

Dane County Juror Demographics

Presentation to the Dane County Board of Supervisors

The Basic Propositions:

- All defendants are entitled to be judged by a jury of their peers
- We generally think of “peers” as a representative group of people from the locality.
- Be aware that the jury statistics provided are without regard to case type. These represent criminal cases, civil cases, and the occasional 6-person traffic/forfeiture trial.

What makes a jury array “representative?”

- Ch. 756.001 (1) Wis. Stats. holds “All persons selected for jury service ***shall be selected at random*** from the population of the area served by the circuit court. All qualified persons ***shall have an equal opportunity*** to be considered for jury service in this state and the obligation to serve as jurors when summoned under this chapter for that purpose. Any manual or automated method of selection that provides each qualified person with an equal probability of selection for jury service or that provides each prospective juror with an equal opportunity for assignment to a particular trial may be used.”

How may the jury array be assembled?

- Ch. 756.04 Wis. Stats. holds that the Director of State Courts shall compile an annual master list of jurors for the counties.
- The Department of Transportation shall annually provide the Director's Office with a list of people who either have drivers' licenses or State ID Cards.
- The Director's Office *may* also compile lists of voters from the GAB, people who have filed tax returns with the DOR, lists of child support payors and payees from DWD, lists of people receiving unemployment benefits from DWD, and people who hold licenses from the DNR.

The many layers of juror populations...

- **The array** – the master list of prospective jurors subject to be summoned. We will likely not summon all of them.
- **The pools** – The actual number of people summoned to appear in a given jury week. This averages about 300 people. But not all will report on the jury week. Their summonses may be undeliverable. They may not respond at all to the summons. They may return their questionnaire and be deemed disqualified. They may be qualified, but be called off prior to their report date as cases settle.
- **The panels** – Of the pool members who eligible and required to report on a given Monday, they are divided into panels of 30 to report to voir dire.
- **The sworn jurors** – the 6-14 jurors who survive the voir dire process and will hear the case.

Dane County Demographics per the 2013 Census (over age 18)

White	African American	Asian	Hispanic
89.1%	4.4%	4.9%	4.9%

The census notes that people who self-identify as “Hispanic” may be of any race and that the percentage of “Hispanics” on the list should not be added to the percentages of the other ethnic groups. This is why the row adds up to more than 100%.

The Diversity of Jurors Summoned

- Does the total population of summoned jurors reflect the census data?

	White	African-American	Asian	Hispanic
2010	86.3%	3.9%	4.3%	4.7%
2011	87.1%	4.1%	4.1%	4.0%
2012	87.1%	4.2%	3.8%	4.1%
2013	87.8%	4.1%	3.6%	3.6%
2014	88.1%	4.0%	3.8%	3.3%

...Not quite. But certainly close, particularly for whites and African-Americans.

One attempt to improve diversity in the summoning process...

- Milwaukee County tried to address a racial disparity issue in their jury array by over-summoning people from ZIP Codes that had higher proportions of minority residents. But a 2008 AG opinion held:

Deliberately summoning a greater number of potential jurors from some geographic areas than from others does not strictly comply with the mandatory statutory requirement that all persons selected for jury service must be selected at random from the population of the area served by the circuit court.

Determining Ineligible/Unavailable Jurors

Juror eligibility is determined by the following major factors:

- Undeliverable summonses
- Disqualification (under 18, not a current resident of Dane County, not a US citizen, not proficient in English, or a convicted felon currently on supervision)
- No response to summons (two follow-ups are sent)

Ineligible and Unavailable

- In 2010, 41% of all people summoned were deemed “ineligible and unavailable.” By 2014, that improved to 32%. Here’s the demographic breakdown:

	White	African-American	Asian	Hispanic
2010	35.8%	57.1%	75.1%	85.1%
2011	35.3%	56.2%	70.3%	82.4%
2012	32.8%	57.8%	67.4%	78.9%
2013	29.6%	55.6%	53.7%	76.7%
2014	28.4%	51.5%	53.7%	72.0%

Now Consider the Qualified and Available Jurors...

- The numbers we've looked at so far have focused on the people who do not/cannot serve for a variety of reasons.
- Let's look now at the rest of the jurors who do respond, qualify, and report for duty...

Qualified and Available

- In 2010, 59% of all people summoned were deemed “qualified and available.” By 2014, that improved to 68%. Here’s the demographic breakdown:

	White	African-American	Asian	Hispanic
2010	64.2%	42.9%	24.9%	14.9%
2011	64.7%	43.8%	29.7%	17.6%
2012	67.2%	42.2%	32.6%	21.1%
2013	70.4%	44.4%	46.3%	23.3%
2014	71.6%	48.5%	46.3%	28.0%

Qualified and Available

- Let's loop back to the population of the Q & As in terms of their demographic representation.

	White	African-American	Asian	Hispanic
2010	93.4%	2.8%	1.8%	1.2%
2011	93.1%	2.8%	2.1%	1.3%
2012	93.1%	2.7%	2.1%	1.5%
2013	93.1%	2.6%	2.0%	1.4%
2014	92.4%	2.8%	2.5%	1.3%

Eligibility does not equal sworn service...

Not all eligible jurors actually serve on trials. These factors determine service:

- Cases settle the prior week; summoned jurors told not to report.
- Cases settle the morning of jury selection; jurors who reported may never go to voir dire.
- Jurors going to voir dire may not be questioned, or they may be stricken, for cause or peremptorily.

Finally-- who is sworn to a jury?

- Only a small subset of jurors originally summoned actually end up being sworn to a trial. For each year, here's the demographic breakdown of the people actually sworn:


	White	African-American	Asian	Hispanic
2010	93.8%	3.0%	1.7%	0.9%
2011	92.9%	2.8%	2.5%	1.4%
2012	93.0%	2.6%	1.9%	1.6%
2013	92.1%	3.2%	2.3%	1.6%
2014	91.7%	3.9%	2.4%	1.2%

The Bottom Line...

- Visualize for a moment that each weekly jury pool consisted of 100 people, that there were four trials scheduled per week, and that we sent 25 people from the pool to each panel.
- Visualize that our pool is exactly demographically representative of the county as a whole, e.g. there are about four African-Americans in the jury assembly room that morning.
- That works out to just over one such “body” per panel of 25.

The Bottom Line...

- Assuming a 12-person (plus one alternate) jury is being chosen, it's given that only 13 of the 25 people in the panel will wind up being sworn, and that the one African-American in the panel essentially has a 50-50 chance of being sworn.
- So-- even under the optimal jury pool diversity conditions, we would still only expect to see about half our trials with one African American juror and about half with none. We would never predict seeing more than one African-American on any 12-person jury.



So, even under the best of conditions... Would that be seen as enough jury diversity?