

**Citizens Jury Project  
Summer 2003 Report on Juror Concerns:  
April 1, 2003- July 31, 2003**

---

**September 18, 2003**

**Jane Eggers  
Citizens Jury Project Director  
A Project of the Fund for Modern Courts  
351 West 54<sup>th</sup> Street  
New York, NY 10019**

## Preface

The Citizens Jury Project (CJP) was created in 1995 following the recommendation of the Jury Project, a blue-ribbon panel formed by New York State Chief Judge Judith S. Kaye to review and reform jury service in New York State. CJP serves as an advocate for individual jurors in the courts, and strives to make systemic reforms that improve conditions for all jurors.

The Citizens Jury Project responds to ideas and concerns of jurors, and assesses the conditions of New York courts through our ombudservice presence in the courts and ongoing data collection and analysis. The ombudservice booths, staffed by interns—currently one post-graduate law student recently admitted to the Bar, six law students from Boston College Law School, Brooklyn Law School, Fordham Law School, Quinnipiac Law School, Michigan Law School, and Queens College Law School in Canada, and one Dartmouth University graduate applying for law school this fall—are the in-court presence of the project. At these booths, which are located outside the jury assembly rooms at 60, 100, and 111 Centre Street in Manhattan, and inside the jury room of 360 Adams Street in Brooklyn, interns interview and assist jurors, and gather the data presented in CJP reports.

The first part of the following report will examine the issue of inclusion, or ways in which policies and procedures at each phase of jury selection can promote access and participation. The importance of representation and inclusion are evident in our Constitution, jurisprudence, and in our conception of a jury, which became a guaranteed right, rather than a privilege, once established in the United States. In *Glasser v. United States*,<sup>1</sup> Justice Murphy remarked (citations omitted):

**Since it was first recognized in Magna Carta, trial by jury has been a prized shield against oppression, but, while proclaiming trial by jury as "the glory of the English law," Blackstone was careful to note that it was but a "privilege." Our Constitution transforms that privilege into a right in criminal proceedings in a federal court. [...]**

**For the mechanics of trial by jury we revert to the common law as it existed in this country and in England when the Constitution was adopted. But even as jury trial, which was a privilege at common law, has become a right with us, so also, whatever limitations were inherent in the historical common law concept of the jury as a body of one's peers do not prevail in this country. Our notions of what a proper jury is have developed in harmony with our basic concepts of a democratic society and a representative government. For "It is part of the established tradition in the use of juries as instruments of public justice that the jury be a body truly representative of the community."<sup>2</sup>**

---

<sup>1</sup> 315 U.S. 60 (1942).

<sup>2</sup> *Id.* at 85-86. Quoted, in part, in: *Taylor v. Louisiana*, 419 U.S. 522.

The work of creating representative and fair juries is at the heart of an effective and efficient jury system. The relational design of the jury system, which is dependant on diverse representation, can embody our democratic ideals and enact what society could become:

**Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly. Never again can we afford to live with the narrow, provincial “outside agitator” idea. Anyone who lives in the United States can never be considered an outsider anywhere within its bounds.<sup>3</sup>** –Martin Luther King

This report will suggest that the diversity represented in our courts should be examined, and that employing affirmative measures and creating more accessible court information could serve as ways to promote representation and improve juror utilization.

The second half of this report presents and analyzes the 949 comments of 516 jurors interviewed by CJP from April 1, 2003 to July 31, 2003. Jurors’ concerns in relation to service suggest ways in which they can be included within the process and utilized effectively. Jurors’ comments also reflect their cognizance of and appreciation for the significant reforms that have been introduced into the system and the procedural and facilities improvements that have made participation more feasible, comfortable, and comprehensible.

Now nearing our ninth year, CJP looks forward to continuing our collaborative work with the Office of Court Administration and courts throughout the state. Jury reform has improved the administration of justice in New York, and jurors’ perception of and performance within the jury system. By giving jurors an active voice in our courts, and listening and responding to their concerns, knowledge is reciprocated and the groundwork is established for future administrative reform.

Ken Jockers  
Executive Director  
The Fund for Modern Courts

Jane Eggers  
Director  
Citizens Jury Project

---

<sup>3</sup> Martin Luther King, *Letter From Birmingham Jail* (visited August 8, 2003)  
<[http://www.stanford.edu/group/King/popular\\_requests/](http://www.stanford.edu/group/King/popular_requests/)>

## Table of Contents

1. An Overview on the Issue of Systemic Inclusion & of Manhattan & Brooklyn Juror Comments .....	1
(A) INTRODUCTION.....	1
(B) COURT PROCEDURAL AND FACILITIES ACCOMPLISHMENTS/UPDATE ON CJP ACTIVITIES .....	3
2. Juror Impartiality and Systemic Inclusion: The Principle and Actions Affect Juror Utilization.....	5
(A) OVERVIEW .....	5
(B) JUROR IMPARTIALITY AND VOIR DIRE.....	5
(C) GRUTTER V. BOLLINGER: THE SELECTION OF JURORS JUXTAPOSED WITH THE SELECTION OF STUDENTS .....	8
(D) ACCESSIBLE INFORMATION AND AFFIRMATIVE MEASURES AS A MEANS TOWARD GREATER JUROR UTILIZATION.....	13
3. Summary of Jurors' Comments from New York and Kings County.....	20
(A) APPRECIATIVE COMMENTS.....	20
(B) ALL JUROR COMMENTS.....	21
(C) PHYSICAL ENVIRONMENT.....	22
4. 60 Centre Street.....	23
(A) SUMMARY OF JUROR CONCERNS.....	23
(B) BREAKDOWN OF JUROR CONCERNS.....	23
(C) RECOMMENDATIONS .....	30
5. 100 Centre Street.....	31
(A) SUMMARY OF JUROR CONCERNS.....	31
(B) BREAKDOWN OF JUROR CONCERNS.....	32
(C) RECOMMENDATIONS .....	39
6. 111 Centre Street.....	40
(A) SUMMARY OF JUROR CONCERNS.....	40
(B) BREAKDOWN OF JUROR CONCERNS.....	41
(C) RECOMMENDATIONS .....	44
7. 360 Adams Street .....	45
(A) SUMMARY OF JUROR CONCERNS.....	45
(B) BREAKDOWN OF JUROR CONCERNS.....	46
(C) RECOMMENDATIONS .....	50
8. Disqualifications .....	51
(A) AN OVERVIEW OF DISQUALIFIED JURORS' COMMENTS .....	51
9. Summary of Recommendations .....	55
(A) SUMMARY OF RECOMMENDATIONS FOR THE COURTS .....	56
(B) SUMMARY OF ADMINISTRATIVE, PUBLIC RELATIONS, AND RESEARCH RECOMMENDATIONS.....	57
APPENDIX A: TOP JUROR CONCERNS IN MANHATTAN & BROOKLYN COURTS .....	60

## 1. An Overview on the Issue of Systemic Inclusion & of Manhattan & Brooklyn Juror Comments

### (A) Introduction

The strength of New York's judiciary and court system is evidenced by the substantial jury reforms that have been implemented, ranging from expanded source lists to the abolishment of automatic exemptions and disqualifications. Of equal significance, the Unified Court System continues to examine ways in which to improve the jury system. On January 13, 2003, in the State of the Judiciary Address,<sup>4</sup> Chief Judge Kaye introduced a new jury commission and jury project. The Commission on the Jury is currently delving into the issue of juror utilization, while the Jury Trial Project has begun to examine jury trial innovations and the legal and procedure issues related to their adoption in New York courts; in 2005, the Jury Trial Project will then study the effects that these innovations in courts throughout New York. These separate initiatives coalesce around the idea that jury service is a core component of the justice system, and that, ideally, jurors should be actively engaged in comprehensible proceedings.

Juror utilization is an issue that cuts across many levels of analysis. One valuable way to look at this issue is to assess the current administration of jurors in the assembly room and courts, and how jurors' lives outside the courts affect the administration of the system. While looking forward, it also seems important to look back, to examine research that has been conducted in New York and laws that have been established as a result. For example, in regard to the issue of judicial monitoring of civil voir dices, the *Report on the Civil Voir Dire Study*,<sup>5</sup> examined data collected from courts in diverse locations (urban, suburban, and rural) from January 30-May 19, 1995. This report, which was authored by Chief Judith S. Kaye, and then Chief Administrative Judge E. Leo Milonas, concluded:

“Judicial involvement in the selection of civil juries clearly affected both the efficiency and perceived fairness of voir dices, and some level of judicial supervision was supported by a majority of judges and attorneys:

- The voir dices in the study were completed more quickly than voir dices in the same courts that were not part of the study. The average voir dire with a judge monitoring lasted 8 hours; with a judge present at the beginning of jury selection lasted 6.8 hours; and with a judge supervising the entire selection lasted 6 hours.
- Judges, attorneys and jurors all indicated that the judge's involvement in the voir dire has a positive effect on the fairness of the selection of the jury. The degree of positive impact declined as the judge's presence decreased.

---

<sup>4</sup> The 2003 State of the Judiciary Address is available at: <http://www.courts.state.ny.us/ctapps/soj.htm>

<sup>5</sup> HON. JUDITH S. KAYE, HON. E. LEO MILONAS, REPORT ON THE CIVIL VOIR DIRE STUDY (1995).

The majority of judges and attorneys favored judicial supervision of the commencement of the voir dire or judicial monitoring of selection.”<sup>6</sup>

As a result of the study, 22 NYCRR 202.33 was established.<sup>7</sup> In light of the significant research and the law, CJP sees the question of judicial supervision as not centering on the viability of this law. Rather, if certain courts—particularly courts with large caseloads—are deviating from this law, how can the administration of these courts be improved to ensure compliance? 22 NYCRR 202.33 was designed and has been shown to create greater systemic efficiency,<sup>8</sup> not detract from it.<sup>9</sup>

Although juror utilization is an issue that can be examined from many angles, the inclusion of individuals and groups into the jury system is perhaps the most seminal issue related to utilization. The following report will examine the issue of inclusion by first discussing juror impartiality, the constitutional principle that establishes the requirement for representative jury pools and inclusive systems. This analysis will suggest some difficulties underlying the construct that affect the voir dire process, and some ways in which these difficulties have been addressed. The report will then turn to *Grutter v. Bollinger*,<sup>10</sup> the recent Supreme Court ruling on Michigan Law School’s admissions practices, which found that diversity is a compelling state interest that can justify the use of race in the admissions process. The need to balance societal imbalance through affirmative measures will then be discussed in the context of the jury system, which has a history of excluding people due to their race, gender, and socio-economic position. The report will then discuss the many reforms New York has implemented to reduce this disparate treatment, and will conclude by recommending that the composition of juror panels and pools should be assessed, and that accessible information and affirmative measures can serve as a means toward greater utilization. Inclusion is an issue of primary importance, and the linchpin of many other issues related to utilization. Working to ensure that a cross-section of the community is represented in our courts not only promotes representation, but also strengthens the system that is, at its best, defined by the communities it serves and protects.

---

<sup>6</sup> *Id.* at 167.

<sup>7</sup> This law requires a judge’s presence at the commencement of voir dire, and requires that lawyers and judges meet at least once before voir dire to discuss settlement (22 NYCRR § 202.33(b)). This law also allows judges to impose time limits on questioning (22 NYCRR § 202.33(d)); and requires jurors to complete background questionnaires prior to voir dire.

<sup>8</sup> Report of the Chief Judge & Chief Administrative Judge Committee of Lawyers to Enhance the Jury Process (Visited July 1, 2003) <<http://www.courts.state.ny.us/99juryrept.htm>>. The report noted that the promulgation of 22 NYCRR 202.33 has significantly improved the efficiency of the voir dire: in 1995, the statewide average for civil voir dire was 9.3 hours, whereas in 1998, the average had fallen to 5.1 hours. The Committee of Lawyers concluded: “the benefits of increased judicial involvement in voir dire have been amply demonstrated.” *Id.* at 18.

<sup>9</sup> CJP suggests that if alternative methods are currently being practiced and are found to be advantageous and necessary in certain courts, then clear parameters should be set on these alternative practices, so that proper administration is not lost in an unsupervised process.

<sup>10</sup> 123 US 2325 (2003).

The second part of this report will focus on the 949 jurors' comments collected from 60, 100, and 111 Centre Street and the 360 Adams Street courthouse, during the time period of April 1, 2003 to July 31, 2003. The report will provide a summary of jurors' appreciative comments, and their comments on the physical environments in all four courts. Following this general analysis, the report will examine jurors' court-specific positive and negative comments. At the conclusion of each court-specific section, recommendations will be provided, based on the comments received from jurors and the feedback from CJP interns, whose weekly presence in each court gives them objective, informed perspectives on the courts. Finally, this report will conclude with a summary of the recommendations provided throughout the report, which proposes ways in which Citizens Jury Project and the Office of Court Administration can promote utilization and foster knowledge of the system through inclusion and greater access to information.

*(B) Court Procedural and Facilities Accomplishments/Update on CJP Activities*

Stemming from the collaborative efforts of members of the Judiciary, and court and city officials, the following environmental improvements have been made or are in the process of being made in both New York and Kings County courts:

1. Elevators: The elevators at 120 Schermerhorn are currently being refurbished. The elevators at 100 Centre, 60 Centre, and 60 Lafayette Street, are also scheduled for refurbishment. As of March 12, all contracts have been awarded for work on the elevators at 100 Centre, a project that will last for approximately two years.
2. Wireless Access: Jurors at 60 Centre Street can now take advantage of wireless access throughout the courthouse. OCA is offering this service in partnership with Courtroom Connect, a wireless internet service provider that offers courthouse services in California and Delaware. Although wireless access is only being piloted at 60 Centre, if successful, the service will be extended to other New York courthouses.
3. Accessible Coffee: The City has agreed to allow a sink to be installed at 100 Centre, which will allow the Commission for the Blind and Visually Handicapped to offer coffee and refreshments to jurors on the 15<sup>th</sup> floor.

While these improvements clearly suggest a positive, pro-active approach toward the facilities, there are other procedural and facilities-related aspects of service that have been previously discussed and are in need of attention:

1. Juror assistance during service: Jurors at all four Kings and New York County courts continue to express procedural concerns and confusion about where to report once they are chosen to participate in a voir dire or serve on a panel.
2. Supplementary Cleaning Staff: Earlier this year OCA officials met with City officials and agreed that cleaning staff will be present at their maximum capacity in the Manhattan and Brooklyn courts. It was said that particular attention would be paid to the assembly room and other juror areas, as the influx of individuals called to serve often creates a

need for consistent maintenance. However, court officials in Kings and New York County report that they have not received any new cleaning staff people, and that the upkeep of the assembly rooms and adjacent bathrooms remains an issue.

3. Drinking water: CJP encourages court officials to continue to press the City to test the water in the New York and Kings County courthouses. Until the water tests safe and the water fountains are fully functional, jurors should have access to a water cooler or, at least, water should be available for purchase through concession and vending services.

In collaboration with the Unified Court System, CJP continues to offer an ongoing presence in New York and Kings County courts, and has recently begun assisting with the assessment of juror utilization in New York. CJP presented testimony on juror utilization to the Commission on the Jury on July 8, 2003 and, related to concerns that were raised prior to and during the hearings, the Office of Court Administration (OCA) asked CJP interns to observe voir dices in southern New York. CJP interns began observing voir dices in June of this year and will continue to throughout the fall. OCA has designed civil and criminal voir dire surveys that the interns fill out, while interns also provide written narratives of criminal voir dices. With this data, OCA will write and publish a report that provides observations on how civil and criminal voir dices are currently being administered, and recommendations for how these processes can be improved. CJP greatly appreciates the opportunity to observe and collect data on voir dices in New York.

## 2. Juror Impartiality and Systemic Inclusion: The Principle and Actions Affect Juror Utilization

### (A) Overview

The National Criminal Justice Reference Center defines juror utilization as simply, “ assigning members from jury pools once initial selection is made.”<sup>11</sup> G. Thomas Munsterman suggests that improving juror utilization is dependent on two basic factors: “the ability of the court both to predict jury trial activity and to use those called in as many voir dices as possible.”<sup>12</sup> Underlying these two factors are complex social realities; CJP’s work interviewing and surveying jurors illustrates that jurors’ life experiences and issues affect a court system’s ability to administrate fairly and efficiently. How jurors are qualified and selected, and which jurors are selected, are fundamental questions when examining the issue of juror utilization.

This section will examine the issue of inclusion, ways in which policies and procedures at each phase of jury selection can promote access and participation. First, the related principle of impartiality will be briefly discussed, followed by an examination of *Grutter v. Bollinger*,<sup>13</sup> the recent Supreme Court ruling that suggests balancing through partiality. The section will then discuss inclusive measures that New York has introduced into the jury system, and conclude by providing recommendations based on the analysis and CJP’s interviews of and advocacy for jurors in New York.

### (B) Juror Impartiality and Voir Dire

**"I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution."**

–Thomas Jefferson to Thomas Paine, 1789. ME 7:408, Papers 15:269

To be an anchor of good governance, the jury must not only promote accountability of government, but also employ constitutional principles within the design of the system itself. One of the most difficult and contentious principles of a jury, which profoundly effects the utilization of jurors, is impartiality. The principle has been understood as both “the selection of a petit jury from a representative cross-section of the community,”<sup>14</sup> and the

<sup>11</sup> National Criminal Justice Reference Center, *Abstracts Database: Thesaurus Term Search*, (visited August 7, 2003) <[http://abstractsdb.ncjrs.org/content/Thesaurus/Thesaurus\\_AssociatedTerms.asp?ID=04456&Value=Juror+r+utilization&chkBoxFlags=&chkBoxFlagsChecked=>](http://abstractsdb.ncjrs.org/content/Thesaurus/Thesaurus_AssociatedTerms.asp?ID=04456&Value=Juror+utilization&chkBoxFlags=&chkBoxFlagsChecked=>)>.

<sup>12</sup> G. THOMAS MUNSTERMAN, *JURY SYSTEM MANAGEMENT*, 78 (1996).

<sup>13</sup> *Supra*, note 10.

<sup>14</sup> *Taylor v. Louisiana*, 419 U.S. 522, 528 (1975). This ruling found the cross section of the community to be an indispensable part of the right to an impartial jury. The Court cited *Smith v. Texas*, 311 U.S. 128, 130 (1940): “[I]t is part of the established tradition in the use of juries as instruments of public justice that the jury be a body truly representative of the community.” *Taylor v. Louisiana* moved the “tradition” of community representation to a “component” of the 6<sup>th</sup> Amendment. New York State’s Judiciary Law § 500 directly elucidates this principle: “It is the policy of this state that all litigants in the courts of this state entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair

requirement that empanelled jurors are unbiased.<sup>15</sup> In regard to bias resulting from a juror's predisposition and views, the two definitions reflect very different conceptions of jurors. It is assumed that jurors can decide a case on the evidence presented, and not base their judgment on personal, unreasoned knowledge. However, the "representative cross-section" requirement implies the need for people with different group-affiliations, life-experiences, and preferences, which may not be uniform across a certain group, but represent and affect a jury's judgment.

The difficulty underlying the two-fold definition of impartiality is illustrated in a quote used by the Court in *Taylor v. Louisiana*: "Trial by jury presupposes a jury drawn from a pool broadly representative of the community as well as impartial to a specific case...[The] broad representative character of the jury should be maintained as assurance of diffused impartiality and partly because sharing in the administration of justice is a phase of civic responsibility."<sup>16</sup> "Diffused impartiality" is vague: presumably, one impartial juror should not differ from another impartial juror, in terms of their impartiality. A few lines later in the ruling, the Court concedes: "The truth is that the two sexes are not fungible; a community made up exclusively of one is different from a community composed of both..."<sup>17</sup> Therefore, the two definitions of impartiality are reliant on each other: diverse panelists balance each other's views, decrease bias, promote utilization, and enhance the general public's respect and acceptance of verdicts.<sup>18</sup> Indeed, the merits of a mixed jury are frequently cited in case law and consistent with social science research.<sup>19</sup> However, the positions taken by the Court in *Batson v. Kentucky*<sup>20</sup> and subsequent rulings are paradoxical and have further complicated the principle of impartiality.

---

cross-section of the community in the county or other governmental subdivision wherein the court convenes..." The guarantee of fair cross section of the community is codified in the Jury Selection and Service Act, 28 U.S.C. 1 1861 et seq. (1994).

<sup>15</sup> Bias has been found to result from actions against the jury or its members, such as outside pressure or influence on their decision making, which could impair their freedom of action (*Remmer v. United States*, 350 U.S. 377 (1956)), or exposure to prejudicial material or disorderly courtroom activities (*Irvin v. Dowd*, 366 U.S. 717 (1961); *Sheppard v. Maxwell*, 384 U.S. 333 (1966)). Bias has also be found in a juror's own predisposition and views. In regard to the death penalty, for example, the proper standard for exclusion is: "whether the juror's views would 'prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath.'" *Wainwright v. Witt*, 469 U.S. 412, 424 (1985), (quoting *Adams v. Texas*, 448 U.S. 38, 45 (1980)).

<sup>16</sup> *Id.* at 530-531. Quoted from: *Thiel v. Southern Pacific Co.*, 328 U.S. 217, 227 (1946).

<sup>17</sup> *Id.* at 531.

<sup>18</sup> This idea was encapsulated by the 90<sup>th</sup> Congress in 1968:

"It must be remembered that the jury is designed not only to understand the case, but also to reflect the community's sense of justice in deciding it. As long as there are significant departures from the cross sectional goal, biased juries are the result—biased in the sense that they reflect a slanted view of the community they are supposed to represent." Quoted in *Taylor v. Louisiana*, 419 U.S. n. 7, 528 (1975).

<sup>19</sup> Walter F. Abbott & John Batt A Handbook of Jury Research, American Law Institute, ABA (1999). HIROSHI FUKURAI, SOCIAL DE-CONSTRUCTION OF RACE AND AFFIRMATIVE ACTION IN JURY SELECTION, 11 LA RAZA L.J. 17 (SPRING 1999). JOHNSON, *supra*, note 16. NANCY L. KING, POST-CONVICTION REVIEW OF JURY DISCRIMINATION: MEASURING THE EFFECTS OF JUROR RACE ON JURY DECISIONS, 92 MICH. L. REV. 63 (1993).

<sup>20</sup> 476 U.S. 79 (1986).

The Supreme Court is divided on the question of whether a juror's group affiliation enables attorneys to make inferences about that juror's perspective. In regard to peremptory challenges, "On the one hand, Batson's champions doggedly deny that an attorney may rationally infer anything about a juror's viewpoint from his race or her race or gender. On the other hand, Batson's critics openly embrace the idea—grounded in decades of precedent in jury discrimination cases—that attorneys may rationally infer that members of discrete groups bring unique perspectives to the jury."<sup>21</sup> At the same time discrimination is unconstitutional in the peremptory challenge process, for those in favor of the Batson process, group affiliation does not affect jurors' ability to be fair and impartial. "By taking this position, the Court has defined Batson violations in a way that absolutely forecloses any possibility that such violations affect the reliability of the verdict."<sup>22</sup>

In his article on the Batson paradox, Eric L. Muller eloquently argues that the Court's positions are further confounded when remedies for Batson violations are considered. In *Arizona v. Fulminante*<sup>23</sup> the Court found that the remedy of appellate reversal exists to protect against unreliable fact finding, rejecting a process-based understanding of reliability for a more empirical understanding. The Court framed a jury's determination of a defendant's guilt or innocence as deciding a "factual question." However, this empirical approach does not collude with the assertion that trial procedures affect the reliability of a verdict. Thus, the Justices who are clear opponents of the Batson ruling are those who could most logically defend its institution. "This, then, is the full paradox of Batson: the Justices who find harm in a Batson violation cannot; the Justices who can find harm in a Batson violation will not."<sup>24</sup>

The two-fold definition of impartiality and the paradoxical framework underlying positions on Batson, affect the voir dire process in our courts. In the *People v. Van Hoeson*, No. 11580, the Appellate Division, 3d Department, recently ruled that prosecutors failed to establish a race-neutral reason for the excusal of an African American woman from a jury. During voir dire, this woman articulated that she could not disregard her life experience as a racial minority. While her life experiences and other jurors' different life experiences are exactly what is valued under the 6<sup>th</sup> Amendment, the challenge against this juror for her possible bias—as a result of her life experience—is what the Supreme Court of New York allowed. In its reversal, the Appellate Division wrote: "The prosecutor's explanation related only to the juror's race and stereotypical assumption that an African-American perspective would be biased against the

---

<sup>21</sup> ERIC L. MULLER, SOLVING THE BATSON PARADOX: HARMLESS ERROR, JURY REPRESENTATION, AND THE SIXTH AMENDMENT, 106 YALE L.J. 93, 104-5 (October, 1996).

<sup>22</sup> MULLER, *supra* note 22 at 95. In asserting this, Mr. Muller makes clear that, "Batson violations do other bad things, of course: they stigmatize litigants and jurors, and wrongly prevent jurors from participating in the justice system. These are serious equal protection harms, but they have nothing to do with the reliability of verdicts. Thus the Court has articulated a package of rights which, in logic, require no appellate remedy." *Id* at 96.

<sup>23</sup> 499 U.S. 279 (1991).

<sup>24</sup> *Id.*

prosecution.” This “facially discriminatory” explanation was found to be in violation of the defendant’s equal protection rights.<sup>25</sup>

The Appellate Division’s ruling provides some answers to the problems associated with the construct and assessment of impartiality: race is only one aspect of diversity, the diversity of perspectives among group members must be recognized, and race should not be indicative of bias nor the grounds for an excusal.<sup>26</sup> Another approach is to concede that impartiality is an ideal, and that a jurors’ open-mindedness is an essential aspect of the principle. As Chief Judge Kaye wrote in *People v. Arnold*:

While the goal is utter impartiality, each juror inevitably brings to the jury room a lifetime of experience that will necessarily inform her assessment of the witness and the evidence. This is a reality we simply cannot deny. Nor would we want a jury devoid of life experience, even if that were possible, because it is precisely such experience that enables a jury to evaluate the credibility of witnesses and the strength of arguments. What we can—and do—ask, however, is that every juror enter the trial with an open mind, that every jury not be prejudiced from the outset against any particular party, and that every juror be willing to decide the case solely on the evidence presented and the law instructed by the Trial Judge.<sup>27</sup>

These comments are insightful and instructive for judges during voir dire and in appellate review. Yet for lawyers—the zealous advocates—the requirement of an impartial jury contradicts their desire to select a jury that will find in favor of their client(s) or the State. This partiality can mean that lawyers’ prejudicial or discriminatory behavior can be more blatant, particularly during jury selection. But prejudice and discrimination do not simply exist among certain individuals, and during specific processes or within particular contexts; these suppositions were recently refuted by the Supreme Court in *Grutter v. Bollinger* and have been consistently invalidated by social science research.

*(C) Grutter v. Bollinger: The Selection of Jurors Juxtaposed with the Selection of Students*

The Supreme Court has found that it is unconstitutional to systemically exclude a group in the jury selection process,<sup>28</sup> but has not specifically ruled on the

---

<sup>25</sup> Quoted in: John Caher, Black Juror Was Improperly Excluded, National Law J., July 14, 2003, at P4.

<sup>26</sup> Though not clearly demarcated, New York case law has also established general categories of bias that have been utilized as grounds for challenges for cause, and also guidelines to determine whether bias exists. ABRAHAM ABRAMOVSKY AND JONATHAN EDELSTEIN, CHALLENGES FOR CAUSE IN NEW YORK CRIMINAL CASES, 64 ALB. L. REV. 616 (2000).

<sup>27</sup> *People v. Arnold*, 96 N.Y. 2d 358 (June 12, 2001).

<sup>28</sup> “In order to establish a prima facie violation of the fair-cross-section requirement, the defendant must show (1) that the group alleged to be excluded is a ‘distinctive’ group in the community; (2) that the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community; and (3) that this underrepresentation is due to systemic exclusion of the group in the jury selection process.” *Duren v. Missouri*, 439 U.S. 357, 364 (1979). While exclusion from the venire is unconstitutional, the particular jury need not be representative. The

constitutionality of affirmative measures recently introduced into state and federal jury systems. In *Grutter v. Bollinger*, the Supreme Court addressed the question of “whether diversity is a compelling interest that can justify the narrowly tailored use of race in selecting applicants for admission to public universities.”<sup>29</sup> This ruling has relevance to the jury system on a variety of levels. Although the admission of individuals into law school and the selection of jurors are different processes, the core issues that this case deals with, and the reasoning employed, provide insight into the juror selection and qualifying processes. Like students in a classroom, jurors bring their own personal histories and lives into the courts. Effective administration of justice, like effective education, considers peoples’ lives and communities as primary sources of knowledge and guidance, which lead toward meaningful action and reform.

In *Grutter v. Bollinger*, the Court’s majority affirmed that diversity is a compelling state interest, which can justify the use of race in the admissions process. “When race-based action is necessary to further compelling government interest, such action does not violate the constitutional guarantee of equal protection so long as the narrow-tailoring requirement is also satisfied.”<sup>30</sup> This pro-affirmative action decision is framed within the parameters of higher education, yet provides guidance that transcends a specific kind of institution. This section will first analyze relevant points made within the ruling. A parallel will be drawn between the points made by the Supreme Court and the American Psychological Association and the American Sociological Association in their Amici briefs, all of which can inform the design and conceptions of the jury system. The second part of this section will present the views of jury scholars and other groups, who suggest that assessment and affirmative measures can serve as a means to promote inclusion within the jury system.

In finding that racial diversity is a compelling state interest that can justify race-based action in higher education, the Court acknowledged that racial minorities continue to be confronted by racism and discrimination in their educational pursuits. The Court also recognized the benefits of diversity, “educational benefits that diversity is designed to produce...are substantial,” and referred to amicus briefs submitted by the Educational Research Association. The need for diversity in education is applicable to the jury system, which serves a direct source of civic education. As Chief Justice O’Connor, writing for the majority asserts: “Effective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible is to be realized.”<sup>31</sup>

Concomitantly, the Court noted that the need for diversity is not premised on “any belief that minority students always (or even consistently) express some

---

Court has consistently drawn a sharp distinction between the composition of venire and the seated panelists. For further discussion, see, for example: SHERI LYNN JOHNSON, *BLACK INNOCENCE AND THE WHITE JURY*, 83 MICH. L. REV. 1611 (1985).

<sup>29</sup> *Grutter v. Bollinger*, 123 S. Ct. 2325, 2335 (June 23, 2003).

<sup>30</sup> *Id.* at 2338.

<sup>31</sup> *Id.* at 2340-2341

characteristic viewpoint on any issue,” but that “just as growing up in a particular region or having particular professional experiences is likely to affect an individual’s views, so too is one’s own, unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters.”<sup>32</sup>

The Court’s position is strongly supported by the amici briefs of the American Psychological Association (APA) and the American Sociological Association (ASA). Research compiled by the ASA has found: “Blacks living in Detroit, New York, and Chicago today are almost as segregated as were blacks living in South Africa under apartheid.”<sup>33</sup> The schools that Black and Latino children attend are majority non-white, and are “generally inferior in staffing, resources, and programs to predominately white schools in similar neighborhoods.”<sup>34</sup> Meanwhile, when Black or Latino individuals look for housing, they are faced with “residential segregation emanating from racial prejudice.”<sup>35</sup> Sociological research indicates: “Despite four decades of civil rights legislation, studies by the Department of Housing and Urban Development show that Black and Latino renters and buyers face racial discrimination about half the time they visit real estate or rental offices to inquire about advertised housing.”<sup>36</sup> And, in regard to employment, “in social science surveys, employers openly acknowledge their reluctance to hire people of color and recount the tactics they use to discourage minority applicants.”<sup>37</sup>

The American Psychological Association’s brief presents the issues of prejudice and discrimination from a more individualistic perspective. The APA distinguishes the two terms by noting that while “...the term ‘discrimination’ describes unequal treatment, ‘prejudice’ has to do with thoughts and feelings.”<sup>38</sup> Although research “shows a dramatic decrease in the proportion of White Americans who express overtly hostile feelings or overtly derogating thoughts about people of color,” “recent studies show that prejudice is tenacious and pervasive even among those who maintain explicit attitudes of equality.”<sup>39</sup> Thus, people who profess open and accepting attitudes toward people of color “demonstrate that they implicitly (unconsciously) harbor a variety of racial and ethnic prejudices that can translate into subtly discriminatory behaviors.”<sup>40</sup> Further, “the results of research on associative processes conclusively demonstrate that unconscious stereotyping and prejudice, including race stereotyping is widespread.”<sup>41</sup> Yet this complex formulation, which is magnified by a process such as jury selection, is also quite basic:

---

<sup>32</sup> *Id.* at 2341.

<sup>33</sup> American Sociological Association, Brief of the American Sociological Association, et al, as Amicus Curiae in Support of Respondents in *Barbara Gruttter v. Lee Bollinger*, et al, 2 (2003).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 3.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> American Psychological Association, Brief Amicus Curiae if the American Psychological Association in Support of Respondents in *Barabara Gruttter v. Lee Bollinger*, et al, 5 (2003).

<sup>39</sup> *Id.* at 5.

<sup>40</sup> *Id.* at 6.

<sup>41</sup> *Id.* at 8.

One reason for the existence and persistence of prejudice is straightforward. We need categories to absorb and understand our world. Prejudice and stereotypes are the natural by-products of ordinary perception, categorization, learning, memory, and judgment. There is, accordingly widespread agreement among social scientists that social categorization processes—including racial and ethnic stereotyping—are virtually automatic, operating at perhaps a more basic level and often independent of conscious attitudes, beliefs, and perceptions.<sup>42</sup>

This observation does not excuse harmful prejudicial behavior, but allows for the consideration, “If stereotypes represent our classification strategy for making sense of a complex world, then they are necessarily shaped by the world we are classifying.” Thus, when we work to change the “larger social context that controls these phenomena—we can thereby change individuals’ classification strategies and this reduce both unconscious bias and its behavioral effects.”<sup>43</sup> Social science research has established that positive contact between people of different races and ethnicities “typically reduces inter-group prejudice”<sup>44</sup> and that under similar conditions unconscious prejudice is ameliorated. An inclusive, efficient jury system can function like a university with fine professors and administrators. Both provide models of interaction that can affect the world we create and how we understand it.

Considering the Supreme Court’s acknowledgement that race matters, and that prejudice and discrimination against racial minorities is still prevalent, it is reasonable to infer that the selection and qualification can also be tainted by prejudice and discrimination. This point has been widely discussed and will be addressed in the proceeding section. The Court’s ruling and social science research also suggest another invaluable point: group experiences and differences are not all-defining, but certainly inform students’ (and jurors’) views and opinions. Acknowledging that differences exist allows for equalizing action.<sup>45</sup>

The Court also noted “context matters.” “[S]trict scrutiny is designed to provoke a framework for carefully examining the importance and the sincerity of the reasons advanced by the governmental decisionmaker for the use of race in

---

<sup>42</sup> *Id.* at 7. The APA’s brief cites two studies that directly address these aspects of prejudice: Steve J. Spencer et al, Automatic Activation of Stereotypes: The Role of Self-Image Threat, 24 *Personality & Soc. Psychol. Bull.* 1139 (Nov. 1998); J Blascovich et al., Racism and Racial Categorization, 72 *J. Personality & Soc. Psychol.* 1364 (June 1997).

<sup>43</sup> *Id.* at 13.

<sup>44</sup> *Id.*

<sup>45</sup> In his book *Race Matters*, Cornel West opens a chapter of his book that deals with affirmative action, with a quote from Audre Lorde: “Institutionalized rejection of difference is an absolute necessity in a profit economy which needs outsiders as surplus people. As members of such an economy, we have all been programmed to respond to human differences between us with fear and loathing and to handle that difference in one of three ways: ignore it, and if that is not possible, copy it if we think it is dominant, or destroy it if we think it is subordinate. But we have no patterns for relating across human differences as equals. As a result those differences have been misnamed and misused in the service of separation and confusion. –Audre Lorde, *Sister Outsider* (1984) Quoted in: Cornel West, *Race Matters*, 93 (1993).

that particular context.”<sup>46</sup> This point is also made by the American Sociological Association: “Declaring students’ race out of bounds in admissions decisions would deny admissions officers crucial information to contextualize other life experiences and accurately measure academic performance.”<sup>47</sup> Drawing a parallel between the selection of students and the selection of jurors suggests that affirmative measures must be undertaken with great care, while the justification for affirmative measures is more apparent in the jury system, as the cross-section of the community requirement is found in our Constitution.<sup>48</sup> At a county level, “context matters” implies that the contexts of people lives must be considered, and whether differences in contexts warrant affirmative measures. And at a courtroom level, “context matters” suggests that race, gender, and socio-economic position inform jurors’ decision making.<sup>49</sup> Immutable characteristics and the contexts of people’s lives are not grounds for exclusion, but inclusion: the individual and contextual diversity found in New York’s communities must be reflected in our courts.

The majority in *Grutter v. Bollinger* also noted that a program designed to attain “a critical mass of minority students” does not transform it into a quota-based program. Instead, “[an] admissions program must remain flexible enough to ensure that each applicant is evaluated as an individual and not in a way that an applicant’s race or ethnicity is the defining features of his or her application.”<sup>50</sup> Applying this logic to the jury system suggests that inclusive measures should not be designed to fulfill quotas, but instead be responsive to group and individual’s concerns, particularly those whose participation is hindered by the process or life circumstances. In qualification procedures, such as language qualifying interviews, the parameters set by the Court can be seen as highlighting the importance of professional, individualized assessments that are devoid of, for example, racist assumptions about language facility. In the courtroom, the idea of flexible and individualized assessment are familiar concepts in the debate on peremptory challenges: while some see peremptory challenges as a means facilitate lawyers’ ability to individually consider and select jurors in a venire, others find immutable characteristics to be the primary basis for peremptory challenges, the antithesis of the flexibility referred to by the Court. Combining the point made by the Court in the preceding paragraph that “context matters,” with the need to employ individualized consideration, exposes the difficulty that lawyers and judges face in the selection of jurors.

In concurrence the majority, Justice Ginsburg framed the ruling in a larger sphere, in part by quoting from Article 2 (2) of the International Convention on the Elimination of All Forms of Discrimination (ratified in the US in 1994) that

---

<sup>46</sup> *Id.*

<sup>47</sup> American Psychological Association, *supra*, note 20, at 4.

<sup>48</sup> Affirmative measures also have a history of being employed that dates back to twelfth century England. The privilege of a trial de *medietate linguae*, a trial composed of half of a person’s own countrymen and half of qualified Englishmen, was first accorded to Jewish individuals and later to merchants from Italy and Germany. Fukurai, *Supra*, note 21.

<sup>49</sup> Johnson, *supra*, note 21. Douglas L. Colbert, Challenging the Challenge: Thirteenth Amendment as a Prohibition Against the Racial Use of Peremptory Challenges, 76 CORNELL L. REV. 1 (1990).

<sup>50</sup> *Id.* at 2343.

endorses “special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.” Measures that should “in no case entail as a consequence the maintenance of unequal and separate rights.”<sup>51</sup> Justice Ginsburg also widened the frame by directly asserting: “It is well documented that conscious and unconscious race bias, even rank discrimination based on race, remain alive in our land, impeding realization of our highest values and ideals.”<sup>52</sup> Ideally, affirmative action will evoke societal change: “From today’s vantage point, one may hope, but not firmly forecast, that over the next generation’s span, progress toward nondiscrimination and genuinely equal opportunity will make it safe to sunset affirmative action.”<sup>53</sup>

*(D) Accessible Information and Affirmative Measures as a Means Toward Greater Juror Utilization*

(1) Systemic Design Affects Inclusion

While the jury system can be seen as a prototype for egalitarian justice, core issues and problems within our society are also mirrored in the jury system. In an article that addresses affirmative action in jury selection, Nancy King asserts, “Procedures at each phase of jury selection continue to exclude greater percentages of minorities than whites.”<sup>54</sup> For example:

- Change of venue away from urban areas decreases minority populations.
- The use of voter registration lists as the jury source lists “consistently underrepresent African-American and Hispanic citizens who would otherwise be eligible to serve as jurors.”<sup>55</sup>
- Qualification procedures that require potential jurors to receive, complete and return questionnaires tends to disfavor minorities, who are more likely to be transient.
- From the pool of those who return questionnaires, those with felony convictions and those whose proficiency with English is lacking are disqualified. Individuals who claim financial, transportation, or caretaker hardship are also excused. As a result, “Because members of minority ethnic and racial groups are more likely to be less proficient in English than whites, to have fewer years of schooling, to be charged with or convicted of felonies, to be unable to absorb the unreimbursed costs of jury service, use of these qualification and excuse procedures reduces the proportion of minority jurors in the pool even further.”<sup>56</sup>

---

<sup>51</sup> *Id.* at 2347.

<sup>52</sup> *Id.* at 2347-2348.

<sup>53</sup> *Id.* at 2348.

<sup>54</sup> NANCY J. KING, RACIAL JURYMANDING: CANCER OR CURE? A CONTEMPORARY REVIEW OF AFFIRMATIVE ACTION IN JURY SELECTION, 68 N.Y.U.L. REV 707, 712 (OCTOBER, 1993).

<sup>55</sup> *Id.* at 713.

<sup>56</sup> *Id.* at 716-717.

- The summoning process can yield a lower amount of minorities if proximity requirements are employed.
- Facially neutral criteria for grand jury service and to serve as the grand jury foreperson has also excluded minorities.
- “Finally, some evidence suggests that district attorneys continue to exercise peremptory challenges to exclude disproportionate numbers of minority venire members from trial juries.”<sup>57</sup>

These observations suggest that systemic reform, which is responsive to the communities that the design of a jury aspires to represent, promotes less bias and better utilization. Nancy King and other jury scholars’ work also suggest what CJP consistently encounters in the courts: the jurors who are least able to participate are hindered by multiple concerns.

Inclusion is promoted through effective communication with all populations and by implementing reforms and specific actions that make it easier for all people to serve. Introducing affirmative measures within the jury system is less of a stretch than it is in systems in which affirmative action is commonplace. “Jurors perform a special task shared only by judges themselves: they assign criminal liability and sometimes determine whether individuals live or die. Wielding this power, majority groups have used the criminal justice system to oppress members of minority groups throughout our country’s history. The targets of other affirmative action efforts—unrepresentative faculties, boards of directors, even legislatures—lack this distinguishing feature.”<sup>58</sup>

## (2) New York’s Efforts to Promote Inclusion

In 1994, The Jury Project<sup>59</sup> submitted a final report that advocated for reforms that promote inclusion; these reforms and affirmative measures were based on jurors’ response to the system, research of jury scholars and relevant groups,<sup>60</sup> and measures that had been employed by states and the federal system. In response to many of the recommendations made by The Jury Project, since the mid-1990’s New York has introduced profound reforms that have taken the burden of service off a select few individuals, and promoted diversity among those called to serve. The abolishment of automatic exemptions and disqualifications, the elimination of the antiquated permanent qualified list, and the expansion of the number of source lists from which jurors are drawn are reforms that have enabled the system to seat panelists that better reflect New York’s diverse communities. New York State has also implemented an increase in juror pay to \$40 a day, and now requires employers to compensate jurors for the first three days of service, if employing ten or more employees.<sup>61</sup> Increased juror pay also promotes diversity, as it is particularly useful for those

---

<sup>57</sup> *Id.* at 718.

<sup>58</sup> KING, *supra* note 53, at 765.

<sup>59</sup> The Jury Trial Project, a blue-ribbon panel formed by Chief Judge Judith S. Kaye, was designed to review and reform jury service in New York State.

<sup>60</sup> The New York State Judicial Commission on Minorities submitted a report dated April 1991, which was cited within The Jury Project’s report.

<sup>61</sup> N.Y. JUDICIARY LAW § 521, 521-A (McKinney, 2001).

who work on an hourly basis or a commission-based salary, are sole-proprietors, or unemployed.<sup>62</sup>

Inclusive measures have allowed for other reforms to be introduced that reduce the burden of service and, in turn, promote utilization. Jurors, employers, and the court system benefit from the reduced frequency of service, and the introduction of innovative administrative practices, such as the one-day/one trial system<sup>63</sup> and the juror call-in system, which are now practiced in many areas of the state.<sup>64</sup> Along with reform benefits, penalties also promote greater efficiency in the system: jurors can now obtain automatic postponements, but they must also provide documentation of excuses, and face increased penalties if they do not show up for service.<sup>65</sup>

In its final report, The Jury Trial Project provided two recommendations that suggest obtaining data on the diversity of jurors summoned to the courts, and acting on these findings. The Jury Trial Project recommended: “Add a voluntary question about a juror’s racial/ethnic background to the jury questionnaire.” The other recommendation advised the court system to “[m]onitor questionnaires returned by the Postal Service as undeliverable to see if a disproportionate number are coming from particular zip codes; if the answer is yes, use weighted random sampling methods to draw the names for receipt of questionnaires.” These recommendations are congruent with a point made earlier in this section: the communities from which jurors are drawn, and individual responses to the system provide information that leads toward meaningful action and reform.

Part of the way to continue to facilitate inclusion is to understand how the process affects communities and individuals in New York. The race/ethnicity question has not been added to New York’s qualification questionnaire, nor has weighted summoning been instituted. CJP recommends collecting and examining data on the race and ethnicity of jurors present in each venire and empanelled. Concurrently, CJP recommends expanding research and analysis to include the non-compliant and disqualified populations, and the proportion and responses of caretakers who serve. This data, coupled with the rich sociological data available, some of which was presented earlier in this report (“Blacks living in Detroit, New York, and Chicago today are almost as

---

<sup>62</sup> Involving businesses in the payment process is fiscally beneficial to the state, while the process also promotes awareness of the jury system and its integral role in society. Devising ways to promote employer comprehension and compliance are essential to the realization of this law. In May of 2003, Arizona passed a rather ingenious law that raises juror pay from \$12 to up to \$300/day after the 10th day of the trial. The law also increases the penalties associated with dodging jury duty. For more information, visit: <http://www.azcentral.com/arizonarepublic/local/articles/0515jury15.html>

<sup>63</sup> The one-day/one-trial can also be seen as more educational to a greater mass of the general public. VICTOR E. SCHWARTZ, MARK A. BEHRENS, CARY SILVERMAN, SAFEGUARDING THE RIGHT TO A REPRESENTATIVE JURY: THE NEED FOR IMPROVED JURY SERVICE LAWS (JANUARY, 2003).

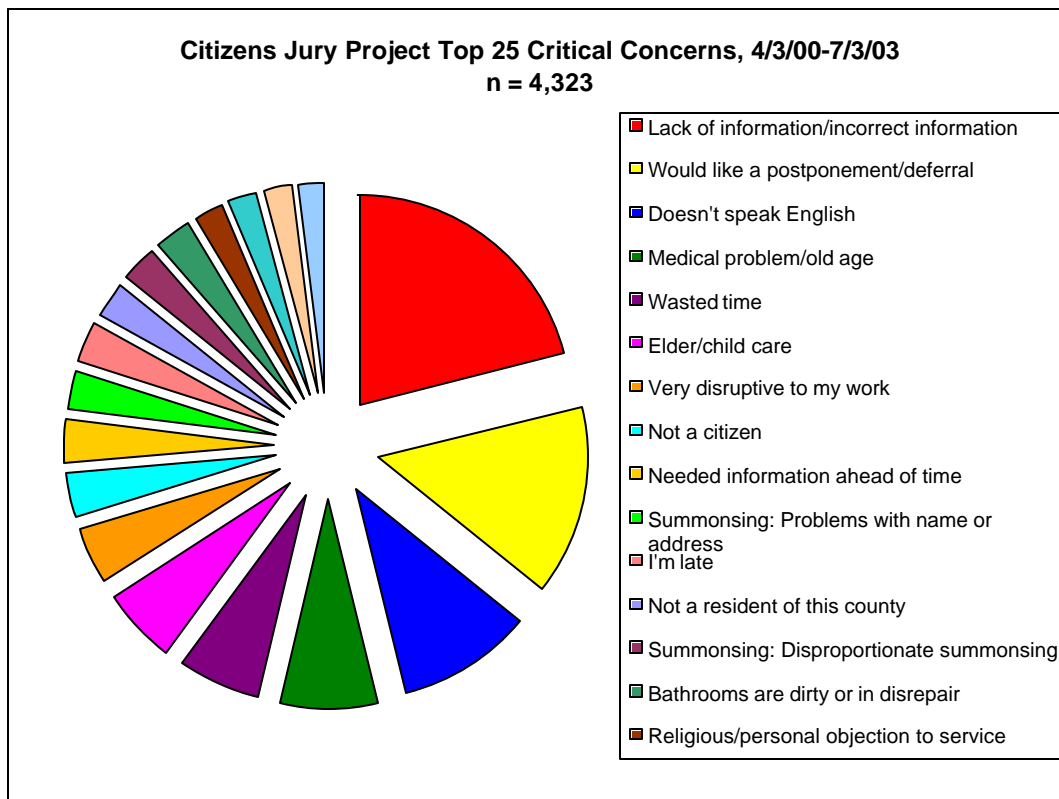
<sup>64</sup> “Implementation of a one-day/one-trial system can actually lead to large fiscal savings. The reason for this unexpected result is the efficiency gained by the one-day/one-trial system. Rather than have a large number of jurors sitting around in a jury room for days on end, reading the newspaper and playing cards while collecting a jury fee, the one-day/one-trial method brings in only the number of jurors that the court anticipates will be needed and dismisses those not selected for a trial.” *Id* at 32.

<sup>65</sup> For a more in depth review of jury reform in New York, please read: THE UNIFIED COURT SYSTEM, JURY REFORM IN NEW YORK STATE (MARCH, 1998).

segregated as were blacks living in South Africa under apartheid”) may suggest the need for affirmative measures.

(3) Access to Information as a Means to Promote Inclusion: The Example of Individuals Whose Facility with English Needs to be Assessed

Another aspect of the issue of inclusion is access to information. As reported in the testimony CJP presented to the Commission on the Jury, access to information is the primary concern that jurors report, followed by the concerns “would like a postponement/deferral, and “doesn’t speak English.”



CJP has noticed a particular connection between 1<sup>st</sup> and 3<sup>rd</sup> most common categories: Individuals whose facility with English is limited are the population who receive the least information from the courts, and are, perhaps, the population most in need of information.<sup>66</sup> The implementation of Article XVI, § 510 of the New York Consolidated Laws can, in itself, be seen as an inclusive measure; this law recognizes that the requirement for individuals to read and write in English was too stringent, that individuals who can “understand and communicate” in English can serve on panels. As “members of minority ethnic

<sup>66</sup> Although this section specifically discusses communicating with non-English speakers, communication with other populations that may face hardship in serving is also vital. For example, providing adequate information ahead of time for caretakers, and means by which they can seek an excusal without traveling to the courthouse, will take the burden off those who simply cannot serve. Additionally, like any reform that encourages people to seek excusal or postponement ahead of time, greater pre-service access to information would give each county a better estimate of the number of individuals who can serve on a given day.

and racial groups are more likely to be less proficient in English,”<sup>67</sup> and are also likely to be poor in New York, this law promotes both race and class inclusion. However, in order for Article XVI § 510 to be properly inclusive, and promote better juror utilization, multi-lingual and non-English speaking individuals should receive information prior to service. In previous reports, CJP has suggested that there is dearth of information provided to individuals whose English is limited, which is evident on two levels.

First, non-English speakers are the only group on New York’s qualification questionnaire whose responses to the questionnaire have no significance, and non-English speakers are not addressed on any New York summonses. While questions on the qualification questionnaire that address other possible disqualifiers, such as citizenship, age, and felony conviction, are accompanied by options to substantiate a person’s claim (such as visa, alien registration card, or birth certificate) no options are presented for non-English speakers. Furthermore, as it is administered in New York and Kings counties, regardless of whether a person checks “yes” or “no” to the language question on the qualification questionnaire, they will be summonsed to the court. The primary reason for this is that the best assessment for people whose facility with English is questionable is an in-person interview with a court official. CJP agrees with the need to conduct these interviews in person and individually, but believes that the current disregard of these individuals in the summoning process puts an unnecessary administrative burden on non-English speaking individuals and the courts.

Second, the lack of multilingual information for jurors in New York, a state in which 28% of the population speaks a native language other than English, and 13% of this group speaks English “less than very well,”<sup>68</sup> is dismissive of a large part of the general population. It is contradictory to establish a law that no longer requires jurors to be able to read and write in English, within a system that doesn’t also change, but instead communicates with potential jurors exclusively in English. Further, all of the agencies through which the jury system gathers its source lists communicate with the general public in languages other than English; therefore, an individual can fill out forms or utilize services that put his or her name on jury source lists without being able to read, write, or speak English.<sup>69</sup> Multilingual information can facilitate the process of assessing non-English and multilingual speakers prior to service, and promote the inclusion of those who can “understand and communicate” but are unable to read, and can be intimidated by, court information and forms.

New York has introduced reforms that are informed by and reflect a cognizance of juror’s perspectives and their lives outside of the courts. The work that lies ahead, in relation to juror utilization, is to continue to develop policies that promote inclusion, and value jurors’ time and their lives outside of the courts.

---

<sup>67</sup> KING, *supra* note 53, at 717.

<sup>68</sup> United States Census Bureau, US Census 2000 (visited April 16, 2003) <<http://www.census.gov/main/www/cen2000.html>>.

<sup>69</sup> For a more detailed analysis, please read the Citizens Jury Project Winter 2002 Report, available at: <http://www.juryproject.org/reports.html>

Part of this work involves enforcing laws and procedures that will expedite the process and ensure that jurors' rights are protected, such as 22 NYCRR § 202.33, are complied with in the courts. Another part of this work involves continuing to improve the diversity of jurors, not simply those who are summoned, but also those who arrive in the courts and are utilized. The jury pools in the courthouses are the base, which all other jury-related reforms affect and are affected by.

The profound action of bringing individuals from diverse communities into the courts to serve as fact finders promotes the fair administration of justice, and allows for the justice system to educate individuals and positively changes their perception of the system. As Chief Judge Kaye once noted:

**Each year we summon more than 500,000 citizens to jury duty. That's more than half a million chances every year to educate the public about our courts. Half a million chances to draw in every segment of society, to show people firsthand that the system really does work. Half a million chances a year to counteract pervasive public negativism and cynicism about courts and lawyers.**<sup>70</sup>

The American Bar Association and the National Center for State Courts have both conducted studies that found that public involvement with the courts has increased, and with this increased involvement, the public's confidence and satisfaction has grown: "the more knowledge people have about the judicial system the greater their confidence in the judicial system overall as well as in a whole host of its components."<sup>71</sup> But these studies also found that support for the judicial system is not monolithic: confidence in and perception of support from the judicial system varies across socio-economic classes and groups. The ABA study found that the people most likely to have confidence in the judicial system are: "men, those who have higher incomes, those who are more educated, and those who have positive litigant and juror experience."<sup>72</sup> The NCSC 1999 study reported that 80% of the respondents felt that the wealthy received better treatment in the courts, and the majority of the respondents (54%) felt that non-English speaking receive the worst treatment. In terms of racial/ethnic differences, the NCSC study reported that Hispanics expressed the greatest satisfaction with the performance of the courts, while African-Americans' opinions about the courts were consistently the most negative. Additionally, "almost 70% of African American respondents said that African-Americans, as a group receive "Somewhat Worse" or "Far Worse" treatment from the courts; a substantial number (over 40%) of Whites/Non-Hispanics and Hispanic respondents agreed."<sup>73</sup>

---

<sup>70</sup> HON JUDITH S. KAYE SYMPOSIUM: RETHINKING TRADITIONAL APPROACHES, 62 Alb L. Rev 1491, 1495 (1999).

<sup>71</sup> NATIONAL CENTER FOR STATE COURTS, HOW THE PUBLIC VIEWS STATE COURTS: A 1999 SURVEY 41 (1999), available at: <http://www.ncsc.dni.us/ptc/results/results.pdf>.

<sup>72</sup> THE AMERICAN BAR ASSOCIATION, *supra* note 22, at 1312.

<sup>73</sup> THE NATIONAL CENTER FOR STATE COURTS, *supra* note 61, at 38.

A positive finding in the NCSC study is that the jury system received overwhelming support from respondents. 78% of the respondents indicated that the jury system is the fairest way to determine the guilt or innocence of a person accused of a crime, and 69% agree that juries are the most important part of the system.<sup>74</sup> New York State's efforts to improve the jury system are well warranted, as is a critical look at how well the system is widening the breadth of participation.

CJP Recommends:

- **Collect data and analyze how well the diverse communities of New York are represented in the jury pool and panels in New York.**
- **Expand research and analysis to include the non-compliant and disqualified populations, and to assess the inclusion of caretakers into the system.** Research has indicated that non-respondents generally want to serve but that personal responsibilities/hardship and misconceptions about service inhibit their response.<sup>75</sup> A state-specific assessment of non-compliant and disqualified jurors can allow for a more in-depth analysis of many of the issues brought up in this section. This research will also help to further clarify where gaps in information exist, and how the system can best accommodate individuals with personal hardship and responsibilities that inhibit their ability to serve and contribute to the system.
- **Reconsider implementing affirmative measures to promote juror participation in New York.** The results of the analysis of the composition of jury pools and panels and the non-compliant and disqualified populations can whether affirmative measures are appropriate, and what measures should be utilized.
- **Provide jurors with more information prior to and throughout service.** It is essential that jurors are knowledgeable about their rights and responsibilities, while mechanisms of inclusion and outreach to diverse communities in New York can promote knowledge and participation. In regard to multilingual and/or non-English speakers, multilingual juror information will facilitate the communication the court system and the diverse communities in New York. Specific recommendations are provided in section 8 of this report.

---

<sup>74</sup> *Id.*

<sup>75</sup> ROBERT G. BOATRIGHT, IMPROVING CITIZENS RESPONSE TO JURY SUMMONSES, AMERICAN JUDICATURE SOCIETY (1998).

### 3. Summary of Jurors' Comments from New York and Kings County

#### (A) Appreciative comments

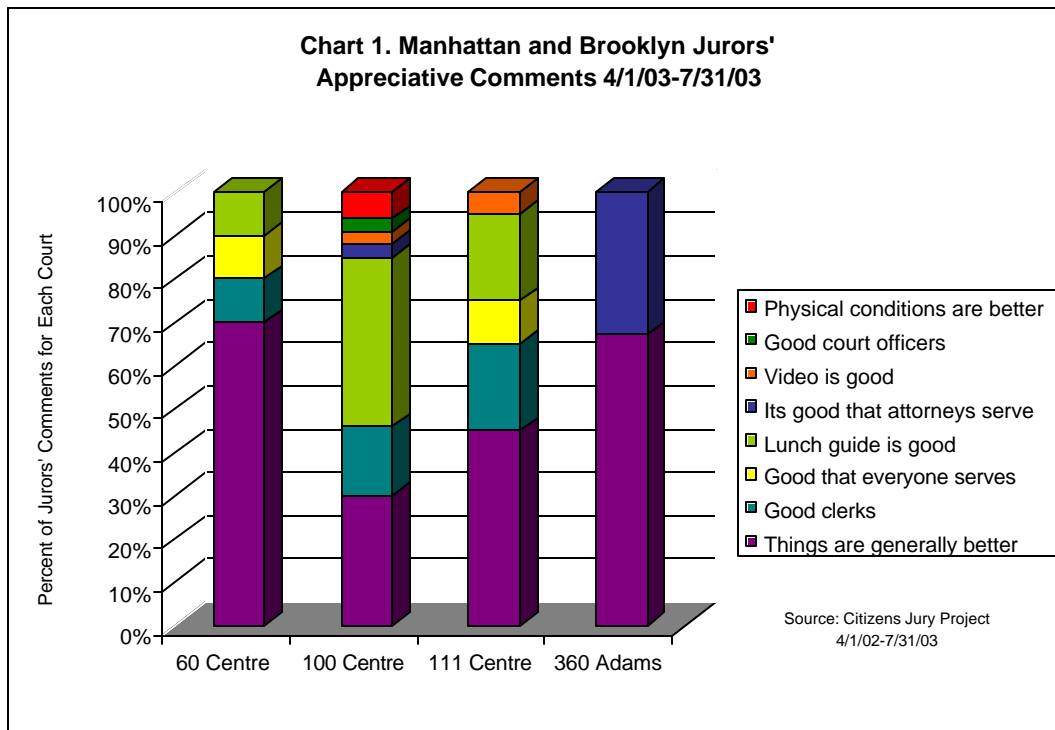
Jurors' comments illustrate their awareness and appreciation of New York's unremitting efforts to improve the system. Some jurors notice specific reforms:

**What is the pay now for jurors? 40 Bucks! What?! It used to be \$10 bucks a day. Nice, forty."** (360 Adams, 7/1/2003)

Other jurors acknowledge reforms while also recognizing the broader purpose of improving upon the system:

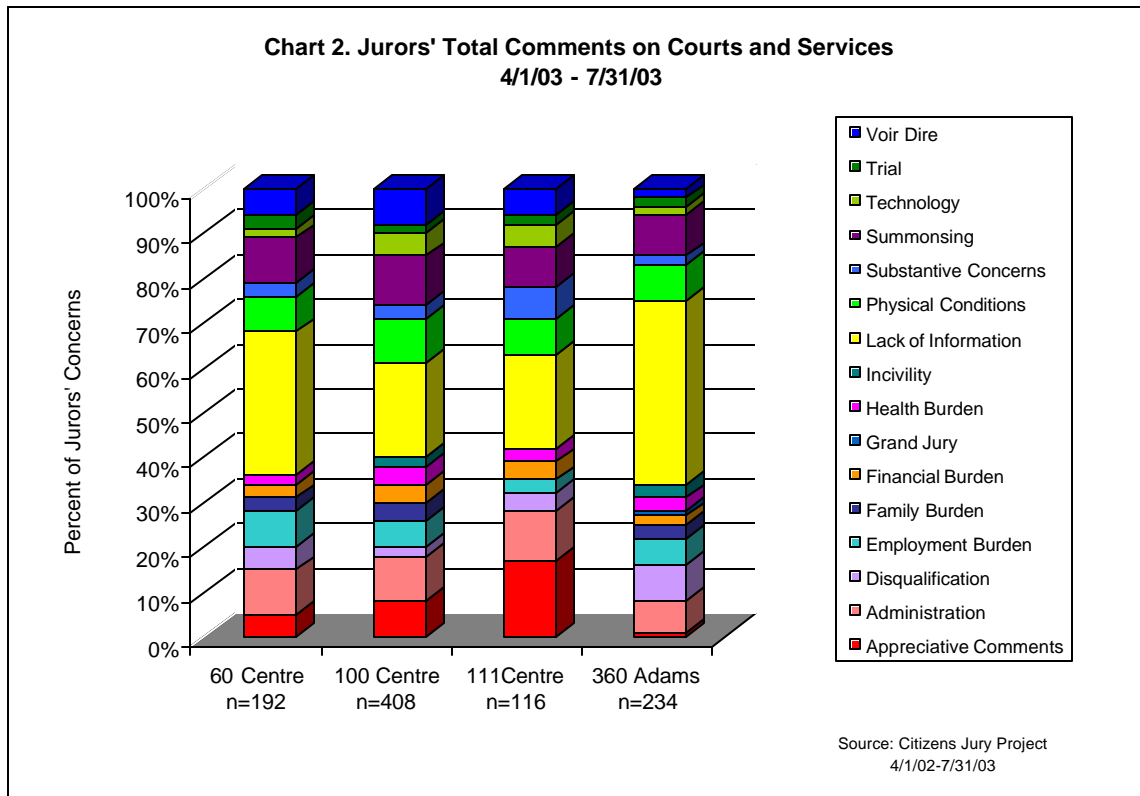
**...It's really improved from the way it was before. I'm called less often and I serve fewer days. I am 65 years old and I have served about 15 times. I don't really have any complaints. [...] This is the first time I've served since I retired, but I don't expect to make money. This is my right as an American. I've been to other places where they don't have this system.** (60 Centre, 6/10/03)

These two quotes reflect that New York jurors recognize that "things are generally better" (Chart 1, purple). Jurors are also cognizant and appreciative of clerks' (spruce) and court officers' (green) concerted effort to make jury service an efficient and enjoyable experience. Jurors also appreciate procedural improvements, such as the abolishment of all professional exemptions in 1996, which leads jurors to note that it's "good that everyone serves" (yellow) and "it's good that attorneys serve" (blue).



(B) All juror comments

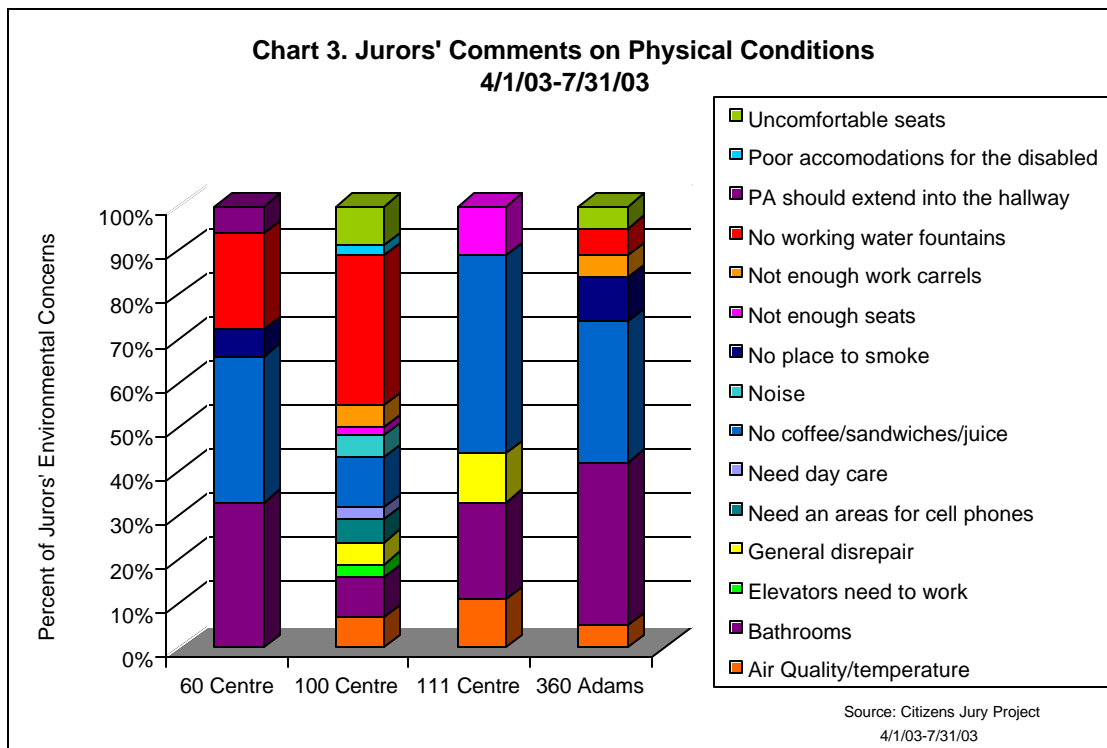
Jurors’ positive comments relay their appreciation for the constructive reform that has been introduced, and the steadfast strengths within the system, while jurors’ critical comments provide direction for future reform and insight into what areas of the facilities and process warrant particular attention. New York and Kings County jurors continue to frequently comment on “lack of information” (Chart 2 below, yellow) provided before and during service. Jurors also continue to comment on the summoning process (purple) and concerns with the administration of the process (melon). Concerns related to the physical environment (lime green) and incivility (dark teal) have lessened significantly since CJP’s inception; as will be discussed in the following sections, the work that lies ahead in both of these areas is court-specific and amenable to change. Jurors’ personal and professional lives clearly affect their experiences within the courts: employment (light blue), financial (orange), family (dark blue), and health concerns (hot pink) factor into jurors’ ability and willingness to serve.



(C) Physical Environment

In an article on the social ideology portrayed and developed through courthouse architecture, Jonathan D. Rosenbloom notes: “Our architecture shapes our environment. Its design is a product of society’s desires and needs. In this way, architecture reflects society by serving as the physical manifestation of society’s needs and values.”<sup>76</sup> Courthouse architecture illustrates this perhaps most tellingly, while individuals’ needs, desires, and treatment of courthouse space are also quite revealing. Court users have a variety of objectives, levels of experience, and personal attitudes; as a result, the maintenance and upkeep of court facilities must be both ongoing and responsive.

Jurors’ responses to the physical conditions in Manhattan and Brooklyn courts illustrate common problems in court facilities, but also court-specific issues. The conditions of the bathrooms (purple), the air quality and temperature (orange), and the lack of working water fountains (red), inaccessible coffee, sandwiches, and juice (blue) are cross-cutting court concerns. Jurors at 100 Centre and 360 Adams Street complain about the discomfort of the seats and the lack of work carrels, while jurors at 111 Centre complain that there are not enough seats, and that jurors are often forced to sit in the halls.



<sup>76</sup> JONATHAN D. ROSENBLOOM, SOCIAL IDEOLOGY AS SEEN THROUGH COURTROOM AND COURTHOUSE ARCHITECTURE, 22 COLUM, ULA J.L. & ARTS 463 (WINTER, 1998).

#### 4. 60 Centre Street

##### (A) Summary of juror concerns

**I've been here for 50 years, and I must say the system is better now than it has been in the past. Now I don't hear anymore about people living here for 55 years who have never served. Another good thing is that now they don't talk to us like we're kindergarteners. (6/25/03)**

Jurors at 60 Centre praise the reforms introduced in New York that, among other things, promote a more inclusive system and greater respect for the role of jurors as intelligent and pivotal fact finders. The top critical concern, lack of information, suggests that communication between the court system and jurors is not ideal, and can continue to be improved upon. As discussed in section 2d, jurors' sense that their time is being wasted is, in part, related to lack of information provided before and during the process. Jurors also expressed typical environmental concerns, such as the maintenance of the bathrooms, and also county-specific concerns, such as the lack of accessible water. Not surprisingly, jurors also expressed employment concerns.

<b>Top Juror Concerns—60 Centre Street</b>	
<b>4/01/02 – 7/31/03</b>	
<b>(Total Concerns = 192)</b>	
<b>Top Appreciative Comments</b>	<b>Count</b>
Things are generally better	7
Lunch guide is good	1
Good clerks	1
It's good that everyone serves	1
<b>Top 10 Critical Concerns</b>	<b>Count</b>
Lack of information/incorrect information	55
Wasted time	11
Would like a postponement/dismissal	9
Bathrooms	5
Needed directions to the courthouse	5
No coffee/sandwiches/juice	5
Very disruptive to my work	5
Concerned with unhappiness of employee	4
No working water fountains	3
Voir dire: time wasted by attorneys	3

##### (B) Breakdown of juror concerns

Jurors' concerns about the physical environment at 60 Centre often relate to the restrooms in the courthouse, and typically center on two problems: the upkeep of the restrooms and the lack of signage leading to the restrooms. With up to 300 people a day in the assembly room, maintaining clean, well-stocked

restrooms can be an arduous task. CJP recommends staffing the assembly room with an employee whose sole responsibility is cleaning the assembly room and bathrooms, and stocking the bathrooms regularly.

The easier of the two problems to fix (that has been mentioned in every trimester report CJP has written in the past two years) is that the signage leading jurors to the bathrooms is inadequate:

**“Where’s the restroom...Oh, o.k. Why don't you make the bathroom sign a little bigger? I bet you have a lot of people ask you that question. You could avoid all that by making the sign a little more visible—unless you guys are trying to hide the bathroom. (4/21/03)**

Female jurors approach CJP interns with this concern entirely too frequently to record. If the question were consistently recorded, it would be the top 60 Centre Street critical concern. The problem is not lack signs, but their placement. As the following photo (right) illustrates, women within two feet of the restroom have no trouble finding it.



However, the only sign directing women from the front hallway (pictured left) to the restroom is a folded paper sign. This problem is a quick fix and should be remedied.

60 Centre Street jurors also consistently complain about the lack working water fountains and accessible water. Although jurors at 60 Centre have the most accessible coffee stand of all the New York and Kings County courts, jurors

comment that because the stand shuts down in the early afternoon, they have no access to water after lunch:

**“They need to sell water- and the guy who runs the coffee shop leaves after lunch. They have a vending machine with soda- they need to sell water too.” (7/29/03)**

60 Centre: Physical Conditions	Count
Bathrooms	5
No coffee/sandwiches/juice	5
No working water fountains	4
P.A. should extend into the hall	1
No place to smoke	1

Jurors seeking a postponement or dismissal expressed the majority of the summoning concerns. Other concerns include disproportionate summoning, problems with name or address, and concerns from jurors who were then involved in the non-compliance process. Often jurors who have difficulty coming to the courts to obtain postponements or deferrals are laden with responsibilities, ranging from child care to employment concerns. When jurors schedule time away from their work to report for service, but do not receive the proper documentation from the courts, confusion and resentment can arise:

**"I was told by a representative at the juror office that he has scheduled me to attend my juror service in mid-July. Also, he informed me if I don't show I will be fined \$250.00. It is now July 10 and I have not received a jury summons. I am confused on what I should do. In addition, I put off a mandatory business trip so that I would be able to complete my jury duty service. (7/10/03)**

As discussed in the previous trimester report, in *The State of the Judiciary 2003*, Chief Judge Kaye introduced a new online initiative, which will allow jurors to qualify for or postpone service via the worldwide web. This innovation will undoubtedly help those overwhelmed by work and other responsibilities; CJP recommends adding this feature to the Unified Courts System’s new web site as soon as possible.

60 Centre: Summoning	Count
Would like a postponement/deferral	9
Disproportionate summoning	2
In non-compliance	2
Problems with name or address	2
Would like to volunteer	2

“Lack of information” concerns expressed at 60 Centre Street primarily relate to a need for information before and during service. Non-English speakers are a population that is perhaps most in need of clear information, yet no information

is provided to non-English speakers prior to service, and very little information is provided during morning orientation:

**I can't speak English good. I live in Chinatown for 19 years, so how can I speak English good? I can't fill out this form. I don't know understand it.**  
(6/23/03)

**I was here yesterday and I am trying to find out if I am supposed to be here today. [In broken English] Can I just go home? I was in court twice.**  
(7/16/03)

More generally, all jurors should be provided with clear instructions about the time and place to report during all phases of service. Closing instructions are particularly important, as jurors reporting on subsequent days of service are forced to find the location of proceedings on their own. Providing jurors with adequate information allows them to report punctually, and promotes mutual respect.

60 Centre: Lack of Information	Count
Lack of information/incorrect information	55
Needed directions to the court house	5
Needed information ahead of time	2

“Wasted time” is the top administrative concern in all four courthouses, and the third-most common concern in the data set from this trimester. Many jurors clearly want to serve on trials, and feel that if they are not going to participate in voir dire, they should be excused:

**My only complaint is that I wanted to serve on trial and I haven't been called. Today's my 3rd day and last Friday they kept us here until 4:30. If they knew they weren't going to call us, they should've let us go early. C'mon it's Friday!** (6/23/03)

Jurors also noted that the process should start punctually each morning:

**...Although jurors were asked to appear at 8:30 a.m., we really did not need to be there until 9:30 a.m. Perhaps they could meet us halfway and call it for 9 a.m.?** (7/9/03)

Jurors are aware that other county and state systems have implemented time saving procedures that promote efficiency and lessen the burden that service puts on their personal lives:

**I can't be on a trial past Friday. I have an eleven-year-old daughter and she is only away this week. Otherwise I am solely responsible for her. Why don't we have the one day-one trial system that they have in New Jersey? Have they made jury service longer?** (7/14/03)

The one-day/one-trial system is difficult to implement in Manhattan, which is home to very transient populations, and a smaller total population than Brooklyn. Due to the high-demand for jurors in New York County, the call-in system is also rarely utilized. Despite these factors, CJP encourages New York County provide a way for jurors to check their status online, as the Kings County web site does. This information, coupled with the new online initiative that will allow jurors to qualify or postpone service on the Unified Court System’s juror web pages, can improve New York County jurors’ impressions of the administrative process.

60 Centre: Administration	Count
Wasted time	11
Process does not start on time	3
Service is too long	2
Not dismissed when promised	1
Service should be more flexible/accommodating	1

Although data suggests that the statewide average time for voir dire has decreased, 60 Centre Street jurors express concerns and relay experiences that indicate that the voir dire process needs to be more adequately monitored:

**"I was on voir dire for 6 hours last Friday. There were law students and lawyers in the jury who said that it wasn't supposed to take that long. There was no judge there and the lawyers made their opening statements. They weren't really asking us questions; they were just talking at us.**  
(6/2/03)

Beyond the need for supervision, part of the difficulty surrounding the voir dire process is that 60 Centre Street, which was built in 1927, is the busiest civil courthouse in the nation. The court’s empanelling rooms are particularly small and ill equipped to meet the demand. Court officials have submitted a work request to knock down one of the walls between two of the empanelling rooms that are adjacent to the assembly room at 60 Centre. This would create at least one empanelling room that can accommodate larger venires. CJP encourages the City and State to act on this request.

Congruent with the data received in past trimesters, CJP also received comments related to pre-trial and in-trial experiences that are indicative of a need to continue to encourage settlement before jurors are empanelled, and to provide jurors with more information during the process:

**I was picked for a civil case, and knew it would probably never get to trial - it was against the City. The judge had us call a number that night to see if we were needed the next day - we were not. I called the number again the evening of the 2nd day, and was told to report at 10 a.m. to the jury room on the 3rd floor. I seemed to be the only one who actually listened to the message. By 11 a.m. only one other person was there. At 11:30 a.m., the**

**bailliff led in the remaining jurors who were all upstairs in the main jury room. It really didn't matter; we just sat there, with no contact from anyone, until 1 p.m., when we were led to the courtroom. We were given the run-through of what it meant to be a juror by the Judge, and sworn in. We were then released for lunch. An hour later, we were sitting, once again, in the jury room waiting. We did a lot of that. By 3 p.m. ... the Judge came to the jury room to tell us that the case had been settled, thank us for our jury service, and wish us well. I think they should have provided us with a little more information during that last day. I knew they were probably discussing settlement, but most folks were just antsy because they didn't know what was going on.**

<b>60 Centre: Voir Dire &amp; Trial Concerns</b>	<b>Count</b>
Time wasted by attorneys during voir dire	3
Religious/personal objection with voir dire or trial	3
Civil voir dire should be supervised	2
Too many people are called to voir dire	2
Jurors should be screened prior to voir dire	2
Wasted time during the trial	2
Jury disbanded, case settled while waiting	1
Wrong way to handle civil cases	1

The New York State Department of Labor reports that unemployment in July was at approximately 8.1%, down from January's rate (9.1%), but over 2% greater than the rate in July 2001 (6%).<sup>77</sup> Employment and financial concerns affect jurors' ability to serve and heighten the stress they feel in the process of serving. Jurors at 60 Centre report that service is "very disruptive to my work," and are "concerned with the unhappiness of their employer." Some jurors' comments indicate employer abuse, or at least a misunderstanding of the employment laws related to service:

**I get off work at 2:00 am and go to work at 6:00pm. Is there any way I can get out early to get to work or come in late? I just need to get some sleep in between. (7/7/03)**

<b>60 Centre: Employment/Financial Burden</b>	<b>Count</b>
Very disruptive to my work	5
Concerned with unhappiness of employer	4
Am losing major work assignments	3
Financial hardship	2
Severe financial hardship	2

<sup>77</sup> New York State Department of Labor, Unemployment Rates and Labor Force, <[http://64.106.160.140:8080/lmi/laus\\_results.jsp?PASS=1&area=02005611New+York+City](http://64.106.160.140:8080/lmi/laus_results.jsp?PASS=1&area=02005611New+York+City)> (Visited August 14, 2003).

Improving technology is one way in which jurors' employment concerns can be minimized. Jurors praise the newly installed, wireless internet access provided at 60 Centre Street, a service that allows jurors to work while they wait. However, jurors express some confusion about the service:

**"Is there a place here where I can get wireless internet service?" [Juror was referring to the CJP booth.] (6/11/03)**

**"Do you have internet service here? Can I bring my laptop? How do I pay for internet service here?" (6/26/03)**

To promote a better understanding of the wireless service and the number of people who take advantage of it, CJP recommends enclosing or providing information on the summons, the Unified Court System website, and the county web site. Additionally, information about online access should be included with the employee/employer handbook; employers and employees both appreciate the value of working while serving, and can make arrangements to sign up for wireless access, particularly if they are cognizant of the service ahead of time.

<b>60 Centre: Technology</b>	<b>Count</b>
Need phone lines for computers	4
Improve technology	3
Informational phone lines are always busy	1

Caretakers have multiple responsibilities and unorthodox schedules, which are often affected and defined by others. Caretakers frequently express a willingness to serve, but also an inability to:

**I've got a 5-year old son and I have to go pick him up from his day care center at 2:00 p.m. Is there any way I can get on a case that can only go on in the morning? I'd really like to serve on a jury. (4/21/03)**

Difficult economic times put an exceptional strain on families, particularly when a bread winners' income is lost:

**I am looking for an exemption. I am a full-time caretaker of my son and a part-time caretaker of his little sister. In addition, my wife's company is going through bankruptcy, so, she cannot take off time from work. I would have loved to serve, but this is just not a good time. (4/1/03)**

The problems that caretakers face in attempting to serve does not suggest that the system should be more lenient with caretaker excusals, but that efforts should be made to better accommodate caretakers throughout the process of service.<sup>78</sup>

<sup>78</sup> For a more thorough analysis of this issue, please review Section 8 of CJP's Spring 2003 Report on Juror Concerns. The report is available at: <http://www.juryproject.org/Spring03report.pdf>.

60 Centre: Family/Health Burden	Count
Elder/child care	3
Medical problem/old age	2
Need to pick up children	2

*(C) Recommendations*

1. Physical Environment:

- Consistently staff the assembly room with one employee whose sole responsibility is cleaning the assembly room and bathrooms, and stocking the bathrooms regularly.
- Post better signage leading to the restrooms. Improve signage for the women's bathrooms.
- Clean and maintain bathrooms on a regular basis--at least two to three times daily.
- Provide a water cooler for jurors or at least make certain that the vending machines and coffee stand are consistently stocked with water. Until the water is tested and the water fountains in the courthouse are repaired, jurors need to have access to bottled water.
- Maintain an adequate number of cleaning staff throughout the building.

2. Summoning:

- Modify the map and information on the summons to reflect the Canal Street subway station. This station services nine subway lines and is located within blocks of the courthouse.
- Provide information about the wireless access services at 60 Centre in the summoning process.

3. Lack of Information:

- Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
- Provide jurors waiting in the assembly room with updates on why delays have arisen and when jurors should expect the next venire to be called.

4. Administration

- Give jurors more comprehensive information about jury service during morning orientation and throughout process.
- State clearly to jurors, in morning orientation, that postponements and deferrals can be made in room 139.
- Start calling jurors to voir dices early, and start cases punctually.

- Ensure that all aspects of 22 NYCRR § 202.33 are complied with in the courts, including the requirement that a judge sit in on the commencement of voir dire in all civil trials, and provide the option of overseeing the entire process. If an alternative approach is currently being practiced, and is found to be advantageous and necessary, then clear parameters should be set on this alternative practice.

5. Technology/Communications:

- Offer information on County website ([www.manhattanjuror.com](http://www.manhattanjuror.com)) in Spanish and other predominant languages. Website translation services are often free (e.g., <http://world.altavista.com/>) and software is very affordable. Translating the site will promote inclusion and lessen the juror hardship faced by over 10% of New York’s residents, who do not understand and comprehend the English language well.
- Provide more phone lines for jurors to call in with questions and concerns. Jurors report that the phone lines are frequently busy, and that they are often forced to make an in-person visit to room 139.

**5. 100 Centre Street**

*(A) Summary of juror concerns*

Jurors at 100 Centre recognize the range of reforms that have been introduced, and the positive effect that good court officers and clerks have on the process:

**...The system's getting better and better. The case I'm serving on now has a lot of lawyers in the jury. They weren't excused like they used to be. It's more fair that way. The clerk in there [assembly room] is funny too. He tries to make it light. (6/17/03)**

“Lack of information” again tops the list of jurors’ more critical comments at 100 Centre. Jurors also complain about “wasted time,” aspects of the voir dire process, and how service can have a negative effect on their employment and finances.

<b>Top Juror Concerns—100 Centre Street</b>	
<b>4/1/03-8/31/03</b>	
<b>(Total Concerns = 408)</b>	
<b>Top Appreciative Comments</b>	<b>Count</b>
Lunch guide is good	12
Things are generally better	9
Good clerks	5
Physical conditions are better	2
Good court officers	1

Top 10 Critical Concerns	Count
Lack of information/incorrect information	82
Would like a postponement/deferral	25
Wasted Time	24
No working water fountains	15
Intrusive personal questions during voir dire	11
Religious/personal objection to voir dire or trial	11
Financial hardship	8
Service should be more flexible/accommodating	7
Very disruptive to my work	7
Court officers are unhelpful	6

*(B) Breakdown of juror concerns*

The lack of accessible water is jurors' most common physical conditions concern at 100 Centre. Until the water fountains are functioning again, CJP recommends either consistently providing a water cooler or stocking the vending machines with water. An additional source of water could be a coffee and refreshment stand (the lack of which is jurors' second-most common concern) similar to the stand located outside of the jury assembly room at 60 Centre. In response to this concern, CJP will continue to work with the Commission for the Blind and Visually Handicapped and city officials so that a coffee and refreshment stand can soon become a permanent fixture for jurors on the 15<sup>th</sup> floor.

Jurors at 100 Centre also commented on the restrooms. Like 60 Centre, jurors complained about their maintenance, but unlike 60 Centre, two jurors commented on their inaccessibility for people with disabilities:

**The only washroom that is wheelchair accessible is not working. It makes things a little difficult but nothing I can't deal with. What do you know about court accessibility issues? What are the services for the disabled? I was called before and I was excused because it was going to be a long trial, something like 6 weeks. [...] It was hard for me to feel a part of the proceedings because I am in a wheel chair it was hard for me to feel included in the proceedings. I was unable to sit in the jury box. I would really like to be called and serve on a trial. (6/19/03)**

New York jurors often come to the courthouse with the expectation that they can work while waiting to be empanelled. The more the courts can accommodate jurors' need to work, the less stress jurors feel serving:

**...I'm a freelance writer. I brought my laptop, but they won't let me put the chairs together so I can work. All the carrels are taken because everyone brings work with them now. (6/9/03)**

Jurors' comments about their experiences in the various courtrooms of 100 Centre indicate that the physical environment affects juror comprehension and perceptions of proceedings:

**The acoustics in Part 58 are horrendous. I have perfect hearing and I had a hard time hearing people even though they used microphones. To make matters worse, [a judge] has horrible diction. One of the jurors in the panel told me she had a hard time understanding him. He mutters his words and speaks too fast. (7/1/03)**

Although it is costly and sometimes impossible to remedy aspects of the physical environment in New York's courthouses, it is possible for judges, lawyers, and court officials to be aware of the constraints of the court facilities, and to compensate by conveying information to jurors clearly.

100 Centre: Physical Conditions	Count
No working water fountains	15
No coffee/sandwiches/juice	5
Bathrooms	4
Uncomfortable seats	4
Air/quality/temperature	3
General disrepair	2
Poor accommodations for people with disabilities	2

Beyond the common concern of seeking a postponement or deferral, jurors at 100 Centre also spoke with CJP interns about their need to switch from criminal to civil trials. This concern often stems from a juror's past personal experience of being a victim of crime or a relative of a victim.

Jurors also expressed procedural concerns, such as "received multiple summonses" and "problems with name or address." Other jurors commented that the map provided on the summons is not adequate, and that the courts, which don't have any signage in front of them, can be difficult to find:

**Another suggestion, on the blocks outside you should have signs that say "100 Centre this way" and "60th Center this way", directions, you know because people are asking for directions on the street. (6/5/03)**

**"The summons needs to have better directions. There is no North side entrance. The North side entrance is a delivery door. The entrance is on the west side. Why doesn't it just say West Side Entrance?" (6/4/03)**

100 Centre: Summoning	Count
Would like a postponement/deferral	25
Switch from criminal to civil or vice-versa	5
Received multiple summonses	3

Disproportionate summoning	2
Unreadable summons	2
Problems with name or address	2

**Things have improved since I served last. They seem to be more organized and tell you what to expect. And, it's more comfortable than the other courts. (6/16/03)**

Although the preceding comment reflects that 100 Centre is doing a better job of informing jurors about the process, there continues to be a disproportionately large amount of “lack of information” concerns in the total juror comments collected in the court.

Some jurors complain that the court system needs to provide more information about the parameters of service prior to and throughout the process:

**I was called on a Tuesday, today is Wednesday -- so will I be called tomorrow or will a new jury pool come in so that I can be discharged? The time frame is too uncertain. I need to plan my schedule weeks, if not, months in advance to clear my schedule. This system hurts the careers of professionals. (7/16/03)**

Other jurors' substantive concerns convey their own ignorance about the system:

**I suggest that you give jurors cases to read to help educate them on the system. I believe that while you are to be judged by a jury of a cross-section of the population, this is not a good thing because so many people are ignorant. [...] I don't want to be judged by these people. (7/14/03)**

Jurors in criminal courts frequently express privacy concerns, concerns that could be ameliorated by providing jurors with information prior to voir dire:

**What kind of questions do they ask you during voir dire?  
Do they ask you those questions in front of the other jurors?  
What if you don't feel comfortable speaking in large crowds? (6/10/03)**

Parallel to the responses of jurors in all four courts, jurors at 100 Centre suggest that non-English speakers should be assessed early, and provided with information during morning orientation. The lack of information provided to non-English speakers evokes questions about the process for both English and Non-English speakers:

**I was here yesterday and was very surprised to learn that there was an Asian guy who didn't speak any English, and tried to tell the clerk that and the clerk told him to sit down and listen to the orientation. But, when they were listing the disqualifications he had to find another Asian guy and tell him that he lives in Brooklyn. Then, the guy had to speak for him. My**

**question is, are they going to have translators for non-English speaking jurors if you let them in the jury? (6/10/03)**

<b>100 Centre: Lack of Information</b>	<b>Count</b>
Lack of Information/incorrect information	82
Needed information ahead of time	5
Needed directions to the courthouse	3

Jurors complain about administrative inefficiency, and particularly, “wasted time” at 100 Centre:

**I know we’re doing our civic duty, but they really have to do something about the down time- there's just so much waiting around. You'd like to be able to feel like you are doing something. (6/18/03)**

**There is too much wasted time. I was excited to serve the first day, but by the third day I'm tired of it. I would have been happy to serve, but now... I know they need time to do their job and you probably get this complaint all the time. But something can be done. (6/9/03)**

Jurors suggests that their past experience predisposes them to being rejected for certain cases, and that they should not be summoned so early if the process is perpetually unpunctual:

**You know what it's like spending time to serve knowing that they will not accept you because of the work you do? [...] It is also discouraging when they have you come early and then don't call on you for an hour or more. It happens day after day. (6/9/03)**

Jurors provide suggestions about how to make service less burdensome, such as implementing half-day calls and, when the demand for jurors is not high, more frequently employing the call-in system in New York County:

**I just concluded my jury service and feel that it would have benefited me if half days of service had been an option. I'm self employed and would be willing to do a longer period of service if I could serve for part of the day and work on the other part. [...] Also, friends of mine in Westchester are able to phone in to see if their services are required each day. That would also be a helpful alternative in Manhattan. I found the court personnel to be unfailingly helpful and courteous. That made my service much more pleasant that it would have been otherwise. (7/20/03)**

**"I was called on Wednesday, but not empanelled til Friday. I sat around all day Wednesday and Thursday. Thursday was noticeable slow. The clerks said as much. I'm not getting paid by my employer to read or not work, so it would be nice to be able to call the night before to see if they need us the next day -- like you can call the night before your first day of service-- and to see how slow the next day will be. Also, three days is too long a**

**time to serve -- it would be much better to only show up for two days. I came for two days and served on the third. That's too much waiting.**  
(6/23/03)

Jurors' comments also reflect some substantive concerns about the justice system, concerns that are exacerbated when jurors perceive that their time is being wasted:

**"You know there is a real problem with jury service. This is the sixth time I have been here and it finally hit me while I was sitting in there just now. All this money and time and resource for one defendant. I guess it is more a problem with the justice system than this jury duty. All this for one case. Don't you agree?"** (6/26/03)

100 Centre: Administration	Count
Wasted time	24
Service should be more flexible/accommodating	7
Service is too long	4
Process does not start on time	3
Not enough cases for jurors	1

Jurors at 100 centre express voir dire concerns that are typical in criminal courts. Jurors express concerns about their own rights, including their right to privacy:

**I sat on a panel and people were asked all sorts of personal questions- were you or your family victims of crimes, which I would feel uncomfortable answering. What do I do- do I have to answer these questions in front of all these strangers?** (6/18/03)

**I feel uncomfortable answering some questions in front of the whole crowd [voir dire]. They ask questions like where you live, your birthday, if you know anyone in law enforcement. It's an invasion of privacy.** (7/9/03)

When a juror's concern about privacy is related to a painful past experience, the process of service can foster resent and trauma:

**I don't like criminal court- I prefer civil court. My son was killed and I just don't like to deal with this stuff. I asked to be switched courts but they said they couldn't do anything.** (6/18/03)

As CJP recommended in its Spring 2003 Report on Juror Concerns,<sup>79</sup> which addresses the issue of juror privacy directly, the court system should create standards that guide the procedure by which judges address jurors privacy concerns. Privacy should be routinely discussed in during pre-voir dire

---

<sup>79</sup> This report is available at: <http://www.juryproject.org/reports.html>.

instructions and in the closing instructions. Jurors’ comments suggest that mentioning privacy is not routine among all judges at 100 Centre:

**I was in [name of a judge] courtroom in a panel yesterday. They were asking us all sorts of personal questions that I didn't want to answer in front of 150 strangers. I never got the impression that I could answer the questions in private. My friend's a prosecutor and told me I could, but that the judge was busy and forgot to tell you. He's a nice person, but I never knew I could do that. (6/18/03)**

100 Centre: Voir Dire & Trial Concerns	Count
Intrusive personal questions during voir dire	11
Never called for voir dire	4
Time wasted by attorneys during voir dire	4
Too many people are called/dismissed	4
Object to name being called during voir dire	2
Judge efficient/amiable	2
Jurors should be screened prior to voir dire	2
Lack of information regarding delays	1
Should be allowed to ask questions during trial	1

Unemployed and employed individuals harbor fears about the effects that jury service can have on their job or ability to obtain a job. As the following quote exemplifies, these concerns can also reflect misconceptions about jurors’ right to serve:

**Four people have already gotten laid-off from my department and I really cannot afford to take time off for jury service. I even go in on weekends because I am so scared of another lay-off. There's no way I am going to ask my boss to give me time off for jury service. (5/12/03)**

Self-employed individuals express similar concerns. The following quote suggests that when a clerk does not offer a postponement or deferral, it is necessary to clearly convey to the juror the significance of promoting an inclusive system. When jurors realize the weight of their role in our justice system, resentment can subside:

**I am freelancer and it is quite difficult for us to take 3 days off from work and come and sit here and lose so much time. I have to bring all my work with me, my laptop and notes and everything. I showed them paperwork that [shows that] this would be a financial hardship to me, but they said, “No you have to serve.” Can you do anything? (7/22/03)**

100 Centre: Employment Burden	Count
Very disruptive to my work	7
Concern with unhappiness of employer	5

Self-employed should be exempt	4
Student feels entitled to an exemption	4
Am losing major work assignments	2

Related to their employment concerns, 100 Centre Street jurors commented on their financial hardship and that juror pay is not enough, particularly for the self-employed or those being paid on an hourly basis:

**I think there should be an exemption checklist that will give help for self employed consultants. I went to see that woman (at Room 139) and she was nasty to me. She said I had to bring tax info saying I was below the poverty line. I'm making some money now, but I didn't work for 2 years after 9/11, I just started working again, I owe the government taxes, my husband just graduated from law school, and we both have loans to repay. I think it stinks that some people are serving and are being paid by an employer while I have no one paying me. This is such a financial hardship. (7/14/03)**

100 Centre: Financial Burden	Count
Financial hardship	8
Pay is not enough	4
Severe financial hardship	2
Only get paid for hours worked	1

100 Centre Street jurors suggest that technology needs to be improved in the courthouse and, like 60 Centre Street jurors, recommend that the call-in system should be utilized in New York County. Jurors also comment that 100 Centre should provide wireless access, and that the speakers in certain courtrooms are ineffective.

100 Centre: Technology	Count
Should have a call-in system	5
Improve technology	4
Need phone lines for computers	4
Problems with video/tv/speakers	3
PA should extend to the hall	2

Elderly jurors and jurors with health problems voiced the majority of the concerns in the category of Family/ Health Burden. Caretakers also expressed trepidation about their ability to serve, due to their multiple responsibilities and overlapping concerns. As was the case in the last trimester report, CJP interviewed and assisted a child who was serving as his grandmother's translator:

**I am here for my grandma who really cannot be here because she's really old. On top of that, she cannot speak any English. (5/12/03)**

100 Centre: Family/Health Burden	
Medical problem/old age	11
Elderly should not have to serve	6
Elder/child care	5
Work from home to be with children, elderly, disabled	2

*(C) Recommendations*

1. Physical Environment:
  - Collaborate with the CJP and the Commission for the Blind and Visually Handicapped in our efforts to provide coffee stands for jurors that would be located outside of the jury assembly rooms.
  - Consistently staff the assembly room with one employee whose sole responsibility is cleaning the assembly room and bathrooms, and stocking the bathrooms regularly.
  - Provide a water cooler for jurors consistently, or at least make certain that the vending machines are consistently stocked with bottled water. Until the water is tested and the water fountains in the courthouse are repaired, jurors need to have access to bottled water.
  - Clean and maintain bathrooms on a regular basis--at least two to three times daily.
  - Maintain an adequate number of cleaning staff throughout the building.
  - Reconstruct the door to the women's bathroom in the jury room so that it is accessible for people with disabilities
  
2. Summoning:
  - Modify the map and information on the summons to reflect the Canal Street subway station. This station services nine subway lines and is located within blocks of the courthouse.
  
3. Lack of Information:
  - Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
  - Provide jurors waiting in the assembly room with updates on why delays have arisen and when jurors should expect the next venire to be called.
  
4. Administration
  - Give jurors more comprehensive information about the process of serving during morning orientation and throughout process of service.

- State clearly to jurors, in morning orientation, that postponements and deferrals can be made with the clerks at 100 Centre.
- Start calling jurors to voir dices early, and start cases punctually.

5. Technology:

- Provide wireless access for jurors. Wireless access will allow jurors to work and communicate with their places of employment while serving. This will not only ease employment burdens created by service, but decrease the amount of jurors who feel service is a waste of time.

6. 111 Centre Street

(A) Summary of juror concerns

**It's improved a great deal. The only other time I was summonsed was 4 years ago. I'm a lawyer in criminal law, so they've just started calling us. I doubt I'll be chosen. I can't say I've changed my practice because of this service, since it just began. I'm waiting to see how I react to the lawyers' questions as a juror, though. (6/24/2003)**

The preceding quote encapsulates improvements made to the system, and jurors' and lawyers' appreciation of these improvements. Along with the appreciative comments referenced above, jurors praised the clerks and, of course, the CJP lunch guide.

As with all the courts, "lack of information/incorrect information" was the primary critical concern jurors commented on. Jurors also noted that their time was wasted in the process of service and that the process should start on time. Congruent with the last trimester report, personal concerns, such as financial hardship and medical problems were also among the top ten concerns.

<b>Top Juror Concerns—111 Centre Street</b>	
<b>4/1/03-7/31/03</b>	
<b>Total Concerns = 116</b>	
<b>Top Appreciative Comments</b>	<b>Count</b>
Things are generally better	9
Good clerks	4
CJP lunch guide is good	4
Good that everyone serves	2
Juror orientation video is good	1
<b>Top 10 Critical Concerns</b>	<b>Count</b>
Lack of information/Incorrect information	22
Wasted time	9
Religious/personal objection	7
Would like a postponement/dismissal	7
Financial hardship	4

No coffee/sandwiches/juice	4
Improve technology	4
Medical problem/old age	3
Process should start on time	3
Never called to voir dire	2

*(B) Breakdown of juror concerns*

Jurors at 111 Centre continue to comment on the need for accessible coffee, sandwiches, and juice. Jurors also remarked that the bathrooms need to be more consistently cleaned, the air quality and temperature is poor, and the assembly room lacks seating.

111 Centre: Physical Conditions	Count
No coffee/sandwiches/juice	4
Bathrooms	2
Air quality/temperature	1
General disrepair	1
Not enough seats	1

“Lack of Information/incorrect information” concerns comprised a majority of the concerns collected at 111 Centre. Jurors expressed some knowledge of the process, but a need for more information about the length of service:

**Hi, I have a question. I was wondering whether I could get out of jury duty. I'm a small businessman and there are a lot of projects I have to oversee. I read the pamphlet and I know it's hard to get out just for business reasons. I just want to know if it would only be three days, guaranteed or what. It's just the sooner the better. (5/29/03)**

**I am sitting and waiting for what? What do they do? And after I am done, I go home? They said three days. Then what? I leave? (7/10/2003)**

CJP also received “lack of information” comments from jurors who were in the process of serving on a case:

**"Can you answer question I have? I don't know if they called my case. The Torres Case. There is no clerk at the front that is why I am asking." (6/3/2003)**

111 Centre: Lack of Information/Summoning	Count
Lack of information/incorrect information	22
Would like a postponement/deferral	7
Needed information ahead of time	2
Received multiple summonses	2
Disproportionate summoning	1

Jurors' primary administrative concern at 111 Centre continues to be "wasted time." Jurors conveyed that the process should start on time, and that the process could be more efficient throughout the day:

**Waste of time - disrespect. I got here at 9:30am and roll call was one hour later. Inefficient, no judge is here so we're dismissed for today but are on call for Thursday. They should respect us more—I expected more of this." (6/3/2003)**

Jurors often associate administrative improvements with more integrated and well-run technological systems. 111 Centre jurors generally comment that technology should be improved in the courthouse. Jurors more specifically suggest that they would appreciate wireless access.

111 Centre: Administration/Technology	Count
Wasted time	9
Improve technology	4
Process should start on time	3
Need phone lines for computers	2
Service should be more flexible/accommodating	1

Jurors' comments at 111 Centre suggest, like jurors' comments from other courts in New York County, that the juror questionnaires could be reviewed more thoroughly, and not necessarily in the presence of jurors:

**At voir dire they could have collected the info using a questionnaire we fill out as we wait. We should just have to answer those questions once, not while everyone waits. (111 Centre, 6/10/2003)**

Certainly, the best way to utilize jurors' information and conduct the voir dire process is somewhat dependent on each courthouse's caseload and the types cases brought to each part. However, tools such as questionnaires can facilitate and expedite the process. Questions and issues surrounding the use of questionnaires<sup>80</sup> should be addressed both by the system and each court, as some concerns can relate to court-specific environmental and procedural concerns.

<sup>80</sup> In Jury Trial Management, § III-3 discusses the advantages and disadvantages of questionnaires used to assist with jury selection. Some of the issues with questionnaires that are posed in this section include: "What level of oversight should the trial judge exercise over the preparation and administration of juror questionnaires?" "What consequences do jurors face for failure to answer the questionnaire completely?" "How should attorneys use the questionnaire in the oral jury selection process?" And, "How much time should the court grant the trial attorneys to review and analyze the questionnaire responses?" G. Thomas Munsterman, Paula L. Hannaford & G. Marc Whitehead, Jury Trial Innovations, 60 (1997).

111 Centre: Voir Dire & Trial Concerns	Count
Never called to voir dire	2
Time wasted by attorneys	2
Too many people called	2
Intrusive personal questions	1
Refuse to choose attorneys/law enforcement	1
Lack of information regarding delays	1

The following quote illustrates the employment, fiscal, and temporal concerns that the more transient New York County residents face when summoned to serve:

**I am a dual citizen, Greece and America. I work half the time there and live half time here. They call me for jury duty and I must fly here to serve. I already postpone twice. And now I must come. They let me choose what day, but with my work I can't tell what is good day. I cannot even understand what they say, the lawyers. I do not get chosen. (6/10/03)**

Recently, CJP has also heard from the youngest jurors called to serve, who face financial hardship, employment concerns and concerns about their education:

**I'm a student and I'm trying to pay off my student loans. I can't afford to do that with the money I'm making here. Is there a way to apply for a larger juror stipend if you're really in need? (7/14/03)**

Although some jurors complain that juror pay is not enough, others recognize and appreciate the increase in juror compensation:

**\$40 a day is not bad. I'm not working and like that your sign says it's [jury service] a privilege. You could save somebody. (6/17/03)**

111 Centre: Employment/Financial Burden	Count
Financial hardship	4
My business will suffer	1
Pay isn't enough	1
Self-employed should be exempt	1
Student feels entitled to exemption	1
Very disruptive to my work	1

Comparably few comments were made in the category of family and health burdens at 111 Centre during this trimester. In regard to caretakers, it is hard to know whether this is a good sign: in an effort to be accommodating, the court system frequently excuses caretakers. CJP recommends providing more

options for caretakers than simply dismissal, so that the system can benefit from caretakers' perspectives.

111 Centre: Family/Health Burden	Count
Medical problem/old age	3
Elder/childcare	1

*(C) Recommendations*

1. Physical Environment:

- Collaborate with the CJP and the Commission for the Blind and Visually Handicapped in our efforts to provide coffee stands for jurors that would be located outside of the jury assembly rooms.
- Consistently staff the assembly room with one employee whose sole responsibility is cleaning the assembly room and bathrooms, and stocking the bathrooms regularly.
- Provide a water cooler for jurors consistently, or at least make certain that the vending machines are stocked with bottled water. Until the water is tested and the water fountains in the courthouse are repaired, jurors need to have access to bottled water.
- Clean and maintain bathrooms outside of the jury room on a regular basis--at least two to three times daily.
- Maintain an adequate number of cleaning staff throughout the building.

2. Summoning:

- Modify the map and information on the summons to reflect the Canal Street subway station. This station services nine subway lines and is located within blocks of the courthouse.

3. Lack of information:

- Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
- Provide jurors waiting in the assembly room with updates on why delays have arisen and when jurors should expect the next venire to be called.

4. Administration

- Give jurors more comprehensive information about the process of serving during morning orientation and throughout the process of service.
- State clearly to jurors, in morning orientation, that postponements and deferrals can be made in room 139 at 60 Centre Street.
- Start calling jurors to voir dire early, and start cases punctually.

5. Technology:

- Provide wireless access for jurors. Wireless access will allow jurors to work and communicate with their places of employment while serving. This will not only ease employment burdens created by service, but decrease the amount of jurors who feel service is a waste of time.

7. **360 Adams Street**

*(A) Summary of juror concerns*

**Being a lawyer in the jury room - I first had to fend off my fellow jurors turning to me and saying, literally, "Well, you're a lawyer, what do you think?" That was particularly the case when we discussed legal issues contained in the judge's charge at the end of the case. That said, it wasn't hard to persuade everyone that I had no more directly relevant expertise than did they. Bottom line—not easy being a lawyer in the deliberating room but not an insurmountable problem (provided, of course, you're not the sort who wants to dominate the deliberations). (6/23/03)**

These thoughtful comments, written by a juror who served on a civil case at 360 Adams, reflect the significance of reforms that promote greater inclusion. Concurrently, the diversity of people now summoned to the courts creates a greater need for information to be clearly conveyed to jurors.

As was the case in all three New York County courts, jurors' critical concerns suggest that procedural information is not consistently and effectively communicated to jurors at 360 Adams, and that "wasted time" remains a common concern in Brooklyn. Five of the top ten critical concerns centered on jurors' personal responsibilities related to their employment, finances, and families, and how their lives outside of the courts are affected by their service within it.

<b>Top Juror Concerns—360 Adams Street</b>	
<b>4/1/03-8/31/03</b>	
<b>(Total Concerns = 234)</b>	
<b>Top Appreciative Comments</b>	<b>Count</b>
Things are generally better	2
Good that attorneys serve	1
<b>Top 10 Critical Concerns</b>	<b>Count</b>
Lack of information/incorrect information	93
Would like a postponement/deferral	16
Wasted time	12
Medical problem/old age	6
No coffee/sandwiches/juice	6
Elder/child care	5

Court officers are unhelpful	4
Concern of unhappiness by employer	4
Very disruptive to my work	4
Financial hardship	3

*(B) Breakdown of juror concerns*

Jurors comments on the physical environment at 360 Adams suggest that the assembly room needs to be a place that is consistently cleaned and maintained, and also a place where jurors can comfortably sit and engage themselves in work-related activities while they wait.

**"Can't they do something about the seating in here? If we have to be here all day, they could at least give us something a bit more comfortable."**

(4/8/03)

**Why don't they provide us with a workstation somewhere so that we'll be more productive and less frustrated?** (4/3/03)

Jurors' comments on the lack of coffee and refreshments do not stem from a lack of food and drinks—indeed, a coffee stand is located directly down the hall from the jury assembly room. Instead, these comments are related to jurors' feeling of being "trapped" in the assembly room. Unlike the Manhattan courts, 360 Adams does not provide a sign-out sheet for jurors. CJP encourages Brooklyn officials to treat the jurors like the adults that they are, and provide a sign-out sheet that, in turn, will improve juror satisfaction with the process.

**"What can I do? I want to get out of here! I just want a break from this room for like 5 minutes. And the guy up there won't take my name. Do you think they will call names this early?"** (7/7/03)

<b>360 Adams: Physical Conditions</b>	<b>Count</b>
Bathrooms	7
No coffee/sandwiches/juice	6
No place to smoke	2
Air quality/temperature	1
Not enough work carrels	1
Uncomfortable seats	1

Jurors' summoning concerns at 360 Adams primarily center on the need for a postponement or deferral. A majority of jurors seeking postponement/deferral do so because of health concerns or that service conflicts with their responsibilities as caretaker or employer/employee.

<b>360 Adams: Summoning</b>	<b>Count</b>
Would like a postponement/deferral	9
Disproportionate summoning	2
In non-compliance	2
Problem with name or address	2
Unreadable summons	2
Would like to volunteer	2

Mirroring the comments collected in the last trimester report, jurors' comments regarding "lack of information" centered on the dearth of information provided during service. CJP interns often field a plethora of directional comments, which they summarize, rather record individually:

**The following questions came up throughout the morning at 360 Adams.**

**Where do I go to:**

- 1) Get divorce papers?
- 2) Get a marriage license?
- 3) Bid on the foreclosure of a house?
- 4) Get a restraining order? (6/2/03)

Even though the language interviews are conducted within close proximity of the assembly room at 360 Adams, non-English speaking jurors express confusion about where to report once they are released from their interviews:

**I went to English testing and they sent me with this [juror receipt]. I don't know what I do. Am I wait here? Am I juror? (6/23/03)**

Non-English speakers' concerns consistently illustrate the need to provide multilingual court information prior to service. The following juror spoke in broken English but conveyed that he traveled from New Jersey to report for service in Brooklyn:

**"My landlord sent this me. I moved to Jersey [showing his driver's license]. What should I do? I moved. (7/1/03)**

Jurors also express confusion about where to report once they are selected, particularly when there is downtime between selection and the trial start date:

**I was here last week and am on [was selected for] a trial. Where do I go? It is 10 o'clock already - they told me to show up here today. (6/25/03)**

**Are these jurors waiting to be selected? I was here Friday and selected. I'm confused as to where I need to be. (4/14/03)**

Part of the confusion seems to stem from problems with the communication between the judges and court officers and the jurors:

**I am on jury duty but I have to go to a convention on Thursday and Friday of this week. I told the officer who brings us jurors in and out and told him that I need to talk to the judge. They kept putting me off. I finally said to the officer that I need to talk to the judge. The trial has already started and the judge said it would not be over by Thursday. The lawyers are going slow. I told the judge finally. I cannot put my life on hold for this; I bought my plane ticket and everything that is nonrefundable. Can I just call in sick those days? There are alternates. But see the problem also is that I have to have this documented that I was here so I can get paid by my employer. I am just not going to show up on Thursday. (6/10/03)**

Communication between the trial parts and the assembly room is also reported to be an issue. On July 10 of this year, a clerk in the assembly room confided:

**"The judges need to be more cooperative. Like if they know they aren't having a case they should tell us." (7/10/03)**

Communication problems between the court officials and jurors can not only create delays and confusion, but can also negatively affect procedure:

**What else can I do inside this building? I am on grand jury and have some free time. Is there a law library, I have the time and want to learn about the judicial process as I might as well as I am here. What can I do inside the building - you know it is just so hot outside. (6/25/03)**

CJP encourages judges and court officials to communicate very clearly with jurors during all aspects of service. Clear instructions lessen juror anxiety, and promote good procedures and systemic efficiency.

<b>360 Adams: Lack of Information</b>	<b>Count</b>
Lack of information/incorrect information	93
Needed information ahead of time	3
Needed directions to the courthouse	1

Jurors' primary administrative concern at 360 Adams is "wasted time." Jurors' frustration escalates when they arrive early, but then wait in the jury assembly room until mid-morning:

**"Why do they tell us to come in so early in the morning when they don't get around to calling names until 10:30 or 11:00? These people have no concept of time." (3/12/03)**

One way to quell jurors' frustration and dissatisfaction is for court officials to explain the reasons behind delays. Conveying this information also conveys respect.

Jurors involved in cases also express concern about the time wasted during the process:

I went the last week of May to the courthouse on Adams Street, when I was called, and I was picked to be on a jury for [a case]. Then they informed us that the case had been postponed. So I went back on June 6th, and after waiting for five hours they told us that the trial had been postponed again until the 20th. I called the phone number I was given by a clerk at the courthouse to ask someone what I should do because I really can't miss another day of work, and the person who answered the phone was extremely rude to me from the very beginning and was not helpful at all. I would like to know if there is anyway I could talk to someone before the day that I'm supposed to go in about the fact that it's really not possible for me to go in another day, I'd also like to know how I can file a complaint. Thanks. (6/24/03)

The previous comment speaks to the need for the courts to start trials as punctually as possible, and for court staff—who are in the position to diffuse juror frustration—to consistently be informative and polite in their interactions with jurors.

360 Adams: Administration/Technology	Count
Wasted time	12
Service is too long	3
Process does not start on time	3
Service should be more flexible/accommodating	2
PA should extend into the hallway	1
Should have a call-in system	1

Jurors at 360 Adams, like New York County jurors, expressed considerable employment and financial concerns. However, the one-day/one-trial system utilized in Kings County helps to lessen the financial and employment burdens that service puts on jurors. Another approach (that the following jurors' comments seem to reflect is practiced in Brooklyn) is to practice a degree of flexibility, when the court's caseload permits:

**"I am self-employed. What do I do? I have a letter from my accountant."  
[Juror returns later] "They told me to come back to Room 156 if I am not called by 3pm. Thank you!! (7/7/03)**

360 Adams: Employment/Financial Burden	Count
Concern with unhappiness by employer	4
Very disruptive to my work	4
Financial hardship	3
My business will suffer	3
Self-employed should be exempt	2

Caretakers continue to report concerns to CJP interns at 360 Adams, with comments that clearly reflect the stress they face in reporting for service, and the resentment they feel when their time is wasted:

**Listen, I got 3 kids, I can't afford a babysitter, I got to be there when the get home from school. This is crap, I can't just sit here all day doin' nothin'.** (4/7/03)

**My mother is 71 and disabled and keeps getting called for jury duty. This is the third time she has been called. Nothing is going to change. I went down to 156 and she told me my mother is going to keep getting summoned. You know what - forget it."** (6/2/03)

Caretakers' comments indicate that it would be helpful for the courts to provide more information prior to service, including the means by which caretakers can convey information to the courts prior to service:

**I've got two kids and I really can't be here. Today is my first day. What can I do? My kid is 3 months old and I got his birth certificate.** (6/4/03)

Along with online qualification services, CJP recommends that OCA create an online service in which jurors can submit copies of the children's birth certificate to the court. Other populations could use this service too, such as non-citizens and individuals with health concerns that prohibit them from leaving their homes.

360 Adams: Family/Health Burden	Count
Medical problem/old age	6
Elder/child care	5
Work from home to be with children	2
Elderly should not have to serve	1

*(C) Recommendations*

1. Physical Environment:
  - Clean and maintain bathrooms on a regular basis--at least two to three times daily.
  - Consistently staff the assembly room with one employee whose sole responsibility is cleaning the assembly room and bathrooms, and stocking the bathrooms regularly.
  - Construct more disability accessible restrooms in the courthouse.
  - Maintain an adequate number of cleaning staff throughout the building.
  - Test water in Kings County courthouses and install filtering systems, if necessary.
  - Create a quiet work area for jurors. If possible, provide jurors with work carrels.
2. Lack of Information:

- Give clear instructions to jurors about where they should report once they are chosen to participate in a voir dire or to serve on a panel. In the event of changes in service or room changes, offer coherent information to jurors about where and when to report.
  - Provide jurors waiting in the assembly room with updates on why delays have arisen and when jurors should expect the next venire to be called.
  - Improve the signage in the areas around the Court Street and Adams Street entrances. As noted, court users approach CJP with a variety of questions, ranging from where to file divorce papers to where to bid on the foreclosure of a house? Informative signage around the entrance areas can help direct court users, who enter the court with a wide-range of tasks.
3. Technology:
- Offer information on County website ([www.nyjuror.com/kings.html](http://www.nyjuror.com/kings.html)) in Spanish and other predominant languages. Website translation services are free (e.g., <http://world.altavista.com/>) and software is very affordable. Translating the site will promote inclusion and lessen the juror hardship faced by over 10% of New York's residents, who do not understand and comprehend the English language well.
4. Administration:
- Provide a sign-out sheet to jurors during their service, just as all three Manhattan courts do. For a variety of reasons, jurors must temporarily leave the assembly room, and should be trusted to return. A sign-out sheet will improve jurors' experience in the courthouse, and lessen the administrative burden caused by missing jurors.
  - State clearly to jurors, in morning orientation, that postponements and deferrals can be made in room 156.
  - Start calling jurors to voir dire early, and start cases punctually.
  - Give jurors more comprehensive information about the process of serving during morning orientation and throughout process of service.

## **8. Disqualifications**

### *(A) An Overview of Disqualified Jurors' Comments*

Congruent with past CJP reports, non-English speakers comprise the majority of the disqualified jurors' comments: 85% of the total. As discussed in section 2d, the problems that non-English speakers express in the courts are not unfounded; Non-English speakers are the only group on New York's qualification questionnaire whose responses to the questionnaire have no significance. While questions on the qualification questionnaire that address other possible disqualifiers, such as citizenship, age, and felony conviction, are

accompanied by options to substantiate a person's claim (such as visa, alien registration card, or birth certificate) non-English speakers are not informed that they must participate in a language interview to assess their qualifications for service. Additionally, no information is provided for non-English/multilingual jurors on any New York summonses. Thus, the non-English speakers who make it to a courthouse arrive alone and uncertain how to proceed, or with a friend or relative who serves as a translator:

**"Can I go inside? I am here with my mother. She does not speak English. They told us the last time just to go inside room 261. Can my mother get a deferral - she speaks no English?" (360 Adams, 7/7/03)**

Even those summoned to the courts whose facility with English may be adequate, express concern with the process, which can be unfamiliar and intimidating:

**I am from Russia and I don't feel comfortable serving as a juror because I don't feel like it is my place to judge other people. Even though I just became an American citizen, I don't think I should judge the natives because after all I am a foreigner. I may not know or understand the American culture as another American may be able to understand it and feel comfortable. (360 Adams, 4/3/03)**

The issue of fairly assessing individuals' language facility and promoting inclusion among those whose first language is not English is likely to become more not less of an issue in the near future. This can be seen in the cases that have arisen in New York, ranging from the highly controversial Supreme Court ruling in *Hernandez v. New York*<sup>81</sup> to the more recent New York Court of Appeals ruling in *People v. Pedro Sanchez*.<sup>82</sup> This can also be understood through data from the US Census Bureau and the federal court system. As Marina Hsieh noted in her paper on *Hernandez v. New York*, presented at Brooklyn Law School during "The Jury in the Twenty-First Century: An Interdisciplinary Conference":

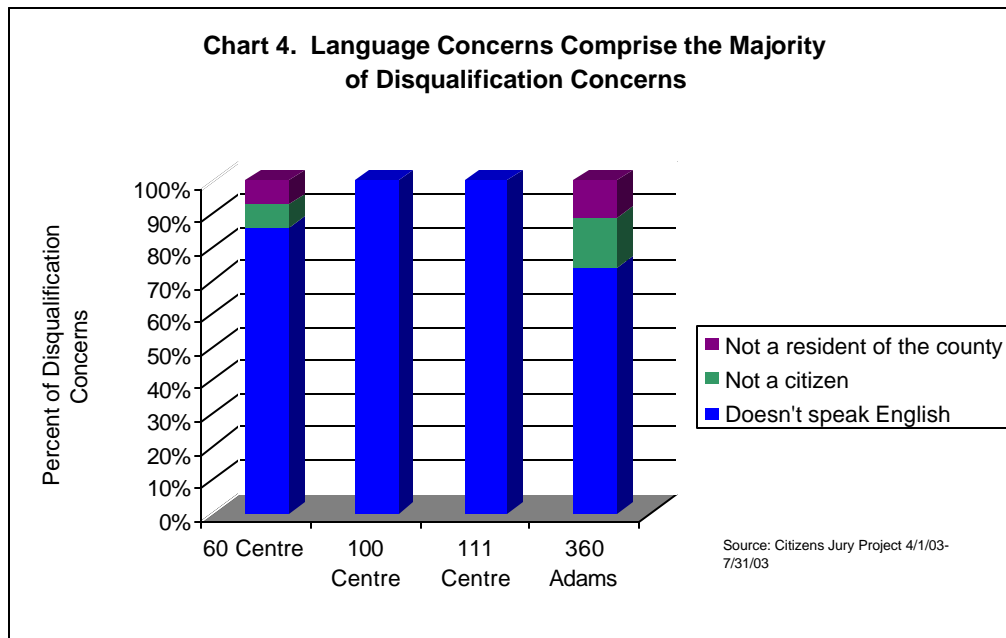
---

<sup>81</sup> 500 U.S. 352 It is noteworthy that at the state level, now Chief Judge Kaye dissented from the majority ruling in favor of the People: "This case differs from other "Batson" cases in a critical respect that is not sufficiently credited by the majority. Here, the prosecutor's "neutral" explanation is one that necessarily produces disparate impact on a single ethnic group. [...] Accepting as a sufficient explanation that the prosecution will offer the testimony of a witness whose native tongue is Spanish—whether or not an interpreter is required—too easily circumvents the People's obligation and the defendant's right, and allows the prosecutor to do by indirection what can no longer be done directly." (*People v. Dionisio Hernandez*, 75 N.Y. 2d 350, 361-362 (1990). For a critique of the Supreme Court's ruling in *Dionisio Hernandez v. N.Y.* (500 U.S. 352) see, for example: MARINA HSEIH, "LANGUAGE-QUALIFYING" JURIES TO EXCLUDE BILINGUAL SPEAKERS, 66 BROOKLYN L. REV. 1181 (SUMMER, 2002). DEBORAH A. RAMIREZ, EXCLUDED VOICES: THE DISENFRANCHISEMENT OF ETHNIC GROUPS FROM JURY SERVICE, WIS. L. REV. 761 (MAY, 1993).

<sup>82</sup> *People v. Pedro Sanchez*, NY Lexis 278 (2003). For a discussion of this case and the implications that it suggest on the treatment and assessment of individuals who have a limited facility with English, see CJP's Spring 2003 Report on Juror Concerns: <http://www.juryproject.org/reports.html>

One in seven Americans over the age of five does not use English at home, and of that number, forty-four percent—almost fourteen million people speak English less than “very well.” Language interpreters were used in the federal court system 190,127 times last year [2000], a almost three times as often as a decade ago.<sup>83</sup>

A large part of the strength of this state and nation is the diversity of the people within it. Improving the systemic outreach to and assessment of non-English speakers’ language facility will strengthen the system itself. Such work promotes knowledge of and inclusion within the system.



60 Centre: Disqualifications	Count
Doesn't speak English	24
Not a citizen	2
Not a resident of the county	2
100 Centre: Disqualifications	Count
Doesn't speak English	10
111 Centre: Disqualifications	Count
Doesn't speak English	5
360 Adams: Disqualifications	Count
Doesn't speak English	14
Not a resident of the county	3
Not a citizen	2

<sup>83</sup> Hsieh, *supra*, note 81 at 1182-1183.

<b>Languages Spoken in New York &amp; Facility with English</b>	
English only	72%
Languages other than English	28%
Speak English less than "very well"	13%
Spanish	13.6%
Speak English less than "very well"	6.7%
Other Indo-European languages	9.3%
Speak English less than "very well"	3.7%
Asian and Pacific Island languages	3.8%
Speak English less than "very well"	2.2%
Source: US Bureau of Census, Census 2000	

The following list is a summary of recommendations provided throughout this report, which will directly address the dearth of information non-English speakers currently experience once summoned to serve:

- Utilize the resources and knowledge that the field of English as a Second Language (ESL) has developed in relation to assessment and communication with non-English speaking jurors. ESL professionals, not simply other court staff who have no prior education or experience in the field, should train court staff in how to properly conduct language qualifying interviews.
- Provide a line on the qualification questionnaire after the question, "can you understand and communicate in the English language," that states: "if not, you will be asked to participate in a language interview, once you are summoned to serve." This will alleviate some of the confusion expressed by non-English speaking jurors who believe that marking "no" to the question "can you understand and communicate in the English language," disqualifies them from service.
- Include a line on the qualification questionnaire in each county's predominant languages, which instructs non-English speakers to call a hotline that will provide information and instructions in their native languages.
- Provide information for non-English speaking/multilingual jurors on the Unified Court System's web site. Currently, no information is available for these jurors. This lack of information contrasts other states' approach. California, for example, addresses the question, "What if I don't speak English?" in their "California Guide to Jury Service: Frequently Asked Questions" ([www.courtinfo.ca.gov/jury/faq/faq01.html](http://www.courtinfo.ca.gov/jury/faq/faq01.html)). In recognition of their linguistic diversity (diversity that is mirrored in New York City and the boroughs) California recently developed a multilingual website: <http://www.courtinfo.ca.gov/selfhelp/glossary.htm>. Although this

multilingual information is not available specifically for jurors, it is a significant step in their efforts to reach out to the general public. CJP recommends that New York adopt at least California's approach, and also suggests that the Unified Court System's website and county websites' juror information pages should be made available in Spanish and other predominant languages.

- Create toll-free information lines with recorded instructions for summoned multilingual/non-English speakers about the jury process and how to seek postponement/dismissal prior to service.
- Increase communication between the courts and the press that report and publish in languages other than English.
- Advertise court reform and improvements, particularly jury-related reform, in public forums. Public transportation is an efficient way to advertise across income, racial and ethnic groups; the New York Department of Health and the Department of Education both regularly advertise in both Spanish and English on buses and subways. Public service announcements on the radio or television can also be effective means of communication. CJP recommends multilingual advertising that reflects the theme of diversity, a requirement for an effective jury system and the multicultural reality we have and value in New York.

## 9. Summary of Recommendations

**Courts now have available a broad range of innovative techniques and tested methodologies that can both expand the pool of citizens available for jury duty and reduce the cost of operating a jury system. The time to implement these concepts is more ripe now than ever, given the growing number of law suits challenging the traditional jury selection methods and the increased constraints on government spending. The most significant reason for embracing these changes, however, lies in the needs and expectation of the public served by the criminal justice system. If the community loses faith in the government's ability to provide justice, or loses respect for the courts in particular because they have arbitrarily failed to protect the one truly democratic institution in the system, the integrity of the judicial system will be irreparably damaged.<sup>84</sup>**

The preceding quote was written over twenty years ago, and since that time, New York has implemented measures that promote diversity in jury pools and among panelists. However, the need to assess representation and consider alternative means to promote inclusion and greater access to information has not subsided. This work is central to the efficacy and

---

<sup>84</sup> HENRY S. DOGIN AND DAVID I. TEVELIN, JURY SYSTEMS IN THE EIGHTIES, TOLEDO L. REV. 939 (1980). Quoted in: Munsterman, *supra*, note 11 at ix.

efficiency of the jury system and to the goal of fostering lasting, positive impressions of our justice system.

*(A) Summary of Recommendations for the Courts*

**Provide jurors with detailed information about where to report during all phases of service.** In order to alleviate juror confusion during the voir dire process or while serving on a panel, CJP suggests that courts be more clear and explicit about where jurors should report while serving. Lessening juror confusion and stress can allow jurors to focus on the proceedings and will promote comprehension.

**Provide more procedural information to jurors in the assembly room and throughout the process.** Jurors should be informed about their rights, and have a clear understanding of the process of serving. In addition, regular providing jurors in the assembly room with regular updates on the day's schedule and why there may be delays will diminish jurors' feeling that service is a waste of time.

**Address juror privacy concerns.** Information on juror privacy should be readily accessible for jurors. Judges should be trained to address juror privacy concerns, and should consistently address the issue of juror privacy, beginning with the judicial instructions prior to voir dire, and as the issue arises throughout proceedings.

**Target environmental improvements in the courts.** Jurors clearly respond to improvements made to the physical conditions within our courts. Courts must continually assess whether their facilities are accessible and safe. Jurors' experience in the courts and ability and desire to serve are affected by structural improvements, such as constructing accessible entrances and bathrooms, and procedural improvements such as escorting jurors directly into courtrooms, instead of leaving them in the hall. Timely response to the recommendations provided in this report will help to create clean and safe court environments.

**Collaborate with CJP and OCA in devising ways to best accommodate caretakers, non-English speakers, minorities, and individuals with low incomes.** Part of the work in accommodating these individuals is systemic, yet it must also be addressed at a court and community-specific level. Court officials and individuals have a day-to-day and historical perspective on the populations and communities that visit each court, and how staff and their facilities can be accommodating.

*(B) Summary of Administrative, Public Relations, and Research Recommendations*

### **Summoning**

- Offer the online initiative that will allow jurors to qualify or postpone service on the Unified Court System's juror web pages. Along with online qualification services, CJP recommends creating an online service in which jurors can submit copies of the children's birth certificate to the court. Other populations could use this service too, such as non-citizens and individuals with health concerns that prohibit them from leaving their homes.
- Provide a line on the qualification questionnaire after the question, "can you understand and communicate in the English language," that states: "if not, you will be asked to participate in a language interview, once you are summoned to serve." This will alleviate some of the confusion expressed by non-English speaking jurors who believe that marking "no" to the question "can you understand and communicate in the English language," disqualifies them from service.
- Include a line on the qualification questionnaire in each county's predominant languages, which instructs non-English speakers to call a hotline that will provide information and instructions in their native languages.
- Create toll-free information lines with recorded instructions for summoned multi-lingual/non-English speakers about the jury process and how to seek postponement/dismissal prior to service.

### **Court Facilities**

- Implement 60 Centre Street's work request to knock down one of the walls between two of the empanelling rooms that are adjacent to the assembly room at 60 Centre. This would create at least one empanelling room that can accommodate larger venires.
- Encourages the City to test the water in the New York and Kings County courthouses. Until the water tests safe and the water fountains are fully functional, jurors should be provided with an accessible water cooler or, at least, water should be available through concession and vending services.

### **Public Outreach**

- Provide multi-lingual information about the courts and court processes. The Unified Court System website is an example of a resource that could be made available in, at least, Spanish.
- Address unemployment concerns in the juror handbook and on the Unified Court System's website.

- Include information on the wireless access services on the Unified Court System's juror web site and within OCA's employment pamphlet.
- Collaborate with other state systems and the private sector to promote jury service and positive practices in relation to service. For example, creating links between, for example, the New York City Department of Employment or New York Department of Labor and the Unified Court Systems' web pages on employer information and relevant laws, is facile to negotiate and create. Making court publications such as OCA's employment pamphlet available to the Department of Labor and large corporations could facilitate the distribution of the information to potential jurors—employers, employees and the unemployed—throughout the State.
- Increase communication between the courts and the press that report and publish in languages other than English.
- Create public service announcements that are multilingual and draw from the theme of diversity, a requirement for an effective jury system and a valued reality in New York.

### **Court Research**

- Collect data and analyze how well the diverse communities of New York are represented in the jury pool and panels.
- Expand research and analysis to include the non-compliant and disqualified juror populations. Research has indicated that non-respondents generally want to serve but that personal responsibilities/hardship and misconceptions about service inhibit their response.<sup>85</sup> A state-specific assessment of non-compliant and disqualified jurors can allow for a more in-depth analysis of many of the issues brought up in this report, such as the percentage of non-compliant and disqualified jurors who do not understand and comprehend English. This research will also help to further clarify where gaps in information exist, and how the system can best accommodate individuals with personal hardship and responsibilities that inhibit their ability to serve and contribute to the system.

### **Court System Administration**

- Reconsider implementing affirmative measures to promote juror participation in New York. The results of the analysis of the composition of jury pools and panels, and the responses of non-compliant and disqualified populations, will be indicative of which affirmative measures to employ.

---

<sup>85</sup> ROBERT G. BOATRIGHT, IMPROVING CITIZENS RESPONSE TO JURY SUMMONSES, AMERICAN JUDICATURE SOCIETY (1998).

- Reconsider the possibility of offering child care reimbursement to jurors.<sup>86</sup> The high child poverty rate in New York and Kings County, coupled with the difficulty of obtaining public child care,<sup>87</sup> suggests that child care reimbursement is a viable way to promote inclusion.
- Utilize the resources and knowledge that the field of English as a Second Language (ESL) has developed in relation to assessment and communication with non-English speaking jurors. ESL professionals, not simply other court staff who have no prior education or experience in the field, should train court staff in how to properly conduct language qualifying interviews.

---

<sup>86</sup> CJP's Spring 2003 Report on Juror Concerns discussed various states' approaches to child care reimbursement for jurors. The report is available at: <http://www.juryproject.org/reports.html>

<sup>87</sup> Kate Stohr, Day Care in New York (visited July 8, 2003) <[www.gothamgazette.com/iotw/daycare/](http://www.gothamgazette.com/iotw/daycare/)>

## Appendix A: Top Juror Concerns in Manhattan &amp; Brooklyn Courts

<b>Top Juror Comments &amp; Concerns Manhattan &amp; Brooklyn Courts 4/1/03-7/31/03 (Total Concerns =949)</b>	
<b>Top 5 Appreciative Comments</b>	<b>Count</b>
Things are generally better	27
Lunch guide is good	17
Good clerks	10
Good that everyone serves	4
Good court officers	2
<b>Top 25 Critical Concerns</b>	<b>Count</b>
Lack of information/incorrect information	252
Would like a postponement/deferral	57
Wasted time	56
Religious/personal objection	23
Medical problem/old age	22
No coffee/sandwiches/juice	20
No working water fountains	19
Bathrooms	18
Very disruptive to my work	17
Financial hardship	17
Concerned with unhappiness of employer	13
Elder/child care	13
Intrusive personal questions during voir dire	12
Needed information ahead of time	11
Process does not start on time	10
Court officers are unhelpful	10
Need phone lines for computers	10
Improve technology	9
Time wasted by attorneys during voir dire	9
Needed directions to the courthouse	9
Too many people called	9
Elderly shouldn't have to serve	8
Never called to voir dire	7
Problems with name or address	7
Self-employed people should be exempt	7