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
Gregg L. Zeff, NAACP-New Jersey
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
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
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.
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.
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.
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.
New Jersey Judiciary

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.
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.
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.
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?