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Study: Racial Bias Common in Jury Selection

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06-03-2010

Nearly 25 years after *Batson v. Kentucky*, racial exclusion in jury selection is still common, according to a study of practices in southern states released Wednesday.

"In courtrooms across the United States, people of color are dramatically underrepresented on juries as a result of racially biased use of peremptory strikes," [the report](#) by the Alabama-based Equal Justice Initiative stated. "This phenomenon is especially prevalent in capital cases and other serious felony cases. Many communities have failed to make juries inclusive and representative of all who have a right to serve."

Bryan Stevenson, executive director of the initiative and author of the report, called for strong measures to ensure full representation of minorities on juries nationwide within five years. "The underrepresentation and exclusion of people of color from juries has seriously undermined the credibility and reliability of the criminal justice system, and there is an urgent need to end this practice. While courts sometimes have attempted to remedy the problem of discriminatory jury selection, in too many cases today we continue to see indifference to racial bias."

The study examined jury selection in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina and Tennessee.

Stevenson said the report is the most comprehensive study of bias in jury selection since the *Batson* Supreme Court decision in 1986, which banned the use of race-based peremptory strikes of potential jurors. The ruling, however, gave prosecutors leeway in justifying strikes in race-neutral ways. As a result, the report states, prosecutors have simply excluded blacks for other stated reasons such as lack of education, wearing glasses or dyed hair.

The report alleges that some prosecutors train their lawyers on the wording they should use to exclude blacks without triggering charges of racial bias.

"As long as human beings are picking juries, there will be discrimination," said C. Rauch Wise, a criminal defense lawyer in Greenwood, S.C., and a board member of the National Association of Criminal Defense Lawyers. "There has to be some recourse in blatant cases," said Wise.

The report urges stronger enforcement of laws barring bias in jury selection, including a federal law that dates back to 1875. Without fines, public disapproval or other sanctions, Stevenson asserts, prosecutors have little incentive to ensure fair and unbiased jury selection.

Author Amy Bach, whose 2009 book "[Ordinary Injustice](#)" examined local courtroom practices, said Wednesday, "Race so clearly pervades the criminal justice system in every way -- from which victims prosecutors consider to be 'legitimate' to which defendants are prosecuted. What is amazing is that we are still surprised when a study comes out showing pervasive racism in an area like jury selection. Yes, of course it is a problem, and not just in the South."

She added, "Every court in America should be assessing whether equal justice is being done on a daily basis. The appellate courts are not enough of a check."