



## The Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness

200 First Avenue, Fourth Floor  
Pittsburgh, PA 15222  
412.697.1311  
pa-interbranchcommission.com

April 10, 2023

Mr. Joshua M. Yohe, Counsel  
Criminal Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635

Re: Notice of Proposed Rulemaking, Proposed Amendment of Pa.R.Crim.P. 632

Dear Mr. Yohe:

On behalf of the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness (the "Commission"), we are writing to you in response to the Notice of Proposed Rulemaking: Proposed Amendment of Pa.R.Crim.P. 632, published by the Criminal Procedural Rules Committee on March 25, 2023. We wish to thank you for this opportunity to comment on the proposed amendments and for graciously attributing the impetus for their proposal to our Commission. We also wish to convey our support for the proposed changes, which evidence careful thought and a commitment to improving diversity on Pennsylvania's juries.

As you know, our Commission conducted a survey of Pennsylvania's judicial districts in October 2021 to determine the extent to which the districts collect racial, ethnic, or other juror-based demographic data. The survey found that most of the districts do not collect such data and that even those districts that *do* collect it only do so during the initial stages of the jury selection process. When prompted to cite a reason for their decision not to collect demographic data, several court administrators indicated an interest in collecting such data, but stated that they do not have enough guidance on proper data collection methods. Several other administrators directly cited Pa.R.Crim.P. 632's current requirement that juror forms be destroyed after jury selection or trial as prohibiting or otherwise hampering districts' ability to collect the data.

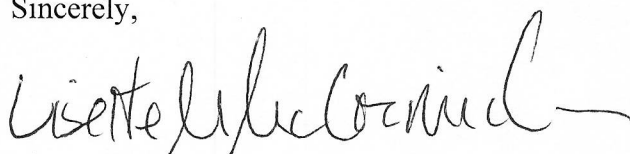
Based on these survey responses, our Commission submitted a letter to the Criminal Procedural Rules Committee in June 2022, proposing the changes to Rule 632 now memorialized by the Committee's Notice of Proposed Rulemaking. We believe that those changes, largely adopted by the Committee in its proposal, represent a necessary and important first step in encouraging the judicial districts to collect and retain demographic data and thus establish a baseline from which to increase jury diversity across the Commonwealth. As the Committee indicates in its Publication

Report, the proposed rule changes do not permit the districts to retain or publish individuals' disaggregated, personally-identifiable information, nor do they *require* the districts to undertake such data collection efforts. Rather, the proposal contains sensible restrictions on prospective and empaneled jurors' privacy while still improving the prospect that districts more closely adhere to the constitutional requirement that their juries comprise a representative cross-section of the community.<sup>1</sup>

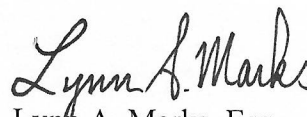
The districts also stand better equipped to collect and analyze such data if the individuals to whom demographic questions are directed feel incentivized to answer them. The proposed amendments to Rule 632 acknowledge this fact by proposing to both include a query for gender and to expand the number of racial and ethnic categories from which a juror may choose. As the Committee notes, the Juror Information Questionnaire set forth in Rule 632 only permits a potential juror to identify their race as "white," "black," "Hispanic," or "other." Along with neglecting to disaggregate race and ethnicity as separate categories, the Questionnaire's "other" checkbox also does not contain an accompanying space into which a juror can insert his or her specific race. Left with no choice but to identify themselves as "other," individuals from the AAPI community, for instance, may feel disinclined to participate in jury service. By including sufficient categories of race, ethnicity, and gender, the Committee's proposal prevents this scenario.

For these reasons and those outlined in our previous letter, we are pleased to convey our support for the Committee's proposed amendments to Pa.R.Crim.P. 632. The proposal takes an important first step toward clarifying judicial districts' ability to collect demographic data and more comprehensively permits jurors to indicate their demographic information. If you have any questions or concerns regarding our comments, please do not hesitate to contact me by phone, at (412) 697-1311 or (412) 298-9148, or by email, at [lisette.mccormick@pacourts.us](mailto:lisette.mccormick@pacourts.us). We look forward to continuing to work with you to ensure fairness in the Pennsylvania court system. diversity on Pennsylvania's juries.

Sincerely,



Lisette M. McCormick, Esq.  
Executive Director



Lynn A. Marks, Esq.  
Chair, Jury Service  
Committee

cc: Interbranch Commission members  
Jury Service Committee members

---

<sup>1</sup> *Taylor v. Louisiana*, 419 U.S. 522 (1975).