

22

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JURY REPRESENTATION:
ECONOMIC EXCUSES AND JURY
PARTICIPATION**

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ORGANIZATION, LABOR FORCE, AND JURY REPRESENTATION: ECONOMIC EXCUSES AND JURY PARTICIPATION*

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ABSTRACT

Economic excuse is the most significant form of voluntary self-exclusion from jury selection. In this paper, the sources of the economic excuse are examined with respect to jurors' organizational affiliation, occupation, and class position. Our sample comes from the 1986 California County Master Key list. More than 1,000 prospective jurors were contacted to gather information on their eligibility to serve on juries. Logit regression was the analytical method used.

Our analysis suggests that company policies on jury compensation play a key role in determining the pattern of economic excuses. Our analysis also points out that prospective jurors' employment conditions and structural locations in the labor market are important in explaining the pattern of economic excuses for workers without company compensation. Labor market measures, such as employment status and employee age, are also important predictors of economic excuses for jurors with company compensation. In addition, legal variables and other non-economic excuses are important in explaining jury participation. Their impacts are especially significant for jurors with no company compensation.

Individual characteristics also play an important role in predicting an economic excuse. Both white and English-speaking jurors who work in less stable, secondary

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economic sectors and without company compensation are more likely to request an economic excuse than racial minorities and non-English speakers.

Our analysis also sheds light upon potential jurors' perceptions of jury service. While apprehension of jury service is perhaps inevitable, it is important that future research examine potential jurors' psychological perceptions of what jury service entails along with their economic status.

Our empirical results suggest that while some attempts in the past have failed, it is important to establish and implement laws or regulations that encourage corporate participation through mandated reimbursement policies and/or guarantees of adequate economic reward from the court. Otherwise, the "fair cross-section" requirement may not be met by using the current jury selection process.

I. INTRODUCTION

In America, the jury speaking for the community is an essential element of a democratic government which derives its power from the people. The idea itself, that ordinary citizens without judicial experience should be impaneled to decide issues of great importance, is an unusual one in the world today.

In most countries, even where the laws are enacted by democratically elected legislatures, legal experts and judges rather than ordinary citizens weigh the evidence and render verdicts. Some European nations, including France and Germany, borrowed the jury as a fundamentally democratic institution in the late eighteenth and nineteenth centuries. However, they modified it so profoundly that today their heritage of experimentation with juries is the joint participation of citizens and judges in rendering verdicts. Many democratic nations, such as Israel, for example, have never used juries. Instead they rely on judges to resolve civil disputes and to determine guilt or innocence in criminal cases.

II. JURY SERVICE AND ECONOMIC EXCUSES

In the United States, jury service is supposed to be a right and privilege of citizenship, however, many jurors do not share this democratic view on the principle of egalitarian judicial participation. Many prospective jurors often request excuses and are subsequently screened out from the jury selection process.

Since requests for jury excuses may have an important influence on jury representation, it is of great importance to examine the sources of such excuses and their potential effects on jury composition. For example, impoverished prospective jurors are more likely to request economic excuses.¹ Since their requests are often granted by the court and many jurors are eliminated from

¹Kairys, *Jury Selection: The Law, A Mathematical Method of Analysis, and a Case Study*, 12 AM. CRIM. L. REV. 771 (1972); H. Fukurai, Unpublished Dissertation, *Institutionalized Racial Inequality: A Theoretical and Empirical Examination of the Jury Selection Process* (1985) (University of California, Riverside).

jury selection, the resulting jury will not represent a fair cross-section of the community. The jury is supposedly the embodiment of the belief that by gathering together persons from a fair cross-section of the community we can be sure that all relevant perspectives have been considered and that the verdict represents the community's collective judgment. Thus, the disproportionate jury representation caused by excuses for economic hardship undermines the legitimacy of the jury system and of jury verdicts in the eyes of citizens.

Several stages of jury selection offer potential jurors the opportunity to ask for economic excuses. Figure 1 shows the eight stages of the jury selection procedure. The excuse is granted at three different points in jury selection: (1) when persons selected from the master file are sent a qualification questionnaire (stages 3-4); (2) when they are sent a summons for jury duty (stages 5-6); and (3) when they actually come into the courthouse on the day they are called (stages 6-7). Because of the lengthy time commitment required of many juries, excuses for economic hardship represent the single, most significant form of voluntary self-exclusion from jury selection.²

Consider the following example. Few persons making more than minimum wage can afford a sudden and involuntary paycut for a period of weeks or more. For many prospective jurors, the question of whether their salaries will be continued during jury duty is of paramount importance. Consequently, prospective jurors with guaranteed salaries are more likely to serve on juries and those without financial compensation are more likely to request economic excuses and be weeded out of jury selection. Since economic excuses are generally granted in most state and federal courts, a systematic bias in juror pools may be introduced if they are not randomly distributed in the population.³

The impact of the nonrandom nature of excuses for economic hardship has been observed in many state and federal courts. For example, between 1983 and 1984, almost one million affidavits (963,836) were mailed to potential jurors in Los Angeles County (see Figure 2). Approximately 37% (360,047) of the prospective jurors requested to be excused and were subsequently screened out. For those who requested excuses, almost three quarters of the respondents (73% or 261,537) stated that they could not serve because of individual hardship, including economic difficulties. Consequently, jury panels in Los Angeles County did not reflect a cross-section of the community.⁴

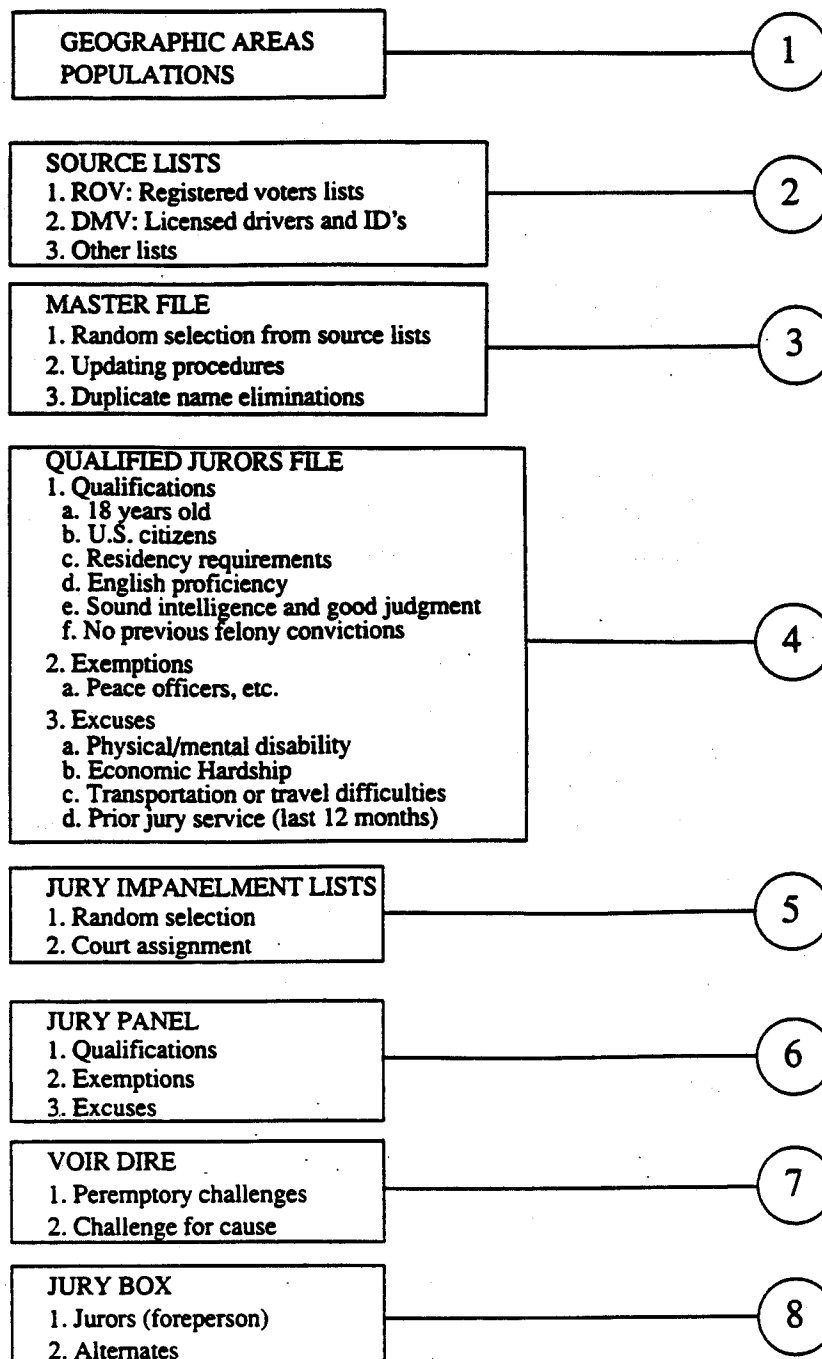
Besides voir dire, where attorneys on both sides exercise discretionary

²H. FUKURAI, E. BUTLER & R. KROOTH, RACE AND THE JURY (1991) [hereinafter RACE]; Fukurai, Butler & Krooth, *Where Did Black Jurors Go? A Theoretical Synthesis of Racial Disenfranchisement in the Jury System and Jury Selection*, J. BLACK STUDIES, forthcoming [hereinafter *Black Jurors*].

³J. VAN DYKE, JURY SELECTION PROCEDURE (1977); *Black Jurors*, *supra* note 2.

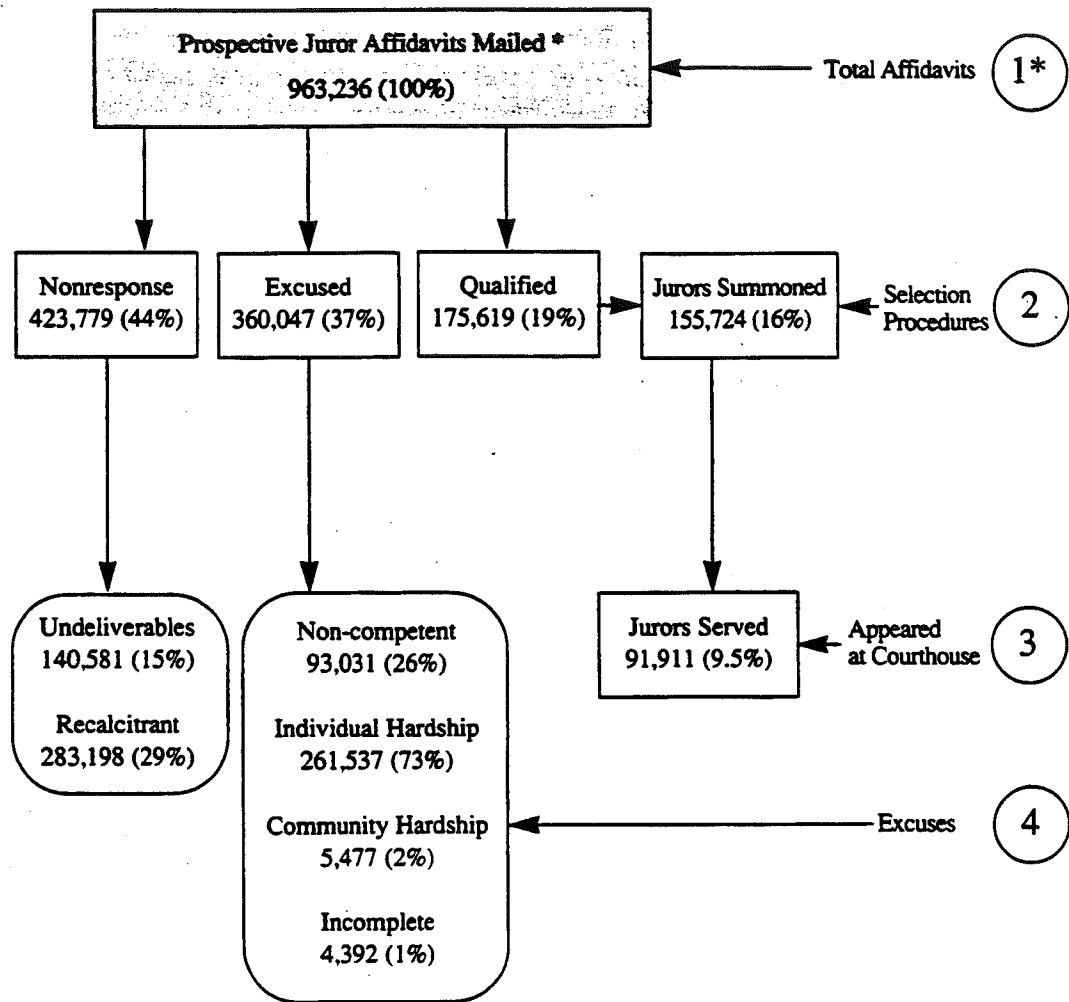
⁴H. FUKURAI, *supra* note 1; *Black Jurors*, *supra* note 2; Fukurai, Butler & Krooth, *A Cross-Sectional Jury Representation or Systematic Jury Representation? Simple Random & Cluster Sampling Strategies in Jury Selection*, 19 J. CRIM. JUST. 31 (1991) [hereinafter *Sampling Strategies*]; E. BUTLER, H. FUKURAI, J. HUEBNER DIMITRIUS & R. KROOTH, THE McMARTIN TRIAL: ANATOMY OF A JURY (1992) [hereinafter McMARTIN TRIAL].

Figure 1
Jury Selection Procedures



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Figure 2
Los Angeles Jury Selection System



* Fiscal Year 1983-84

power in influencing the composition of the jury, the economic excuse is the most important determining factor that influences the ultimate jury composition.⁵ While economic excuses from jury service are routinely granted in most states and federal courts, the factors that lead to economic excuses and their effect on the makeup of resulting juries has not been systematically examined. The purpose of this article is to examine the array of structural causes of economic excuses and to explore the causal relationship between economic excuses, race, and jury participation under the current court system and jury selection process.

⁵J. VAN DYKE, *supra* note 3; H. FUKURAI, *supra* note 1; RACE, *supra* note 2.

III. ANATOMY OF ECONOMIC EXCUSES: STRUCTURAL FACTORS OF JUDICIAL INEQUALITY

Past research indicates that there are primarily two types of factors that influence the request for economic excuses: micro-dimensional factors and structural causes. Psychologists argue that micro-dimensions of individuals influence the excuses and the resulting jury composition. For instance, inherent criminality of some racial and ethnic groups and impaired intelligence of some potential jurors means voluntary self-exclusion or being screened out by excuse processes. Authoritarian personalities among those responsible for jury composition also contribute to selectivity in the excuse process.⁶

There are also a variety of structural factors that influence excuse decisions and thus, the resulting jury composition. These structural factors include jurors' organizational affiliations, their occupations, and their authority positions in the workplace. Because economic excuses are closely linked to economic resources of prospective jurors, it is of great importance to examine the structural location of individual jurors with respect to their organizational affiliations, occupations, and class positions.⁷ These structural factors then define the locations where individual jurors are employed and rewarded in society.

In this article, three economic components that influence economic excuses are chosen to be critically examined. These factors are: (1) *organizations*, which differ in work policies, including jury compensation and other work-related benefits as well as size, extent of job security, and internal labor-market development;⁸ (2) *labor markets*, which differ in type of jobs, work responsibilities, skill content, resource base, and other attributes;⁹ and (3) *authority positions*, or, in the view of some neo-Marxist writers, "class," which reflects one's economic resources and the ability to take time off to serve on a jury. The class position also includes locations in the firm's structure of power and ownership.¹⁰ These three factors are the important structural determinants of income. Each of the work structures generates inequality among individuals as well as factors that influence economic excuses from jury service. The following section examines each of the structural components of the economic excuse and how they influence the economic selectivity of potential jurors and the resulting jury composition.

⁶V. HANS & N. VIDMAR, *JUDGING THE JURY* (1986); M. NEITZEL & R. DILLEHAY, *PSYCHOLOGICAL CONSULTATION IN THE COURTROOM* (1986).

⁷Rosenfeld & Kalleberg, *A Cross-National Comparison of the Gender Gap in Income*, 98 *AM. J. SOCIOLOGY* 69 (1990); Weakleim, *Relative Wages and Radical Theory of Economic Segmentation*, 55 *AM. SOC. REV.* 574 (1990); *Sampling Strategies*, *supra* note 4.

⁸Baron, *Organizational Perspectives and Stratification*, 10 *ANN. REV. SOC.* 37 (1984).

⁹J. FEAGIN, *RACIAL AND ETHNIC RELATIONS* (1984).

¹⁰E. WRIGHT, *CLASS STRUCTURE AND INCOME DETERMINATION* (1979); Wright, *Class and Occupation*, *THEORY AND SOCIETY* 177 (1980); E. WRIGHT, *CLASSES* (1985).

A. Organization and Occupation

Organizational policies and institutional resources can affect one's availability for jury duty. For instance, major enterprises usually offer reimbursement to their employees called for jury service. Since the pay for jury duty remains minimal, such policies supplement the deficit of the underfunded court and jury system. Consequently, employees from large firms are more likely to serve on juries and to participate in the judicial decision-making process. Further, work positions and job classifications are closely tied to the specific organizational resources that also determine economic reward structures, including leave of absence and reimbursement policies. Those factors then define an employee's chance for jury service.¹¹ For instance, a survey of jurors who served during September and October 1972 in Memphis, Tennessee, discovered that 133 of the 480 persons (27.7%) who qualified for jury duty worked for the seven largest organizations in the study area. During this period, International Harvester supplied 8.8% of the jurors, while it employed fewer than 0.5% of the county's population.¹²

Another important determinant of economic excuse is the potential juror's authority position in the work place, or class position in neo-Marxian terms. The authority position defines the structural position of jurors in the frame of job classification. Jurors employed in managerial positions and those who share firm ownership can exhibit a greater amount of control over their economic welfare. They have entrepreneurial assets and greater economic and financial freedom, both of which increase their chances of jury representation. For instance, their "class" positions are directly tied to income, thus impacting their decision to sacrifice their work and carry out civic duties by serving on juries.

B. Judicial Inequality

There is another set of factors that also influence one's chance to serve on a jury. While a person may not ask for an economic excuse, he/she still may not be eligible for jury duty.

Before an individual is considered as a prospective juror, he/she has to fulfill basic qualifications, (i.e., U.S. citizenship, eighteen years old, residency, English proficiency, sound intelligence, good judgment, and no previous felony convictions). *Exemptions* are granted to certain types of potential

¹¹Organizational differences, labor market segmentation, and intrafirm authority positions help create and maintain judicial inequality. Organizational characteristics often overlap with labor market segmentation. See, e.g., BARON, *supra* note 8, for detailed analyses of the relationship between dual economic sectors and dual labor markets in the United States.

¹²Cole, *Justice Is a Man Wearing a Hard Hat*, MEMPHIS COMMERCIAL APPEAL (Dec. 24, 1972).

jurors such as a law enforcement officers because their occupation and identification with the state may bring bias to a jury verdict. Prospective jurors are also allowed to ask for *excuses*, other than economic hardship, including physical or mental disability, personal obligations, travel and transportation difficulties, and prior jury service within the last twelve months.¹³ These judicial requirements show the intertwined relationship of economic excuses, jurors' class positions, organizational resources, and labor market characteristics.

C. Hypotheses

Our general discussion of economic excuses and differences in the structure of judicial inequality suggests a number of testable propositions. First, in view of the different structural impacts on jury service, we expect the attributes of superior organizational resources, including reimbursement, leave of absence, and other fringe benefits, to have a significant effect on the requesting of an economic excuse. Individuals with greater organizational resources are more likely to serve on juries than those with fewer organizational benefits. Specifically, the economic excuse should be closely related to the firm's structural location and its economic resources.¹⁴

Second, on the basis of our discussion of the salience of labor market and authority/class structures for jury participation, we expect attributes of labor markets and authority position (complexity, control) to have a significant effect on economic excuses. Specifically, employees with job security and benefits are less likely to request economic excuses than their counterparts and, thus, are more likely to be represented on juries. These include full-time workers, supervisors, and employees with job seniority.

Finally, we introduce some additional factors primarily as controls for extraneous variables that influence jury representation, such as qualifications, exemptions, various noneconomic excuses, and demographic characteristics of prospective jurors including ethnic background. For example, a juror's ethnic background shows the significant relationship of economic selectivity and other structural and legal determinants of jury participation. Previous research has shown that racial minorities are more likely to be in the secondary labor market and this economic disadvantage may facilitate their decision to

¹³RACE, *supra* note 2; McMARTIN TRIAL, *supra* note 4.

¹⁴J. SMITH & F. WELCH, CLOSING THE GAP: FORTY YEARS OF ECONOMIC PROGRESS FOR BLACKS (1986); Portes & Sassen-Koob, *Making It Underground: Comparative Material on the Informal Sector in Western Market Economies*, 93 AM. J. SOCIOLOGY 30 (1987); Lichter, *Race, Employment Hardship and Inequality in the American Nonmetropolitan South*, 54 AM. SOC. REV. 436 (1989).

request an economic hardship excuse more frequently than do those in the majority.¹⁵

The summary of the structural approach to the analysis of economic excuses is shown in Figure 3. There are three basic components of economic excuses: structural determinants, human capital factors, and legal constraints. The structural determinants of economic excuses include organizational structures, labor market characteristics, and authority/class positions of prospective jurors. Human capital and legal variables are also included in the model to control for their effects on the request for economic excuses. We contend that these five structural positions of individual jurors significantly influence the request for economic excuses and lead to disproportionate jury representation.

IV. RESEARCH DESIGN

A. Sample

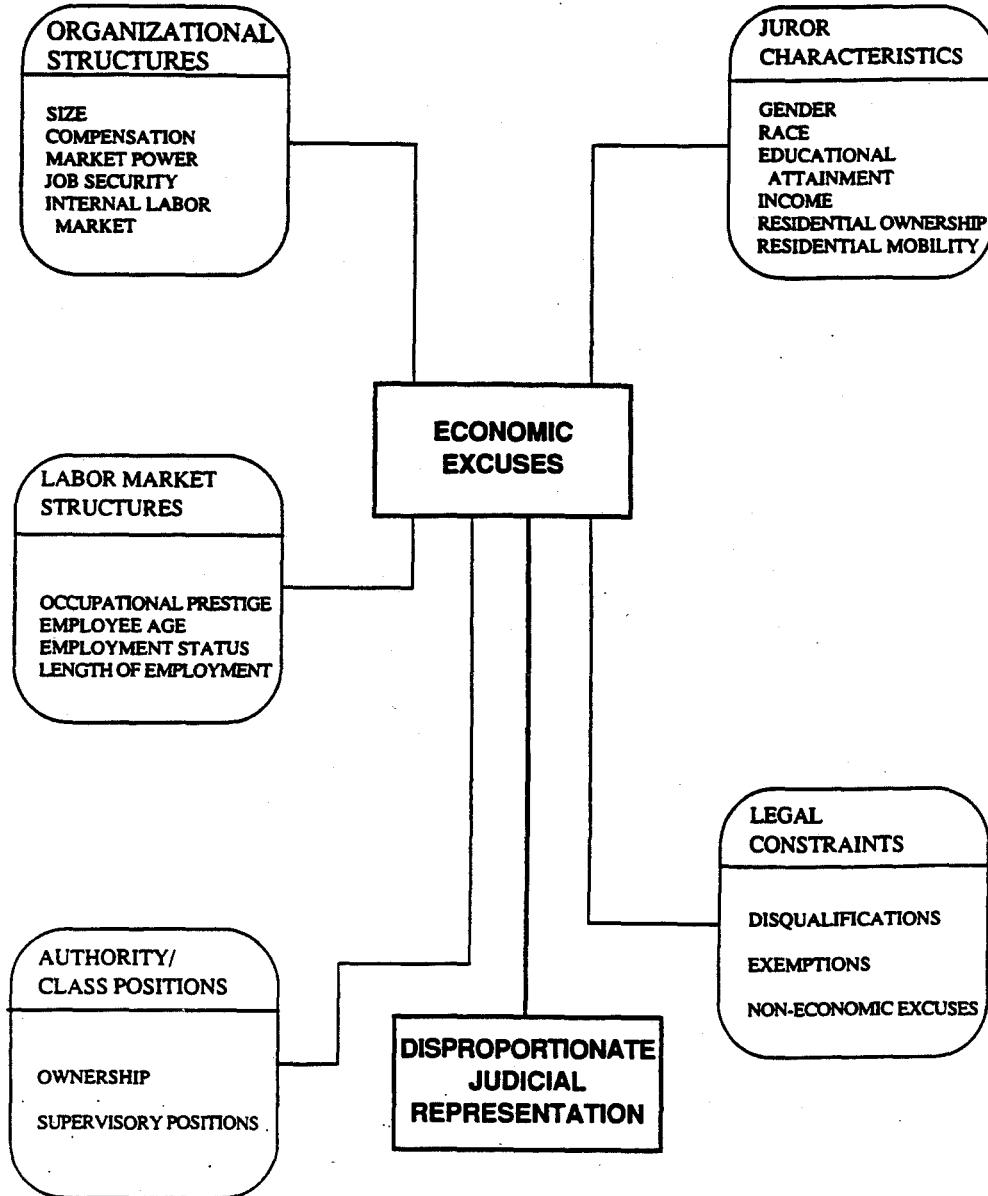
A 1986 community research survey was used to examine jury representativeness. In 1986, survey questionnaires were sent to potential jurors who were randomly selected from a California County Master Key List for a period of three months in 1985. The data identify socioeconomic and demographic profiles of those who were on the master list. More than 1,000 potential jurors were contacted to gather information on their eligibility to serve on juries. Their step-by-step progress through the jury selection procedure was carefully monitored, computerized, and analyzed.

B. Methods

In exploring the statistical relationship of the determinants of economic excuses, a logit regression is used. The logit regression treats a dichotomous categorical indicator as a dependent variable and a set of both dichotomous and continuous variables as predictors. Economic excuse was measured in a dichotomous fashion: requested economic excuse (excuse=0), and did not request economic excuse (excuse=1). This dichotomous endogenous variable is then regressed against a set of independent variables that are believed to be the determinant of the pattern of behaviors in requesting economic excuses. In our model, the exogenous variables include the following: organizational resources and benefits, labor market characteristics, and authority/class measures. Controls such as various legal and extralegal variables are included in our empirical model in order to control for their extraneous effects in explaining the determinants of requests for economic excuses in jury selection.

¹⁵H. FUKURAI, *supra* note 1; RACE, *supra* note 2; *Black Jurors*, *supra* note 2.

Figure 3
Structural Determinants of Economic Excuses



C. Measurement

1. Organizational Structures

We measure the attributes of organizational and economic segmentation by using the size of the firm and the absolute number of persons employed at the time of the survey. The variable is represented in the natural log transformation since the variable is highly skewed towards larger firms. An organization's

size is closely related to financial resources and work benefits available to employees who take time off to serve on juries.

Another important feature of organizational resources is the firm's ability to continue to pay their workers while they are on jury duty. Our comparison of organizational policies on jury service is facilitated by examining the sample-based organizational policies and whether the firm pays while its employees are on jury duty (pay=0). While the size of the corporation itself can reflect overall organizational resources and work benefits available to employees, the specific company policy on jury compensation serves to determine an employee's likelihood of asking for an economic excuse and his/her decision to serve on a jury.

2. Labor Market Structures

The measurement of labor market characteristics includes the following: job seniority (months employed by the company), employee age (in years), employment status (full-time or otherwise), and occupational status and prestige (Duncan SEI index). The use of a month as a unit of analysis in measuring seniority can provide detailed information on the extent to which young prospective jurors are affected by the different characteristics of a labor market. This is especially important since young workers are most likely to be affected by economic hardship and be restricted from jury participation.

We also measure labor market segmentation by employment status to indicate access to labor market resources (full-time=0). While labor market segmentations are closely related to various conditional variables in the work place (job security, employment stability, company benefits, and other attributes related to occupational reward structures), our data has limits in its ability to capture those dimensions of the labor market. However, since employment status is closely linked to labor market resources, employment status is used as a proxy to measure various employment benefits that influence the decision to request an economic excuse. That is, the full-time workers are more likely to exhibit greater access to jury compensation and other work-related benefits than are part-time employees.

Second, the length of employment is used as a proxy to indicate employment conditions and employee benefits. It is measured in the total months and represented in the natural log transformation. Third, a socioeconomic status index (Duncan SEI) is used to capture occupational prestige and job status and represents the dual labor market by indicating differences in job security and working conditions. These variables are added to further extend the knowledge of job benefits that differentiate labor markets and impact jurors' chances for jury participation.

3. Authority/Class Measures

Two dummy variables are used to measure the class position of employed jurors. First, we asked if respondents own their own business (own=0). Sec-

ond, since a manager is more likely to have authority status, one's supervisory responsibility is used to indicate the control mechanisms within a firm and job-related responsibility in the workplace (supervisor=0).

4. Juror Characteristics

We include several extralegal measurements as control variables that influence the request for economic excuses. A central hypothesis concerning economic determination of jury participation is that employees are rewarded on the basis of ascriptive and social criteria such as sex, race, and marital status.¹⁶ We examine how these personal attributes are related to the degree of jury participation. Sex is shown to be an important factor. For instance, women are likely to be excused because of childcare responsibilities, a noneconomic reason. While some states such as North Carolina prohibit an automatic excuse for such a reason, most states do not prohibit an excuse for childcare (male=0).¹⁷ Race is also a strong predictor of jury participation. Minority groups have shown strong skepticism of participating in a racially dominated legal institution that has historically oppressed them (race=0).¹⁸ Educational attainment (in years) is included to measure the extent of human capital in affecting income inequality, thus defining each employee's ability to participate on a jury.

There are other important variables that are believed to play an important role in jury participation. Residential status, for instance, reflects the ability of potential jurors to respond to jury calls. Since most correspondence between the court and a prospective juror is done through the mail, prospective jurors who frequently change residences tend to become "undeliverable" and are excluded from subsequent jury selection processes.¹⁹ Residential ownership is included in the analysis to capture the degree of residential mobility. Residential mobility is measured in years at a current residence and residential ownership is represented by a dichotomous variable (own=0). Annual family income reflects the economic well-being of potential jurors and further determines an

¹⁶See H. FUKURAI, *supra* note 1; *Black Jurors*, *supra* note 2.

¹⁷J. VAN DYKE, *supra* note 3.

¹⁸Mistrust in the jury system may be fueled by prejudice toward jury duty. For example, the underrepresentation of minorities from lower economic strata can show a profound effect on the strength and quality of the jury and criminal justice systems. Discrimination and prejudice contribute to a widespread mistrust by minorities of most of white-dominated institutions of power such as law enforcement agencies. J. Van Dyke, *supra* note 3; W. LOH, *SOCIAL RESEARCH IN THE JUDICIAL PROCESS: CASES, READINGS, AND TEXT* (1984); RACE, *supra* note 2; *Black Jurors*, *supra* note 2.

Besides racial minorities, youth and economically impoverished people are less likely to vote in elections and to participate in jury service because they have less confidence in political processes or are dissatisfied with the choices of candidates. Kairys, *supra* note 1.

¹⁹*Black Jurors*, *supra* note 2.

individual's chance to serve on a jury.²⁰ We include these extra-legal variables to control for their effects on the degree of jury participation.

5. Legal Variables

There are a variety of legal variables to consider as impacting on economic selectivity in jury participation. For instance, there are qualification measures (U.S. citizen, residency, age requirement, etc.), exemptions (peace officer or judge), and other excuses (physical/mental disability, special personal obligation, travel and transportation difficulties, and prior jury service). These are measured by a set of dummy variables to control for their effect on economic excuses. They are coded as 0 if a prospective juror asked to be excused and 1 if he/she did not. The descriptive statistics of all the structural variables in our model are shown in Table 1.

V. RESULTS

Logit regression is used to examine the structural relationship of the determinants of request for an economic excuse. Table 2 presents the results of our analysis. The first three columns in Table 2 show the impact of both structural and legal variables on economic excuses. There, we report estimates of the direct effects of structural and control variables on economic excuses (a dichotomous variable). The fourth through ninth columns indicate the impact of the structural variables on the basis of company compensation and estimate the effect of group-based work benefits, i.e., paid or unpaid while serving on juries. The different analyses for the two organizational groups explores the relationship between a juror's economic position in the organizational structure and his/her use of economic excuses.

A. Organizational Structure and Labor Market Characteristics

We have clear and consistent evidence that the company policy on jury compensation is the single most important determinant of an economic excuse; potential jurors with specific compensation policies are less likely to request an economic excuse than those without jury compensation. A juror's awareness of the availability of jury compensation has the greatest effect on the economic excuse ($t=7.586$). However, the size of the organization did not show a significant effect on the decision to ask for an economic excuse. Moreover, prospective jurors lacking company support are more likely to ask for an excuse because of economic hardship.²¹

²⁰The breakdown of income is the following: (1) less than \$5,000, (2) \$5,000-9,999, (3) \$10,000-14,999, (4) \$15,000-19,999, (5) \$20,000-24,999, (6) \$25,000-29,999, (7) \$30,000-39,999, (8) \$40,000-49,999, (9) \$50,000-74,999, and (10) \$75,000 or more.

²¹Almost a third (30.8%) of the prospective jurors said that their firms would pay while they serve on juries, while 69.2% of them said their companies would not pay (see Table 1).

Table 1
Measures of Variables and Descriptive Statistics: Means

Variable	Asked Economic Excuse				Did Not Ask for Excuse			
	Company With		Company With		Company With		Company With	
	Policy (n=53)	No Policy (n=182)	Policy (n=330)	No Policy (n=198)	Policy (n=330)	No Policy (n=198)	Policy (n=330)	No Policy (n=198)
Age	42.51	(12.20)*	38.80	(11.84)	42.97	(12.73)	39.47	(13.20)
English Proficiency (1=speak very well, 2=speak well, 3=not speak well)	.17	(.43)	.14	(.43)	.19	(.48)	.23	(.54)
Education (years)	15.25	(2.72)	13.98	(2.54)	14.52	(2.85)	13.65	(2.20)
Annual Family Income (1= <\$5,000, 10=\$75,000 or more)	7.68	(2.06)	6.37	(2.37)	7.40	(2.09)	5.91	(2.82)
Occupational Prestige (Duncan Socio-economic Index)	55.86	(20.87)	49.46	(21.14)	56.27	(19.67)	43.50	(22.44)
Length of Employment (In Months) ¹	4.20	(1.47)	3.65	(1.38)	4.24	(1.31)	3.40	(1.49)
Firm Size (a number of employees) ¹	5.79	(2.44)	2.69	(1.93)	5.67	(2.62)	2.72	(1.82)
Sex (0=male, 1=female)	.32	(.47)	.45	(.49)	.57	(.50)	.58	(.49)
Marital Status (0=married, 1=not married)	.67	(.47)	.65	(.47)	.68	(.46)	.60	(.48)
Race/Ethnicity (0=white, 1=black/Hispanic)	.07	(.26)	.07	(.26)	.17	(.37)	.17	(.38)
Language Spoken at Home (0=English, 1=non-English)	.01	(.13)	.02	(.14)	.05	(.23)	.08	(.27)
Business Ownership (0=own business, 1=do not own business)	.90	(.29)	.73	(.44)	.92	(.25)	.87	(.32)
Employment Status (0=full-time, 1=non-full-time)	.03	(.19)	.11	(.31)	.11	(.32)	.52	(.50)
Supervisor (0=yes, 1=no)	.50	(.50)	.47	(.50)	.49	(.50)	.62	(.48)
Residential Ownership (0=rent, 1=own)	.76	(.42)	.66	(.47)	.76	(.42)	.63	(.48)
QUALIFICATION (0=disqualified, 1=qualified)								
Citizen	.45	(.50)	.90	(.29)	.96	(.18)	.95	(.20)
18 Years Old	.45	(.50)	.91	(.28)	1.00	(.00)	1.00	(.00)
Residence	.41	(.49)	.89	(.31)	.93	(.23)	.88	(.31)
English Language	.43	(.50)	.89	(.30)	.97	(.16)	.95	(.20)
Natural Faculty	.45	(.50)	.91	(.28)	1.00	(.00)	.98	(.12)
Felony Conviction	.45	(.50)	.90	(.29)	.99	(.05)	.99	(.07)
Previously Served on Grand Jury	.45	(.50)	.91	(.28)	.99	(.05)	1.00	(.00)
EXEMPTION (0=exempted, 1=not exempted)								
Peace Officer	.45	(.50)	.91	(.28)	.99	(.09)	.99	(.07)
EXCUSES (0=asked to be excused, 1=did not ask to be excused)								
Physically Handicapped	.45	(.50)	.89	(.30)	.94	(.22)	.89	(.30)
Personal Obligations	.45	(.50)	.85	(.35)	.94	(.22)	.81	(.39)
Travel and Transportation Difficulties	.41	(.49)	.86	(.33)	.98	(.12)	.92	(.26)
Previous Jury Service (past 12 months)	.45	(.50)	.89	(.30)	.69	(.46)	.90	(.29)
Other Excuses	.43	(.50)	.87	(.32)	.91	(.27)	.82	(.37)

1: A variable was transformed with natural logarithm. *: Standard deviation.

Previous work by Kairys, Fukurai, and others has only speculated that company compensation might have a significant effect on jury participation. Our empirical results provide strong evidence to support the proposition that whether one works for a large or small firm is considerably less important than whether the firm pays while its employees are serving on juries.

B. Labor Market Structures

Our analysis shows mixed results. For instance, there is strong evidence that employee age impacts on jury participation. Our finding suggests that younger workers are more likely to ask for excuses than older workers. The same effect of age on economic excuses is also found among potential jurors with company compensation ($t=2.004$).

Employment status does not show significant effect on jury participation. In the firm with jury compensation, however, full-time workers are more likely to request economic excuses than part-time workers ($t=4.327$). It is also important to note that only three percent of potential jurors who requested economic excuses were aware of the company's jury compensation policy (see Table 1). Another important finding is that the majority of part-time workers (53%) knew that their firms would not pay but decided not to ask for an economic excuse.

Our analyses also point out that a juror's marital status affects jury participation—married workers are less likely to request economic excuses than are non-married workers ($t=1,800, p < .05$ for a one-tailed test). Our last indicator of labor market structure is the length of employment. The coefficients associated with this variable are not consistent with a labor market interpretation, although they are quite interesting and again underscore greater inequality between jurors with and without company support. That is, for prospective jurors employed in companies with guaranteed jury compensation, the greater length of employment is associated with the higher incidence of economic excuse, while the reverse relationship is found for employees without jury compensation. Although the relationship is not found to be statistically significant, the difference shows that more elaborate analyses are needed to examine the structure of the economic excuse and its impact on jury participation.

C. Authority and Class Measures

Our results for business ownership do not parallel the excuse pattern exhibited by employees in supervisory positions. That is, owners are more likely to request excuses for economic hardship than workers. The relationship is found to be statistically significant.

This is contrary to our previous hypothesis that owners are more likely to be economically secure, thus, less likely to request an excuse for economic hardship. A feasible explanation may be that the majority of the owners in the sample represent mostly small firms and may lack relatively great economic

resources. For instance, 27.8% of self-identified owners said that they had no employees other than their immediate family members; the median number of employees was three.

Our results on the effect of authority positions in the work place suggest that supervisors and managers are less likely to request economic excuses than are regular workers. The pattern is found to be consistent regardless of company compensation, suggesting that those lacking authority in the work place are more likely to request economic excuse and be weeded out of the jury selection process.

D. Extralegal Variables

There is little consistency in jury participation across different firms. The ascriptive characteristics of prospective jurors do not show a significant impact on economic excuses, although the findings might reveal an interesting relationship and provide plausible explanations for some unexpected results. For example, white jurors are more likely to ask for economic excuses than are minority jurors. This relationship is found to be consistent regardless of firm compensation. Also, the language requirement plays an important role in distinguishing those who are likely to be excused as those with less English fluency. By the same token, jurors who speak English at home are more likely to request economic excuses than jurors who do not speak English. This finding is consistent for jurors regardless of company support. It could be the result of non-English speakers lacking familiarity with the jury system and having feelings of greater obligation to participate in jury service. Nevertheless, further research is needed to assess such a causal relationship. Another interesting result is that, while the findings are not statistically significant, renters of their current residence are less likely to request economic excuse than are prospective jurors who own their residence. This finding is also consistent for jurors with and without company compensation.

Socioeconomic variables also provide mixed results on the determination of request for an economic excuse. For jurors lacking company compensation, higher educational attainment is associated with a higher incidence of economic excuse. This relationship is found to be statistically significant ($t=2.348$). Annual income is similarly related to economic excuse. That is, higher income is associated with a higher incidence of economic excuse regardless of whether or not a company pays for jury duty. Occupational prestige shows a mixed result. Higher prestige is associated with the higher incidence of economic excuse for employees in firms with compensation, the relationship is reversed for firms without compensation.

E. Legal Variables

The final explanatory variables in our model are the legal variables ranging from jury qualification to other non-economic excuses. The unex-

pected finding is that qualifications, other than the residential requirement, do not lead to any significant explanation of economic excuses. However, excuse criteria play a major role in explaining voluntary self-exclusion based on economic hardship. Excluding travel difficulties, non-economic excuse criteria, such as physical/mental disability, personal obligation, and prior jury service, appear to be statistically significant in predicting the pattern of economic excuses; but only for those jurors with guaranteed company support. This also shows that general excuses are more important factors of jury participation for those without company support. For potential jurors without company compensation, none of the non-economic factors appeared to be statistically significant in predicting the pattern of economic excuses.

VI. DISCUSSION

Our analysis substantiated the hypothesis that company compensation plays a significant role in determining one's decisions on jury participation: jurors with compensation are less likely to request economic excuses than those lacking company support ($p < .001$). Our analysis also indicates, despite the earlier proposition, that whether one works for a large or small firm is considerably less important than whether the firm pays while its employees are serving on juries ($p < .05$).

The analysis also points out that in addition to one's organizational resources, labor market characteristics also significantly influence jury participation. There is strong evidence to indicate that employment status is an important factor for firms with compensation policies. A higher incidence of economic excuse is found among full-time workers and employees lacking supervisory responsibility.

The measurement of personal attributes of potential jurors also indicates the strong relationship between the economic excuse and labor market characteristics. While the relationship is not statistically significant ($p < .05$), some classes of employees are more likely to request economic excuse than are general employees. These include senior (measured by length of employment), nonmarried, and female employees. The higher incidence of economic excuse among senior workers may be attributed to the fact that they see jury duty as a nuisance, whereas their junior counterparts see it as a democratic privilege.

While married workers are more likely to be granted exemptions from jury duty because of children, they are less likely to request economic excuses, perhaps because they have greater economic resources than do non-married jurors. While not statistically significant, female jurors ask for economic excuses more often than do male jurors. In many districts, women are automatically excused because courts do not reduce the length of jury duty to a manageable limit or pay a daily fee high enough to cover childcare for their

Table 2
Log-Linear Coefficients Obtained from Logit Regression on Economic Excuses

Variables	Overall Model			Company Compensation			No Company Compensation		
	Coefficients	Standard Error	Critical Ratio	Coefficients	Standard Error	Critical Ratio	Coefficients	Standard Error	Critical Ratio
Structural Variables									
Age	.028	.012	2.227**	.033	.016	2.004***	.032	.024	1.353
English Proficiency	.498	.269	1.847*	.223	.514	.434	-.239	.640	-.373
Education	-.218	.325	-.670	.057	.080	.711	-.196	.083	-2.348***
Annual Family Income	.847	.441	.192	-.031	.093	-.343	-.055	.156	-.355
Occupational Prestige	.197	.125	1.584	-.004	.008	-.455	.024	.013	1.859*
Length of Employment	-.040	.395	-.103	-.164	.143	-1.145	.043	.205	.213
Firm Size	-.049	.059	-.870	.042	.101	.417	.015	.093	.169
Sex	-.022	.078	-.286	.545	.335	1.625	.792	.503	1.574
Marital Status	.703	.390	1.800*	-.169	.428	-.396	.026	.561	.047
Race/Ethnicity	.005	.007	.711	.500	.539	.927	.193	.112	1.717*
Language Spoken at Home	-.095	.115	-.826	.180	.141	1.281	.562	.324	1.737*
Business Ownership	.215	.045	4.750***	.730	.485	1.506	.790	.773	1.023
Employment Status	.037	.065	.571	.228	.052	4.327***	.482	.848	.568
Supervisor	-.492	.289	-1.704*	-.474	.384	-1.237	-.790	.491	-1.608
Employer Compensation	-.235	.031	-7.586***	na	na	na	na	na	na
Residential Ownership	-.325	.362	-.897	-.432	.449	-.964	-.762	.682	-1.116
Constant ¹	-1.522	2.042	-.745	-7.119	2.298	-3.095***	-5.686	—	—
Control Variables									
QUALIFICATION									
Citizen	-.146	.080	-1.824*	-.044	2.427	-.018	-.124	.093	-1.332
Residence	-.141	.055	-2.535***	-.014	1.067	-.013	-.218	.067	-3.212***
English Language	.271	.799	.339	.031	1.924	.016	-.675	.990	-.681
Natural Faculty	.049	1.425	.034	na	na	na	na	na	na
Felony Conviction	.323	1.421	.227	-.100	.690	-.146	-.900	1.430	-.630
Previously Served on Grand Jury	-.009	1.214	-.008	-.000	.547	-.000	na	na	na
EXEMPTION									
Peace Officer	-.013	.700	-.019	-.015	3.141	-.004	.603	.260	2.317**
EXCUSES									
Physically Handicapped	-.196	.075	-2.600***	-.015	1.654	-.009	-.236	.080	-2.939***
Personal Obligations	-.947	.447	-2.115**	.094	1.106	.085	-.192	.051	-3.729***
Travel and Transportation Difficulties	-.186	.691	-.269	.210	.144	1.454	-.104	.084	-1.236
Previous Jury Service	-.398	.101	-3.933***	-.015	.640	-.023	-.286	.108	-2.632***
Other Excuses	-.208	.061	-3.381***	.788	1.072	-.735	-.290	.077	-3.729***
Constant ²	-.287	5.175	-.055	-.036	2.908	-.012	-.025	.520	-.049

1: Constant when structural variables are included as a set of predictors in the equation.

2: Constant when control variables are included in the equation.

—: The term did not pass the tolerance test with the tolerance limit of 10^{-25} in the inversion of the cross product of partial derivative matrix. We believe that the limit is sufficiently small as a criterion for a reasonably realistic empirical model.

*: $p < .10$ **: $p < .05$ ***: $p < .01$

youngsters.²² Van Dyke²³ reported that between 1971 and 1974 approximately 83% of federal courts surveyed showed significant underrepresentation of women on juries because of the voluntary exclusion based on various excuses including economic hardship. Our findings thus coincide.

For employees lacking the benefit of company compensation, human capital variables such as one's education and occupational prestige are found to be a more significant predictor of economic excuses than are labor market and class/authority indicators. For instance, higher education is associated with a higher incidence of economic excuse. At the same time, the lower occupational prestige is related to a greater frequency of economic excuses; these findings coincide with our research hypothesis.

The unexpected finding is that, after controlling for organizational and labor market characteristics, white and English-speaking jurors are associated with a higher incidence of economic excuses than are minority and non-English-speaking jurors. The relationship is statistically significant among prospective jurors lacking company compensation ($p < .01$). However, the same relationship is not found for those with guaranteed company compensation. This mixed result is contradictory to previous research findings.²⁴

The higher incidence of economic excuses for white and English-speaking persons may be attributed to the fact that they consider the jury service a nuisance and rely on economic excuses to intentionally avoid jury duty. While excuses based on economic hardship significantly depend on one's economic resources and employment conditions, it is equally important to examine other possible causes for the widespread, negative perceptions of jury service in America.

One reason that many regard jury duty as a nuisance is that jury service is frequently perceived to impose a financial hardship on potential jurors. There is strong evidence to support the perception of increased financial difficulties faced by many prospective jurors. For example, in some jurisdictions, jurors may be sequestered and required to serve for several months continuously. In 1988, ninety-six federal criminal trials lasted a month or longer, up from 35 in 1975. In the civil division, federal judges held 5,222 jury trials in 1986, 335 of which lasted more than two weeks. Because of lengthy jury trials, prospective jurors with heavy work responsibilities may fear loss of income. Blue-collar workers in insecure job positions may also face job loss. In fact, many will lose income because the daily fee paid to jurors remains minimal due to underfunding of the court system.

Second, for many potential jurors, travel to the courthouse every day may

²²Mahaney & Sipes, *Toward Better Management of Criminal Litigation*, 74 JUDICATURE 29 (1988). The American Bar Association, however, recommends that all automatic excuses from jury service be eliminated. See, ABA, Section 6 at 60 (1983).

²³J. VAN DYKE, *supra* note 3, at 121.

²⁴J. VAN DYKE, *supra* note 3; H. FUKURAI, *supra* note 1.

pose a problem. Parents must find someone to care for children during their jury duty. For others, including students, the elderly, and the sick, appearance at a courthouse on an assigned date may be difficult because of transportation difficulties, conflicts with classes, or other scheduled activities. While it might be possible for jury commissioners to reschedule the appearance date, the rescheduling of jury duty is seldom done and resulting jury panels therefore systematically exclude some elements of the community.²⁵

Third, when summoned jurors appear at the courthouse, a great deal of their time is spent waiting. Since most jury commissioners summon more jurors than they need, the lack of efficiency and slowness of the selection process discourage many prospective jurors from making the necessary sacrifices to report for jury duty. Out of the pool that appears, a few will serve but many will never sit on a jury. For example, out of 210 prospective jurors assigned to the 1987 McMartin child-molestation trial in Los Angeles, only twelve jurors and six alternates were selected after several months of lengthy voir dire.²⁶

The widespread negative perception of jury trials generates much apprehension of jury service and selection. For example, white jurors may be more sensitive to the potential economic loss due to a lengthy jury trial than are minority jurors. Our analysis indicates that a strong perception of a threat to economic well-being exists for white jurors employed in companies in the less stable, secondary economic sector. Even when potential jurors might be aware of a company's reimbursement policy for jury duty, a large number of white jurors still use the economic excuse to avoid jury service.

In order to understand the anatomy of economic excuses in different racial groups, an analysis of perceptions of jury service would be helpful. However, our data has limits in that it was not possible to establish a causal connection between perceptions of economic loss and the requesting of an economic excuse. While apprehension of jury service is shared by many potential jurors, and is perhaps inevitable, our findings need further theoretical and empirical elaboration and future research to examine potential jurors' economic status and their perceptions of what jury service entails.

VII. CONCLUSIONS

The anatomy of economic excuses is examined in accordance with structural explanations. To psychological writers such as Hastie,²⁷ Hans and Vidmar,²⁸ Neitzel and Dillehay,²⁹ and Wrightsman,³⁰ the micro-structure of

²⁵H. FUKURAI, *supra* note 1; *Black Jurors*, *supra* note 2.

²⁶RACE, *supra* note 2; *McMARTIN TRIAL*, *supra* note 4.

²⁷R. HASTIE, *INSIDE THE JURY* (1983).

²⁸V. HANS & N. VIDMAR, *supra* note 6.

²⁹M. NEITZEL AND R. DILLEHAY, *supra* note 6.

³⁰L. WRIGHTSMAN, *PSYCHOLOGY AND THE LEGAL SYSTEM* (1987).

the economic excuse and jury participation was an exotic vestige of a human capital and psychological order that affected how jury composition was influenced and how differential jury representativeness is generated. Our analyses partially support their claims that human capital and individual characteristics influence the pattern of economic excuses. However, our data also provide a different look at jury participation. For example, company compensation plays a key role in determining the pattern of economic excuses and strongly influences the resulting jury composition.

In the past, attempts have been made to equalize the economic burden of jury duty by securing mandatory company compensation. For instance, Hawaii had passed a statute requiring employers to continue a worker's salary during jury service. The Hawaii law required every employer with more than twenty-five workers to continue the salary of any employee who served on a jury or participated on any public board. However, the law was later declared unconstitutional by the Hawaii Supreme Court as a violation of equal protection under both the United States and Hawaiian Constitutions.³¹ Thus, legislation requiring company support of employees has not been successful in neutralizing the differences between jurors' organizational resources and has failed to generate egalitarian jury representation.

Our analysis also suggests that prospective jurors's employment conditions and structural locations in the labor market are important in explaining the pattern of economic excuses for workers without company compensation. Labor market measures such as employment status and employee age are also important predictors of economic excuses for jurors with company compensation. In addition, legal variables such as non-economic excuses are important in explaining jury participation. Their impact is especially significant for jurors with no company compensation.

Individual characteristics also play an important role in predicting economic excuses. Both white and English-speaking jurors who work in less stable, secondary economic sectors and without company compensation are more likely to request economic excuse than are racial minorities and non-English speakers.

Our analysis also sheds light on potential jurors' perceptions of jury service. While apprehension of jury service is perhaps inevitable, it is important that future research further examine potential jurors' psychological perceptions of what jury service entails and their economic status.

Our empirical results suggest that while some attempts in the past have failed, it is important to establish and implement laws or regulations that encourage corporate participation through mandated reimbursement policies and/or guarantee of adequate economic reward from the court. Otherwise, the "fair cross-section" requirement may not be met by using the current jury selection process.

³¹Haseqawa v. Maui Pineapple Co., 52 Haw. 327, 475 P.2d 679 (1970).

