

# **CHAMPAIGN COUNTY COURTWATCHING PROJECT HIGHLIGHTS FIFTH ANNUAL REPORT—2008-2009 LEAGUE OF WOMEN VOTERS/COLLEGE OF LAW**

## **Introduction**

Our system of government relies upon distributed responsibilities for the administration of justice; our courts are at the heart of that system. Concepts of due process and fundamental fairness are central to our democracy. The question of how our courts function, from local courts through the highest levels of the federal government, is a vital issue to all Americans.

Each fall for many years, Trial Advocacy students and volunteers from the League of Women Voters have devoted time to observing proceedings in one of the oldest continuous courtwatching programs in the state, if not the nation. Courtwatching is a systematic review of court proceedings and personnel, done with a view to reporting on the operation of our justice system.

League observers and law students provide a presence in our courtrooms throughout the year, with a concentration of students each fall semester fulfilling a course requirement for each to observe twelve hours of court proceedings. In recent years, we have formalized the collaboration between the League and the College of Law; this is our fifth annual report to the community based upon systematic collection and analysis of our observations to provide a statistically meaningful report.

Courtwatching is an important program with many benefits. For the law students who participate, it is an important learning tool as it provides exposure to the courtroom with real people, real lawyers and real problems. For the courts, our structured observations provide citizen scrutiny of the system and its strengths and weaknesses: unwatched courts are a danger because so many decisions within them reflect society's values for the system of justice. For the parties in the cases, courtwatching assures that there are external observers to monitor the fairness of local proceedings. These litigants can have increased confidence that their cases will be handled and decided properly. For the lawyers participating in trials, courtwatching keeps them on their toes, giving them more incentive to be prepared to do their work well.

## **A Brief History of our Reports**

In 2004-05, our observers collectively found Champaign County's courts to be respectful places where the formal proceedings were generally perceived to be fair and appropriate. At the same time, the report raised concerns about how representative juries were in Champaign County, as the 2005 findings demonstrated a significant discrepancy between the demographics of adults in the County and those in jury pools at the courthouse. Our observations raised some other issues about perceived fairness as well. Members of the judiciary and administrative officials responsible for the functioning of the courts responded promptly with several initiatives examining possible explanations for the observed discrepancies and implementing improvements aimed at producing more representative juries.

In the second year, our findings with respect to demographic variances between the population of the county and the composition of juries were not repeated. Proceedings in Champaign County's courts continued to be perceived as respectful in the large majority of cases.

Our third report again demonstrated variances in the demographic composition of juries in the state courts, though not in the federal courts.

The fourth year's report demonstrated statistically significant over-representation of Caucasian females in our jury pools with under-representation of Asian males. The over-representation of Caucasian females in our jury pools has been a continuing feature since our first report. While our observations document other differences between the composition of jury pools with the demographics of the Champaign County population, in the fourth year, they were not statistically significant.

### **Fifth Year Summary Report**

Courtwatching observations presented in this report were recorded by more than 98 law student observers and the League's standing corps of observers. This report is based on 1149 hours of observation or the equivalent of 143 work days. The average time per visit was 1.69 hours. All of the observations and analysis in this report are based on courtwatching conducted in the Circuit Court of Champaign County. For the first time, there was no reported courtwatching observations for the United States District Court in Urbana.

### **CHAMPAIGN COUNTY COURT REPORT**

Defendants in these observations are overwhelmingly male, African-American, young and charged with felonies. (Students appropriately observe the most serious of criminal cases.) In about 90% of the observations, defendants appeared to understand the proceedings in which they were involved. At the same time, more than 14% of defendants appeared to understand half or less of the proceedings in which they were involved.

There was a statistically significant deviation in the composition of the jury pools relative to the population of the County with respect to Asian females. Observed differences between jury pool composition for African-American males and females, Caucasian males and females and Hispanic males and females and Asian males were not statistically significant.

Citizens in Illinois are called for jury duty based on random selections from lists compiled by combining lists of 1) registered voters in the County; 2) those with driver's licenses age-eligible to serve on juries; and 3) those who have obtained State identification cards. These lists are obtained from the relevant record custodians (respectively, the County Clerk for voter registrations and the Secretary of State for driver's licenses and identification cards), combined by the Circuit Clerk's office, and then random selections are made from those lists by a computer program. We sought information on the demographic composition of the lists from which jury pools are assembled and learned that neither the County Clerk nor the Secretary of State collects or records racial identification information.

Because the jury pool is selected by random sampling, the statistically significant observed differences for Asian females could be due to any of the following, either singly or in combination: (1) differences by race and/or sex in the likelihood of having a driver’s license or state identification card, or being registered to vote; (2) differences by race and/or sex in the likelihood of having a valid current address to which the jury summons can be delivered; and/or (3) differences by race and/or sex in the likelihood of responding to the summons. The limitation on this demographic data undermines efforts at definitive explanations for our findings.

The seating of jurors as a result of the jury selection process did result in differences in observed percentages by race and sex of the diverse racial groups. Specifically, the percentages for Asian males, Asian females and African-American males who are seated (or not excused) are lower than the percentages for other groups; however the numbers of jurors in these categories are too small to express a conclusion that has statistical significance. The raw numbers of excused African-American males (five out of nine) suggest that this is an area that should be closely observed in future studies.

### Specific Findings

Our combined observation reports continue to find Champaign County’s courtrooms to be respectful places: in 97.5% of the observations, court personnel were reported to be very or somewhat respectful; in 2.5% of the observations, court personnel were reported to be somewhat disrespectful.

### Defendant Characteristics

As to the persons involved in proceedings, a snapshot of our observations shows that:

- 90.7% of observed defendants were male, and 9.3% female
- 52.6% were African-American,
- 42.5.0% Caucasian, and
- 4.4% were Hispanic/Latino.
- 69.6% of observations were felonies
- 22.6% were misdemeanors, and
- 7.8% were traffic/petty offenses.

A comparison of the observations from previous years shows some changes from one year to the next. For example comparing the last three years of data points on defendant characteristics shows:

Characteristic	year two	year three	year four	year five
Male	93%	76.5%	85.2%	90.7%
Female	7%	23.5%	14.8%	9.3%
African-American	73%	70%	56.3%	52.6%
Caucasian	25%	27.7%	41.0%	42.5%
Hispanic/Latino	2%	2%	2.5%	4.4%
Felonies	86%	75.5%	80.8%	69.6%
Misdemeanors	12%	10%	16%	22.6%
Traffic/petty	2%	14.6%	3.1%	7.8%

**Defendant’s Understanding of Proceedings, Rights, and Options; Respect**

Our first report highlighted instances where some defendants did not appear to fully comprehend all of the proceedings. We continue to have concerns about the perception that defendants are not understanding proceedings. This year, in 90.48% of the observations, the defendant appeared to understand most or all of the proceedings; in 6.12% of the observations, the defendant appeared to understand about half of the proceedings; in 3.40% of the observations, the defendant appeared to understand very little or none of the proceedings.

Observers reported that in 97.05% of the observations, the defendant appeared to understand his/her rights and options fully, very well, or reasonably well; in 2.95% of the observations, the defendant appeared to understand his/her rights and options very little or not at all.

Overall, the level of respect demonstrated by judges to defendants was seen by observers as high. There was one observation in which a judge was assessed a “not at all respectful” and 16 observations of judges who were assessed as “somewhat disrespectful” to defendants.

Compared across years:

<b>Characteristic</b>	<b>year two</b>	<b>year three</b>	<b>year four</b>	<b>year five</b>
Not at all respectful	0%	0%	0.32%	.15%
Somewhat disrespectful	2.5%	1.4%	1.11%	2.36%
Neutral	15%	12%	21.17%	14.43%
Somewhat respectful	20%	24%	21.48%	21.94%
Very respectful	63%	62%	55.92%	61.12%

In 2008, the demeanor of judges and the attorneys remains “pleasant” for the most part (judges 65% somewhat or very pleasant, prosecutors/plaintiffs’ attorneys 81% somewhat or very pleasant and 78% defense attorneys somewhat or very pleasant). The lower “pleasant” factor for judges is explainable, in part, by frequent admonishments to court-watching law students to behave themselves, even where the law students claimed to have caused no disturbance.

**Summary of Champaign County Circuit Court Jury Pool and Jury Seating, Fall 2007**

In the first year of observations, we saw a significant discrepancy between the demographics of the County and citizens reporting for jury duty at the Champaign County Courthouse: while census data indicated an 11% African-American population for Champaign County and a 15% African-American population for the cities of Champaign and Urbana, the observed African-American representation in the jury pools at the Champaign County Courthouse was about 6%. The second year’s report did not observe variances other than statistically-expected ones. In the third year, we reported variations in the composition of jury pools and the demographics of the county: African-American males and Asian males were significantly underrepresented in the jury pool relative to the percentages for these two groups in the population of Champaign County. In the fourth year we reported that Caucasian females were significantly overrepresented and Asian males were significantly underrepresented.

This year, Asian females were significantly underrepresented in the summoned jury pool. The observed differences in the jury pool for African-American females, African-American males, Caucasian males, Caucasian females, Hispanic males, Hispanic females, and Asian males were not statistically significant.

The observed percentages of actual seating for Asian female and Hispanic male jurors were lower than the percentages for other groups, but the numbers of jurors in these two categories were too small for the results to be statistically significant.

According to the 2000 census, 78% of the population of Champaign County is Caucasian non-Hispanic, 11% is African-American, 7% is Asian, and 3% is Hispanic. Women account for 49.7% of the population. Assuming independence of race and sex, one can calculate expected numbers for each category of race and sex in the jury pool if the pool were selected by random sampling of the County's population (this is of course not the method that is actually used—see above).

The following table gives the actual and expected numbers of jurors.

Table 1: Numbers and Expected Numbers of Jurors

Race and Sex of Juror	year two # in pool	year two expected # in pool	year three # in pool	year three expected # in pool	year four # in pool	year four expected # in pool	year five # in pool	year five expected # in pool
African-American Male	6	6	3	15	7	14	9	18
African-American Female	12	6	8	14	12	14	11	18
Asian Male			0	9	0	9	3	11
Asian Female			3	9	3	9	1	11
Caucasian Male	27	43	121	103	92	96	149	126
Caucasian Female	52	43	126	102	132	96	149	126
Hispanic Male			0	4	1	4	0	5
Hispanic Female			1	4	0	4	1	5

The observed percentages for seating of jurors by race and sex are given below. According to the results of Fisher's exact test and the chi-square test, there is no statistically significant effect of race, sex, or the combination of race and sex, on the chance of being seated ( $P=0.0784$ ,  $P=0.7816$ , and  $P=0.2614$ , respectively). Note that the percentages for Asian males and females and Hispanic males are lower than the percentages for the other groups, but the numbers of jurors in these two categories are too small for the results to be statistically significant.

Table 2: Seating of Jurors by Race and Sex

Race and Sex of Juror	Number Seated	Number Not Seated	Percent Seated
African-American Male	4	5	44.4%
African-American Female	7	4	63.6%
Asian Male	1	2	33.3%
Asian Female	0	1	0.0%
Caucasian Male	104	45	69.8%
Caucasian Female	104	45	69.8%
Hispanic Female	1	0	100%
Total	221	102	68.4%

On the basis of statistical probability, as has been the case in all four of our reports, the chance of a member of the jury pool being seated as a juror or alternate juror did not depend on the race or sex of the person. It also did not depend on the combination of race and sex of the person. The trend, however, is that more Caucasian jurors appear for jury duty and are selected than any of the other diverse elements of the county. Only annual studies will demonstrate whether this trend can be explained by factors unrelated to the racial make-up of the jurors summoned and seated on Champaign County juries.

### **Conclusion**

The Illinois Constitution provides that the accused in a criminal prosecution has a right to a “speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed.” We continue to be concerned about the issue of representative juries in Champaign County on the basis of race and gender. We believe that continued observations and public discussion of the issue will be beneficial.

Our studies take a snapshot of our court system in operation. We will continue this annual endeavor. We believe that knowledge of how our court and jury system, including community representation, is valuable information for our community to have. Questions or feedback about our courtwatching program should be referred to Ms. Miller, the Chair of the Champaign County League of Women Voters Justice Committee or to Professors Beckett and Gunsalus at the University of Illinois College of Law.

### **The Champaign County Courtwatching Project**

**Joan Miller**, Chair of the Justice Committee of the League of Women Voters of Champaign County (LWVCC), coordinated this project for LWVCC. She organizes the League courtwatchers and is herself a veteran courtwatcher with many years of experience. Ms. Miller provided training for the Trial Advocacy students who participated in the pilot project and leads the League's courtwatchers.

**J. Steven Beckett**, Director of the Trial Advocacy Program at the College of Law at the University of Illinois, taught the Trial Advocacy course that assigns students to do "real life" courtwatching and oversaw all legal aspects of the project, including this final report.

**Julie Campbell** and **Molly Lindsay**, who serve as College of Law faculty assistants, coordinated student observation times, and took responsibility for the many details required to collect and collate the large quantity of data involved in this project. Their time, energy and careful recordkeeping were essential.

**C. K. Gunsalus**, Adjunct Professor at the College of Law, served as liaison among all the project participants, bringing parties together, working on the final report and finding resources.

**Adam Martinsek**, Professor of Statistics at the University of Illinois, performed the statistical analysis.

This project's feasibility rested upon the full and willing participation of the **law students** enrolled in Law 695, Fundamentals of Trial Practice, in the Fall 2008 semester at the College of Law at the University of Illinois. Finally, a study such as this is simply not possible without the cooperation and educational approach of the **judges and staff of the courts of Champaign County and the federal District Court in Urbana, Illinois**. The judges here have offered guidance and support for the students and we are grateful to them.