Florida's Chief Justice to Focus on Florida Jury in May

TALLAHASSEE—Even as the State Courts investigate problems facing Florida's jury system in the Twenty-First Century, Florida Chief Justice Barbara Pariente has issued a Proclamation declaring May 2005 as Juror Appreciation Month, honoring the right of trial by jury guaranteed by the state Constitution since 1838.

This is a part of Florida's participation in National Law Day observances organized each year by the American Bar Association, which has chosen "The American Jury" as this year's theme.

"Jury service is a privilege and a responsibility of citizenship," said Pariente, "and few civic activities provide such a direct contact with our democracy as does jury service, which affords an opportunity for citizens with a variety of life experiences and backgrounds to actively participate in the justice system."

Pariente's Proclamation calls upon all people involved in the state justice system to take measures to strengthen the Florida jury as a device for seeking justice and to honor Floridians who answer the call to serve on juries. The Florida State Courts headed by Pariente are reexamining policies and procedures to ensure effective juror selection within the limited financial resources of the state, especially after the adoption of the Motor Voter law.
The Work Group on Standards for Jury Panel Sizes is now developing recommendations to improve the management of Florida's jury system and to make sure that there are adequate numbers of jurors available for each case to be tried.

Public testimony received by the panel already has highlighted a number of problems. The most notable is that the percentage of people who respond to jury summonses in Florida is below the national average and, in some parts of the state, dramatically below that average. More information on the Work Group is available at [http://www.flcourts.org/gen_public/jury/wgstandards.shtml](http://www.flcourts.org/gen_public/jury/wgstandards.shtml)

"The jury system that we adopted from England has roughly a thousand-year history," said Pariente. "During that time, it has constantly evolved to meet changing social conditions. What we are seeing in Florida today is simply the continuing evolution of a system that has proven its worth.

"One of the great checks and balances of our justice system is that fact that we, unlike most societies in the world, let a group of everyday people decide whether the State or litigants have proven their cases. The question has never been whether it is a worthwhile system, but how we manage and constitute juries--and most importantly that we show our appreciation for their service."

Pariente said that Florida's Constitution of 1838 guaranteed the right to jury, but the greatest crisis threatening this right came only a decade later when the legislature passed a law authorizing judges to seize and auction at public sale ships plying the Apalachicola River--then a major cotton trade route--to pay off the debts of owners. The law made no provision for trial by jury.

Under that law, a judge in Franklin County seized a ship called the Magnolia to pay the debts of its owner, the Flint River Steam Boat Company. On appeal, Florida's first Chief Justice Thomas Douglas forcefully declared the law unconstitutional because it violated the right to trial by jury, which he described as "shielding every one in the enjoyment of life, liberty and property."
Pariente, who is Florida's 51st Chief Justice, said that the system remained imperfect. Under the 1838 Constitution, only free white males could serve as jurors. This situation remained largely unchanged until 1908 in a case that came from Jacksonville when Florida Justice James B. Whitfield stunned the Southern states with an opinion outlawing the blanket exclusion of African-American men on Florida juries.

"[E]very person being tried in a court of justice," Whitfield wrote nearly a century ago, "is entitled to have a jury selected and summoned without illegal discrimination of any character."

Yet, that promise was not entirely fulfilled for many years. Florida women were subject to an absolute exclusion from jury service until 1949, and for years afterward they had to contact the clerk of court to ask to be included on the potential juror lists. Ironically, women attorneys had been practicing law before all-male juries since the late 1890s.

Only in 1967 did the legislature change the law to include women on the lists, though women could receive an automatic exemption if they were pregnant or had small children. There was another irony: Fathers who had small children did not win the right to a potential exemption from jury service until 1983.

Other problems with Florida juries have arisen because attorneys traditionally had the right to excuse a few jurors without giving a reason. In 1984 the Florida Supreme Court ruled it unlawful to use this privilege, called the "peremptory challenge," as a means of excluding jurors solely because of their race.

And it was not until 1994 that this same ruling was extended to the practice of removing women from juries solely because of their gender.

"This history," said Pariente, "shows that the Florida jury system is healthy, but in constant need of tending. We have never had the perfect jury system in Florida, just as the world we live in is itself imperfect. But we remain committed to the ideal that a jury of peers is the best system of
justice, since it allows people chosen from the community to determine whether the vast power of the State can take away the life, liberty, or property of one of their own."

For more information on national and Florida law day activities see:

http://www.flcourts.org/gen_public/jury/lawday.shtml

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