



Roadmap to a Representative Jury

FEBRUARY 2, 2022
Minnesota



1

**Why jury
diversity
matters**



1

The infographic consists of two vertical columns. The left column has a dark grey top section with the number '1', a light grey middle section with the text 'Why jury diversity matters', and a dark grey bottom section. The right column has a teal top section with the number '2', a light teal middle section with the text 'Juries under-rep. people of color', and a teal bottom section. Thin vertical lines extend from the top of each column.

**Why jury
diversity
matters**

2

**Juries under-
rep.
people
of color**



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**Juries
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**Legal
standar
d: fair
cross
section
right**



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stages
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with fair
cross
section**

5

**Possible
next
steps
for
Minn.**



Jury diversity is not an intractable problem.

States can make changes to increase diversity.

*What is the purpose
or value in having juries
decide cases?*





1

**Why jury
diversity
matters**



Increased public confidence

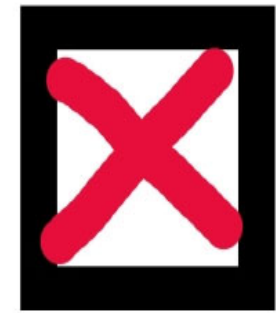
*Jury
diversity*



*Public
confidence*



FAIR



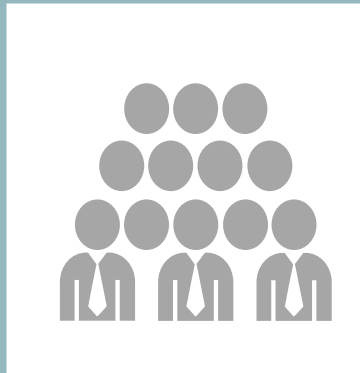
UNFAIR

Leslie Ellis & Shari Seidman Diamond, *Race, Diversity, and Jury Composition: Battering and Bolstering Legitimacy*, 78 Chi.-Kent L. Rev. 1033, 1049 (2003)

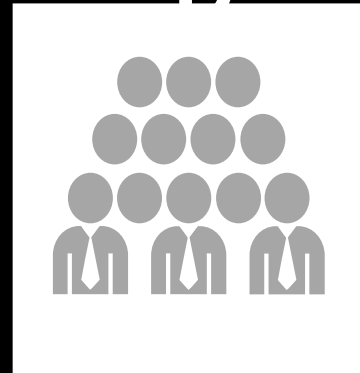
ACQUITTE
D

CONVICTE
D

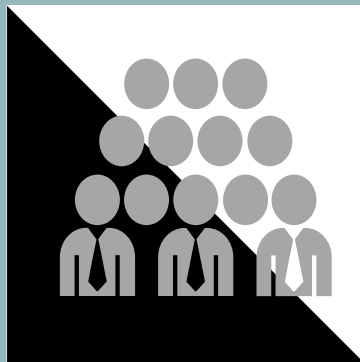
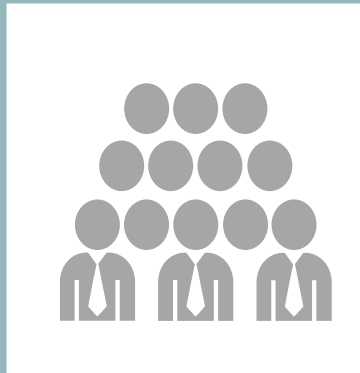
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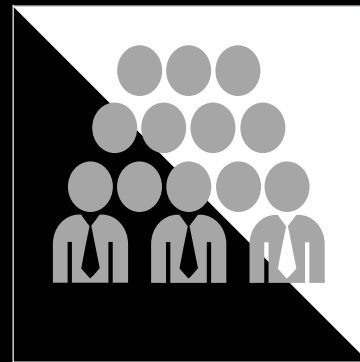
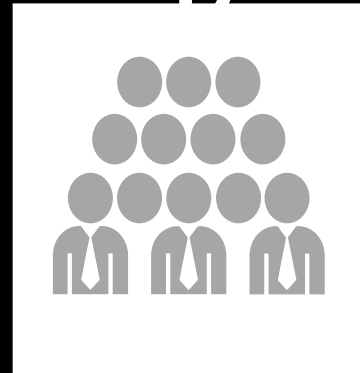
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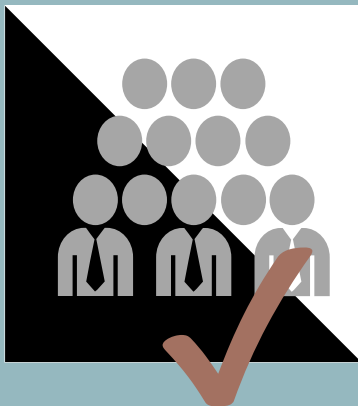
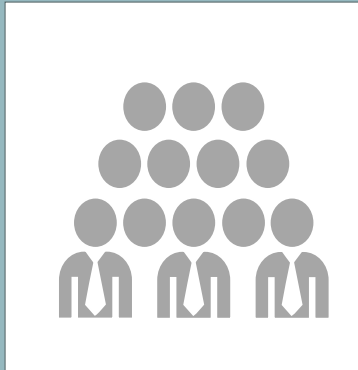
ACQUITTE
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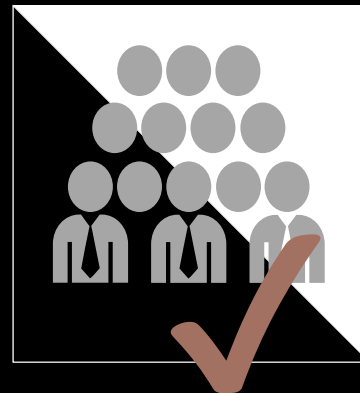
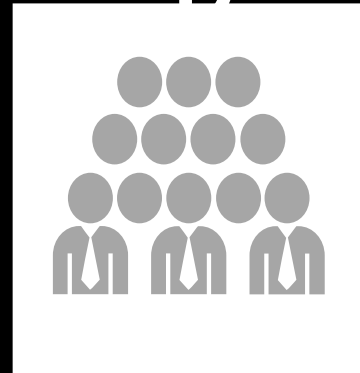
CONVICTE
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ACQUITTE
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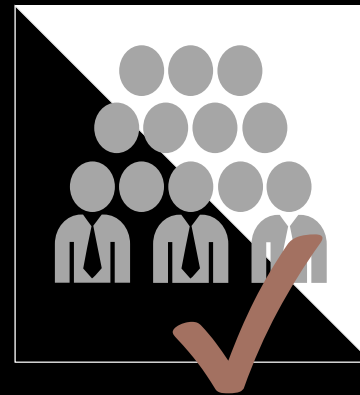
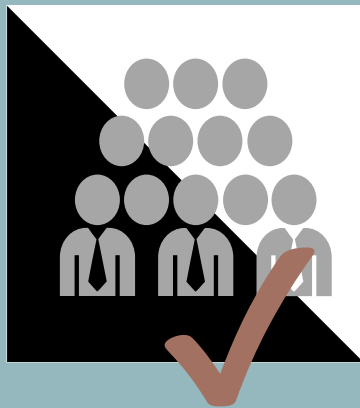
CONVICTE
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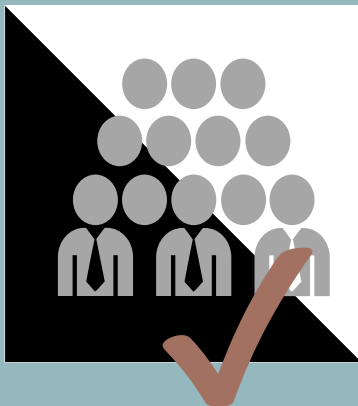
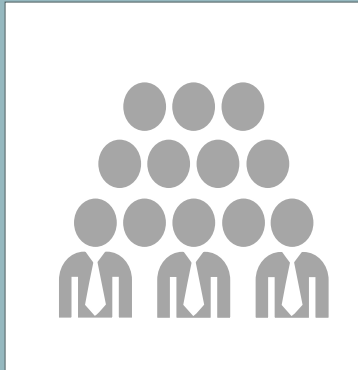
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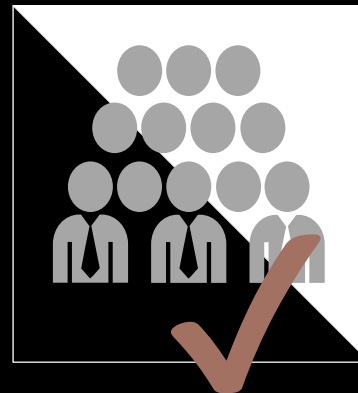
Racially mixed jury = *any* outcome is seen as fair



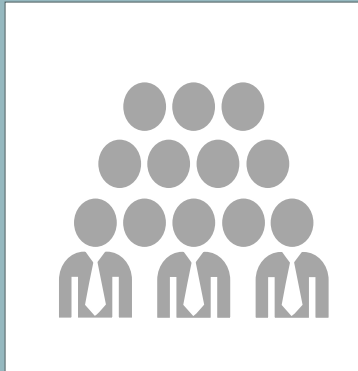
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CONVICTE
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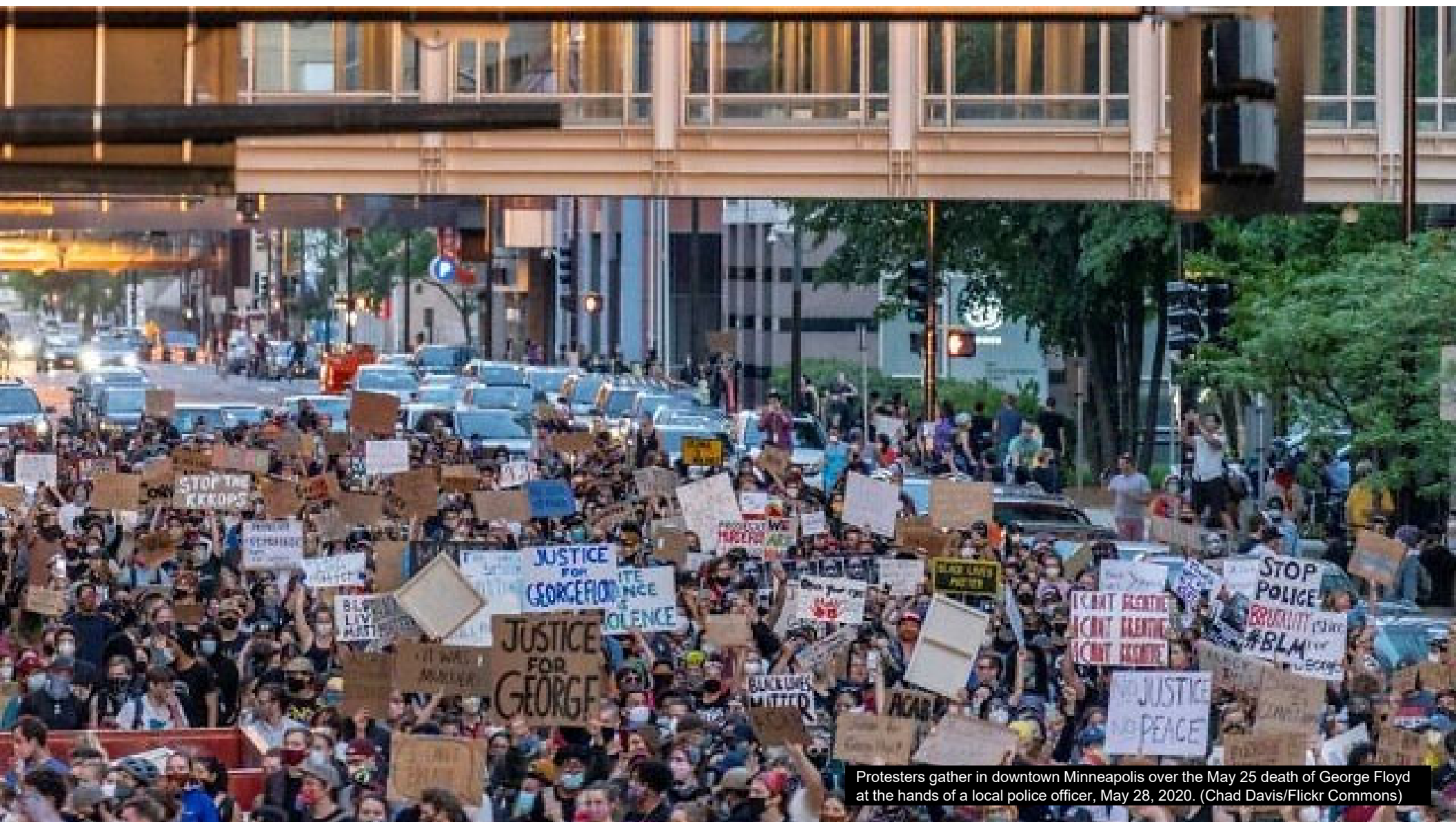
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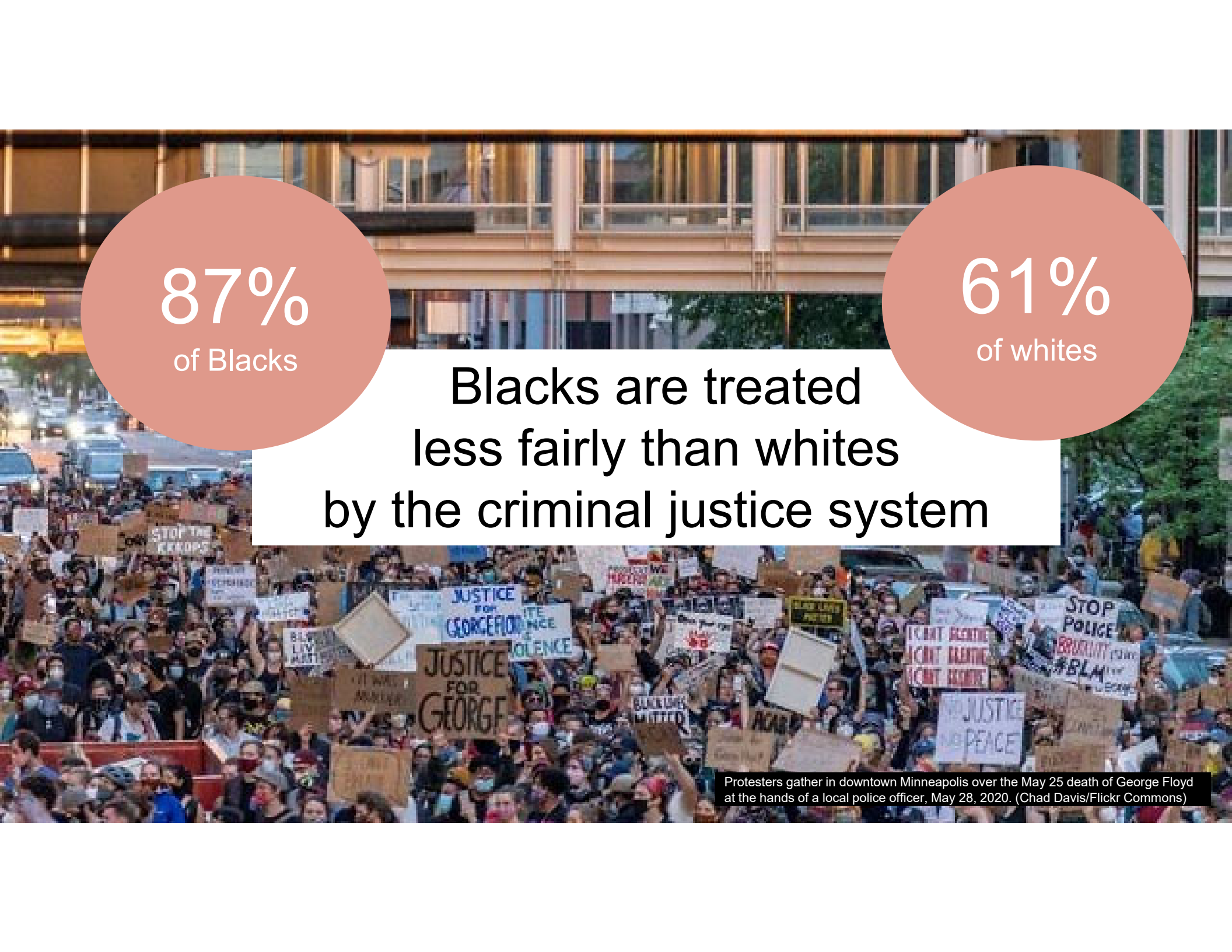


**CONVICTE
D**



All white jury = convictions are seen as less fair





87%
of Blacks

61%
of whites

Blacks are treated
less fairly than whites
by the criminal justice system

Protesters gather in downtown Minneapolis over the May 25 death of George Floyd at the hands of a local police officer, May 28, 2020. (Chad Davis/Flickr Commons)



“Only one in 10 Black and Indigenous Minnesotans believe the courts and criminal justice system just about always or most of the time treat others of their racial or ethnic identity fairly”

Minnesota’s Diverse Communities Survey:
Attitudes toward and experiences with
Minnesota’s police force and criminal justice
system August 11, 2021 (APM Research Lab)



1

**Why jury
diversity
matters**



Increased public confidence



1

**Why jury
diversity
matters**

Increased public confidence

Less biased verdicts

785 felony trials

Shamena Anwar, Patrick Bayer, Randi Hjalmarsson, *The Impact of Race in Criminal Trials*, The Quarterly Journal of Economics, 1-39 (2012)



Jury drawn
from all-white
jury venire

785 felony trials



Jury drawn
from venire
with at least
one black
person



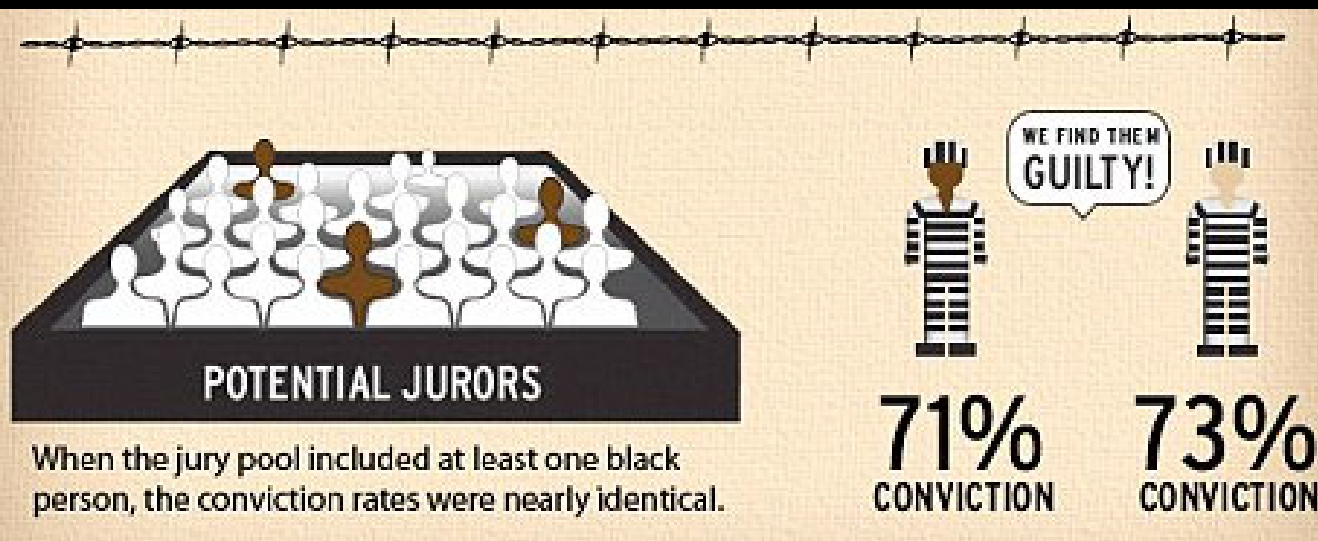
In cases with no black people in the jury pool (typically consisting of around 27 people) blacks were convicted 81 percent of the time, and whites were convicted 66 percent of the time.



81%
CONVICTION

66%
CONVICTION





IS JUSTICE COLOR BLIND?

A Duke University-led study on the impact of race on conviction rates raises questions about the criminal justice system.

"Simply put, the luck of the draw on the racial composition of the jury pool has a lot to do with whether someone is convicted...." -- senior author Pat Bayer, chairman of Duke University's Economics Department

RESEARCHERS
EXAMINED MORE THAN
700 FELONY TRIALS
IN SARASOTA AND LAKE COUNTIES
IN FLORIDA FROM 2000-2010.

Key findings:



In cases with no black people in the jury pool (typically consisting of around 27 people) blacks were convicted 81 percent of the time, and whites were convicted 66 percent of the time.



When the jury pool included at least one black person, the conviction rates were nearly identical.



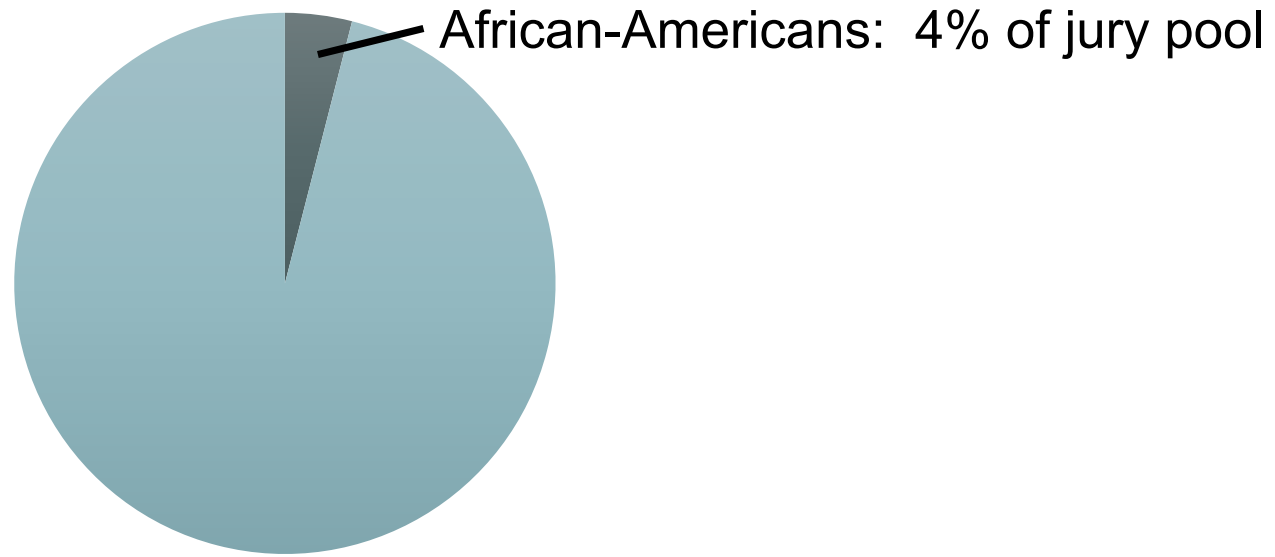
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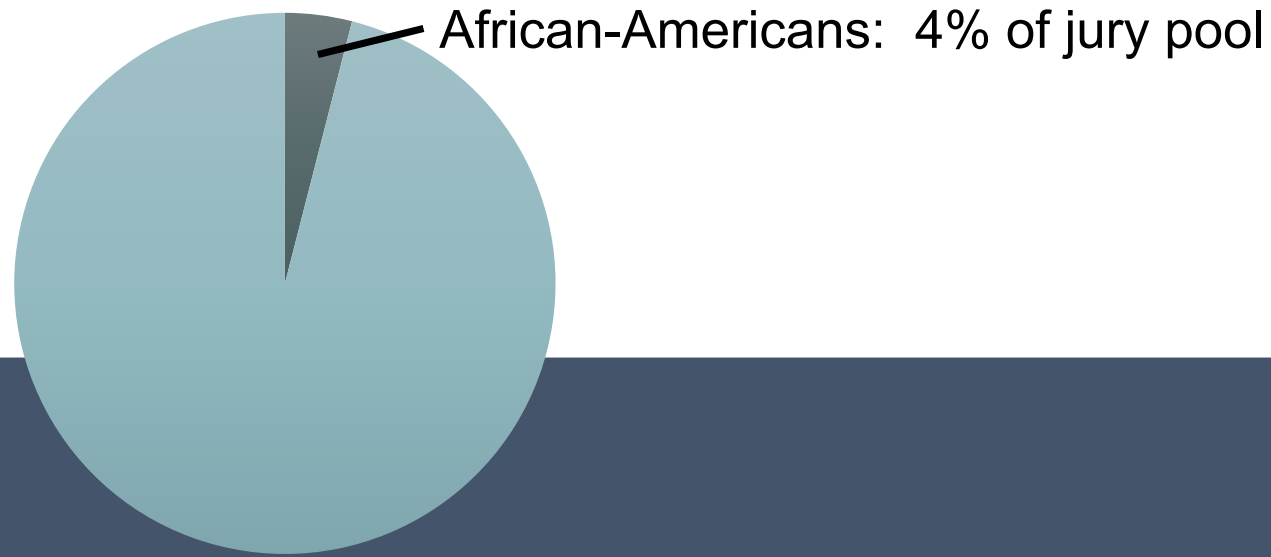
Duke

OFFICE OF
NEWS & COMMUNICATIONS

<http://today.duke.edu/2012/04/jurystudy>

Design by Kimberly Ferguson





“[E]ven small changes
in the composition of the jury pool
have a large impact”

1

The infographic features a vertical stack of three dark grey circles on the left. To the right of each circle is a horizontal orange-red bar containing white text. The top bar says 'Increased public confidence', the middle bar says 'Less biased verdicts', and the bottom bar says 'Higher quality deliberations'. On the far left, a dark grey vertical bar contains a large white number '1' and the text 'Why jury diversity matters' below it.

**Why jury
diversity
matters**

Increased public confidence

Less biased verdicts

Higher quality deliberations



Samuel R. Sommers & Phoebe C. Ellsworth, *How Much Do We Really Know About Race and Juries? A Review of Social Science Theory and Research*, 78 Chi.-Kent L. Rev. 997 (2003); Samuel R. Sommers, *Determinants and Consequences of Jury Racial Diversity: Empirical Findings, Implications, and Directions for Future Research*, Social Issues and Policy Rev., V. 2., No. 1, pp. 65-102; Samuel R. Sommers, *On Racial Diversity and Group Decision Making: Identifying Multiple Effects of Racial Composition on Jury Deliberations*, J. Personality & Soc. Psych., V. 90, No. 4, pp. 597-612 (2006) .

I expect that when compared to all-white juries, racially diverse juries will:

- A. Be more likely to discuss racial issues*
- B. Deliberate for less time*
- C. Discuss more case facts*
- D. Make more factual errors*





RACIALLY MIXED JURIES

- ☐ Deliberate longer
- ☐ Discuss more case facts
- ☐ Fewer factual errors
- ☐ Fewer uncorrected factual errors
- ☐ More statements about race

Table 2

Group-Level Analyses of Deliberation Content

Measure	White jurors	
	Diverse group	All-White group
Deliberation length, in min	50.67 _a	38.49 _b
No. of case facts discussed	30.48 _a	25.93 _b
No. of factual inaccuracies	4.14 _a	7.28 _b
No. of uncorrected inaccurate statements	1.36 _a	2.49 _b
Amount of “missing” evidence cited	1.87	1.07
No. of race-related issues raised	3.79 _a	2.07 _b
No. of mentions of racism	1.35	0.93
% of time mention of racism met with objection	22% _a	100% _b

Note. Values with different subscript letters differ significantly at $p \leq .05$; $n = 15$ diverse groups and 14 all-White groups.

Table 2

Group-Level Analyses of Deliberation Content

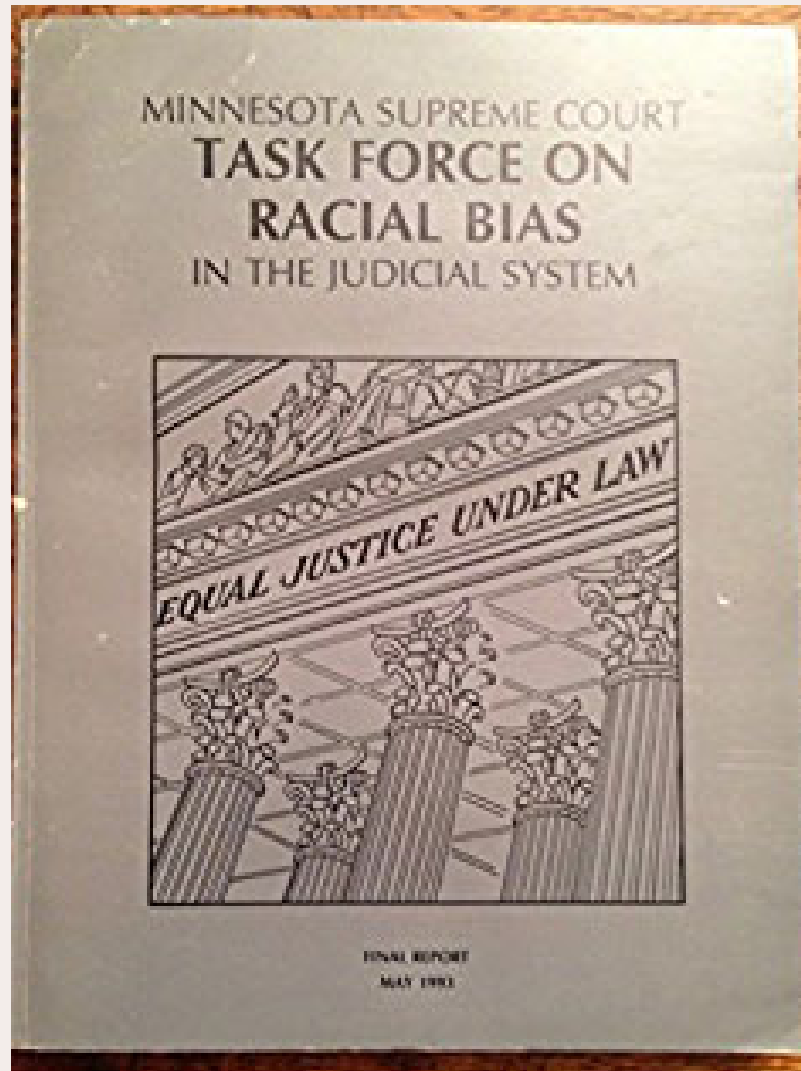
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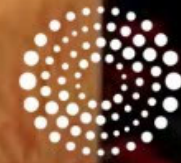
“Jury representativeness can
be more than a moral or
Constitutional ideal;

it is sometimes an
ingredient for superior
performance.”

1993



- **“The ethnic, racial and sexual makeup of a jury affects the outcomes of cases.”**
- “Grand and petit juries need people of color to truly reflect the whole community if the jury's verdict is to reflect the community's judgment.”



REUTERS®

LIVE: Jury selection for Derek Chauvin trial

Justice for George Floyd



REUTERS

Jury diversity matters





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**Why jury
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2

**Juries under-
rep.
people
of color**

2018 national assessment of jury pool data in the federal courts

“underrepresentation of the
Latino and African-American population is
ubiquitous”



40%

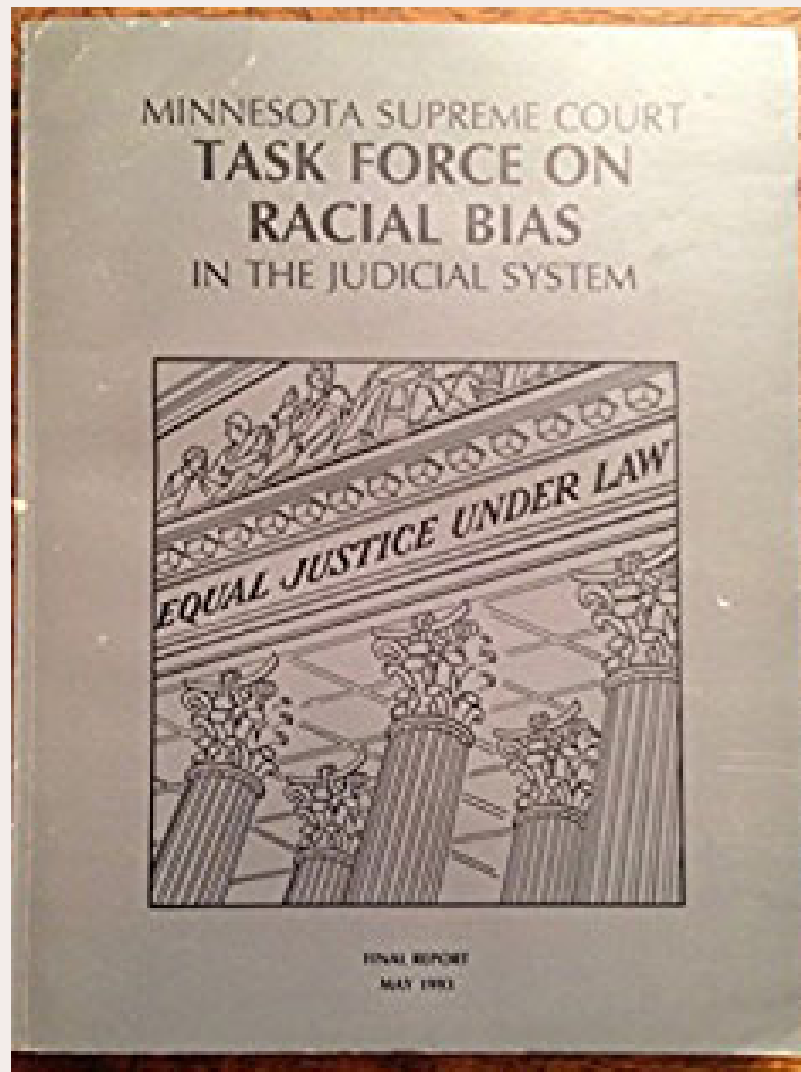
of African-Americans are
not part of their community's jury pools

30%

of Latinx people are
not part of their community's jury pools



1993



Conclusion:

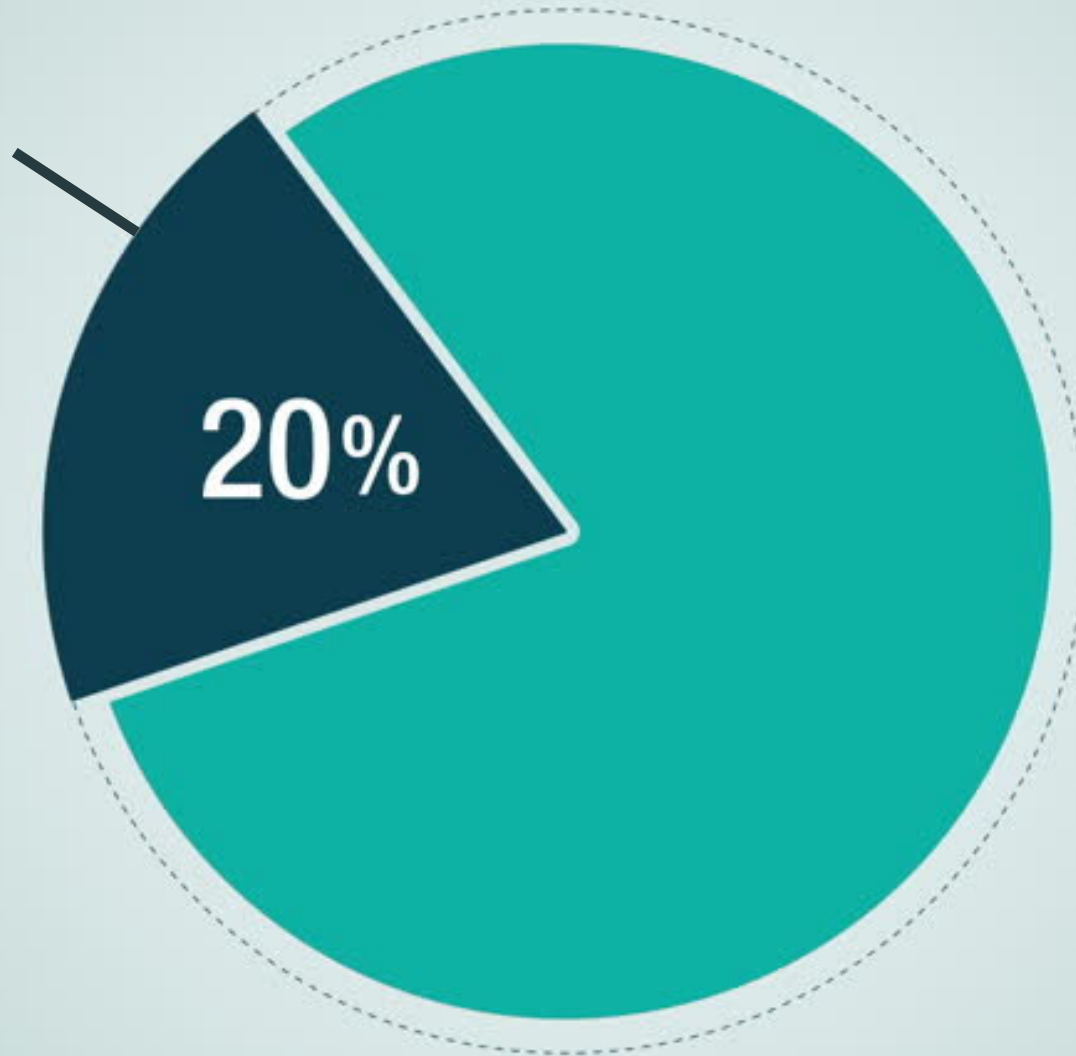
- “[P]eople of color are overrepresented in the number of individuals arrested and prosecuted, as well as in the number of individuals who are victims.
- People of color waiting for justice or judgment abound.
- Yet somehow, people of color on the other side of the courtroom — in the jury box — are very hard to find.
- In fact, jury pools rarely, if ever, are representative of the racial composition of our communities.”

In your opinion, how often do the juries in your jurisdiction reflect the diversity of that community?

- A. Almost always*
- B. Frequently*
- C. Sometimes*
- D. Almost never*



People
of color



MINNESOTA STATE DEMOGRAPHIC CENTER

**2020-2021
COMMITTEE FOR EQUALITY AND JUSTICE
STUDY ON JURY RACE DATA
AND RECOMMENDATIONS**

- “The data shows that white, non-Hispanic Minnesotans are represented at a higher rate in the 2018-2019 jury pool, and most other racial groups are underrepresented, when compared to 2018 Census Population”

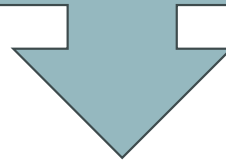
89%



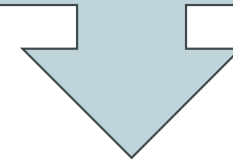
83%
White, Non-Hispanic

5.5%
Black/African-
American

4.3%
Hispanic/Latinx



3.3%



2.4%

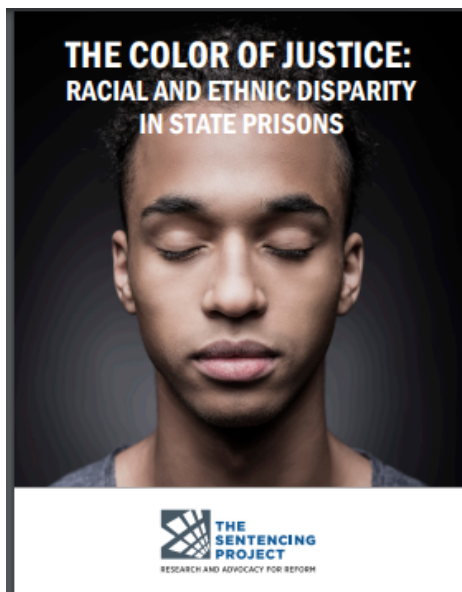


Table C. Black/white incarceration ratios, by racial disparity

State	White	Black	B:W
New Jersey	94	1140	12.2
Wisconsin*	221	2542	11.5
Iowa	211	2349	11.1
Minnesota	111	1219	11.0
Vermont*	225	2357	10.5
Connecticut*	148	1392	9.4
Pennsylvania	204	1810	8.9
Illinois	174	1533	8.8
California	201	1767	8.8
Nebraska	201	1680	8.4
Rhode Island*	112	934	8.3
New York	112	896	8.0
Massachusetts*	81	605	7.5

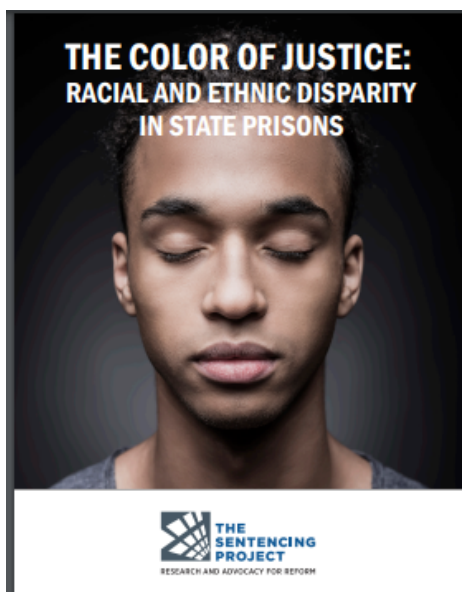


Table D. Hispanic/white incarceration ratios, by ethnic disparity

State	White	Hispanic	H:W
Massachusetts*	81	351	4.3
Connecticut*	148	583	3.9
Pennsylvania	204	668	3.3
New York	112	351	3.1
Minnesota	111	287	2.6
Wisconsin*	221	563	2.6
Rhode Island*	112	280	2.5
North Dakota*	170	395	2.3
Colorado	260	587	2.3
New Jersey	94	206	2.2
New Mexico	208	422	2.0



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**Juries under-
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Poll 1

If a jury system underrepresents people of color but there is no discrimination at any stage of the jury selection process:

Can there be a constitutional violation?



Equal Protection



Prohibits intentional
discrimination

Equal Protection



Prohibits intentional
discrimination



Fourteenth Amendment

Equal Protection



Prohibits intentional
discrimination

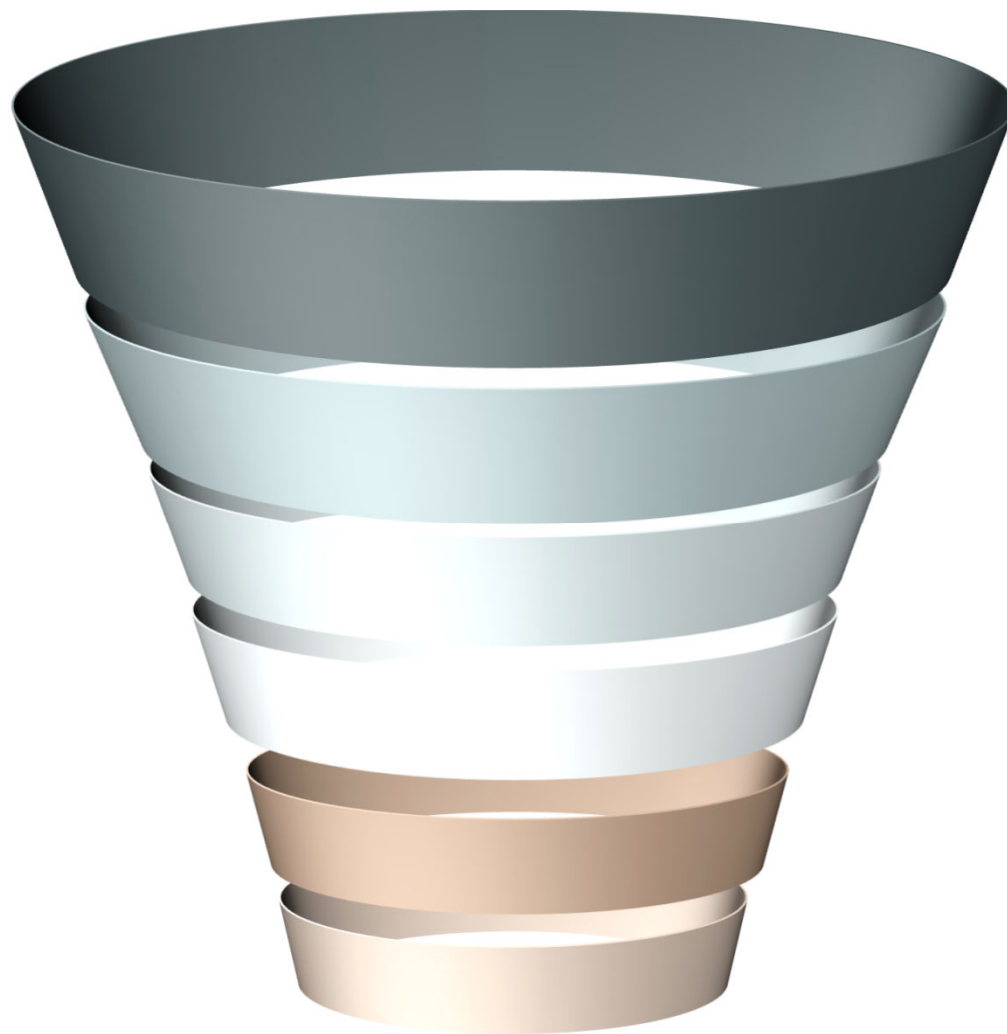


Fourteenth Amendment

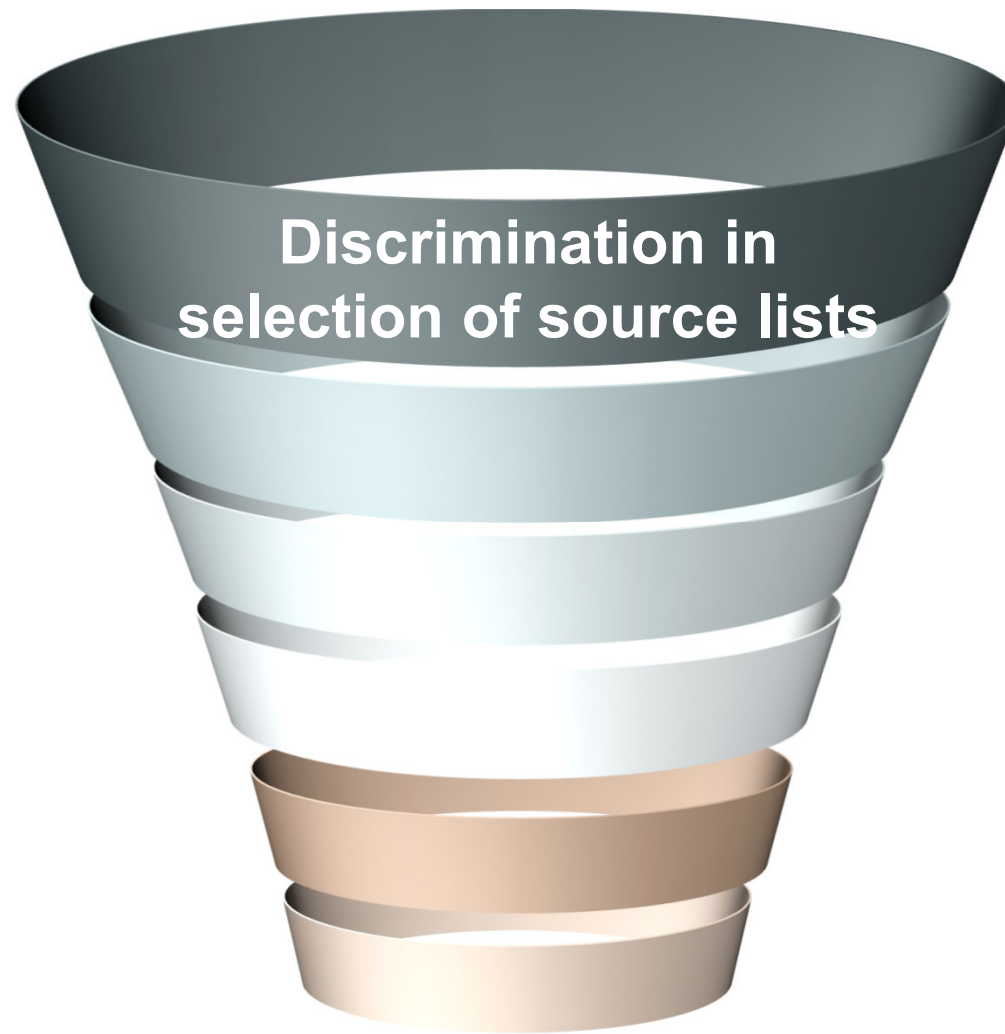


Applies to every stage of jury
selection

**STAGES OF
THE JURY
SELECTION
PROCESS**



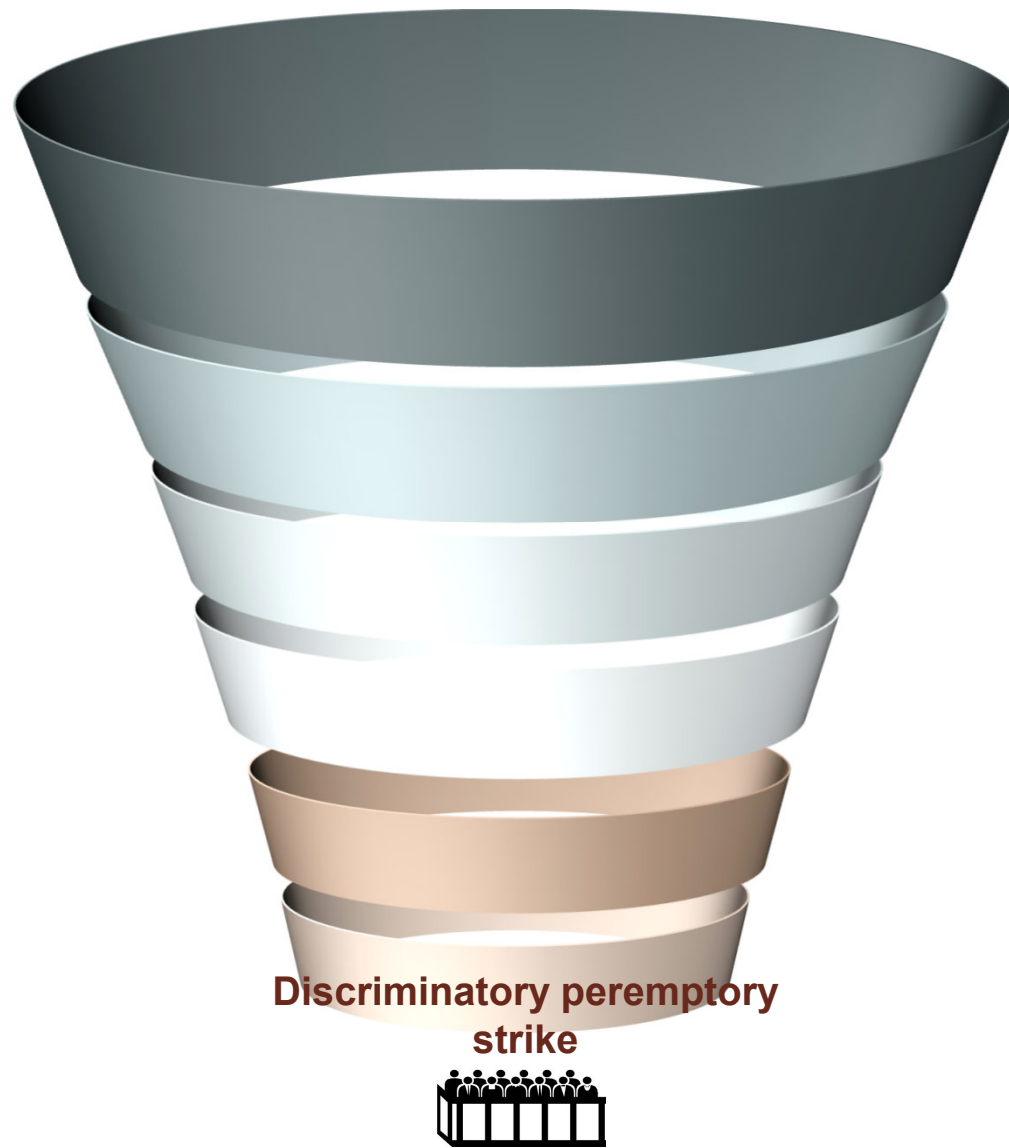
**Right to
equal
protectio
n**



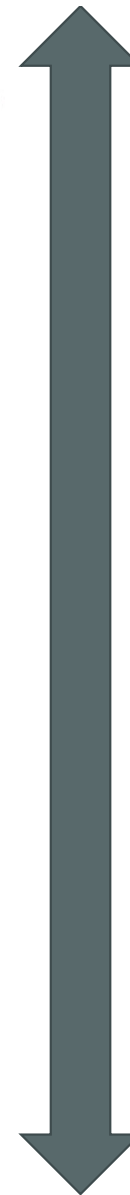
**Discrimination in
selection of source lists**

**Right to
equal
protection**





**Discriminatory peremptory
strike**



**Right to
equal
protectio
n**

Equal Protection



Prohibits intentional discrimination



Fourteenth Amendment



Applies to every stage of jury selection



Requires proof of discrimination

Fair Cross-Section



Requires jury pool that includes fair cross-section of community

Equal Protection



Prohibits intentional discrimination



Fourteenth Amendment



Applies to every stage of jury selection



Requires proof of discrimination

Fair Cross-Section



Requires jury pool that includes fair cross-section of community



Sixth Amendment

Equal Protection



Prohibits intentional discrimination



Fourteenth Amendment



Applies to every stage of jury selection



Requires proof of discrimination

Fair Cross-Section



Requires jury pool that includes fair cross-section of community



Sixth Amendment



Doesn't apply to all stages of jury selection

Equal Protection



Prohibits intentional discrimination



Fourteenth Amendment



Applies to every stage of jury selection



Requires proof of discrimination

Poll 2

Which stage of the jury selection process does NOT need to include a fair cross-section of the community?

The source lists?

The qualified jurors?

The summonsed jurors?

The jurors at the courthouse?

The jurors on an individual jury?



Fair Cross-Section



Requires jury pool that includes fair cross-section of community



Sixth Amendment



Applies to all stages of jury selection **before voir dire**

Equal Protection



Prohibits intentional discrimination



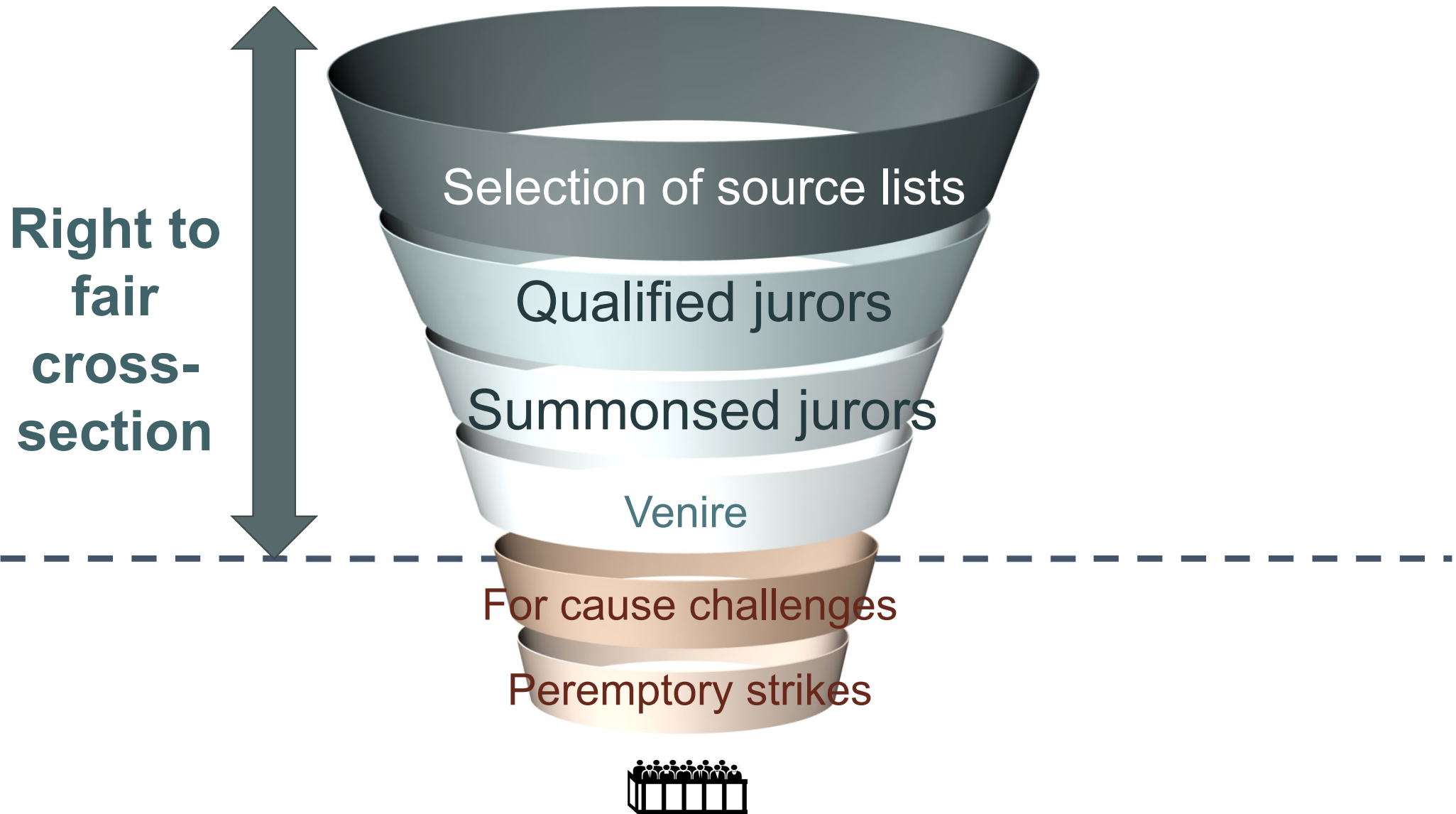
Fourteenth Amendment



Applies to every stage of jury selection



Requires proof of discrimination



Guarantees a
chance to obtain a
representative
individual jury



Fair Cross-Section



Requires jury pool that includes fair cross-section of community



Sixth Amendment



Applies to all stages of jury selection before voir dire



Discrimination is irrelevant

Equal Protection



Prohibits intentional discrimination



Fourteenth Amendment



Applies to every stage of jury selection



Requires proof of discrimination

Fair Cross-Section



Equal Protection



Fair Cross-Section



Distinctive group



Equal Protection





Distinctive group

- (1) defined and limited by some factor
- (2) a common thread or basic similarity in attitude, ideas, or experience runs through the group; and
- (3) there is a community of interest among members of the group such that the group's interests cannot be adequately represented if the group is excluded from the jury selection process

Ford v. Seabold, 841 F.2d 677, 682 (6th Cir.1988); *Barber v. Ponte*, 772 F.2d 982 (1st Cir.1985) (en banc); *Willis v. Zant*, 720 F.2d 1212 (11th Cir.1983).

Fair Cross-Section



Distinctive group



Equal Protection



**Group that has been
discriminated against**



Fair Cross-Section



Distinctive group



**Representation not
fair and reasonable**



Equal Protection



**Group that has been
discriminated against**



Fair Cross-Section



Distinctive group



**Representation not
fair and reasonable**



Equal Protection



**Group that has been
discriminated against**



**Substantial
underrepresentation**



Absolute disparity



Census percentage	
- Jury percentage	
= ABSOLUTE DISPARITY	

Absolute disparity



Census percentage	5.5%
- Jury percentage	3.2%
= ABSOLUTE DISPARITY	2.2%



PROBLEMATIC:

“the smaller the population,
the less striking the numerical
differences appear.”

Ramseur v. Beyer, 983 F.2d 1215, 1231 (3d Cir. 1992)

Comparative disparity

“measures the diminished likelihood that members of an underrepresented group, when compared to the population as a whole, will be called for jury service”



Ramseur v. Beyer, 983 F.2d 1215, 1231 (3d Cir. 1992)

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Absolute disparity	
/ Census percentage	
= COMPARATIVE DISPARITY	

Ramseur v. Beyer, 983 F.2d 1215, 1231 (3d Cir. 1992)

Comparative disparity

“measures the diminished likelihood that members of an underrepresented group, when compared to the population as a whole, will be called for jury service”



Absolute disparity	2.2%
/ Census percentage	5.5%
= COMPARATIVE DISPARITY	40%

Ramseur v. Beyer, 983 F.2d 1215, 1231 (3d Cir. 1992)



Black people in Minnesota are 40% less likely to be in the jury pool than they would be if they were proportionately represented.

“Each test is imperfect.”



Berghuis v. Smith, 559 U.S. 314, 329 (2010)

Absolute disparity



Census percentage	5.5%
- Jury percentage	0%
= ABSOLUTE DISPARITY	5.5%



State v. Williams,
525 N.W.2d 538, 543 (Minn. 1994)

- “The question whether the group in question was fairly represented . . . will not be answered by reliance on one particular statistical tool.
- Rather, courts should be free to use all the statistical tools available, including the absolute disparity figure, the comparative disparity figure, standard deviations, and any other such tools.”

Fair Cross-Section



Distinctive group



**Representation not
fair and reasonable**



**Caused by
systematic exclusion
("inherent"
"attributable")**

Equal Protection



**Group that has been
discriminated against**



**Substantial
underrepresentation**



**Caused by
discrimination**



**Which inherent aspects
of the jury selection
system can lead to
disparity?**



More jury
diversity

Less jury
diversity





“undeliverable rates,
non-response and
failure-to-appear rates,
excusal rates”

“the components of jury yield
that offer the most potential for
effective control”

Fair Cross-Section



Distinctive group



**Representation not
fair and reasonable**



**Caused by
systematic exclusion
("inherent"
"attributable")**

Fair Cross-Section

Government's rebuttal:

Show that those aspects of the jury selection process that result in the disproportionate exclusion of a distinctive group manifestly advance an overriding, significant government interest

Equal Protection

Fair Cross-Section

Government's rebuttal:

Show that those aspects of the jury selection process that result in the disproportionate exclusion of a distinctive group **manifestly advance an overriding, significant government interest**

Equal Protection

Government's rebuttal:

Show that **no discrimination involved**, or that the discrimination did not have a "determinative effect."

1

The infographic consists of four vertical columns, each representing a point. Each column has a colored square at the top with a number, a central text box, and a colored square at the bottom. The colors are dark grey for point 1, teal for point 2, light blue for point 3, and brown for point 4. Thin vertical lines extend from the top of each colored square.

**Why jury
diversity
matters**

2

**Juries under-
rep.
people
of color**

3

**Legal
standar
d: fair
cross
section
right**

4

**Invisible
stages
interfere
with fair
cross
section**

More jury
diversity

Less jury
diversity



Which of these steps is most likely to increase jury diversity in Minnesota?

*Use rent rebate list as source list?
Update addresses every six months?
Send a follow-up to non-responders?
Increase pay for jury service?
Community education?*



**Invisible
stages**

Selection of source lists

Qualified jurors

Summoned jurors

Venire

**Visible
stages**

For cause challenges

Peremptory strikes



**Invisible
stages**

Selection of source lists

Qualified jurors

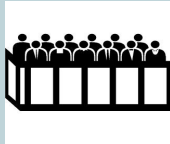
Summoned jurors

Venire

**Visible
stages**

For cause challenges

Peremptory strikes

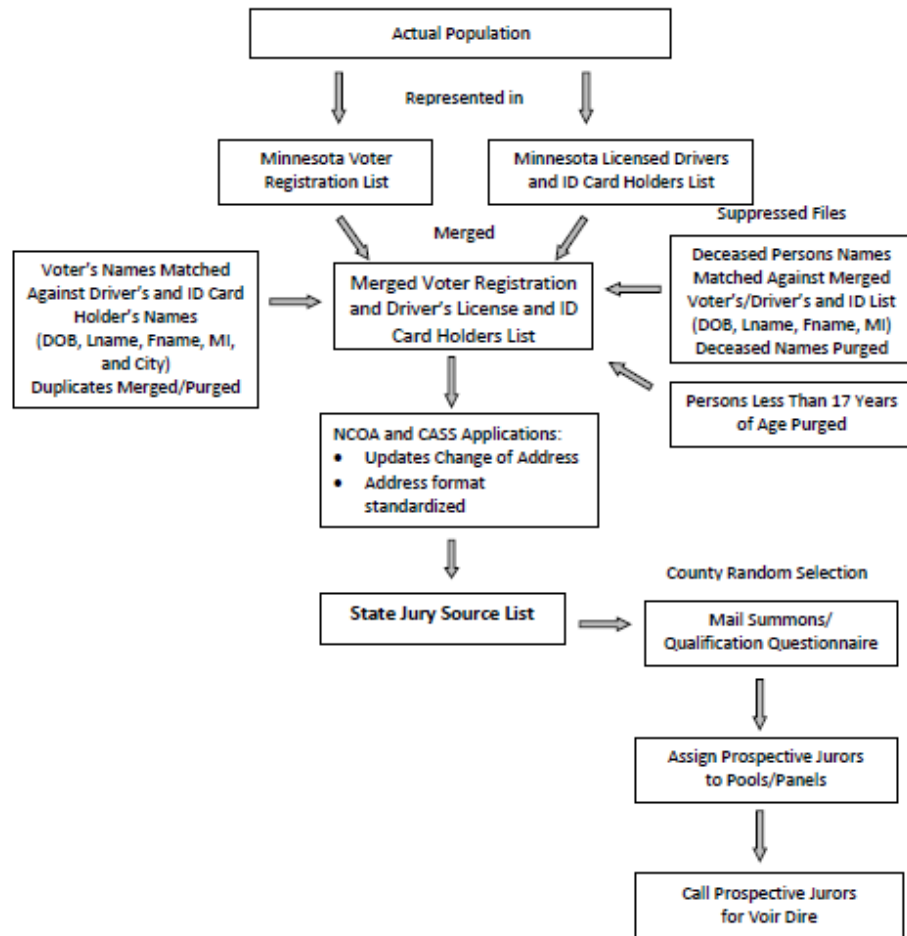


**Invisible
stages**



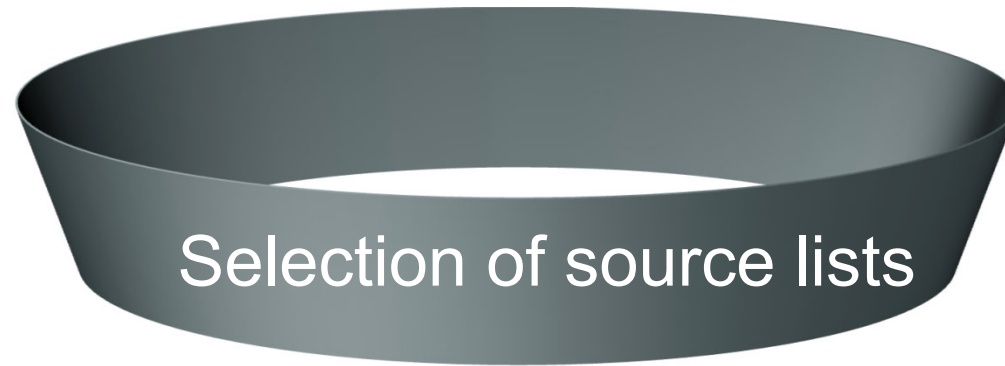
Illustration of Jury Source List Processing

This illustration shows the source of potential juror names and how lists are processed to produce jury panels in the Minnesota State Court System.



2020-2021 Committee for Equality and Justice,
Study on Jury Race Data and Recommendations

**Invisible
stages**

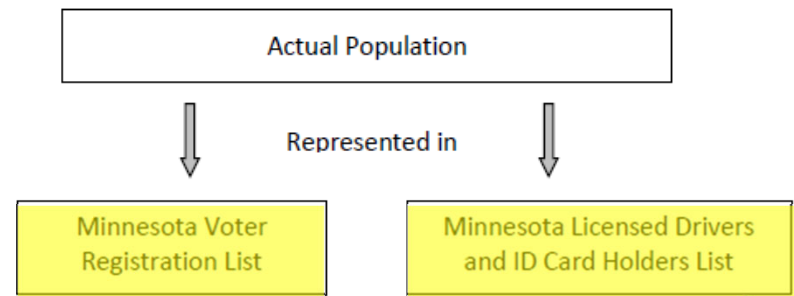
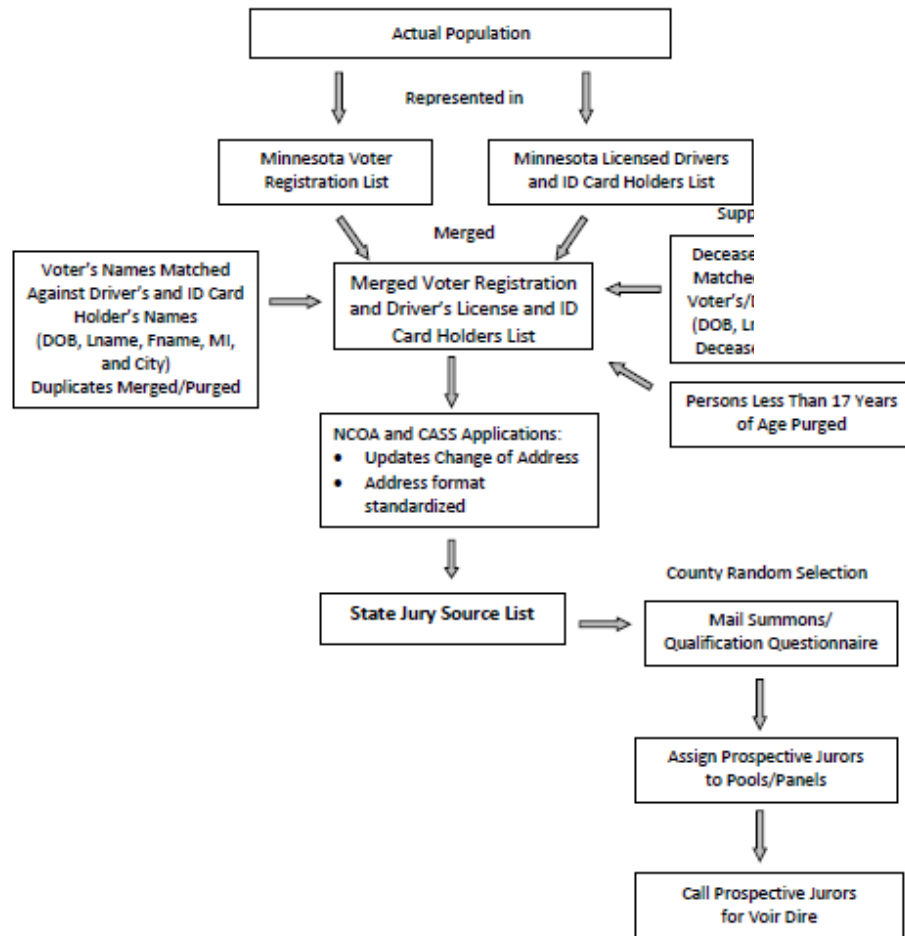


Selection of source lists



Illustration of Jury Source List Processing

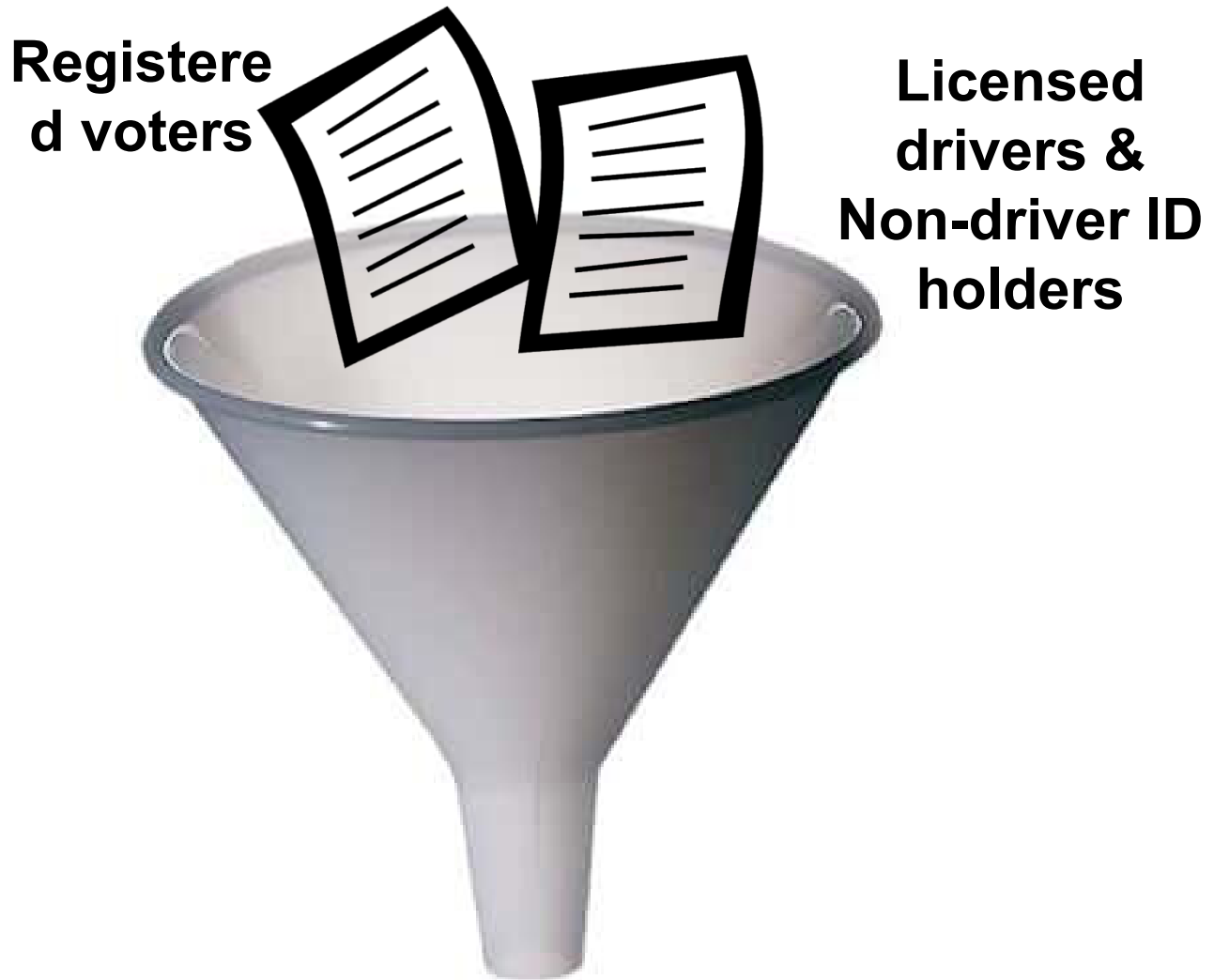
This illustration shows the source of potential juror names and how lists are processed to produce jury panels in the Minnesota State Court System.



2020-2021 Committee for Equality and Justice,
Study on Jury Race Data and Recommendations

SOURCE LISTS:

Lists from agencies that become the source of potential juror names





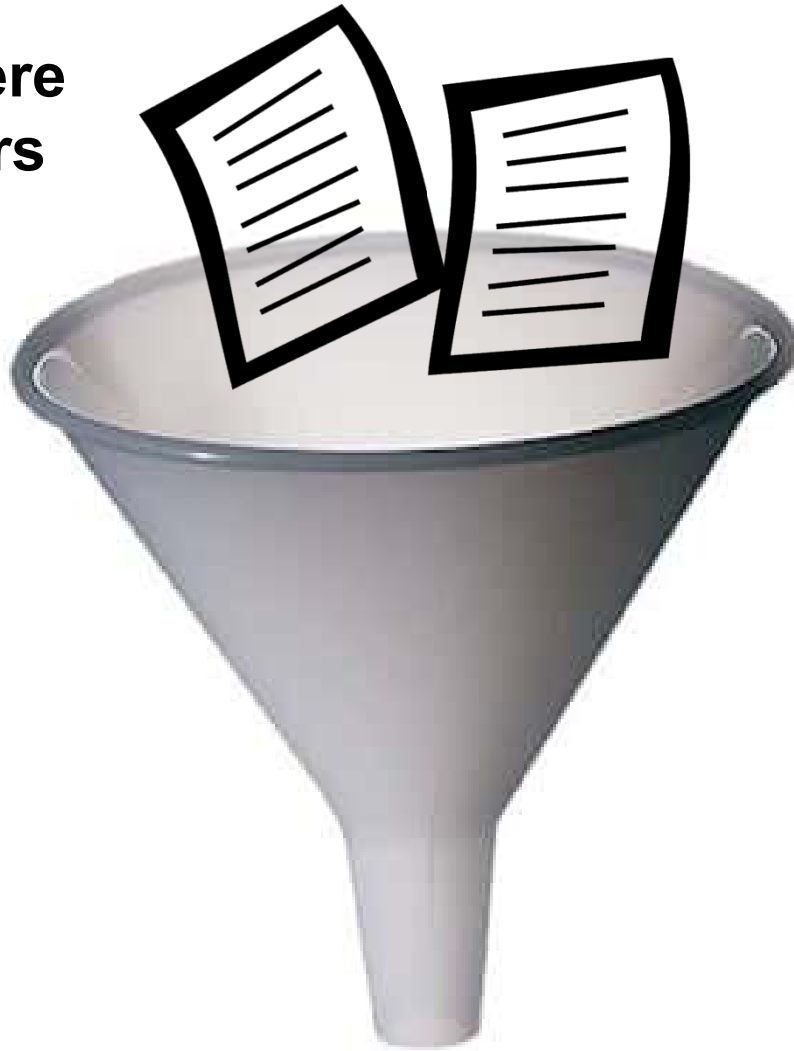
The jury system will never be more diverse than the source lists selected

Minnesota	Voter registration rate
White Non-Hispanic	83.7%
Hispanic	55.8%
Black	53.5%
Asian	51.2%

**Registere
d voters**



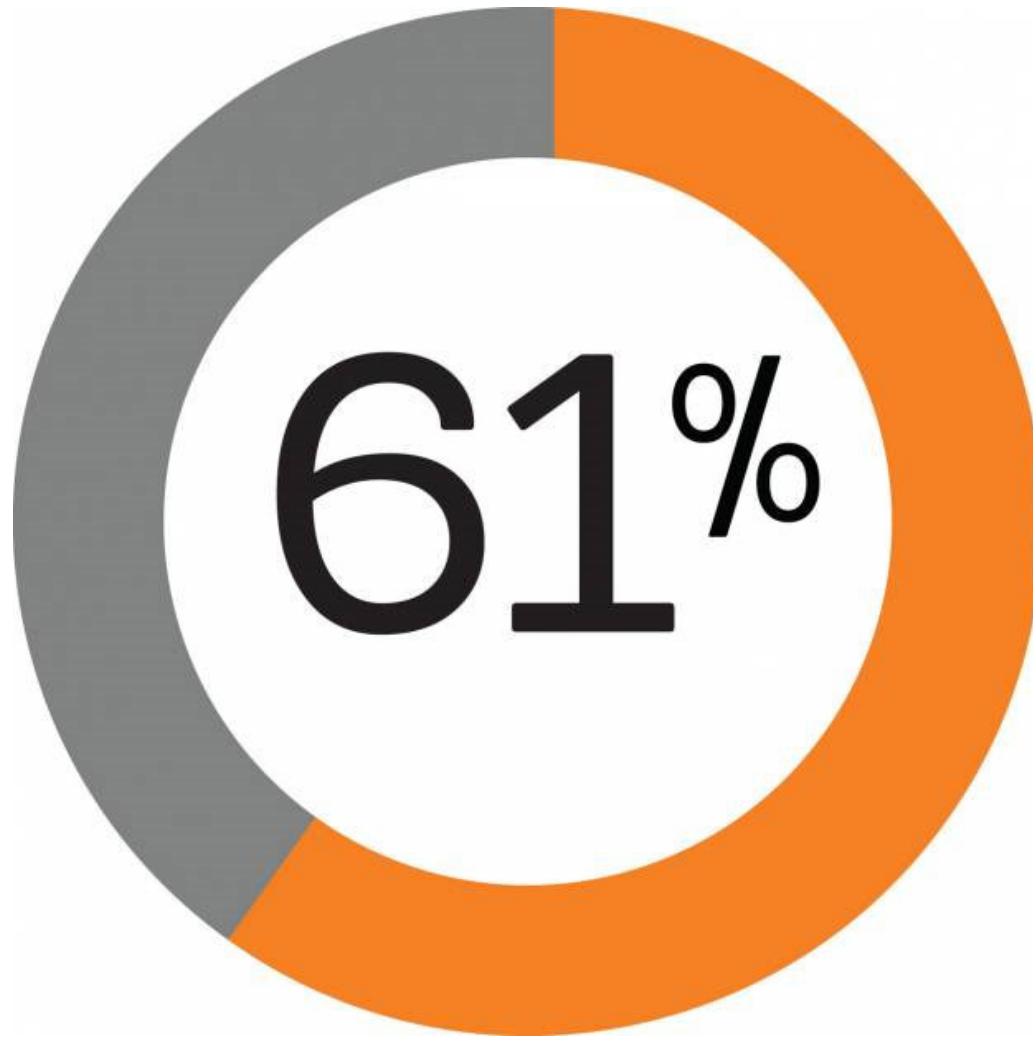
Registered voters



**Licensed drivers &
Non-driver ID
holders**

*What percentage of drivers-
age Minnesotans have a
driver's license?*





U.S. DEPT. OF TRANSPORTATION
[HTTPS://WWW.FHWA.DOT.GOV/POLICYINFORMATION/STATISTICS/ABSTRACTS/2019/MINNESOTA_2019.PDF](https://www.fhwa.dot.gov/policyinformation/statistics/abstracts/2019/minnesota_2019.pdf)

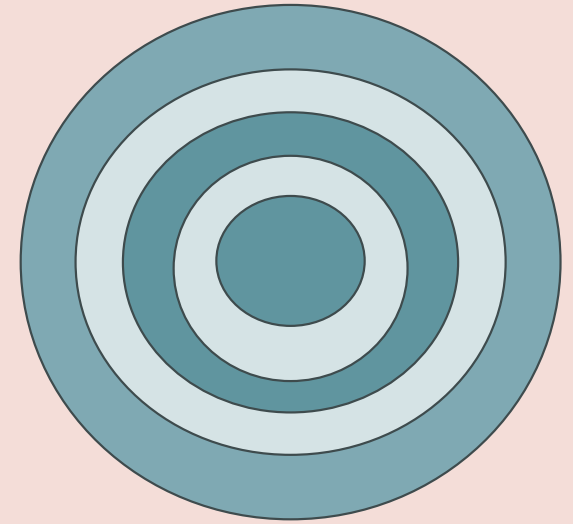
	No Photo ID
White	5%
Black	13%
Hispanic	10%

	No Photo ID
Less than \$25,000	12%
More than \$150,000	2%

More jury
diversity



Multiple, representative source lists



Jury
diversity

m1 DEPARTMENT OF REVENUE

2017 Form M1, Individual Income Tax

Leave unused boxes blank. Do not use staples on anything you submit.

Your First Name and Initial _____ Last Name _____ Your Social Security Number _____

If a joint return, Spouse's First Name and Initial _____ Spouse's Last Name _____ Spouse's Social Security Number _____

Current Home Address _____ Check if: ☐ New Address ☐ Foreign Address _____ Your State of Birth _____

City _____ State _____ Zip Code _____ Spouse's Date of Birth _____

2017 Federal Filing Status ☐ 11 Single ☐ 12 Married filing jointly ☐ 13 Married filing separately

(Place an X in one box) ☐ 14 Head of household ☐ 15 Qualifying widow(er) _____ Enter spouse name and Social Security number _____

State Elections Campaign Fund
If you want to go to help candidates for state offices pay campaign expenses, enter the code number for the party of your choice. This will not increase your tax or reduce your refund.

Political party and code number:
Republican 01 Green/eco/organic/Carrots 14 Legal marijuana law 17 Your code _____
Democrat/Farmer label 02 Green 15 Senior/Campaign _____
Independent 03 Shaman 16 Fund 18 Spouse code _____

From Your Federal Return (see instructions) **A** Wages, salaries, tips, etc. _____ **B** IRA, pensions, and annuities _____ **C** Unemployment _____ **D** Federal adjusted gross income _____

1 Federal taxable income (from line 43 of federal Form 1040, line 27 of Form 1040A, or line 6 of Form 1040EZ) if a negative number, place an X in the box) **10** _____

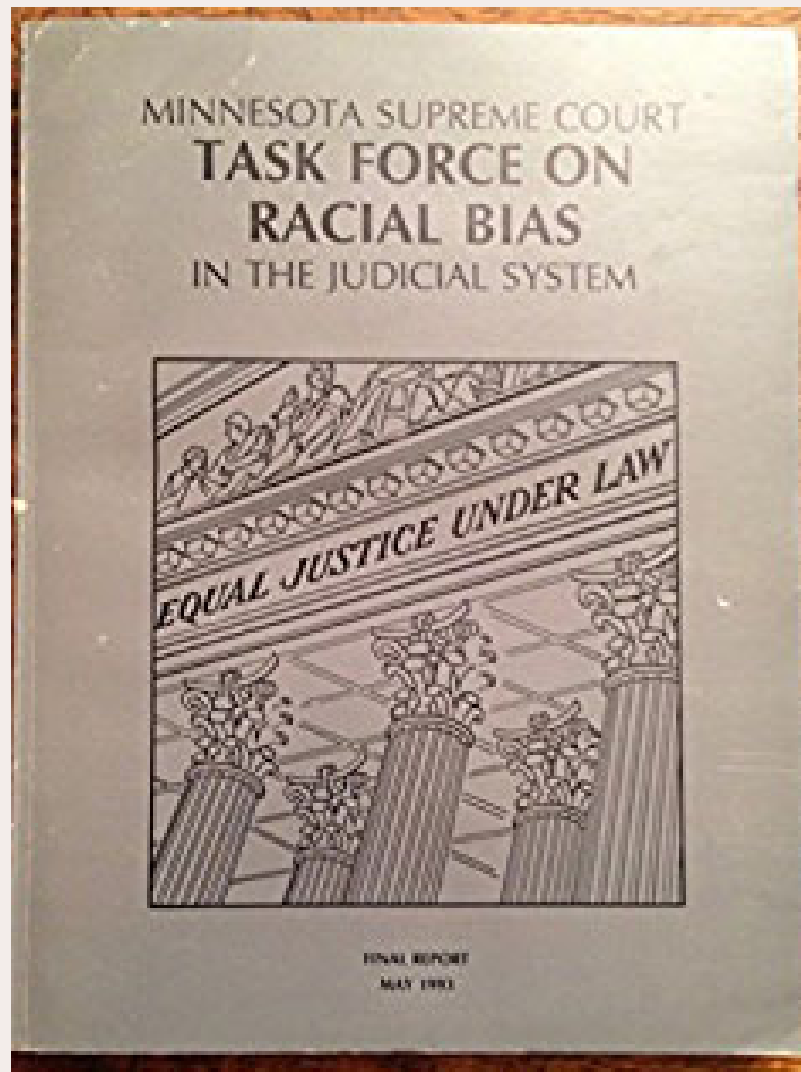
2 State income tax or sales tax addition. If you itemized deductions on federal Form 1040, complete the worksheet in the instructions. **20** _____

- California
- Connecticut
- Colorado
- D.C.
- Hawaii
- Idaho
- Indiana
- Kentucky
- Missouri
- New Jersey
- New Mexico
- New York
- Pennsylvania
- Tennessee
- West Virginia



- **Connecticut**
- D.C.
- Idaho
- Indiana
- New York
- Rhode Island

1993



Recommendations:

- Lists of tribal eligible voters
- Lists of recently naturalized citizens

Minn. Gen. Rule 806 (b)

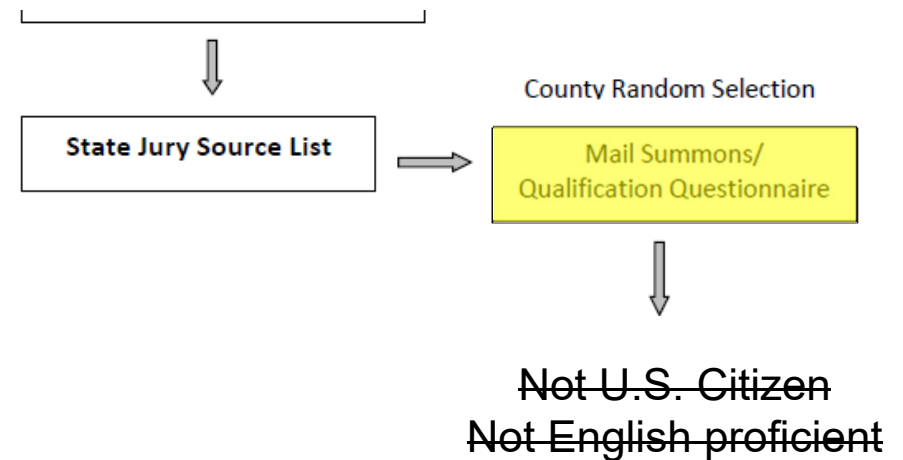
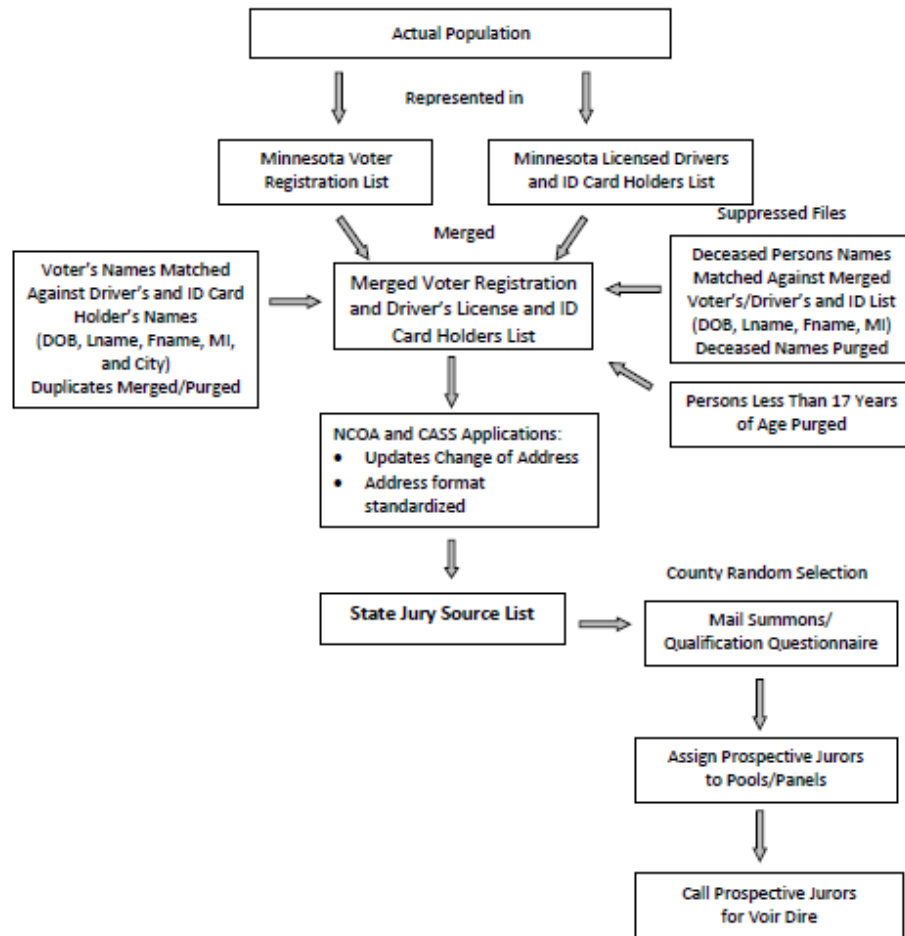
The voter registration and driver's license list for the county must serve as the source list. The source list may be supplemented with names from other lists specified in the jury administration plan.

**Invisible
stages**



Illustration of Jury Source List Processing

This illustration shows the source of potential juror names and how lists are processed to produce jury panels in the Minnesota State Court System.

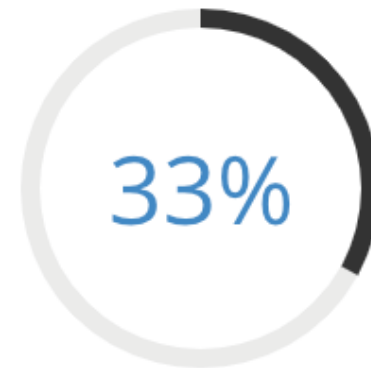


2020-2021 Committee for Equality and Justice,
Study on Jury Race Data and Recommendations

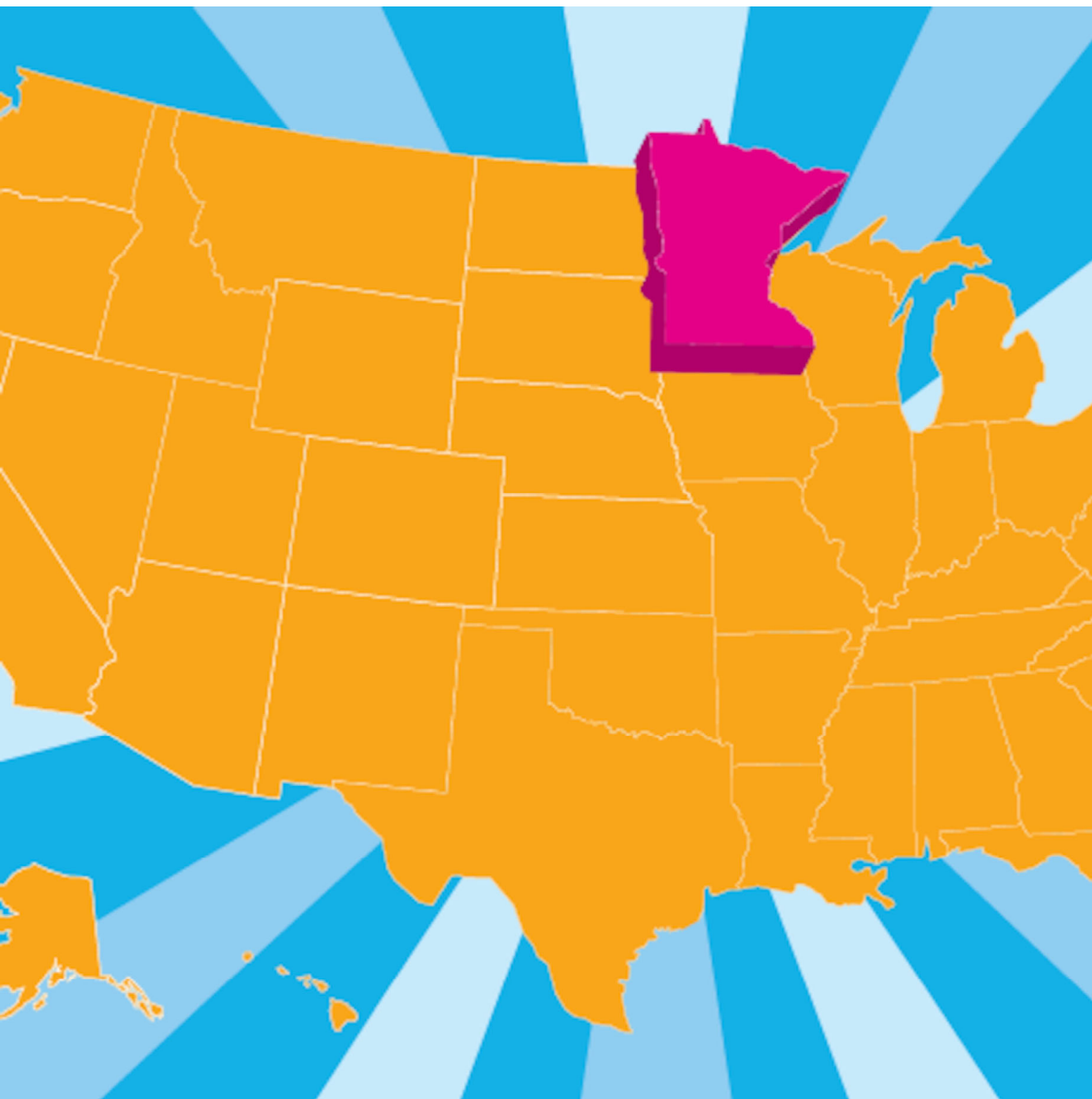
Non-citizens nationally



Adult
Hispanic
population



Adult
Asian
population



1 in
12

51%

150,000

More jury
diversity



Connecticut law enacted 2021

Section 1. Section 51-217 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) All jurors shall be electors, individuals lawfully admitted for permanent residence, as defined in 8 USC 1101(a)(20), as amended from time to time, or citizens of the United States, who are residents of this state having a permanent place of abode in this state and appear on the list compiled by the Jury Administrator under subsection (b) of section 51-222a, who have reached the age of eighteen. A person shall be

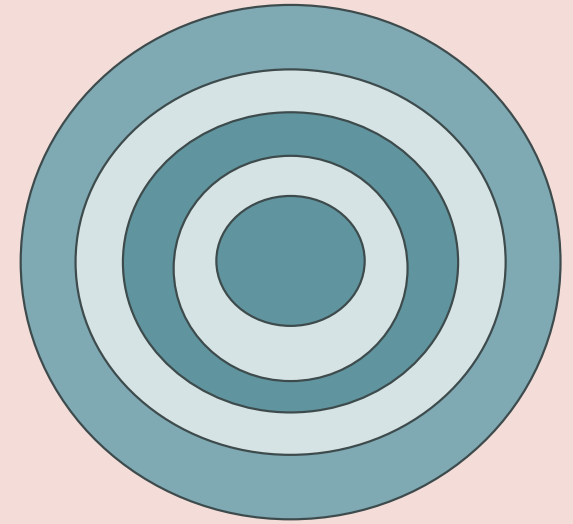
NEW MEXICO



Interpreters will be provided . . . For any non-English speaking juror.

A certified court interpreter shall be provided to petit and grand jurors, including jury orientation, voir dire, deliberations, and all portions of the trial

Expand eligibility



Jury
diversity

**Invisible
stages**

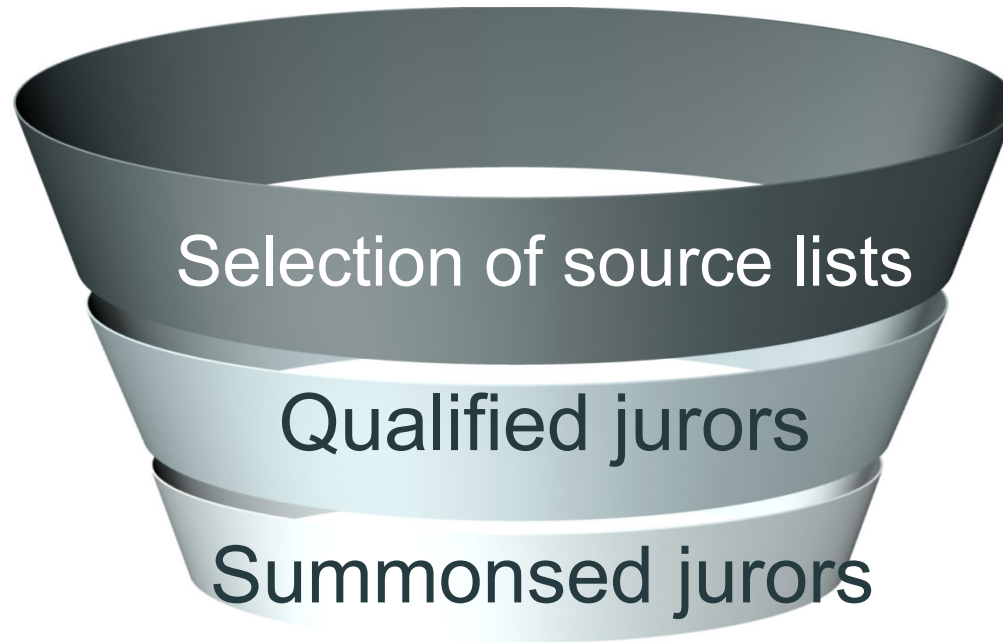
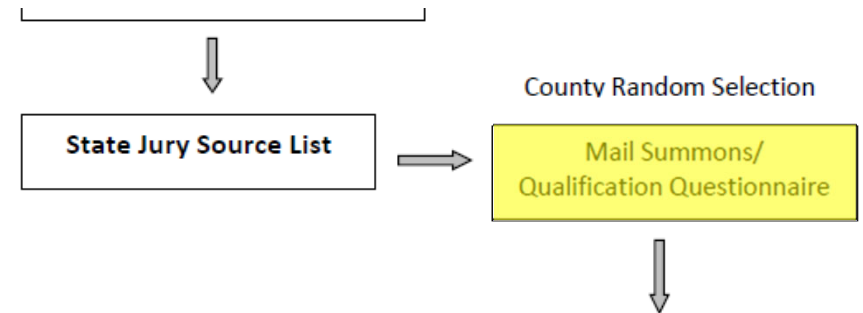
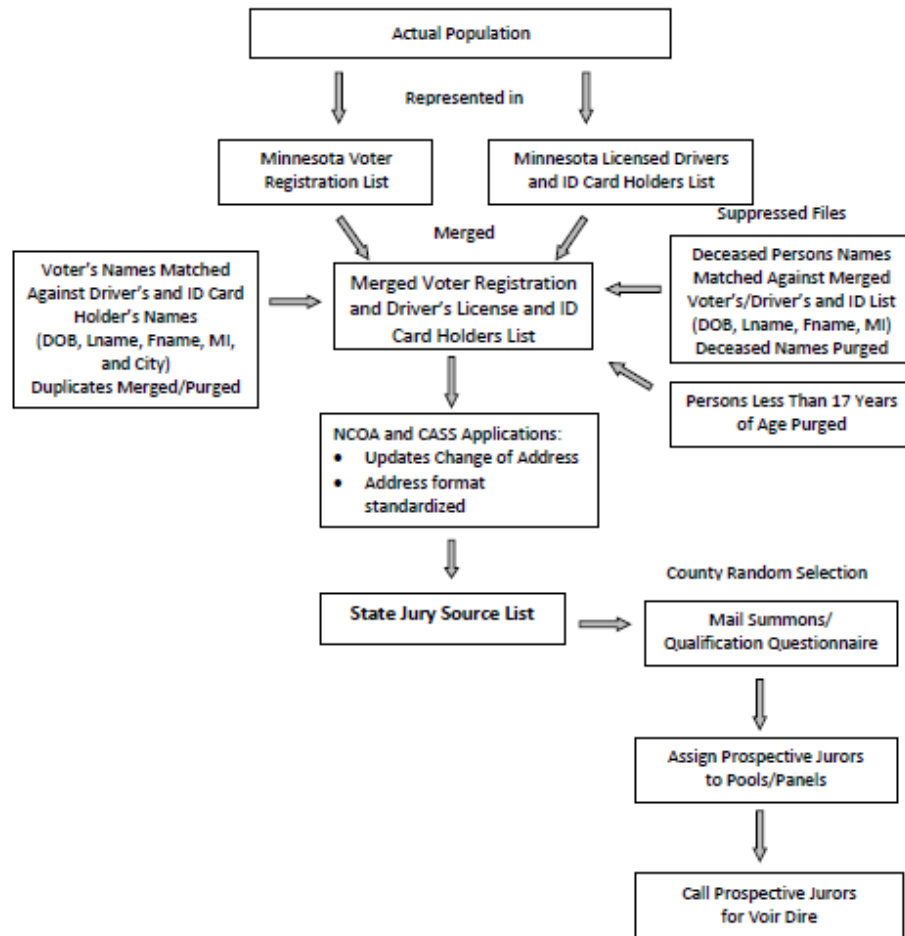


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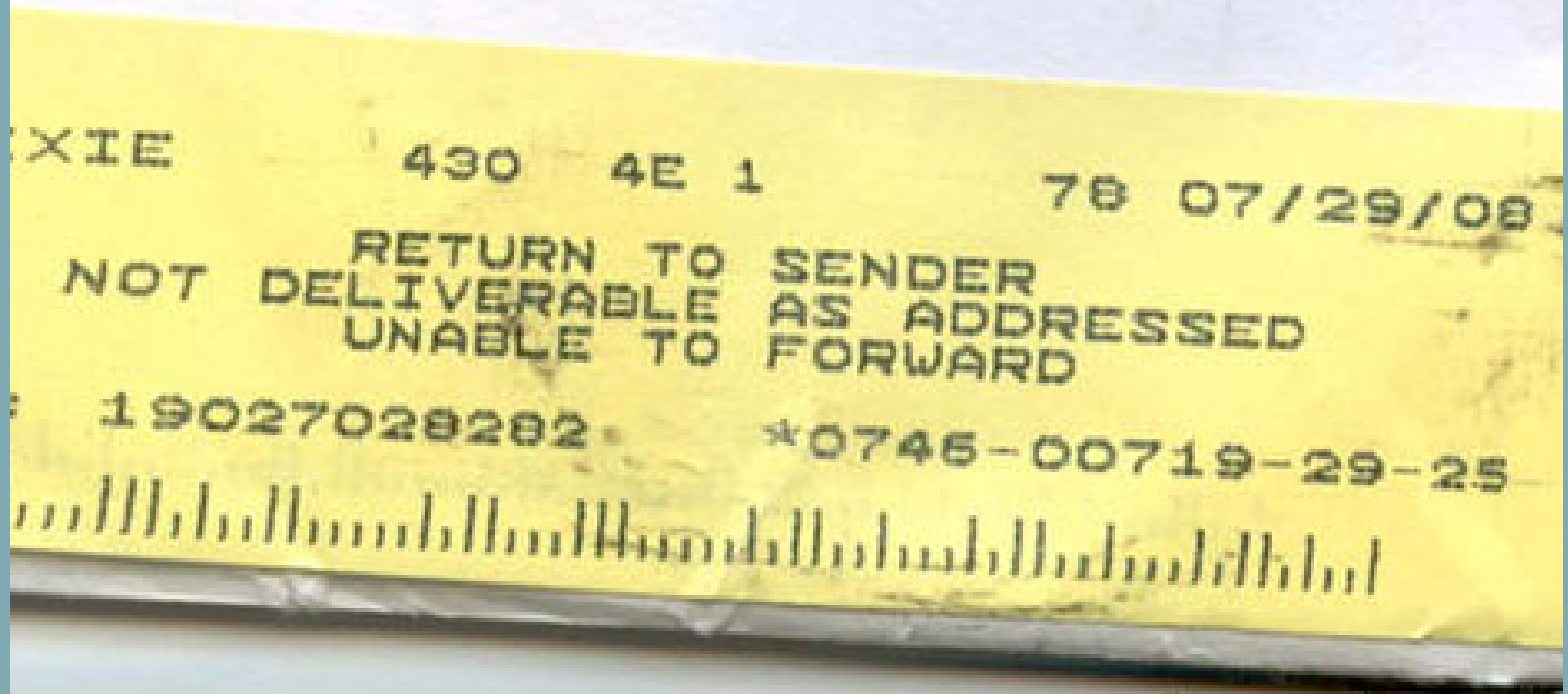
2020-2021 Committee for Equality and Justice,
Study on Jury Race Data and Recommendations

“Undeliverable rates are the single largest drain on jury yield, averaging 13% of all jury-related mailings nationally.”

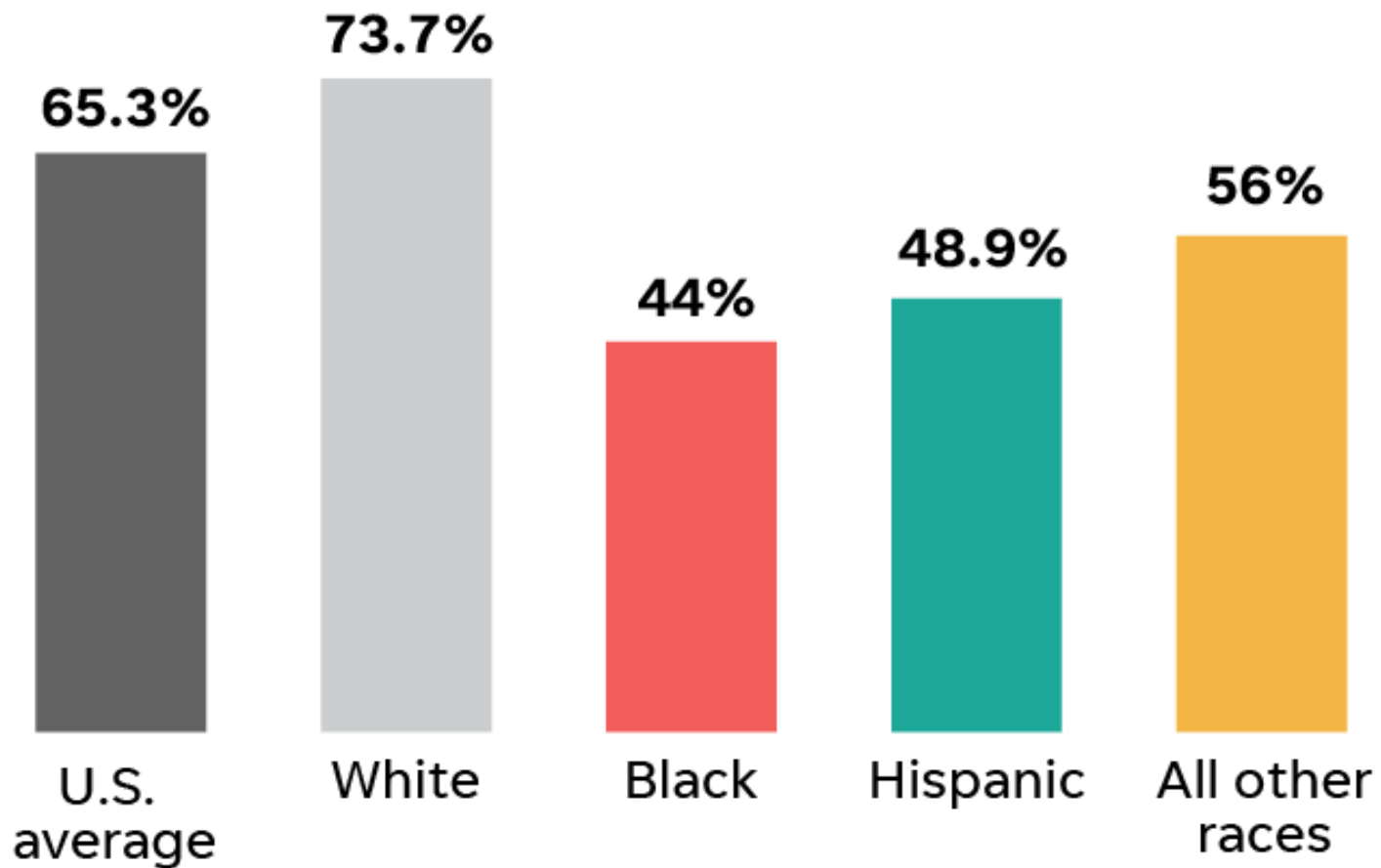


National Center for State Courts

Undeliverable rate higher in communities of color



HOME OWNERSHIP BY RACE & ETHNICITY IN U.S. 2020



Mabinty Quarshie, N'dea Yancey-Bragg, Anne Godlasky, Jim Sargent and Veronica Bravo, *12 charts show how racial disparities persist across wealth, health, education and beyond*, USA TODAY (Jun. 18, 2020), citing U.S. Census Bureau.



76%

White Non-Hispanic
households in Minnesota



40%

Households of color
in Minnesota

76%

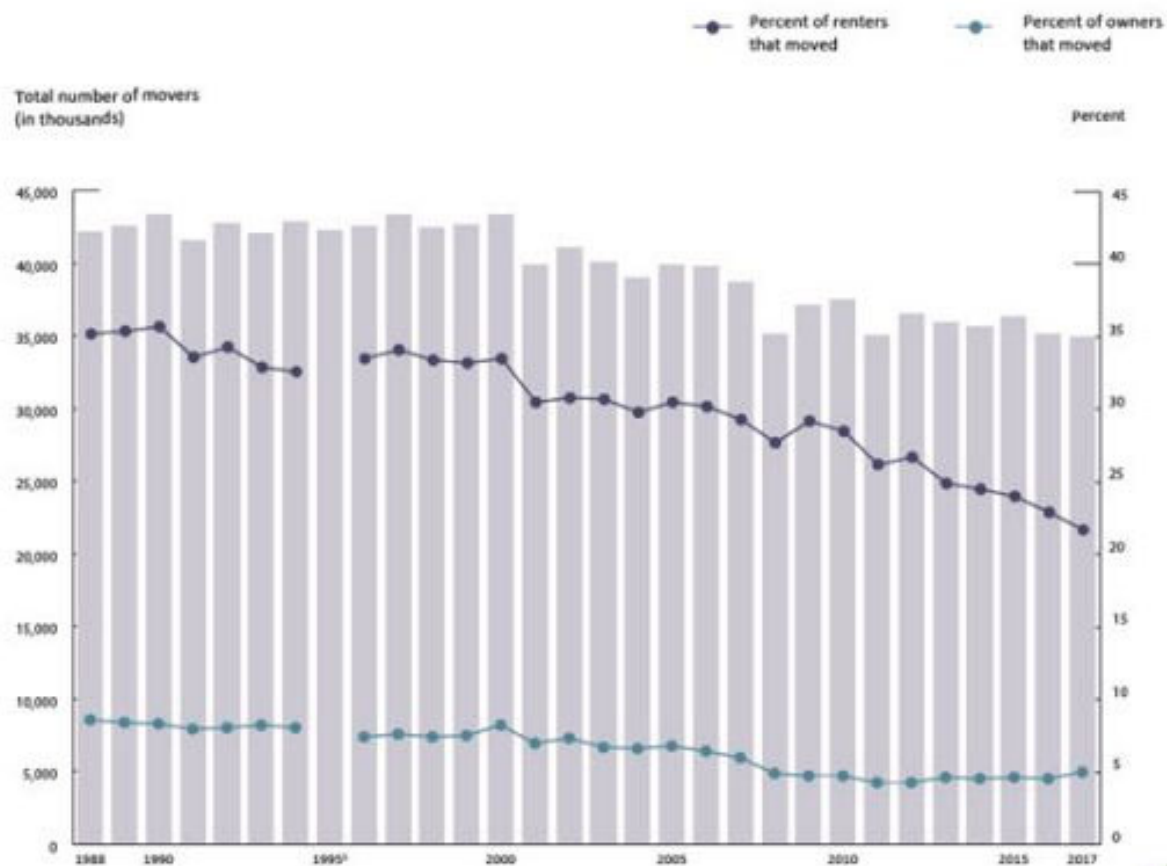


White Non-Hispanic
households in Minnesota

23%



Black Households
in Minnesota



← Percent of **renters** who moved

← Percent of **owners** who moved

¹ The one-year migration data by tenure are not available for 1995.

Note: Renter refers to all people (1 year old and over) living in the rented unit, not just the person/persons on the lease. The term owner refers to all people (1 year old and over) living in the owned unit, not just the person/persons on the deed or mortgage.

Overall
2017 U.S.
Mover Rate
11.0%



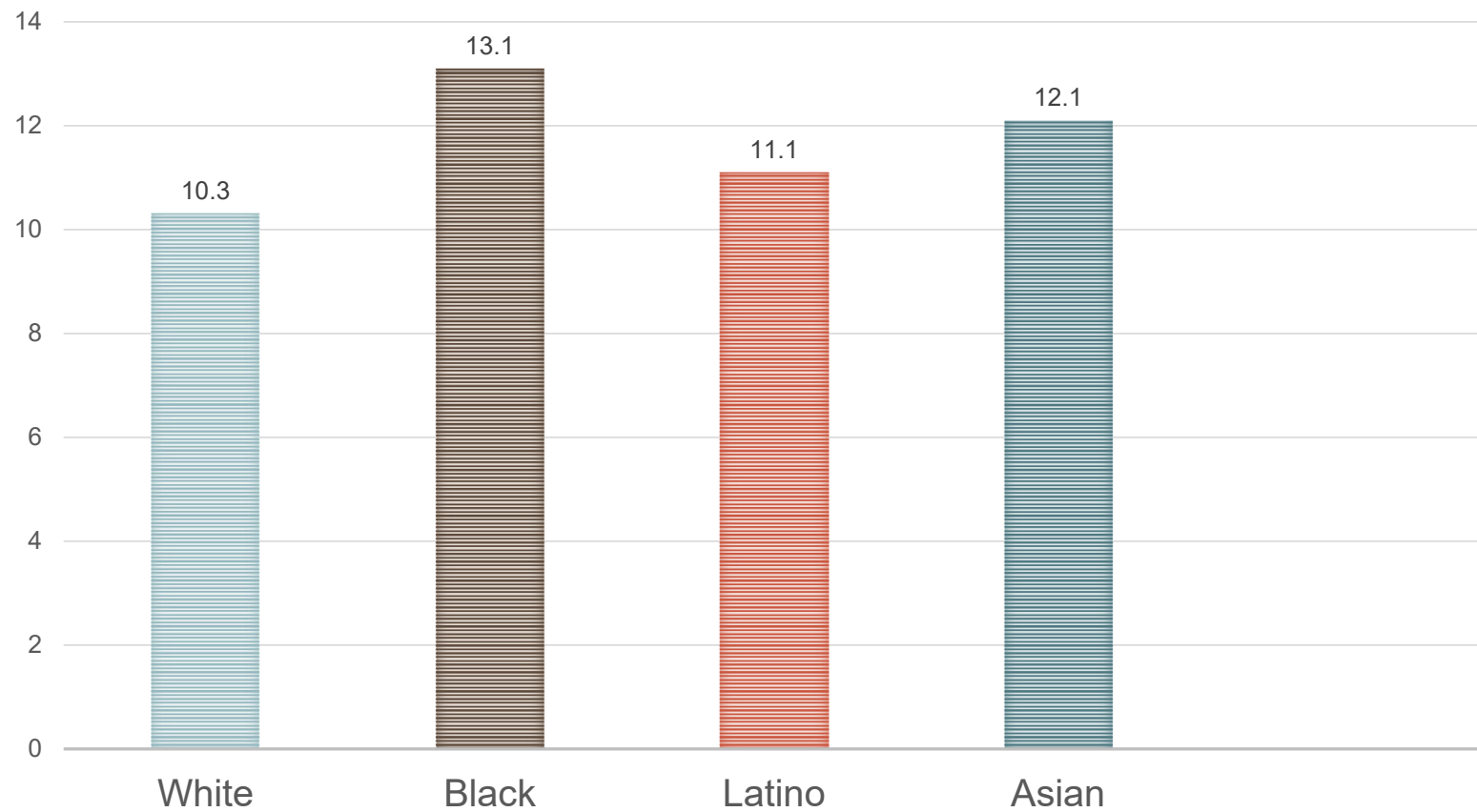
United States[™]
Census
Bureau

U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
[census.gov](https://www.census.gov)

Source: 1988-2017 Current Population Survey
www.census.gov/programs-surveys/cps

2017 data

NATIONAL MOVER RATES BY RACE & ETHNICITY



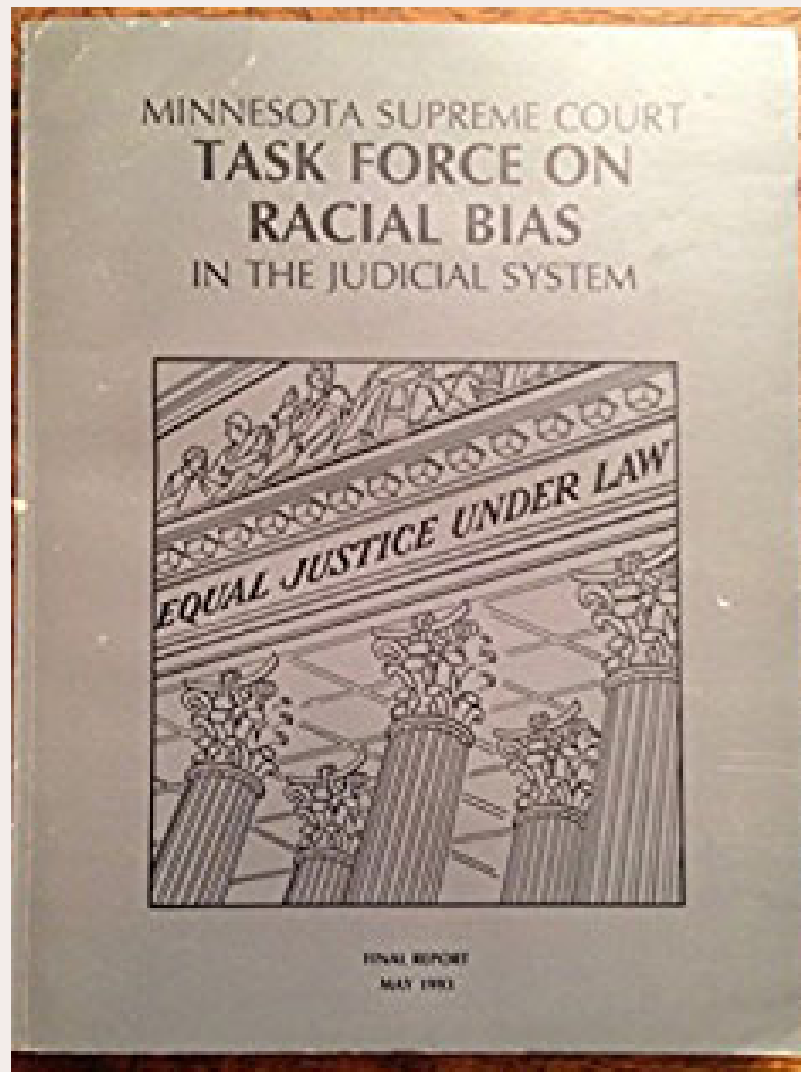
Derrick Moore, U.S. Census Bureau, *Overall Mover Rate Remains at an All-time Low* (Dec. 21, 2017)

More inaccurate
addresses



Less diverse juries

1993



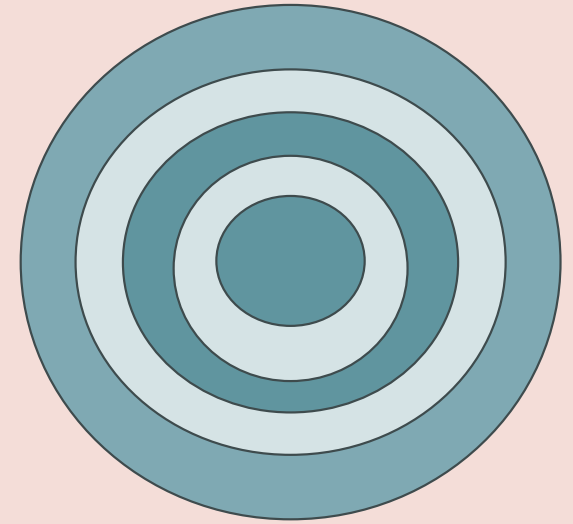
Recommendations:

- “Steps should also be taken to reach economically disadvantaged citizens, who . . . may not receive a jury summons due to frequent changes in residence.”

More jury
diversity



Update addresses more frequently



Jury
diversity

**American
Bar
Association
Commission on the
Jury:
Principles for
Juries & Jury
Trials**

Principle 10(A)(1):
source lists should
be updated
at least
annually

“Courts that are located in states or metropolitan areas with higher than average migration rates should consider creating or updating their master jury lists even more frequently (e.g., semi-annually or quarterly) if feasible.”

National Center for State Courts

Jury Managers' Toolbox

Best Practices to Decrease Undeliverable Rates

Overview

Nationally, an average of 12% of qualification questionnaires and jury summonses are returned by the U.S. Postal Service marked “undeliverable as addressed.”¹ Undeliverable rates are the single largest factor contributing to decreased jury yields. In most instances, the qualification questionnaire or summons was returned because the person moved to a new address since the master jury list was last created or updated. In other instances, the juror’s address may be incorrect from the source list or the U.S. Postal Service may have returned the qualification questionnaire or jury summons in error. While it may not be possible

Based on these figures, a court that began the year with a perfectly accurate master jury list annually could expect an undeliverable rate of up to 17% by the end of the year just due to local migration rates. The process of creating the master jury list typically takes one to three months, so some records will be out-of-date even before the court begins summoning and qualifying from a new list. For this reason, the NCSC recommends that courts create a new master jury list, or update their existing list, at least annually. Courts that are located in states or metropolitan areas with higher than average migration rates should consider creating or updating their master jury lists more frequently.

**Invisible
stages**



RESPONSE TO SUMMONS



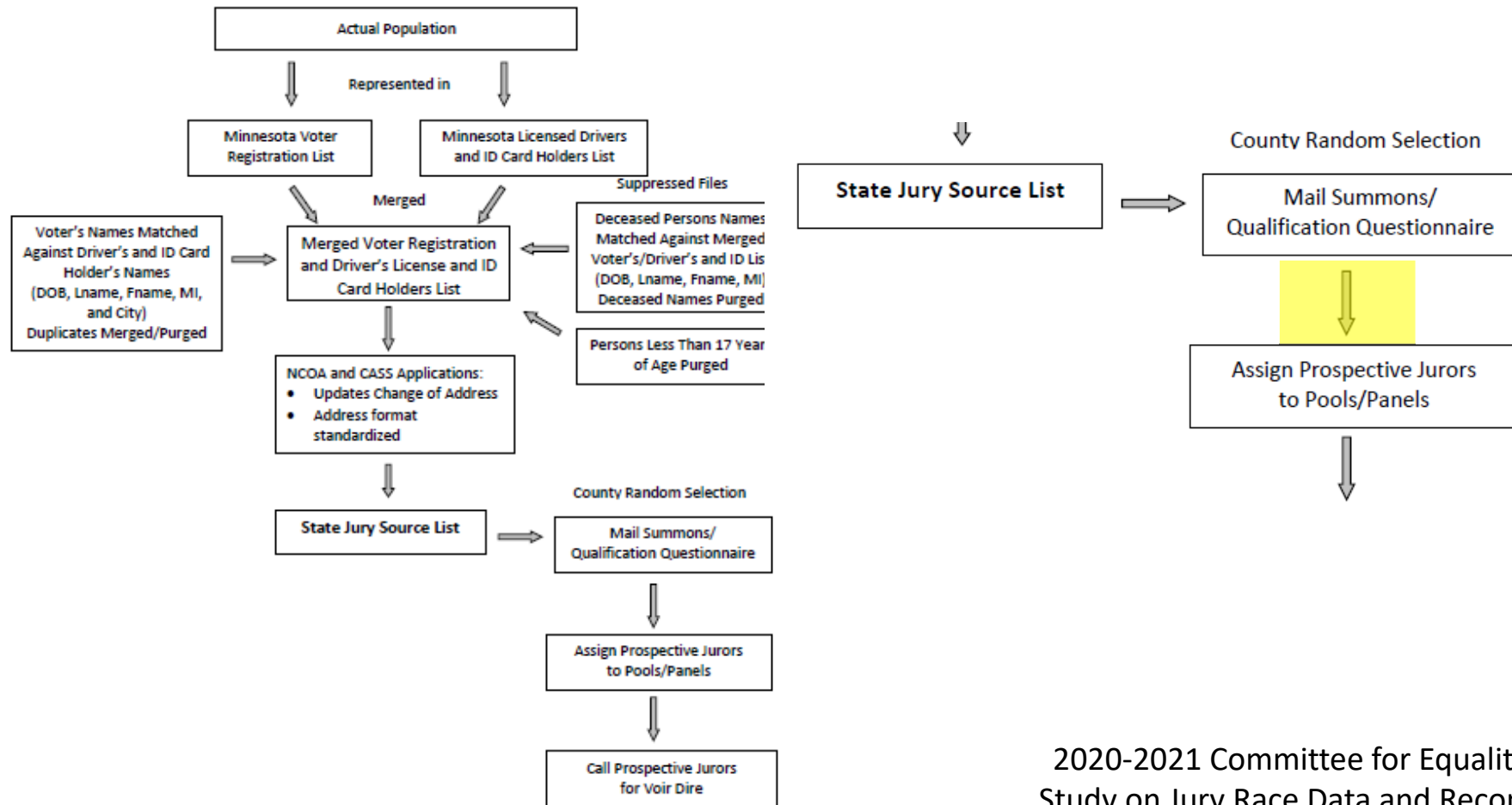
Undeliverable



No response

Illustration of Jury Source List Processing

This illustration shows the source of potential juror names and how lists are processed to produce jury panels in the Minnesota State Court System.



2020-2021 Committee for Equality and Justice,
Study on Jury Race Data and Recommendations

RESPONSE TO SUMMONS



Undeliverable



No response

NO RESPONSE



NO EVIDENCE
THAT RESPONSE
RATES
DIFFER BY RACE OR
ETHNICITY
WHEN WE CONTROL
FOR INCOME

- Judge William Caprath (ret.) et al., [*Assessing and Achieving Jury Pool Representativeness*](#), at 19, *The Judges' Journal*, Am. Bar Ass'n, V. 55, No. 2 (Spring 2016) ("In 1998, the American Judicature Society found that when socioeconomic factors were considered, race and ethnicity were not significant predictors of juror nonresponse and FTA. However, due to the strong correlation between socioeconomic and minority status, minority representation in the jury pool is impacted by the reduced appearance of lower-socioeconomic-status individuals.").
- Paula Hannaford-Agor, *Systematic Negligence in Jury Operations: Why the Definition of Systematic Exclusion in Fair Cross Section Claims Must Be Expanded*, 59 Drake L. Rev. 761, 774 (2011) ("Failure-to-appear rates are likewise highly correlated with socioeconomic status. . . . Because race, ethnicity, and socioeconomic status are so highly correlated, the effect on the jury pool is that disproportionately fewer minorities serve as jurors.").
- Ronald Randall, James A. Woods, & Robert G. Martin, *Racial Representativeness of Juries: An Analysis of Source List and Administrative Effects on the Jury Pool*, 29 Just. Sys. J. 71, 81 (2008) (Toledo, Ohio study found that "the distribution among whites, blacks, and Hispanics who ignore summonses is similar to their distribution in the general population").



More jury
diversity

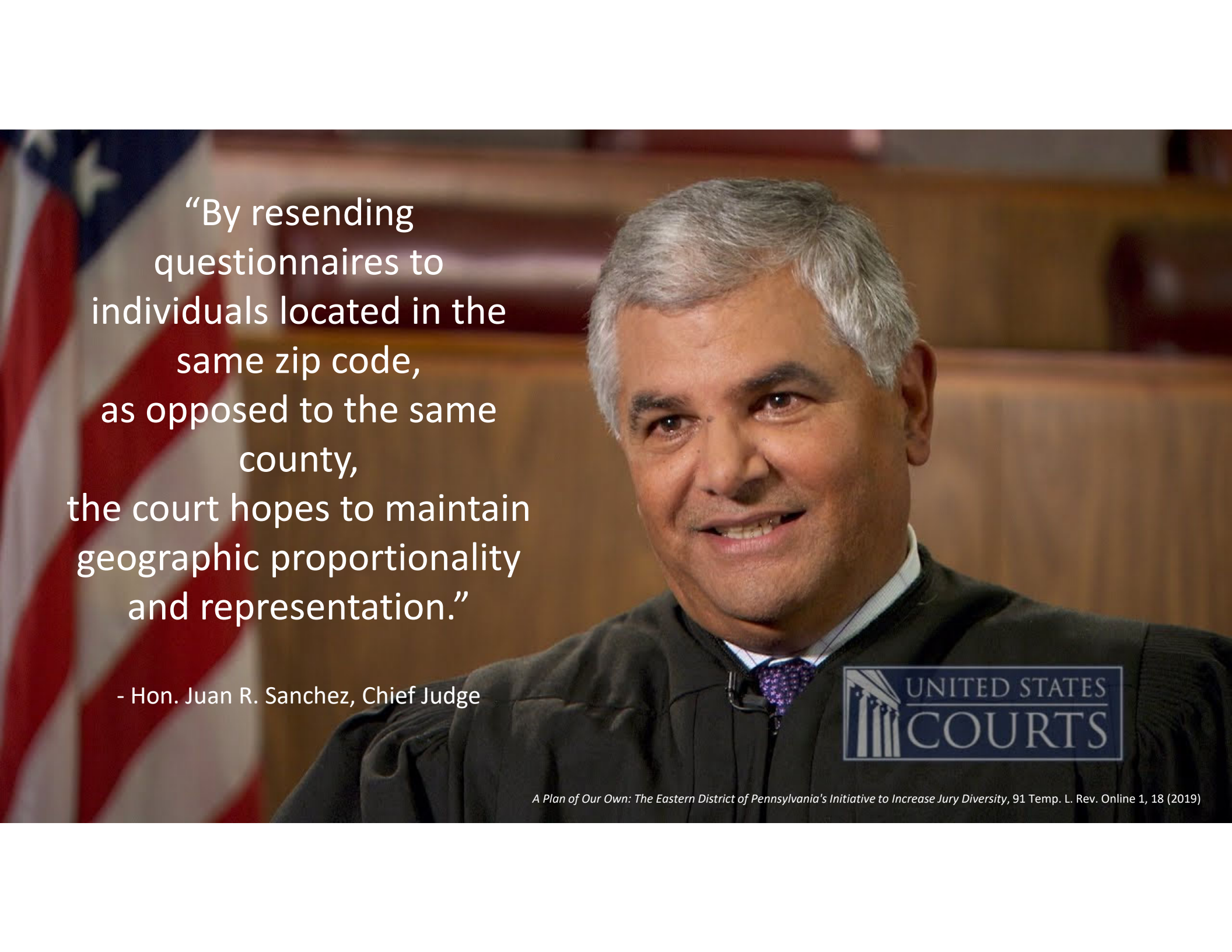




BADGE #: 46783
GROUP #: 39476

Jury Summons

Same
zip
code

A portrait of Hon. Juan R. Sanchez, Chief Judge, smiling. He is wearing a black judicial robe over a white shirt and a purple patterned tie. The background is a blurred courtroom setting with an American flag on the left and wooden paneling.

“By resending
questionnaires to
individuals located in the
same zip code,
as opposed to the same
county,
the court hopes to maintain
geographic proportionality
and representation.”

- Hon. Juan R. Sanchez, Chief Judge



Send a follow-up notice to non-responsive juror

Importance of jury service

How to request hardship exemption

Penalties



Non-response and
failure to appear rate =
24% - 46% LOWER

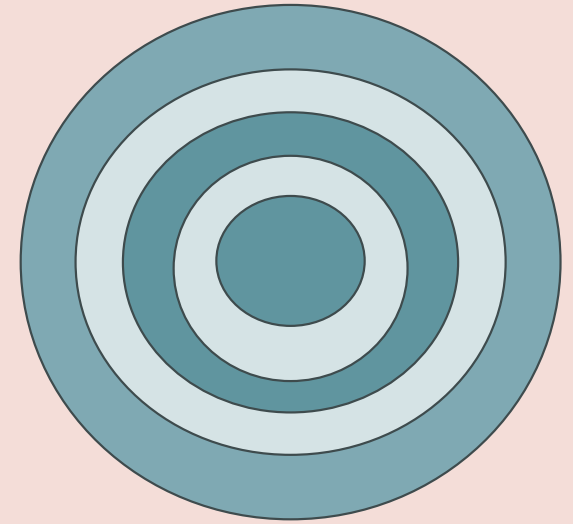


Sent only
one
notice

Sent
second
notice

Paula Hannaford-Agor, National Center for State Courts, Center for Jury Studies, *An Overview of Contemporary Jury System Management*, at 6 (May 2011); Mize, Honorable Gregory (ret.), Mize, Honorable Gregory (ret.), Paula Hannaford-Agor, and Nicole Waters, *The State-of-the-States Survey of Jury Improvement Efforts: Compendium Report*, at 22, Tbl. 16., National Center for State Courts (April 2007)

Send replacement summons



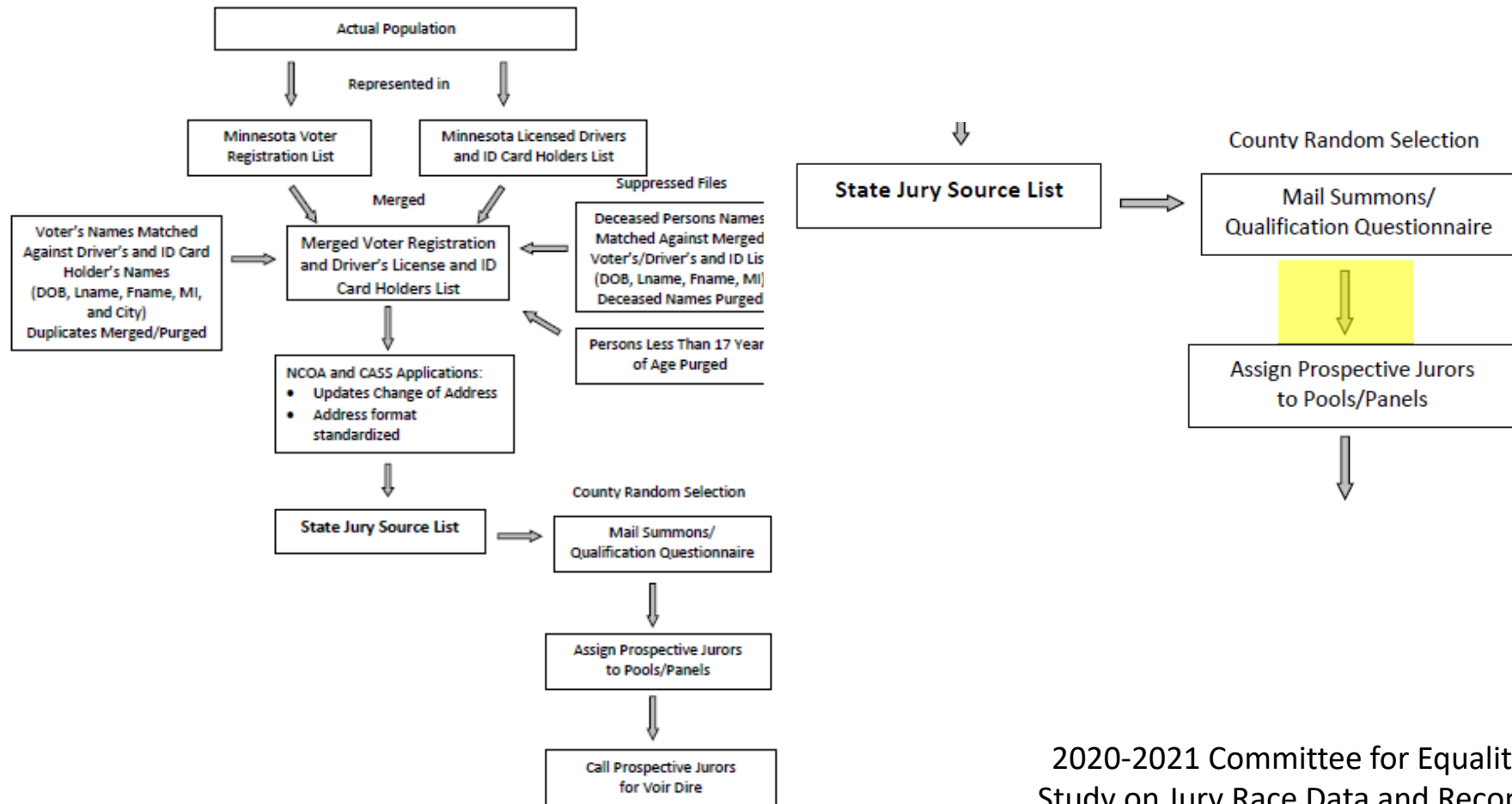
Jury
diversity

**Invisible
stages**



Illustration of Jury Source List Processing

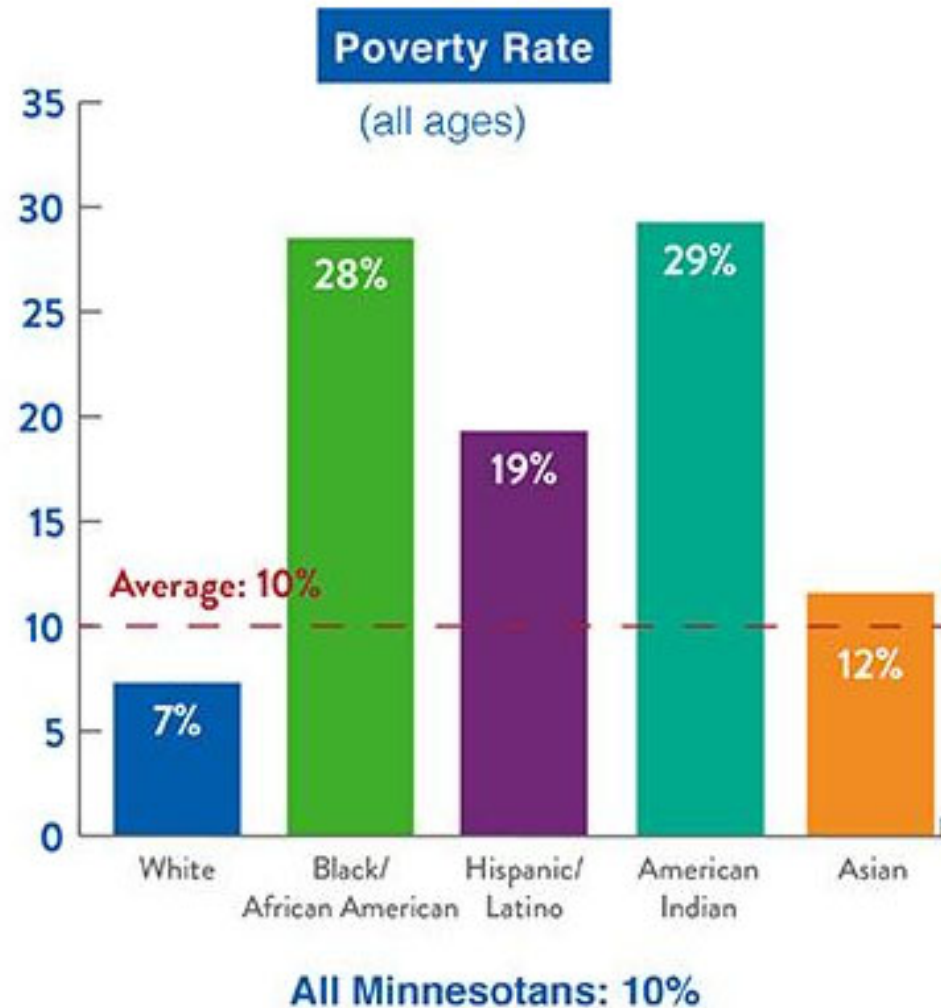
This illustration shows the source of potential juror names and how lists are processed to produce jury panels in the Minnesota State Court System.



A close-up photograph of a person's hands holding an open, empty black leather wallet. The wallet is held open by two hands, one on the left and one on the right. The interior of the wallet is visible, showing several empty card slots. One slot at the bottom contains a Visa credit card. The background is a warm, out-of-focus wooden surface. The text "ECONOMIC HARDSHIP" is overlaid in white, bold, sans-serif capital letters on the left side of the image.

**ECONOMIC
HARDSHIP**

Poverty rate in Minnesota by race and ethnicity



Source: U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates

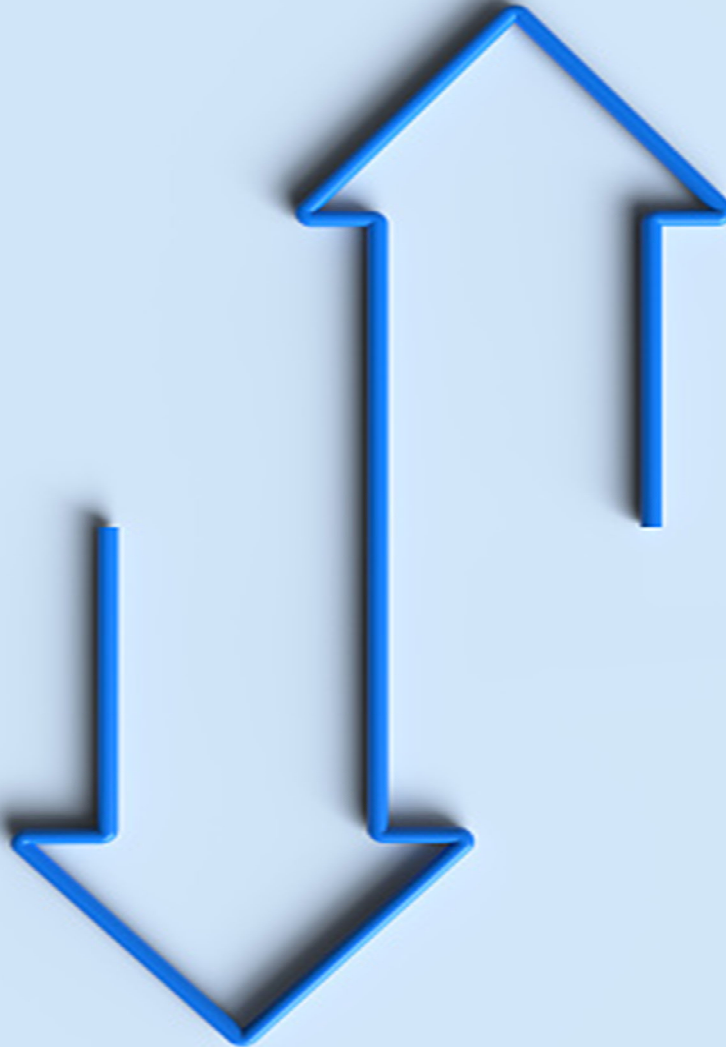


More jury
diversity



Increase
juror pay

Decrease
length of
service



	BEFORE	AFTER
PAY	\$6.00	\$40.00
PARTICIPATION RATE		

	BEFORE	AFTER
PAY	\$6.00	\$40.00
PARTICIPATION RATE	22%	46%

San Francisco Juror Pay Pilot Program



“a pilot program to analyze and determine whether paying certain low-income trial jurors \$100 per day for each day they are required to report for service as a trial juror in a criminal case promotes a more economically and racially diverse trial jury panel that more accurately reflects the demographics of the community”

AB 1452 by Assemblymember Phil Ting (D-San Francisco)



“the financial hardship of serving on a jury is not equal”

- small businesses can't afford to pay employees indefinitely,
- self-employed people often can't be away for several weeks
- and low-income people (particularly single women with children) need every dollar of their paychecks.

“If the state expects citizens to willingly meet their civic obligation to serve on a jury, some further effort to alleviate this concern may be necessary.”⁹⁹

1

DAY

TRIAL

**MINNESOTA SUPREME COURT
JURY TASK FORCE**

FINAL REPORT

DECEMBER 20, 2001

**STATE OF MINNESOTA
IN SUPREME COURT
C7-00-100**

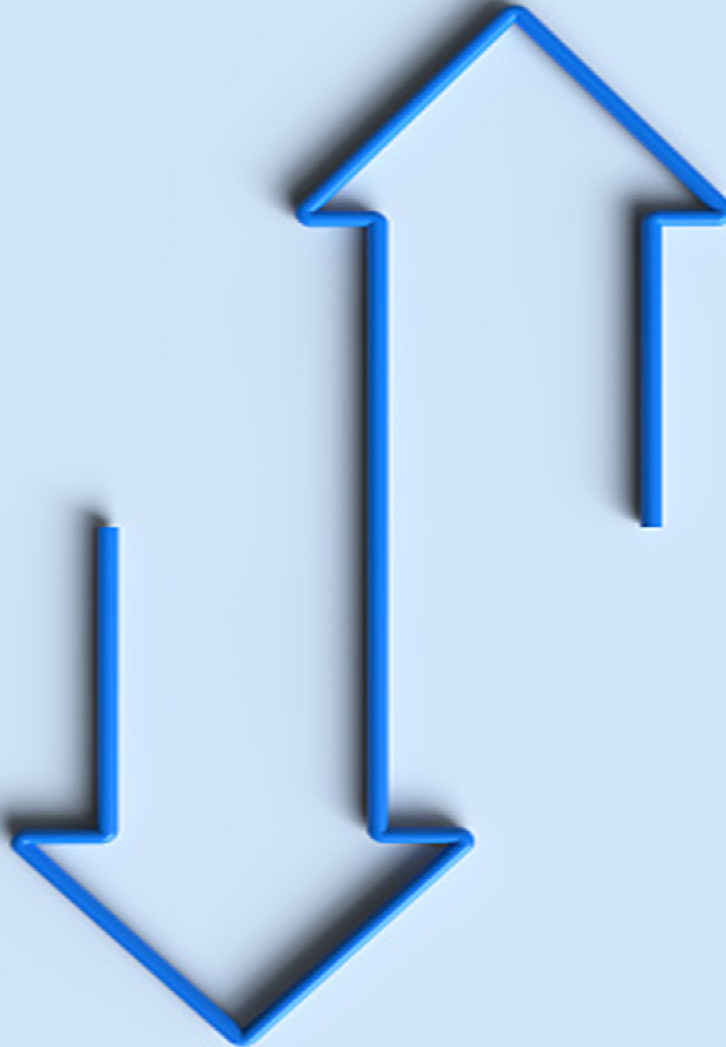
MINNESOTA SUPREME COURT

MINNESOTA SUPREME COURT
STATE COURT ADMINISTRATION
COURT SERVICES DIVISION
120 MINNESOTA JUDICIAL CENTER
25 CONSTITUTION AVENUE
SAINT PAUL, MN 55155
(651) 297-7587

Counties designated by the Minnesota Supreme Court should implement a pilot project of a “two day/one trial” term of jury service.

Increase
juror pay

Decrease
length of
service



**American
Bar
Association
Commission on the
Jury:
Principles for
Juries & Jury
Trials**

Principle 2(C)(1):

Courts should use a term of service of one day or the completion of one trial, whichever is longer.

Comment: The subdivision recognizes that reducing the term of jury service is essential to achieving a representative and inclusive jury.

**American
Bar
Association
Commission on the
Jury:
Principles for
Juries & Jury
Trials**

Principle 2(F)(1):

Persons called for jury service should be paid a reasonable fee that will, at a minimum, defray routine expenses such as travel, parking, meals and child-care.

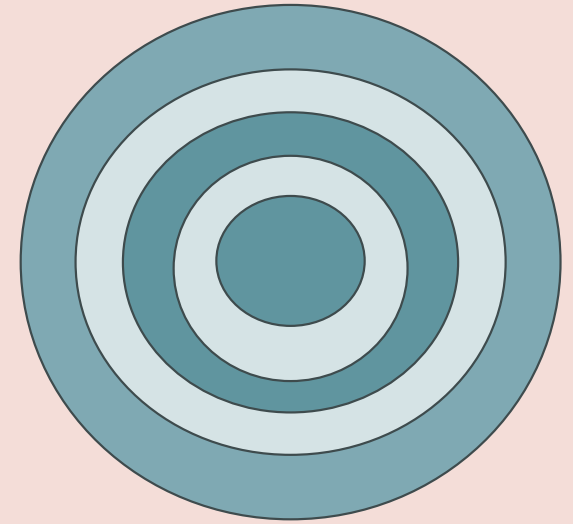
Comment: excuses from jury service because of economic hardship . . . reduces the representativeness of the jury pool

Recognizes “relationship
between the amount of juror
fees . . . and minority
representation in the jury pool”.”

National Center for State Courts

Mize, Honorable Gregory (ret.), Paula Hannaford-Agor, and Nicole Waters, *The State-of-the-States Survey of Jury Improvement Efforts: Compendium Report*, Executive Summary, at 4, National Center for State Courts (April 2007).

Increase pay & decrease length of service



Jury
diversity



1

The infographic consists of five vertical bars of different colors (dark grey, light blue, medium blue, dark brown, and red) arranged horizontally. Each bar has a thin vertical line extending from its top. Below each bar is a white rectangular box containing text. The bars are numbered 1 through 5 from left to right.

**Why jury
diversity
matters**

2

**Juries under-
rep.
people
of color**

3

**Legal
standar
d: fair
cross
section
right**

4

**Invisible
stages
interfere
with fair
cross
section**

5

**Possible
next
steps
for
Minn.**

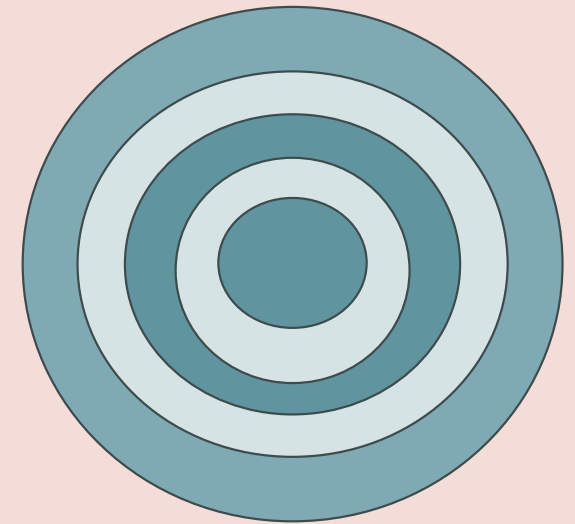
Multiple, representative source lists

Expand eligibility

Update addresses more frequently

Send replacements summons

Increase pay & decrease length of service



Jury
diversity

Poll 3

*Which of these policy
changes should be our top
priority?*





State v. Williams,
525 N.W.2d 538, 544 (Minn. 1994)

“we will not be satisfied
until both the reality and
the perception of
underrepresentation of
African–Americans
and other distinct minority
groups are
eliminated.”



THANK YOU