



Judges in the Classroom

Diversity in Juries – Why is it So Hard to Get Diversity

Source:

Written by Chris Gaddis, Pierce County Court Administrator and Margaret Fisher, Administrative Office of the Courts in 2019 as a project for the BJA Public Trust and Confidence Committee 2019. For more information, contact AOC, Temple of Justice, 415 12th Ave SW, PO Box 41174, Olympia, WA 98504-1174. For an electronic copy of this lesson, or to view other lesson plans, visit Judges in the Classroom on the Washington Courts Web site at www.courts.wa.gov/education.

Background information: 2017 Symposium on Jury Diversity in Washington: A Hollow Promise or Hopeful Future?

<https://www.courts.wa.gov/?fa=home.sub&org=mjc&page=symposium&layout=2>

Objectives:

1. Students will be able to list the requirements for jury service.
2. Students will define what a diverse jury is.
3. Students will be able to identify the benefits from having diverse juries.
4. Students will identify obstacles to diverse juries.
5. Students will list the struggles faced by jury administrators when trying to prepare a panel for voir dire.
6. Students will be motivated to serve on juries when summoned.

Grade Level:

Grades 9-12

Time:

One class period (approximately 50 minutes)

Materials:

- Teachers: Review introduction to this lesson after the handouts. Prepare slips of paper reading on the basis of the percentages listed on the percentage of responses list (not to be handed out to students):
 1. Summons return as undeliverable
 2. Summons received but no action taken
 3. Individual not qualified for jury duty
 4. Individual excused from jury duty
 5. Jury duty postponed
 6. Jury duty completed
 7. Juror willing to do jury duty – waiting for assigned date
- Ability to show 30-second PSA in English or Spanish on importance of diverse juries - <http://www.teachwithtvw.org/jury-duty-psas/>
- Depending upon the class size, one copy each of Jury Administrator Handout 1A, B, C, D, and E.
- Depending upon class size, copies of the Juror Roles Handout for all students except five Jury Administrators
- PowerPoint slides; Diversity in Juries

Procedures:

1. **Begin the class by introducing yourself** and telling a little bit about what you do. Tell students that today's class focuses on juries, and the importance of having juries that represent their community. Show the 30-second PSA video. Depending upon time, you might want to have students respond to the questions.
2. **Have students do a quick brainwrite.** What would a diverse jury look like? If they, a loved one or family were involved in a criminal case, who would they want to be on their jury? What would a fair jury look like? Can a non-diverse jury be fair?
3. **Show the PowerPoint slides:** A diverse jury fully reflects our beautiful community in Washington by including individuals of various ages, genders, races, cultures, sexual orientations or identities, and abilities, and by representing our differing viewpoints, our varied personal experiences, our array of family structures, and our wide range of income, employment, and education. Justice Mary Yu, Washington State Supreme Court. Ask how this definition differs from theirs?
4. **Get input from students about a fair/diverse jury.** What are the benefits of a diverse jury?
 - Fundamental right in criminal cases as it guarantees the judgment of the community in determining guilt and innocence.
 - Crucial for people's perception of justice.

- Juries are fairer when they are racially diverse; there is less racial bias when juries are diverse:
 - Jury deliberations are enriched by various life perspectives.
 - Quality of deliberations are fairer, i.e., longer deliberations, consider more evidence, fewer factual errors and when there are errors more likely to be corrected, and more race-related discussions
- Additionally, experience on juries encourages positive attitude towards jury service. In fact, more than 90 percent of those who have served on one jury are willing to serve again. Also, research shows people who serve on juries are more likely to vote by 10 percent.

5. Everyone has a slip of paper on their desk, please turn it over, read it, and stand up. For example, for 20 students:

- Three slips say undeliverable - Summons is returned by the post office as undeliverable or moved with no forwarding address.
- Six say delivered summons but no response. It is a misdemeanor in Washington not to respond to jury duty, but enforcement is difficult.
- One says not qualified due to jurors who live outside the county, are not US citizens, speak English as a second language and are not familiar with the court language, or a felon without their rights restored.
- Four say excused by court due to juror's request due to work, health reasons, military, first responders, jury duty within one year, student (current class schedule requested) or religious reasons. Care for dependents and children are automatic excuses (this may vary based on jurisdiction). Note that jurors who come through the courthouse doors may turn out to be excused, but the courts do not revise this percentage of excused based on what happens in court.
- Two say postponed, meaning that the court rescheduled their jury date due to a conflict.
- One says available to be called. These jurors responded to the blue post card on the phone or web site and jury system at court and if qualified a red and white summons is mailed. The jurors marked expected jurors who have not yet appeared for jury duty. This designation is a tool for the court to know how many jurors are available each week.
- Three say completed which means that they walked through the courthouse doors, does not mean that they sat on a jury.

6. Tell students who are all standing that the local court has sent out jury summons to each of them in order to have a diverse jury. As I read your group, please sit down. This means that you are not coming to court for possible jury duty.

7. Please sit if your slip reads undeliverable. Please sit if your slip reads received but no response. Please sit if your slip reads not qualified. Please sit if your slip reads excused. Please sit if your slip reads postponed. Please sit if your slip reads available. Please remain standing if your slip says completed. In this case,

only three jurors walked through the doors of the court out of 20. Even among these three, some may not be eligible. A jury administrator will make the decision whether or not to send them up for consideration as included in a jury pool for a particular trial. This happens next!

8. **We will now do a roleplay in which students are assigned** to be a potential juror or a jury administrator with the decision about which potential jurors should be sent up to the courtroom for questioning and possible selection for a jury through “voir dire” or to be excused and sent home.
9. **Explain that Jury Administrators** are court officers. Their job is to supply the panel of persons to serve as potential jurors for the term of the trial. For any jury trial (civil or criminal), the Jury Administrators have the responsibility to send up 15 potential jurors for each District and Municipal Court cases and 35 potential jurors for each Superior Court case. Depending on the complexity of the case, a judge may request many more jurors in order to seat the required amount. For example, a complex murder trial may require over 100 jurors for *voir dire*. Review with students what types of cases are heard by which court, if needed. Jury Administrators are the first to hear hardships from potential jurors. Usually it is up to the judge to release jurors, but there are situations where it does not make sense for a juror to be sent up to court if the hardship is obviously too great.
10. **Count off to six.** All the students who are numbers one through five will be potential jurors and all the students who are number six will be Jury Administrators. Pass out Handout #1A-1E with instructions for Jury Administrator to each group’s number six member.
11. **Go over the instructions** with the class. Each Jury Administrator has a different case to find possible jurors. The Jury Administrator should

OPTIONAL ACTIVITY

Depending upon time. Introduction to voir dire. Pass out a juror number card to each student. Ask questions to get to know them.

Tell students to hold up their card to respond to a question.

Questions might include:

- How many are 10th graders? 11th graders? 12th graders?
- How many know what they want to do when they graduate?
- How many have jobs?
- What is your favorite subject?
- What is your least favorite subject?
- How many play sports?
- How many are involved with music or the arts?
- What public figure do you admire most?

Explain that the court excuses possible jurors for cause or with peremptory challenges.

share the facts of the case with the potential jurors. Each student playing a possible juror is to present his or her facts to the Jury Administrator for the decision whether to be sent to the courtroom or sent home. The Jury Administrator should write on the form what decision the administrator made and why. However, the Jury Administrator should not tell the potential jurors what decision was made at this point.

12. After all Jury Administrators have heard from each potential juror, they will come to the front of the room as a group. Jury Administrator 1A report to the entire class: (1) what their case was about; (2) what decision they made as to Juror 1. Jury Administrator 1B will then describe his/her case and inform the class what decision was made as to Juror 1. Jury Administrator 1C will then describe his/her case and inform class of their decision regarding Juror 1. This continues until all the Jury Administrators have described their case and what was done with Juror 1. Then Jury Administrator 1A reports on Juror 2, followed by all the Jury Administrators. This continues until all Jurors are either sent up to a courtroom or dismissed.

13. Explain that these cases and these jurors are based on real cases and people.

14. In 2016 in one county in Washington, out of 93,221 people who were sent jury summons, 2,776 actually served on a jury.

15. Closure: who can remind us of what the benefits of a diverse jury are?

Handout 1A for Jury Administrators

Instructions for Jury Administrators

In today's class, in small groups, you will meet four or five potential jurors and you must decide who should be able to be sent to a courtroom for possible inclusion on a jury and who should be excused and sent home.

Please keep in mind the following when making your decisions:

- The number of jurors you bring in is very important. If you excuse too many, there won't be enough potential jurors to be questioned by the court and for the trial to begin.
- Your job as the jury administrator is only to excuse the most obvious of requests, i.e., a 9-months pregnant mother, or someone who clearly cannot speak English.
- It is ultimately the court's decision on who is placed on a jury.

You are looking to send as many potential jurors as you can to the courtroom for this case. Since this is a felony case in Superior Court, the court for this case needs a total of 35 jurors. You must decide upon the jurors presented to you, which ones you will send up to the court for questioning and possible selection.

In small groups, ask each juror to tell you about themselves and then decide whether or not you will send them on to be considered for the court. Record your answers below.

Case 1: Defendant Name: **Joe**

Age: 37

Race: White

Charges: Assault 1, Assault 2, Residential Burglary, Reckless Driving, and Resisting Arrest

Incident: Joe drove through the downtown area with his girlfriend's 4-year-old son in the front seat. Joe became upset with the child and began beating the boy in the head and chest. Joe was also pouring alcohol over the child while beating him. Because of his distracted state, Joe crashed his car in a local business complex. Joe fled from the scene and broke into a house a few blocks away. When officers discovered him in the home, Joe threatened the officers with a machete. Joe was taken into custody after officer's pepper sprayed him.

Length of trial: The court is expecting this trial to take at least **one week**.

Jurors sent up for jury duty:

- 1.
- 2.
- 3.
- 4.
- 5.

Jurors excused from jury duty:

- 1.
- 2.
- 3.
- 4.
- 5.

Reasons:

- 1.
- 2.
- 3.
- 4.
- 5.

Handout 1B for Jury Administrators

Instructions for Jury Administrators

In today's class, in small groups, you will meet four or five potential jurors and you must decide who should be able to should be sent to a courtroom for possible inclusion on a jury and who should be excused and sent home.

Please keep in mind the following when making your decisions:

- The number of jurors you bring in is very important. If you excuse too many, there won't be enough potential jurors to be questioned by the court and for the trial to begin.
- Your job as the jury administrator is only to excuse the most obvious of requests, i.e., a 9-months pregnant mother, or someone who clearly cannot speak English.
- It is ultimately the court's decision on who is placed on a jury.

You are looking to send as many potential jurors as you can to the courtroom for this case. Since this is a felony case in Superior Court, the court for this case needs a total of 35 jurors. You must decide upon the jurors presented to you, which ones you will send up to the court for questioning and possible selection.

In small groups, ask each juror to tell you about themselves and then decide whether or not you will send them on to be considered for the court. Record your answers below.

Case 2: Defendant Name: **Keith**

Age: 45

Race: Black

Charges: Four counts of commercial burglary, four counts of theft in the first degree, driving under the influence, and resisting arrest

Incident: Keith is accused of going to multiple grocery stores in the local area and breaking in to the meat lockers in the employee only areas of the store. Before Keith was captured, he managed to steal thousands of dollars' worth of meat from four different stores. The day he was captured, Keith led police on a short pursuit before being arrested. During the arrest, Keith struggled with officers as he was placed into handcuffs.

Length of trial: The court is expecting this trial to take at least **two weeks**.

Jurors sent up for jury duty:

- 1.
- 2.
- 3.
- 4.
- 5.

Jurors excused from jury duty:

- 1.
- 2.
- 3.
- 4.
- 5.

Reasons:

- 1.
- 2.
- 3.
- 4.
- 5.

Handout 1C for Jury Administrators

Instructions for Jury Administrators

In today's class, in small groups, you will meet four or five potential jurors and you must decide who should be able to should be sent to a courtroom for possible inclusion on a jury and who should be excused and sent home.

Please keep in mind the following when making your decisions:

- The number of jurors you bring in is very important. If you excuse too many, there won't be enough potential jurors to be questioned by the court and for the trial to begin.
- Your job as the jury administrator is only to excuse the most obvious of requests, i.e., a 9-months pregnant mother, or someone who clearly cannot speak English.
- It is ultimately the court's decision on who is placed on a jury.

You are looking to send as many potential jurors as you can to the courtroom for this case. Since this is a felony case in Superior Court, the court for this case needs a total of 35 jurors. You must decide upon the jurors presented to you, which ones you will send up to the court for questioning and possible selection.

In small groups, ask each juror to tell you about themselves and then decide whether or not you will send them on to be considered for the court. Record your answers below.

Case 3: Defendant Name: **Chris**

Age: 29

Race: White

Charges: Unlawful Possession of a Controlled Substance with intent to deliver

Incident: Over the last six months, Chris has been selling marijuana and cocaine to a police confidential informant. Officers have watched him sell from his apartment and from a local shopping center. When arrested, Chris was found in possession of over 60 lbs. of marijuana, three lbs. of cocaine and \$45,000.

Length of trial: The court is expecting this trial to take at least **three days**.

Jurors sent up for jury duty:

- 1.
- 2.
- 3.
- 4.
- 5.

Jurors excused from jury duty:

- 1.
- 2.
- 3.
- 4.
- 5.

Reasons:

- 1.
- 2.
- 3.
- 4.
- 5.

Handout 1D for Jury Administrators

Instructions for Jury Administrators

In today's class, in small groups, you will meet four or five potential jurors and you must decide who should be able to should be sent to a courtroom for possible inclusion on a jury and who should be excused and sent home.

Please keep in mind the following when making your decisions:

- The number of jurors you bring in is very important. If you excuse too many, there won't be enough potential jurors to be questioned by the court and for the trial to begin.
- Your job as the jury administrator is only to excuse the most obvious of requests, i.e., a 9-months pregnant mother, or someone who clearly cannot speak English.
- It is ultimately the court's decision on who is placed on a jury.

You are looking to send as many potential jurors as you can to the courtroom for this case. Since this is a felony case in Superior Court, the court for this case needs a total of 35 jurors. You must decide upon the jurors presented to you, which ones you will send up to the court for questioning and possible selection.

In small groups, ask each juror to tell you about themselves and then decide whether or not you will send them on to be considered for the court. Record your answers below.

Case 4: Defendants Names: **Chann** (male) and **Sophal** (female)

Age: 30 and 35

Race: Asian

Charges: Organized Retail Crime

Incident: Over the last ten months, a joint law enforcement task force on organized retail crime, have been investigating theft in the tri-county area which has resulted in the loss of over \$4.5 million to the local economy. Officers were alerted to a crime ring who were stealing beauty products from local grocery stores and then selling them to Asian markets. Officers identified over 40 boosters who would steal the product and then sell it to the husband and wife team at \$.30 on the dollar.

Length of trial: The court is expecting this trial to take at least **2.5 weeks**.

Jurors sent up for jury duty:	Jurors excused from jury duty:	Reasons:
1.	1.	1.
2.	2.	2.
3.	3.	3.
4.	4.	4.
5.	5.	5.

Handout 1E for Jury Administrators

Instructions for Jury Administrators

In today's class, in small groups, you will meet four or five potential jurors and you must decide who should be sent to a courtroom for possible inclusion on a jury and who should be excused and sent home.

Please keep in mind the following when making your decisions:

- The number of jurors you bring in is very important. If you excuse too many, there won't be enough potential jurors to be questioned by the court and for the trial to begin.
- Your job as the jury administrator is only to excuse the most obvious of requests, i.e., a 9-months pregnant mother, or someone who clearly cannot speak English.
- It is ultimately the court's decision on who is placed on a jury.

You are looking to send as many potential jurors as you can to the courtroom for this case. Since this is a misdemeanor case in Municipal Court, the court for this case needs a total of 15 jurors. You must decide upon the jurors presented to you, which ones you will send up to the court for questioning and possible selection.

In small groups, ask each juror to tell you about themselves and then decide whether or not you will send them on to be considered for the court. Record your answers below.

Case 5: Defendant Name: **Jamie**

Age: 22

Race: Hispanic

Charges: Theft 3rd

Incident: Jamie is accused of stealing a grocery cart full of food from the local grocery store. Jamie was caught by store employees just outside the door. Total loss was \$227.57.

Length of trial: The court is expecting this trial to take at least **1.5 days**.

Jurors sent up for jury duty:	Jurors excused from jury duty:	Reasons:
1.	1.	1.
2.	2.	2.
3.	3.	3.
4.	4.	4.
5.	5.	5.

Handout 2 for Juror Roles

Potential Jurors – Will the Jury Administrator send you to the Courtroom?

You will be assigned to one of the five juror roles below. In small groups, you will meet with an assigned Juror Administrator who will ask you about your background and make the decision whether to send you to the courtroom to be questioned by the attorneys and judge about being placed on the jury or whether to excuse you from jury service so that you can leave.

Juror Role 1:

Name: **Pam**; Age: 40; Race: White; Gender: Female
Education: High School and trade school
Family: Single Employment: Para Educator
Earnings: \$30,000

Story: Pam works as an assistant to teachers and instructors in special education classrooms at a high needs/high poverty elementary school. In her current position, Pam serves over 400 students daily. These students will be adversely affected by her absence, both emotionally and academically.

Juror Role 2:

Name: **Michael**; Age: 23; Race: Asian; Gender: Male
Education: Currently enrolled in night school
Family: Lives at home with three sisters; Employment: Nurse's aid
Earnings: \$27,000

Story: Michael works as a nurse's aide in an assisted living facility. After his shift, Michael attends college where he is working to obtain his BA in Nursing. He is currently the only full-time employee in his department, and his absence would adversely affect the residents' daily routine at the facility.

Juror Role 3:

Name: **Anderson**; Age: 83; Race: Black; Gender: Male
Education: High School
Family: Married for 63 years; Employment: Retired from U.S. Postal Service
Earnings: \$43,000

Story: Anderson and his wife have been married for 64 years and have five children, 15 grandchildren, five great-grandchildren, and one great-great-granddaughter. His wife was recently admitted to the hospital for a cardiac condition. She needs assistance getting to and from multiple doctor's appointments.

Juror Role 4:

Name: **Leanne**; Age: 49; Race: White; Gender: Female
Education: College degree
Family: Not married, no children; Employment: Real Estate developer
Earnings: \$175,000

Story: Leanne has a passion for social causes. She believes jury service is an important part of our civic responsibility. However, Leanne has not had good interaction with law enforcement and the court system.

Juror Role 5:

Name: **Samantha**; Age: 31; Race: White; Gender: Female
Education: High School
Family: Lives alone; Employment: Part-time maid
Earnings: \$20,000

Story: Samantha works part-time as a maid for a family in Sumner. Several years ago, Samantha was diagnosed with a mental health disorder. She becomes extremely unstable when put into stressful situations.

History of the Pierce County Study of Jurors: Background for Teachers

Thank you for taking the time to find out more about our jury system in Washington State. I hope you find this information compelling and are able to relay the importance of our jury system to your students to encourage their participation in the democratic process. When I was hired as the Pierce County Court Administrator in 2016, I was asked to conduct a comprehensive review of each department within court administration to increase my understanding of the court process and to suggest improvements and efficiencies. While reviewing our jury administration, I had the opportunity to not only review a tremendous amount of data, but also talk to several judges about their views on our jury system. To give you some inside information about the process, there are basically four phases to the jury system.

- Juror Source List - The list each County receives from the State of Washington's Administrative Office of the Courts, which lists the names and addresses of potential jurors. These names are taken from the Department of Licensing and the Voter Registration lists.
- Summons Process - This process is where our jury administration staff send out summonses to county residents based on expected needs for the court for a certain week.
- Check-In - This is the process of new jurors checking-in with jury administration the morning they are called for jury duty.
- Empaneling - This is when a court requests a certain number of potential jurors to be brought up to the court for voir dire, or questioning about their ability to sit on a specific jury, and be impartial.

These systems have built in checks and balances to ensure their randomness and goals of bringing in a representative juror pool.

Comments from judicial officers, staff, and my own observances expressed that the pool which courts had to draw from, appeared to not represent the statistical ethnic make-up of Pierce County. We knew we collected quite a bit of data from our jurors, but could we use that data to tell a story about who was and was not responding to jury service. Our jury administration staff could tell me who responded, who didn't respond, who completed (came in our doors) and who was seated on a jury. Due to limits on the Juror Source List data, we can only tell who (name), their address, age and sex of the potential jurors. The State of Washington does not collect ethnicity data through drivers licensing or voter registrations. Without ethnicity data, we have a hard time proving if we are reaching a diverse jury pool. We know we are summoning across a diverse

area of Pierce County but are the people who are responding to our summonses actually a diverse and representative pool.

The first step was to take our address data and map it using Geographic Spatial software. This software allowed us to see each “No Response” potential juror, laid out on a map. A “No Response” means that the summons wasn’t returned because it was a bad address and more than likely the recipient of the summons just discarded it. This took a couple of tries to actually have the data tell a story. The first attempt mapped the “No Response” based on census tracts. Because this did not tell the story well enough, we asked the software staff to map it by address. Anytime there was a “No Response,” a virtual pin would be dropped. The more pins dropped in a particular area, the “hotter” the area would become. With this data mapped, we can show where in Pierce County we are not receiving responses to our juror summonses. We can also map out where people are responding to summonses, completing jury service and those who have an undeliverable address.

Once we had the data mapped for each city and unincorporated area of Pierce County, we had to decide what we wanted to do with it. We chose to initially focus on three cities along the I-5 corridor to compare and contrast response rates. We chose Lakewood, University Place, and Fircrest. These cities run north and south along I-5, and as you move up I-5, the cities become smaller and less diverse (based on statistical data). The cities also become less socio-economically diverse and have more established neighborhoods. Established neighborhoods are single family residences, which have a greater likelihood of home ownership as opposed to a more transient, or frequently moving, apartment/home resident.

Our initial review, based strictly on assumptions that we can make from a specific neighborhood, showed us that the more diverse neighborhoods, with higher transient populations and lower socio-economic status, responded poorly to juror summonses and also had a higher rate of undeliverable returns from the United States Post Office. The question we need to answer is, how do we as a court system improve response rates and lower the undeliverable rates for all, but certainly in lower socio-economic and high transient residential areas of the county?

In 2017, I presented our study to the Washington State Supreme Court at the Minority and Justice Commission Jury Diversity Symposium. Our study was expanded as a result of this presentation to create heat maps for summons response, undeliverable and completed jurors, as well as the no response data.

As a result of the presentation to the Supreme Court, I have been a member of a Statewide Jury Diversity Task Force and a member of the Washington State Public Trust & Confidence Committee. Each of these groups are looking at ways to provide a diverse and representative jury for the criminal and civil cases which come through our courthouse doors. Pierce County in particular is partnering with the Washington State Administrative Office of the Courts to try to increase public outreach to show the importance of all eligible citizens having a voice in our civic process.

I hope you find this lesson plan useful and you are able to encourage in your students, a life-long commitment to responding to jury summonses.

Chris Gaddis
Pierce County Superior Court Administrator