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Jury Demographics, and a Hate Crime Unit

By JOHN ELIGON
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New York's criminal justice system is just a governor's pen stroke away from starting to figure out just how much it truly adheres to the principle of a jury of one's peers.

A bill that passed both houses in Albany this week would require the commissioners of jurors in every county in the state to take statistics on the race, ethnicity, age and sex of every person who reports for jury duty. Proponents of the bill said they hoped the accumulated data would provide credence to their belief that minorities are not properly represented in jury pools in some counties. While that contention is mostly anecdotal, there is one study that has provided some evidence.

[A study conducted in 2006 and 2007](#) by [Citizen Action of New York](#), an advocacy group, found that the people who show up for jury duty in Manhattan were disproportionately white, and Hispanics were the most underrepresented group. But the methodology for that study was hardly an exact science.

From November 2006 to February 2007, Citizen Action sent two researchers to study the physical characteristics of more than 12,000 prospective jurors and label each one as black, white, Asian or other, and then to decide again whether they were Hispanic or non-Hispanic. The researchers were not allowed to speak with the jurors because of rules prohibiting the interviewing of potential jurors.

So many see this bill as a way to provide a more precise analysis of the diversity of jury pools throughout the state, and then use the data to remedy problems that may exist.

While it will be some time before data is made available, it is never too early to start handicapping the results. Interviews with several lawyers, politicians and court officials reveal varying predictions.

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Defense lawyers were nearly unanimous in their belief that the jury pools in the Bronx, Brooklyn and Queens were representative of those boroughs. Manhattan, on the other hand, drew more skepticism.

As Mark Cohen, a defense lawyer who has tried cases throughout the city and was a prosecutor in the Bronx, pointed out, there is a saying among defense lawyers in New York.

“I can get an acquittal on this case in the Bronx or in Brooklyn,” but not in Manhattan, Mr. Cohen said.

The reason is not merely racial favoritism, Mr. Cohen said. It is about legitimate differences in perception.

“A white juror from Manhattan is more likely to believe whatever a cop says, lie or not, than a minority person who has some life experience of police deceit in their background,” Mr. Cohen said.

Mr. Cohen said there had been cases in which the evidence was close that he had tried in other boroughs that he would not have tried if they were in Manhattan.

Despite the diverse pool of jurors to pick from in a borough like Brooklyn, issues often arise at jury selection, said Danielle V. Eaddy, a defense lawyer.

“What happens is that after jury selection it becomes clear in many cases that one or both sides has an agenda with respect to the racial makeup that they would like the jury pool to have,” Ms. Eaddy said.

This can create an interesting, yet nuanced, problem, Ms. Eaddy said. If, for instance, during a given day’s first wave of jury selection, most of the blacks in the different pools are selected to serve on panels, there will be fewer blacks in the subsequent selection waves for that day.

But even when the jury pool in Brooklyn may appear diverse, it can be misleading, said Michael Hardy, another defense lawyer. The blacks or Hispanics on the panels are often from places like the Caribbean or South America.

“They have a different experience than African-Americans and Puerto Rican-Americans have had with law enforcement,” Mr. Hardy said. “So their outlook with criminal justice tends to be different and more conservative.”

Officials for the court system stood by their process for compiling potential jurors.

“Frankly, I think we’re doing a very good job the way it is,” said Norman Goodman, the longtime county clerk in Manhattan who oversees the jury process. “I think our juries are a fair and representative cross-section of the community.”

Ronald Younkins, the chief of operations for the [Office of Court Administration](#), said the state relied on five sources from which to tap potential jurors: drivers

licenses and state identification cards; voter registrations; New York State income tax filings; recipients of unemployment insurance; and recipients of public assistance.

The administration regularly checks the lists to make sure they are up to date and accurate, Mr. Younkens said. When people do not respond to jury notices, the office rigorously follows up, he said.

“I don’t know that I would say this is absolutely necessary,” Mr. Younkens said of the bill. “But I would think the results may well be helpful both to the Legislature and us to figure out other things that could be done and how we could fine tune our efforts.”

Even if the statistics show that minorities are underrepresented in jury pools, it is worth noting that the fact that only citizens are allowed to serve on juries could be a factor.

Assemblyman [Rory I. Lancman](#), who sponsored the bill with Assemblyman [Hakeem Jeffries](#) and State Senator [Jeffrey D. Klein](#), said he believed more aggressive measures could be taken to get more representative jury pools, including using more lists from which to select potential jurors. The court system may also have to consider doing more to promote jury service and let people know why it is important, Mr. Lancman said.

“This time next year,” Mr. Lancman said, “I think that we could have some really astounding information about the extent to which jury pools in parts of this state are unrepresentative of the people they are hearing cases about.”

Hate Crimes Unit

[Cyrus R. Vance Jr.](#), the Manhattan district attorney, announced Thursday that he was forming a Hate Crimes Unit in the office to be lead by a veteran prosecutor, Joan Illuzzi-Orbon. The unit’s tasks will include training assistant district attorneys to investigate and prosecute bias crimes, and working with community organizations and the Police Department to develop strategies to prevent hate crimes, Mr. Vance said in a press release.

“Hate crimes harm not just individuals, but entire communities, and they must be treated with the utmost seriousness,” Mr. Vance said in the statement.

Ms. Illuzzi-Orbon has handled several high-profile cases, most recently getting a [conviction of Natavia S. Lowery](#) for the murder of Linda S. Stein, the real estate agent and former manager for the Ramones. Ms. Illuzzi-Orbon also handled the gun possession case [against the rapper Lil Wayne](#) that ended with his pleading guilty and being sentenced to a year in jail.
