Abstract

Which Use of a Lamp-post? Support or Illumination in the Increasing Use of Disparate Impact Analysis in the Federal and State Court Systems

The legal doctrine of disparate impact is a relatively new theory used in the law to correct perceived imbalances in racial compositions of various societal circumstances. The law, through the litigation process itself in the form of jury selection has also been a place for the application of disparate impact analysis. This study looks at how disparate impact has been applied by the United States Supreme Court in previous employment and housing discrimination cases, and then applies those standards to the jury selection process to determine if a disparate impact claim could succeed when applied to cases of discrimination in jury selection. Union County Superior Court Criminal Trial Sessions were analyzed to determine if disparate impact could be applied to the jury selection process, or if disparate impact in jury selection would lead to a system which runs contrary to the goals of the selection process, goals focused on ensuring the impartiality of jurors. From the review of the participants in the pool and the panels themselves along demographic lines it appears that in this study’s limited data set, disparate impact would yield no remedy when applied to the jury selection process.