

### Appendix 3: Mathematical Notes

This Appendix shows how the figures cited in the Reply at pages 4-8 were derived from the data set forth in Appendices 1 and 2. It should be noted that Appendix 1 and 2 figures for juror race and ethnicity are based on self-identification by prospective jurors in response to voluntary demographic questions contained in the online juror portal and juror questionnaires.

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**Reply Statement:** “While the Black population in Maricopa County in 2018 was 5.92% (*see App’x 1*), the venire in 2019 in the downtown Phoenix courthouse in Maricopa County was only 4.15% Black.” (Reply at 5).

**Sources:**

Appendix 1 at page 3, Table 1 (Black or African American population estimate of 5.92%)

Appendix 2 at page 2, Criminal Jury Selection 2019. The third column of this Table reports a “Black/African American” Jury Venire of 1,317, or 4.2%. The actual figure when expressed to the nearest 100th is 4.15%. This is derived by dividing 1,317 (the number of Black people in the jury venire) by 31,142 (the total number of jurors in the venire). The 4.2% shown in Appendix 2 was rounded up from the actual figure of 4.15%. For accuracy, the Reply computes the percentage expressed to the nearest hundredth.

**Reply Statement:** “The prosecution used 5.82% of its peremptories against Black venirepersons, *thus striking them 40.2% more frequently than the Black share of the venire.*” (Reply at 6).

**Source:**

Appendix 2 at page 2, Criminal Jury Selection 2019. The sixth column of this Table reports that the prosecution exercised 5.8% of its peremptory challenges against Black jurors. The actual figure when expressed to the nearest 100th is 5.82%. This is derived by dividing 137 (the number of strikes actually exercised by the prosecution against Black jurors) by 2353 (the total number of strikes exercised by the prosecution). For accuracy, the Reply computes the percentage expressed to the nearest hundredth.

The 40.2% overstriking percentage was derived as follows: 5.82% minus 4.15% = 1.67% (showing that the prosecution exercised 1.67% more strikes against Black jurors than would be expected based on the venire percentage). 1.67% is 40.2% of the 4.15% venire of Black jurors.

**Reply Statement:** “While the Native American population in Maricopa County in 2018 was 2.09% (*see App’x 1*), the venire in all of 2019 in the downtown Phoenix courthouse in Maricopa County was only 1.36% Native American.” (Reply at 6).

**Sources:**

Appendix 1 at page 3, Table 1 (American Indian/Alaska population estimate of 2.09%).

Appendix 2 at page 2, Criminal Jury Selection 2019. The third column of this Table reports a “American Indian/Alaskan” jury venire of 422, or 1.4%. The actual figure when expressed to the nearest 100th is 1.36%. This is derived by dividing 422 (the number of Native American people in the jury venire) by 31,142 (the total number of jurors in the venire). For accuracy, the Reply computes the percentage expressed to the nearest hundredth.

**Reply Statement:** “Yet the prosecution used 2.04% of their peremptory strikes against Native Americans -- *thus striking them 50% more frequently than the Native American share of the venire.*” (Reply at 6).

**Source:**

Appendix 2 at page 2, Criminal Jury Selection 2019. The sixth column of this Table reports that the prosecution exercised 2.0% of its strikes against Native American jurors. The actual figure when expressed to the nearest 100th is 2.04%. This is derived by dividing 48 (the number of strikes actually exercised by the prosecution against Native American jurors) by 2353 (the total number of strikes exercised by the prosecution). For accuracy, this Reply computes the percentage expressed to the nearest hundredth.

The 50% overstriking percentage was derived as follows: 2.04% minus 1.36% = .68% (showing the prosecution exercised .68% more strikes than would be expected based on the venire percentage). .68% is 50% of the 1.36% venire of Native American jurors.

**Reply Statement:** “This disproportionate exercise of peremptory strikes also exists in the 2019 Maricopa County civil case data, although not to the same degree.

Blacks are not struck meaningfully disproportionately by civil defense lawyers, though Native Americans and Hispanics of any race are.”

**Source:**

The Civil Jury Selection 2019 Data in Appendix 2 show a “Black/African American” Jury Venire of 3.70%. This is derived by dividing 210 (the number of Black people in the jury venire) by 5687 (the total number of jurors in the venire). These data show that civil defendants used 3.87% of their peremptory challenges against Black jurors, thus striking them at a higher rate than the Black share of the venire (3.70%). This is derived by dividing 19 (the total number of strikes exercised by civil defendants against Black jurors), by 491 (the total number of strikes exercised by civil defendants). This represents a 2.70% overstriking of Blacks (3.87% minus 3.70% = .10%, which is 2.70% of the 3.70% venire of Black jurors). The Reply in Support of the Petition does not take the view that the difference is statistically significant, and thus does not refer to it specifically.

Similarly, the Civil Jury Selection 2019 Data in Appendix 2 show an “American Indian/Alaskan” Jury Venire of .97%. This is derived by dividing 55 (the number of Native American people in the jury venire) by 5687 (the total number of jurors in the venire). These data show that civil defendants used 1.22% of their peremptory challenges against Native American jurors, thus striking them at a higher rate than the Native American share of the venire (.97%). This represents a 25.77% overstriking of Native Americans (1.22% minus .97% = .25%, which is 25.77% of the .97% venire of Native American jurors).

Finally, the Civil Jury Selection 2019 Data in Appendix 2 show an “Hispanic (any Race)” Jury Venire of 20.24%. This is derived by dividing 1,151 (the number of Hispanic (any Race) people in the jury venire) by 5,687 (the total number of jurors in the venire). These data show that civil defendants used 25.46% of their peremptory challenges against Hispanic (any Race) jurors, thus striking them at a higher rate than the Hispanic (any Race) share of the venire (20.24%). This represents a 25.79% overstriking of Hispanic persons of any race (25.46% minus 20.24% = 5.22%, which is 25.79% of the 20.24% Hispanic (any Race) venire).

Significantly, the Batson Working Group has requested from the Maricopa County Superior Court the data for White (non-Hispanic) jurors, which should allow a more granular analysis of the exclusion of Hispanic persons by race. The Batson Working Group intends to supplement this Reply when those data are available.

