



Office of the Ohio Public Defender

Timothy Young, State Public Defender

**Testimony in Support of SB200
Jury List Source - BMV
Sponsor Senators Thomas**

Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender in support of Senate Bill 200.

SB200 will require jury commissioners to draw their list of potential jurors from Bureau of Motor Vehicles' records of individuals with driver's licenses or state identification cards instead of just from the lists of registered voters. Selecting potential jurors from motor vehicle and state identification card records has been shown to lead to increased diversity among jurors.¹ SB200 will help in ensuring more diversity among Ohio's juries, making our criminal justice system a bit fairer.

Coincidentally, I had jury duty a few weeks ago in Franklin County. Unfortunately, I did not have the chance to serve as a juror, but I was selected for one jury pool and got to witness the voir dire process of that trial. I know the committee members are familiar with the process, but for those who may not be, I wanted to provide some background. In Franklin County, approximately 105 of us were randomly selected from the voter registration list to serve a week of jury duty. When a courtroom is in need of a jury for a trial, they call down to the jury assembly room. The jury managers pull a random

¹ Heaney, Lois, *Jury Pool Composition Issues: Who is Missing and Why?*, NJP Litigation Consulting/West, Vol. 42, No. 3, 2015, <http://www.njp.com/wp-content/uploads/article/article35.pdf>; Joshi, Ashish and Kline, Christina T., *Lack of Jury Diversity: A National Problem with Individual Consequences*, Diversity Inclusion, Section of Litigation, 2015, <https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2015/lack-of-jury-diversity-national-problem-individual-consequences.html>.

computer generated list of the available jurors. For the trial in which I was called, 30 of us were selected at random and reported to the courtroom. The first 18 jurors on the list were seated in the jury box in the courtroom. During the jury selection, the attorneys focused their questions to those 18 individuals. Ultimately, the final jury, of 12 individuals and two alternates, was composed of those original 18 members seated in the jury box.

The case I was in the jury pool for was a criminal case involving a young black male defendant. Every single one of those 18 individuals in the jury box was caucasian and middle aged or older. In fact, of the 30 potential jurors in the courtroom, there was only one black male potential juror. Towards the end of the voir dire process, one of the potential 18 jurors asked a question of the defense attorney. First she confirmed that the jury is supposed to be a jury of the defendant's peers. The defense attorney confirmed that was accurate. Then she asked, "is it a problem that we are all white and the defendant is African-American?" The judge provided an excellent response and informed this juror something I did not know. Apparently, case law does not permit the trial court to go out and try to recruit a more diverse jury. The trial court has to allow jury selection to be a process of random selection. Since the defense attorney was in the middle of his voir dire, the court allowed the defense attorney to also respond. He agreed with the juror that it does seem problematic to ask 12 older caucasian individuals, acting as a jury of the defendant's "peers," to decide the fate of a young black man.



According to 2016 data, approximately 20.5% of Ohio's population is non-white.² However, non-white inmates make up 48.22% of the prison population.³ SB200 will ensure that jury pools are as diverse as the defendants whose fate they are deciding.

Diversity among jurors is not only a good idea for the defendant, but is a benefit to all participants in the trial. Diverse juries deliberate longer, have more in-depth conversations about evidence, and "make fewer factually inaccurate statements."⁴ Additionally, diverse juries are less prone to "groupthinking," which is a psychological phenomenon where members of a group may make an irrational decision for the sake of avoiding conflict and maintaining harmony in the group.⁵

SB200 is long overdue legislation that will help make the Ohio's criminal justice more fair for all those involved. Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

² Ohio Research Office, a state affiliate of the U.S. Census Bureau, 2016.

³ Ohio Department Rehabilitation and Correction's Monthly Fact Sheet for May 2018.

⁴ Marinakis, Christina, J.D., Psy. D, *What are the Benefit of having Diversity in a Jury Panel*, Litigation Insights, September 30, 2015, <http://litigationinsights.com/jurors/benefits-diversity-jury/>, citing Sommers, S.R., On racial diversity and group decision-making: Identifying multiple effects of racial composition on jury, 2006.

⁵ Marinakis, Christina, J.D., Psy. D, *What are the Benefit of having Diversity in a Jury Panel*, Litigation Insights, September 30, 2015, <http://litigationinsights.com/jurors/benefits-diversity-jury/>.

