

The Citizens Jury Process

By Ned Crosby and John C. Hottinger

The Citizens Jury process was one of the first, and yet most thorough, democratic processes created in the 20th century. It gathers a microcosm of the public to study an issue for at least five days, drawing upon witnesses from a number of points of view. It was used extensively in the 1990s and early 2000s on topics as diverse as the size of hog feedlots in a Minnesota county to global climate change, conducted in 2002 for the EPA. Its most recent major use has been to evaluate ballot initiatives in Oregon and to recommend changes to the election recount law in Minnesota. This article lays out some of the history of the process and how the Jefferson Center, its originator, hopes to use it in the future. Details about how the process is conducted can be learned at www.jefferson-center.org.

“At a time when our discourse has become so sharply polarized, at a time when we are far too eager to lay the blame for all that ails the world at the feet of those who think differently than we do, it’s important for us to pause for a moment and make sure that we are talking with each other in a way that heals, not a way that wounds.”

—President Obama, speaking in Arizona on Jan. 12, 2011

How do we talk with each other in a way that heals? Many methods to do this were created in the past 40 years, as any visitor to the National Coalition for Dialogue and Deliberation website will discover.¹

The Citizens Jury process, which was invented by the Jefferson Center for New Democratic Processes, a Minneapolis non-partisan non-profit organization focused on citizen participation, was one of the first of such methods created.² It is distinguished from other methods by the length of time people are brought together and the selection process for participants. The typical Citizens Jury project lasts five full days. The goal is to make sure that a group of people—randomly selected and demographically balanced—have enough time to learn about the issue from witnesses and to be able to talk among themselves about what they are learning.

During the 1980s, the Citizens Jury process grew in use and the sophistication of its methods. By the 1990s it was attracting considerable attention, as noted in following sections. Other methods were also attracting national media attention.³

Ironically, the 1990s were also the time when the American political system became increasingly

subject to criticism that it was becoming more rigid and partisan. By the turn of the 21st century, the rising complaints of legislative gridlock, festering problems and inflexible policy positions led to a broad range of attacks on legislative and executive leaders at the state and national level. A growing chorus of critics have labeled government decision-making dysfunctional and flagrantly disconnected from the general public.

Thus in the 1990s, as the need for something like the Citizens Jury process grew, it was not seen by those in power as a solution to their problems. Candidates and policymakers frequently turned to divisive tactics to win elections and gain electoral advantage, rather than turning to methods to improve civil discourse, engage the public and overcome gridlock. By 2002 the Jefferson Center saw that it was fighting an uphill battle and cut back on the attempt to conduct Citizens Juries unless they were likely to have more impact on the political system.

It was only in 2008 that the fortunes of the Citizens Jury process began to turn significantly. As the result of a successful demonstration project in Oregon in that year, the Oregon legislature took steps to see if Citizens Juries (for Oregon the term used was “Citizen Initiative Reviews” due to their focus on the initiative process) should be made a standard way of informing voters about ballot initiatives. In 2009 a Citizens Jury was conducted in Minnesota to review how recounts should be conducted on close elections. This led to legislation improving the way recounts are conducted. These are discussed later in the article. First, it is important to give more background on the process itself and its early history.

Citizens Juries on Issues

Citizens Juries often are used to examine specific issues. Around the world, most of these appear to be on local topics. The Jefferson Center in Minneapolis has conducted a variety on issues over the years. Besides the Citizens Juries on local issues, some were on statewide issues in Minnesota and three were on national issues.

The Jefferson Center conducted these issue Citizens Juries from 1974 to 2002, always with the hope they would have enough impact so there would be “return business.” Many of the projects did have some impact and the method gained considerable respect from editorial writers. For example, William Raspberry, commenting on the Citizens Jury on the Clinton health care plan in 1993, said in *The Washington Post*⁴ “The Citizens Jury ... is a paragon of representative democracy.”

Despite this editorial support and generally positive response, the Jefferson Center finally had to conclude that the more likely the recommendations of a Citizens Jury would have an impact on public policy, the less likely the process was to be used. It became clear to us that even a small project could be very sensitive politically. By the mid-2000s, however, the growing citizen frustration and yearning for meaningful impact sparked a renewed interest in methods that would elevate the public discourse and influence in government decisions.

Why then the Citizens Jury process on government issues? The position taken by the Jefferson Center is that it is not enough for small groups to talk respectfully with each other, even when considerable publicity is given to the event. What is needed is to conduct a deliberative method that helps the public take strong and well-informed actions that can have a significant political impact.

Citizens Juries to Inform Voters

The Jefferson Center always had an interest in seeing whether it would be valuable to ask a Citizens Jury to evaluate candidates in an election. The first test of this came when two advocates argued the virtues of Ford vs. Carter in the 1976 election. The jurors were asked to evaluate the candidates on their stands on issues. It was only an experiment, but it worked well, although it was not widely publicized.

In 1988, many voters around the country expressed discontent about the quality of the debate in the presidential election that year. This led the Jefferson Center to team up with the League of

Women Voters in St. Paul, Minn., to conduct a Citizens Jury to evaluate the candidates in the St. Paul mayoral race. The goal was not to have the jurors recommend which candidate to vote for, but simply to evaluate the candidates on three major issues. The Center and the League went to considerable lengths to be sure none of their views would influence the jurors in any way.

The success of that project led the Center and the League to cooperate on a Citizens Jury project to evaluate candidates in the 1990 Minnesota gubernatorial race. The project was very successful. We were able to determine that half the reporting on issues in newspapers around the state was directly stimulated by the six Citizens Juries we conducted around the state. That project provided the basis for David Broder’s comments in *The Washington Post*⁵ that it was “one of the two most interesting voter reform projects in the nation.” Research conducted by the center led us to believe that if the project had been widely publicized, it could have influenced between 5 and 10 percent of the vote.

The Jefferson Center also teamed up with the League of Women Voters of Pennsylvania to conduct a Citizens Jury on the U.S. Senate race in 1992 between Sen. Arlen Specter and Lynn Yeakel. This high-profile project was very successful. *The Philadelphia Inquirer* called it “a portrait of democracy the way democracy was supposed to be.”⁶

In 1993, the Internal Revenue Service informed the Center it would take away its tax-deductible status and issue a fine in six figures for having “influenced” the outcome of an election. Despite evidence to the contrary, the IRS persisted and the Center settled the case in 1996 by promising to not conduct these events again as long as the IRS would not take away our tax-deductible status and not issue a fine.

Citizens Initiative Review

As the Jefferson Center continued its work through the 1990s, it became clear that using the Citizens Jury projects to inform voters was the best thing we could do. Citizens as voters clearly valued what a microcosm of the public had to say about candidates after examining them closely. Because of this, efforts were made by supporters of the Center’s methods to explore if these projects could be conducted in a way that would avoid problems with the IRS.

This led to an exploration of some new ways to link up the Citizens Jury process with voters.

In 1999, former Washington Gov. Mike Lowry brought together a group of bipartisan leaders. He suggested the Citizens Jury process should not be used to evaluate candidates, but rather ballot initiatives, with the recommendations placed in the official voters' pamphlet sent to all voters at election time. As a result, the Citizens Initiative Review was born. Citizen Jury inventor Ned Crosby and his wife Pat Benn pursued the effort legislatively in Washington, but by 2007, it was clear success was unlikely in that state.

In 2006, Oregon residents Tyrone Reitman and Elliot Shuford asked if they could attempt to get the Citizens Initiative Review adopted in their state. With support from Crosby and Benn, they established Healthy Democracy Oregon, a nonpartisan, nonprofit organization committed to strengthening the integrity of the ballot initiative process. This led to a demonstration project in 2008. The Oregon legislature in 2009 passed a bill authorizing up to three Citizens Initiative Review projects to be conducted, with the results to be published in the voters' pamphlet.

The purpose of the Citizens Initiative Review (CIR) is to provide voters with clear, useful and trustworthy information about ballot measures. It does so by giving a microcosm of the public the unique opportunity to fairly examine ballot initiatives closely during five days of public hearings. At the conclusion of the evaluation, the panel drafts a statement for inclusion in the official statewide voters' pamphlet, sent out to all voters by the secretary of state, describing the panel's key findings and assessment of the measure.

In 2010, Healthy Democracy Oregon raised sufficient funds from foundations and donors to conduct two sets of hearings. These CIR projects were held in August 2010. One reviewed Measure 73, proposing mandatory sentences on certain sex crimes and drunken driving; the other reviewed Measure 74, proposing dispensaries for medical marijuana.

A \$218,000 National Science Foundation grant funded evaluation of the two Citizens Initiative Reviews. A survey measured voters' awareness of the report and their vote. On Measure 73, 60 percent were unaware of the report and voted 66 percent in favor of the measure. Twenty percent of voters were somewhat aware of the project, with 50 percent of them supporting the measure. But among the 20 percent who had read the statement thoroughly, only 35 percent voted in favor of the measure. In November, Oregon voters gave

57 percent approval to Measure 73. From this, it seems reasonable to conclude that the findings of the Citizens Initiative Review dropped support for the bill by 9 percent, even though only 40 percent of the voters were aware of them.

A Changing Political Climate

Recent events have provided new momentum in efforts to give citizens valued input into policy discussions and have raised the necessity—and respect—for listening to the ideas, opinions and judgments of ordinary citizens. The Citizen Jury process provides a unique method for obtaining the kind of deliberative representation of public views. The history of citizen juries reflects the strong capability of citizens to arrive at sound decisions when given the opportunity to hear from witnesses who represent different viewpoints.

This climate change triggered increased activity by the Jefferson Center to publicize and demonstrate the value of its method. A recent example was in Minnesota during the 2008 recount of the extremely close election for the U.S. Senate between Norm Coleman and Al Franken. With the support and leadership of state Rep. Laura Brod, a Republican leader on election issues, and Democratic Secretary of State Mark Ritchie, a Citizen Jury on Elections Recounts was convened before the recount was even finished to examine changes in Minnesota election law to make future recounts less controversial. This project was not a five-day project, but rather borrowed from the Citizens' Assembly method by holding three, three-day weekends, held over a six-week period.

When the jurors presented their findings at the 2009 summer meeting of the National Association of Secretaries of State in Minnesota, the report was met with a standing ovation from the 20 plus secretaries of state in attendance. The Citizen Jury attracted favorable media attention across Minnesota and elsewhere. For instance, the *Grand Forks Herald* in North Dakota editorialized, "Just when Minnesota politics seems ready to reach a new low, along comes the Citizens Jury on Election Recounts to offer a reminder of the state at its best."⁷

In 2009, the Minnesota legislature passed many of the recommendations into law. Those changes smoothed the way for a less controversial recount process in the extremely close 2010 governor's race. That outcome reinforced the Jefferson Center view that an informed microcosm of the public can lead to the informed political will that will give

MANAGEMENT

guidance and necessary support to our elected officials when they make the tough decisions they face on major issues.

Looking to the Future

The basic methods of the Jefferson Center are transferable to other states, as shown by the recent success in both Minnesota and Oregon. Given the ongoing budgetary challenges arising from the national and world economic downturn, we also are looking at new and expanded methods to empower citizens to work effectively with their legislators to find solid solutions for long-term budget challenges.

We believe a new community consensus is needed, a spirit that enables us to deal intelligently and respectfully with the major challenges we face. Our long-term budget challenges will be resolved effectively only if citizens can agree on workable solutions. So long as the voices of disunity and short-term self-interest dominate our political discourse, our elected leaders will not receive the support they need to make the tough choices ahead of us.

But a new community consensus is not easy to build. It must emerge as part of a trend that encourages citizens to trust each other and see that they can create a future for themselves and their families. Steps can be taken, however, to build an informed and stable public opinion with a majority of voters. Such an informed political will can provide the support our elected leaders need to find solid solutions to our long-term budget challenges.

For many years, the only method that came close to the Citizens Jury process in length of time it takes was the Deliberative Poll. But in 2004, the government of British Columbia sponsored a Citizens' Assembly, which used 160 randomly selected citizens, meeting for 10 weekends, spread out over the better part of the year. Like the Citizens Jury process, the citizens were paid \$150 a day for their participation. The method was very successful in terms of the enthusiasm of the participants and the quality of their recommendations. The recommendations were put before the people of British Columbia in a referendum and gathered 58 percent of the vote, just short of the 60 percent required for passage.

In light of this, the Jefferson Center is proposing a Minnesota Citizens' Assembly to be held in 2013 to create the informed political will needed. This project will be built on the model of the Citizens Jury process, developed in Minnesota and

now used worldwide, and the Citizens' Assembly method, developed in Canada. The key aspects of the Minnesota Citizens' Assembly are:

- There will be 100 randomly selected participants, a microcosm of Minnesota, who will review key aspects of the state's budget and make recommendations to elected officials. They will meet in a series of three-day weekends, with three or four weeks between each meeting.
- The panelists will work carefully with elected officials to ensure they pay close attention to their recommendations.

The first step will be a demonstration project in 2012, which will introduce the Minnesota Citizens' Assembly and do research on some key aspects of the project. The demonstration will likely focus on health care because the costs of health care, broadly defined, are the most significant factor driving the long-term budget challenge. Dealing with these costs presents some of the toughest choices our society faces. If the Minnesota Citizens' Assembly approach can do a solid job of examining health care, this will show it is a method that deserves serious consideration as a way to deal with our long-term budget challenges.

The goals of the demonstration project include:

- Introducing to Minnesotans the way the Minnesota Citizens' Assembly will work. We propose in this project to have a group of about 24 randomly selected citizens meet for four three-day weekends.
- Demonstrating the clarity with which a topic as complex as health care can be presented. This will entail laying out the pros and cons for different positions on health care in a clear way that is seldom publicly done today.
- Using a carefully designed research strategy to learn how it will be possible to get the broader public to trust the Minnesota Citizens' Assembly. Focus groups are being used to learn what people who are not directly involved with the project think of it.
- Asking some current and/or former state legislators to observe the demonstration closely and come up with recommendations about how the legislature could work with the Minnesota Citizens' Assembly when the full project is run. This is an important step in designing how the full citizens' assembly will interact with the legislature.

Assuming these goals are met, it will set the stage for the Jefferson Center to gather the support needed to conduct a Minnesota Citizens' Assembly in 2013. It is not our goal to have an immediate impact on health policy. Instead, we aim to make clear to civic leaders in Minnesota how it will be possible to involve citizens intelligently in a discussion of health policy and how this can lead to the creation of an informed political will. It will also properly set the stage for the larger effort to build informed public support for the budget strategies required to deal with the changes necessary for Minnesota—and potentially other states—to adapt to the rapidly changing economies and demographics of today's national trends.

Notes

¹See www.thataway.org. Best known are the Study Circles as conducted by Everyday Democracy which bring people together in small discussion groups for a couple of hours to discuss a specific issue; and the 21st Century Town Meeting of America Speaks. This meeting gathers several thousand people for a day, sometimes in one large meeting or in large interactive meetings around the nation. Also well known is the Deliberative Poll, created by James Fishkin in the late 1980s, which typically convened several hundred people for three-day meetings. For many years it was the only method that came close to the Citizens Jury process in the length of time it takes. These and other methods gather a cross section of the public to talk about a social or political issue in facilitated discussions. The people attending are respectful of each other and the large majority is enthusiastic about the experience.

²The Citizens Jury process is one of the longest-in-use new democratic processes introduced in the 20th century. It, along with its twin the German *Planungszelle*, were the first significant democratic processes to engage randomly selected citizens. The *Planungszelle* was invented by Prof. Peter Dienel of Germany in January 1971, and first used the following year. The Citizens Jury process was invented by Ned Crosby in March 1971 and was first used in 1974. Crosby and Dienel did not learn of each other's work until 1985. By that time the *Planungszelle* was being used in a nationwide project in Germany, with 23 four-day events around the country. Meanwhile, the Citizens Jury process was being used on a statewide basis in Minnesota with five four-day events around the state and a statewide follow-up drawing from the five separate Citizens Juries. The Citizens Jury process took off in Britain in the 1990s and over 300 have now been run. The method continues to be used in Germany and has spread to many other countries, mainly Australia, Spain and Canada. One-day "citizens juries" are being run in Japan. In this article, the term Citizens Jury is capitalized when referring to the process as conducted by the Jefferson Center, but throughout the world the process is referred to in lower case.

³Joe Klein commented on James Fishkin's extensive use of the deliberative poll in an article published in *TIME* magazine on Sept. 9, 2010 entitled, "How Can a Democracy Solve Tough Problems?" <http://www.time.com/time/politics/article/0,8599,2015481,00.html#ixzz1GawQdNYV>. In 2002, the deliberative poll was incorporated into a production by MacNeil/Lehrer Productions called "By the People" which "... has supported well over 200 Citizen Deliberations around the country and more than 100 national and local PBS broadcasts, on issues ranging from national security to healthcare." <http://cdd.stanford.edu/polls/btp/index.html>.

"In 2010, *AmericaSpeaks* designed and facilitated *AmericaSpeaks: Our Budget, Our Economy*, a national discussion that gave ordinary people the opportunity to make tough decisions about our nation's looming deficit and debt crisis. Over 3,500 people joined the discussion from 19 primary sites, and still more participated in locally organized Community Conversations and online. The results of the discussion were presented to President Obama's Commission on Fiscal Responsibility and Reform, leading Members of Congress, and the Bipartisan Policy Center's Debt Reduction Task Force." <http://americaspeaks.org/about/history>.

⁴*Washington Post*, October 19, 1993.

⁵*Washington Post*, December 27, 1990.

⁶*Washington Post*, September 30, 1992.

⁷*Grand Forks Herald*, July 21, 2009.

About the Authors

Ned Crosby invented the Citizens Jury process while getting a Ph.D. in political science from the University of Minnesota (1973). In 1974 he set up the Jefferson Center to explore new democratic processes, primarily the Citizens Jury. This led to the development of the Citizens Jury process into one of the world's most frequently used new democratic processes, now found principally in Australia, Britain and Germany. Crosby has worked in recent years to get the Citizens Jury process used to evaluate ballot initiatives. He also taught briefly at the University of Minnesota and Yale.

John C. Hottinger was the 2004 chair of The Council of State Governments and the 2000 chair of the Midwest Legislative Conference. He served in the Minnesota Senate from 1991 through 2006 and was the majority leader in 2003. An attorney, he is the lead program consultant for the Jefferson Center and a principal in Hottinger and Gillette, LLC, which provides services in legal mediation, citizen engagement and public policy development. He also is a member of the Board of Directors of the Northeast-Midwest Institute in Washington, D.C.