

# **Jury Participation Patterns in New Jersey Courts: Results of a Court Self-Study**

Mary R. Rose, Ph.D.

Department of Sociology

University of Texas

# Questions of Focus

- (1) How racially and ethnically diverse are the jury pools in the participating counties in this study?
- (2) What patterns of attrition are observed for those people who undergo voir dire for a civil or criminal case?
- (3) Do patterns of attrition exist that correlate with a person's race, ethnicity, or gender?

# Research Literature: Correlates of Jury Service

Serving on a jury is associated with...

- More positive views of courts
- A greater likelihood of voting in a subsequent election (for deliberators, criminal cases)
- More support for juries as an institution among racial minorities

# Study Design

- Multi-week study in 14 counties, pre-COVID (2018)
- Citizens self-report race, Latino/a ethnicity, and gender identity
- Bar code links this questionnaire with person's jury participation outcome
- Data provided to me for analysis (2020)

## **Finding #1: “Not used” is Common & New Jersey Forms Large Panels for Voir Dire**

- “Not used” is the most common outcome for civil cases and the second-most common outcome for criminal cases
- Average/Median size of panel, criminal: 144.5/122
- Average/Median size for civil cases: 53/44
- NCSC recommended sizes (for NJ): 70 for criminal, 37 for civil

County	Average Size (Criminal)	Average Size (Civil)
Bergen	275.5	49.2
Burlington	61.5	35.0
Camden	194.0	57.7
Cumberland	88.5	--
Essex	130.8	62.6
Gloucester	175.0	51.0
Mercer	159.3	33.5
Middlesex	60.0	46.6
Monmouth	91.0	71.8
Morris	--	58.3
Ocean	133.0	49.3
Passaic	226.0	56.3
Somerset	125.0	--
Union	104.7	47.0

## **Finding #2:** Peremptory Challenges Play a Role, but an Attenuated One, in Dismissing Minority-Group Members

- Race effects: case-specific associations
- Of 85 trials with at least one African American prospective juror, attorneys exercised peremptories against this group at concerning levels in 13 trials
- Of 91 trials with Latino/a veniremembers, there were 18 instances in which peremptories removed at least 25% of those present
- Of 85 trials with at least one Asian American prospective juror, peremptories removed at least 25% of that group in 13 trials

## Finding #3: Attorneys Rarely Use The Full Complement of Peremptory Challenges

	Criminal Trials (N = 26)		Civil Trials (N = 69)	
	State	Defense	Plaintiff	Defense
Average (SD)	3.8 (2.6)	5.9 (4.8)	2.7 (2.2)	3.1 (3.9)
Median (50 <sup>th</sup> )	4	5	3	2
75 <sup>th</sup> percentile	6	9	4	4
90 <sup>th</sup> percentile	7	13	5	6



# Relationship Between Cause & Peremptory Challenges

Correlated? Negatively-so?

## **Finding #4:** Peremptory Challenges and the Rate of Cause Challenges in Criminal Cases Are Positively Correlated

- In criminal cases: as cause challenges become more common in jury selection, there are also more peremptory challenges
- Criminal cases:  $r = .39$  for defense peremptories,  $r = .41$  for strikes from the state
- Civil cases: A weak positive relationship for defense challenges only ( $r = .10$ ); no relationship with plaintiff challenges
- Mean proportion of people excused for cause is higher in criminal cases (50%) than civil cases (33%)

## Finding #5: Other Correlates of Rates of Challenges for Cause

- Rates of use are positively correlated with venire size (larger panels = higher proportions of people excused through cause challenges)
- Not associated with juror race/ethnicity systemwide

# Summary

- Panels/venires are typically very large
- Attorneys rarely use their allotment of peremptory challenges
- System typically works in tandem: challenges for cause are positively related to both peremptory use and to venire size; panels size likely reflects planning for full peremptory use

# Large Panel Sizes are not Cost-Free

- Monetary costs for court staff time
- Economic costs to citizens for getting to court, childcare needs, time away from work, etc.
- “Other costs that are not as easily measured in monetary terms are ... the lost public trust and confidence in the courts by those individuals who did not enjoy the meaningful participation in the justice system of their peers who were impaneled, challenged or excused. Although not easily quantifiable, courts should not discount or ignore the existence of these costs.” (NCSC Jury Manager’s Toolbox: Best Practices for Effective Juror Utilization)