

**STRIKING PEREMPTORY CHALLENGES IN JURY TRIALS:
COSTS, BENEFITS, AND THE RESTORATION OF RIGHTS**

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Executive Summary

Jury trials in the District of Columbia are a costly and timely undertaking, partially due to the practice of peremptory challenges prolonging the jury selection process. In this jurisdiction and others, the practice is known to be susceptible to discrimination and procedural inequity. *The Revised Criminal Code Act of 2021* would restore the right to jury trials in misdemeanor cases in D.C. However, the continued use of peremptory challenges during jury selection has the potential to harm the financial efficiency of the court system and deprive persons of a fair trial by a jury of their peers. This investigation considers the elimination of the practice of peremptory challenges to strike jurors through literature review and a cost benefit analysis. A weighing of policy options against cost, equity, feasibility, and effectiveness criteria finds that eliminating the practice of peremptory challenges is ranked lowest in public expenditure, time and expense to jurors, and level of procedural discrimination. Elimination is simultaneously ranked highest in restoration of rights to offenders, level of jury selection efficiency, and utilization of jury trials. This investigation culminates with a recommendation to eliminate the practice of peremptory challenges.

INTRODUCTION

In November of 2021, the D.C. Council held the first of many hearings to consider expansive changes to the city's criminal code. The monumental legislation, known as the *Revised Criminal Code Act of 2021*, was proposed in an effort to modernize D.C.'s dated and crude criminal justice system. The 325-page bill encompasses hundreds of penalizable offenses, many of which have not been reviewed comprehensively since 1901, as evidenced by references to steamboats and stables (Austermuhle, 2021). Necessity and timeliness aside, political disagreements ensue over certain provisions of the extensive document.

Of particular interest to D.C. citizens, policymakers, and legal experts alike, is the recommendation to restore the right to a jury trial for misdemeanor and minor criminal offenses. In theory, constraining jury demandability would reduce the burden of the courts and increase efficiency within the system. For this reason, critics of the *Revised Criminal Code Act* oppose expanding the right to jury trials—citing cost and time as points of contention. Yet to be considered, is the role that the practice of peremptory challenges plays in inflating the cost and time commitment of a jury trial. The practice of eliminating potential jurors without cause both prolongs the time needed to select a jury and exposes the process to bias and discrimination. Accordingly, eliminating the practice of peremptory challenges to strike jurors would reduce the expense associated with restoring the right to jury trials while promoting the principles of equity.

Background

Expansive jury demandability is not an unknown concept in the District of Columbia. Between 1926 and 1993 jury trials were guaranteed for all offenses with a penalty greater than \$300 or punishable by more than 90 days confinement (First Draft of Report #51, 2020). The threshold for offenses warranting jury trials was first raised by the passage of the Criminal and Juvenile Justice Reform Amendment Act of 1992, and further increased by the implementation of the Omnibus Criminal Justice Reform Amendment Act of 1994. Together, the legislation has the effect of reducing the penalties of more than 40 crimes, and thereby making them non-jury demandable (First Draft of Report #51, 2020).

The stated purposes for both policies was the promotion of judicial efficiency, despite no evidence that either change would actually result in cost savings. Further, the Constitutional guarantee to a speedy trial presents challenges to judges, prosecutors, and defense counsel to conduct proceedings under the added pressure of time (Davison, 2019). Bench trials, or single judge proceedings, require significantly less time and cost resources. For this reason, they have become commonplace in cases where the legally prescribed punishment is not perceived to be 'severe'.

The legal code that currently governs the District of Columbia does not provide the right to jury trials for majority of misdemeanors (Kaplan, 2019). The Misdemeanor Streamlining Act

reduced the maximum penalty of more than 40 misdemeanor crimes from 6 months to 180 days (Kaplan, 2019). As a result, misdemeanors like theft, drug possession, and simple assault were made punishable by less than 180 days in jail, and were no longer jury demandable (§ 16–705, 2022). Whether the nationwide steady decline and present-day historic lows in the overall rate of jury trials is the direct result of legislation restricting jury demandability is unclear (First Draft of Report #51, 2020). However, the crusade for judicial efficiency is undermined by the failure to implement cost-saving strategies in the jury trials themselves.

The cost of a jury trial is divided between the court system and the public by way of stipends and administrative costs expended by the state, and the forgone time at work or home endured by potential jurors. In neighboring Fairfax County, stipend costs for misdemeanor jury trials amount to \$390.00 for one day, while felony trials are \$600.00 for one day (Fairfax County Circuit Court, 2022). In the District, the use of peremptory challenges in jury trials both inflates the cost and prolongs the time needed to conduct trials. Counsels' entitlement to 10 peremptory challenges, allowing them to strike jurors for any reason, unnecessarily lengthens the jury selection process. Moreover, this process is vulnerable to procedural inequity, whereby the treatment of potential jurors and code offenders is fair conceptually, but no-cause striking and unrestrained judicial discretion impacts equal application of the law. Though unlawful, peremptory challenges often result in jurors being struck on the basis of race, as the D.C. Court of Appeals found in *Harris* and the Supreme Court found in *Flowers* (Equal Justice Initiative, 2021).

CASE STUDIES

Virginia

Concerns about the discriminatory use of peremptory challenges has given rise to suggestions that prosecutors voluntarily give up their use of peremptory challenges. Discrimination concerns come from the limited amount of information that can be gathered about a juror during voir dire, meaning prosecutors have to often resort to juror affiliations, demographics and stereotypes (Howard, 2010). Given that this is the case, the argument is that the use of peremptory challenges is thus unconstitutional via violation of the Equal Protection Clause (Howard, 2010). Additionally, peremptory challenges have not been shown to increase likelihood of conviction, while there is evidence of repeated discrimination through their use (Howard, 2010). A prosecutor that has brought this argument to reality is Parisa Dehghani Tafti, the Commonwealth's Attorney for Arlington County and the city of Falls Church (Dehghani-Tafti, 2022). Parisa's background as a public defender before her move to prosecution has allowed her a unique viewpoint.

An interview with Parisa Dehghani-Tafti, brought light to the how and why behind her peremptory challenge policy. Parisa's policy includes deciding whether to waive or accept the use of the challenges based on bias that may have been passed on by the judge during for cause

striking. Once this decision has been made, juror selection is decided based on random selection instead of through peremptory challenges. Finally, questions about, for example, police or crime are not asked to jurors in an attempt to get racially based biases. Parisa explained that this policy has had no impact on their win rates, saying that if the prosecutor cannot convince any 12 people of their case, then that is the problem of their argument, not the jurors. Additionally, the defense has expressed to her that they feel they can do a better job because they are not spending voir dire seeing the prosecutor as the enemy. The most important impact Parisa conveyed to us was that all people are allowed to discharge their civic duty, increasing belief in the system and reducing racially biased decisions. Though this policy is still unpopular, according to Parisa, Chesa Boudin, the District Attorney for San Francisco is among those influenced by her policy. (P. Dehghani-Tafti, personal interview, April 18, 2022). Additionally, Fair and Just Prosecution (a network of prosecutors working towards a more fair justice system) has made the discontinuation of peremptory challenges by prosecutors a priority (Fair and Just Prosecution, 2022).

North Carolina

North Carolina presents a clear example why the use of peremptory challenges during jury selection is still a problem. The *Batson v. Kentucky* supreme court ruling made it illegal to use peremptory strikes on the basis of race (Mance, 2022). However in North Carolina, *State v. Tucker*, an ongoing supreme court case is dealing with racial discrimination occurring due to peremptory strike use (Mance, 2022). Discrimination is occurring via prosecutors using what they call a “cheat sheet”, which provides “Batson justifications” that lay out viable excuses for prosecutors to provide should their peremptory strike appear to be on the basis of race (Mance, 2022).

This practice led to Russell William Tucker, a black man, receiving an all white jury via discriminatory peremptory challenges in a homicide case, where he was sentenced to death (Mance, 2022). Should the *State v. Tucker* case prove that Tucker was unjustly sentenced due to all of the potential black jurors being struck using this “cheat sheet”, it would be the first time North Carolina would ever reverse a court decision due to racial bias (Mance, 2022). This is important because it would set a precedent for many factually similar cases in North Carolina waiting to be reversed (Mance, 2022). North Carolina is just one among many states that seeks to evade the obligations of *Batson*, via unchecked peremptory challenges.

Arizona

Arizona is the first state to strike peremptory challenges entirely (Millhiser, 2021). This decision was based on the racial bias that results from the use of peremptory strikes, which allows far more people of color to be removed from jury service than white people (Millhiser, 2021). Though the *Batson v. Kentucky* supreme court case made it illegal to use peremptory challenges on the basis of race, this is difficult to enforce and has many loopholes (Millhiser,

2021). This law just went into effect in January of 2022, so there hope this law change will decrease racial discrimination because of the removal of peremptory strikes in their entirety. This hope stems from two places, the first being a new decision which requires a unanimous decision by juries, limiting the influence of a single juror, should a biased juror make their way in (Millhiser, 2021). The second area influencing hope is that the removal of peremptory challenges has been successful in other places with Great Britain making the decision in 1988 and Canada in 2019 (Millhiser, 2021).

Despite the passage of this law by the Arizona Supreme Court, there is pushback on this decision. Many Republican prosecutors in Arizona thought this shift was very sudden and argued that the way things have always been done were sufficient (Kanu, 2022). Many attorneys including Matthew Smith, the Mohave County Attorney, say that they do not believe Batson allows for racial discrimination, despite multiple studies country-wide that prove otherwise (Kanu, 2022). In addition, opponents have no data to support claims that removal of peremptory challenges has any negative impact on jury selection (Kanu, 2022). Despite the lacking arguments, Arizona Republicans have championed *Arizona House Bill 2413*, which would restore the right to peremptory challenges in criminal cases (Kanu, 2022). Should *Arizona House Bill 2413* not pass, Arizona will set a precedent for other states to disallow the use of peremptory challenges.

POLICY OPTIONS

Goals & Criteria

The goals associated with an appropriate policy option include cost, equity, feasibility, and effectiveness. The cost goal would include decreasing the public expenditure associated with jury trials and decreasing the cost and time expense to jurors called to a trial. Criteria for the goal of equity would include increasing the restoration of rights to defendants and jurors to have and participate in a fair trial. Another equity criteria would include decreasing procedural discrimination, by ensuring that jurors are not struck in a discriminatory manor. The feasibility goal would first encompass increased political feasibility, coming from both sides politically. Additionally, feasibility will consider criteria in unintended consequences, where policies should have the least amount of side effects. Lastly, the goal of effectiveness will address increasing efficiency in the jury selection process and increasing the use of jury trials. Both of these criteria would be met when more time and resources are available to the court.

Status Quo - Prosecutor & Defendant each have 10 Peremptory Challenges

The status quo at the moment allows each defendant and prosecutor to have 10 peremptory challenges. The cost and benefits to the status quo will be further explained in the cost-benefit analysis portion of this memo. However, the current costs would be associated with public expenditure and time and expense costs incurred by jurors. These would be ranked the highest because of the costs to continuously switch jurors due to the use of peremptory

challenges. In addition, this would raise the costs for those a part of the trials since time is being extended due to the switch of jurors and time needed to allocate a new juror.

Equity would be split between lowest for restoration of rights and highest for procedural discrimination. At the moment people with a conviction are not being given a fair trial because of the status quo being biased towards specific jurors. To this day unfortunately racial bias continues to occur within a trial and this sometimes affects offenders since they are potentially eliminating jurors that could side with the offender based on their demographic and personal experience. The status quo permits prosecutors and defense counsel to discriminate against potential jurors in cases where jury trials are permitted. In cases where jury trials are not guaranteed, offenders face discrimination from biased judges.

Feasibility would not face any change because political feasibility and unintended consequences would remain the same as to how they currently stand. However, for effectiveness this would be ranked as the lowest in jury selection process efficiency and use of jury trials. The jury selection process at the moment is slowed by the status quo because of the peremptory strike process. As previously mentioned, when a juror is struck it takes an additional amount of time to allocate a new juror if the alternates are already used. The use of jury trials is ranked lowest since jury trials are not guaranteed for offenses with punishments that are perceived to be less severe.

Option One - Ending Peremptory Challenges

Ending peremptory challenges entirely would be modeled after the Arizona decision to do so in the beginning of 2022 (Millhiser, 2021). Despite the novelty and controversy surrounding this policy in the United States, it has proven to be an effective way to increase impartiality, decrease cost and inefficiency, and improve public perception of court decisions in places like Great Britain with the *Criminal Justice Act of 1988* (Wilson, 2009). In the United States where racial tensions in the criminal justice system are high, the legal system is financially limited, and trust in the government is low, a policy of this nature could remedy some of these issues (Wilson, 2009). Lastly, Batson rulings and similar reforms for peremptory challenges have not been effective in reducing discrimination in the way that total removal of the procedure would result in (Wilson, 2009).

This strategy addresses the cost criteria most effectively for both jurors and the public by decreasing the time and resources allocated during the jury selection process (See Table 1). Ending peremptory challenges within jury selection in D.C. would reduce public expenditure because of the reduced cost associated with jury selection (See Table 1). Additionally, the jurors would see less time and costs because the jurors called to trial would all be utilized unless struck for cause (See Table 1).

Equity is highest with the end of peremptory strikes because of an increase in restoration of rights and a decrease in procedural discrimination (See Table 1). Restoration of rights

increases most with the end of peremptory challenges because more defendants will be given an opportunity to be tried in front of a jury of representational peers (See Table 1). Similarly, procedural discrimination is lowest when peremptory challenges are ended entirely because jurors cannot be arbitrarily removed or removed on a basis of bias (See Table 1).

Feasibility is not as strong for the end of peremptory challenges policy option because of its great opposition. Political feasibility in particular is a problem for this policy because this position is seen as being soft on crime (Millhiser, 2021). On the other end of the spectrum, this policy is also criticized for its potential to decrease access to removal of truly biased jurors (Millhiser, 2021). Moreover, unintended consequences are moderately concerning for this policy because where prosecutors lose peremptory challenges, so do defendants, thus a biased juror may slip through where a peremptory challenge could have caught them (See Table 1).

Ending peremptory challenges best meets the effectiveness criteria, by increasing jury selection efficiency and increasing the use of jury trials in D.C. (See Table 1). Jury selection is most efficient with this policy option because a costly and time consuming practice is removed entirely from the process (See Table 1). Thus, the use of jury selection can increase as there is more time and resources to accommodate more minor trials as is the intent of the *Revised Criminal Code Act of 2021* (Austermuhle, 2021).

Option Two - Simultaneous “struck jury”

The simultaneous “struck jury” procedure for jury selection is believed by a cohort of policy options to be the superior voir dire method, as it is “theoretically capable of producing less bias in jur[ies]” (Munsterman et al., 1990, pp. 9). This strategy for jury selection prescribes that a number of prospective jurors equal to the size of the jury plus the number of peremptory challenges is called. Given that each of these individuals has been previously found to be “cause free”, the parties alternate turns striking jurors from a list. During this exercising of strikes, no movement occurs in the courtroom until all desired allowable peremptory challenges have been depleted and the remaining list fulfills jury size requirements. This strategy is presumed to minimize bias because of the anonymity of who is struck and when (Munsterman et al., 1990).

Application of the cost criteria to the “struck jury” system yields lackluster results. As illustrated by Table 1, public expenditure is lower in comparison to the rate of spending consistent with the status quo, but the continued use of peremptory challenges still allows for inefficient spending. Further, while the striking process is considerably shorter and the number of potential jurors called is reduced, the time and expense element could be altogether eliminated by abolishing the practice entirely.

In terms of equity, the restoration of rights and presence of procedural discrimination are unpersuasive for this policy option. Table 1 exemplifies that the instant restoration of rights is higher when placed side-by-side with the status quo, it is not to the same extent as with the

elimination of the practice of peremptory challenges. In other words, offenders and justice-involved individuals are still vulnerable to inequity with this policy option. Further, the potential for discrimination by the striking parties is still very present. The only difference being the perception of discrimination observed by the prospective jurors.

The political feasibility of this policy option is relatively high, given that striking without cause has not been eliminated altogether. Further, the unintended consequences to the implementation of this strategy are law based on the existing scholarship. Consistent with proponents of the “struck jury” system, this policy option is likely to result in high levels of efficiency because the time spent on the jury selection process would be reduced. Similarly, the use of jury trials is presumed to increase slightly due to reduced costs.

Option Three - Restrict the use of peremptory challenges

This application of the practice of peremptory challenges is modeled on the restricted use of the strikes in the neighboring jurisdiction of Maryland. In the Maryland court system, parties are entitled to four peremptory challenges plus one peremptory challenge for each group of three or less alternate jurors (Miller, 2012). In other words, counsel is allotted five strikes. In practice, defense attorneys in Maryland have expressed dissatisfaction with the apportionment of peremptory challenges during jury selection. Particularly as it pertains to trials involving co-defendants, who while not adverse parties, may not share common interests (Thomas v St. Agnes Healthcare, INC., 2012).

Less than ideal cost outcomes are associated with this policy option. The persistent use of peremptory strikes imposes moderate levels of public expenditure and time burdens. Especially when compared with the potential outcomes associated with the elimination of peremptory strikes, cost-savings are insignificant with the Maryland model of striking.

Similarly, this strategy reaps virtually no equity benefits as far as the restoration of right and the minimization of procedural discrimination. On the contrary, the benefits of the expansion of jury demandability are undermined by the continued striking of prospective jurors without cause. Table 1 shows that while the restoration of rights is increased in comparison with the status quo, the use of public and alternative peremptory strikes leaves the process susceptible to discrimination and bias.

Table 1 explains that this policy option ranks moderately high in political feasibility. Reforming the practice of peremptory strikes to mirror the framework currently used by Maryland will receive less opposition than implementing the “struck jury” system, and much less pushback than eliminating the practice altogether. Still, there are intended consequences to consider under this policy option, with particular concern given to defense attorneys representing co-defendants with diverging interests. The reduction of allowable peremptory challenges may prevent defense counsel from striking jurors that serve their client’s interest.

As seen in Table 1, the effectiveness of this model for peremptory challenges is negligible. Though five peremptory strikes will result in a shorter jury selection process than ten challenges would, the time spent is still considerably longer relative to eliminating the practice. Further, though the utilization of trials may increase, this would be primarily due to expanded jury demandability.

COST BENEFIT ANALYSIS

Methodology

To conduct this analysis we will be evaluating the costs and benefits of the proposed policy to eliminate peremptory practices in a jury trial. The costs and benefits will be majority intangible with few tangible benefits and costs that will allow the justification of the proposed argument through a cost benefit ratio. The data used to quantify the numbers was from the Council for Court Excellence: DC Jury Service Statistics from 2014 and District of Columbia's Court Statistical Summary 2020. Due to difficulty in obtaining recent data we reverted to using the 2014 data set to determine the approximate number of jurors selected and not selected for trial in 2014 and used the 2020 data for the overall budget in the court system. In addition to this data, scholarly articles were used to obtain the approximate costs a day per trial including miscellaneous and attorney fees. The intention here is to moderately present a total number of costs for a jury trial as it stands now, and compare it to the total costs with the elimination of peremptory strikes. Although this might not be a traditional cost-benefit analysis where numbers are attached to every cost and benefit, there are still total costs included to present an effective analysis supporting our argument.

Costs

The costs that are being evaluated are categorized in two bins, tangible and intangible. The tangible costs consist of: costs of jurors, overall costs of a trial, costs to summon a juror, witnesses' fees and other expenses. These are all included because they add onto the overall cost of a trial in addition to the costs to pay a juror per trial and the summoning processing. The intangible costs consist of: lost time of jurors and trials and lost time in allocating a new juror. These costs were labeled as intangible because of the inability to accurately put a price to the lost time in a trial to allocate a new juror. To clarify, there are many expenses incurred when a criminal case is tried to a jury, but we are zeroing in on the one that is most consistent and easily measured across the board for all cases.

Table 2 below depicts the average amount of costs that it takes to pay a juror for a jury trial. On average there are 12 jurors that sit on a trial, however, there are an additional two used

as alternates in the case that someone needs replacing (United States Courts). Table 2, indicates on average that jurors cost a trial \$1,890 (District of Columbia, 2017). This is an approximation of what it would cost to hold a jury trial and allow peremptory strikes to continue. If this practice continues this number can easily rise. At the moment 10 peremptory challenges are allowed, therefore hypothetically speaking if the prosecutor and defendant use all 10 challenges then the costs would approximately rise \$1,350.00. This would only occur if all 10 challenges were to be used since there would be a need to replace the juror for another individual costing them an additional amount of money for the pay of the new juror. Every week approximately 400 residents are called to serve as jurors (District of Columbia Courts, 2017). Although the cost of a summons is not public data it can be anticipated that for the court to mail a summons, it would have to be a certified mail letter which costs \$3.55 per letter (Rhuede, 2021). This would conclude the approximate costs to summon jurors a total of \$1,420 a week.

As we continue to explore the costs of a trial there are further expenses that should be taken into consideration as well. Roughly trials can cost each party \$2,000 a day depending on the number of attorneys involved. In addition there are potential witness fees and expenses that can be around \$1,000-\$2,000 (Trial Costs, 1993). Plus the additional cost of jailing an individual could be approximately \$300.00 a day in D.C. This would make the approximate total \$9,000.00 for one side of the party. As previously mentioned the intangible costs are far more difficult to quantify since prices cannot be assigned to lost time. Since each jury does have two alternate jurors on stand-by they can replace any two jurors that are struck, but there would still be a need to summon another juror if another is struck. This can take a certain amount of days or hours which prolongs the trial adding onto the total cost of the trial, since every member of the jury and trial will cost additional pay. If we were to compare a jury trial to a bench trial there would be great differences in costs because a bench trial does not have a jury and there is no charge for the trial. However, this can vary from case to case depending on what is being addressed in the trial.

Benefits

Transitioning over to the benefits of eliminating peremptory strikes, these rely heavily on intangible benefits. They consist of the restoration of rights and the elimination of bias against Black people and criminal justice involved individuals. Along would come the most tangible benefit which is the overall reduction in costs for a jury trial. The restoration of rights and elimination of bias against Black people and criminal justice involved individuals would be the two main virtuous benefits since it instills a restored empowerment back to the rights of those that have been revoked. Decamp states, “The use of race as a motive for excluding individuals from serving on juries in American criminal trials is unconstitutional. Nevertheless, Black individuals remain substantially more likely than others to be removed during jury selection

through peremptory challenges” (2019). By eliminating this practice it would prevent jurors from being racially discriminated against and struck from a jury. Unfortunately, since prosecutors and defendants are able to strike a juror without true reason, racial bias still continues to occur in trials today. By eliminating this practice it would allow for an unbiased and equal jury to take place in a trial.

Lastly, the tangible benefit comes down to the overall estimated cost of a jury trial with the elimination of peremptory challenges. By eliminating the extra costs for a struck juror, the total costs of jurors would be \$1,620.00. Now by excluding the total amount of summons by approximately half it would go down to \$710.00. Since peremptory challenges would not be permitted it should be more feasible to create a jury without spending the extra time and money into striking jurors and replacing them with other individuals. When you evaluate the elimination of this practice through an economic standpoint it is cost-beneficial to eliminate this practice because of the hundreds of dollars that would be saved. Not only would this be monetary beneficial but restorative justice would also take place since the rights of those who would potentially be racially profiled or eliminated for their prior involvement with the justice system is restored.

CONCLUSION & RECOMMENDATIONS

Limitations

The main limitations of this analysis are the insufficient public access to data. Since this is a fairly new practice, there is virtually no evidence from the states who have eliminated the practice of peremptory challenges on how it has influenced their costs. Due to time constraints we are only able to use data that is publicly available but not as detailed as the official data from recent years from D.C. Courts would be. This report does not effectively evaluate the benefits if this practice were to stay in place since it has evidently been shown above the cost differences if this practice would not be eliminated. Furthermore, this policy implementation would affect the defendants or prosecutors if they were to be steering their argument in a way that is solely directed towards a specific population where they know will side with them because of their demographics.

Recommendation

Our analysis shows how the benefits of eliminating the practice of peremptory challenges to strike jurors significantly outweigh the costs. Based off our policy matrix eliminating the

practice of peremptory challenges is ranked lowest in public expenditure, time and expense to jurors, and lowest level of procedural discrimination. In addition, policy option one is also highest in restoration of rights to offenders, highest for level of jury selection efficiency, and highest in utilization of jury trials. Therefore, our recommendation would be to pursue the elimination of peremptory challenges in the DC court system in order to accurately represent a fair, cost-beneficial, and unbiased trial.

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Appendix

Table 1. Policy Options for Peremptory Challenges

Goals	Criteria	Policy Options for Peremptory Challenges			
		<i>Status Quo</i>	<i>Option #1</i>	<i>Option #2</i>	<i>Option #3</i>
		<i>The prosecutor and defendant have 10 peremptory challenges each</i>	<i>End peremptory challenges</i>	<i>Simultaneous “struck jury” system</i>	<i>Restrict the use of peremptory challenges (4 challenges each)</i>
Cost	<i>Public Expenditure</i>	High costs because of the costs to continuously switch jurors. HIGHEST	Minimal costs associated with the jury selection process. LOWEST	Not as much as with the elimination of peremptory challenges. LOW	Not as much as with the elimination of peremptory challenges. MEDIUM
	<i>Time and expense costs incurred by jurors</i>	High costs due to the need for service of all of those involved in the trial HIGHEST	Jurors that are called are used for trials, with the exception of jurors struck for cause by the presiding judge. LOWEST	The striking process is considerably shorter and simultaneous striking reduces the number of people that must be called. LOW	Not as much as with the elimination of peremptory challenges. MEDIUM
Equity	<i>Restoration of rights</i>	Offenders are not given fair trials because of the status quo being biased towards specific jurors. LOWEST	More offenders will be given the opportunity to present their case in front of a jury of their peers. HIGHEST	Increased in comparison with the status quo, but not to the same extent as with eliminating the use of peremptory challenges meaning the use of jury trials is still limited. MEDIUM	Increased in comparison with the status quo, but not to the same extent as with eliminating the use of peremptory challenges meaning the use of jury trials is still limited. LOW

	<i>Procedural discrimination</i>	<p>The status quo permits prosecutors and defense counsel to discriminate against potential jurors in cases where jury trials are permitted. In cases where jury trials are not guaranteed, offenders face discrimination from biased judges.</p> <p>HIGHEST</p>	<p>Jurors cannot be struck for discriminatory reasons, and judges cannot issue arbitrary orders founded in bias.</p> <p>LOWEST</p>	<p>Still potential for discrimination via use of peremptory challenges, but reduces advantages to public and alternating peremptory strikes.</p> <p>MEDIUM</p>	<p>The use of public and alternating peremptory strikes still leaves the process vulnerable to discrimination.</p> <p>LOW</p>
Feasibility	<i>Political feasibility</i>	<p>No change would be made.</p> <p>HIGHEST</p>	<p>Eliminating the practice has been perceived as taking a ‘soft on crime’ approach in other jurisdictions.</p> <p>LOWEST</p>	<p>Not eliminating altogether, rather implementing a commonly used method of jury selection.</p> <p>HIGH</p>	<p>Easier than eliminating the practice, but more difficult than implementing simultaneous struck jury system</p> <p>If modeled off on MD Code, there are caveats for increasing the number of allowable challenges</p> <p>Maryland is a familiar and similar jurisdiction</p> <p>MEDIUM</p>
	<i>Unintended consequences</i>	<p>No change would be made.</p> <p>LOW</p>	<p>Eliminates the ability of defense attorneys to use peremptory strikes on biased jurors.</p> <p>HIGH</p>	<p>Legal scholars have argued that this method is well-received by potential jurors, prompting the assumption that social backlash would be minimal.</p> <p>LOW</p>	<p>Defense counsel may not be able to strike biased jurors.</p> <p>MEDIUM</p>

Effectiveness	<i>Jury selection process efficiency</i>	The process is slowed most by the status quo peremptory strike process. LOWEST	The process is streamlined so that legitimate trial procedures can begin. HIGHEST	Time spent on the process is significantly reduced, but not as much as with the elimination of the practice. HIGH	The process is slightly shorter, but still considerably longer relative to eliminating the practice. MEDIUM
	<i>Use of jury trials</i>	Jury trials are not guaranteed for offenses with punishments that are perceived to be less severe. LOWEST	The high reduction of costs associated with jury trials will most effectively increase jury trial use based on cost. HIGHEST	Increases because costs are reduced. MEDIUM	Increases because costs are reduced. MEDIUM

Table 2: Average Cost for Jurors per Trial

Total # of Jurors Per Trial	12 plus 2 alternates
Daily Pay for Juror	\$40
Transportation Per Day	\$5
Average Days Per Trial	3 Days
Total Costs of Juror Per Trial	\$1,890