

### **Post-Trial Juror Disclosure Hearing Exercise Directions**

**Purpose of the Exercise:** This exercise gives the judges an opportunity to apply material covered in the lecture that raises the issue of how to handle post-trial allegations that a juror failed to disclose a pertinent experience or fact during *voir dire*. The case study fact patterns are both based on actual cases. In this exercise, the judges are asked to discuss how they would rule on a motion for a new trial, based on allegations that a certain juror did not truthfully answer questions posed during *voir dire*.

**Setting:** If the group is not too large (fewer than 30 judges), this exercise can be conducted as a group discussion. For larger groups, it is better to have the judges discuss the questions in small groups, which allows each judge the opportunity to speak.

**Materials Required:** The only handouts required for this exercise are the **Post-Trial Juror Disclosure Hearing Exercise Case Study** and **Discussion Questions**.

**General Instructions:** Have the judges read the **Post-Trial Juror Disclosure Hearing Case Study** and then discuss the questions included in the **Post-Trial Juror Disclosure Hearing Exercise Discussion Questions**. Since there are two scenarios to discuss in a short period of time, you should break the group up and assign each group one of the scenarios to discuss.

**Small Group Instructions:** The following instructions are to be used if the exercise is conducted in small groups:

- **Assign Scenarios:** Divide the room in half. The small groups on one side of the room will discuss **Scenario #1**; the others will discuss **Scenario #2**.
- **Facilitator:** To save time if you have not pre-selected your small group facilitator, assign the judge whose last name begins with the letter closest to A to be the facilitator.
- **Reporter:** Assign the person to the left of the facilitator to record the answers for the group and to report back to the larger group.
- **Report Back:** Give each part of the room a couple minutes to read the **Scenario** they did not discuss. For each **Scenario**, call on a different reporter to give his or her group's top two suggestions or comments. Remind reporters not to repeat what has already been said. If time permits, you can then take comments from the entire group.

## **Post-Trial Juror Disclosure Hearing Exercise**

### **Case Study and Discussion Questions**

**Background:** The victim, Melissa Anderson, and the defendant, Shawn Davidson, are both college students, who met at a fraternity party the first week of school. Throughout the evening, the defendant, a college senior, kept giving the victim, a new college student, strong punch that had been spiked with vodka. After several drinks, the victim began to feel sick. The defendant took her to his room. The victim said the defendant raped her while she was passing in and out of consciousness; the defendant claimed that they had consensual intercourse.

The defendant was charged with and convicted of sexual assault by a jury.

### **Post-Trial Juror Disclosure Hearing Exercise Discussion Questions**

**Scenario #1:** Several months after the trial, you receive a letter from one of the jurors, Jacob Hurley, in which he claims that one of the other jurors, Ashley Carmichael, was dishonest during *voir dire* and failed to disclose that she had been sexually assaulted as a teenager. According to Hurley, during a heated discussion in *voir dire*, Carmichael started to cry and told the other jurors that “something like this happened to me as a teenager.” Hurley also sent the letter to the defense attorney, who has now filed a motion for a new trial.

At trial, jurors completed a written questionnaire prior to *voir dire*. One of the questions asked was “whether you have ever been a victim or witness to a crime.” Carmichael answered “no” to that question. During *voir dire*, the prosecutor asked whether any panel members, or their close friends or relatives, had been victims of a sexual assault and the juror did not respond.

At the post-trial hearing, Carmichael explained, “I was relating it to a crime being reported. I was not a victim of a crime. It was never reported.” She also testified that she was 43 at the time of the trial and this happened when she was 15. She never told anyone and did not consider it a sexual assault because the guy who did it to her was someone she knew.

- 1. What is the standard you would use in deciding whether to grant the defendant a new trial?**



