

Accessing Jury Selection Data in a Pre-Digital Environment

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We need to make these changes because courts are essential—as essential as grocery stores or the Internet. Let’s never forget the role that judicial expertise and judicial independence play in safeguarding the rule of law—a role that no one else can do better, or even equally well Courts are too indispensable to yield in the face of better technology, so we have to stay technologically up-to-date.

~Mark Martin, Chief Justice,
North Carolina Supreme Court¹

Introduction

Jury selection often forces litigants to make choices, often tragic choices, that are difficult and imperfect. These important and necessary decisions ultimately determine the fate of a defendant’s pure innocence or crushing guilt. As a society, we generally do not want to see how these decisions are made, even though they hold very real and serious consequences. Who on a transplant list gets the kidney? Who decides whether a defendant will get a life or death sentence? So we as a society have decided that we want these decisions to be decentralized and without singular and specific responsibility.² Juries and their role fall squarely within this concept of hidden decisions, but juries and, with particularity, which people are selected for our juries, are protected in our society.³ But a right can only be protected if there is oversight. The right to a jury of your peers chosen through jury selection has little government

¹ N.C. COMM’N ON THE ADMIN. OF LAW & JUSTICE, FINAL REPORT: RECOMMENDATIONS FOR STRENGTHENING THE UNIFIED COURT SYSTEM OF NORTH CAROLINA, at 82 (Mar. 2017), https://nccalj.org/wp-content/uploads/2017/pdf/nccalj_final_report.pdf [hereinafter FINAL REPORT].

² *Id.*; see Barry Hoffmaster & Cliff Hooker, *Tragic Choices and Moral Compromise: The Ethics of Allocating Kidneys for Transplantation*, 91(3) MILBANK Q. 528, 541, 552 (2013), <http://doi.org/10.1111/1468-0009.12025> (discussing the past and current methods for determining who receives a kidney transplant).

³ See U.S. CONST. amend. VI (“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.”).

oversight outside of the courtroom and its players. Consequentially, the records detailing who was seated and who was excluded from the jury are hidden away from the public, irrespective of intention. That data may be cast aside because it could possibly expose choices we are not ready to deal with—the implications of race and gender biases within our criminal justice system—or, potentially, there are malicious motives for locking that data away to protect the judges and attorneys involved. Perhaps the obscurity of this data may even be intentional as a prerequisite for how we expect juries to function. The decentralization of the body of the jury is actually a societal goal and “[t]he jury’s representativeness and lack of responsibility have at times been identified as the reason why certain decisions are committed to it.”⁴ Perhaps that decentralization or irresponsible aspect of the jury keeps the government administrators from disclosing who has been seated on the jury and why.⁵ It could be that this theoretical intent to obscure the jury placed by our judicial system is not so much to protect the people seated on the jury, but rather to protect the mechanism by which we, as a society, need the jury to function.⁶

Absolutely contrary to the elusive nature of how a jury functions properly in our society is the ever-present need for access into governmental doings.⁷ Those aligning with Madisonian principles of government transparency desire a more open means of investigating our

⁴ GUIDO CALABRESI & PHILIP BOBBITT, *TRAGIC CHOICES* 57 (1978).

⁵ “What we shall call the irresponsible agency is a typically American mode of decentralizing political decisions. The jury . . . is the prototype of this variant and the myth of the jury is the source of the use and adaptation of irresponsible agencies in a variety of tragic contexts.” CALABRESI & BOBBITT, *supra* note 4, at 57.

⁶ CALABRESI & BOBBITT, *supra* note 4, at 57.

Juries apply societal standards without ever telling us what these standards are, or even that they exist. This is especially important in those situations in which the statement of standards would be terribly destructive. This has been the role of juries in euthanasia cases . . . [and] which [has] allowed juries to impose the death penalty within certain broadly defined classes of cases.

Id. at 57-58.

⁷ See N.C. GEN. STAT. § 132-1(b) (1995) (“The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law.”).

government's actions so as to further public accountability and seek justice and equality.⁸ In 1822, James Madison warned: "A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance; And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives."⁹ Only with transparency can there be any real sense of trust of the government by its constituents.¹⁰

The illusion of transparency is fleeting, though, especially when real challenges to access exist. Access to government information is limited in so many ways—financial, technological, and political. Through the Jury Sunshine Project (JSP), the limitations of government data and transparency became strikingly clear as researchers sought data evidence as to how jurors were seated and selected in North Carolina felony jury trials.¹¹ The researchers knew that the data had to be there—somewhere. It existed, but where was it and how could it be found? It did not live within a single clerk's office or at the North Carolina Administrative Office of the Courts (A.O.C.), or in a vendor's database for sale.¹² The data did not live in the aggregate; it lived in a metaphorical black box closed off from public inspection.¹³

⁸ See Letter from James Madison to W.T. Barry (Aug. 4, 1822), in 9 THE WRITINGS OF JAMES MADISON 103 (1910) (evidencing the historical roots for society's need of transparency from the government).

⁹ *Id.*

¹⁰ STAFF OF H. COMM. ON OVERSIGHT & GOV'T REFORM, 114TH CONG., FOIA IS BROKEN: A REPORT at ii (Comm. Print 2016), <https://oversight.house.gov/wp-content/uploads/2016/01/FINAL-FOIA-Report-January-2016.pdf> ("The power of FOIA as a research and transparency tool is fading. Excessive delays and redactions undermine its value. In large part, FOIA's efficacy is limited by the responsiveness of the agency that receives and processes the request. On innumerable occasions, agencies have refused to produce documents or intentionally extended the timeline for document production to stymie a request for information. In many cases, American citizens find themselves frustrated by the total lack of response from the government they are asked to trust.").

¹¹ Ronald F. Wright et. al., *The Jury Sunshine Project: Jury Selection Data as a Political Issue* 2018 U. ILL. L. REV., no. 4, 2018, at 2 (forthcoming 2018) (on file with author).

¹² *Id.* at 13.

¹³ *Id.*

Thus, inside this hidden world of data lived the story of how juries are created and what is happening inside America's courtrooms. The black box hidden away by the A.O.C. held the details of day-to-day practices of litigants, particularly what was happening in the courtroom and how it related to the constitutional protections securely placed within the United States criminal justice system.¹⁴ The JSP field researchers investigated and unlocked the black box of jury selection, and this Article provides the roadmap on how others might tackle a similar mysterious and novel question answered only by the paper files of a courthouse.¹⁵

Part I of this Article provides the narrative of the Jury in the Sunshine Project, from the pilot study to the statewide collection of data. It is the story of how, who, when, and what happened during the first three years of this ongoing project. As a whole, the JSP gathered the names of citizens called for jury duty, whether or not they were selected as part of the jury or were knocked off from the final selection, and which party in the courtroom chose to strike them—the defense counsel, the judge, or the district attorney. The aim of this project was to provide evidence of the daily practice of jury selection in criminal trials, and to allow the public to hold the state, attorneys, and judges accountable for their actions if it was found that juries are comprised of non-representative pools of citizens. Part II of this Article reviews the challenges of the data collection for the members of the JSP. Part III of this Article details recommendations for reform at the clerk's office to further the public interests secured within Public Records Law, and how to provide quality access to the data housed within the four walls of the courthouse. The challenges addressed in this Article, as well as the recommendations presented, run parallel to those addressed in a recent report written and

¹⁴ *Batson v. Kentucky*, 476 U.S. 79, 85-86 (1986) (deciding that, although the defendant is not entitled to a jury that is completely or even partially comprised of jury members of his own race, the state is not allowed to utilize its peremptory challenges to unilaterally exclude jurors based on their race).

¹⁵ This Article provides a how-to guide in managing an empirical study that organized field researchers, students, and others from on-site research to coding of their findings. One could look at the first half of this Article as a model for replication inside or outside of their library or own empirical research. Thus, the audience for the first portion of this Article is centered on the hands-on researcher who is invested in learning the dirty details of empirical research and project management. The second half of this Article turns to policy recommendations to help further other projects that explore and expose data to lead changes in open access and access to justice issues.

published by the North Carolina Commission on the Administration of Law & Justice, convened by the Chief Justice of the North Carolina Supreme Court, Mark Martin.¹⁶ This report might be the catalyst of change, perhaps even a change to evidence-based policy making.

I. The Jury in the Sunshine Project

Musings of how lawyers and other courthouse parties work day to day in the criminal justice courtroom are often one in a dozen among the Wake Forest University (WFU) School of Law faculty, especially Professors Ron Wright, Kami Chavis (Simmons), and Gregory Parks, particularly in how they connect to decision-making. One aspect that birthed the Jury Sunshine Project was how jury decisions were made in North Carolina, and how might they answer that question outside appellate cases that challenged various choices made by the litigants, such as excluding a jury member based on race or gender.¹⁷ Although evaluating the *Batson* challenge was one aspect of the initial Jury Sunshine Project, it was not the singular purpose.

The main purpose of the JSP was to allow the data to guide the story.¹⁸ With the collection of data, the JSP provides a neutral basis of analysis of real actors without bias or influence. The data would tell the narrative of what was happening inside the courtroom, and who was really being seated on juries. It would provide evidence of judges striking more potential jury members than the state; it would give the details of one race or another being struck from a jury. The data would reveal whether gender played a role in jury selection. Rather than looking at theories of jury selection, the data collection in this project allowed for a broad analysis of real-time practice, and provided for a critical look into whether constitutional protections were actually being afforded to defendants, as well as allowing for creative theorizing if one litigant was continuously striking jurors over another. The power of the JSP comes from the amount of data collected, which allows for probes into the practical implications of peremptory challenges. The data collected

¹⁶ FINAL REPORT, *supra* note 1, at 14.

¹⁷ Wright et. al., *supra* note 11, at 1.

¹⁸ *Id.* at 4.

allows for scholars and policy makers to say what is happening, identify problems and injustices, and then propose changes to correct and improve the system broadly. Legal researchers have attempted to survey and analyze jury selection widely within the context of capital cases.¹⁹ However with the exception of a similar project in Florida, few legal researchers have attempted empirical research of this scope and type, critically examining the jury selection process and outcomes of state-level criminal trials. Thus, the project started with a small pilot study for feasibility.²⁰

A. A Pilot Study of Guilford County

In 2012, Professor Wright, Professor Kami Chavis and Professor Gregory Parks began visiting the courthouses in Guilford and surrounding counties of North Carolina.²¹ Paralleling their visits, they were reading other studies that attempted to collect data on jury selection and gaining a sense of the type of data that should be expected in each criminal file.²²

¹⁹ See generally David C. Baldus et al., *The Use of Peremptory Challenges in Capital Murder Trials: A Legal and Empirical Analysis*, 3 U. PA. J. CONST. L. 3 (2001) (analyzing the use of peremptory challenges in capital murder cases in Philadelphia, Pennsylvania); William J. Bowers et al., *Death Sentencing in Black and White: An Empirical Analysis of the Role of Jurors' Race and Jury Racial Composition*, 3 U. PA. J. CONST. L. 171 (2001) (analyzing what effect the racial makeup of a jury may have on the outcome of capital cases).

²⁰ Shamena Anwar et al., *The Impact of Jury Race in Criminal Trials*, Q. J. ECONOMICS 1 (2012), <http://qje.oxfordjournals.org/content/early/2012/04/15/qje.qjs014.full.pdf+html> (The article examines the impact of jury racial composition on trial outcomes using a data set of felony trials in Florida between 2000 and 2010 by using research methodology that examined the “day-to-day variation in the composition of the jury pool to isolate quasi-random variation in the composition of the seated jury, finding evidence that (i) juries formed from all-white jury pools convict black defendants significantly (16 percentage points) more often than white defendants, and (ii) this gap in conviction rates is entirely eliminated when the jury pool includes at least one black member.” (emphasis omitted)).

²¹ E-mail from Ron Wright, Professor, Wake Forest University School of Law, to author (Apr. 9, 2013, 9:49 AM EST) (on file with author) [hereinafter Wright Apr. 9 E-mail].

²² See Catherine M. Grosso & Barbara O'Brian, *A Stubborn Legacy: The Overwhelming Importance of Race in Jury Selection in 173 Post-Batson North Carolina Capital Trials*, 97 IOWA L. REV. 1531, 1543 (2012), for an example of one of the similar studies modeled by the researchers from the JSP. This study, conducted at

They began to examine the filings that were contained within felony criminal files disposed of by juries.²³ Wright, Chavis, and Parks first conducted a pilot of this research project in Guilford County.²⁴ What they found was that the very first step in the process was overcoming the challenge of recreating a list of criminal charges and the corresponding file numbers that had been disposed of by jury deliberations.²⁵ They needed the list of files so that the field researchers could go out to courthouse and pull only the relevant files to review for inclusion in their database.²⁶ They had a few options for obtaining these files lists.

One option was to go to the clerk of court for each county in North Carolina for this information.²⁷ Often this option required the researchers to rely on the individual clerks and court supervisors of each county to have a “shadow” database or another method of recording which files had been disposed of by jury.²⁸ A second option was to request the Superior Court Calendar for each county and review it for cases that went to trial.²⁹ Another option was to reach out to the Administrative Office of Court to request a list of all the criminal trials disposed of by jury on a set date.³⁰ The range of files considered within the Jury Sunshine Project (JSP) was primarily from 2011 to 2012.³¹ The final option was to seek assistance from another organization such as the North Carolina Indigent Services, which provides public data on court-appointed

Michigan State University (MSU), also collected data regarding statewide jury selection practices. While the MSU study focused solely on capital trials, the JSP investigated jury selection in cases regarding all felony charges, including rape, robbery, arson, assault with a deadly weapon, and more, that were disposed of by jury verdict and conducted in the Superior Court of North Carolina during 2011.

²³ *Id.* at 1539.

²⁴ Wright Apr. 9 E-mail, *supra* note 21.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Wright Apr. 9 E-mail, *supra* note 21.

³¹ E-mail from Kaitlin Price, Jury Sunshine Research Fellow, Wake Forest University School of Law, to Ron Wright, Professor, Wake Forest University School of Law, and author (Jan. 11, 2014, 10:22 AM EST) (on file with author) [hereinafter Price Jan. 11 E-mail].

attorneys throughout North Carolina.³² Without many options, Wright, Chavis, and Parks had to rely on the system with the Guilford County Clerks' office for their pilot of the JSP.³³

In Guilford County, the Honorable David Churchill, Clerk of Court, and Christina Farrow, the Supervising Clerk for the Criminal Superior Court, maintained a spreadsheet for all of North Carolina's Eighteenth District that detailed which cases resulted in jury trials.³⁴ Farrow shared that file with the professors, and they began working to identify and cull through the files individually.³⁵ The next step in the initial process was to review the Petit Venire Listing for the particular day a trial was set.³⁶ The Petit Venire Listing was a document that provided the names of thirty jurors.³⁷ The jury holding room clerk would create the Petit Venire listings after the Superior Court Judge of the trial session informed the clerk of the number of jurors necessary for the voir dire, or jury selection process.³⁸ This listing would contain the list of jurors that were sent to the courtroom, and provide the first twelve names of jurors to be placed in the jury box.³⁹ As people were struck from the jury, additional jurors would be pulled from the Petite Venire Listing and would be placed in the box.⁴⁰ Initially, Wright, Chavis, and Parks were hopeful that by using these Petit Venire Listings they could track how jurors were pulled and seated into the box. However, they quickly discovered that the listing would not be made publicly available in every county.

After reviewing the Petit Venire Listing, Wright, Chavis, and Parks culled through the physical criminal file.⁴¹ By reviewing the documents contained within the file, they determined the demographics of the defendants and their charges, as well as the attorneys, court personnel,

³² Wright Apr. 9 E-mail, *supra* note 21.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Wright Apr. 9 E-mail, *supra* note 21.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

and jury members involved.⁴² All of this information was entered into a spreadsheet with a specific column for each piece of information.⁴³ In all, the spreadsheet had over thirty columns filled with data for each criminal trial.⁴⁴

Of particular interest to the JSP was the document found within the physical criminal file that contained a jury box grid.⁴⁵ The grid is laid out horizontally on an 8 x 11 sheet of paper.⁴⁶ There are twelve jury boxes that take up the majority of the page, and two additional boxes for alternate jury members.⁴⁷ In Guilford, within each box, according to Wright's notes, the original assigned juror is printed by the computer, and any juror that was excluded in voir dire is crossed out in handwriting, with the excluding party indicated by initials.⁴⁸ In Guilford County, the clerk used "S" for State challenge, "C" for challenge for cause, and "D" for a Defense challenge.⁴⁹ Each initial was followed by a number.⁵⁰ The number indicated the order in which that party challenged the juror.⁵¹ For example, the first challenge made by the defense was noted as D1, the second challenge was D2, and so on. The clerk also provided a summary, by tally marks, at the bottom of the page that indicated the total strikes by party.⁵² Later in the process, it was discovered that clerks varied widely in how they noted challenges on the jury box grid. Interestingly, in Guilford County, there was a third document created that finalized the handwritten version once the final jury was selected.⁵³ This final jury box included a handwritten indication of which juror was selected as the foreperson.⁵⁴ Later in the study, researchers found that

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Sample Data Gathering Spreadsheet (on file with author).

⁴⁵ See *infra* Figure 3; see also *infra* Figure 4.

⁴⁶ See *infra* Figure 3; see also *infra* Figure 4.

⁴⁷ See *infra* Figure 3; see also *infra* Figure 4.

⁴⁸ Wright Apr. 9 E-mail, *supra* note 21.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Wright Apr. 9 E-mail, *supra* note 21.

the foreperson was primarily only noted on the verdict sheet or handwritten on the jury grid.⁵⁵

Although he was not originally consulted on the project, Honorable Clerk David Churchill briefly suggested to Professor Wright that the researchers should consider reviewing the county's jury summons list for a particular session.⁵⁶ The jury summons list provides the names and addresses of the potential jurors.⁵⁷ It is generated through the use of the Department of Motor Vehicles records and election records and is used to send notices to citizens for jury duty.⁵⁸ Later in the process, field researchers were barred from reviewing jury summons lists unless they had been redacted with the addresses of the jurors struck from the listing,⁵⁹ making them wholly unusable for the JSP's purposes.

The pilot in Guilford County (District 18) concluded that a study of specific *Batson* challenges would not be feasible.⁶⁰ The researchers discovered that unlike federal criminal trials, there is no docket sheet in North Carolina state trial courts.⁶¹ If parties file motions, those motions are contained within the physical file, even absent an official docket of the documents filed with regard to that case.⁶² Additionally, if the party makes a motion in open court and the judge's decision is dispositive, then the clerk will generate a physical document for the file.⁶³ If the judge's decision is not dispositive, no record is ever made for the file.⁶⁴ Most notably though, "*Batson* motions are almost always oral, and they are not typically dispositive, so there will be no written motion in the file."⁶⁵ As

⁵⁵ This was true for the process in Cabarrus County, for example.

⁵⁶ Wright Apr. 9 E-mail, *supra* note 21.

⁵⁷ *See infra* Figure 5.

⁵⁸ Wright Apr. 9 E-mail, *supra* note 21.

⁵⁹ Survey of participant experiences via Googleform (on file with author) [hereinafter Survey of participant experiences]; Isbel Cruz, Library Technical Services, Wake Forest University, to author (Jul. 10, 2013, 7:55 PM EST) [hereinafter Cruz July 10 E-mail] (on file with author).

⁶⁰ Wright Apr. 9 E-mail, *supra* note 21.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

such, “[t]he only traces of *Batson* practice in the file would occur in those rare cases that are appealed, and the grounds for appeal include an issue related to jury selection (thus leading to the production of a transcript from the court reporter).”⁶⁶ To add another layer of complexity to this question, court reporters are not standard attendees to jury selection, and may only be present upon the request of one of the parties to the litigation.⁶⁷ Often, these challenges were only transient in nature, living for a moment in time in courtroom activities.

By December 2012, the pilot study in Guilford County was complete.⁶⁸ Wright, Chavis, and Parks, with the help of several current Wake Forest University Law School students as field researchers, had coded sixty-three jury trials disposed of during 2011 using the standard data spreadsheet.⁶⁹ Plans for field research during the Spring of 2013 were in the making. The next counties on their list to gather data from during the Spring of 2013 included Stokes, Forsyth, Yadkin, Surry, Davie, Davidson, and Rockingham.⁷⁰ These counties were all near Guilford County and, thus, provided easier access to the courthouse files.

Wright kicked off the Spring semester by making contact with the Honorable Jason Tuttle, Clerk of the Superior Court of Stokes County, North Carolina.⁷¹ In Stokes County, the trial records were maintained separately from their district counterpart, Surry County.⁷² Honorable Clerk Tuttle speculated to Wright that Stokes county had very few jury trials from 2011, and did not maintain an internal process for tracking criminal jury trials.⁷³ Thus, a new challenge presented itself. With no internal tracking system in place, Wright would need to provide a defendant’s name to the clerk, or his assistant, which would then allow them to search within the Administrative Office of the Courts (A.O.C.) database called the Automated Criminal Infractions System (A.C.I.S.)

⁶⁶ Wright Apr. 9 E-mail, *supra* note 21.

⁶⁷ *Id.*

⁶⁸ *Id.*; see Sample Data Gathering Spreadsheet, *supra* note 44.

⁶⁹ See Sample Data Gathering Spreadsheet, *supra* note 44.

⁷⁰ Wright Apr. 9 E-mail, *supra* note 21.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

for the file number associated with the charge(s).⁷⁴ Wright was able to review the file for a recent trial (*State v. Michael Galloway*) and found the clerk had recorded a handwritten jury box grid within the file, which became the key standardized document among criminal files.⁷⁵

The jury box grid in the *Galloway* file indicated which party removed the juror (S, C, or D), and a tally at the bottom indicating the total number of challenges.⁷⁶ However, according to Wright's notes, the page did not show the order of a removal within the box, as Guilford County had noted.⁷⁷ In Stokes County, a jury summons record could be generated showing the jurors and addresses called for a particular day of court.⁷⁸ The jury summons list in Stokes County, just like Guilford, was created through Department of Motor Vehicle Records and Board of Election records.⁷⁹ However, the process for seating jurors in Stokes County was quite different from Guilford.⁸⁰ In Stokes, all the jurors are sent to the courtroom, the clerk has all the names on an index card, and she chooses cards at random for jurors to be placed in the jury box.⁸¹ In adjusting for a different method of recording jury selection in order to determine which files to review, one of the JSP Field Researchers suggested that the clerk consult a docket summary or some other schedule document to determine the dates in which jury trials were scheduled for courtrooms.⁸² The clerk was able to uncover a file on jurors that were paid during the calendar year 2011.⁸³ Through that document, Toth, the bookkeeper of the office, and the clerk were able to determine a list of dates that jurors were paid.⁸⁴ From those dates, the three of them were able to track down case files

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Wright Apr. 9 E-mail, *supra* note 21; *see also infra* Figure 3; *infra* Figure 4.

⁷⁷ Wright Apr. 9 E-mail, *supra* note 21; *see also infra* Figure 3; *infra* Figure 4.

⁷⁸ Wright Apr. 9 E-mail, *supra* note 21; *see also infra* Figure 3; *infra* Figure 4.

⁷⁹ Wright Apr. 9 E-mail, *supra* note 21; *see also infra* Figure 3; *infra* Figure 4.

⁸⁰ Wright Apr. 9 E-mail, *supra* note 21; *see also infra* Figure 3; *infra* Figure 4.

⁸¹ Wright Apr. 9 E-mail, *supra* note 21; *see also infra* Figure 3; *infra* Figure 4.

⁸² Wright Apr. 9 E-mail, *supra* note 21; *see also infra* Figure 3; *infra* Figure 4.

⁸³ Wright Apr. 9 E-mail, *supra* note 21.

⁸⁴ *Id.*

that were candidates for trials.⁸⁵ In the end, Toth was able to code data from one jury trial held in Stokes County.⁸⁶

The research project made limited progress during the Spring of 2013. Wright was orchestrating the field researchers in Guilford, Forsyth, Stokes, Surry, and Rockingham Counties, as well as individually contacting and coordinating communications with the clerks of those counties.⁸⁷ In February, though, student field researchers coded thirty-six files from Forsyth County for a total of ninety-nine coded jury trials in the newly forming Jury Sunshine database.⁸⁸

After the pilot study was complete and the field researchers began moving to other counties, Wright, Chavis, and Park found that one critical piece of information was omitted from the criminal files. The race and gender of the jury members that were selected and rejected was not noted anywhere within the public criminal file.⁸⁹ Other demographic data was taken by the field researcher about the juror, including name, jury box number, jury box order, and replacement order (the order by which a jury member was called to be placed in the jury box); however, the clerk did not mark down race or gender on any document contained within the criminal file.⁹⁰ This challenge led the professors to consult an information professional to brainstorm avenues for obtaining missing data.

B. Expanding the Pilot and Annexing the Library

On the afternoon of January 15, 2013, Professors Wright, Chavis, and Parks met with a team of librarians, which included Dean Chris Knott, Kate Irwin-Smiler, Maureen Eggert, Sally Irvin, and Liz Johnson.⁹¹

⁸⁵ *Id.*

⁸⁶ *Id.*; see Sample Data Gathering Spreadsheet, *supra* note 44.

⁸⁷ Wright Apr. 9 E-mail, *supra* note 21.

⁸⁸ See Sample Data Gathering Spreadsheet, *supra* note 44.

⁸⁹ See *infra* Figures 1-6 (detailing the relevant filings in felony criminal trials in North Carolina).

⁹⁰ *Id.*

⁹¹ E-mail from Kami Chavis (Simmons), Professor, Wake Forest University School of Law, to author (Jan. 11, 2013, 12:48 PM EST) (on file with author) [hereinafter

During the hour-long meeting, the group discussed numerous ways that the library could team up with these scholarly researchers to accomplish the goals that they had set, including: collecting data from all 100 counties in North Carolina regarding jury trials disposed of in 2011-2012.⁹² This was a seemingly impossible feat. After that meeting, though, Wright and Johnson began meeting regularly and devised a process for the JSP.

Since Professor Wright was already familiar with contacting the clerks of court about the JSP, he continued doing so throughout the research expansion. The key difference was that now librarians were involved as field researchers.⁹³ Wright came to a library staff meeting on April 2, 2013, and in that meeting, he invited library staff to dive into the hearts of a courthouse and truly do field research. The JSP, as he stressed, goes to the center of open access information and access to justice, a primary purpose for law libraries everywhere.⁹⁴ Eight library staff members and five law students participated in the field research throughout the summer of 2013.⁹⁵

There was a series of steps taken by both Wright and Johnson prior to a field researcher going to collect data from a county courthouse. First, after identifying which county a field researcher would be visiting and a potential date of a visit, Wright would draft a letter introducing the JSP to the clerk of that particular county.⁹⁶ After the letter was sent out, Johnson created a packet for each field researcher that included (1) an information sheet for the field researcher, and (2) the codebook used to

Chavis Jan. 11 E-mail]. It is important to note that, for the purposes of the readership in this Article, the author intentionally uses third person to describe the events surrounding the field data and research.

⁹² Meeting Notes, Wake Forest University School of Law (Jan. 15, 2013) (on file with author).

⁹³ Spreadsheet Jury Sunshine Participants (on file with author).

⁹⁴ AM. ASS'N OF LAW LIBRARIES, LAW LIBRARIES AND ACCESS TO JUSTICE: A REPORT OF THE AMERICAN ASSOCIATION OF LAW LIBRARIES SPECIAL COMMITTEE ON ACCESS TO JUSTICE (July 2014), <http://www.aallnet.org/mm/Publications/products/atjwhitepaper.pdf>.

⁹⁵ Spreadsheet Jury Sunshine Participants, *supra* note 93.

⁹⁶ See Sample letter to Clerk of Court (on file with author) (explaining the process of data gathering and asking the clerk for assistance in their research).

standardize the input of data.⁹⁷ Prior to obtaining the packet of information about a particular county, participants in the project were required to attend training sessions.

In order to train the field researchers, who may or may not have had any experience in law, Wright and Johnson worked together to present the information in a virtual training video, an in-person introduction/overview, and then a hands-on training working through a sample file. After training was complete and the field researcher obtained the packet of information about the particular county, they were asked to “[c]all the clerk of court’s office and ask them to run a list of felony trials from 2011 that were disposed of [sic] with a jury verdict.”⁹⁸ Once the letter and packet were distributed to the proper parties, the remaining data collection responsibility was placed upon the field researcher. The field researcher contacted the clerk for a list of trials, went to the courthouse, reviewed and coded files, and then sent the data back to Wright for inclusion in the master collection.⁹⁹ The data would then go through another pass, where a Student Research Assistant would then search the North Carolina Board of Elections website for the names inputted and add demographic data, such as race, gender, political party, town, and zip code.¹⁰⁰ Since the jurors are selected from the Department of Motor Vehicles and Board of Elections databases, Wright and Johnson limited the research process to only the Board of Elections database.¹⁰¹

⁹⁷ See Sample Information Sheet for Jury Sunshine Data Collection Project (on file with author) [hereinafter Information Sheet for JSP]. The data on the information sheet included the number of potential charges in each county disposed of by jury. This number was always high, as, often times, multiple charges are disposed of by one jury trial. The North Carolina Administrative Office of Courts did provide a list of counties with the aggregate number of charges disposed of by jury verdict; though they did not include file numbers. See also Codebook, Version 7 app. (on file with author). Interestingly, after reviewing the Codebook during training, several librarians offered suggestions for formatting these rules based on their understanding and expertise using the current cataloging rules of AACR2 and RDA. Changes were made to the Codebook given their suggestions. Additionally, the Codebook was created on August 1, 2012, and subsequently amended on January 24, 2013, April 12, 2013, and May 19, 2013. *Id.*

⁹⁸ Information Sheet for JSP, *supra* note 97.

⁹⁹ *Id.*

¹⁰⁰ See Instructions for Phase II: Adding Juror Demographic Information (on file with author) (explaining the step-by-step process for obtaining information on jurors).

¹⁰¹ Chavis Jan. 11 E-mail, *supra* note 91 (Westlaw would not release their DMV database to law schools; however, Lexis has an offer out for contract to law school

At this time, Wright and Johnson also began investigating comparison points for the North Carolina data. The goal of the project was to first gather North Carolina trial records into a comprehensive database, but not to the exclusion of other states and court levels. One of the investigations that ultimately became moot because of lack of availability was the review of criminal records in Maine. After making contact with clinicians in Maine, it was determined that the records did not contain enough information to “easily identify individual jurors, and [the clinicians were] [un]sure whether a detailed record of jury pools and challenges are part of the permanent trial record.”¹⁰² Later it was determined that to obtain the jury lists and other identifiable materials regarding the jury pools in criminal cases in Maine would require a court order from a judge releasing that information publicly.

Another avenue explored was the possibility of comparing North Carolina state criminal trials with federal criminal trials in North Carolina. To do that, Wright and Johnson would locate federal charges that ended up going to trial before a jury by utilizing PACER via Bloomberg Law.¹⁰³ After conducting a search for a criminal charge, researchers were able to review docket sheets and court filings. A

clinics that allows for advance public records databases that would include race and gender. Other pay-for-databases that we investigated, but ultimately did not include, were TLO.com; Westlaw’s PeopleMap; SmartLinx through Lexis, LocatePlus, and Merlin Data. Each of these services turned out to be extremely expensive and potentially unethical to search for future publication. Additionally, there is no public access to North Carolina DMV records that the researchers could access in order to obtain race and gender). See E-mail from Sally Irvin, Associate Director of Faculty & Technology Services, Wake Forest University School of Law, to author (Jan. 16, 2013, 11:45 AM EST) (on file with author) (discussing the advantages of Lexis and providing instructions for accessing the information via the database); E-mail from Sally Irvin, Associate Director of Faculty & Technology Services, Wake Forest University School of Law, to author (Jan. 16, 2013, 11:47 AM EST) (on file with author) (informing the author about Westlaw’s policies regarding sharing and searching for juror demographic information); E-mail from Sally Irvin, Associate Director of Faculty & Technology Services, Wake Forest University School of Law, to author (Jan. 17, 2013, 12:29 PM EST) (on file with author) (discussing other options for data collection and the advantages and disadvantages of each).

¹⁰² E-mail from Christopher Knott, Associate Dean for Information Services and Technology, Wake Forest University School of Law, to author (Jan. 24, 2013, 10:29 AM EST) (on file with author).

¹⁰³ *Understand Dockets on Bloomberg Law*, BLOOMBERG LAW (2016), <https://www.bloomberglaw.com//document/4730712468576272384?documentName=ORCA69762.PDF&fmt=pdf>.

colleague working in the Public Defender's office for the Middle District of North Carolina, Mireille Clough, reviewed a criminal file for the JSP. In it, she explained that "on pacer, there is no reference regarding jury names, members, and/or the like. During jury selection, the Court gives us a sheet with twelve boxes for us (the parties) to keep track."¹⁰⁴ The differences in access to basic file information, however, became apparent. The federal clerk was able to generate a list of federal criminal trials where a jury was seated. However, the inability to access the final jury panel and strikes made during selection without a court order for disclosure is what closed the investigation on comparing North Carolina state and federal criminal trial records.¹⁰⁵

C. Data Collection and Its Challenges

By late spring of 2013, Wright and Johnson had established a set process. The newly trained field researchers were ready to hit the road with a solid toolkit for coding and gathering data, and, luckily, they found success in the following months. Throughout the summer of 2013, with the use of 15 field researchers, Wright and Johnson gathered data in 26 counties, totaling close to 335 jury trials coded and added to the JSP database.¹⁰⁶ With the addition of these counties to the initial pilot studies, the JSP database totaled 435 jury trials with over 5,000 juror names, both for those impaneled and those removed.

Field researchers spread across North Carolina from May 2013 until early September.¹⁰⁷ Throughout the summer, they visited Chatham, Lee, Buncombe, Iredell, Rowan, Durham, Catawba, Carteret, Jones, Moore, New Hanover, Wilkes, Surry, Yadkin, Alexander, Ashe, Henderson,

¹⁰⁴ E-mail from Mireille Clough, Attorney, Public Defender's Office for the Middle District of North Carolina, to author (Mar. 12, 2013, 2:24 PM EST) (on file with author).

¹⁰⁵ Conversation with Clerk at the Federal Courthouse, Middle District of North Carolina, Charlotte, N.C. (on file with author).

¹⁰⁶ See Jury Sunshine Data Collected, app. (on file with author).

¹⁰⁷ E-mail from Ron Wright, Professor, Wake Forest University School of Law, to author (Apr. 3, 2013, 10:38 AM EST) (on file with author). Professors Chavis and Wright created a volunteer position for law students in which researchers were called "Jury Sunshine Project Research Fellow[s]," and students could obtain this title by conducting field research and adding at least ten jury trials to our data.

Davidson, Randolph, Rockingham, Orange, Hoke, Davie, Robeson, Johnston, and Stanly counties. As anticipated, each county was different. The offices ranged in their internal protocols with regard to recording how jury trials were tracked, or more accurately stated, not tracked, to how they maintained access to and filed the records. The field researchers had positive experiences with the clerks and their assistants in the majority of the counties visited.¹⁰⁸ Each county differed in how they allowed access to their files, the communication of the project from the supervisor to the assistants, work space issues with researchers, maintaining and using jury venire lists, how the strikes were noted on the jury box grid, and how they handled tracking jury trials.

Given that the files the field researchers were reviewing were a matter of public record, it was particularly interesting to see how various offices handled the researchers' requests to review files. A few counties allowed the field researcher to work directly with the files in the file room. From there, the field researcher could pull the relevant folder, review it and refile it. This extremely open process happened in at least Henderson, Iredell, Stanly, and New Hanover counties.¹⁰⁹ Conversely, in Catawba and Randolph counties, the clerks pulled all the files for the field researcher and refiled them once the researcher was finished.¹¹⁰ In Robeson County, the clerks only allowed files to be reviewed one at a time. Brian Schneider, the field researcher who collected data in Robeson County, recollected that "perhaps, in part, due to the lack of preparation—the clerks were ill-situated to assist or enable the process. Jury trials are not tracked at the courthouse, which resulted in the review of

¹⁰⁸ See e-mail from Isbel Cruz, Technical Services Assistant, Wake Forest University School of Law, to author (July 16, 2013, 1:44 PM EST) (on file with author) (reporting positive experience with county clerks); E-mail from Holly Swenson, Library Specialist, Wake Forest University School of Law, to author (June 6, 2013, 11:34 AM EST) [hereinafter Swenson June 6 E-mail] (on file with author) (reporting positive experiences with certain county clerks).

¹⁰⁹ Personal Experience; E-mail from Breonna Hammond, Jury Sunshine Research Fellow, Wake Forest University School of Law, to author (Aug. 5, 2013, 10:05 AM EST) (on file with author) ("Everyone was really nice and very helpful. But, I had to pull my own files which was very time consuming.") (emphasis omitted).

¹¹⁰ E-mail from Holly Swenson, Library Specialist, Wake Forest University School of Law, to author (Aug. 1, 2013, 11:30 AM EST) [hereinafter Swenson Aug. 1 E-mail] (on file with author); Swenson June 6 E-mail, *supra* note 108.

several files which did not proceed to jury selection.”¹¹¹ Additionally, Schneider remarked, “the clerk insisted that the file be made available to me one at a time, which left me dependent on flagging someone down whenever I had completed reviewing a particular file.”¹¹² The policies of clerks’ offices to police the court files fell on a spectrum with some counties being open and widely free to counties to those that were highly restrictive and required constant surveillance.

Not only was the access to files different in each county, but so were the rules regarding what technology could be brought into the courthouse.¹¹³ Several counties did not allow the field researchers to bring in any technology, such as cell phones and laptops.¹¹⁴ Alamance County, in particular, would not allow the field researcher to bring in a laptop; thus, Alamance County was tabled until the following summer.¹¹⁵ Upon visiting Randolph County, the field researcher had to obtain prior approval for using her laptop within the clerk’s office.¹¹⁶

Outside of the logistical challenges, other roadblocks began to appear more regularly with our field research visits. Strikingly often, the clerks working at the front desk were unaware of our project despite the letter that had been previously sent to their office by Professor Wright and/or prior phone calls and messages he had left with clerks within an office.¹¹⁷ Because of this, it often happened that when the field researcher showed up to conduct the research, they were greeted with confusion and latent

¹¹¹ E-mail from Brian Schneider, Jury Sunshine Research Fellow, Wake Forest University School of Law, to author (Aug. 2, 2013, 5:10 PM EST) [hereinafter Schneider Aug. 2 E-mail] (on file with author).

¹¹² *Id.*

¹¹³ Swenson June 6 E-mail, *supra* note 108.

¹¹⁴ *See id.* (stating that Rowan County would not allow her to take her cell phone into the courthouse); *see also* Swenson Aug. 1 E-mail, *supra* note 110 (explaining that while her laptop would need special clearance, Randolph County prohibited cell phones under any circumstances).

¹¹⁵ E-mail from Will Ritter, Library Specialist, Wake Forest University School of Law, to author (Aug. 2, 2013, 10:41 AM EST) (on file with author) (“The guards at the door [in Alamance County] won’t allow computers to be carried into the building. I arrived and initially took my backpack, but was told no backpacks at the door. I went back to the car and put my phone/wallet/keys in a plastic bag and carried my computer and JSP paperwork back to the door and was told ‘no computers.’”).

¹¹⁶ Swenson June 6 E-mail, *supra* note 108.

¹¹⁷ *Id.*; Schneider Aug. 2 E-mail, *supra* note 111.

apprehension.¹¹⁸ For example, one field researcher, Holly Swenson, reported that when she visited the Rowan County Clerk's Office, she was assigned an assistant to help her conduct her research.¹¹⁹ The assistant did not fully understand what Swenson was there to do until Swenson presented her assistant with a copy of the letter the office should have already received explaining the aims of the research project and what documents she was hoping to examine.¹²⁰ Upon visiting the Iredell County Clerk's office, the field researcher was asked to sit and wait for the deputy clerk in order to proceed. After waiting over forty-five minutes, the field researcher was able to locate only one superior court jury trial file (two were missing and the remaining three did not have jury box grids within the file).¹²¹ One county was wholly unresponsive to our efforts to get in touch with them with regards to the JSP.¹²² Despite the initial confusion, most clerks' offices were able to sort out the request of the field researcher and accommodate them during the researcher's time at their offices.

Another problem field researchers often encountered was the lack of space to review files. Again, in Rowan County, field researcher Holly Swenson provided that the clerks "didn't seem to really have any indication of how long I was going to be there, so the space they gave me wasn't really appropriate for a full day's work."¹²³ Likewise, the field researcher in Robeson County found himself with "no real place to conduct the work. The clerk found a small working area in a corner, but

¹¹⁸ See Swenson June 6 E-mail, *supra* note 108 (field researcher had to present letter to clerks and explain her reason for visiting was to conduct research); see also Schneider Aug. 2 E-mail, *supra* note 111 (showing that, despite advance warning, clerks were unprepared for the field researchers' visits and had no knowledge of the research project).

¹¹⁹ Swenson June 6 E-mail, *supra* note 108.

¹²⁰ *Id.*

¹²¹ E-mail from author to Ron Wright, Professor, Wake Forest University School of Law (June 3, 2013, 11:17 AM EST) (on file with author).

¹²² E-mail from Alan Keely, Assoc. Dir. for Collection Servs. and Sys., Wake Forest University School of Law, to author (Aug. 6, 2013, 2:40 PM EST) (on file with author) (Regarding Lincoln County, North Carolina, Keely wrote, "I have had a terrible time getting in touch with Mr. Hatley. I have left several messages. . . . I just don;t [sic] think he wants to talk to me.").

¹²³ Swenson June 6 E-mail, *supra* note 108.

it was a high traffic area, which left [him] in the way, and regularly disrupted.”¹²⁴ Alternatively, The field researcher who traveled to Henderson, Wilkes, and Catawba counties was provided space at the desk of an assistant clerk who was in court on the days the research in those counties took place.¹²⁵ Albeit somewhat awkward and with a few exceptions, though, most clerks’ offices were very accommodating in sharing their space. They were kind to do so, especially since the clerk’s offices were often arranged like shanty-towns, filled with cubicles and desks in odd shaped patterns across a room, and it was not easy to share that space without the addition of extra people. There is a viable analogy that a modern day clerk’s office is much like the old newsroom in the 1950s with an attack of noise from phones, keyboards, and chatter. The spacial challenges of navigating the clerks’ offices were some of the more profound observations of the field researchers, particularly with the undergraduate and law students.¹²⁶

Beyond the rapid-fire environment that posed some challenges for the field researchers, in all but one county, field researchers were fully estopped from pulling the jury venire lists with juror names and addresses. For example, some counties, such as Stokes and Rowan, no longer used lists in their juror selection process.¹²⁷ Iredell County was the only county that released the full venire list from a particular day, including names and addresses of jurors.¹²⁸ Interestingly, Stanly County did provide the venire lists, albeit redacted with removing the addresses but not the date of births for the jurors.¹²⁹ However, many counties, such as Catawba, Alexander, Wilkes, Durham, Surry, Yadkin, and Rocking-

¹²⁴ Schneider Aug. 2 E-mail, *supra* note 111.

¹²⁵ Based upon personal experiences and notes of author (on file with author).

¹²⁶ Survey of participant experiences, *supra* note 59.

¹²⁷ E-mail from Holly Swenson to author, *supra* note 108 (stating that, in Rowan County, “[w]hen [Swenson] asked for the venire for each of the days of the cases they told [her] that they hadn’t been using lists since at least 2010, but rather a card system”).

¹²⁸ Iredell County Venire List (on file with author).

¹²⁹ E-mail from Aimee Durant, Jury Sunshine Research Fellow, Wake Forest University School of Law, to author (Aug. 12, 2013, 3:47 PM EST) (on file with author) (obtaining only jury venire lists with names and dates of birth for three of the cases on the docket due to a lack of time because the clerk was making the copies of the files for the researcher).

ham, did not release the names and addresses of the jury pool.¹³⁰ By the middle of July 2013, the JSP field researchers were denied these lists by clerks who stated that there was a new law that did not allow them to release any jury information.¹³¹ Wright and Johnson were unable to locate a new law regarding jury venire lists and other jury information.¹³²

One discovery of omitted information led to a revision in the data collection spreadsheet, which, at that point, was a major shift in the project. Wright and Johnson were adding data to the already large spreadsheet, but, as field researchers gathered more and more data, it appeared some clerks did not note who prompted the strike for a juror on their jury box grid.¹³³ As a result, for the trials coded from counties where the clerk of court did not note which litigant struck a particular juror, Wright and Johnson added three columns of data to the standard template spreadsheet: the total challenges reflected by tally marks for (1) the state, (2) the court, and (3) the defense.¹³⁴ Even though the field researchers could not connect which party struck a particular juror, they were able to gather the numbers in the aggregate for further analysis and examination.

Finally, and perhaps the most damaging roadblock to data gathering, was the inability of the individual county clerk to pull A.O.C. data on the criminal charges disposed of by jury trial within his or her county. In Guilford County, the clerk maintained a shadow database that tracked those cases that went to trial and had a jury impaneled.¹³⁵ However, Guilford County was truly the only North Carolina county discovered to have such a system. Thus, when field researchers requested a list of file numbers to review, they were often told to either (1) go to the district

¹³⁰ See E-mail from author to Ron Wright, Professor, Wake Forest University School of Law (June 14, 2013, 1:44 PM EST) (on file with author) (detailing the researcher's findings from Catawba County).

¹³¹ Cruz July 10 E-mail, *supra* note 59.

¹³² Concurrent to this project, the case *LexisNexis Risk Management v. North Carolina A.O.C.*, No. 11CVS015832, 2013 WL 2459716, at *1 (N.C. Super. Ct. Feb. 8, 2013), was being litigated through North Carolina courts.

¹³³ See *infra* Figure 3 (providing a place for the clerk to indicate which party struck a juror).

¹³⁴ *Id.*

¹³⁵ Wright Apr. 9 E-mail, *supra* note 21.

attorney's office for that information, (2) to contact the A.O.C. directly, or (3) review the minutes from 2011 and 2012 of that Superior Court if available.¹³⁶ Wright initiated contact with the A.O.C., and in particular Patrick Tamer, who is the primary contact for generating reports of this nature for clerks of court.¹³⁷ Much to Wright's disappointment, the A.O.C. did not generate new reports for individuals or outside entities due to budgetary constraints.¹³⁸

The field researchers had two workarounds for this problem. They could rely on the list of file numbers in the information packet provided by Johnson, or they could contact the clerk of that county prior to their visit and ask the clerk to request that the A.O.C. generate a list of file numbers on their behalf.¹³⁹ Often, the field researchers relied on the list of file numbers Johnson sent with them in their information packet.¹⁴⁰ That information was only partially complete, given that it only contained information on court-appointed attorneys and their defendants provided by the North Carolina Office of Indigent Services.¹⁴¹ With this limited information, only a small sampling of files that went to trial were coded into the JSP database; cases handled by public defender offices or by retained counsel were omitted.

A few field researchers contacted the clerk of court prior to their visit and requested that the clerk reach out to Patrick Tamer in order to

¹³⁶ See E-mail from author to Ron Wright, Professor, Wake Forest University School of Law (June 3, 2013, 11:17 AM EST) (on file with author) (informing Wright that she was advised by Iredell County to contact the District Attorney's office for records); see also E-mail from Jack Butler, Jury Sunshine Research Fellow, Wake Forest University School of Law, to Ron Wright, Professor, Wake Forest University School of Law (Aug. 2, 2013, 4:12 PM EST) (on file with author) (relaying that Mecklenburg County suggested the researchers contact either the District Attorney's office or the A.O.C.); E-mail from Carol Madkins, Assistant Clerk for Alamance Cty., to Ron Wright, Professor, Wake Forest University School of Law (June 3, 2013, 4:59 PM EST) (on file with author) (offering to direct our field researcher to "the file cabinets with all the minutes for 2011 and 2012 where [they] will have the information so [they] can determine which files [they] need").

¹³⁷ See Wright Apr. 9 E-mail, *supra* note 21 (noting his contact with the A.O.C.).

¹³⁸ *Id.*

¹³⁹ Information sheet for JSP, *supra* note 97.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

generate a list.¹⁴² Tamer, through his capacity within the A.O.C., could generate a list of file numbers of cases that were disposed of by jury trial for an officer of the state, which included Clerks of Court.¹⁴³ The clerks of Buncombe, Durham, Wilkes, and Iredell counties were extremely helpful and made a request to the A.O.C. to generate a list of file numbers for the field researchers.¹⁴⁴ Conversely, in Orange County, when the field researcher made this request to the assistant clerk, the assistant clerk had to go to her supervisor, who promptly declared that “there is no way they [would] be doing this.”¹⁴⁵ This initial contact and request to the clerk of court started with the field researcher and, eventually, Johnson took over.

In practice, though, field researchers were often faced with clerks who did not make that request. In those cases, field researchers gathered the cases on their information sheet and then probed the internal knowledge of assistant clerks and others who knew of particular cases that went to trial. Particularly, in New Hanover County, once the field researcher finished with the files listed on her information sheet, she began to sift through the files, determining which ones to review by their size and colors.¹⁴⁶ Similarly, in Catawba County, the assistant criminal clerk could pull jury trials by reviewing her notes of that session. Other counties could remark on trials that had been particularly newsworthy and memorable.

In all, by September 2013, the Jury Sunshine Project had 435 jury trials included in its database, strewn across over fifteen individual spreadsheets.¹⁴⁷ In addition to the actual data the field researchers

¹⁴² See E-mail from author to Aimee Durant, Jury Sunshine Research Fellow, Wake Forest University School of Law (July 25, 2013, 11:45 AM EST) (on file with author) (instructing the student-researcher to explain to the clerk that she needed to contact Patrick Tamer at A.O.C. to compile a list).

¹⁴³ *Id.*

¹⁴⁴ See E-mail from Steven Cogburn, Clerk of Court, Buncombe Cty., to author (June 28, 2013, 2:07 PM EST) (on file with author); see also Durham Cty. ACIS CRS Cases with a Felony and a Jury Disposition (on file with author); Iredell Cty. ACIS CRS Cases with a Felony and a Jury Disposition (on file with author).

¹⁴⁵ E-mail from Aimee Durant, Jury Sunshine Research Fellow, Wake Forest University School of Law, to author (July 25, 2013, 11:57 AM EST) (on file with author).

¹⁴⁶ Based upon the author’s personal experiences with Holly Swenson, Field Researcher (on file with author).

¹⁴⁷ See, e.g., Sample Data Gathering Spreadsheet, *supra* note 44.

provided, they brought invaluable information regarding office norms and practices that were immediately factored into the expansion of the project to North Carolina's two urban counties, Mecklenburg and Wake. For the JSP, it was clear that Wright and Johnson were working their way from the outside in and learning all the little nuisances and nuances found within these offices along the way.

As a practical note, the best practices in litigating *Batson* challenges include assembling historical data.¹⁴⁸ A guideline provides that attorneys "should make a habit of arriving at every trial with records that, under appropriate circumstances, may be submitted as evidence in support of a *Batson* claim."¹⁴⁹ As referenced before, the guideline cites *Miller-El v. Dretke*¹⁵⁰ for providing that "*Batson* evidence includes 'totality of the relevant facts'" and notes that *Batson* evidence can be based solely on patterns suggestive of discrimination in jury selection.¹⁵¹ The guidance further illustrates the process for collection that attorneys should undertake, which includes:

- Copies of *voir dire* from previous trials, including past *Batson* challenges and prosecutor's stated reasons for strikes;
- Manuals or training materials regarding responding to *Batson* challenges;
- Any available strike rate data, including strike rates in capital cases in your county and judicial district (as seen in the MSU study); and
- Any other patterns, practices, or evidence relating to the influence of race on prosecutorial decision-making.¹⁵²

These guidelines also instruct defense attorneys to be

prepared to integrate any relevant information into upcoming trials . . . for example, if a particular prosecutor usually responds to *Batson* challenges

¹⁴⁸ ALYSON A. GRINE & EMILY COWARD, RAISING ISSUES OF RACE IN NORTH CAROLINA CRIMINAL CASES 7-23 (2014).

¹⁴⁹ *Id.*

¹⁵⁰ 545 U.S. 231 (2005).

¹⁵¹ GRINE & COWARD, *supra* note 150, at 7-23 (quoting *Miller-El v. Dretke*, 545 U.S. 231, 239 (2005) (providing for evidence based on the entirety of all relevant facts)).

¹⁵² Cruz July 10 E-mail, *supra* note 59; *see generally* Grosso & O'Brian, *supra* note 22, at 1533-34.

by explaining that the struck African American venire person appears nervous, [the defense attorney] should make the judge aware of this pattern when a prosecutor defends a peremptory strike on this basis.¹⁵³

Thus, the data the field researchers were gathering for the JSP had roots to make a big impact on the practicing Bar: the JSP was collecting the data necessary to justify *Batson* challenges.¹⁵⁴ It is unlikely that it is fiscally possible for an attorney or a law firm handling felony criminal cases, that often result in trial, to obtain this data on their own.¹⁵⁵ This data provided accountability for the practicing bar to ensure a very real, but often forgotten, constitutional right.

D. Tackling North Carolina's Urban Counties: Mecklenburg and Wake

By September, the JSP was ready to expand into North Carolina's two biggest counties, Mecklenburg and Wake. The importance of obtaining a sample of jury trials from these counties was at the heart of the project.

¹⁵³ See Cruz July 10 E-mail, *supra* note 59; see also Susan Jackson Balliet & Bruce P. Hackett, *Litigating Race in Voir Dire*, 30 THE ADVOCATE 42, 46 (May 2008) (“A prosecutor who repeats the same race-neutral reasons at every trial loses credibility, but only when you point it out, and back it up.”).

¹⁵⁴ See *Litigating a Batson Challenge, Selection of the Trial Jury: Peremptory Challenges*, in N.C. DEFENDER MANUAL § 7.4 (Sept. 2014). For example, attorneys should use the same methodology employed by the MSU researchers in calculating strike data. This methodology involves creating a file for each type of proceeding that includes: (1) The names of every “strike-eligible” venire member (this population includes venire members who were questioned on voir dire, not excluded for cause, and whom the prosecutor had the opportunity to strike), (2) The race of every member of the venire included on the list. It is also important to note that summons lists with addresses may be available in court files, (3) Other demographic characteristics of strike-eligible jurors, including gender, marital status, employment, political affiliation, and educational background, (4) Any prior experiences with the legal system held by the strike-eligible jurors, (5) Whether or not any of the strike-eligible jurors expressed views concerning law enforcement officers, prosecutors, or the criminal justice system, (6) The amount of questions asked to each juror during voir dire, (7) Whether or not that juror was kept or struck from the final jury, and (8) If a *Batson* challenge was raised, the prosecutor's explanation for the challenge and the judge's ruling on the challenge.

¹⁵⁵ There are a few successful stories of this practice. See Cruz July 10 E-mail, *supra* note 59.

Without this point of comparison, the researchers could not proceed on any valuable and significant analysis on the trends of jury selection within the criminal courts in North Carolina.

Communications began with Wake County in May of 2013. At that time, Wake County's courthouse was undergoing construction and visits by JSP field researchers were postponed until winter break (December 2013 and January 2014). After a few conversations with Sonya Clodfelter at the clerk's office in Wake County, she was able to obtain the necessary approvals to request a list generated by Patrick Tamer at A.O.C. of the file numbers relevant to our project.¹⁵⁶ The field researchers ultimately had the list of file numbers on their information sheet, as well as the file numbers that A.O.C. generated for Clodfelter at our request, to work from in coding files from this county. Clodfelter was able to pull the files for the students in order to expedite their time reviewing and coding the files as a group.¹⁵⁷

Ventures into the Mecklenburg courthouse began in August of 2013. Field researchers Jack Butler and Kevin Flanigan steered the ship. When Butler arrived at the clerk's office in Mecklenburg County, he was told they did not have any juror information in their files and he would need to consult with the jury administrator's office.¹⁵⁸ The administrator's office did state they had the names and address of panel members and final jurors; however, they did not have information on which potential jurors were struck nor did they have information on which parties struck the juror.¹⁵⁹ After some confusion, Butler made his way back down to the clerk's office where he could review the files that he had file numbers references for, but only one by one.¹⁶⁰ At this point, Butler was able to provide the partial list from the information sheet provided to him to start reviewing files, though reviewing files one by one and having to return the file in order to obtain the next file on the list was quite a slow process.

¹⁵⁶ E-mail from author to Ron Wright, Professor, Wake Forest University School of Law (Jan. 6, 2014, 2:35 PM EST) (on file with author).

¹⁵⁷ Price Jan. 11 E-mail, *supra* note 31.

¹⁵⁸ E-mail from Jack Butler, Jury Sunshine Research Fellow, Wake Forest University School of Law, to Ron Wright, Professor, Wake Forest University School of Law (Aug. 2, 2013, 4:12 PM EST) (on file with author).

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

At this point, Johnson contacted the Mecklenburg County Clerk of Court and set up a meeting with him and his criminal assistant clerks, Teresa Lagassee and Crystal Taylor. Honorable Clerk Dennis Lively was willing to request a list of criminal charges that were disposed of by jury verdict from 2011 and 2012.¹⁶¹ After meeting with Lagassee, Taylor, and Lively in September 2013, the research team set up a schedule by which students would go to the Mecklenburg County Courthouse throughout the fall of 2013, and would review the ten to fifteen files pulled and set aside by Taylor.¹⁶² Each week, the field researchers would return the files to Taylor, and she would either (1) re-shelf the files that the researchers had coded or (2) hold the files that needed to be coded separately.¹⁶³ Three field researchers—Chris Salera, Aimee Durant, and Greg Buscemi—visited the Mecklenburg courthouse multiple times over the course of September through December of 2013.¹⁶⁴ By the end of the fall semester, Wright and Johnson came up with a new recruiting approach: they introduced the JSP to first year law students at Wake Forest University School of Law and opened up the opportunity for a select few of them to become involved as Jury Sunshine Research Fellows.

In an invitation to a section of the 1L class, Professor Wright extended the following remarks that generated enthusiasm in several new law students. He wrote, “[a]ny students who complete the training and obtain data for 10 or more jury trials will be eligible to list themselves on resumes as ‘Research Fellows’ for the Jury Sunshine Project”¹⁶⁵ Furthermore, beyond the incentive to obtain resume-building credentials, Wright followed with this sentiment about participating in this research, “I believe that you will benefit from learning about the normal documents that one can find in a felony file, and from interacting with the wonderful

¹⁶¹ In-person conference between the author with the Honorable Dennis Lively, Mecklenburg Cty. Clerk of Court, and his assistant clerks (on file with author).

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ E-mail from author to Ron Wright, Professor, Wake Forest University School of Law (Sept. 23, 2013, 11:09 AM EST) (on file with author).

¹⁶⁵ E-mail from Ron Wright, Professor, Wake Forest University School of Law, to Section 1, Wake Forest first-year law students (Dec. 22, 2013, 1:40 PM EST) (on file with author).

people who work in the clerk's office—some of the most important people in the life of any litigating attorney.”¹⁶⁶ With that, ten new first-year law students signed up to be Jury Sunshine Research Fellows, and they began traveling to Mecklenburg and Wake counties to collect data for the JSP over Winter break 2013.¹⁶⁷ Using the standard procedure, these students underwent training and received the list of files that they were to work through. In both Wake and Mecklenburg counties, the clerks worked to pull the files for the students to review and code. By the beginning of Spring Semester (January 2014), ninety-eight of Mecklenburg County's 256 jury trials had been coded and added to the database.¹⁶⁸ Impressively, these Jury Sunshine Research Fellows also coded seventy-nine of the 121 jury trials held in Wake County.¹⁶⁹ With the inclusion of data from Mecklenburg and Wake Counties, the JSP took a huge leap of over 650 jury trials by the start of Spring semester 2014.

E. Moving Beyond North Carolina Criminal Records Data Collection

At the beginning of 2014, there were new promises of expansion for the project. Professor Parks had worked diligently in obtaining a grant through the Wake Forest University college for the Jury in the Sunshine Project. Through this grant, the researchers were awarded funding to provide for their travel and lodging expenses to go to the outskirts of North Carolina: both Eastern and Western.¹⁷⁰ Wright and Johnson also expanded the field researcher opportunity to undergraduate students.¹⁷¹ There was definite interest generated within the political science and pre-

¹⁶⁶ *Id.*

¹⁶⁷ See Spreadsheet Jury Sunshine Participants, *supra* note 93 (indicating the participants name, whether he or she is a student and if so, graduating year, and date of expression of interest).

¹⁶⁸ See App., Spreadsheet Jury Sunshine Data Collected, Figure (on file with author).

¹⁶⁹ *Id.*

¹⁷⁰ Grant Award through Wake Forest University (on file with author).

¹⁷¹ See Undergraduate Flyer to Promote JSP (on file with author).

law departments. Ultimately, five students worked with the JSP over the summer to obtain data from all 100 North Carolina counties.¹⁷²

Not only did the demographics of the field researchers change, but Wright and Johnson also switched up the process a bit. Instead of Wright generating an introduction letter, Johnson personally contacted each clerk of court prior to the field researchers' visits to establish a rapport with the county. The same three options remained steadfast for determining which charges were disposed of by jury trial. Each clerk either requested a list of jury trials from the A.O.C., had an internal list, or used the list provided by the researchers.¹⁷³ For example, after the May training, one undergraduate field researcher visited Watauga, Caldwell, Avery, Mitchell, Yancey, Madison, Haywood, Transylvania, Jackson, Swain, Graham, Macon, Clay, and Cherokee counties.¹⁷⁴ For each of those counties, there was an initial contact made prior to the field researcher's visit which alleviated some of the prior struggles that field researchers dealt with upon arrival. Unfortunately, there were still struggles to obtain the data necessary for the JSP.

Though Wright and Johnson had solved many of the problems surrounding the lack of preparation and information within the clerk's office regarding the JSP by personally setting up the visits for the field researchers, Wright and Johnson still had issues with the actual records themselves. Absent asking the clerk of court to request a list of charges disposed of by jury trial, field researchers still had no means of determining file numbers to research and review and often faced a disorganized file management system within the clerk's office. For example, when one field researcher went to Burke County, she was able to find some of the pre-determined files, but others were not in "their places," meaning they were not shelved correctly.¹⁷⁵ Additionally, the clerks were not willing to request the A.O.C. data on the project's behalf, so the field researchers had only a limit range of file numbers to review. The file

¹⁷² E-mail from Ron Wright, Professor, Wake Forest University School of Law, to author, (Apr. 25, 2014, 1:34 PM EST) (on file with author).

¹⁷³ Sample File Numbers for Felony Trials (on file with author).

¹⁷⁴ E-mail from author to Lili Gordon, Undergraduate Field Researcher, Wake Forest University (Apr. 28, 2014, 3:03 PM EST) (on file with author).

¹⁷⁵ E-mail from Emma Huelskamp, Undergraduate Field Researcher, Wake Forest University, to author (May 22, 2014, 11:07 PM EST) (on file with author).

organization in other counties was a bit chaotic, which resulted in our field researcher being unable to review all the appropriate files. The field researcher described the trip to Caswell this way: “When I arrived, the clerks were not able to help me pull files, had no list of jury trials, and their file cabinets were highly disorganized (they told me that was one of their summer projects to reorganize them).”¹⁷⁶ However, she went on to say that she “was able to find the two files you have [sic] me in advance as well as three other jury trial cases (after looking through hundreds of files). It is quite possible there were a couple more but I did my best given the lack of organization.”¹⁷⁷ This same situation was echoed in Lincoln County as well, with the field researcher saying “[t]o be frank, it was a bit of a mess. Most files were misfiled or did not have complete jury sheets.”¹⁷⁸

On top of general disorganization, another disturbing challenge that emerged as the project expanded was the inconsistency of the documents contained within the actual file, which is used for criminal appeals as a trial record. For example, in Avery County, one of the researchers said, “all but one of the . . . cases were missing the information for jury selection. I asked a woman working in the clerk[‘]s [sic] office if there was anywhere else the information might be, but she said the case files were the only place,”¹⁷⁹ Again, in Franklin County, the field researcher found that none of the files designated as having been disposed of by jury trial had the requisite jury box grid within them.¹⁸⁰

Despite the disorganization and lack of a comprehensive list of jury trials, the project grew and grew. By October, the JSP had data from all 100 North Carolina counties.¹⁸¹ The JSP database expanded to encom-

¹⁷⁶ E-mail from Melissa Onley, Undergraduate Field Researcher, Wake Forest University, to author (May 30, 2014, 11:33 AM EST) (on file with author).

¹⁷⁷ *Id.*

¹⁷⁸ E-mail from Will Neinast, Undergraduate Field Researcher, Wake Forest University, to author (June 9, 2014, 8:34 PM EST) (on file with author).

¹⁷⁹ E-mail from Liliás Gordon, Undergraduate Field Researcher, Wake Forest University, to author (June 5, 2014, 6:07 PM EST) (on file with author).

¹⁸⁰ *Id.*

¹⁸¹ *See* E-mail from author to Melissa Onley, Undergraduate Field Researcher, Wake Forest University (May 21, 2014, 8:35 PM EST) (on file with author). The only exceptions to this was that several counties had not conducted a jury trial within the last five years. For those counties, either the field researchers visited the courthouse or the librarian contacted the clerk of court to confirm that there had been no such trials.

pass 1,139 jury trials coded by field researchers from 2011 and 2012.¹⁸² Albeit it is not a comprehensive list, this number does represent a solid sample of the 2,110 felony charges reported statewide by A.O.C. for 2011.¹⁸³

But how open were these public records? It took a combined effort of thirty-six field researchers, three law professors, and eight library professionals over two years of traveling and coding for a cost of over \$4,600.¹⁸⁴ If it is true that, “[u]nder North Carolina’s Public Records Act, the records and information compiled by the agencies of state government and local governments are the property of the people, and those records usually are available for the public to review . . . during the an [sic] agency’s regular business hours,” then why did the JSP have to apply such extreme and in-depth measures to obtain the answer to this seemingly simple question: who is impaneled on our juries, and are specific races being consistently excluded across county borders?¹⁸⁵

With the completion of the JSP initial data collection, there are few outstanding tasks left. Of those, the JSP needs to compile information regarding juror demographics, including their race, gender, and political affiliation. The data needs to be cleaned up and prepared for analysis, the analysis needs to be completed, and comparisons from other jurisdictions need to be explored and completed.

F. Juror and Judge Demographics

Since the data coded from the jury trials only involved the names of the jurors that were empaneled and struck, the project needed to expand to gather data on race and gender. In North Carolina, the jury pool is pulled from Department of Motor Vehicle records, but the Board of

¹⁸² Sample Data Gathering Spreadsheet, *supra* note 44.

¹⁸³ See Spreadsheet, FY2011-2012 Jury Trials (on file with author). Although there were 2,110 charges statewide, often they were consolidated before going to trial. It is safe to assume the 1,139 trials is representative of the related charges.

¹⁸⁴ See Sample Data Gathering Spreadsheet, *supra* note 44; Grant Funding Log (on file with author).

¹⁸⁵ N.C. ADMIN. OFFICE OF THE COURTS, THE NORTH CAROLINA JUDICIAL SYSTEM, 35 (2008), <http://www.nccourts.org/Citizens/Publications/Documents/JudicialSystem.pdf>; see also N.C. GEN. STAT. § 132-1 (2014) (reflecting Chapter 132 of the North Carolina General Statutes comprises the North Carolina Public Records Act).

Elections for North Carolina provides a free, open database to search voters by name.¹⁸⁶ Since each jury trial included the first and last name of a juror, the Board of Elections would provide Wright and Johnson with all the appropriate hits for that name within a county in addition to that person's race, gender and political affiliation.¹⁸⁷

In order to determine whether a specific race and/or gender was being excluded more often through the use of peremptory strikes, the JSP researchers shifted the type of research they had been conducting from field data gathering to database searching. Of the 1,139 jury trials coded by October 2014, 77% of them had undergone a second pass for data collection regarding race and gender by individually searching the North Carolina Board of Elections database.¹⁸⁸ Sixteen law students worked through September and October to complete the initial pass of these trials, but the last 23% of trials remain uncompleted.¹⁸⁹

Mecklenburg County included the race of each juror on the jury box grid.¹⁹⁰ However, this procedure was exclusive to the Mecklenburg County clerks. Other states do include race and gender in their criminal records regarding juror challenges. For example, in Washington D.C., each criminal charge that results in a jury empanelment contains a Peremptory Challenge Form.¹⁹¹ This form does not include the juror name that was struck, but includes more valuable information—race and gender.¹⁹² It also provides the information to two separate columns: (1) Government and (2) Defendant.¹⁹³ This method of documenting jury challenges is extremely straight forward and clearly indicates who is struck from the jury. By providing such clear information, the transparency of the process is illuminated. The public can see, with just a glance,

¹⁸⁶ *Voter Search*, N.C. STATE BD. OF ELECTIONS, <https://vt.ncsbe.gov/RegLkup>.

¹⁸⁷ *Id.*

¹⁸⁸ *See* Sample Data Gathering Spreadsheet, *supra* note 44.

¹⁸⁹ *See id.* Twenty-three percent of the 1,139 jury trials is approximately 262 trials. At this time, all data has been collected on all trials coded. Professor Wright is seeking new trials from 2015-2016 from Wake and Mecklenburg counties.

¹⁹⁰ E-mail from Katie McAbee, Wake Forest Field Researcher, to author (Sept. 18, 2014, 3:17 PM EST) (on file with author).

¹⁹¹ Sample Peremptory Challenge Form, Washington D.C. (on file with author).

¹⁹² *Id.*

¹⁹³ *Id.*

the twenty challenges made for a case, and if all of them are of one race. Thus, having this information so available and easily digestible allows the public to hold the litigators accountable for their actions in jury selection.

Conversely, in other states, such as Ohio, only the final impaneled jury is provided in the criminal record.¹⁹⁴ North Carolina federal courts conduct a similar method for providing jury information in the criminal files open to the public. Requiring an official request for review, the jury selection forms and documents seem to be hidden behind an administrative veil.

G. Conducting the Empirical Analysis for Legal Scholarship

In 2012, researchers Shamena Anwar, Patrick Bayer, and Randi Hjalmarsson conducted a similar study, gathering data on jury composition in all felony trials held within Sarasota and Lake Counties in Florida from 2000 through 2010.¹⁹⁵ These records were provided to the researchers electronically from the courts.¹⁹⁶ The researchers used a specific methodology and research design that exploits day-to-day variation in the composition of the jury pool.¹⁹⁷ The study resulted in evidence that supports two contentions: (i) juries formed from all-white jury pools convict black defendants significantly (15 percentage points) more often than white defendants, and (ii) this gap in conviction rates is nearly entirely eliminated when the jury pool includes at least one black member.¹⁹⁸ The authors of the study made the following conclusion:

The impact of jury race is much greater than what a simple correlation of the race of the seated jury and conviction rates would suggest. These findings imply that the application of justice is highly uneven and raise

¹⁹⁴ Sample Ohio Criminal File (on file with author).

¹⁹⁵ Anwar et al., *supra* note 20, at 1019.

¹⁹⁶ *Id.* at 1025.

¹⁹⁷ *Id.* at 1019.

¹⁹⁸ *Id.*

obvious concerns about the fairness of trials in jurisdictions with a small proportion of blacks in the jury pool.¹⁹⁹

Professors Wright, Chavis, and Parks are currently running similar data tests on the information gathered from the field researchers in the North Carolina JSP data set. From those tests, they will be able to determine whether or not the contentions made by Anwar, Bayer, and Hjalmarsson are similar to those found in North Carolina. A multitude of data tests can be conducted on the JSP data that will provide Professors Wright, Chavis, and Parks the opportunity to comment on the daily impact of race on jury selection and criminal outcomes for fairness and impartiality. As a side note, similar comparisons can be made on the access to public records in these different jurisdictions, including ease of access and ability to analyze data within a reasonable range.

H. Beyond North Carolina— Adding Data from Minnesota and Other States

In November, 2014, the JSP researchers were granted an extension and modification on the initial funding grant awarded.²⁰⁰ This modification allowed for the grant to run for an extra year and extend the payment of funds to explore the public records from other states and jurisdictions.²⁰¹ With this opportunity, researchers began exploration of criminal public records for jury selection information in Florida, Georgia, Tennessee, Virginia, Ohio, New Jersey, New York, Delaware, Washington, Louisiana, and Texas. As those public records were searched through dockets available via BloombergLaw, and requested via West's Court Express, researchers identified those states with the most open and available information regarding jury selection. At this stage, an opportu-

¹⁹⁹ *Id.*

²⁰⁰ See E-mail from author to Susan Edwards, Ron Wright, Gregory Parks, Kami Chavis, Wake Forest University (Sept. 23, 2014, 9:17 AM EST) (requesting an extension on the project) (on file with author); E-mail from Susan Edwards, Research Coordinator, Wake Forest University, (Sept. 23, 2014, 12:52 PM EST) [hereinafter Edwards Sept. 23 E-mail] (announcing the approval of the extension) (on file with author).

²⁰¹ Edwards Sept. 23 E-mail, *supra* note 200.

nity existed for open government advocates and librarians to take a piece of the JSP, and become grassroots field researchers gathering data in their areas. So the call for help went out.

That call for help was answered by a fellow researcher at Wake Forest University (WFU), Professor Fran Flanagan, who is interested in the economic effects of juror selection and the effects of peremptory challenges on jury composition.²⁰² Particularly as a theoretical economist, he is interested in studying the connection between “‘extreme’ juries” and volatility verdicts.²⁰³ Since 2015, Flanagan and Wright have been able to obtain public records data on jury selection from Minnesota. As that data is added to the current database, the professors will be able to make comparisons between jury selection in North Carolina and jury selection in Minnesota.²⁰⁴ This will allow the professor to analyze the validity of the procedures, and further study the practices of litigants.

II. Access to Public Records

In theory, the public has the right to access and inspect most any document created by its government, at the federal or state-level. In all practicality, however, that just does not happen. There are two main considerations behind accessing public records in the United States. First, a researcher must address whether or not they are entitled to the particular record. Not all public records are open for inspection. The policies that guide inclusion or exclusion of public records from the public eye differ state by state, and often county by county. In states that have actively

²⁰² E-mail from Francis Flanagan, Professor, Wake Forest University, to author, (Nov. 3, 2015) (on file with author) (“I’m a theoretical economist, and one of my . . . papers analyzes how peremptory challenges affect the composition of juries (I’ve attached a copy). The punchline is that peremptory challenges distort the composition in such a way that they actually increase the probability of more ‘extreme’ juries, and thus increase ‘bias’ and the volatility verdicts, and that this is true even if attorneys are using the challenges appropriately (i.e. not striking people based on race or gender). I would like to apply the results in an empirical analysis, which is why I’ve been trying to put together a data set along the lines of what you have done.”).

²⁰³ *Id.*

²⁰⁴ The court system in Minnesota allows for researchers to access data in the aggregate through electronic means. This process of collecting data in Minnesota was measurably easier than in North Carolina. *See infra* Figure 8.

legislated for exemptions from the Public Records Acts regarding particular types of documents to be kept from the public, it is exponentially more difficult to obtain data to make policy and trends analysis. That leads to a second consideration—the researcher must then determine what other challenges arise to true access. Again, those considerations vary state by state, and county by county. Elements to consider include the resources allocated for access, the technology in place, and the internal structures of the record keepers. Each of these challenges propose different actions to be raised by the researcher, and each pose interesting consequences and opportunities for reform that would bring more public records into light.

Figure 8 directly addresses, state by state, the first consideration as to what law has been created that may hamper access, whether by legislators, judges, or state agencies.²⁰⁵ This figure then examines whether public records are available, and how much is truly available. For example, in Utah, the database XChange is the hub for every Utah state court filing from 2010 forward; however, it is impossible to access in the aggregate even by offers to purchase.²⁰⁶ Even in states where public records are freely available through a state-sponsored database/technology, there may be limitations to that access within the state's processes in some way, just as access in Utah is limited by Xchange.²⁰⁷

For the JSP at Wake Forest University School of Law, the true crux of the study came down to the fact that the criminal records were not as open as they were expected to be in North Carolina—not by law existing

²⁰⁵ See *infra* Figure 8 (analyzing whether a state allows access to jury records, what authority allows it, and whether there is government sponsored electronic access); *Privacy/Public Access to Court Records*, NAT'L CTR. FOR ST. CTS., <http://www.ncsc.org/topics/access-and-fairness/privacy-public-access-to-court-records/state-links.aspx> (listing the accessibility of case information for each state); *Guide Compare Tool: Comparing: C. Jury Record*, REPORTERS COMM. FOR FREEDOM OF THE PRESS, <https://tinyurl.com/pclhl2f> (including information for both federal circuits and individual states).

²⁰⁶ See *The Most Important Legal Information in the Nation is Not Publicly Available*, LAWX, Apr. 28, 2017, <https://lawxblog.wordpress.com/2017/04/28/the-most-important-legal-information-in-the-nation-is-not-publicly-available-this-should-change> (discussing the difficulty, and, sometimes, impossibility of actually obtaining legal information when attempting to gather that data from state/federal agencies).

²⁰⁷ *Id.*

at the time, but by function and policy. For North Carolina, the openness of the files hinged on four aspects: (1) information still very much lived in the minds of the individual employees at each courthouse, (2) the A.O.C. was unable to approve our request for a report to point to specific files to review,²⁰⁸ (3) records were inconsistently filed and managed across counties, and (4) litigation in the courts over access to A.C.I.S. paralleled in time as the JSP, which in hindsight, probably prohibited much of our access of these records—*LexisNexis Risk Data Management v. North Carolina Administrative Office of the Courts*.²⁰⁹

A. Organization of Local Clerks' Offices and Lack of Statewide Consistency

Even in this digital age, many of the clerk's offices in North Carolina seem to be captured in a time-gone-past.²¹⁰ Most of the information regarding the comings-and-goings of the courthouse passes not through

²⁰⁸ The A.O.C. provided data that was virtually unusable unless the public entity requesting the data had the means to dedicate server space and to create a database with MySQL to run queries. The data provided was a compilation of raw text files in multiple tables that required a programmer to connect the tables prior to running an inquiry. The files were so large, that the IT staff strategically timed their upload to the WFU server in order to maintain congruency on the network and to not take down the WFU website. The millions of lines of raw special delimited data tables were uploaded in the middle of the night on a weekend to maintain a stable web environment.

²⁰⁹ 775 S.E.2d 651 (N.C. 2015).

²¹⁰ Other states are battling similar issues; however, the state is not the protector of public records but rather the provider and keeper. States should be charged with keeping public records in a medium that is able to be inspected by the people; the crux of government transparency. See Melissa Valdez, *County Clerks Voice Concern About State Records Database* (Feb. 06, 2017), <http://www.ktxs.com/news/texas-county-clerks-voice-concern-over-new-public-database/314619636> (“The state of Texas is in the process of implementing a new online database known as Re: Search TX, that would give the general public access to court records online, but several county clerks across the state are concerned about potential abuse. . . . According to Taylor County Clerk Larry Beville, that access will give identity thieves and burglars more ammunition to commit crimes. ‘The people who are up to no good aren’t going to come through security,’ Beville said. ‘They’re not going to come through this court house. They’re going to stay home and troll through the internet and look at these cases, and that’s where I have a problem.’ The state is pushing for the new database to make court records more accessible, but there’s another motive: money.”).

the computer systems, but through the word of mouth of the clerks and their employees. This informal, individual repository of information may be the by-product of a computer system that is extremely out-of-date and virtually useless. In its essence, A.C.I.S. seems to empower the individual clerk to maintain shadow databases, record notes internally, and keep other records for identifying files. Because this system works against the common-sense procedures of the office, it makes the outsider's access to the information one step removed. Navigating each office to gather uniform data was the highlight of struggles for the JSP. Updating A.C.I.S. to be more user-friendly would alleviate many of the problems of obtaining access to files in broader terms. The court records need to live in a new digital world, not in the paper-based environment where they currently exist.

B. Lack of Cooperation from the North Carolina Administrative Office of the Courts

The second element making the North Carolina files closed was the lack of cooperation from the A.O.C. For this project, the researchers needed to review large amounts of data to identify trends, because in previous studies the researchers were limited in scope of the types of charges and trials they could review. For the JSP, the researchers needed a list of file numbers that only the A.O.C. could generate. Without the specific file numbers, the researchers had no way of identifying which criminal cases were disposed of by jury verdict. Access to records does not solely mean access to the physical documents, it also means access to the method by which they are organized. By analogy, if you were looking for a book in a library that organized their books by size, how would you find a book by a particular author or on a particular subject? You would need the help of a professional within that library to help you identify the materials you needed. That is the same case here. The researchers sought help from the A.O.C., the curators of the criminal files, and were denied help. By allowing A.O.C. employees to generate reports for the public, access to criminal files would dramatically increase. The public would be able to make sense of the file organization, and be able to navigate to the appropriate documents for their inquiry.

C. Inadequate Paper-Based File Management System

Lastly, to have open access to files, the files need to be maintained and managed in an organized manner. Many of the counties were wrought with inconsistent file management, often leaving files misshelved and lost to the abyss. If, like libraries, clerks could designate a procedure for re-shelving, invoice regularly, and appropriately train employees on shelving practices, the file retention would greatly increase. Also, the time needed to locate and process a file would decrease, leaving employees to other more in-depth tasks. Clerks must manage hundreds of files daily, record them in microfilm, track them in the appellate process, and discard them based on retention policies. It is a moving machine. However, their time would become more efficient with a uniform process for management and invoicing.

Most importantly though, true openness of the jury selection process in North Carolina requires consistency. Not only consistency in recording policies and practices, but also in the information included. For consistency in criminal records to be improved, clerks should commit to verifying that (1) a jury grid box is in each criminal file disposed of by jury verdict, (2) that the party striking a juror is noted on the grid, and (3) to include race and gender of jury members, both excluded and empaneled, within the criminal file. By implementing these three new steps, the public could open a new chapter in the voir dire and jury selection process in North Carolina courts. Some other states are already including this information in their files, and North Carolina should as well.

D. Outdated Database Technology—A.C.I.S.

As a bit of background, in 1982, the Automated Criminal Infractions System (A.C.I.S.) was implemented in North Carolina.²¹¹ A.C.I.S. houses

²¹¹ NORTH CAROLINA ADMIN. OFFICE OF THE COURTS, Automated Criminal/Infractions System (ACIS) (Jun. 30, 2015), http://www.nccourts.org/Citizens/JData/Documents/Technology_ACIS_Facts.pdf; see generally Liz McCurry Johnson, *Access to Law: LexisNexis Risk Data Management v. The North Carolina A.O.C.: An In-Depth Look at the Case and Its Practical Effect on Public Access to North Carolina Criminal Records*, SPECTRUM (forthcoming 2017).

the secrets to the JSP, by and through the ability to pull file numbers by descriptor—felony trials disposed of by jury. Since 1982, A.C.I.S. has been updated to interface with other state agencies and their records, however, the search capabilities have retained their original form.²¹² The interface, often known as the “green screen terminal” has maintained its appearance and searching capabilities since the 1990s. Although there has been some movement by the system developers to gradually replace A.C.I.S. with the Criminal Court Information System-Clerks Component (CCIS-CC), the North Carolina A.O.C. has not moved away from the dialogue-like searching available through A.C.I.S..²¹³

There are two major components of A.C.I.S. First is the criminal component that includes criminal case data entered from court documents by assistant clerks at the county level.²¹⁴ These documents include warrants for arrest and orders for arrest, among others.²¹⁵ The second component of A.C.I.S. is infractions data that is derived from citations and criminal summonses.²¹⁶ Court data and cases are kept up to date by the assistant clerks at each county office as new information becomes available about a case, and all felonies, misdemeanors, and infraction cases are tracked from inception through final disposition.²¹⁷

Users of this data include a wide range of court personnel, law enforcement officers, the State Bureau of Investigation (SBI), Department of Motor Vehicles (DMV), Department of Health and Human Services (DHHS), and the public.²¹⁸ As mentioned before, the public’s access to this data—through ASIC’s antiquated “green screen” terminals located within the clerk’s office in each county—is limited.²¹⁹ More sophisticated inquiry access is held by court officials and at the main governing body of A.C.I.S.: the North Carolina Administrative Office of Courts.²²⁰

²¹² NORTH CAROLINA ADMIN. OFFICE OF THE COURTS, *supra* note 211.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ NORTH CAROLINA ADMIN. OFFICE OF THE COURTS, *supra* note 211.

²¹⁹ *LexisNexis Risk Data Mgmt.*, 775 S.E.2d at 652.

²²⁰ *See infra* Figure 7.

Additionally, according to a 2015 report on A.C.I.S. written and published by the A.O.C., “[m]ost data reports requested by the news media, special interest groups, researchers, and citizens use [A.C.I.S.] data.”²²¹ This statement is ironic, since the A.O.C. did not grant any of the JSP’s independent requests for reports, except those submitted through officials of the court, such as the clerk.²²²

In addition to denying access to individual reports on felony charges, the data the A.O.C. did provide was so antiquated that it was virtually useless. At one point, the JSP researchers were provided a five-year abstract of A.C.I.S. data from 2007 to 2011; however, the DVD only included tables of data sets.²²³ The researchers had to work with information technology experts to build an internal database using structured query language (SQL) to make the data searchable.²²⁴ Without the resources of Wake Forest University and various technology skills of staff, the information provided to the public from A.C.I.S. would have been wholly unusable; just another aspect of the public obscurity of access A.O.C. provided to public records.

E. *LexisNexis v. A.O.C.*: Request for a Copy of the Database A.C.I.S.

An ironic plaintiff was unknowingly working parallel to the JSP with similar goals. In 2011, even before the JSP had begun data collection, LexisNexis brought forth a claim to inspect and copy the entire A.C.I.S. database.²²⁵ After denial from the A.O.C., LexisNexis Risk Management

²²¹ NORTH CAROLINA ADMIN. OFFICE OF THE COURTS, *supra* note 211.

²²² *See also* Wright Apr. 9 email, *supra* note 21 (noting the A.O.C.’s refusal to respond to individual requests and suggesting the JSP go through the clerks).

²²³ DVD of data sets provided by the North Carolina Admin. Office of the Courts (on file with author).

²²⁴ E-mail exchanges between the author and Trevor Hughes, Director of Information Technology, Wake Forest University School of Law, July-Oct. 2014 (on file with author).

²²⁵ *LexisNexis Risk Data Mgmt. v. N.C. Admin. Office of the Courts*, 775 S.E.2d 651, 652-53 (N.C. 2015); *see* Liz McCurry Johnson, *LexisNexis Risk Data Management v. North Carolina A.O.C.: How the North Carolina Supreme Court Severed Open Access to Data Necessary for Transparency and Government Accountability*, 7 Wake

filed suit in the Wake County Superior Court.²²⁶ The A.O.C. contended in its denial that while it maintained the A.C.I.S. database, it was not the custodian of the underlying data; the clerks of the 100 North Carolina counties were the custodians of the data.²²⁷ Conversely, the Clerk of Wake County contended that she only had custody of the underlying criminal records but not of the A.C.I.S. database.²²⁸ LexisNexis was stuck between the clerk of court and the A.O.C., both of whom denied their request for a copy of the A.C.I.S. database.²²⁹ The JSP similarly had been denied access from the A.O.C., but at least had cooperation from local clerks willing to request inquiries on their behalf.

When the case went to the Wake County Superior Court, the court decided that neither the clerk nor the A.O.C. violated North Carolina public records laws by denying LexisNexis's request.²³⁰ However, on appeal, LexisNexis found some respite. Relying on *News and Observer Publishing Co. v. Poole*,²³¹ the court determined "that in the absence of *clear statutory exemption or exception*, documents falling within the definition of 'public records' in the [Act] must be made available for public inspect."²³² The Court of Appeals found that no clear exemption or exclusion existed and ruled that the clerk and A.O.C. had violated the North Carolina Public Records Law.²³³ This ruling would allow for a copy of A.C.I.S. to be handed over to LexisNexis.²³⁴ Interestingly, the court of appeals tried to grapple with the issue of applying modern

Forest J. L. & Pol'y 447, 448-49 (forthcoming Winter 2017) (providing details leading to the complaint); Johnson, *supra* note 211 (discussing the history of the case).

²²⁶ *LexisNexis Risk Data Mgmt.*, 775 S.E.2d at 653.

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *LexisNexis Risk Data Mgmt. v. N.C. Admin. Office of the Courts*, No. 11CVS015832, 2013 WL 2459716, at *2 (N.C. Super. Ct. Feb. 03, 2013) *aff'd in part, rev'd in part, and remanded*, 775 S.E.2d 651 (N.C. 2015).

²³¹ 412 S.E.2d 7 (N.C. 1992).

²³² *LexisNexis Risk Data Mgmt. v. N.C. Admin. Office of the Courts*, 754 S.E.2d 223, 229 (N.C. Ct. App. 2014) (alteration in original) (citing *News & Observer Pub. Co. v. Poole*, 412 S.E.2d 7, 19 (N.C. 1992)), *rev'd*, 775 S.E.2d 651 (2015).

²³³ *Id.*

²³⁴ *Id.*

technology to the legislative purpose of the Public Records Law.²³⁵ The court saw the issue presented in the LexisNexis case as an important one—providing a way to access the database as a public record—and wanted to deliver a means to open the black box of A.C.I.S. for public consumption.²³⁶

As the case sat with the North Carolina Supreme Court, Jeremy Gibson, an information professional with the state archives, drafted an interesting piece from a record management perspective.²³⁷ In his article, Gibson points to the decision in which the appellate court attempted to determine whether the A.C.I.S., itself, was a public record and, if so, whether the A.O.C. was the right custodian of that record.²³⁸ These answers are important to his analysis, as the North Carolina Court of Appeals found that the information the court clerks entered into the A.C.I.S. system created new public records, which existed “distinctly and separately from the individual . . . records” produced by the courts in hard copy.²³⁹ Gibson points out that “equating ‘data-processing operations’ with ‘electronic data-processing record’ misses the nature of a database.”²⁴⁰ He continues by stating that “[o]perations are what databases do to information to create records. Operations are the mechanisms through which the database transforms queries into coherent records, and they are intrinsic to the database software and structure. Thus the operation is not the record, the query is the record.”²⁴¹ Gibson makes a thought-provoking analogy to a physical file drawer and how an inquiry is a hand that opens and searches the drawer; something very different from merely static data.²⁴² The North Carolina Court of Appeals, although trying, missed the mark on defining a database. Once the data

²³⁵ See *id.* at 226 (determining how files in an electronic database apply to the Public Records Act).

²³⁶ *Id.* at 228.

²³⁷ Jeremy Gibson, *Thoughts on the Lexis Nexis Decision*, THE G.S. 132 FILES ST. ARCHIVES OF N.C. (Feb. 28, 2014), <https://ncrecords.wordpress.com/2014/02/28/thoughts-on-the-lexis-nexis-decision>.

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

is inputted in the A.C.I.S., custodianship changes to the A.O.C., and a new public record is created: a new public record that should be available for public inspection.²⁴³ Gibson contends that “[t]he data is, in a very real sense, a potential record just waiting to be asked a question.”²⁴⁴ Therefore, the data set within A.C.I.S. is all public record, so the A.O.C could potentially be asked a million different questions by a million different people.

The North Carolina Supreme Court justices took a hard look at the statutory interpretation and application between the two relevant public records laws of North Carolina rather than trying to grapple with the technology questions.²⁴⁵ The justices concluded that North Carolina General Statute section 7A-109(d) (a later provision in the code) overrides the applicability of the general Public Records law under section § 132-1(b) and its amendments.²⁴⁶ Thus, the very academic approach taken by the Supreme Court justices signals two things: (1) the Court was not trustful of the plaintiff, LexisNexis, and its intentions; and (2) the Court did not want to highlight the budgetary failings of A.C.I.S. and its other court record management systems, a sore spot for many in Raleigh.

At this point, neither West Publishing Company nor LexisNexis Risk Management have been involved in any other litigation with states, or their state agencies fighting for access to denied public records requests.²⁴⁷ This case was novel and isolated to North Carolina, but now allows for other states to use this precedent as suggestive authority for future litigation, which is wholly problematic for opening court records and furthering access. For example, the clerks in Texas have been extremely vocal about their efforts to thwart legislation that would open court records through a virtual portal, by saying that by “surrendering these records to a privately operated database would violate their role as

²⁴³ *Id.*

²⁴⁴ *See* Gibson, *supra* note 237.

²⁴⁵ *LexisNexis Risk Data Mgmt. v. N.C. Admin. Office of the Courts.*, 775 S.E.2d 651, 654-55 (N.C. 2015).

²⁴⁶ *Id.* at 656.

²⁴⁷ Based on an advanced search of all state and federal cases in Westlaw for “west pub. co.” and “public records” /p access!” and “lexisnexis” and “public records” /p access!” completed by the author during her research for the JSP.

custodians.”²⁴⁸ Furthermore, the “[c]lerks also say their departments will lose money with the public no longer having to head to a courthouse and pay printing fees of up to \$1 a page.”²⁴⁹ It will be interesting to see if this Texas case ends up in the court system, and, if so, how the justices will decide it.

Additionally, Virginia has experienced opposition in opening court records, particularly during investigations of public officials accused of potential wrongdoing (arguably one of the important reasons to open records). House Bill 174, submitted by Del. Peter Farrell (R-Henrico), was designed to limit public access to information regarding investigations of wrongdoing by public officials, however, it never made its way out of committee.²⁵⁰ Interestingly though, the tune of public records litigants has not been centered on public records, such as jury selection

²⁴⁸ Ryan Autullo, *Texas Clerks Look to Derail Web-based Public Access to Court Records*, MY STATESMAN FROM AUSTIN AMERICAN-STATESMAN (Jan. 30, 2017), <http://www.mystatesman.com/news/state--regional-govt--politics/texas-clerks-look-derail-web-based-public-access-court-records/pnNpmqoQlwe4s8xfBUZYBJ>.

²⁴⁹ *Id.*; see also Jim Malewitz, *Texas Counties Rally Against Statewide Court Records Portal*, THE TEX. TRIBUNE (Mar. 9, 2017), <https://www.texastribune.org/2017/03/09/seeing-turf-war-texas-counties-rally-against-statewide-records-portal> (“The Texas Supreme Court, through its Office of Court Administration, has worked for years on a one-stop legal records shop. The project, called re:SearchTX, is coming out in phases, with plans to eventually provide widespread public access. Last September, the Office of Court Administration extended a contract with Tyler Technologies, a Plano-based company that already has integrated every Texas county into a filing system allowing attorneys to electronically send documents to the clerks. Under that four-year \$72 million extension, Tyler would keep that system running through 2021 and eventually open it to the public. . . . House Bill 1258 would ‘protect the constitutional rights and duties of the clerks,’ Clardy . . . said in an interview. He suggested re:SearchTX faced ‘a bunch of open-ended, unsolved, logistical technical problems.’”).

²⁵⁰ Specifically, the bill was introduced as the:

Virginia Freedom of Information Act; administrative investigations; local inspectors general. Adds a records exemption for administrative investigations conducted by a local inspector general or other local investigator appointed by the local governing body of any county, city, or town or a school board who by charter, ordinance, or statute has responsibility for conducting an investigation relating to allegations of fraud, waste, or abuse by any officer, employee, department, or program of the locality or school division.

H.B. 174, Gen. Assemb., Reg. Sess. (Va. 2014), <https://lis.virginia.gov/cgi-bin/legp604.exe?141+sum+HB174>.

information or trial transcripts, but rather dash cams and police body cameras.²⁵¹ With the emergence of this type of technology, new questions have been raised as to technology and what qualifies as a public record available for inspection, in addition to all the logistical technology questions of storage and access.²⁵² This area is ripe with unanswered questions and potential litigation. As this plays out in the court system, it will be interesting to see if other justices will attempt to grapple with the technological questions raised (similar to the North Carolina Court Appeals' attempt) or if will they choose to stand their ground firmly in statutory interpretation as the North Carolina Supreme Court chose to do.

III. Recommendations for Reform

Two basic recommendations became apparent after going through this data collection process and seeing the impact that the *LexisNexis* case had

²⁵¹ See generally *Body-Worn Camera Laws Database*, NAT'L CONF. OF ST. LEGISLATURES (Apr. 1, 2017), <http://www.ncsl.org/research/civil-and-criminal-justice/body-worn-cameras-interactive-graphic.aspx> (containing 30-state survey of body-worn camera laws); *Access to Police Body-Worn Camera Video*, REPS. FOR COMMITTEE FOR FREEDOM OF THE PRESS, <http://www.rcfp.org/bodycams> (last visited Jul. 19, 2017) (showing current status of legislation and policies affecting public access to police body-cameras); Damian Ortellado, *Which States Are Passing Effective Legislation on Police Bodycams?*, SUNLIGHT FOUND. (Aug. 4, 2016) <https://sunlightfoundation.com/2016/08/04/which-states-are-passing-effective-legislation-on-police-bodycams> (discussing state legislation introduced regarding body-cameras and passage rates).

²⁵² See Mary D. Fan, *Privacy, Public Disclosure, Police Body Cameras: Policy Splits*, 68 ALA. L. REV. 395, 400-01 (2016) ("As police departments begin deploying body cameras, questions are arising over whether police must release video footage and the major privacy issues raised by public disclosure."); see also Ryan Pulley, *Law Enforcement and Technology: Requiring Technological Shields to Serve and Protect Citizen Rights*, 6 WAKE FOREST J. L. & POL'Y 459, 497 (2016) (questioning whether laws protecting citizen's rights should be enacted requiring police to use publicly available technology); Kyle J. Maury, *Police Body-Worn Camera Policy: Balancing the Tension Between Privacy and Public Access in State Law*, 92 NOTRE DAME L. REV. 479, 497-500 (2016) (questioning what recordings should be retained, how long should they be stored, who should get to view them, and should they be exempt from Freedom of Information Laws); Kami N. Chavis, *Body-Worn Cameras: Exploring the Unintentional Consequences of Technological Advances and Ensuring a Role for Community Consultation*, 51 WAKE FOREST L. REV. 985, 988 (2016) ("[S]tate legislatures and municipalities are scurrying to implement guidelines for the use of body-worn cameras, and there are a myriad of concerns that these state and local bodies must address.").

upon public data researchers. First, there should be a creation of consistent file management policies and procedures executed throughout all the clerk's offices of North Carolina, including a retention schedule for files on appeal and disposed of, as well as a policy on uniform data collection practices.²⁵³ Second, there should be money budgeted to the North Carolina A.O.C. to replace A.C.I.S. with a more technologically advanced system that opens these records up for inspection for any citizen at a state level, perhaps even living in a cloud-based system. The North Carolina Commission on the Administration of Law and Justice (N.C.C.A.L.J.) agrees with both of these contentions; in their Final Report; the Technology Committee of this Commission stated that the "business environment" of the North Carolina Administration of Courts is "inconsistent and paper-based."²⁵⁴ Though these recommendations are directed at the way North Carolina organizes and provides access to its records, they are generally applicable to the issues being raised in other states. Every state, every county, will be faced with these issues, and will have to choose their own course—their own plan for resources, technology, policies, privacy concerns, and security concerns among others.²⁵⁵ Accordingly, researchers in each area should be mindful of the relevant questions to raise before navigating the cryptic maze of public records.

A. Consistent Policy Creation

In 2015, the Chief Justice of the North Carolina Supreme Court, Mark Martin, instituted the N.C.C.A.L.J.²⁵⁶ This Commission was tasked with addressing access to justice questions that some states have addressed in similar way, which signals a need for national coordination on that area

²⁵³ Meaning that the assistant clerks noting who was selected for the jury and who was struck from the jury should be uniformly noted across the state. For example, if Juror 1A is struck by the state on their second peremptory challenge, the jury selection box should be noted with "State-2" or some other uniform coding system.

²⁵⁴ FINAL REPORT, *supra* note 1, at 84.

²⁵⁵ See Lynn E. Sudbeck, *Placing Court Records Online: Balancing the Public and Private Interests*, 27 THE JUSTICE SYSTEM J. 268, 270-78 (2006) (addressing United States Supreme Court decisions tangentially related to access to public records; as the Supreme Court has never ruled directly on this issue, as well as other relevant state court decisions and federal and state court administration responses).

²⁵⁶ FINAL REPORT, *supra* note 1, at 80.

of policy work.²⁵⁷ This sixty-five member group included citizens, attorneys, judges, and others from the community.²⁵⁸ The membership was charged by Justice Martin to evaluate and recommend changes to five areas of study: (1) Civil Justice, (2) Criminal Investigation and Adjudication, (3) Legal Professionalism, (4) Public Trust and Confidence, and (5) Technology.²⁵⁹ Of particular relevance to accessing public records are the recommendations put forth for change by the Technology Committee concerning the issues uncovered during its investigation.²⁶⁰ Both parallel the issues encountered during the WFU JSP study.

First, the Technology Committee agrees with the prior argument within this Article, that there is a great need for statewide consistency to ensure equality among all citizen is access to the courts.²⁶¹ The Report states that “[t]he implementation of technological change brings with it the promise of a truly uniform statewide court system as first envisioned by the Bell Commission almost sixty years ago. That uniformity will empower local and statewide judicial officials to better manage court performance through improved data-driven decision-making, thus promoting greater stewardship of judicial resources.”²⁶² Most importantly though, the Report emphasizes that “through a uniform Judicial Branch online presence, the courts can meet and exceed expectations for public access to courts.”²⁶³

Much to the delight of open access advocates, the Report goes on to support the idea of an online community, one which society had taken over the course of the last decade. It states that

[p]eople once interacted with court officials at courthouses, face-to-face, with documents printed on paper and no ability to make instantaneous or remote contact. Due to its age, our current technology reflects these

²⁵⁷ See *Directory and Structure*, AMERICAN BAR ASSOCIATION, https://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/atj-commissions/commission-directory.html, for a list of current commissions provided by the Standing Committee on Legal Aid & Indigent Defendants.

²⁵⁸ FINAL REPORT, *supra* note 1, at 80.

²⁵⁹ *Id.*

²⁶⁰ *Id.* at 81.

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Id.* at 82.

traditional practices. The preference for quick and comprehensive online access has emerged relatively recently, but there is no doubt that it is here to stay.”²⁶⁴ The Report further provides that a recent study shows that “about 76% of Americans are willing to do some court business online. That number jumps to 86% for those under 40 years old.”²⁶⁵

These are bold statements for North Carolina, but they are statements that other states, including Washington, have already stood behind.²⁶⁶

It is not a new issue that state policies are inconsistent between federal and state governments, and even within counties of a state. For example, this same inconsistency emerges in the election process, where

[t]he United States’ highly decentralized election administration system can make election observation especially challenging. While most democracies have a more centralized process, U.S. election administration occurs largely at the county level. As a result, regulations that govern observers vary widely across the 50 states and even across counties within a single state.²⁶⁷

Extending that example, North Carolina’s State Board of Elections, is the state level agency that is charged with overseeing the election process and campaign finance disclosures within North Carolina; however, the Board of Elections’ requirements lack any statewide policies on how elections should be run.²⁶⁸ There are obvious rules and regulations that

²⁶⁴ FINAL REPORT, *supra* note 1, at 82.

²⁶⁵ *Id.* (citing *The State of State Courts: A 2014 NCSC Public Opinion Survey*, NAT’L CTR. FOR ST. CTS. (2014), <http://bit.ly/2ikyKJN>).

²⁶⁶ *Best Practices: Providing Access to Court Information in Electronic Form*, WASH. ACCESS TO JUST. BOARD, https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_wa_best_practices.authc_heckdam.pdf; see generally Paul H. Anderson, *Future Trends in Public Access: Court Information, Privacy, and Technology*, NAT’L CTR. FOR ST. CTS. (2011), <http://www.ncsc.org/~media/Microsites/Files/Future%20Trends/Author%20PDFs/Anderson.ashx> (discussing use of technology in Minnesota’s court system); Richard Zorza & Donald J. Horowitz, *The Washington State Access to Justice Technology Principles: A Perspective for Justice System Professionals*, 27 JUST. SYS. J. 248 (2007) (discussing the adoption and implementation of the Washington State Access to Justice Technology Principles in Washington).

²⁶⁷ *Policies for Election Observers*, NAT’L CONF. OF ST. LEGISLATORS (Oct. 12, 2016), <http://www.ncsl.org/research/elections-and-campaigns/policies-for-election-observers.aspx>.

²⁶⁸ *About Us*, N. C. ST. BOARD OF ELECTIONS & ETHICS ENFORCEMENT, <https://www.ncsbe.gov/about-us> (last visited Oct. 17, 2017).

county Boards of Elections must comply with, but how elections are actually administered is left to the counties to figure out.

This election scenario is strikingly similar to how criminal records are compiled and maintained. The North Carolina A.O.C. has general rules and guidance on what each clerk's office must be in compliance with, but outside those loose regulations, the individual clerk can manage her office and files however she would like.²⁶⁹ Even the N.C.C.A.L.J. stated that "North Carolina's court system is unified, but there remains a clear lack of uniformity with respect to the business processes that individual courts and courthouses use."²⁷⁰

The first recommendation is to standardize a procedure for documenting cases that went to trial within a court, since at this moment in time, A.C.I.S. is not available for public inspection in the aggregate. The Report produced by the N.C.C.A.L.J., adds that this inconsistency is further exasperated by the paper-environment in which the files live.²⁷¹ There are a myriad of scenarios where inconsistent filing and inputting of data leaves files to never be discovered, or otherwise put back in the black box.²⁷² By merely maintaining a list of file numbers that went to

²⁶⁹ See generally N.C. GEN. STAT. ANN. §§ 7A-340–7A-354 (West 2017) (containing the statutes that govern the A.O.C.).

²⁷⁰ FINAL REPORT, *supra* note 1, at 84 (emphasis omitted) ("Courts are managed based on local jurisdictional needs, and with 100 counties and more than 500 independently elected officials, the result is that business processes vary dramatically from courthouse to courthouse, placing an unnecessary barrier to transparent use of court services. Implementing technology improvements that accommodate a multitude of variations in local business processes would be too costly, with respect to both time and financial resources. For technology initiatives to be effective and transparent, they must be accompanied by increased business process uniformity. Systems must be designed to provide a comprehensive, vigorous, and consistent set of technology initiatives, with local variation discouraged and not centrally supported.").

²⁷¹ *Id.*

²⁷² *Id.* at 85 ("Additionally, individuals report instances in which the only record of a case disposition is recorded on the outside of the court file before filing it in a box or filing cabinet, never to be entered into an electronic system for easy future reference. Continued reliance on a paper-based system creates data entry redundancies and limits payment processes related to cases. Simultaneous access to case files by multiple parties (e.g., judges and clerks) as well as access across county or jurisdictional lines is difficult, if not impossible. The physical impact of maintaining a paper-based system also merits scrutiny. Each year, more than four miles of shelving is needed to maintain the new case files generated during that year. Counties use attics, basements, and off-

trial for a particular year in every clerk's office, public inspectors could have a very valuable starting point for their research. They could take a sampling of cases to see the very details of our criminal justice system in order to report out for the public to see, much like the data used in the Driving while Black Reports were published.²⁷³ Ultimately, it should be left up to the clerks to make this information available publically through a Sunshine Law; until then, having an internal policy of maintaining these records would help further public researchers advocating for change.

An additional recommendation would be to implement a policy that detailed the standards for collecting data. Other disciplines have standards for how data should be kept and maintained, so why not court clerks regarding how juries are selected.²⁷⁴ Standardizing the practice of collecting information on who struck jurors from the jury pool would help the public create a picture of what was going on in the courtroom during that trial, and then, determine if any practices should be called into question. Having a mere policy that states "clerks should collect the striking party on the jury selection sheet and note the race of the struck juror" would create enough uniform data for researchers to pull together statistics for public inspectors. The JSP exposed the inconsistency in the data kept from county to county and even from clerk to clerk within the same office. Thus, keeping data in a consistent form would help bring better understanding to the practices of jury selection in North Carolina.

site arrangements for storage. Either old files must be promptly archived into microfilm or digital formats to create shelf space, or new space must be obtained. While the staffs of clerks' offices have electronic indexing systems for some case information and management tasks, paper files still serve as the primary tool for court personnel to manage cases. Case files must be physically transported throughout courthouses, no matter what the size." (citation omitted)).

²⁷³ See David A. Harris, *Driving While Black: Racial Profiling on Our Nation's Highways*, ACLU (June 1999), <https://www.aclu.org/report/driving-while-black-racial-profiling-our-nations-highways>, for an example of a large-scale data compilation project that was released to the public. This particular study released police data in order to show what demographics of people were being pulled over the most by police officers, rather than just relying on anecdotal evidence. *Id.*

²⁷⁴ See Karen Coyle & Diane Hillmann, *Research Description and Access (RDA): Cataloging Rules for the 20th Century*, D-LIB MAG. (Jan./Feb. 2007), <http://www.dlib.org/dlib/january07/coyle/01coyle.html> (stating the intention of RDA is to provide guidelines to libraries regarding the description and access to contents).

B. Implement Updated Technology Statewide

In the next budgetary cycle, the North Carolina General Assembly should allocate money to fund the upgrading process of A.C.I.S.²⁷⁵ There has been some movement to acknowledge this budgetary need.²⁷⁶ In its investigation, the N.C.C.A.L.J found that most of the software currently in use in the North Carolina A.O.C. has been made in-house to suit particular needs, rather than out of box, with ready-made solutions and support.²⁷⁷ Off the shelf, ready-to-go, tech solutions are great, but often have to be customized to fit particular needs, so it is understandable why the North Carolina A.O.C. used in-house support to build a system of their own making.²⁷⁸ However, as the report describes, “[t]he in house approach . . . has also resulted in a proliferation of aging applications that are increasingly difficult to maintain as underlying technologies become obsolete, that require maintenance by developers who are aging out of the workforce, and that do not necessarily interface well with each other or provide the transparency that stakeholders expect and deserve.”²⁷⁹

²⁷⁵ The actual amount of money required to update these systems is outside the scope of this Article; however, in roll out of new software like Chip ID systems required for credit cards an estimated \$2.6 billion will be spent by businesses and industries to be in compliance with this technology, not including training of staff. Although chip-readers expand through each state and affect billions of people, implementing an e-filing system would seem to be a fraction of that cost. *See generally* Tamara Chuang, *Many Merchants Aren't Ready for Chip-Enabled Credit Cards*, DENVER POST (Apr. 21, 2016), <http://www.denverpost.com/2015/09/22/many-merchants-arent-ready-for-chip-enabled-credit-cards> (discussing the implementation of chip-enabled credit card readers).

²⁷⁶ FINAL REPORT, *supra* note 1, at 82-83 (“The Committee held nine public meetings and heard presentations from states that are already using innovative technology to address the needs of their citizens, from national court technology experts, and from current North Carolina judicial officials, as well as from other members of the public.” Additional funding was provided to conduct a market study by BerryDunn. In order “[t]o understand the current state of the Judicial Branch’s technology, BerryDunn conducted an online survey of court employees and members of the public, collecting responses from over 1,000 individuals. In addition, BerryDunn organized in-person interviews with more than 200 Judicial Branch employees and members of the bar from across the state.”).

²⁷⁷ *Id.* at 86.

²⁷⁸ *Id.* at 85.

²⁷⁹ *Id.* at 86.

One of the initiatives that the N.C.C.A.L.J. put forward in their recent report was to upgrade to e-Filing.²⁸⁰ In addition to e-Filing initiatives in many states, e-Filing has become a prominent part of the federal case management system.²⁸¹ This e-Filing has already been implemented at the federal level and thus, the North Carolina General Assembly and the North Carolina A.O.C. could look to federal courts for guidance on implementing the electronic filing and file management systems, PACER and Case Management/Electronic Case Files (CM/ECF).²⁸² The federal court system uses PACER, which is “Public Access to Court Electronic Records (PACER) . . . an electronic public access service that allows users to obtain case and docket information online from federal appellate, district, and bankruptcy courts, and the PACER Case Locator.”²⁸³ PACER is provided and maintained by the federal judicial system so to keep “with its commitment to provide public access to court information via a centralized service.”²⁸⁴ In addition to making the court documents

²⁸⁰ *Id.* at 87.

²⁸¹ A survey conducted in 2012 identified forty-nine projects in thirty-five states. See Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, LEGALSERVS. CORP. (2013), <http://ncsc.contentdm.oclc.org/cdm/ref/collection/accessfair/id/298> (emphasizing the growing importance of electronic filing in the legal system); *The State of the Field in Accessible Court Electronic Filing: Report on Two National Surveys*, NAT’L CTR. FOR ST. CTS., (2009), <https://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Technology/e-filing/NCSC%20E-filing%20Survey%20-%20All%20Files.ashx> (reporting the results to a survey about e-Filing done by the National Center for State Courts); see also *Access Brief: Accessible Electronic Filing*, NAT’L CTR. FOR ST. CTS. (2013), <http://ncsc.contentdm.oclc.org/cdm/ref/collection/accessfair/id/316> (“The 11 states with at least one project without a separate e-filing fee are Alabama, Alaska, Connecticut, Florida, Hawaii, Louisiana, Missouri, North Dakota, Ohio, Pennsylvania, and Utah. The ten states with at least one project that allows fee waiver as part of the e-filing process are California, Delaware, Indiana, Iowa, Kansas, Michigan, Minnesota, New Hampshire, Pennsylvania, and Texas.”).

²⁸² *Case Management/Electronic Case Files*, PACER, <https://www.pacer.gov/cmecf> (last visited July 19, 2017) (“The Case Management/Electronic Case Files (CM/ECF) system is the Federal Judiciary’s comprehensive case management system for all bankruptcy, district, and appellate courts. CM/ECF allows courts to accept filings and provides access to filed documents online. CM/ECF gives access to case files by multiple parties, and offers expanded search and reporting capabilities. The system also offers the ability to immediately update dockets and download documents and print them directly from the court system.”).

²⁸³ PACER, <https://www.pacer.gov> (last visited July 19, 2017).

²⁸⁴ *Id.*

available for public inspection, its counterpart CM/ECF allows for electronic filing of legal documents and pleadings, even amidst some imperfections of the system.²⁸⁵ This is a system that could be streamlined from the traditional in-person, by fax, or by mail filing system North Carolina currently utilizes.

“Even skeptics have grown to love it,” said Ohio attorney, Stephen Funk, in an article celebrating twenty-five years of PACER.²⁸⁶ The article goes on to quote Michael Funk, a clerk in Pennsylvania, as saying, “PACER was one of the most significant progressive steps in the implementation of technologies in the courts,” Kunz said. ‘It brought information from the clerk’s office to desktop computers located in law offices, government agencies, business entities and the news media. Stakeholders in the justice system overwhelmingly endorsed it as an efficient system.’”²⁸⁷ In addition to saving the trees, the article notes, PACER has been a good program for clerk’s offices in saving time and becoming more efficient.²⁸⁸ Although the challenges of preservation still persist, PACER quickly caught hold of courts’ attention—as of 2002, eleven of the nation’s ninety-four United States district courts and forty of the ninety bankruptcy courts used e-Filing, and by 2007, CM/ECF and PACER were close to universally accepted by federal courts.²⁸⁹ The transition has not been without fault, but for the most part I believe it is a solid example of what states, especially North Carolina should be doing with their filing systems and their public records.²⁹⁰ Additionally, there

²⁸⁵ *Case Management/Electronic Case Files*, *supra* note 282.

²⁸⁶ *25 Years Later, PACER, Electronic Filing Continue to Change Courts*, U.S. COURTS (Dec. 9, 2013), <http://www.uscourts.gov/news/2013/12/09/25-years-later-pacer-electronic-filing-continue-change-courts>.

²⁸⁷ *Id.*

²⁸⁸ *Id.*

²⁸⁹ *Id.*

²⁹⁰ See *The Latest Really Big Screw Up with Pacer and CM/ECF Requires a Quick Fix, Then Serious Reflection, but Not Utter Disdain for a Judicial Records System That Is a Triumph of Good Government*, HERCULES AND THE UMPIRE (Sept. 3, 2014), <https://herculesandtheumpire.com/2014/09/03/the-latest-really-big-screwup-with-pacer-and-cmecf-requires-a-quick-fix-then-serious-reflection-but-not-utter-disdain-for-a-judicial-records-system-that-is-a-triumph-of-good-government> (discussing an issue that arose with the PACER and CM/ECF systems in 2014 that caused a few courts to close cases that were already in progress because the case files were no longer available electronically).

is a social call from organizations, including libraries and librarians, interested in open access and government transparency to support these transitions.²⁹¹

The N.C.C.A.L.J. Report stated that “North Carolina’s unified court system will be strengthened by the implementation of mandatory statewide electronic filing. In the near term, high-volume and forms-driven case types may present the greatest opportunity for significant and immediate savings and convenience.”²⁹² The Report also provided that it would not be without meaningful costs in implementing an enterprise information management system (EIMS), integrated case management system (ICMS), as well as significant training and education for the public.²⁹³ But will the greater access to and management of the court system of North Carolina not be equated into great justice for all? Thus, “[b]y modernizing the resources that we have, we can continue to be responsible stewards of those resources. By working toward greater

²⁹¹ See *Statement on Internet Archive Offer to Deliver Free and Perpetual Public Access to PACER*, OPENGOV FOUND. (Feb. 14, 2017), <https://hack4congress.org/statement-on-internet-archive-offer-to-deliver-free-and-perpetual-public-access-to-pacer> (“The OpenGov Foundation today released the following statement from Executive Director Seamus Kraft on the Internet Archive’s offer . . . to ‘archive and host—for free, forever and without restriction on access to the public—all records contained in [the Public Access to Court Electronic Records platform],’ commonly known as PACER. . . . ‘The vital public information in PACER is the property of the American people. Public information, from laws to court records, should never be locked away behind paywalls, never be stashed behind arbitrary barriers and never be covered in artificial restrictions. Forcing Americans to pay hard-earned money to access public court records is no better than forcing them to pay a poll tax. The Internet Archive’s offer to archive and deliver unrestricted public access to PACER for free and forever is the best possible Valentine’s Day gift to the American people. The Internet Archive is proposing a cost-effective and innovative public-private partnership that will finally fix a clear injustice. There is no reason to do anything but accept this offer in a heartbeat.’ . . . The offer to host PACER at no cost to American taxpayers was made by Internet Archive Founder Brewster Kahle in a February 10, 2017 letter . . . to the U.S. House of Representatives Judiciary Committee”); see generally Letter from Brewster Kahle, Digital Librarian and Founder, Internet Archive, to The Honorable Darrell Issa, Chairman, House of Representatives, and The Honorable Jerry Nadler, Ranking Member, House of Representatives, and the Subcommittee on Courts, Intellectual Property and the Internet (Feb. 10, 2017), <http://opengovfoundation.org/assets/170210-Internet-Archive-Letter-to-Judiciary-Committee-on-PACER-Hosting.pdf> (explaining the intricacies of PACER and its benefits to the legal community as well as the general public).

²⁹² FINAL REPORT, *supra* note 1, at 89.

²⁹³ *Id.*

access to justice for all, we can all do our part to secure equal justice under law.”²⁹⁴ Continuing that charge, “incidentally, we can increase public trust and confidence in our courts through these efforts. As our courts do justice in every case—as they treat every citizen and every party with fairness and respect—prospective litigants will entrust more of their disputes to us, further promoting justice and fairness.”²⁹⁵ The Technology Report ends with a recitation by Chief Justice Mark Martin remarking that, “[a]dvances in technology, together with the desire to reduce costs and improve the public’s access to court services, give us the chance to reimagine how courts and citizens interact with each other.”²⁹⁶

Conclusion

Although the Jury Sunshine Project seemingly conquered the practical obscurity of public records criminal files in North Carolina; it merely found the black box and began to pry it open. There is still much work to be done, in North Carolina and across the country. For the moment, the box of A.C.I.S. data, as well as related data of jury selection information, is closed behind the protections the North Carolina Supreme Court reinstated in *LexisNexis Risk Data Management v. North Carolina A.O.C.*²⁹⁷ Additionally, the North Carolina General Assembly has legislated since to securely lock up A.C.I.S. data from the public.²⁹⁸ Currently without policy and procedural changes at the county level of maintaining a shadow database of information unavailable through A.C.I.S., data is lost. Without updating the A.C.I.S. at the state level to allow researchers to search more broadly or moving to an electronic case

²⁹⁴ *Id.* at 92.

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ *LexisNexis*, 775 S.E.2d at 656 (noting an “intent to limit the methods of access to” jury selection information).

²⁹⁸ N.C. Sess. Law 2015-241. The 2015 state budget act amended the public records law to state that “[n]either the Director nor the Administrative Office of the Courts is the custodian of the records of the clerks of superior court or of the electronic data processing records or any compilation of electronic court records or data of the clerks of superior court.” *Id.* So, while the superior court clerks have no ability to generate reports through A.C.I.S., they are the default custodian of the data as the A.O.C. has not legislatively denied custodianship. *Id.*

filing system, data is lost to the public. As the Jury Sunshine Project continues to update the database with the most recent cases from 2016 and expand to other more access-friendly states, perhaps the challenges of this project are not lost and can be used as a prime example of what the JSP is striving for with access to information. Hopefully, the challenges detailed in this Article about this data collection will move governing bodies to change the laws and funding to meet real needs of their constituencies—the researchers and those that are affected by the practices outlined in this data. Perhaps this Article and project will even provide solid, empirical evidence for the North Carolina Commission on the Administration of Law and Justice in advocating for change. Truly, this is North Carolina's time to be a leader in expanding the government, which is essential in this time of skepticism toward government.

Appendix

Figure 1: Arrest Warrant (Polk County, NC)

File No 11CR 050162		Law Enforcement Case No.	LID No.	SID No.	FBI No.
WARRANT FOR ARREST		STATE OF NORTH CAROLINA			
Offense 1 FIRST DEGREE MURDER		POLK County In The General Court Of Justice District Court Division			
THE STATE OF NORTH CAROLINA VS.		To any officer with authority and jurisdiction to execute a warrant for arrest for the offense(s) charged below:			
Name And Address Of Defendant TRAVIS LEE MCGRAW 41 RANSIER DRIVE HENDERSONVILLE NC 28739 HENDERSON		I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did of malice aforethought kill and murder VANESSA YVONNE MINTZ.			
Race W	Sex M	Date Of Birth 11/05/1966	Age		
Social Security No.		Drivers License No. & State			
Name Of Defendant's Employer					
Offense Code(s) 1 0935		Offense In Violation Of G.S. 1 14-17			
Date Of Offense 02/18/2011 through 02/19/2011					
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)					
Complainant (Name, Address Or Department) CHUCK HITCH POLK COUNTY SHERIFFS OFFICE 40 WARD ST COLUMBUS NC 28722 POLK COUNTY (828) 894-3001					
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.) STEVE C. MODLIN POLK COUNTY SHERIFFS OFFICE 40 WARD ST COLUMBUS NC 28722 POLK COUNTY (828) 894-3001					
This act(s) was in violation of the law(s) referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring the defendant before a judicial official without unnecessary delay to answer the charge(s) above.					
<input checked="" type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan		Date Issued 02/23/2011	Signature W L GILBERT JR		Location Of Court
			<input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		Court Date
					Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM
AOC-CR-100, Rev. 3/09 (Structured Sentencing) © 2009 Administrative Office of the Courts					

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POLK COUNTY, C. 80
BY

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Figure 2: Judgment and Commitment Active Punishment—Page 1—Felony (Polk County, NC)

STATE OF NORTH CAROLINA File No. 11CRS 20162

POLK County **COLUMBUS** District Court In The General Court Of Justice
 District: District Superior Court Division

NOTE: This case is a bench trial. If you are a party or an attorney, please file a written motion for a bench trial by the date set on the summons.

STATE VERSUS **JUDGMENT AND COMMITMENT**
TRAVIS LEE MCGRAW **ACTIVE PUNISHMENT - FELONY**
(STRUCTURED SENTENCING)
 For convictions On Or After Jan. 1, 2012

Name of Defendant: **TRAVIS LEE MCGRAW** Date of Birth: **02/11/1985** Sex: **M** Race: **W** Height: **5-11** Weight: **175** Eyes: **Blue** Hair: **Black** Complexion: **Light**

Arrested For Date: **02/11/2013** Arrested For: **ALEX BASS** Arrested By: **[Redacted]** Arrested At: **[Redacted]** Arrested On: **[Redacted]**

The defendant: pled guilty pursuant to Article 10 was found guilty by a jury of pled no contest to

File No(s)	CR	Offense Description	Offense Date	G.S. No.	FIM	CL	Pen. Gr.
11CRS 20162	31	VIOLATION OF PROBATION	02/16/2013	11-17	F	A	

*NOTE: Other judgment class if a felony for underlying offense class (probation) class increases to a class of a misdemeanor. PRIOR RECORD LEVEL: I III V
 II IV VI

The Court (NOTE: Class 1 or 2 AG-17 or 18):

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be **0**. Any prior record level point under G.S. 15A-1340.14(a)(7) is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to the issue.

2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offense.

1. makes no written findings because the term imposed is: (a) in the presumptive range (c) for a Class A felony (c) for adjudication as a violent habitual felon, G.S. 14-212 (d) for drug trafficking for which the Court finds the defendant provided substantial assistance, G.S. 90-90(c)(2) (e) in the aggravated range, pursuant to G.S. 20-141.4(b)(1)(a).

2. finds the Determination of aggravating and mitigating factors in the attached AG-CR 605 agrees with aggravation under G.S. 14-27.2A or G.S. 14-27.2A, or the attached AG-CR-616, which requires a sentence in excess of that authorized by G.S. 15A-1340.17.

3. adjudges the defendant to be an habitual felon to be sentenced (offense committed before Dec. 1, 2011) as a Class C felon (offense committed on or after Dec. 1, 2011) four classes higher than the principal felony (no higher than Class C).

4. adjudges the defendant to be an habitual offender and entering status offense; to be sentenced as a Class E felon.

5. adjudges the defendant to be an armed habitual felon to be sentenced as a Class C felon (unless sentenced herein as a Class A, B1, or B2 felon) and with a minimum term of imprisonment of no less than 120 months.

6. finds enhancement pursuant to: G.S. 90-90(c)(2) (1st offense) G.S. 14-212 (base crime) G.S. 90B-4.1 (domestic violence) G.S. 14-50.22 (gang) Other: _____ This finding is based on the jury's determination of the issue beyond a reasonable doubt or on the defendant's admission.

7. finds that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and actually possessed the firearm or weapon upon his or her person. This finding is based on the jury's determination of the issue beyond a reasonable doubt or on the defendant's admission. Pursuant to G.S. 15A-1340.15A, the Court has increased the minimum sentence by (check only one): Class A-2 felony committed on or after Oct. 1, 2011; 60 months. Class A-4 felony committed on or after Oct. 1, 2011; 72 months. Class F or G felony committed on or after Oct. 1, 2011; 36 months. Class H or I felony committed on or after Oct. 1, 2011; 12 months.

8. finds the above designated offense(s) is a reportable conviction under G.S. 14-208.8 (check only one): a and therefore makes the additional findings and orders on the attached AG-CR-615, Side One. b, but makes no finding or order concerning registration or an in-house monitoring due to a sentence of life imprisonment without parole.

9. finds the above designated offense(s) involved the physical or mental sexual abuse of a minor. (NOTE: Offense(s) is not also a reportable conviction in 14-208.8. This finding requires no further action by the court.)

10. finds that a motor vehicle commercial motor vehicle was used in the commission of the offense and that it should be reported to DMV.

11. finds this is an offense involving sexual, communicating in threat, or an act defined by G.S. 90B-1(a), and the defendant had a personal relationship as defined by G.S. 90B-1(b) with the victim.

12. offense committed on or after Dec. 1, 2008 only, finds the above designated offense(s) involved criminal street gang activity, G.S. 14-50.25.

13. did not grant a conditional discharge under G.S. 90-90(c) because (check all that apply): the defendant refused to consent sentence committed on or after Dec. 1, 2012, and the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for reasons related to the offense.

14. finds that the defendant used or displayed a firearm while committing the felony, G.S. 15A-1382.2.

15. for purposes of G.S. 14-208.8, 14-208.9, 14-208.10, 14-208.11, 14-208.12, 14-208.13, 14-208.14, 14-208.15, 14-208.16, 14-208.17, 14-208.18, 14-208.19, 14-208.20, 14-208.21, 14-208.22, 14-208.23, 14-208.24, 14-208.25, 14-208.26, 14-208.27, 14-208.28, 14-208.29, 14-208.30, 14-208.31, 14-208.32, 14-208.33, 14-208.34, 14-208.35, 14-208.36, 14-208.37, 14-208.38, 14-208.39, 14-208.40, 14-208.41, 14-208.42, 14-208.43, 14-208.44, 14-208.45, 14-208.46, 14-208.47, 14-208.48, 14-208.49, 14-208.50, 14-208.51, 14-208.52, 14-208.53, 14-208.54, 14-208.55, 14-208.56, 14-208.57, 14-208.58, 14-208.59, 14-208.60, 14-208.61, 14-208.62, 14-208.63, 14-208.64, 14-208.65, 14-208.66, 14-208.67, 14-208.68, 14-208.69, 14-208.70, 14-208.71, 14-208.72, 14-208.73, 14-208.74, 14-208.75, 14-208.76, 14-208.77, 14-208.78, 14-208.79, 14-208.80, 14-208.81, 14-208.82, 14-208.83, 14-208.84, 14-208.85, 14-208.86, 14-208.87, 14-208.88, 14-208.89, 14-208.90, 14-208.91, 14-208.92, 14-208.93, 14-208.94, 14-208.95, 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14-208.594, 14-208.595, 14-208.596, 14-208.597, 14-208.598, 14-208.599, 14-208.600, 14-208.601, 14-208.602, 14-208.603, 14-208.604, 14-208.605, 14-208.606, 14-208.607, 14-208.608, 14-208.609, 14-208.610, 14-208.611, 14-208.612, 14-208.613, 14-208.614, 14-208.615, 14-208.616, 14-208.617, 14-208.618, 14-208.619, 14-208.620, 14-208.621, 14-208.622, 14-208.623, 14-208.624, 14-208.625, 14-208.626, 14-208.627, 14-208.628, 14-208.629, 14-208.630, 14-208.631, 14-208.632, 14-208.633, 14-208.634, 14-208.635, 14-208.636, 14-208.637, 14-208.638, 14-208.639, 14-208.640, 14-208.641, 14-208.642, 14-208.643, 14-208.644, 14-208.645, 14-208.646, 14-208.647, 14-208.648, 14-208.649, 14-208.650, 14-208.651, 14-208.652, 14-208.653, 14-208.654, 14-208.655, 14-208.656, 14-208.657, 14-208.658, 14-208.659, 14-208.660, 14-208.661, 14-208.662, 14-208.663, 14-208.664, 14-208.665, 14-208.666, 14-208.667, 14-208.668, 14-208.669, 14-208.670, 14-208.671, 14-208.672, 14-208.673, 14-208.674, 14-208.675, 14-208.676, 14-208.677, 14-208.678, 14-208.679, 14-208.680, 14-208.681, 14-208.682, 14-208.683, 14-208.684, 14-208.685, 14-208.686, 14-208.687, 14-208.688, 14-208.689, 14-208.690, 14-208.691, 14-208.692, 14-208.693, 14-208.694, 14-208.695, 14-208.696, 14-208.697, 14-208.698, 14-208.699, 14-208.700, 14-208.701, 14-208.702, 14-208.703, 14-208.704, 14-208.705, 14-208.706, 14-208.707, 14-208.708, 14-208.709, 14-208.710, 14-208.711, 14-208.712, 14-208.713, 14-208.714, 14-208.715, 14-208.716, 14-208.717, 14-208.718, 14-208.719, 14-208.720, 14-208.721, 14-208.722, 14-208.723, 14-208.724, 14-208.725, 14-208.726, 14-208.727, 14-208.728, 14-208.729, 14-208.730, 14-208.731, 14-208.732, 14-208.733, 14-208.734, 14-208.735, 14-208.736, 14-208.737, 14-208.738, 14-208.739, 14-208.740, 14-208.741, 14-208.742, 14-208.743, 14-208.744, 14-208.745, 14-208.746, 14-208.747, 14-208.748, 14-208.749, 14-208.750, 14-208.751, 14-208.752, 14-208.753, 14-208.754, 14-208.755, 14-208.756, 14-208.757, 14-208.758, 14-208.759, 14-208.760, 14-208.761, 14-208.762, 14-208.763, 14-208.764, 14-208.765, 14-208.766, 14-208.767, 14-208.768, 14-208.769, 14-208.770, 14-208.771, 14-208.772, 14-208.773, 14-208.774, 14-208.775, 14-208.776, 14-208.777, 14-208.778, 14-208.779, 14-208.780, 14-208.781, 14-208.782, 14-208.783, 14-208.784, 14-208.785, 14-208.786, 14-208.787, 14-208.788, 14-208.789, 14-208.790, 14-208.791, 14-208.792, 14-208.793, 14-208.794, 14-208.795, 14-208.796, 14-208.797, 14-208.798, 14-208.799, 14-208.800, 14-208.801, 14-208.802, 14-208.803, 14-208.804, 14-208.805, 14-208.806, 14-208.807, 14-208.808, 14-208.809, 14-208.810, 14-208.811, 14-208.812, 14-208.813, 14-208.814, 14-208.815, 14-208.816, 14-208.817, 14-208.818, 14-208.819, 14-208.820, 14-208.821, 14-208.822, 14-208.823, 14-208.824, 14-208.825, 14-208.826, 14-208.827, 14-208.828, 14-208.829, 14-208.830, 14-208.831, 14-208.832, 14-208.833, 14-208.834, 14-208.835, 14-208.836, 14-208.837, 14-208.838, 14-208.839, 14-208.840, 14-208.841, 14-208.842, 14-208.843, 14-208.844, 14-208.845, 14-208.846, 14-208.847,

Figure 3. Sample Jury Box with Strike Notations (Superior Court—Polk County, NC)

STATE OF NORTH CAROLINA					File No. 11CRS 50162
Vs. <u>Travis Lee McGraw</u>					Film No.
JURY					
BACK ROW					
6 Styngina Cause Bryan M. Powell Robert Turner Cause Robert Turner Cause Robert Turner Cause Aaron Parker	5 Cause Garry Parker Kevin Toranzo	4 Quinn White Donald Russell Kinda Lueko	3 Janita Lewis Cause Patrick Wilson Cause Quinn White Cause Rudger Fish def Jeri Adams Cause Cory Elliott Cause David Simmons	2 Michael Lewis Cause Alicia West	1 Amy Geller - sub Juo Green
FRONT ROW					
12 Edwin Russell	11 Mildred Waters	10 David Spelman William Johnson	9 Kinda Watts	8 Ann Swelling (Sub) Phillip Spelman def Norris Wilson	7 William Watson
CHALLENGES					
For Cause THH THH THH THH THH State Cr Plaintiff			I certify that in the above-numbered case the persons whose names appear above were called as jurors, that those whose names are marked through were excused, and that those whose names are not marked through were empanelled to serve as jurors.		
Defendant THH			Date 5-23-14	Signature Sheila P. Gorman	<input type="checkbox"/> Dep. CSC <input type="checkbox"/> CSC <input checked="" type="checkbox"/> Asst. CSC
AOC-G-111, Rev. 2/12 © 2012 Administrative Office of the Court					

Figure 4. Sample Jury Box Without Strike Notations (Superior Court—Jones County, NC)

State of NC
vs. Nicholas Andrew Conger

File No. 11 CRS 50117
Film No.

JURY

BACK ROW		FRONT ROW	
1 Eric Lutz	2 William Dyer	3 John Krapp	4 Christy Hordis Janet Murrell
5 Rene Spivey	6 Ronald Hunter	7 Cindy Davidson	8 James Carter Mickie Smith
9 Dana Murphy	10 Christy Hordis Steven Trapp Mary Brentkamen Ryan Southard	11 Jeffery Sum	12 Dana Murphy

CHALLENGES
For Cause I _____
State or Plaintiff II _____
Defendant _____
AOC-G-111 (Replaces L-166)

I certify that in the above-numbered case the persons whose names appear above were called as jurors, that the jurors whose names were excused, and that those whose names are not marked through were empaneled in order of their names.
This 27th day of June, 2012.
Clyde S. Walker, Clerk.

Figure 5. Sample Jury List (Superior Court—Jones County, NC)

North Carolina
Jones County

JURY LIST FOR 6/25/2012 10:00 AM, Superior Court, Mixed Jury

65 Jurors drawn, plus 35 Prev. Def, plus 0 Added, less 0 exc./def. equals 100 Available as of 10:42 AM 6/25/2012

Jury	Address	Disposition
Carew, Dawn Katharine - 23 DOB 1/25/1972	502 Tenth Bl Maysville NC 28555	
Chaparro Prada, Jose Henry - 14 DOB 2/27/1954	PO Box 323 Pollockville NC 28573-0323	Non US Citizen
Chapman, David Flemon, III - 43 DOB 12/7/1984	PO Box 306 Maysville NC 28555	
Breesh, Linda Kay - 65 DOB 1/20/1958	PO Box 14600 New Bern NC 28561	Previously Deferred 1
Carelon, Dwayne Robert - 87 DOB 12/3/1982	PO Box 442 Trenton NC 28585-0442	Previously Deferred 1
Davidson, Cindy Lynn - 44 DOB 8/8/1965	837 Plantation Rd Trenton NC 28585-6363	
Davis, Tanya Lynn - 96 DOB 12/25/1963	134 West Ln Trenton NC 28585	Previously Deferred 2
Delgado, Blanche Kingsbury - 24 DOB 4/10/1951	109 Colonial St Trenton NC 28585	Wk - 8/2/12
Dillahunt, Bobby Glenn, Sr - 10 DOB 1/8/1950	PO Box 695 162 Greenway Rd Trenton NC 28585	
Disbrow, Elizabeth Murphy - 48 DOB 5/8/1961	1474 Small Town Rd Pink Hill NC 28572-9623	Excused
Dixon, Andrea - 5 DOB 5/10/1962	125 Gibbs Ln Trenton NC 28585	
Doster, Donald Leon - 82 DOB 2/12/1945	5434 NC Hwy 58 S Maysville NC 28665	Previously Deferred 1
Erwin-Biddgal, Natasha - 81 DOB 2/23/1935	358 Mayfield Rd Trenton NC 28585	1/22/12 - med Previously Deferred 3
Eubanks, Jimmy Elwood - 90 DOB 9/20/1959	1247 Chiquasin Chapel R Trenton NC 28585	Excused Previously Deferred 1
Eubanks, Wilbur Felton - 28 DOB 3/26/1924	1185 Plantation Rd Trenton NC 28585	Wk - from sick
Fennell, Carol Lorrana - 20 DOB 1/30/1990	3037 NC Hwy 58 N Trenton NC 28585	UTD
Gibbs, Kelly Jackson, Sr - 21 DOB 7/20/1949	270 Rock Creek Dr New Bern NC 28562	Served 2/7/11
Griffin, William Vance, Jr. - 18 DOB 11/1/1957	1588 Island Creek Rd Pollockville NC 28573	Non US Cit
Hamill, David Watson - 7 DOB 1/20/1961	PO Box 71 Pollockville NC 28573-0071	Wk - 9/15/11

Continued next page
Page 2

Figure 6. Sample Verdict Sheet (Superior Court—Polk County, NC)

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE
 COUNTY OF POLK 2014 JUN -4 PM 4:17 SUPERIOR COURT DIVISION
 FILE NO. 11 CRS 50162

STATE OF NORTH CAROLINA, C.S.C.
 -VS- BY: *SPJ*) VERDICT SHEET
)
 TRAVIS LEE MCGRAW,)
 DEFENDANT.)
 _____)

We the jury, as our unanimous verdict, find the Defendant, Travis Lee McGraw:

(Place an "X" on only one of the following lines representing the unanimous verdict)

 X Guilty of First Degree Murder

_____ Guilty of Second Degree Murder

_____ Not Guilty

This the 4th day of June, 2014.

[Handwritten Signature]

 Signature of Jury Foreperson

Louis P. Farnocco

 Printed Name of Jury Foreperson

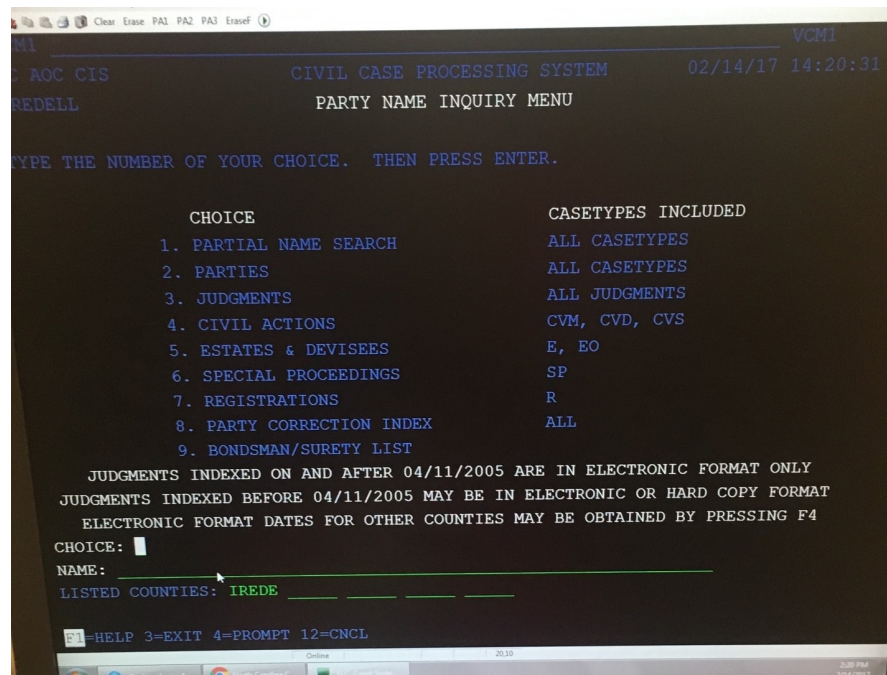
Figure 7: North Carolina A.C.I.S. Green Screen Terminal

Figure 8. Access to Public Records—Jury Records—United States—State by State

The following chart was compiled directly from data published on the websites of the Reporters Committee for Freedom of the Press (left column) and the National Center for State Courts (right column).²⁹⁹

State	Authority for Access to Jury Records	Government-Sponsored Electronic Access?
Alabama	ALA. CODE § 12-16-57 (1976) (A master list of “all persons in the county who may be called for jury duty, with their addresses and any other necessary identifying information” is required to “be open to the public for inspection at all reasonable times.”).	Yes. <i>Alacourt.com</i> provides access to trial court records for each county. Subscription and monthly fee applies. Civil Cases: circuit and district courts only. Criminal Cases: circuit and district courts only.
Alaska	ALASKA R. ADMIN. 15(j)(3) (“The parties, their attorneys, and agents of their attorneys shall not disclose or use the trial questionnaires, trial panel lists, or any compiles list of persons selected to serve on a jury except as permitted by this rule.”).	Yes. <i>CourtView</i> offers case records from Alaska’s Superior and district courts. Alaska Appellate Courts Case Management System provides case records from state supreme court and court of appeals.
Arizona	N/A	Yes. <i>Public Access to Court Case Information</i> . Data available from most of the trial, superior, justice, and municipal courts.
Arkansas	N/A	Limited. <i>CourtConnect</i> Online public access portal.
California	California recognizes a First Amendment right to court records, including jury information, though a juror may exert privacy interests. <i>See Copley Press Inc. v. San Diego County Super. Ct.</i> , 278 Cal. Rptr. 443 (Ct. App. 1991); <i>Leshner Commc’ns, Inc. v. Contra Costa Super. Ct.</i> , 274 Cal. Rptr. 154 (Ct. App. 1st Dist. 1990); <i>Pantos v. City & County of San Francisco</i> , 198 Cal. Rptr. 489 (Ct. App. 1984).	Partial. County-by-county access varies.
Colorado	N/A	No. Only a docket search in district and county courts is available.

²⁹⁹ See *Guide Compare Tool*, *supra* note 205 (providing statutory or controlling case law that governs access to jury records in states and federal districts); *Privacy/Public Access to Court Records*, *supra* note 205 (listing online accessibility to public records).

State	Authority for Access to Jury Records	Government-Sponsored Electronic Access?
Connecticut	N/A	Limited. <i>Case look-up</i> includes supreme court, appellate court, and superior court.
District of Columbia	N/A	No.
Delaware	N/A	Limited. <i>Virtual Docket</i> manages Delaware's court documents online and is fee-based.
Florida	<i>See Sarasota Herald-Tribune v. State</i> , 916 So. 2d 904, 908 (Fla. Dist. Ct. App. 2005) (involving a trial court order that required the clerk of court to "not release to any person the names, addresses, or any other identifying information concerning potential jurors in this case"); FL. R. J. ADMIN. 2.420.	Yes. <i>Online Court Records Search</i> for circuit and county courts in over half of the state's counties.
Georgia	<i>See, e.g., Blevins v. State</i> , 141 S.E.2d 426 (Ga. 1965) ("The requirement that juries must be drawn in open court is a safeguard or guarantee against secret or Star Chamber court proceedings; it is a procedure which enables the public to observe the conduct of the judge in drawing juries and thus prevent any possible corruption or suspicion of corruption in this vital part of our jury system.").	Limited. Only Cobb and Gwinnett Counties are accessible.
Hawaii	N/A	Limited. Fee-based.
Idaho	N/A	Yes. <i>Idaho Supreme Court Data Repository</i> provides data on trial courts in all counties except Twin Falls.
Illinois	N/A	Limited. <i>Judici</i> . The site provides access to civil, criminal, and some traffic cases from most state circuit courts. Some free information as well as fee-based premium services.
Indiana	N/A	Yes. <i>Indiana Court Case Search</i> includes most state courts.
Iowa	IOWA CODE ANN. § 607A.47 (West, Westlaw through 2017 regular session) ("The court may . . . order the sealing or partial sealing of a completed juror questionnaire, if the court finds that it is necessary to protect the safety or privacy of a juror or a family member of a juror.").	Yes. <i>Iowa Courts Online Search</i> includes all state trial and appellate courts.

State	Authority for Access to Jury Records	Government-Sponsored Electronic Access?
Kansas	KAN. SUP. CT. R. 167 (“A juror questionnaire is not a public record under the Kansas Open Records Act.”).	Yes. Fee-based. <i>Appellate Case Inquiry System</i> includes supreme court and court of appeals. <i>District Court Records Search</i> covers district courts only.
Kentucky	Ky. Admin. Procedures of the Court of Justice, Part II, §§ 10(9) (“The names of jurors selected as grand and petit jurors shall be made available to the public . . .”). <i>But see id.</i> § 13 (“The contents of any records or papers used by the clerk in connection with the selection process and not required to be made public under this chapter shall not be disclosed . . .”).	Very limited. <i>Court of Appeals Docket Search</i> and <i>Kentucky Trial Court Records Online</i> . Provides case number and case title only.
Louisiana	N/A	Very Limited. <i>Fourth Circuit Court of Appeals Case Search</i> .
Maine	All information used in connection with the juror selection process is confidential and may not be disclosed except by judicial order. Admin. Order JB-05-20 (A. 5-09) “Public Information and Confidentiality” § III(A)(7).	No.
Maryland	Rule 2-512(c)(2)(B). Maryland Rules protect jury information as “administrative records” of the court. Rule 16-1004(b)(2)(A) provides that “a custodian shall deny inspection of an administrative record used by the jury commissioner in the jury selection process, except (i) as a trial judge orders in connection with [a party’s challenge to the process by which the jury panel was selected].”	Limited. <i>Maryland Judiciary Case Search</i> covers circuit and district courts only.
Massachusetts	The interest of juror safety overrides the public’s right to juror information. <i>Commonwealth v. Silva</i> , 864 N.E.2d 1, 7-8 (Mass. 2007).	Very Limited. <i>Supreme Judicial Court and Appeals Court Public Case Information Database</i> .
Michigan	N/A	Very Limited. <i>Michigan Courts Case Search</i> includes supreme court and court of appeals.
Minnesota	<i>State v. Stewart</i> , No. C4-92-1321, 1992 Minn. App. LEXIS 1278, *1 (Minn. Ct. App. Aug. 18, 1992) (“Access to records revealing the identities of jurors may be denied only in the ‘interest of justice,’	Yes. <i>Access Case Records</i> covers all trial (district) courts.

State	Authority for Access to Jury Records	Government-Sponsored Electronic Access?
	upon a showing of ‘exceptional circumstances peculiar to the case.’”) (citing MINN. R. GEN. PRACT. 814(a); <i>In re Globe Newspaper Co.</i> , 920 F.2d 88, 97 (1st Cir. 1990)).	
Mississippi	Jury records are exempt from Mississippi’s Public Records Act. <i>See</i> MISS. CODE. ANN. § 25-61-11 (1972).	Very Limited. <i>Appellate Case Docket Search</i> allows only docket searching of supreme court and court of appeals.
Missouri	N/A	Yes. <i>Case.net</i> is the state courts automated case management system and includes Supreme Court, Court of Appeals, and Circuit Court.
Montana	N/A	Limited. <i>Supreme Court Public View Docket</i> .
Nebraska	NEB. REV. STAT. § 25-1635 (reissue 2008) (“It shall be unlawful for . . . any person who may obtain access to any record showing the names of persons drawn to serve as grand or petit jurors to disclose to any person, except to other officers in carrying out official duties or as herein provided, the name of any person so drawn or to permit any person to examine such record or to make a list of such names, except under order of the court.”).	Very Limited. <i>SCCALES Case Search</i> available to subscribers only.
Nevada	N/A	Very Limited. <i>Appellate Case Management System</i> includes Supreme Court and Court of Appeals cases. Clark (includes Las Vegas) and Washoe (includes Reno) Counties archived separately.
New Hampshire	N/A	No.
New Jersey	N/A	Limited. <i>Criminal Case Public Access</i> for superior courts only and with limitations.
New Mexico	Jury information is available to the public unless releasing the information would jeopardize the defendant’s right to a fair trial. <i>See State ex rel. New Mexico Press Ass’n v. Kaufman</i> , 648 P.2d 300 (N.M. 1982) (holding the trial court erred in restricting the publication of names of jurors selected in the case	Very Limited. <i>New Mexico Courts Case Lookup</i> includes district court, magistrate court, and municipal court data, with limitations.

State	Authority for Access to Jury Records	Government-Sponsored Electronic Access?
	where the names were announced in open court and filed as public record).	
New York	N/A	Yes. Extensive coverage of New York cases via three websites: <i>WebCivil Supreme</i> , <i>WebCrims</i> , and <i>WebFamily</i> .
North Carolina	N/A	No. Pending proposal for technology upgrades.
North Dakota	N/A	Very Limited. Only docket search through supreme court.
Ohio	N/A	Yes. Access varies county-by-county links.
Oklahoma	Jury questionnaires are to be used by counsel in preparation for voir dire but then destroyed and are not available to the public. <i>See In re Adoption of the 2007 Revisions to the Okla. Unif. Jury Instr.</i> , 163 P.3d 567 (Okla. 2007); <i>Cohee v. State</i> , 942 P.2d 211 (Okla. 1997).	Limited. <i>Oklahoma State Court Network</i> contains data on the largest counties and all appeals courts. <i>Oklahoma District Court Records</i> includes county district court public records.
Oregon	OR. REV. STAT. § 10.215 (2015) (“Except as specifically provided by law, the State Court Administrator and circuit courts may not disclose source lists obtained from any person or public body, and jury lists containing names selected from a source list, to any other person or public body.”).	Yes. <i>Your Access to Oregon Cases on the Internet</i> . Fee-based service. Case types include civil, domestic relations, criminal, probate, and small claims. <i>Public Records Search</i> via the Oregon State Police.
Pennsylvania	<i>Commonwealth v. Long</i> , 922 A.2d 892 (Pa. 2007) (reversing the lower court’s decision to withhold juror information and finding there is no common law right to protect juror’s identities but there is a First Amendment right to the public).	Yes. <i>Pennsylvania Judiciary Web Portal</i> . Public access to appellate court, criminal common pleas court, and magisterial district court docket sheets. <i>Criminal History Search</i> via the Pennsylvania State Police.
Rhode Island	N/A	Limited. <i>Criminal Information Database</i> .
South Carolina	N/A	Limited. <i>South Carolina Judicial Department</i> provides a free docket search. Criminal records available via the law enforcement website.
South Dakota	S.D. CODIFIED LAWS § 16-13-31.1 (2008) (permitting public inspection of any records and materials used in “all stages of the jury selection process”).	Limited. Pay-as-you-go users can retrieve judgments via the <i>Online Civil Money Judgment System</i> .

State	Authority for Access to Jury Records	Government-Sponsored Electronic Access?
Tennessee	N/A	No.
Texas	N/A	Limited. Fee-based. <i>Subscriber Access Criminal/Subscriber Access Civil</i> and <i>Fifth Court of Appeals</i> database.
Utah	N/A	Yes. <i>Xchange</i> . Fee-based. <i>Appellate Docket Search</i> allows searches for cases less than three months old.
Vermont	N/A	Limited. <i>Welcome to Vermont Courts Online</i> . Provides detailed case information for civil and small claims cases in most of the state superior courts. Small activation fee.
Virginia	N/A	Limited. Search for information on cases in state supreme court and court of appeals. Not only circuit and district courts provide online information.
Washington	Juror information is not presumptively available for the public or the criminal defendant. <i>See State v. Beskurt</i> , 293 P.3d 1159 (Wash. 2013).	Limited. Fee-based. <i>Search for a Case</i> . Criminal records searches are fee-based. Access to the <i>Judicial Information System's</i> statewide computer system requires a subscription.
West Virginia	N/A	No.
Wisconsin	N/A	Limited. <i>WCCA</i> provides access to some criminal, traffic, forfeiture, family, probate, and civil cases, as well as the status of appeals via the state supreme court and court of appeals.
Wyoming	Voir dire transcripts, jury questionnaires, and other juror information are available unless sealed by court order. W. R. CRIM. P. 24.2.	No.

