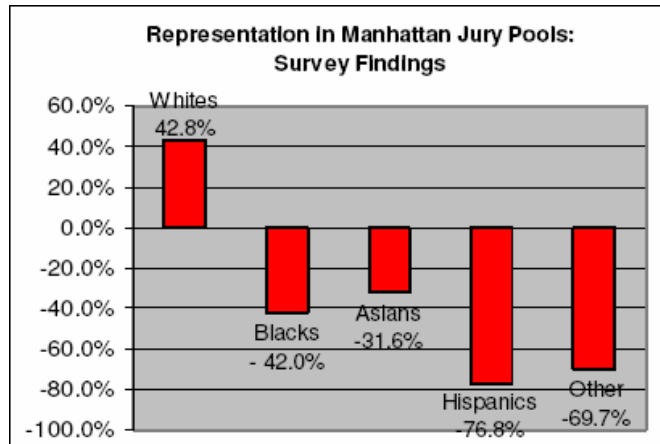


Racial and Ethnic Diversity in the Justice System

Many have long been concerned that juries do not reflect a fair cross section of the communities for which they serve. Citizen Action of New York tallied the apparent race and ethnicities of Manhattan residents reporting for jury duty at jury assembly rooms for a 12-week period from November 2006 to February 2007.

The survey of over 14,000 prospective jurors in Manhattan confirmed that **people of color and Hispanics were substantially underrepresented, measured by their proportionate share of the population of Manhattan. On the other hand, whites were substantially overrepresented.** The highest degree of underrepresentation was among Hispanics. Specifically, the survey found that for civil and criminal courts combined, whites were overrepresented by 43%, Blacks were underrepresented by 42%, and Hispanics were underrepresented by 77%.



Why is a diverse and representative jury important?

The US Supreme Court in 1972 said "When any large and identifiable segment of the community is excluded from jury service, the effect is to remove from the jury room qualities of human nature and varieties of human experience, the range of which is unknown and perhaps unknowable."

What is the reason for underrepresentation?

The explanations for the disparity involve both inadequacies in the state and local administration of jury pools and challenges related to the socio-economic and ethnic diversity of the state. Generally, people of color and Hispanics are adversely impacted by requirements applicable to jury service. Outdated mailing addresses, lower response rates to jury summons, and increased disqualification rates constitute a few of the key challenges.

What can be done to increase representation?

- Broaden the state juror source list to reflect the true racial and ethnic population of Manhattan.
- Send a higher proportion of qualifications questionnaires and summonses to communities with a higher proportion of people of color and Hispanics, to compensate for their lower response rates.
- Update juror source list addresses more frequently, from annually to semi-annually, to compensate for the higher mobility of people of color and Hispanics.
- Increase state regulation of county use of juror source lists to ensure that the pool of prospective jurors available for a particular trial is racially and ethnically balanced.

Source: Citizen Action of New York. *Racial and Ethnic Disparity in Manhattan Jury Pools: Results of a Survey and Suggestions for Reform*. June, 2007. www.citizenactionny.org

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Study Finds Whites May Be Overrepresented in Manhattan's Jury Pools

by Anemona Hartocollis

The principle that defendants should be judged by a jury of their peers is a cherished part of the American justice system. But a government watchdog group questions whether that guarantee is being kept in Manhattan.

The people who show up for jury duty in the borough are disproportionately white, and Hispanics are the most underrepresented group, according to a survey of jury pools in both the criminal and civil courts by Citizen Action of New York, which is based in Albany.

It was not clear why whites were overrepresented in the survey. In breaking down potential jurors' race and ethnicity, the group's researchers identified people by their physical characteristics like skin color rather than by asking them.

Still, Bob Cohen, who wrote the report and who is policy director at Citizen Action, said the racial and ethnic imbalance, especially for Hispanics, was so great that it was a cause for concern, even if the numbers were somewhat off.

"Even if it's difficult to have a mathematical representation for every trial, we shouldn't have a system where there's effectively no representation," Mr. Cohen, who is a lawyer, said yesterday in an interview.

The survey was conducted from November 2006 to February 2007 by two researchers who studied more than 12,000 prospective jurors by sight. They were instructed to decide whether they were black, white, Asian or other, and then to decide again whether they were Hispanic or non-Hispanic, Mr. Cohen said. Everyone was identified by "physical observation" because of the "prohibition against interviewing jurors," according to the report.

Those numbers were then compared with the 2000 United States census, in which people identified their race or ethnicity.

Using this methodology, the survey found that whites of all ethnicities made up 78 percent of the Manhattan jury pools, compared with 54 percent of the borough's population. Ten percent of the jury pool was black, compared with 17 percent of the general population. Asians made up 6.5 percent of the jury pool and 9.5 percent of the population, according to the survey.

When the potential jurors were counted again, the survey found that 6.3 percent of the total appeared to be Hispanics, who can be of any race. In the 2000 census, 27 percent of Manhattan residents identified themselves as Hispanic.

The report looked only at jury pools — the first step in the jury selection process — not at the racial composition of panels chosen for trials.

The New York County clerk, Norman Goodman, who oversees jury selection, said yesterday that personal injury lawyers had complained to him about the high proportion of white professionals serving on juries in Manhattan. The lawyers preferred working-class people because they tended to be more generous in granting financial damages to plaintiffs, Mr. Goodman said.

Mr. Goodman said his office reaches 98 percent of Manhattan's population with jury notices, using several lists. Those lists are culled, he said, from voter registrations, driver's licenses, nondriver identification cards, state tax rolls and welfare enrollments.

Daniel N. Arshack, president of the New York State Association of Criminal Defense Lawyers, said the survey reflected his own observations.

Mr. Arshack said the percentage of whites in the jury pool has actually grown larger in recent years, as the court system stopped granting most exemptions.

"There was really a significant influx of white, middle-class jurors," Mr. Arshack said.

The report recommended several measures to recruit more minority jurors, including sending more jury notices to ZIP codes with large minority populations; sending out "motivational" fliers telling black and Hispanic citizens that the jury system needs them; and relaxing laws that bar felons from serving on juries.

Mr. Goodman said that sending extra notices to certain neighborhoods might be unconstitutional because it would appear that the court system was favoring one type of juror over another.

He said the court system has tried motivational campaigns, like ads in subway cars that carry the slogan "Seize the Power," though the results have not been clear.

If there is a racial disparity in the jury pools, Mr. Goodman said, it is not from lack of outreach. He said the system deliberately does not ask for information about the race or ethnicity of potential jurors, so he could not provide his own statistics.