

North Carolina Task Force for Racial Equity in Criminal Justice

The North Carolina Task Force for Racial Equity in Criminal Justice (TREC), established by Governor Roy Cooper in 2020, seeks to eliminate racial disparities in the criminal justice system and ensure fair and impartial justice for all. In furtherance of this goal, TREC adopted 125 recommendations which TREC now works to implement through four different committees: Executive, Judicial, Legislative, and Local Policy.

The TREC Judicial Committee writes to you today to highlight TREC recommendation 91 relating to achieving representative jury pools.¹ As 2023 draws to a close, county jury commissions are hard at work creating new master jury lists that will take effect in 2024. The importance of ensuring that these jury lists are both inclusive and representative is threefold, as diverse jury pools: (1) increase public confidence in the justice system,² (2) increase the quality of deliberations,³ and (3) lead to less biased verdicts.⁴ TREC's strategies for achieving representative jury pools are reflected in the attached Tip Sheet for your consideration.⁵

Some of these strategies have been implemented in North Carolina jurisdictions already, and early anecdotal reports are promising. For example, in Buncombe County, juror addresses are run through the USPS change of address database before mailed. Court actors report that this seems to have reduced undeliverable summonses, which research shows increases both juror yield and jury pool diversity.⁶ Orange County recently began updating the Master Jury List annually, which appears to have increased jury pool diversity.⁷ In Iredell County, follow-up mailings to non-responsive jurors have increased juror yield and possibly jury pool diversity as well.⁸ More research is needed to understand these impacts, but these initial reports suggest that strategies that have proven effective at diversifying jury pools elsewhere in the country have the potential to make a positive impact in North Carolina as well.

If you have questions about the attached recommendations or wish to collaborate on local representative jury initiatives, please contact TREC's Judicial Committee or the Inclusive Juries Project at Duke University School of Law by emailing nwilliams@ncadv.org or emily.coward@duke.edu. We are eager to support your efforts to ensure a representative jury pool and welcome your feedback and engagement.

¹ "North Carolina should increase representation on juries by expanding jury list sources to ensure that more eligible individuals are included in the pool. [. . .] TREC recommends updating master jury pool lists at least annually, rather than every two years, and correcting addresses to reduce undeliverable summonses." TREC's December 2020 report at p. 101, available at https://ncdoj.gov/wp-content/uploads/2021/02/TRECReportFinal_02262021.pdf.

² See, e.g., Leslie Ellis & Shari Seidman Diamond, *Race, Diversity, and Jury Composition: Battering and Bolstering Legitimacy*, 78 Chi.-Kent L. Rev. 1033, 1049 (2003).

³ See, e.g., Samuel R. Sommers, *On Racial Diversity and Group Decision Making: Identifying Multiple Effects of Racial Composition on Jury Deliberations*, J. Personality & Soc. Psych., V. 90, No. 4, pp. 597-612 (2006).

⁴ See, e.g., Shamena Anwar, Patrick Bayer, Randi Hjalmarsson, *The Impact of Race in Criminal Trials*, The Quarterly Journal of Economics, 1-39 (2012).

⁵ More details about these recommendations can be found in TREC's December 2020 report at p. 101, available at https://ncdoj.gov/wp-content/uploads/2021/02/TRECReportFinal_02262021.pdf and in TREC's Suggested Jury Practices, available at <https://ncdoj.gov/wp-content/uploads/2022/08/Suggested-Jury-Practices.pdf>.

⁶ National Center for State Courts, *Characteristics of an Effective Master Jury List* (many courts also conduct National Change of Address (NCOA) updates before printing and posting summonses), available at <https://www.jurytoolbox.org/more/Characteristics%20of%20Effective%20MJL.pdf>.

⁷ This practice reduces undeliverable summonses, increases juror yield, and increases jury diversity. See, e.g., Judge William Caprathe (ret.) et al., *Assessing and Achieving Jury Pool Representativeness*, The Judges' Journal, Vol. 55 No. 2 (Spring 2016) (master jury list should be updated at least annually to ensure the accuracy of the addresses).

⁸ Paula Hannaford-Agor, National Center for State Courts, Center for Jury Studies, *An Overview of Jury System Management* (May 2011) (reporting that non-response and failure-to-appear rates are 34% - 46% less than in courts that do not follow up with additional mailings to non-responders).

TIPS FOR INCREASING JURY YIELD AND ENSURING A REPRESENTATIVE JURY POOL

Creating the Master Jury List

1. After receiving the list of drivers and voters, compare the race and gender data to county census data to monitor compliance with the fair cross-section guarantee.
2. Retain the raw list of voter and driver names received from the Commissioner of Motor Vehicles to enable monitoring of the fair cross-section guarantee.
3. Consider adding names from other lists of county residents.⁹ Using lists beyond the voter and driver lists can help ensure a fair cross-section of the community is represented in the jury pool.¹⁰ Other states have added the following source lists:
 - i. Recipients of public assistance and unemployment insurance
 - ii. Tax filers
 - iii. Non-driver identification cards
 - iv. Newly naturalized citizens

Assembling Representative Jury Pools

1. To ensure accuracy, run all addresses through the USPS change-of-address database.
2. To increase juror yield and jury diversity, consider sending more than one mailing to each juror receiving a summons.
3. Create a new master jury list each year, as permitted by N.C.G.S. § 9-2(a).

⁹ See N.C. Gen. Stat. Ann. § 9-2(b) (“In preparing the master list, the jury commission shall use the list of registered voters and persons with drivers license records supplied to the county by the Commissioner of Motor Vehicles The commission may use other sources of names deemed by it to be reliable.”); see also NC Governor’s Task Force for Racial Equity in Criminal Justice, [Suggested Jury Practices: Superior and District Court Judges](https://ncdoj.gov/wp-content/uploads/2022/08/Suggested-Jury-Practices.pdf), available at <https://ncdoj.gov/wp-content/uploads/2022/08/Suggested-Jury-Practices.pdf>.

¹⁰ Judge Gregory E. Mize, [Jury Trial Innovation Round #2](#), Court Review Vol. 59 at 67, National Center for State Courts (“The traditional top two sources—voter registration and driver license records—do not capture significant portions of the community who do not vote or do not drive motor vehicles. Courts’ sole use of these narrow lists undermines the representativeness of sitting juries.”)