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Creating Representative Juries: An Exploration of Barriers in St. Louis County, Minnesota



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1. Acknowledgements

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2. Background

The Sixth Amendment to the United States Constitution guarantees the right to a trial by an impartial jury.¹ The Supreme Court has established that for a jury to be impartial, “[i]t must be drawn from a fair cross section of the community.”² This fair-cross-section requirement was intended to “guard against the exercise of arbitrary power.”³ In interpreting the Sixth Amendment’s fair-cross-section requirement, the Supreme Court articulated a three-prong test to establish a prima facie violation of the fair-cross-section requirement: (1) the group alleged to be excluded from the jury pool is a “distinctive” group in the community; (2) the group’s representation in the jury pool is not fair and reasonable in relation to the number of such persons in the community; and (3) the underrepresentation of the distinctive group is the result of systematic exclusion in the jury selection process. Unfortunately, the *Duren* Court did not specifically establish what degree of underrepresentation is unreasonable or unfair. Although there is no bright line rule⁴ establishing what degree of underrepresentation is impermissible, most state and federal courts have found that absolute disparities greater than 10% and comparative disparities greater than 50% are sufficient.⁵

In St. Louis County, Minnesota, there is consensus among many criminal legal system stakeholders that the juries generally do not reflect the diversity of the communities from which they are drawn. Specifically, there appears to be persistent underrepresentation of racial and ethnic minorities on juries but an overrepresentation of racial and ethnic minorities as defendants. The Minnesota Supreme Court has been aware of this disparity for more than a decade.

Beginning in 2012, the Court’s Task Force on Racial Bias in the Judicial System, has called attention to the lack of juror diversity; while nearly 2 decades earlier, the Court made clear that “People of color are overrepresented in the number of individuals arrested and prosecuted, as well as in the number of individuals who are victims.”⁶ Today, these disproportionate rates of incarceration persist. For example, according to the Vera Institute’s study on incarceration trends,⁷ Black people currently make up 2% of St. Louis

¹ U.S. Const. Amend. VI.

² *Taylor v. Louisiana*, 419 U.S. 526, 527 (1975).

³ *Id.* at 530.

⁴ See *Berghuis v. Smith*, 559 U.S. 314, 329-30 (2010) (declining to adopt a bright line rule to measure underrepresentation).

⁵ **Absolute disparity** is the numerical difference between the proportion of a distinctive group in the jury pool and its proportion in the jury-eligible population. **Comparative disparity** measures the extent to which the distinctive group is under- or overrepresented in the jury pool.

⁶ Minnesota Supreme Court Task Force on Racial Bias in the Judicial System. (n.d.) *Minnesota’s approach to a more diverse jury pool*. <https://law.jrank.org/pages/7924/Jury-Minnesota-s-Approach-More-Diverse-Jury-Pool.html#ixzz7aHqiQILm>

⁷ Vera Institute, *Incarceration Trends* (2022), available at: https://trends.vera.org/state/MN/county/st_louis_county.

County's population and 9% of its prison population, Native Americans make up 2% of its population and 8% of its prison population, Latinx people make up 1% of its population and 3% of its prison population, and white people make up 91% of its population and 76% of its prison population.

The lack of diversity in a jury can have significant real-world effects, as a Florida study demonstrated. In the study, all-white juries convicted Black defendants 16% more often than white defendants.⁸ However, when the jury included at least one Black person, the conviction rates for white and Black defendants were nearly the same. This type of racially disparate impact is particularly troubling for St. Louis County, given that 70% of the county's juries are comprised of all white, non-Hispanic jurors.⁹

As the U.S. Supreme Court has explained, "Community participation in the administration of the criminal law... is not only consistent with our democratic heritage but is also critical to public confidence in the fairness of the criminal justice system."¹⁰ When the fate of minority defendants is primarily left to all-white juries, public confidence in the legal system is diminished.¹¹

Research shows that when members of a diverse jury, white jurors:

- **raised more case facts**
- **made fewer factual errors, and**
- **were more amenable to discussion of race-related issues**

Sommers, S. R. (2006). On racial diversity and group decision making: Identifying multiple effects

⁸ Hartsoe, S. (2012, April 17). Study: All-white jury pools convict black defendants 16 percent more often than whites. *Duke Today*. <https://today.duke.edu/2012/04/jurystudy#:~:text=Juries%20formed%20from%20all%2Dwhite,a%20Duke%20University%2Dled%20study>.

⁹ Wahj, R. M., Bendewald, E., Kantola, M. , & Jaszewski, K. (n.d.) *2020–2021 Committee for Equality and Justice study on jury race data and recommendations*. https://www.mncourts.gov/mncourtsgov/media/scao_library/CEJ/2020-2021-CEJ-Study-on-Jury-Race-Data-and-Recommendations.pdf at 57.

¹⁰ *Taylor v. Louisiana*, *supra* at 530.

¹¹ See, e.g., Equal Justice Initiative. (2010, June). *Illegal racial discrimination in jury selection: A continuing legacy*. <https://eji.org/reports/illegal-racial-discrimination-in-jury-selection/>



3. Justice for All Grant Background and Request for Assistance

In 2019, the National Association of Criminal Defense Lawyers, the Association of Prosecuting Attorneys, the National Center for State Courts, and RTI International (collectively the Justice for All [JFA] Team) received a federal grant aimed at Strengthening the Sixth Amendment (Sixth Amendment Grant). Pursuant to this grant, the JFA Team uses its specializations and expertise to provide state and local jurisdictions with strategic planning, training, and technical assistance on issues related to the Sixth Amendment.

On October 16, 2020, the St. Louis County Public Defender's Office applied for training and technical assistance to identify issues affecting the right to a representative jury in St. Louis County. In addition to the St. Louis County Public Defender's Office, the request for assistance was supported by the Sixth Judicial District Court (collectively the St. Louis County Team).

4. Project Process

The JFA Team met with the St. Louis County Team to learn about its jury system and some of the challenges the county faces with attaining diverse juries. The teams then began prioritizing aspects of the project that would need to be explored in more detail. After discussion, it was agreed that the two major focus areas would be to conduct a jury assessment and to conduct focus groups among the criminal legal system actors (e.g., defenders, prosecutors, judges, and court administrators) as well as among racial and ethnic minority community members.

4.1 Jury System Assessment

To assist the Duluth Division of the Sixth Judicial District Court in St. Louis County in assessing the demographic composition of its jury pool, the National Center for State Courts

obtained aggregate reports extracted from the jury automation system maintained by the Minnesota Administrative Office of the Courts (AOC). The aggregate reports included the self-reported race and ethnicity of prospective jurors who responded to their jury summonses in 2019. While the reports did not indicate the number of jury summonses mailed to prospective jurors, a number that is needed in any effort to calculate the nonresponse rate and the overall juror yield,¹² the data provided did allow for some general analysis.

Unfortunately, the AOC was not able to provide raw data about individual jurors that would have permitted geocoding.¹³ This process would have allowed the JFA Team to draw some inferences regarding the race and ethnicity of prospective jurors whose summonses were returned as undeliverable, who failed to respond to the qualification questionnaire, or who did not report their race and ethnicity.¹⁴

The aggregate data made available were formatted in Excel and compared to data downloaded from the U.S. Census Bureau for the jury-eligible population¹⁵ residing in the geographic area served by the Duluth Division.¹⁶ Table 1 describes the racial and ethnic composition of the jury-eligible population for the Duluth Division as well as for the jurors who reported their race and ethnicity when they were selected for jury service. It also reports the absolute and comparative disparities for each racial group and for Hispanics.

¹² Juror yield is the number of citizens selected for jury service who are qualified and available to serve, expressed as a percentage of the total number of jurors summoned. See, e.g., National Center for State Courts. (2005). *CourTools: Trial court performance measures. Measure 8: Effective use of jurors.*

https://www.courttools.org/_data/assets/pdf_file/0016/8233/courttools_trial_measure8_effective_use_of_jurors.pdf

¹³ Geocoding is a technique used to determine the probability that an individual possesses a defined characteristic (e.g., race/ethnicity, gender, education, income) based on the demographic characteristics of the geographic area (state, county, township, census block/tract) where the individual resides.

¹⁴ Assessments of jury operations in other jurisdictions have found that undeliverable, nonresponse, and failure-to-appear rates apply disproportionately to people of color. Access to raw data from the Duluth Division would have allowed the JFA team to use geocoding to infer race and ethnicity based on the address where a person resides. See, e.g., Paula Hannaford-Agor, Assessment of the Jury Plan for the U.S. District Court, Northern District of California: Final Report and Recommendations (Aug. 11, 2021); Paula Hannaford-Agor, Third Judicial Circuit Court of Michigan Jury Automation Review: Final Report and Recommendations (July 2014). Geocoding methods have been tested and found to be accurate when assessing the demographic characteristics of aggregate populations. See, e.g., Elliott, M. N., Fremont, A., Morrison, P. A., Pantoja, P., & Lurie, N. (2008). A new method for estimating race/ethnicity and associated disparities where administrative records lack self-reported race/ethnicity. *Health Services Research*, 43(5 Pt. 1), 1722–1736. <https://doi.org/10.1111%2Fj.1475-6773.2008.00854.x>

¹⁵ The jury-eligible population includes adults who are U.S. citizens.

¹⁶ The District Court in St. Louis County is subdivided into three distinct divisions, with courthouses located in Duluth, Virginia, and Hibbing, respectively. Prospective jurors whose mailing address includes the following ZIP Codes are assigned to the Duluth Division: 55602, 55616, 55701, 55702, 55711, 55717, 55720, 55724, 55733, 55736, 55765, 55779, 55791, 55798, 55801, 55802, 55803, 55804, 55805, 55806, 55807, 55808, 55810, 55812, 55814, 55815, and 55816.

The information obtained indicated that Blacks, Native Americans, Asians, and Hispanics, all of whom reflect a small proportion of the jury-eligible population in Duluth, were significantly underrepresented in the jury pool data. It is important to note, however, that 632 jurors (18.7%) who completed jury service did not report their race and ethnicity. As a result, it is *possible* that some of the purported underrepresentation may be due to missing data, as it could be the case that non-white jurors were more likely to not report their race and ethnicity as compared to white jurors.

Table 1. Demographic Composition of Duluth Division Jury Pool

	Percent			
	U.S. Census Bureau (N = 122,558)	Completed Jurors (n = 3,373)	Disparity	
			Absolute	Comparative
White	93.2	94.6	1.4	1.5
Black/African American	1.5	0.8	-0.7	-47.7
Native American	2.3	1.4	-0.9	-39.9
Asian	0.8	0.6	-0.2	-26.8
Hawaiian/Pacific Islander	0.0	0.0	0.0	
Other Race	0.1	0.6	0.5	328.6
2 or More Races	2.0	1.9	-0.1	-2.6
Hispanic	1.4	1.2	-0.2	-11.1

In addition to persons who completed their jury service, the AOC data report included some demographic information for individuals who were disqualified or excused¹⁷ from jury service or whose jury summonses were returned as undeliverable by the U.S. Postal Service (Table 2). However, self-reported data were missing for a much larger proportion of these categories of jurors—including 89% of undeliverable summonses, 53% of disqualified jurors, and 23% of excused jurors—making a direct comparison with U.S. Census Bureau data problematic. Undeliverable summonses, nonresponses, failures to appear, disqualifications, and excusal rates (before voir dire) often contribute to underrepresentation of distinctive groups in the community.¹⁸ However, without the ability to infer race and ethnicity on the basis of individual jurors’ residences, it is not possible to determine which of these factors, if any, significantly contribute to the lack of demographic diversity in the Duluth Division jury pool or, more importantly, which strategies would be most effective to address it.

¹⁷ A graphic summarizing the elements of the jury selection stages, including disqualifications and excusals, is included with this report.

¹⁸ Paula Hannaford-Agor, *Systematic Negligence in Jury Operations: Why the Definition of Systematic Exclusion Must Be Expanded*, 59 Drake Law Review 761 (2011).

Table 2. Demographic Characteristics of Disqualified and Excused Jurors and Undeliverable Summonses of Duluth Division Jury Pool

	Percent		
	Disqualified	Excused	Undeliverable Summonses
White	40.0	74.5	10.3
Black/African American	0.7	0.2	0.0
Native American	1.7	0.8	0.8
Asian	2.7	0.4	0.0
Hawaiian/Pacific Islander	0.0	0.0	0.0
Other Race	0.7	0.5	0.0
2 or More Races	1.5	0.9	0.3
Unknown Race	52.7	22.8	88.6
Hispanic	0.0	0.3	0.0

4.1.1 Recommendations

The Duluth Division and the Minnesota AOC would benefit from improving their ability to extract data, including individual juror-level data, from the jury automation system and using those data to more accurately explore the racial and ethnic composition of the jury pool and factors that may contribute to underrepresentation of distinctive groups in the community.

Improving data collection efforts to better identify the demographic characteristics of (1) those summoned for jury duty whose summonses are returned as undeliverable and (2) those who are disqualified, excused, or fail to appear would assist the county in understanding whether a disproportionate number of citizens in a given demographic group are being excluded from jury service for these reasons. The Duluth Division should supplement the self-reported data collected by the AOC in the statewide jury automation system with additional demographic information provided by prospective jurors who appear for service.

Additionally, an independent evaluator could be useful to assess the jury system, identify areas for improvement, and provide data-informed recommendations.

4.2 Focus Groups

For the second task, the JFA Team conducted qualitative interviews based on recommendations by the St. Louis County Team. The JFA Team developed interview protocols to be used for all three focus groups—those for the criminal legal system actors, community members, and court administrators.

Interviews and focus groups were conducted from March to September of 2021, with 21 individuals, including current and former prosecutors, public defenders, and judges (criminal

legal system actors); members from underrepresented groups (St. Louis community members); and Minnesota court administrators. Interview questions focused on perceptions of jury representativeness in St. Louis County, knowledge of the jury selection process, factors that reduce summons response rates, strategies to improve response rates, perceptions of jury management and juror experience, the voir dire process, ideas to increase representativeness, and needed changes in the St. Louis County legal system. Interview data were organized by domain and analyzed for prevalent themes and recommendations.

System actors and community members agreed that juries in St. Louis County comprise predominantly white jurors. One attorney in county government noted, “There are two perspectives to representativeness: is a jury representative of the community from which it’s drawn and, second, is it reflective of the individual sitting in the defendant’s seat? We often fail at both of those things.” Some respondents, however, mentioned that this issue is not fully appreciated by all communities in St. Louis County. One attorney in state government, who also is a person of color, noted, “The other stakeholders will believe it’s a perfectly fine jury. Unless you’re from a certain community of color, it’s perfectly fine, it’s fair, it’s consistent. It’s so-called color-blind. It’s mechanical. No one can accuse us of doing anything other than getting outcomes that the communities trust.”

Focus groups with both community members and court personnel revealed a belief that nonresponse rates were a significant contributor to the lack of diversity in the county’s jury pools. In addition, another system actor noted that prospective jurors can be dismissed for past offenses or interactions with law enforcement. The result is that not everyone in the community is represented—and that, in turn, is “tough to balance with the defendant’s Fifth and Sixth Amendment rights.”

Court administrators expressed that juries in St. Louis County were generally representative of the area and were selected in accordance with fair and consistent procedures mandated by the state and aligned with national practices.

4.2.1 Jury Source List and Randomization

Outside of court administrators, most focus group participants were not fully aware of how lists of potential jurors are compiled. Many understood that (1) lists of those registered to vote or registered with the Department of Motor Vehicles for a driver’s license or state ID are used to select potential jurors, (2) lists are limited to citizens who have a current mailing address on file with the state or city, and (3) citizens who have not completed a required sentence or parole after a felony conviction are also excluded. Beyond this basic understanding, however, focus group members, —including the prosecutors, defense lawyers, and judges who participated—knew little about how jurors are ultimately selected for these lists. More awareness, education, and transparency regarding this process would be beneficial to all.

Most system actors believe that the current issues with jury representativeness occur at the initial pool level and with who is summoned, rather than with who ends up getting selected. They noted that summonses are sent only to those who respond to the initial jury questionnaire, which creates a self-selection process. One attorney in county government noted that very little information regarding how the summons lists are created is available to the public and that trying to obtain this information from the county “has been a futile search.” Many community members agreed, noting that people who are not registered to vote are often excluded from potential juror lists, which limits the inclusiveness of the pool from which prospective jurors are selected.¹⁹

However, court administrators noted that a commercial vendor is used to generate accurate addresses before summonses are mailed, and that most challenges occur because citizens have not properly updated addresses by either notifying the post office, updating their driver’s license, or registering to vote. They further noted that the current process, while imperfect, is in accordance with current state policy and legislative intervention would be required to change it.

4.2.2 Responding to Jury Notification

Various barriers contribute to why St. Louis County has lower than desirable response rates to summonses. In terms of receiving the summons itself, community members pointed to the fact that mailing addresses are often unavailable to the court or incorrect.

¹⁹ Rule 806 of the Minnesota General Rules of Practice requires that the list of registered voters and the list of licensed drivers be used as the source lists to create the master jury list.

Court administrators pointed out that currently there is no standard practice in place to send reminders to those initially contacted about jury service who fail to respond to the questionnaire.

However, the administrators noted that targeted follow-up conducted during the COVID-19 pandemic increased appearance rates. Specifically, the administrators called jurors ahead of time to ask targeted questions related to COVID, but this also provided an opportunity to remind them of their upcoming jury service. "Maybe we have learned this lesson, that we could send them another reminder notice ahead of time. We learned some of this outreach has helped," shared one. Another administrator agreed, adding, "[Follow-up] has definitely helped their attendance rate. We call them to set a time. I have [had] less than five [people fail to] appear with no reason over the past 2 months."

"[This] all assumes that you have an ID, that your ID is registered in the name you use, to the address you actually live at, and that you get your mail, which is not necessarily true of most people in the Indigenous community in this area. They don't have a driver's license, so they're not even going to get pulled that way. And even if they have a driver's license, their address is somewhere else, not where they live. So they aren't necessarily going to get their mail, and/or their mail doesn't necessarily go to somewhere in St. Louis County. So [that] X's out a good chunk of the population right there."

-Member of the Indigenous community in St. Louis County

4.2.3 Obstacles to Jury Service

Other commonly cited reasons by the focus group members as to why jury service is difficult, and why a summons may go unanswered, included the following:

- Prospective jurors are unable to get time off work.
- Employers do not compensate employees for jury duty.
- Childcare is unavailable or too expensive.
- The per diem for jury service (\$20) is considered low.
- Transportation is an obstacle.
- Prospective jurors have privacy concerns.

The judges who participated in the focus groups agreed that people who serve have a universally positive experience; however, this outcome may be reflective of the population that ends up participating. Notably, community members were quick to identify disillusionment with the legal system as a key reason that some citizens did not wish to participate in the first place.

“The trust right now in the judicial system with me and my community is at an all-time low. We really don’t want to be a part of the judicial system; we have given up hope. I think this has swayed people from wanting to be on a jury, because there is no hope.”

-Community leader and person of color in St. Louis County

Other community members echoed this sentiment, mentioning that the judicial system was designed to benefit certain citizens while excluding others and that the main actors in the judicial system in St. Louis County tend to assume guilt, consciously or not, when representing or prosecuting Black citizens, particularly Black men.

Similarly, general feelings regarding the harms of the legal system were also commonly cited by people of color in the community. As one said, “Black and Indigenous communities distrust the criminal justice system. Courthouses are places of trauma.”

As one community member summed it up,

I think there's a reason that people don't show up and... some of it, I'm sure, is resource driven. The one bus pass and the 20 bucks a day does not really cover leaving work or getting childcare, any of those practical things. But it also speaks to a really long history of having distrust and of having people and relatives experience significant problems when they encounter the court system. I don't think people really think like, “Oh, that was a probate thing,” or “Oh, that was a divorce,” or “Oh, that was a criminal case.” They go, “So and so went to this and then this happened, and it was horrible, and I never want any part of that system.”

Further, other interactions with the legal system, including with law enforcement, may contribute to the overall distrust and dissatisfaction some feel toward the system generally, resulting in a reluctance to have any involvement with it.

4.2.4 Voir Dire and Selecting Jury Panels

Both system actors and community members mentioned that the jury selection process also contributes to lack of representativeness of juries in St. Louis County. For example, the voir dire process typically involves asking potential jurors whether they have had any encounters with law enforcement. Responses that indicate such encounters are often then accepted as valid reasons to strike jurors for cause from the pool, excluding them from service. As people of color and members of the Indigenous community experience over-policing in their communities, they are more likely to encounter law enforcement officers, and the court may thus disqualify them from service.²⁰ People of color and members of the Indigenous community may also hold more negative opinions of police and the legal system in general, increasing the likelihood they will be removed from the jury pool. Individuals who express having specific, positive experiences with law enforcement rarely have similar consequences.

If the court decides that a juror is unable to be fair and impartial, the juror will be “struck for cause” by the presiding judge. Separately, either the defense or the prosecution may choose to use a peremptory challenge to remove a person from the jury. Lawyers do not have to give any reason for using a peremptory challenge. Generally, in Minnesota, each adverse party is entitled to two peremptory challenges.

In addition to the potential of removing jurors for cause, each attorney may remove jurors without any explanation of the reason through the exercise of peremptory strikes. This can allow both intentional, express bigotry and more subtle, but equally problematic, subconscious biases to play a substantial role in the jury selection process. While the Supreme Court’s 1986 decision in *Batson v. Kentucky* was meant to curb this type of behavior, there are many proxies for race that often are accepted as valid reasons for striking jurors of color.²¹

4.2.5 Strategies to Improve Representativeness

System actors, community members, and court administrators provided a number of straightforward recommendations to improve jury representativeness. These included creating more transparency regarding how source lists are compiled; broadening source lists; providing further advance notice of jury service; sending summonses by email (and allowing people to respond by email); providing accessible ways to update current mailing address, such as kiosks at courthouses and community centers; redesigning the summons

²⁰ See, e.g., Clair, M. & Winter, A. (2022). The collateral consequences of criminal legal association during jury selection. *Law & Society Review*, 56, 532-553. Gordon, D. (2020). The police as place-consolidators: The organizational amplification of urban inequality. *Law & Social Inquiry*, 45(1), 1-27. <https://doi.org/10.1017/lsi.2019.31>

²¹ See, e.g., Frampton, T. W. (2020). For cause: Rethinking exclusion and the American jury. *Michigan Law Review*, 118(5), 785-840.

so it is easier to understand; providing public education regarding the legal system and the jury selection process; and making jury data publicly accessible for analysis.

Other generally agreed-upon recommendations focused on improving the jury experience overall, including by increasing the per diem, providing childcare, providing transportation reimbursement, requiring employers to pay a standard wage for jury service, and setting up a reporting system for noncomplying employers who refuse to let employees take time off for jury service.

System actors also recommended revising the voir dire process. Notably, many states have introduced proposals that would limit the use of peremptory challenges, and Arizona recently became the first state to eliminate them altogether, so that jurors may be removed only for cause.²² Some states have additionally refined what meets this for-cause standard, often removing lawyers' ability to strike jurors for previous contact with law enforcement, for example. Other common proposals states are considering include 1) eliminating Batson's first step (which requires the defendant to make a prima facie case of discriminatory intent); 2) requiring the court to determine if a reasonable person would believe the for-cause challenge being used results in removing a juror based on race; and 3) making clear that purposeful discrimination is not required for the court to disallow the peremptory challenge.²³

Additionally, system actors and community members mentioned the importance of ongoing trainings for the actors in the criminal legal system, particularly focused on implicit bias. Although some of these trainings are currently being offered,²⁴ making implicit bias trainings mandatory for attorneys, judges, and jurors could serve to remind them of both the part they play in a system that often produces disparate outcomes and the importance of jury representativeness. As one former attorney in state government explained, many assumptions about non-white community members in St. Louis County go unchecked: "[People] don't even realize they have some of these attitudes. As a white person in the justice system, I made so many assumptions that turned out to be wrong. I thought I was doing the work and keeping abreast of things, [but] this community is so white and it's so segregated [that I wasn't]."

²² Supreme Court of Arizona. (2021, August 30). *Order amending Rules 18.4 and 18.5 of the Rules of Criminal Procedure, and Rule 47(e) of the Rules of Civil Procedure*.

https://www.abajournal.com/files/8.30.21_Arizona_Supreme_Court_order_.pdf

²³ Berkeley Law. (n.d.) *Batson reform: State by state*.

<https://www.law.berkeley.edu/experiential/clinics/death-penalty-clinic/projects-and-cases/whitewashing-the-jury-box-how-california-perpetuates-the-discriminatory-exclusion-of-black-and-latinx-jurors/batson-reform-state-by-state/>

²⁴ Resources developed by the National Center for State Courts Blueprint for Racial Justice, including on-demand webinars on implicit bias, can be found at <https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/blueprint-for-racial-justice>

Community members also mentioned the possibility of public outreach campaigns related to the importance of jury service. One participant noted,

You would hand out to the people some kind of flyer to let them know what's happening. [It would include] the statistics, all these things about, typically it's a white male [who is on the jury], and it's all these different things, and the way to get your voice heard is to participate. So when the summons are coming out, you kind of show people what the statistics are, and what it's been before, and how you can combat that by filling out this form, and then the benefits of it. People need to hear, if I'm a part of this, or if I fill it out or go all the way, how is it going to benefit me or the person? So it needs to be some kind of positive kind of impact that's going to happen as a result of them participating.

These campaigns could be combined with other initiatives, such as get-out-the-vote efforts, and doing so might allow different groups in St. Louis County with an interest in increasing jury representativeness to come together to plan these efforts.

Notably, although some barriers can be easily identified and potential solutions proposed (e.g., lack of childcare could be solved by providing it), the deeper issue—that marginalized communities do not trust the legal system and that the harms that have been inflicted on them need to be repaired—requires thoughtful, long-term solutions. These deeper problems will need to be recognized, vocalized, and addressed. Outreach will be necessary to build trust in communities that have historically been over-policed, under-resourced, marginalized, and traumatized by the legal system. As one system actor noted, "I would definitely say that thinking more broadly about the court system and community trust and relationship building and those kinds of things [is needed]." As long as some communities feel that the criminal justice system is not designed to serve them, they will avoid any involvement with it.



5. State-Level Recommendations

Making juries more diverse in St. Louis County may require important policy decisions at the state level. Recently, other states have made some fundamental shifts aimed at increasing jury diversity that may serve as a guide for policymakers in Minnesota. Some examples are summarized below.

- **Use as many source lists²⁵ as necessary to achieve inclusiveness at or near 100%.** While increasing the number of source lists used has commonly been cited as a way to increase representativeness, research has shown that overinclusiveness of source lists can be as problematic as underinclusiveness. This is because the increasing number of duplicates and “ghosts”²⁶ on the master jury list can sometimes mask underrepresentation of certain groups or seem to identify underrepresentation that is not present. Thus, state courts should be selective about the quality of source lists used and use only as many lists as necessary to achieve inclusiveness at or near 100%. Ultimately, state courts should specify the source lists that are of the highest quality in terms of accuracy should be used, not increase the number of lists indiscriminately.²⁷
- **Expand eligibility to include permanent resident noncitizens.** Connecticut recently made this shift by eliminating the statutory exclusion of noncitizens because it disproportionately affected people of color.²⁸
- **Increase language access.** Limited language access can disproportionately affect people of color.²⁹ To combat these barriers, New Mexico provides interpreters for multiple languages and uses the same model for jurors who are deaf.³⁰
- **Work with a National Change of Address (NCOA) Provider³¹ to ensure that the address information used is as up to date as possible, and provide opportunities to update addresses more frequently.** Some jurisdictions now allow prospective jurors to update their address information with the judicial branch online.³²
- **Send reminder postcards to prospective jurors.** In some jurisdictions, like the First Judicial District in Pennsylvania, a prospective juror has 2 weeks to respond to

²⁵ Juror source lists are lists of names and addresses maintained by state or local government agencies or private organizations that courts use to create master jury lists from which prospective jurors are randomly selected. Common juror source lists include registered voters, licensed drivers, and state ID cardholders.

²⁶ “Ghosts” refer to stale records for individuals who no longer live in the community.

²⁷ See, e.g., Hannaford-Agor, P., Hamilton, M., & Bailey, E. (2022). [Eliminating shadows and ghosts: Findings from a study of inclusiveness, representativeness, and accuracy in master jury lists in three states.](#)

²⁸ [AN ACT CONCERNING THE RECOMMENDATIONS OF THE JURY SELECTION TASK FORCE](#), Substitute H.B. 6548, Public Act No. 21-170 (2021).

²⁹ See, e.g., Jasmine B. Gonzales Rose, *Language Disenfranchisement in Juries: A Call for Constitutional Remediation*, 65 *Hastings L.J.* 811 (2014). Available at: https://repository.uchastings.edu/hastings_law_journal/vol65/iss3/5.

³⁰ <https://languageaccess.nmcourts.gov/for-jurors/>

³¹ See, e.g., Smith, O.K.H. & Hannaford-Agor, P. (2022). [Delivering the Jury Summons to the Correct Address: Benefits and Costs of NCOA Processing.](#)

³² *Id.*

the initial summons. If a juror has not responded by the 2-week mark, a reminder postcard is automatically sent out in an effort to increase juror representativeness.³³

- **Increase juror pay and decrease length of service.** In the past year, 11 states have put forward legislation to increase juror pay.³⁴ Another step can be to decrease the time demands on jurors by shortening their length of service. The ABA Commission on the American Jury recommends that the term of service should be one day or the completion of one trial, whichever is longer, which reduces the number of prospective jurors who are excused for hardship.³⁵ A 2007 study of jury operations found that excusal rates in courts that employed a One Day or One Trial term of service averaged 6% of summoned jurors compared to 9% for courts that had longer terms of service.³⁶
- **Revise the voir dire process and limit the discriminatory use of peremptory challenges.** Eliminating questions from the voir dire process that effectively discriminate on the basis of race, such as asking about prior contact with law enforcement, is one strategy recently adopted in Washington State in an effort to increase jury representativeness.³⁷
- **Collect racial data at all stages at which a prospective juror may drop off.** These data, as well as data on the reasons prospective jurors are excused from jury duty on account of hardship, will provide the county with critical information that can be periodically evaluated to determine ongoing barriers and to create interventions to tackle those barriers.
- **Engage in community-focused education and outreach.** Several states actively engage with their communities to encourage jury participation. For example, Connecticut developed the Jury Outreach Program which is aimed at connecting with community organizations, radio stations, adult education and senior centers, local schools, colleges, and universities in order to stress the importance of jury service.³⁸

6. Conclusion

The suggestions provided in this report may help increase the number of individuals who are selected for and complete jury service and thus increase jury representativeness overall. Some recommendations can be implemented immediately, whereas others may require judicial or legislative intervention and can be viewed as longer-term proposals.

In addition to the above recommendations, targeted community outreach and engagement can be implemented to increase trust and perceptions of fairness in the criminal legal system generally, which may offer opportunities to encourage community members to provide race data to the court. Community outreach may also allow the courts to share

³³ First Judicial District of Pennsylvania, [Juror Participation Initiative](#), (2018)

³⁴ Brendon Clark, [Juror Compensation in the United States](#), (2022).

³⁵ ABA PRINCIPLES FOR JURIES AND JURY TRIALS, Principle 2(C)(1).

³⁶ GREGORY E. MIZE, PAULA HANNAFORD-AGOR & NICOLE L. WATERS, STATE-OF-THE-STATES SURVEY OF JURY IMPROVEMENT EFFORTS 24 (April 2007).

³⁷ [Wash. Gen. R. 37](#) (2018).

³⁸ State of Connecticut, Judicial Branch, [Jury Administration Jury Outreach Program](#).

information with prospective jurors to ensure that current address information is accurate and to ensure that they are included on the source lists currently being used.

Finally, defining clear targets for jury representation in St. Louis County will be useful in assessing progress toward identified goals. Collecting data on the outcomes of adopted recommendations will help identify the most successful interventions, particularly given that what is successful in one jurisdiction might not be the most effective approach in another.