



# Peremptory Challenges & the Right of Civic Engagement

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# Presenters

Moderator: Howard Berchtold, Jr., Trial Court Administrator

Panelists: William Snowden, The Juror Project  
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# Overview

- Background -- History of Jury Reforms in New Jersey
- Systemic Barriers to Diverse Jury Venires
  - Felony Disenfranchisement
  - Juror Compensation Rate
  - Peremptory Challenges
- Community Mindset and Public Perception
- Next: Racial Bias in Jury Selection & Importance of Minority Representation

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# Background

- Expansion of sources (to three) used to create master jury list
- Elimination of statutory exemptions for jury service
- Introduction of automated jury management system
- Standardization of statewide administrative jury policies
- Supreme Court adoption of Gilmore standards (as expanded in Andujar) to prevent discrimination in jury selection



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# 10,000 Unreached Jurors in Courtrooms

- Data shows that attorneys rarely use all peremptory challenges -- and generally use 16 of 32 available in criminal trials.
- Yet jury managers must plan for the chance that all challenges will be used to prevent an interrupted selection.
- This means that panels include 32 jurors to account for available peremptory challenges, with 16 of those -- more than 10,000/year -- never reached for questioning.

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# Systemic Barriers to Diverse Juries

- In New Jersey, and many other jurisdictions, individuals with a felony conviction are **permanently disqualified** from jury service.
- This permanent bar excludes disproportionate numbers of Black and Hispanic/Latinx individuals.
- The effect may be especially pronounced in New Jersey in light of the substantial demographic disparity in incarceration rates.

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# Systemic Barriers to Diverse Juries

- New Jersey grand jurors earn only **\$5.00/day** for service that extends for several months (either one or two days/week).
- Trial jurors earn **\$5.00/day** for the first three days, then \$40.00/day starting on the fourth day of service.
- This creates financial hardships, and is insufficient even to offset transportation and parking costs in many locations.

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# Systemic Barriers to Diverse Juries

- Nationally, research shows the availability and exercise of peremptory challenges tends to reduce representativeness.
- New Jersey provides far more peremptory challenges in criminal matters than any other state.
- This sets the stage for situations in which the already low level of diversity evaporates during jury selection based on attorney conduct rather than a juror's inability to be impartial.



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# Community Mindset & Public Perceptions

- Jury service – with minimal compensation – is often viewed as an inconvenience or a burden.
- Members of the community may believe that their participation does not matter.
- Individuals who have previously reported to the court, only to be peremptorily stricken or not reached for questioning, may view the process as a waste of time.

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# The Juror Project

- The Juror Project seeks to correct that mistaken narrative.
- It works to educate members of the community about the importance of their participation in the jury process.

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# The Juror Project

- The involvement of jurors from all backgrounds improves jury functioning and outcomes.
- Diverse juries engage in more **objective decision-making** during deliberations and achieve more informed and unbiased trial outcomes.
- This decreases controversial acquittals and **increases public confidence** in jury decisions.

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# Jury Box and Access to Power

- If you had the opportunity to decide the fate of another person -- and to potentially prevent an innocent individual from punishment -- what would you do?
- What if you or a loved one were the one whose fate was to be decided by a group of strangers?