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A study of juror information on the websites of 61 predominately Hispanic Texas counties

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ABSTRACT

The Constitution does not require a jury of twelve men and women to be representative of America's diverse ethnic, racial, and economic groups (Donaldson v. California, 1971). Although there is concern whether prospective juror pools emulate shifting racial and ethnic populations, (Fukari, 1996), it is unconstitutional to use "race conscious means" to create a racially balanced jury pool. (United States v. Ovalle, 1998). The U.S. Hispanic population grew from 9.1 million in 1970 to 35.3 million in 2000, an increase of nearly four times, and 53 million in 2012, an increase of nearly six times (Pew Research Center, 2014). Hispanics are the largest minority group in the U.S., making up 17% of the population. By the year 2060, it is projected that Hispanics will constitute 31% of the national U.S. population (Krogstad, 2014). The shortage of minorities, especially Hispanics, on juries is particularly distressing because of additional factors that lead to underrepresentation—factors such as Hispanics who are non-citizens or lack the required English competency for jury service. (Carvone and Plaut, 2014). This study identified 61 Hispanic counties in Texas where the Hispanic population was 50% and higher and analyzed available Texas county websites in accordance with American Judicature Society guidelines (American Judicature Society, 2014) for creating a jury information website. The results contribute to the literature for future Web design by counties with a large percentage of Hispanic population who wish to utilize website design guidelines to enhance jury response and help solve the problem of minority under-representation on juries.

Keywords: Jury, Juror Information, Hispanic Counties, District Court Websites, American Judicature Society Guidelines

INTRODUCTION

Texas Government Code 62.011 enacted in 2003 allows prospective jurors to appear in response to a jury summons by computer or automated telephone system. In response, many Texas counties have instituted such measures. Some counties have automated telephone systems where prospective jurors can call in for juror information, instructions, and directions. Other counties have placed juror education information on their county Websites for the prospective jurors to review prior to reporting. One county even instituted an interactive program that allows potential jurors to respond to their jury summons over the Internet and to be impaneled on-line via a questionnaire (Jones, Arney and Blankenship, 2009).

In response to the ability to provide juror education materials online, this study draws upon previous research of Jones, Arney and Blankenship (2009) and proposes that juror information website content of predominately Hispanic counties adhere to specific guidelines to increase jury response and underrepresentation by Hispanic jurors. Specifically this study reviews the websites of predominately Hispanic counties in Texas and analyzes those websites in accordance with the American Judicature Society guidelines for creating a jury information website.

The results of this study will enable counties with a large percentage of Hispanic potential voters to utilize website design guidelines to create a jury information website that may enhance jury response and solve the problem of minority under-representation on juries. This study will also contribute to the literature of on line juror education.

REVIEW OF LITERATURE

The Constitution does not indicate that a jury of twelve men and women must be representative of America's diverse ethnic, racial, and economic groups (*Donaldson v. California*, 1971). Although there has been concern whether prospective juror pools correctly emulate shifting racial and ethnic populations (Sommers, 2009), it is unconstitutional to use "race conscious means" to create a more racially balanced jury pool (*United States v. Ovale*, 1998). In the United States, the Hispanic population grew from 9.1 million in 1970 to 35.3 million in 2000, an increase of nearly four times, and 53 million in 2012, an increase of nearly six times (Pew Research Center, 2014). Hispanics are the largest minority group in the United States, making up 17% of the population. By the year 2060, it is projected that Latinos will constitute 31% of the national population (Krogstad, 2014).

More than one-third of all Americans (37.6%) are likely to be impaneled as trial jurors sometime during their lifetime (Mize, Hannaford-Agor & Waters, 2007). The goal of having a jury selected from a cross section of the community in areas with growing Hispanic populations is extremely complex and jurisdictions may encounter difficulty ensuring their juries allow for a fair representation of Hispanic jury persons (Israelson, 2006). This is important to the Hispanic population because when Daudistel, Hosch, Holmes, and Graves (1999) examined 317 non-felony juries in Texas (comprised of whites and Latinos), they concluded that majority-white juries were harsher in their judgments of Latino defendants than were majority-Latino juries.

According to the Pew Research Center, 21% of Hispanics report having served on a jury or having an immediate family member serve on a jury within the past five years (Lopez and Livingston, 2009). Approximately 33% of college educated Hispanics report serving on a jury or having an immediate family member serve on a jury compared to 15% of Hispanics with a high school degree and 14% of those who did not graduate from high school (Lopez and Livingston, 2009).

While Hispanics and other minorities are over-represented in other areas of the criminal justice system (i.e., incarceration), they are under-represented on jury lists (U.S. Dept. of Justice, 2006). Hispanics and other racial and ethnic minorities are under-represented in Texas jury panels (Hays & Cambron, 1999, Walters, et al., 2005). In 2004, Harris County, Texas, summoned more than 772,000 residents to jury duty. The Houston Chronicle (2005) compared zip codes to juror response; noted the 10 zip codes with the lowest turnout (<10%) were predominately Hispanic or black; and reported that Hispanic areas had the lowest jury participation. Low juror pay, limited English proficiency, and non-

citizenship were cited as some of the causes (Tilghman, 2005). In Texas, Latinos, young adults, and lower-income citizens “see a jury system that is slim on people who look and think like them or have their life experiences” (Walters, Marin & Curriden, 2005). Rottman (2000) reported national survey data showing African Americans and Hispanics tended to perceive state courts as having a lower level of procedural fairness than did non-Hispanic whites. Carbone and Plaut (2014) reviewed the literature and concluded that jury service can increase levels of trust in the courts. Lack of Hispanic participation is obvious in other areas. For example, in 2010, Hispanics had a voter turnout rate of 31% compared to 32% for Asians, 44% for blacks, and 49% for whites. (Nonprofit Vote, 2011).

The ability to read and write English is a requirement for jury service in Texas (Tex. Govt. Code 62.102, 2005). According to the Pew Hispanic survey (Taylor, et al., 2012) 61% of U.S. Latino adults say they can carry on a conversation in English “very well” or “pretty well” while a similar share (60%) say they can read a newspaper or book in English “very well” or “pretty well.” By contrast, 82% say they can carry on a conversation in Spanish “very well” or “pretty well” and 78% say they can read a newspaper or book in Spanish either “very well” or “pretty well.” So, if these surveys are accurate, limited English language proficiency should not prove to be an impediment to jury service. However, courts should recognize that Hispanics tend to prefer Spanish advertising, labeling and signage for informative reasons (360i, 2012) and that Spanish will always be critical for reaching Hispanics online (Hispanic Online Marketing, 2013).

The bottom line? Walters, Marin and Curriden (2005) concluded that Texas needed to provide public education about the importance of jury service – especially to Latinos and other demographic groups who are significantly represented in jury system participation. Therefore, courts should make every effort to reach the Hispanic population and ensure their participation in the justice system.

METHODOLOGY

In the United States, “the judiciary is the system of courts that interprets and applies the laws in the name of the state and provides a mechanism for the resolution of disputes. The United States also has divisions within each state called county’s, parishes or boroughs, which are usually assigned some form of government authority (Wikipedia, 2014). Texas has the most counties, 254, than any other state in the nation and these counties vary in population from 95 residents in Loving County, Texas to 4,336,853 people in Harris County, Texas (United States Census Bureau, State & County Quick Facts, 2013). The review of literature also indicates that in 2013, Texas had a total population of 26,448,193 (U.S. Census Bureau, 2013). Of that population, the United States Census Bureau, State and County Quick Facts (2013) estimated that, in the areas of race and ethnicity, there were 44% Anglo; 38% Hispanic; 12% Black; and 6% other.

When completing this study, the authors studied two elements of county websites: the percentage of Hispanic population within each county and the number of counties that had official Website addresses. Of the total 254 Texas counties, 234 Texas counties had an official website (Texas Association of Counties, 2014). Out of the 234 counties, 61 counties had Hispanic populations higher than 50%. This is a 79% increase over the 34 counties reported by Jones, Arney and Blankenship in 2009. Using the 61 counties that had Hispanic populations higher than 50%, ten counties had some type of juror education information listed on their sites with two additional counties with minimal juror information which makes an 80% increase in juror information on county websites. These ten (in alphabetical order) are: Atascosa, Bexar, El Paso, Frio, Hale, Hidalgo, La Salle, Medina, Nueces, and Webb Counties. The two counties having minimal jury information are Kleberg and San Patricio Counties. This analysis will compare online juror information content in those 12 counties using the American Judicature Society guidelines for online education.

The authors reviewed each of the 254 counties for the State of Texas and established which counties had Hispanic populations of 50% or higher. Once those counties were identified, the counties that had official web addresses were also identified, thereby meeting the two conditions for the study. Using the 12 counties that met the two conditions: has 50% or higher Hispanic population and has an

official website address, each website was reviewed with regard to the guidelines listed on the American Judicature Society website for *Creating a Jury Information Web Site*. The guidelines used to assess each website included: a thank you and/or acknowledgement to jurors (and maybe employers); a conspicuously located description of the importance of jury service; an explanation of juror responsibilities; information about jury excusal and postponement requests; material about elements jurors need to understand before they arrive at court on the first day; responses to juror and/or potential juror frequently asked questions (FAQ); specific contact information including telephone number and/or e-mail address that is checked daily for questions the website does not answer; feedback or exit questionnaire about how to improve jury service; tips on coping with stress of jury service; overview of basic trial information and glossary of court terms; references or hyperlinks to relevant statutes such as jury pay, etc.; basic information in a language besides English if it is widely spoken within the jurisdiction; up-to-date or current content; site is accessible; site is easy to navigate; information is easy to locate from the home page; and information is easy to print or download.

FINDINGS

Using the 12 courts that met the two conditions of having 50% Hispanic population in their county and having an official website, the first step to finding jury duty information was to locate the court's official web address. Potential jurors would have received a jury duty summons indicating the date, time and location of their service. For additional information, the summons should provide potential jurors with the web address or physical location or telephone number of the court. If the potential jurors did not have their summons available and wanted to review or obtain additional information, they might just Google the county name which would then provide them with the official website for the county. Why is it important to explain how each web address is found? Finding the web address is just the first step to obtaining additional information but this first step might not provide the information wanted.

Once at each website, the authors then examined the site starting on the home page looking specifically for jury duty or jury service information in order to determine how easy and/or how many steps a person would have to use before reaching the information needed. The following approaches were used: jury duty information was located on the homepage; using keywords *jury duty* as a search on the home page; knowing to select district clerk in order to find jury duty information. Only three of the home pages for the county websites (Atascosa County, Hidalgo County and Nueces County) had jury duty information easily visible on the homepage. On five county websites (Frio County, Hale County, Medina County, San Patricio and Webb County) a potential juror would have to know to select *district clerk* in order to find the jury information needed. On the Bexar County homepage, there was no visible jury duty link visible. One would have to select the drop down menu for *Government*, and then select *County Offices* which will then open the jury services screen. Some hunting around the homepage will finally provide you with information but jury duty information is not readily available. La Salle County has an official website that does not contain any jury duty information. If using the keyword feature, *jury duty* opens up the district clerk page which just indicates that the district clerk is in charge of paying jury duty service. There was nothing on the page that indicated any information about jury duty or showed the <http://www.81st-218thdistrictcourt.org/> link for jury service information. Unless a potential juror keyed in La Salle County Texas jury duty, the first official website does not provide information on jury duty.

Using the guidelines listed on the American Judicature Society Internet site for *Creating a Jury Information Web Site*, the 12 county sites were reviewed. Table 1 in the appendix indicates the findings for each characteristic.

The Counties that reflected the guidelines for 1) contact information about jury service, 2) content was current, 3) website was easy to navigate and 4) information was easy to print or download were: Atascosa County, Bexar County, El Paso County, Frio County, Hale County, Hidalgo County, Kleberg County, Medina County, La Salle County, Nueces County, San Patricio County and Webb County.

Ten counties reflected information about 1) information about juror excusal and postponement requests 2) information potential jurors need to know before arrival, and 3) websites that are readily

accessible. Nine county websites reflected information about 1) the importance of jury duty, 2) the description of juror responsibilities, 3) feedback/exit questionnaires, 4) jury information was easy to find from homepage. In the guideline order listed above, San Patricio County and Kleberg County did not reflect information about the importance of juror service, a description of juror responsibilities; information potential jurors need to know before arrival, and basic trial information. La Salle County was the only website that unless a person knew to look for the phrase *La Salle County jury duty*, they would not find the court website that provided jury service information.

Of the twelve county websites only nine contained 1) feedback to the court about their jury service and/or an exit questionnaire about jury duty and 2) jury duty information was easy to find from the home page. The three counties that did not meet these two guidelines were Bexar County, El Paso County, and San Patricio County. Bexar County, El Paso County, and San Patricio County also did not contain frequently asked question (FAQ) list.

There were only two counties, Bexar County and Hidalgo County that had a thank you and acknowledgement section for potential jurors about their jury service on their websites. The only websites that had a link on their home page relevant to statutes were Atascosa County, Frio County and La Salle County. It should be noted that this link did not work. It is interesting to note that Atascosa, Frio, Karnes, La Salle and Wilson Counties are all served by the 81st & 218th District Courts Web page. By having one web page for all these counties, information is standardized within that geographical area for those different counties. In addition, La Salle has its own official website that does not contain any jury duty information so unless the person knows to go to the District Court website, they may not be able to locate jury duty information.

Bexar County and El Paso County were the only two county websites that allowed a person to select the language in which to view the web information other than in English. At the bottom of the Bexar homepage was a drop down menu that listed all the different languages available, 80 different languages to choose from. This is really a very clever feature to have included in the web design. In addition, El Paso County had the jury information translated into Spanish. None of the county websites included tips on coping with the stress of jury service although this was a guideline listed in the American Judicature Society page.

CONCLUSION

As noted by Mize, et al. (2007), “Although web-based technology is ubiquitous in most areas of contemporary life, local courts do not appear to have embraced it for jury management purposes. Less than 20% provide basic juror orientation information online.” In an effort to determine which predominately Hispanic websites were perceived to have followed the American Judicature Society jury information web design guidelines, we compared information on the websites of 61 Texas counties with predominately Hispanic population and with official web addresses to the American Judicature Society guidelines for creating a juror information website. This information will be useful for predominately Hispanic counties to evaluate newly created or revised county websites with online juror education content.

RECOMMENDATIONS

Hispanics and other racial and ethnic minorities are underrepresented in Texas jury panels (Hays and Cambron, 1999; Walters, et al., 2005). More than forty years ago, the benefits of a racially diverse jury were noted by Justice Thurgood Marshall: “When any large and identifiable segment of the community is excluded from jury service, the effect is to remove from the jury room qualities of human nature and varieties of human experience, the range of which is unknown and perhaps unknowable. It is not necessary to assume that the excluded group will consistently vote as a class in order to conclude, as we do, that its exclusion deprives the jury of a perspective on human events that may have unsuspected importance in any case that may be presented” (*Peters v. Kiff*, 1972). Sixteen years ago, the National

Center for State Courts was aware that, “The jury system presents a unique opportunity for courts to have a positive interaction with individuals from the communities they serve.” (NCSC, 1998) Today, counties with a majority Hispanic population interested in offering online juror education materials may find the following suggestions to be helpful:

1. Use the American Judicature Society guidelines (<https://www.ajs.org/judicial-administration/jury-center/juror-orientation/creating-jury-information-website/>) for creating a juror information website
2. As more predominately Hispanic counties establish county Websites, it is recommended that they adopt the end-user evaluation approach recommended by Jones, Arney and Blankenship (2009) to gauge the usability of their websites. As suggested, counties currently summon a large group of potential jurors each month for jury service and one recommendation would be to use this group of potential jurors to conduct end-user evaluation of Websites. (Jones, Arney and Blankenship 2009).
3. Bexar County, a predominately Hispanic county, has a Jury Services Website (<http://www.bexar.org/364/Jury-Services>) worthy of study. Although online juror registration is not available, their website educates potential jurors about jury duty, qualifications and exemptions; informs them of jurors’ rights; provides directions and parking information; and offers details about the Jury Reimbursement Donation Program to help victims of child abuse. Rose and Brinkman (2008) reported that substantial majorities of all ethics groups opted to use the Travis County I-jury system rather than attend in-person impaneling sessions.
4. Counties with predominately Hispanic population should also take note of advertising research. For example, English dominant Hispanic adults and consume media in advertising, “tend to perceive companies that market and advertise in Spanish positively, not for their utilitarian benefits, but for deeper emotional implications such as “respect of my heritage” (29%) and “appreciation for my culture” (26%) (360i Hispanic POV Series, 2012).
5. El Paso County (<https://www.epcounty.com/ijuror/>) uses i-Juror, a 24-hours-a-day jury management system that offers potential jurors the online capability to complete questionnaires, respond to jury summonses, postpone jury duty dates, and request qualified exemptions. Additional online information about parking, security, length of service, certificates of service, public transportation, and directions is also provided. A click on *Selección del Jurado* also provides the same information in Spanish.
6. Although Travis County is not a predominantly Hispanic county, their award winning I-Jury online program (http://www.co.travis.tx.us/district_clerk/jury/default.asp) is certainly worthy of consideration and is available in Spanish and many other languages. The interactive online program not only allows potential jurors to respond to their jury summonses over the Internet and be impaneled online, but also gives them a reminder call the night before jury duty, provides call-in assignment status checks, sends a reminder text message, and texts potential jurors of last minute assignment cancelations.
7. Provide links to juror information websites such as the State Bar of Texas Jury Service Toolkit which contains fact sheets on jury service and other tools to help prepare potential jurors. (<http://www.texasbar.com/Content/NavigationMenu/AboutUs/StateBarPresident/LetsDoJusticeforTexas/JuryServiceToolkit.pdf>)
8. Consider incorporating juror information videos in the online juror education website. Two outstanding examples are:
 - State Bar of Texas Public Service Announcements: The Importance of Jury Service (available for Television or Radio in both English and Spanish).
http://www.texasbar.com/Content/NavigationMenu/AboutUs/StateBarPresident/LetsDoJusticeforTexas/Radio_Spots.htm

- Cobb County Government Video on Demand TV23 State Court Jury Orientation Video (May 25, 2014)
<http://view.earthchannel.com/PlayerController.aspx?PGD=cobbcoga&eID=310>
- 9. Future research should be aimed at determining whether underrepresentation of Hispanics on juries is related to the language barrier and the fact that online juror education materials are overwhelmingly published only in English.

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 - Hale County http://www.halecounty.org/district_offices/jury_information/index.php
 - Harris County <http://www.harriscountytexas.gov/>
 - Hidalgo County <http://www.co.hidalgo.tx.us/>
 - Kleberg County <http://www.co.kleberg.tx.us/>
 - La Salle County <http://www.co.la-salle.tx.us/> and <http://81st-218thdistrictcourt.org/index.php>
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APPENDIX 1

Table 1: Guidelines for Creating a Jury Information Web Site			
Guideline	# of Counties	Guideline	# of Counties
Thank you and Acknowledgment	2	Basic Trial Information	9
Importance of Jury Service	9	Links to Relevant Statutes	1
Description of Juror Responsibilities	9	Information in Language Besides English	2
Juror Excusal and Postponement Requests	10	Current Content	12
Information Potential Jurors Need to Know Before Arrival	10	Accessible	10
Answers to Juror FAQ	8	Easy to Navigate	12
Contact Information about Service	12	Easy to Find from Home Page	9
Feedback/Exit Questionnaire	9	Easy to Print or Download	12