

CHAMPAIGN COUNTY COURTWATCHING PROJECT HIGHLIGHTS
SIXTH ANNUAL REPORT—2009-2010
LEAGUE OF WOMEN VOTERS OF CHAMPAIGN COUNTY AND THE
COLLEGE OF LAW

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 of Women and the College of Law; this is our sixth annual report to the community based upon systematic collection and analysis of our observations to provide a statistically meaningful report.

This year's court observations started on August 31, 2009 and ended December 17, 2009, with a total of 1407 hours of observation during this period, the equivalent of more than 175 working days. Eleven jury trials were observed over the seventy-one days of actual court attendance during the period.

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.

We must acknowledge the significant delay (May to October) in the release of these results. We were fortunate to obtain the analytical services of the University of Illinois Survey Research Lab and the individual efforts of Linda K. Owens, PhD. Her first run at the data pointed out significant statistical anomalies in defendant and juror characteristics that required a close look at the experience and recording of data by students and court watchers in the fall of 2009. What we discovered was that one trial¹ garnered overwhelming attention of students and watchers alike. It was the murder trial of a white female defendant in October 2009 and fully 24% of the data entries from the fall resulted from observers at that trial. Focus on duplication of data and data entry error was necessary and was accomplished by the extraordinary efforts of Dr. Owens. We are confident in this report and its analysis.

¹In People v. Myrick 2007 CF 1962 the defendant was charged with multiple counts of murder. Jury trial commenced October 26, 2009 and concluded with a verdict on November 4, 2009. The defendant had three other cases also pending (2007 CF 2, 2007 CF 19 and 2007 CF 58); thus there was confusion about the entry of accurate case numbers by students.

Overview of the 2009 Observations

In reported observations of felony criminal cases, defendants are overwhelmingly male, African-American and young. Parties who come to court continue to be treated with respect by judges and circuit court staff, as well as by opposing attorneys and by their own attorneys. The system appears to function well as a professional one that honors the rights and responsibilities of civil and criminal litigants as their cases are addressed in court.

However, we continue to see a deviation in the observed composition of the jury pools relative to the population of Champaign County with respect to representation of African Americans and white females on Champaign County juries. Virtually every year, the number of expected African American jurors, based on census data, is under-represented, while white females jurors are over-represented.

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 age-eligible to serve on juries with driver's licenses ; 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 randomly selected 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 collect or record racial identification information.

Because the jury pool is selected by random sampling, the statistically-significant observed differences between census distribution and jury distribution 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 the demographics of the selection pool undermines efforts at definitive understandings of our observations.

Our concern is not particularly in the juror numbers for this year, since our work is only a "snapshot" of the three months observed. Instead, our concern is the pattern shown consistently through this snapshot over a number of years of the race and sex of jurors that appear, and are seated for jury service, in Champaign County courts. Year after year, white jurors dominate the jury pools and people of color make more nominal appearances. This continuing discrepancy is despite the diligent efforts of the county's Presiding Judge, Circuit Clerk, States Attorney, Public Defender and an *ad hoc* citizens committee to modify the Champaign County juror questionnaire and to expand public awareness of the importance of diversity in Champaign County juries. We hope these efforts continue.

Specific Findings

Our combined observation reports continue to find Champaign County’s courtrooms to be respectful places: in 83.6% of the observations, court personnel were reported to be very or somewhat respectful; in 13.3% of the observations the court was observed being neutral, and in 3.2% 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:

- 82.1% of reported defendants were male, and 17.9% female²
- 60.4% were African-American,
- 33.3% Caucasian, and
- 1.8% were Hispanic/Latino.
- 5.4% were undetermined race.
- 69.1% of observations were felonies
- 23.6% were misdemeanors, and
- 2.7% were traffic/petty offenses.
- 4.5 % were other charges.

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 on defendant characteristics shows:

Characteristic	2005	2006	2007	2008	2009
Male	93%	76.5%	85.2%	90.7%	82.1%
Female	7%	23.5%	14.8%	9.3%	17.9%
African-American	73%	70%	56.3%	52.6%	60.4%
Caucasian	25%	27.7%	41.0%	42.5%	33.3%
Hispanic/Latino	2%	2%	2.5%	4.4%	1.8%
Felonies	86%	75.5%	80.8%	69.6%	69.1%
Misdemeanors	12%	10%	16%	22.6%	23.6%
Traffic/petty	2%	14.6%	3.1%	7.8%	2.7%

² The variation in female defendants from year reflects the short period of observation in our project.

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 do not understand proceedings. This year, in 80% of the observations, the defendant appeared to understand most or all of the proceedings; in 7% of the observations, the defendant appeared to understand about half of the proceedings; in 3% of the observations, the defendant appeared to understand very little or none of the proceedings.

Observers reported that in 95.5% of the observations, the defendant appeared to understand his/her rights and options fully, very well, or reasonably well; in 4.5% 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. This year was the largest reported observation of judges appearing “very respectful” to parties, and there was not one observation in which a judge was assessed a “not at all respectful” and only 5 observations of judges who were assessed as “somewhat disrespectful” to defendants. Student comments that reflect the large number of positive and the few negative “respect” observations are shared with judges. Compared across years:

Characteristic	2005	2006	2007	2008	2009
Not at all respectful	0%	0%	0.32%	0.15%	0%
Somewhat disrespectful	2.5%	1.4%	1.11%	2.36%	3.2%
Neutral	15%	12%	21.17%	14.43%	13.3%
Somewhat respectful	20%	24%	21.48%	21.94%	17.1%
Very respectful	63%	62%	55.92%	61.12%	66.5%

In 2009, the demeanor of judges and the attorneys remains “pleasant” for the most part (judges 67.1% somewhat or very pleasant, prosecutors/plaintiffs’ attorneys 73% somewhat or very pleasant and 66% 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 2009

In Illinois, the law is clear and the time of systemic discrimination on the basis of race and gender should no longer exist. Illinois juror qualifications are direct and include that prospective jurors be (1) residents of the county where they are called to duty, (2) of age 18 and higher, (3) of good character, integrity and judgment and able to speak or write or sign the English language, and (4) United States citizens.³ Nonetheless the operation of the process of summoning jurors, contents of juror questionnaires, juror compensation, length of trial terms and other variables can have an impact on jury diversity. The principle that a fair trial includes a jury that is representative as a cross-section of the community was reaffirmed by the United States Supreme Court in March of 2010.⁴

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. In the fifth year, 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.

This year, the combination of race and sex as a predictor of being seated on a Champaign County jury is statistically significant. If one is white and female, according to the data, there is a far greater chance of being seated on a jury. Women are 1.5 times as likely to be seated as men. Additionally, white jurors are 3.7 times more likely to be seated than non-white jurors. The number of non-white jurors in the sample is too small for a race-by-gender comparison of seating status.

According to data from the 2006-2008 American Community Survey (ACS), the average distribution of population estimates for adults age 18 or older include the following:

³ 705 ILCS 305/2

⁴ *Berghuis v. Smith* ___ U.S. ___, 130 S.Ct. 1382, 1383 (2010) "The Sixth Amendment secures to criminal defendants the right to be tried by an impartial jury drawn from sources reflecting a fair cross section of the community."

Table 1: 2006-2008 ACS Data

	Jury Pool		Champaign Co. Pop.		Expected Value
	Freq.	Percent	Freq.	Percent	
White Female	167	47.6%	56,320	38.5%	135
White Male	169	47.2%	61,188	41.8%	147
Afri-Am. Female	5	1.4%	8,323	5.7%	20
Afri-Am. Male	8	2.3%	7,122	4.9%	17
Asian Female	2	0.6%	5,787	4.0%	14
Asian Male	0	0.0%	7,580	5.2%	18
Total	351	100%	146,320	100.1*	351

Table 2: Numbers and Expected Numbers of Jurors – Five Year View

Race and Sex of Juror	2005: # in pool	2005: expected # in pool	2006: # in pool	2006: expected # in pool	2007: # in pool	2007: expected # in pool	2008: # in pool	2008: expected # in pool	2009: # in pool	2009: expected # in pool
African-American Male	6	6	3	15	7	14	9	18	8	17
African-American Female	12	6	8	14	12	14	11	18	5	20
Asian Male			0	9	0	9	3	11	0	18
Asian Female			3	9	3	9	1	11	2	17
Caucasian Male	27	43	121	103	92	96	149	126	169	147
Caucasian Female	52	43	126	102	132	96	149	126	167	135
Hispanic Male			0	4	1	4	0	5	0	?
Hispanic Female			1	4	0	4	1	5	0	?

The observed percentages for seating of jurors by race and sex are given below. For 2009, as reflected, the numbers of Asian jurors and absence of Hispanic jurors are small or absent so no inferences are drawn from that data.

Table 3: 2010 Seating of Jurors by Race and Sex

Race and Sex of Juror	Number Seated	Number Not Seated	Percent Seated
African-American Male	2	6	25%
African-American Female	2	3	40%
Asian Male	0	0	0%
Asian Female	0	2	0%
Caucasian Male	87	82	48.5%
Caucasian Female	105	62	62.9%
Total	196	155	68.4%

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 functions, 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.

Our jury system and the participation of jurors from all walks of life, all races, both sexes and the like relies upon the notion that a jury trial with a jury drawn from a representative cross-section of the community means that there will be a fair trial.⁵ Just as the wrongful use of peremptory

⁵ The premise underlying Batson v. Kentucky 476 U.S. 79, 87-88 (1986) and J.E.B. v. Alabama ex rel T.B. 511 U.S. 127, 145-146 (1994) is that the stereotypical use of peremptory challenges on the basis of race and gender undermines the community’s confidence in the court system, in addition to harming the individual rights of the litigants and the affected jurors.

challenges can result in a jury that is stacked against a party on the basis of gender or race, a court system's weakness in providing a jury pool that represents a diverse, community cross-section leads to the perception of the lack of a fair trial. Complaints about the lack of fair trials for defendants and parties of color will continue even if the lack of diversity is an unintended by-product of the efficient operation of the system of bringing jurors to the courthouse.. Certainly today's enlightened minds cannot possibly suggest that continued issues of over-representation and underrepresentation of racial and gender groups, as reflected in our statistics, ought be ignored. We encourage the continued good efforts to improve jury diversity in Champaign County.

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 Lindsey**, 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, Professor of Business and Research Professor at the Coordinated Sciences Laboratory, worked on the final report.

Linda K. Owens, PhD., University of Illinois Survey Research Lab, 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.