



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

Office of Chief Public Defender
30 Trinity Street, 4th Floor
Hartford, Connecticut
(860) 509-6405 Telephone
(860) 509-6495 Fax

Christine Perra Rapillo
Chief Public Defender
Christine.Rapillo@jud.ct.gov

Deborah Del Prete Sullivan
Legal Counsel, Director
deborah.d.sullivan@jud.ct.gov

Testimony of Ann Parrent, Assistant Public Defender
Office of Chief Public Defender

Committee on Judiciary - Public Hearing March 9, 2018

Raised Bill 5414
An Act Concerning the
Jury Administrator's Retention of Demographic Data Relating to Jurors

The Office of Chief Public Defender supports this bill and thanks this Committee for raising *House Bill 5414, An Act Concerning the Jury Administrator's Retention of Demographic Data Relating to Jurors*. The Sixth Amendment to the United States Constitution guarantees criminal defendants the right to an impartial jury selected from a fair cross section of the community. In Connecticut, criminal defendants lack any means of enforcing this important constitutional right because the Judicial Department is not required to collect or maintain complete juror demographic information.

Raised Bill No. 5414 would amend C.G.S. § 51-232(c) to remedy this shortcoming in our jury selection process. Currently, C.G.S. § 51-232(c) provides that the questionnaires filled out by prospective jurors must ask for race and ethnicity but must also indicate that this information is optional. The intended purpose of this statute was to ensure that jury pools are representative of the community as a whole. However, relatively few prospective jurors fill in their race and ethnicity when given the option. As a result, the statute does not fulfill its purpose of accurately documenting the demographic makeup our jury pools and thereby ensuring that our jury pools are inclusive and truly representative of our communities.

The federal courts, including those in Connecticut, require prospective jurors to furnish their race and ethnicity on their questionnaires. The questionnaires explain that this information cannot be used to disqualify anyone from jury service but is used to ensure that jury pools are representative of the community. The New York and Massachusetts state courts follow similar procedures.

Raised Bill No. 5414 would bring Connecticut's practice into step with the federal courts in our own state and with the courts in our neighboring states. It would also permit our courts to grant access to the demographic data produced by the juror questionnaire if necessary to enforce the constitutional guarantee to a jury selected from a representative cross-section of the community.

This enforcement mechanism is important to expose and correct errors that may unintentionally exclude whole groups of people from jury service. This is aptly illustrated by two Connecticut federal court cases in the 1990s. See United States v. Osorio, 801 F.Supp. 966 (D. Conn. 1992); United States v. Jackman, 46 F.3d 1240 (2d Cir. 1995). In those cases, the defendants asserted that their jury pools were not representative of the community. When the situation was investigated, it was discovered that computer programming errors had omitted any residents of Hartford or New Britain from the mailing lists used to summon federal court jurors. This in turn caused racial disparities, which the federal court held violated the guarantee of a jury selected from a fair cross-section of the community. This exclusion of entire communities from jury service was only discovered and corrected because the federal courts had required jurors to furnish their race and ethnicity. Examining that data is what led the parties and the courts to discover the problem and investigate further.

Without the changes required by Raised Bill No. 5414, criminal defendants in Connecticut have no means of enforcing the constitutional right to a jury selected from a fair cross-section of the community. The Office of the Chief Public Defender asks that this Committee vote favorably on this bill.