

New York Times - June 27, 2007

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.