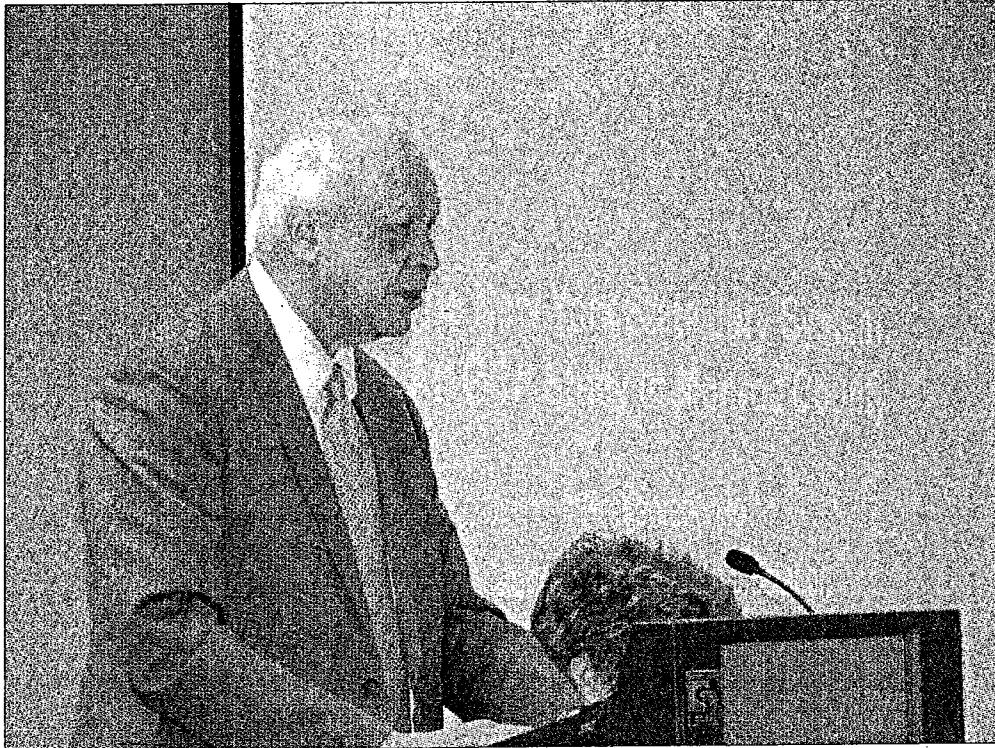


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BY ELIZABETH STULL

Appellate Division, Fourth Department Presiding Justice Henry J. Scudder addresses attendees during the Monroe County Bar Association Speaker's Forum held Wednesday at the Telesca Center for Justice. Chief Judge Jonathan Lippman has tapped Justice Scudder to lead a systematic study of minority representation on Monroe County juries.

Monroe County study state's first

Jury study will collect previously unavailable data

BY ELIZABETH STULL

For the first time, the New York State court system is conducting a systematic study of minority representation on juries.

Some attorneys say it will not go far enough to determine why juries appear to be disproportionately white.

But the study could lay the groundwork for future research about why certain jurors are empanelled, and why others fail to respond to jury questionnaires at all, OCA Management Analyst Elissa Krauss said Wednesday.

Krauss is directing the study and dis-

cussed its methodology during a Speaker's Forum at the Monroe County Bar Association.

The issue of under-representation is not unique to Monroe County, Appellate Division, Fourth Department Presiding Justice Henry Scudder said. Chief Judge Jonathan Lippman tapped Justice Scudder to lead local the study.

The data collected in Monroe County could have statewide implications.

Jury study first in New York State

STUDY from page 1

New York's centralized system for calling jurors already uses a combination of 'best practices' to draw a diverse pool of potential jurors, Cornell Law School Professor Valerie Hans said during Wednesday's forum. She is one of three nationally recognized experts serving as consultants on the jury study.

No other state uses as many sources for potential jurors as New York, which collects names from voter registration lists, the Department of Motor Vehicles, sales tax records, the Department of Family Assistance and the Department of Labor.

Those sources provide an estimated 35 million names each year, which the jury system whittles down to 6 million by eliminating duplicates, the deceased and those who have moved.

In November 2009, the lists provided 1,469,271 records and a final list of 292,765 prospective jurors for Monroe County alone. They included people who

first registered to vote in 2008.

"Jury service, as I view it, is a partnership," Monroe County Commissioner of Jurors Charles G. Perreaud said.

Perreaud said he hopes everyone will respond to the surveys because, "it's important for us to have the best collection of data that we can have."

Beginning next week, 1,000 randomly selected potential jurors in Monroe County will receive modified questionnaires asking them to identify their age, gender, Hispanic origin and race.

Beginning at the end of January, every juror who appears to serve in Monroe County will be asked to fill out a juror information card with the same information.

Survey questions were taken from the 2010 U.S. Census and respondents are permitted to check more than one box.

Data collection could take up to six months since questionnaires routinely are sent three times, at 10-week intervals, to

ensure a better response rate. Researchers expect a 98 percent response rate and the study will include 1,000 randomly selected petit jurors and 300 grand jurors, a statistically significant sample size.

Researchers said they hope to determine whether questionnaires are evenly distributed and whether there are Zip codes, or even blocks, that are not adequately represented. They also will be able to identify the specific source lists on which jurors were pulled.

While the study will collect previously unavailable data, it will not answer whether empanelled juries are representative, the question of greatest concern to many attorneys, First Assistant Public Defender Roger Brazill said.

"The jury system is supposed to produce representative groups of people to appear as jurors," Krauss said.

The Sixth Amendment does not promise that the jury members selected will be representative.

"A disproportionately high number of poor people are excused for that reason" once they are in the courtroom, Brazill said.

"I, personally, wouldn't want a juror who's hell-bent not to sit," Angelo Faraci said during Wednesday's discussion.

Hans said a study of why jurors are excluded in the courtroom would require court observers.

Such a project "would be very useful and valuable, and frankly, this [current study] needs to be done first," she said.

SCOTUS

The U.S. Supreme Court will hear a Sixth Amendment case this session, *Berghuis v. Smith*, No. 08-1402. At issue is whether the state of Michigan provided a defendant with a fair cross-section of the community from which to select a jury.

The county in question used two separate systems for calling jurors, one for its urban population and one for the surrounding areas.

"The Supreme Court has not weighed in on what constitutes a representative panel. They've given a lot of discretion to the states regarding exact levels of disparities," Hans said.

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