

Michael
Dann
Shapes
Jury
Reform
for a New
Century

Pioneer

Michael Dann was a well-known and respected superior court judge in Maricopa County for 20 years. Last June, he retired from the bench and became a Visiting Fellow at the National Center for State Courts in Williamsburg, Virginia. There, he consults, reads, writes and performs myriad other tasks in pursuit of his lifelong interest in juries and the trial process. *Arizona Attorney* caught up with Judge Dann and discussed jury reform and his opinions regarding the evolution of the jury.

By Tim Eigo





HEN MICHAEL

DANN became a lawyer almost 35 years ago, he never imagined he would help to shape the future of jury trials in the United States. Today, however, he is recognized as one of a few leaders in a movement to improve a system that has been in place—with few changes—for more than 200 years. In fact, because of the efforts of Dann and others, Arizona is viewed as a nationwide leader in efforts to transform the way courts use juries.

Dann has spoken in more than 30 states and in four other countries in support of the kinds of reforms adopted and used in Arizona. He received the 1997 Rehnquist Award for Judicial Excellence at the U.S. Supreme Court for his national work in jury trial reform. These accomplishments certainly came from hard work, but they also sprang from a deeper place in a man who, even after decades in courtrooms, can say “My first love continues to be work affecting juries and jury trials.”

The definition of jury reform—or, more accurately, reform of the way courts use and interact with juries—varies across jurisdictions. However, that catch-all phrase includes strategies such as allowing jurors to take notes during trial, allowing them to ask questions (through the judge) and allowing them to discuss the case among themselves before all the evidence has been entered. Jury reform also includes efforts to improve jury source lists and to increase juror pay (for exam-

ples, see “Deliberating on Reform: How Arizona Is Doing” on p. 21).

Many of the changes that are occurring in Arizona and across the country are due to the work of Dann and others, people who have an abiding faith in the jury system and in the work of jurors. Speaking with Michael Dann today is to hear an optimistic voice, one marked by trust in the thoughtful service jurors provide: “The trial [is] a serious search for the truth; that is one of the primary purposes of trial. ... And we felt that these changes, these reforms, would better enable the jury to get at the ‘truth’ as we imperfect human beings can best prove it, or can best discover it, but consistent with the underlying values of the adversary system.”

These changes, even those widely accepted today, almost all were met with resistance when first proposed. In fact, one particular reform—allowing jurors in criminal cases to discuss the evidence before the entire case has ended (see “The Trials of One Jury Reform Strategy,” p. 26)—continues to engender strenuous debate. That reform and others underscore the high stakes and heightened emotions involved in getting under the hood of the jury trial.

Freed From Superstition, A Reform Is Born

For Michael Dann, his interest and involvement in jury reform began not in a cauldron of controversy but in observing

the routine administration of justice. It was in 1978, Dann says, that he first became aware of the National Center for State Courts, which at the time was working with a civil delay reduction program in Arizona. With Judge Robert Broomfield and others, Dann recalls, the Center consulted on the program and later on jury issues, jury administration and the one-day-one-trial system. Dann came on the superior court in 1980. By 1985, he was the presiding judge; that’s when he began to work closely with the Center on those and other issues.

It was a thesis for his master’s degree that became the launching pad for much of Dann’s current work and for the direction reforms have taken nationwide. Subsequently published (68 INDIANA L. REV. 1229) in 1993, the thesis laid out the history of juries and jurors’ devolution from active trial participants to passive observers. Dann’s argument began with an indictment of the modern notion that “the retention of juror passivity is ... thought to be essential to the preservation of the adversarial trial” (68 INDIANA L. REV. at 1230); it is that power and control of the trial process, he wrote, jealously guarded by many judges and lawyers, that harms the jury, a key democratic institution. Dann believed that this territoriality stemmed from a distrust of juries held by many.

Susan Macpherson, a trial consultant with the National Jury Project/Midwest in Minneapolis, sees Judge Dann’s 1993 article as a watershed: “People started saying, ‘Maybe we should look at how to make it better, not how to protect and preserve exactly what we’ve got.’ ... He was the first to bring it all together in one place.”

Given the opportunity to take credit for Arizona’s leadership on these issues, Dann declines and immediately points to others, among them U.S. District Judge Richard Bilby (now deceased) and former Supreme Court Chief Justice

LAWYER PROFILE B. Michael Dann

Position: Visiting Fellow and full-time consultant, National Center for State Courts, Williamsburg, VA

Education: B.S., Indiana University; LL.B., Harvard Law School; LL.M., University of Virginia Law School

Past Work: Arizona trial judge for 20 years

Accomplishments: Chaired the Arizona Jury Trial Reform Committee; speaks nationally and globally on reforms adopted and used in Arizona; received the 1997 Rehnquist Award for Judicial Excellence at the U.S. Supreme Court for his national work in jury trial reform.

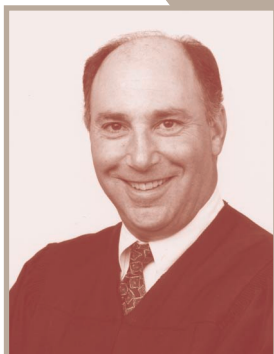
Stanley Feldman. Justice Feldman read Dann's 1993 article, which mirrored many of Feldman's own beliefs, and asked Dann to chair a committee on juries. Dann recalls with fondness Feldman's charge to the committee: "He encouraged us to be creative, and don't feel bound by tradition, superstitions and myths about the trial."

Justice Feldman recalls the beginning of Arizona jury reform as he voices a concern spoken by a number of lawyers and judges. "Jury reform was extremely important. ... We have been treating jurors as far as their ability to decide cases in accordance with procedures that were set years or centuries ago, before social science had taught us anything about how people process information and how they learn." This hesitancy to apply to the courtroom the science of human behavior and learning frustrates many.

For example, Judge Barry Schneider of Maricopa County Superior Court gives voice to that concern: "I hope that we keep taking advantage of our advances in science and knowledge about how human beings decide issues, how they behave, how small groups decide things, and we take advantage of that and make it a better, more meaningful process."

Courtrooms as Failed Classrooms

Frustration is evident in the words of Michael J. Brown, Superior Court Judge in Pima County. "One of the things we have tried to preach to people ... is that you have to stop thinking about jury trials as a traditional 19th century or 18th century jury trial, where the juror sits there as a kind of a potted plant, and is exposed to various things."



I hope that we keep taking advantage of our advances in science ... and make it a better, more meaningful process.

- Maricopa County Superior Court Judge Barry Schneider

In fact, Judge Brown says, "The best analogy for what a jury trial is is a short course in adult education. Once you get into that mode ... and understand that the judge and the lawyers are all instructors in this course, then you can understand how it's supposed to work. It works just like a class. People take notes,

In 1994, Judge Michael Dann and the Committee on More Effective Use of Juries issued *Jurors: The Power of 12*. Among other things, it set out 55 recommendations to the Arizona Supreme Court. In 1999, the American Judicature Society reported that Arizona has partially or fully implemented 41 of the recommendations. Set out here are the seven areas of concentration and some of the recommendations made in each area.

1. **Increase Public Awareness About Juries and Jury Service**
2. **Summoning Jurors**
 - Improve current juror source lists
 - Improve jury diversity
 - Reform and improve juror pay and mileage
3. **Jury Selection**
 - Encourage mini-opening statements before voir dire
4. **Trial**
 - Juror notebooks should be provided in some cases
 - Allow jurors to ask questions
 - Allow jurors to discuss the evidence among themselves during the trial
 - Give jurors copies of jury instructions
5. **Jury Deliberations**
 - Encourage juror questions about the final instructions
 - Offer the assistance of the judge and counsel to deliberating jurors who report an impasse
6. **Post-Verdict Stage**
 - Become proactive in detecting and treating juror stress
 - Solicit jurors' reactions to their courthouse experience
7. **Promulgate a Jurors' Bill of Rights**

people ask questions, people discuss the content of the course among themselves and then they take their final exam."

Judy Rothschild, a trial consultant with the National Jury Project/West in Oakland, California, makes the same analogy when she discusses juror note-taking: "The courtroom is the worst learning environment you could ask for."

Taking that analogy to absurd lengths gave birth to *Order in the Classroom*, a video written by Judge Brown (see *The Practitioner's Toolbox*, p. 28). Videotaped at the University of Colorado in Boulder using drama students, the video shows a college classroom taught using the rules and procedures of a typical jury trial: There is no note-taking, no idea of what the course is about, no questions, no idea of its length and no discussion among students. Viewed in that light, Judge Brown says, few participants in the trial process fail to spot the problems inherent in the jury trial system.

"Look, you have a class," says Judge Brown, "you have 12 people in class, ... you have a whole bunch of instructors

and, lo and behold, at the end of the class, the entire class fails. Now, who do you blame? You've got 12 really stupid people, or you've got a really bad instructor? ... You wouldn't fire the students, would you?"

Judge Brown also speaks of the slow pace of change in the legal profession. "Lawyers are the single most conservative group of professionals in the country. ... They stop progressing intellectually about the law itself right after they drafted the Declaration of Independence and the Constitution. ... If the doctor from 1776 walked into a modern-day medical center, he wouldn't know where the hell he was. But if John Adams walked out of that courtroom in Boston and into mine, he'd know exactly where he was, know what everybody's name was, what

“ There hasn't been a failure of jurors to understand; it's been a failure of the judiciary and the legal profession. - Pima County Superior Court Judge Michael J. Brown ”

their duties were and the jury would be the same. That's really distressing to find out that we have ignored 200 years of behavioral science in the way we try jury cases.”

Some lawyers and judges express surprise at resistance by trial lawyers to changes in the process that benefit those same lawyers—like the strategy allowing jurors to ask questions. In fact, an anecdote told by the National Center for State Courts relates an attorney's complaint at having a juror's question passed on to him, angry because the question was on an issue he had just finished covering. “[Lawyers] have forgotten ... what it means to have jurors ask questions,” expressed Judge Brown. “It means that you have a window into the jurors' minds. ... When I was trying cases for a living in the well of this courtroom, I would have killed for that information. That's gold lying on the floor. Any loss of control you might get over the flow of information is more than made up for by getting those kinds of insights.”

Maricopa County Municipal Court Judge George Logan III has seen a similar hesitancy of trial attorneys to take the opportunity to use mini opening statements, given before voir dire, to introduce the case: “It takes awhile before [lawyers] feel comfortable doing things, and they don't have a model for it. It's a breaking new ground issue.”

Like others interviewed for this story, Judge Michael Brown has a great respect for the work jurors do: “There hasn't been a failure of jurors to understand; it's been a failure of the judiciary and the legal profession.”

That respect was echoed by virtually all who were spoken with for this story. In fact, when asked to name a challenge that must be addressed in future jury reform, Judge Logan pointed to a change that is neither high-tech nor controversial among lawyers: “I would like to see increased juror pay. ... If we want a broader base, a more democratic panel, it's going to take better pay.”

A Committee Report Gets National Attention

Thus, in April 1993 the iconoclastic Arizona Supreme Court Committee on

JUDGE DANN'S FULL DOCKET

Asked by *Arizona Attorney* to discuss his current projects, Judge Dann quickly reels off five undertakings, any one of which might easily flummox the most organized scholar.

First, he and the Center have submitted to the National Institute of Justice a proposal for funding of a two-year study of how well jurors understand DNA presentations at trial. The study would examine how well juries would fare if they also served amidst a variety of trial innovations.

Second, Dann focused on a summit involving 16 states that hold partisan or otherwise contested judicial elections (held in Chicago in December 2000). “The elections traditionally do not inspire public trust and confidence and do not do the judiciary proud,” Dann says. The summit, hosted by the Center, encouraged teams from the states to consider endorsing a slate of reforms. The reforms included changes in campaign finance and campaign conduct.

Close to Judge Dann's heart is a Center project that would give birth to a Best Practices Institute, where the Center would “identify, collect information through peer-review panels [and] certify as the best practices anything having to do with or touching upon the administration of justice,” says Dann. The Center then would disseminate the information to all the states and all the courts. In fact, he jokes that the Center should buck the prevailing wisdom and call it a University, not an Institute. Then, he notes, BPU can field a football team along with jury trial experts.

A fourth project on which Dann is involved is a study of the role of court-appointed experts in state courts. He says that the practice might be aided and improved by close scrutiny.

The last of Dann's monumental tasks is the Massachusetts civil case-flow study, whose existence takes its lead from previous work in Arizona. “Their bench and bar just identified the kinds of problems that we started dealing with in the 1980s with this so-called fast track delay reduction program,” says Dann. “And so we're attempting to help Massachusetts identify what they want to do for themselves.” This interstate dynamic is a small example of what the Best Practices Institute could achieve. Dann clearly is pleased that, in this instance, Arizona can serve as the model of a good practice.

More Effective Use of Juries was born. It was comprised of judges and trial lawyers from the civil and criminal side, from the prosecution and from the defense. In addition, Dann notes with satisfaction, it included a few former jurors: "I don't think the results would have looked anything like they did had we not had significant input from ... nonlawyer, nonjudge former jurors." This seemingly commonsense addition has since been taken up by similar committees across the country.

If the creation of the committee was ahead of its time, the committee's final report was groundbreaking. Detailed and well-written, *Jurors: The Power of 12* blazed a bold and clear path to revitalize the jury trial. Avoiding legal jargon, the report set out 55 recommendations affecting every aspect of jury service.

When the committee began its painstaking work, they little suspected the whirlwind that would envelope their

“ The Arizona jury reform experience [has] been a grand experiment. - Maricopa County Superior Court Administrator Gordon Griller ”



report and U.S. courts when Nicole Brown Simpson and Ron Goldman were killed in California. Before those murders, jury trials had been under the microscope in high-profile cases; in the Simpson case, the scrutiny was intense. Given that harsh media glare, the committee's final report was pored over closely. With that case in mind, Judge Dann says that he and the committee hoped "the public will begin to have more confidence in jury trials and jury verdicts than they may have [had] 5, 10 years ago. ... Trial by jury would have gained credibility, not continued to lose it."

Arizona Leads the Charge

So, why Arizona? What made this state progressive in jury and trial reform? As Judge Brown says, "Arizona is several laps ahead of everywhere else in the country." And Judge Barry Schneider describes the Arizona trial court as one "that was always

innovative, aggressive, reform-minded.” Judge Dann admits that the question puzzles him as well, but he offers some possible explanations.

“It starts with a handful of people who believe very strongly in the jury, and the jurors weren’t getting a fair shake,” says Dann. That notion corresponds with Judge Dann’s own writing on the subject. In a 1998 law journal article (48 DEPAUL L. REV. 247, 257), Dann wrote, “The reform initiatives that ultimately dominate the jury reform agenda in any given jurisdiction will reflect judges’ views of the civil jury.”

That observation of Arizona judges certainly paints them as progressive thinkers. As Justice Feldman states, “I think we’ve always had a rather progressive bar and a progressive judiciary.” By that analysis, Arizona was simply fortunate in the 1990s to have judges whose views coalesced in a jury reform vision. But could that vision evaporate just as quickly if judges’ interests are drawn elsewhere?

Judge Dann doesn’t think so, because of another element of Arizona practice—merit selection of judges.

“Merit selection produces not necessarily a better judge,” says Dann, “but I submit a different kind of judge, who comes from a different place and who is not subject to the pressures and the wiles of he who must stand a contested election.” This lack of political pressure, Dann thinks, is conducive to reform. “Many judges chosen by merit selection are more likely to feel freer to engage in reform, even reform that tends to rock the boat a little bit, because they are just the type of people that merit selection produces.” Nationwide, Dann believes, about one third to 40 percent of the states select their trial judges through merit selection.

(In Maricopa and Pima Counties, trial judges are appointed and then stand retention election every four years. In the other Arizona counties, candidates stand for a nonpartisan election. “But as a prac-

tical matter,” Dann notes, “most of them get on through vacancy appointments and the governor pretty much appoints directly without a screening system accorded by the commission.”)

Gordon Griller, administrator of the Maricopa County Superior Court, agrees with the assessment of Arizona as a leader in trial practice. Innovation of all kinds, he says, “has been a fabric of Arizona jury management for some 15 years or so.” As evidence of this, Griller points to psychological services provided to jurors who have been or could be traumatized as a result of issues encountered in a jury trial; he also describes a new court Web site providing access to jury information (see *The Practitioner’s Toolbox*).

The progress goes far beyond Web sites, Griller says. “What’s so innovative about the Arizona jury reform experience is what happens inside the courtroom, ... the opening up of the jury system, the movement from the jurors in their

Perhaps no proposed jury reform has caused as much disagreement as the one to allow jurors in criminal cases to discuss evidence during trial and before deliberations. This proposal would amend Rule 19.4, ARIZ.R.CRIM.P., and the controversy has been heated. For example, in November 2000 the State Bar Board of Governors was presented with majority and minority opinions on the issue from the Criminal Practice and Procedure Committee. The Board voted to reject the majority proposal that encouraged adoption of the amendment and to forward to the Supreme Court the Board's concerns regarding constitutional issues.

What are those issues? As stated by the Arizona Attorneys for Criminal Justice (AACJ), a coalition of criminal defense attorneys and related professions, there are four dangers: (1) the initial impression of the defendant is likely to be unfavorable, making early jury discussion problematic; (2) once they state their position, jurors may defend it despite subsequent contrary evidence; (3) discussion may occur in cliques, not among the entire jury; and (4) discussion should not occur before the court's instructions, including the "reasonable doubt" instruction.

Eleanor Miller, a Phoenix attorney and a founding member of AACJ, says, "This is not a situation that's broken. What are we trying to fix? ... To my knowledge, there's not another state in the country that's contemplating changes [like this] in their civil juries, no less in their criminal juries." The initial impression argument concerns her: "Jury studies ... have shown that over 70 percent of jurors make a decision during opening statements. ... Who goes first? The state."

As an example, Miller looks to the analogy of members of a hung jury: "Those [jurors] are not allowed to be on the second jury that's going to hear the case ... because they've probably made up their minds. [Given that], why would you want jurors who, during the course of the case, are making up their minds ... before they've heard the last of the evidence?"

Judy Rothschild, a trial consultant with the National Jury Project/West in Oakland, California, fears that group dynamics could make such a change unworkable and unfair: "I think people get polarized, and the group dynamic shifts." She speaks of the *Rashomon*-effect, "the moment of a stupendous kind of awe" when jurors realize they all heard the same evidence but heard it differently. Currently, that surprise and its resolution are restricted to a relatively brief deliberation period; Rothschild wonders whether we want to extend the length of that discord to encompass the entire trial. "It's kind of a Pandora's box," she concludes.

This viewpoint was echoed by Jan Mills Spaeth, a trial consultant in Tucson, who believes that discussing evidence leads to discussing opinions. Once that occurs, she says, "all hell breaks loose." When discussion is kept to the relatively brief deliberations period, that discord is kept to a minimum. She also is concerned that the tendency to conform to a group consensus grows stronger with longer juror discussion.

However, Rothschild's colleague Susan Macpherson, at the

National Jury Project/Midwest in Minneapolis, points to the fact that such discussion often goes on even under current court rules; that, she says, will not change: "Jurors will continue to have 'coded' conversations, no matter what anybody says." Despite this, Macpherson thinks courts should have all doubts answered before instituting the change on the criminal side: "I'd like to see more experience with it on the civil side before they make the shift to criminal trials."

In Arizona, sentiments are equally strong. Barry Mitchell of Gallagher & Kennedy succinctly says, "They ought not to deliberate until every last shred of evidence and argument is in."

And at least one lawyer was surprised that prosecutors seem eager for the change in criminal cases. Helene Abrams, of the Maricopa County Public Defender's Office, said it is not clear that the change would benefit anyone except judges and jurors: "Research shows that judges and jurors are the most satisfied with discussions in civil cases, but that litigants on both sides were least satisfied. Given that, why is there an assumption that it would be advantageous to the prosecution?"

The opposite view is held by those who feel that the change would help jurors understand evidence as it comes in, aid in remembering the evidence and allow deliberations to be more focused.

Judge Michael Brown of Pima County Superior Court points out that the defense attorney is present and examining witnesses just as much as the prosecutor is in the beginning of the trial; early on, the jury may be as persuaded—or more so—by the defense case as they are by the state's case.

Judge Michael Dann believes this reform may take longer than others to become a rule, but he thinks it will occur: "I have more faith and trust in jurors than that. I think given the seriousness ... that they bring to the task ... if there is new, different evidence, they'll talk about that too and they'll take it all into account in deciding the outcome."

And Judge Barry Schneider states that the Arizona Supreme Court should look to the facts and not to speculation in making its decision: "It's speculation as to what [jurors are] going to be discussing. What's not speculative is that it's going to be helpful to the jury to have this discussion."

"We're being criticized for something we're not recommending," continues Schneider. "We're not recommending cliques; we're recommending that it be done in a protected, healthy environment where everybody is present behind closed doors. I have tremendous problems with the positions taken in opposition to these proposed rules. I understand the concerns, but I think they're speculative; I think they're blown out of proportion."

No matter how the Arizona Supreme Court eventually decides the issue, it seems clear that such a rule change would take a trip East before it ever became an established part of Arizona trial practice. As Eleanor Miller says, "The issue would end up going to the [U.S.] Supreme Court, because ... I would challenge it for any of my clients."

This is not a situation that's broken. What are we trying to fix?

It's going to be helpful to the jury to have this discussion.

passive role to a much more active role in the trial. It's been a grand experiment."

Griller acknowledges that most strategies in the reform process initially were met with resistance, but he thinks that most agree the benefits outweigh the drawbacks: "What we see happening inside the courtroom is more of a move toward that dialogue between lawyers and the jury. The end result is you have more understanding on the part of a jury and you also have a better chance for lawyers to get across their points and their case. In all instances, the whole process is the benefactor." Not all lawyers are converts to the new methods, Griller acknowledges, but attorneys he speaks with find most of the methods—like juror note-taking—acceptable now.

Judge Dann and the Nationwide Classroom

Using the platform of a national center clearly appeals to Judge Dann, who sees part of the Center's mission as aiding state courts nationwide by disseminating information and helping lawyers and judges learn from others' lessons. "Once the states see ... the states who already are going down the road with these reforms in hand, how they've done it, here's their work product, we don't have to reinvent the wheel."

In 1998, Judge Dann voiced a concern about the appearance to some that jury reform is merely window-dressing: "Some judges (and attorneys) are suspicious that these types of jury reform techniques cross the line between an educational model of jury decision making and a 'pop psychology' or mass marketing approach to trial practice" (48 DEPAUL L. REV. 247, 262). Asked if he thinks that may be true today, Dann said no, but juries and jury reform sometimes still get a bad rap. He occasionally hears the argument that "'This is just a feel-good exercise, this is public relations, an exercise by the court to make people feel better about their jury experience.' Well, we do want them to feel better in the sense that [they have] greater confidence in their verdict because they did have these tools they could use. But that's not it at all, really. If we wanted

just to make them feel better, we might serve them desserts during deliberations, beer and pizza, they might like that, but it wouldn't necessarily make for a better verdict."

Justice Feldman agrees that jury reform may have multiple goals, only one of which is to make life on a jury more pleasant. "The overriding goal was to enhance the decision-making process," says Justice Feldman. That, he says, has been the result.

Even when reforms are implemented, not all agree that they achieve the goal of improved trials. As Jeff Pyburn of Gallagher & Kennedy says regarding questions from the jury, "In my experience, probably half of the questions they ask are unanswerable" because they are inadmissible. Tim Thomason of Quarles & Brady Streich Lang tends to agree: "Whether the jury questioning ever really garners any real information that's of merit is dubious, but I think it makes them feel better." That's fine with Thomason, however; he believes it is good to involve jurors more in the trial, even if the specific trial effects are not immediately apparent.

Asked if he still hears complaints that jury reform is merely pop psychology designed to make jurors feel better, Justice Feldman says no: "I would suppose there are a lot of people that are suspicious of social science. ... But a lot of social science is well-documented, well-researched and tells us things about human behavior, human nature and the learning process that we need to take into consideration when we design and implement court rules."

A Pioneer Presses Forward

Jury reforms may spark controversy, but when opinions on the leadership and thoughtfulness of Judge Dann are sought, there is no disagreement. "I think he's a real pioneer," says Jan Mills Spaeth, a trial consultant at Arizona Jury Research in Tucson. Judge Schneider agrees: "Judge Dann was definitely the intellectual as well as the inspirational leader of the whole effort." Judge Logan admires Dann for being "willing to go beyond the courtroom."

Susan Macpherson of the National Jury Project/Midwest says, "He's really quite a

THE PRACTITIONER'S TOOLBOX

Reports and Articles

- *Enhancing the Jury System: A Guidebook for Jury Reform* (American Judicature Society, 1999; available at www.ajs.org/jury6.html)—Details jury reform in five jurisdictions, including Arizona.
- *Jurors: The Power of 12* (Arizona Supreme Court, 1994, part 2, 1998; available at www.supreme.state.az.us/jury/)—The original and follow-up report by the committee chaired by Judge Michael Dann.
- *Jury Reform: Making Juries Work Symposium*. By Valerie Hans, Paula Hannaford & G. Thomas Munsterman. UNIVERSITY OF MICHIGAN JOURNAL OF LAW REFORM (Winter 1999)—Studied changes in Arizona.
- *Permitting Jury Discussions During the Trial: Impact of the Arizona Reform*. By Paula Hannaford, Valerie Hans & Thomas Munsterman. LAW & HUMAN BEHAVIOR 24(3) (2000)—Studied juror certainty, juror conflict and the likelihood of reaching unanimity in civil cases in which juror discussion during trial was allowed.

Selected Articles by Michael Dann

- *Arizona's Criminal Justice System: Part of the Solution, Part of the Problem, or Both?* By Michael Dann. 29 ARIZONA ATTORNEY 12 (October 1992).
- *How Judges View Civil Juries*. By Paula L. Hannaford, Michael Dann and G. Thomas Munsterman. 48 DEPAUL LAW REVIEW 247 (1998).
- *"Learning Lessons" and "Speaking Rights": Creating Educated and Democratic Juries*. By Michael Dann. 68 INDIANA LAW JOURNAL 1229 (1993).

Book

- *Jury Trial Innovations*. Edited by G. Thomas Munsterman, Paula L. Hannaford and G. Marc Whitehead (National Center for State Courts, 1997, \$18; available at www.ncsc.dni.us/PUBS/PUB_CAT.HTML)—This includes pros and cons and the authorities for and against proposed reforms.

Web Site Information for Jurors

- www.superiorcourt.maricopa.gov — The court makes responding to jury duty easier here; it enables jurors to postpone and reschedule appearance dates and to check online the night before their scheduled appearance to see if they are needed the next day.
- www.ncsc.dni.us — The National Center for State Courts, established in 1971, provides services and leadership to state courts.

Video

- *Order in the Classroom* (International Association of Defense Counsel, \$40; 312-368-1494)—Videotape demonstrating a college class taught using the rules and procedures of a traditional jury trial; script was written by Judge Michael Brown of Pima County Superior Court.

revolutionary in his own quiet, unassuming way.”

“He is one of my heroes and always will be,” says Gordon Griller. “He’s very much of a leader and an innovator. ... Not only was it a pleasure to work with him but it’s also been a pleasure to watch him promote these new and innovative ideas. And I know he’s not finished.”

Indeed, Dann says, moving to the Center after being on the bench has been a good choice for him. “I’m very happy with the change; I think it has been a healthy one, 20 years of work on the court and six to seven years of laboring on jury issues at the local or state level were very rewarding, but I was

ready for a change, not necessarily a larger stage, but a different stage. And a different agenda of issues. ... Being here ... is like standing in front of a smorgasbord table and being tempted by everything. There are so many issues and programs and projects. There’s so much to choose from that that’s what really keeps me going.”

Michael Dann’s goals always have been marked by their forward-thinking nature, and that remains true today. He is encouraged by the distance states have traveled in reforming the use of juries and in the trial process, but he recognizes that there is a long path ahead. Fortunately, Judge Dann seems happy to keep blazing the trail. 