERWISE, (J)URORS SHOULD BE permitted to separate... [no change]