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The Rodney King Beating Verdicts

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As a landmark in the recent history of law enforcement and jury trials, the Rodney King beating trials are historically comparable to the 1931 Scottsboro case (*Norris v. Alabama*, 294 U.S. 587, 1935) or the 1968 Huey Newton case (*Newton v. California*, 8 Cal App 3d 359, 87 Cal Rptr 394, 1970). The King beating cases are also similar to Florida trials that led to three urban riots and rebellion during 1980s in Miami, Florida in which police officers were acquitted of criminal charges in the death of three blacks: Arthur McDuffie in 1980, Nevell Johnson in 1982, and Clement Anthony Lloyd in 1989. The 1980 McDuffie riots, for instance, resulted in eighteen deaths and eighty million dollars in property damage (*Barry v. Garcia*, 573 So.2d 932 933, 1991). An all white jury acquitted police officers of all criminal charges in the face of compelling evidence against them, including the testimony of the chief medical officer who said that McDuffie's head injuries were the worst he had seen in 3,600 autopsies (Crewdson, 1980). The verdict triggered violence because it symbolized the continuation of racial inequities in the criminal justice and court system.

Similarly, in the King beating trial and jury verdict which was rightly called "sickening" by then-President Bush and condemned by all segments of society, the King embroglio also provides an opportunity for evaluation and reform of police procedures, law enforcement structures, and jury trials.

In the first state trial, on April 29, 1992, a predominantly white jury had tried and exonerated four Los Angeles white police officers on assault charges for the beating of a black motorist. This was both despite and due to visual court evidence of the continuous beating of King by police officers, images that had been captured on videotape by a resident of a nearby apartment. The acquittal by the predominantly

white jury stunned and angered many people who had regarded the videotape of the incident as incontrovertible evidence of police brutality, racism, and a police force out of control. It also highlighted the racial tensions imploding just below the surface in Los Angeles, the nation's second-largest city. It brought into focus the anger of racial minorities who had long criticized the Los Angeles Police Department (LAPD) for its use of excessive force against members of racial and ethnic minorities.

In the period between January 1986 and December 1990, for instance, there were 8,274 total allegations in complaints by public made against LAPD officers and 24.7% of them were allegations of LAPD officers' excessive force, the largest complaints during that time. As a result, there have been a variety of lawsuits alleging improper use of force by LAPD officers. Many of those complaints came from the neighborhoods with the largest concentration of racial and ethnic minorities (Report of the Independent Commission, 1991, p.55).

The 1992 acquittal of four white police officers thus immediately set off angry reactions and protests by racial minorities in Los Angeles. Mayor Tom Bradley dismayed that "today the system failed us. The jury's verdict will never blind us to what we saw on that videotape" (Mydans, 1992a). Los Angeles District Attorney Ira Reiner added: "We disagree with the jury, but are obliged to accept the integrity of that verdict." President Bush reacted to the verdict differently, hedging: "The court system has worked. What's needed now is calm, respect for the law" (Mydans, 1992b). And then-Democratic presidential candidate Bill Clinton hammered President Bush for not being more "personally involved in healing the racial divisions in this country" (Abramson et al., 1992).

The underlying issue of the beating incident and subsequent urban riot in 1992 has addressed the question of whether justice within the criminal court system was served in the state trial of the four white police officers for beating of a black motorist. Yet, though the public and media largely focused on the police brutality and racial conflicts with law enforcement agencies in inner-cities, one area of the criminal court system has gone largely unchallenged: *The Jury*. Scrutiny of the jury system suggests that the 1992 acquittal of the four white officers was not an anomaly but an inevitable consequence of the jury system in which the position of racial and ethnic minorities in the social system in general and the court system in particular has been molded by socio-historical factors of subordination (Fukurai et al., 1991a, 1991b, 1993).

Jury Trials and Racial Disenfranchisement

The right to a trial by jury is deeply embedded in the American democratic principle. The Fifth, Sixth, and Seventh Amendments to the U.S. Constitution guarantee the right to a jury for all criminal cases and in all civil suits exceeding twenty dollars. Similarly, the constitution of each state guarantees a trial by jury. Consequently approximately eighty percent of jury trials in the world take place in the United States (Hans and Vidmar, 1986).

The United States is known for its democratic ideal. A jury speaking for the community represents an essential ingredient of a democratic government that derives its power from the people. The jury shows that harmony is possible if we listen to each other and seek a unified judgment from a diversity of viewpoints. But these benefits of democracy can be only attained if the assembled jury is representative of a cross-section of the community so that the persons deliberating can legitimately claim to speak on behalf of the community. Any bias in jury selection and representative participation by various segments of society undermines the legitimacy of jury trials in the eyes of citizens.

Recent studies of the jury system and jury selection, however, challenged the ideal of a representative jury and a fair trial by one's peers. While the jury is required to be composed of a fair cross-section of the community, racial and ethnic minorities are consistently underrepresented in the vast majority of both federal and state courts (Fukurai and Butler, 1991, 1994a, 1994b; Fukurai et al., 1993; Butler et al., 1994). Historically the jury in America has been dominated by white males. The persistent underrepresentation of racial minorities has contributed to public distrust and lack of faith in the legal system (Van Dyke, 1973; Fukurai et al., 1993). Many racially motivated jury trials, such as 1980 and 1984 Greensboro trials in Greensboro, North Carolina, 1980 McDuffie trials in Miami, Florida, and 1992 Rodney King beating trials in Los Angeles, provided an example of structural biases in the jury selection process that systematically eliminated potential black and other minority jurors from serving on juries (Levine, 1991). As a result, the defendants were tried by the predominantly white juries and received the verdicts not perceived to reflect the shared collective sentiments of the general community.

In the first state jury trial of four Los Angeles white police officers, for example, the jury's acquittal prompted angry demonstrations by students and black and minority organizations across the country. Many minority groups considered the videotape of incident as evidence of police brutality and racism and felt that justice had failed to prevail in the trial of four white police officers. Federal officials then

reopened the criminal case as a civil rights matter. In February, 1993, the second federal trial began for the same four LAPD officers for the violation of King's civil rights. While the federal trial ended with the conviction of two officers, research indicates that, despite the conviction of the officers by the federal jury, there are even greater biases built into the federal jury selection process than the state jury which acquitted the defendants. Biases such as source lists used for jury selection and the request for potential lengthy sequestration for final jurors had effectively eliminated large numbers of eligible racial and ethnic minorities, the poor, and women from serving on federal juries. Thus, even greater representative disparity was found in the federal jury whose compositions did not reflect a fair cross-section of the community in the Los Angeles federal court jurisdiction.

This paper, then, examines the following substantive issues: (1) underlying factors that led to the beating incident and racism within the police department and the criminal justice system; (2) biases in jury selection procedures at the California state court; (3) selection biases at the second federal jury trial and further evidence of greater discriminatory mechanisms in the selection of federal juries; (4) questions on the legitimacy of the jury verdict; and (5) the aftermath following the verdict of the accused police officers and eroding public confidence concerning jury trials and jury verdicts.

The Beating Incident

For a deeper understanding of the impact of the jury verdict in the beating trial, a brief synopsis of the incident is essential. The incident began at approximately 12:40 a.m. on Sunday morning, March 3, 1991, when California Highway Patrol Officers (CHP) Melanie Singer and Timothy Singer first observed that the white Hyundai driven by Rodney King was speeding in the Pacoima area of the northeastern San Fernando Valley in Los Angeles. The CHP officers reported that King's Hyundai "was traveling at 110 to 115 m.p.h." (Report of the Independent Commission, 1991, p.4). King was driving, accompanied by two black male passengers, Bryant Allen and Freddie Helms who later died in an unrelated auto accident. After King's car was signaled to stop by the police car, King failed to stop. LAPD patrol car, assigned to Officers Lawrence M. Powell and Timothy Wind, then joined the pursuit as the LAPD's primary pursuit car. A Los Angeles Unified School District police squad car which was in the area also joined the pursuit. King finally pulled through the intersection and came to a stop.

When police cars pulled over to the side of the street, George

Holliday, a resident of a nearby apartment, began to videotape the incident. King was on the ground. He rose and moved toward Powell. Taser wires were seen coming from King's body. Sergeant Stacy Koon acknowledged that he ordered the baton blows directing Powell and Wind to hit King with power strokes. He ordered to "hit his joints, hit his wrists, hit his elbows, hit his knees, hit his ankles" (Report of the Independent Commission, 1991, p.7). Passenger Allen and Helms both heard screams from King but could not see any of the beating. They were ordered not to look and to keep their heads on the ground. When Helms tried to raise his head to get it out of the dirt, he was kicked in the side and hit in the head with a baton, drawing blood. Helms was treated at Huntington Memorial Hospital the next morning. King was booked for evading arrest and held for three days. He was released on Wednesday, March 6, after prosecutors determined that there was insufficient evidence to prosecute him.

The initial report of the beating came at 12:56 a.m. when Koon's unit reported to the Watch Commander's desk at Foothill Station, "You just have bit time use of force, and beat the suspect of CHP pursuit, Big Time." The station responded at 12:57 a.m., "Oh well, I'm sure the lizard didn't deserve it, HAHA, I'll let them know, OK" (Report of the Independent Commission, 1991, p.14). Powell's and Wind's unit also exchanged the following messages with patrol officers working in the Sunland Tujunga area of Foothill Division, who were not at the scene of the beating.

[From Powell/Wind] "I haven't beaten anyone this bad in a long time."

[From Foothill Division] "Oh not again, why for you do that, I thought you agreed to chill out for a while."

[From Powell/Wind] "I think he was dusted, many broken bones later after the pursuit." (Report of the Independent Commission, 1991, p.15).

At Pacifica Hospital where King was taken for initial treatment, nurses reported that the officers who accompanied King openly joked and bragged about the number of times King had been hit (Report of the Independent Commission, 1991, p.15).

George Holliday and Paul King, Rodney King's brother, tried to report what they felt was the apparent police abuse. The same day that the beating took place, Paul King first went to the Foothill Station to complain about the treatment of his brother; however, the police officer in the department failed to generate complaint reports. George Holliday also called the Foothill Station on Monday, March 4 to report the incident and offer his videotape to the police. The desk officer, however, made no attempt to learn any details of the event

Holliday witnessed. No personnel complaint was generated as a result of his call. Confronted with what he viewed as disinterest on the part of the LAPD, he made arrangements with Los Angeles television station KTLA to broadcast the videotape on Monday evening. The following day, the tape received national exposure on the Cable News Network (CNN), and thereafter was reported widely in the media all over the world.

Investigations and the Path to the Jury Trial

After the beating incident was televised on March 4, the public reaction was immediate and overwhelming. By March 6, the Federal Bureau of Investigation, the Los Angeles District Attorney's Office, and the Los Angeles Police Department's Internal Affairs Division began investigations. The Police Commission, the civilian panel that oversee the operation of the Police Department, also began an inquiry. On April 1, the Independent Commission was created by Los Angeles Mayor Tom Bradley and soon merged with the Commission created by Los Angeles Chief of Police Daryl Gates. Such efforts to investigate the possible police assault charges against police officers were also endorsed by City Council President John Ferraro, District Attorney Ira Reiner, City Attorney James Hahn, and many other public officials.

Four officers were indicted by the District Attorney's Office for criminal charges including assault with a deadly weapon. Those officers were: Sergeant Stacy Koon and Officers Lawrence Powell, Timothy Wind, and Theodore Briseno. Both Koon and Powell were also charged with submission of a false police report. The District Attorney's Office, however, did not seek indictments against the other 19 LAPD officers who were at the scene and did not attempt to prevent the beating or report it to their superiors. Ages of those bystanders at the scene of the beating ranged from 23 to 48 years, including one black male, one black female, and four Hispanic males (Report of the Independent Commission, 1991, pp.11-13).

On March 14, the indicted officers pled not guilty. Concerned about the police brutality by LAPD officers, United States Attorney General Dick Thornburgh ordered a review of brutality complaints against the LAPD. On May 1, in response to the beating, Mayor Tom Bradley appointed a commission headed by former Deputy Secretary of State Warren Christopher, to investigate the police department. On May 4, the Police Commission, whose members were appointed by the mayor, suspended Los Angeles Police Chief Daryl Gates. Rodney King and his wife Crystal, filed a federal civil rights lawsuit against the city on

May 8. Two days later, the grand jury announced that it would not indict any of the 19 police officers who were bystanders at the beating.

The Christopher Commission released its report on July 9, 1991, including a recommendation of Chief Gates to retire from his office and a range of proposals for both procedural and structural changes in LAPD. The panel concluded that the department suffered from a siege mentality and that a relatively small number of officers accounted for an inordinate number of uses of force but went unpunished. In September 1991, the Los Angeles City Council later approved a ballot measure containing many of the Christopher Commission recommendations, including the greater civilian control of the police department. The initiative went before voters on June 2, 1992 and gained strong support from the voters.

On March 4, the state jury trial began and the opening statements were given before the jury. The jury comprised of 10 whites, 1 Hispanic, and 1 Asian. John Barnett, lawyer for accused officer Briseno, revealed that his client would implicate the other three defendants. Meanwhile, Mayor Tom Bradley announced the choice of Willie L. Williams, a black man who was Chief of Police in Philadelphia, to succeed Chief Daryl Gates. On April 29, 1992, the jury finally reached the verdict. The jury was hung on one count against Powell and announced not-guilty verdicts on all other charges.

Jury Selection and the Trial Jury of Twelve

The jury for the trial of four police officers emerged through a network of screening processes known as jury selection. The California Code of Civil Procedures specifically provides the guideline for the selection of jurors. While jury selection is an important screening process to empanel a group of citizens selected from a cross-section of the community, the shortcoming of the jury selection process and its impact on racial and ethnic representation are known. For instance, the jury selection process has its own biases and filtering mechanisms that prevent full community participation by members of racial and ethnic minorities. Past research has substantiated that the current jury and jury selection system has continued to underrepresent prospective minority jurors in the jury box (Butler and Fukurai, 1991, 1992; Fukurai et al., 1991a, 1991b).

There are eight stages of jury selection in both California and federal courts. (1) First, a given population in a specified geographical area is defined as eligible for jury service. (2) Then, source lists are obtained and/or generated so as to enable the selection of potential jurors. (3) Next, a master file (or wheel) is constructed, which contains

a list of names compiled randomly from the source lists. (4) Jury qualification questionnaires are sent to randomly selected candidates; from the returned questionnaires, a qualified jurors file is constructed, which contains names of those who have met various requirements for jury service, such as residency, citizenship, and English language proficiency. (5) From this juror list, potential jurors are assigned to impanelment lists and to various courts. (6) Jury panels are now brought together, composed of those potential jurors who actually show up at the courthouse. (7) After assignment to a courtroom and a trial, the *voir dire* screening process begins. It is designed to eliminate potential jurors who may be biased and unacceptable to prosecuting and defense attorneys. (8) This culminates in a selection of specific jurors for the jury box and the alternates.

The logic of the entire selection process is based on screening, from the target population to those who finally enter the jury box. According to the law, the purpose of the selection procedure is to choose a jury that reflects a fair cross-section of the community. The chosen jurors are then viewed as being impartial and qualified to represent the community.

Some of the shortcomings and problems of the selection process are known. How closely juries reflect a community's cross-sectional segments depends on the success of the procedures by which jurors are chosen. For instance, at the first stage of jury selection, the change of venue plays an important role in deciding the trial site and the kind of jury pools available for the trial. Additionally white, black and Hispanic representation on a master file and source list, as well as their qualifications for jury service, are considered to be important determinants of balanced racial participation on jury panels. The selection of a jury foreperson is also important because he/she tends to dominate and often dictate the conversation during deliberation processes, thereby exerting significant influence on the possible outcome of the trial (Fukurai et al., 1993, pp.39-80). Thus, in each of the selection stages, there are many other factors influencing jury participation, and these can have a *cumulative effect* on the racial and ethnic composition of jury panels. In the various stages of jury selection, moreover, there are a series of informal filtering techniques that shape and determine the racial, ethnic, and class balance of prospective jurors. In the state trial, three specific stages of jury selection played a key role in determining the jury composition and subsequently the outcome of the trial. Those are: (1) Stage 1 for the change of venue, (2) Stage 7 for *voir dire* in screening prospective jurors for the final jury, and (3) Stage 8 for the deliberation process by the twelve jurors who survived the rigorous screening process of jury

selection. Those three stages of jury selection played an important role in screening out large eligible minority jurors from serving on the first Rodney King beating trial.

The Change of Venue

The jury selection begins with the declaration of the district where the trial is to take place. This feature defines the jurisdiction and geographic area served by the court. The law states that the trial is to take place where the alleged crime was committed. Since the beating took place in Los Angeles County, the jury trial should have taken place in the superior court in Los Angeles. However, the law in California also indicates that when the trial gains too much publicity and the court faces difficulties in selecting a group of "impartial peers," a change of venue may be granted so that the defendants have the chance of being tried before "unbiased" and impartial jurors. Because of the publicity on the beating incident and deep emotions expressed by the residents in Los Angeles, the state Second District Court of Appeal granted a change of venue on July 23, 1991.

Meanwhile, the Second District Court of Appeal removed black Judge Bernard Kamins from the beating case, citing improper private communications between the judge and prosecutors. He was later replaced by a white Los Angeles Superior Court Judge, Stanley M. Weisberg. Judge Weisberg, known to be the most efficient and competent judge in Los Angeles, also presided over the second trial of the famous McMartin preschool child molestation case in 1990 (Butler et al., 1994).

Four months later, on November 23, newly appointed Judge Weisberg selected Ventura County as the new venue for the beating case. The prosecution argued that if the trial was to be moved, it should go to Alameda County in the San Francisco Bay area, where racial makeup is similar to the original trial site of Los Angeles. Judge Weisberg, however, stated during a hearing in Los Angeles that he selected Ventura County over Alameda County on the basis of such factors as convenience for the parties, expense, and the availability of a courtroom in Simi Valley whose proximity would allow residents of Los Angeles to attend the trial (Reinhold, 1992a). He also eliminated a second proposed site, south of Los Angeles in Orange County, because no courtrooms were available. He stated that he did not consider demographics in picking a new venue (Stevens, 1992). Judge Weisberg also rejected the change of venue to Riverside County, though he gave no reason for why he bypassed Riverside (Reinhold, 1992c).

Trying to find unbiased jurors for the beating trial was an exercise in futility. Practically, everyone with television sets had seen the beating. If the case had remained in Los Angeles County, the jury could have included the broader representation of racial and ethnic minorities. According to the 1990 U.S. Census, the population composition in 1990 Los Angeles was 40.8% white, 10.5% black, 37.8% Hispanic, 10.2% Asian, and 0.3% Native Americans. In the venue of Ventura County, on the other hand, blacks comprised only 2.2% of the population, Hispanics 26.1%, Asians 5.2%, Native Americans 0.5%. Whites, however, comprise 65.9% of the entire population. In Simi Valley City where the Superior Court of Ventura County is located, the racial distribution is even more skewed towards a greater proportion of white residents. For example, 79.9% of the county residents are white, compared to 1.5% black, 12.7% Hispanic, 5.3% Asians, and 0.5% Native Americans.

If the trial had taken place in the Central Superior Court District in Los Angeles, greater representation of members of racial minorities could have been ensured because the Superior Court is located in the City of Los Angeles where approximately 63% of city residents are members of racial and ethnic minorities. Specifically, minority residents comprise: 13.0% black, 39.9% Hispanic, and 9.2% Asian of the jurisdiction.

The California Second District Court of Appeal, however, granted the change of venue, citing the political turmoil over the Los Angeles Police Department, and thus overruled originally-appointed Judge Kamins who decided that the four officers be tried in Los Angeles. Further, the change of venue to Ventura County assured that the fate of four police officers on trial for beating the black motorist would be in the hands of jurors drawn from a community that was largely white, largely middle-class, and the residence of choice for many police officers (Stevens, 1992).

In Los Angeles County, only 48 percent of residents owned their own homes and more than 15% of the population had an annual income less than \$10,000. By contrast, in the City of Simi Valley where the trial was held, people were mostly employed, attended one of the city's 47 churches, were involved in its 25 primary and secondary schools, were well off economically, and practiced a middle-class life style where three-quarters of the residents owned their own homes. In recent years, many members of the Los Angeles Police Department had fled for personal safety to Simi Valley. Los Angeles Loyola Law School Professor Laurie L. Levenson, for example, said that "The responsibility for this verdict falls on the jury. Frankly, the people in Simi Valley worship the police" (Gross, 1992). Thus, the jury selected

from the residents in Simi Valley neighborhoods was expected to be politically conservative and pro-police (Smith, 1992).

After the verdict on April 29, the prosecution drew fire for not fighting the change of venue. Prosecutor Terry L. White who is black, however, did not object strenuously to the choice of Ventura County for the trial. He initially agreed that the trial should be moved from Los Angeles County to a different site for a fair trial, and showed satisfaction with Ventura County as an ultimate trial site for the four white officers (Smith, 1992).

Voir Dire

In January 1992 Judge Weisberg ordered the 2,000 member jury pool, the largest in the history of the state. The number of summoned jurors was much greater than the total summons for the high-profile McMartin Preschool molestation trial, which lasted 7 and half years, ending in August 1990 in Los Angeles (Butler et al., 1994). In the beginning of February, 1992 the selection process began with the mailing of a questionnaire to prospective jurors in the jurisdiction. It was followed by courtroom interviews with more than 260 prospective jurors in an effort to discover any biases about the highly publicized beating. The total of 205 jurors who appeared at the courthouse were assigned to King's beating trial.

On February 6, pre-voir dire questionnaires were distributed to every prospective juror assigned to the trial. The questionnaires, which listed 102 questions and names of 173 possible witnesses, asked the jurors a variety of questions on their attitudes toward law enforcement agencies, potential racism and prejudice against minorities, and their feelings and opinions about the videotape. The questionnaires were distributed to every prospective juror to evaluate whether they were biased in a way that might prevent them from examining the case impartially.

The questions, for example, included the following:

1. Do you think police officers treat people differently in low income neighborhoods than they do in middle to upper income neighborhoods?
2. What are your views towards the police in general or the role of the police officer?
3. Do you feel that a police officer's testimony will be more truthful or accurate than that of a civilian?
4. What are your views towards police officers as individuals?
5. Do you believe police officers can make mistakes?

6. Do you believe that a police officer should be the subject of criminal prosecution if he has committed what the law declares to be a crime while on duty?
7. Do you believe that the conduct of a police officer in the field should be the subject of criminal prosecution if he has committed what the law declares to be a crime while on duty?

The pre-voir dire questionnaire also asked questions about potential racism and biases towards racial and ethnic minorities. For example, one of the questions included:

Is there anything about such a scenario [possible beatings of the black motorist by white police officers] that causes you concern?

After the prospective jurors filled out the questionnaires, they were called in to the courtroom for the voir dire screening session. On the basis of their responses to the questionnaire, Judge Weisberg questioned prospective jurors about their opinions and possibly biases about the case. Judge Weisberg's discretion in dismissing and giving excuses to potential jurors from the jury pool played a significant role in selecting a predominantly white jury for the trial. For example, on February 20, despite the repeated objections by prosecutors, Judge Weisberg dismissed the first group of 10 prospective jurors who said that they were outraged by the videotape. Responding to a 102-item questionnaire, several prospective jurors vividly described their recollections of the videotape. The first juror, dismissed at the defense request, wrote that "the officers were obviously beating the man, which was unnecessary because [he] was on the ground in handcuffs." Another prospective juror said that the officers had acted "brutally and beyond reason." She was excused. Of the first 40 persons allowed to remain on the panel, only one was black. Two other blacks were called but excused, one for hardship reasons and one because he said that he had concluded the police officers used excessive force (Cannon, 1992)

In most states, attorneys on both sides conduct most of this voir dire questioning. But in California, Proposition 115, a massive rewrite of California criminal law that voters passed in June 1990, shifted that questioning of voir dire to the judge. Thus, attorneys in the trial could only submit questions, but they were in the nature of follow-up questions, and the judge was not obliged to use them. Proposition 115 supporters generally billed the measure as a way to speed up justice, but opponents said that it would mean the loss of essential safeguards in the criminal justice system. The problem of attorneys' inability to directly question prospective jurors was more evident in the beating

trial because the prosecution obviously failed to evaluate and reveal potential jurors' biases and possible prejudice on the basis of jurors' prior occupations and associations with law enforcement agencies.

With the prosecution facing a jury pool like that in Simi Valley, a pro-police and conservative community, the defense clearly appeared to gain an advantage. The defense was seeking jurors who were independent-minded enough to look beyond the apparent ambiguity of the videotape, while at the same time being sympathetic to authority figures like law enforcement officers. For example, when the judge questioned each juror, his questions might not include in-depth questions that attorneys would have asked. The effect of the restrictive nature of the question sessions seemed to reflect on the kind of jurors selected for the jury box.

Thus, the final jurors selected by both the defense and prosecution attorneys reflected the lack of detailed information on the background of prospective jurors during voir dire which could have been discovered by the prosecutors. For example, the final jury included three persons who were relatives of police officers and three jurors who were members of the National Rifle Association. With close associations with law enforcement agencies, those potential jurors were more likely to share the life experience and morals that may have been underling factors in the crime in question. Thus, they may have been willing to impute to the defendants a weak intent to commit the violent act, assaulting a civilian with a deadly weapon. As a consequence of the inability to carefully and objectively examine each prospective juror through direct questionings, the prosecution failed to identify potential biases of jurors and eliminate them by the use of a peremptory challenge.

The Simi Valley jury of twelve did not include a single black juror. It was composed of six white men and four white women, one Hispanic woman and an Asian woman born in the Philippines. All jurors were married and had children. Their age ranged from 39 to 65; three were 65 or over; three between 50 and 59; three between 43 and 50; and three between 39 and 40. Eleven owned their own homes; and only the Hispanic juror, Virginia Bravo Loya, was a renter (Galloway and Griffith, 1992). Eight had either served in the armed forces or had spouses who have been in the military, going back as far as World War II. Five members of the panel said in the questionnaires that they owned or used guns while in the military or for hunting or recreational target shootings. Three jurors had relatives who have served on police departments, including a woman who said that her step-father was a police officer in Portland, Oregon, and another who said that his brother was a retired Los Angeles Police Department sergeant.

Five were registered Republicans: one a retired program manager for a government military contractor; one a retired real estate broker living in a house behind barbed wire with a pad locked chain-link front gate; another a retired teacher who served in the Navy as a shore patrolman, living in a large house behind a huge American flag on a tall pole; another with four small children; and the Filipino Amelia Pigeon living in a house assessed at \$229,000. There were five Democrats in the jury that included one former military policeman with the Air Force; two relatively isolated individuals living in remote areas; and one divorced woman living alone in a modest home. (Reinhold, 1992b).

They were a secure, yet fearful, conservative-minded group. On the pre-voir dire questionnaires, all jurors stated that they had heard about the King beating. When jurors were asked whether they believed that police officers treated people in low-income neighborhoods differently from residents of middle- and upper-income areas, two jurors said that they believed that people in poor neighborhoods received different treatment, while nine said that the police treated citizens the same regardless of the area. One was undecided. Seven jurors said that they had been victims of crimes ranging from robbery to assault. On the questionnaires, all said that they had positive opinions of police in general and the role of police officers (Galloway and Griffith, 1992).

The Jury Box

Given the milieu from which the jurors emerged, all but the Hispanic juror were apparently convinced by this line of reasoning, and seemed to be looking to their own belief in security against the Rodney King, who for mere suspicion could be beaten by police officers acting under the color of authority. The large majority of eight jurors, however, were inclined to acquit almost from the beginning of their deliberations, overwhelming the four "dissidents" on not guilty verdicts for three officers. These four nonetheless "hung the jury" by holding out for at least one guilty verdict against defendant police officer Lawrence Powell.

One female juror told the press that she voted to acquit the officers because King had repeatedly resisted arrest and "was in full control" of the situation that resulted in his own beating. Another juror thought that King "was not being abused," but "was directing the action. He was the one that determined how long it took to put him in handcuffs

because as long as he fought the patrolman, the policemen had to continue to try to maintain him, to keep from having more erratic felonious acts" (Daniels, 1992).

Another anonymous juror told the talk-show host Larry King that the videotape of the beating was "ludicrous," because Rodney King had "dictated all of the actions" (*Newsweek*, 1992a). Still another female juror said that she, another woman, and two men had pressed for guilty verdicts on the charges against the officers throughout jury deliberations, but were ultimately worn down by the 8-member majority. And though the jury forewoman said that "to me what I saw on the tape was excessive use of force," and that she "fought hard because I saw that justice was not being done," trying "to use the videotape as evidence," she surrendered to the consensus to acquit three officers and was left to hold on to her "own conviction" by siding for conviction of the fourth officer, thereby deadlocking the jury and raising the possibility that the D.A. could again charge him on this count (Daniels, 1992).

While the beating trial had two minority jurors, they might have looked at Rodney King's actions very differently from those who lived in Los Angeles County. John D. Gilleland, a psychologist from a jury consulting firm called Jury Analysts in Pennsylvania, stated that "[A] L.A. County jury, even if they had been 10 whites, one Hispanic and one Asian, would have had very different perceptions." Reasoning in a similar way, California legislators thus began considering proposals requiring that when cases are moved between jurisdictions they be transferred to areas of comparable ethnicity and density (Margolick, 1992).

Standing on the courthouse steps after the verdict, L.A. Councilwoman Patricia Moore called the result "a modern-day lynching." John Singleton, director of "Boyz N the Hood," said, "This is a time bomb. . . . It's going to blow up" (*Los Angeles Times*, 1992a; *Newsweek*, 1992b). "This was a jury well attuned to the defendants, while politically and demographically a world apart from the victim," declared African-American Judge LaDoris Cordell of the Santa Clara County Superior Court. "The Simi Valley 12 responded predictably—they sided with the protectors of justice against the bestial black man, even while witnessing daily a videotape exposing the relentless, inhuman assault of the four defendants. Such is the power of prejudice that this compelling evidence did nothing to dispel stereotypes" (Cordell, 1992).

Prosecution and Incompetence

The prosecution had done poorly. Despite what appeared as evidence of the uncontroverted videotaped police brutality, defense lawyers won the jurors over in defining the process that led up to the beating: that King could have avoided the beating in the first place by failing to resist; that King thus set the agenda for the beatings; and that the force justified by circumstances at the onset also justified whatever force flowed in subduing King. It was a fallacious argument because the police officers, not King, were on trial for the use of excessive force beyond subduing King.

The institutional court system may be to blame for black chief prosecutor Terry L. White's lack of aggressive prosecution. Yet Deputy District Attorney White saw no hope of obtaining a more favorable panel than those selected from the pool of over 200 potential jurors answering written questionnaires. With blacks making up only 2 percent of the population of Ventura County, nonetheless there were six blacks in the jury pool that Deputy D.A. White could have sought—though he did not use up all his arbitrary peremptory challenges to try to eliminate obviously unfavorable jurors. Nor did he try to move the venue to a place where black jurors might have been secured.

In California, in the interest of a fair trial, a single judge in a superior court may change venue from one jurisdiction to another, even where the demographics of the substituted locale may be dramatically different from the place where the alleged crime was committed. The appeals court had already ruled that the four officers could not receive a fair trial in Los Angeles County. And in the name of finding unbiased jurors—who undoubtedly were as familiar with the videotaped beating as those in Los Angeles—Judge Stanley Weisberg of the L.A. Superior Court had transferred the case from Los Angeles to Simi Valley that was an overwhelmingly white, conservative enclave and the home of the Ronald Reagan Presidential Library. Having represented many victims of police brutality, Los Alamitos lawyer Tom Barham thought that the facts of the King case “were so overwhelming that the court did backflips to give this trial every appearance of fairness.” “Everyone from the president to the dogcatcher had their necks in a noose,” said John Barnett, accused Officer Theodore Briseno's lawyer (*Newsweek*, 1992a).

John C. Burton, Co-chairman of the Police Misconduct Lawyers Referral Service in Los Angeles, asserted that L.A. County District Attorney Ira Riener was ambivalent about the case from the outset, that chief prosecutor Terry White took cues from his boss, that the

lack of prosecutorial zeal stemmed from their role as “part of the same state apparatus as the police. They're used to prosecuting Rodney Kings, not defending them. To them, he's just another minority young man who's been chucked onto the junk pile” (Margolick, 1992).

The Federal Civil Rights Trial

The acquittal verdict by the first state jury prompted angry demonstrations by many political groups, students, and racial minorities across the country. The verdict and subsequent riots in many urban cities led federal officials to reopen the case as a civil rights matter.

After the 1992 verdict, there were a number of emerging structural and political factors that differentiated the federal trial from the state trial. For example, Bill Clinton was elected as the new president and he specifically stated that his administration would strive to improve the civil rights status of many minority groups. While both the Reagan and Bush administrations largely failed to improve the civil rights of minorities, the new administration showed stronger commitment to pay greater attention to issues of justice, and social and economic inequities. Thus, it seemed certain that the federal government would respond to the King case by sending two of their best federal prosecutors available: Barry F. Kowalski, Deputy Chief of the Justice Department, Civil Rights Division and Steven D. Clymer, working for the Los Angeles Bureau of the U.S. Attorney's Office and regarded as a rising star in bringing convictions in many difficult federal cases.

In February, 1993 the second trial for the civil rights violation of Rodney King began in the Central Federal District Court in Los Angeles, California, based on federal constitutional law defining criminal activity as intentionally depriving the victim of his civil rights.

The Federal Rodney King case was thus different than the first state trial where the charges were criminal assault under color and authority of law. For in the federal indictment three officers (Briseno, Powell, and Wind) were charged with depriving Rodney King of his civil rights to be free from the use of unreasonable force during an arrest under color of law, as well as aiding and abetting in a conspiracy to do so; and the supervising officer Sergeant Koon was charged with violating Rodney King's 14th Amendment right not to be deprived of liberty without due process of law when Koon failed to restrain the officers under his charge from repeatedly kicking and striking King. The federal criminal case thus had the element of the police officers'

intentional infliction of on-the-scene punishment, without due process of law, depriving the victim of his civil rights to be secure in his person against arbitrary arrest, excessive force, and summary punishment by the police.

In the federal trial, similarly, three specific stages of jury selection played a key role in determining the jury composition and subsequently the outcome of the trial. These included: (1) Stage 2 for the source list from which federal jurors were selected, (2) Stage 4 for creating qualified jurors' lists by mailing jury qualification questionnaires to potential jurors who were randomly selected from the source list, and (3) Stage 7 for conducting voir dire in screening and selecting the final jury.

The Source List for Federal Juries

In many states including California, two source lists are used to compile the names of prospective jurors: (1) voter registration lists (ROV) and (2) motor vehicle registration lists (DMV). The American Bar Association (ABA, 1983, Section 3.7) provides the two criteria for the source lists: (1) inclusiveness and (2) representativeness. *Inclusiveness* refers to the proportion of the adult population on the source list; *representativeness* refers to the proportionate presence of cognizable groups on the list. The ABA suggests that voter lists supplemented by lists of licensed drivers will provide reasonable inclusiveness and representativeness.

In the federal system, however, voter registration lists are used as a source list because of the Jury Selection and Service Act of 1968 in which Congress was persuaded that voter rolls would meet the representativeness, or fair cross-section, test of random selection from the community, a requirement guaranteed by the Sixth Amendment to the U.S. Constitution (U.S. C., 1968, Section 1861).

The use of ROV lists alone, however, does not lead to a representative cross section of the community because of differential registrations by race and social class. Research estimates that voter lists automatically exclude approximately one third of the adult population, tipping prospective jury selection toward the elderly, the relatively affluent, the self-employed, and government workers, and away from minorities, including blacks, Hispanics, women, and the poor (Kairys 1972, pp. 777-780; Fukurai et al., 1993, pp. 43-47). Some observers of jury selection take the position that minority underrepresentation resulting from the exclusive use of the voter list is justified because it is the individual's responsibility to register to vote and those persons uninterested in voting probably will not make good jurors. As a result, the voter list can be viewed as a screening

mechanism to eliminate those who are deemed undesirable (U.S.C. 1968, Sections 1792, 1796). Irvin Kaufman, chairman of the committee that drafted the 1968 Jury Selection Act, stated that the voter list "supplies an important built-in screening element. It automatically eliminates those individuals not interested enough in their government to vote or indeed not qualified to do" (U.S.C., 1967: 253). This position is clearly contradictory to the eligibility limitations specified in the Federal Jury Selection Act of 1968, which disqualifies only noncitizens; those under age 18; those who have not "resided for a period of one year within the judicial district"; those "unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form"; those "unable to speak the English language"; those with "mental or physical infirmity"; and those under indictment or convicted of an offense punishable by imprisonment of more than one year (U.S.C., 1968, Section 1985 (b)). While not a legally mandated criterion in the act, participation in the electoral process has become a *de facto* prerequisite to jury participation. This view has now taken on the status of *stare decisis*, the binding power of precedent.

Table 4.1 shows the reported voter registration by different racial groups in Los Angeles County, California. A lower voter registration rate is found among racial minority groups in both past and recent congressional and presidential elections. Research shows that Hispanic populations are most likely to be underrepresented in jury pools because of their lower registration rates. Hispanic electoral participation is even lower than that of the black population. For example, in the 1988 presidential election, 67.9% of whites registered but only 35.5% of the Hispanic-origin population registered. For the past fifteen years in California and Los Angeles, black adults had higher registration rates than whites. Nationally, however, although the registration rate of black voters was higher than that of Hispanics, it was consistently lower than the overall registration of white populations in both presidential and congressional elections between 1968 and 1992 (Fukurai et al., 1993, pp. 18-19). These data suggest that in Los Angeles, the use of ROV lists for federal juries had detrimental effects on Hispanic jury participation because more than 80% of Hispanics are systematically excluded from jury service at the outset.

It becomes no surprise that the racial composition of selected jurors for the federal civil rights trial was quite different from the racial composition of residents in the federal district court jurisdiction (see Table 4.2). For example, the jury in the federal trial of the officers consisted of nine whites, two blacks, and one Hispanic, which appears to be more representative than the state trial, which only included one

TABLE 4.1 Reported Registration in California and Los Angeles County by Race and Hispanic Origin in November 1980 and 1990 Election

Race	1990 California		1988 California		1980 Los Angeles	
	Percentage	Standard Error	Percentage	Standard Error	Percentage	Standard Error
Total Voting						
White	57.0	0.7	60.7	1.0	54.7	1.3
Black	62.4	2.7	69.5	4.2	65.1	4.0
Hispanic Origin*	25.7	1.2	24.4	2.1	18.8	3.4

*Persons of Hispanic origin may be of any race.

Source: U.S. Bureau of the Census, Current Population Reports, Series P-20, No. 370, 440, "Voting and Registration in the Election of November 1980," "Voting and Registration in the Election of November 1988," "Voting and Registration in the Election of November, 1990," U.S. Government Printing Office, Washington, D.C., 1981, 1989, 1991.

Hispanic and one Asian jurors. But the 1990 U.S. Census indicates that only 40% of Los Angeles County residents were white, and 60% were members of racial and ethnic minorities. Similarly, only half of the residents in the LA federal court jurisdiction which covers seven counties in southern California were white (50.6%). To truly reflect the community and claim to speak on behalf of the community, the member of white and minority jurors should have been almost equal.

TABLE 4.2 The Central Federal District Court Jurisdiction: Racial Compositions of Seven California Counties (Percentages)¹

Places	White ²	Black	Hispanic	Asian ³	Native American ⁴	Others
County						
Los Angeles	40.8	10.5	37.8	10.2	0.3	0.2
Orange	64.5	1.6	23.4	10.0	0.4	0.1
Riverside	64.4	5.1	26.4	3.3	0.7	0.2
San Bernardino	60.8	7.7	26.7	3.9	0.7	0.2
San Luis Obispo	81.2	2.0	13.3	2.7	0.8	0.1
Santa Barbara	66.1	2.5	26.6	4.1	0.6	0.1
Ventura	65.9	2.2	26.4	4.9	0.5	0.1
Federal Court Jurisdiction						
Seven Counties	50.6	7.7	32.5	8.6	0.4	0.2

¹Figures are based on the 1990 U.S. Census.

²Calculated by subtracting the total nonwhite population from the total population (18 years or older) and divide it by the total population. Thus the variable can be named as non-Hispanic white populations.

³Asians included Pacific islanders.

⁴Native Americans include American Indians, Eskimos, and Aleuts.

The use of ROV thus systematically excludes racial minorities from jury selection and the federal jury in the King trial did not reflect the fair cross section of the community in Los Angeles County or the Federal Court District jurisdiction.

The Jury Qualification of Prospective Jurors

The fourth step in the federal jury selection procedure is to compile the name of qualified potential jurors, after the randomly selected jurors are screened by jury qualification questionnaires. Once the master file has been created, jury commissioners can take two discretionary steps in compiling the qualified-jurors file: (1) setting qualification standards and (2) designing the method for compiling the list of qualified jurors.

The 1968 Federal Jury Selection and Service Act specifies the qualifications for jury service in the federal court: (1) being "a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district"; (2) having an ability "to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the jury qualification form"; (3) having an ability "to speak the English language"; (3) not being unable, "by reason of mental or physical infirmity, to render satisfactory jury service"; and (5) not having "been convicted in a State or Federal court of record of a crime punishable by imprisonment for more than one year," unless the person's civil rights have been restored by pardon or amnesty (U.S.C., 1968, Section 1965 (b), (5)).

In addition to the qualification, another important factor that is influential at the qualification stage of jury selection, particularly for trials like the federal King case, is jury sequestration. As few in Los Angeles were willing to serve in such a case out of fear and assuming responsibility, selecting a large jury pool and empanelling a jury of impartial peers to try the case was a critical factor in the ultimate outcome. Federal District Court Judge John G. Davies ordered that the jury would be sequestered and that the names of the jurors would remain confidential to prevent jury tampering and harassment—the first time in more than a decade that the Federal Court in Los Angeles had done so.

Fear of involvement and self-exclusion were immediate, major factors in selecting the jury for the second trial. For jurors from the first trial had been harassed and threatened after their names were published; hounded by the press and electronic media. To deal with public reluctance to get involved in a second trial, presiding Judge Davies stepped outside normal jury-selection procedures, sending out

qualification questionnaires to prospective jurors based on their willingness to participate in a sequestered jury trial.

Technically speaking, the Federal District Court in Los Angeles was able to draw from a pool of more than 16 million residents spanning the seven-county central district of California. But rather than issuing summons, inquiries were sent out to an initial pool of 4,482 prospective jurors. Of these inquiries, 905 were not returned, some 3,347 respondents stated they could not serve on a sequestered jury for a trial, and only 230 (5.1% of mailed jurors) said that they would be willing to be sequestered in a trial that could last at least two months. Presiding Judge Davies then had 2,000 additional letters sent out to potential jurors, providing no information about the nature of the case, only asking preliminary questions intended to screen those who could not serve because of time conflicts with sequestration or other constraints.

Sequestration is a procedure to insulate jurors from publicity about the trial and information on the defendants that is not admissible in evidence. Because jury service is a hardship involving loss of personal time and provides inadequate pay, this personal burden is likely to result in a jury that is not representative of the community. Due to minimal compensation, prospective jurors who have less education and less income, and who are in secondary labor markets, tend to be underrepresented (Fukurai et al., 1993). Jurors with higher education and thus higher paying jobs are more able to sit on a sequestered jury (Fukurai and Butler, 1991). Thus, the resulting group of sequestered jurors is not likely to be representative of the community at large (Van Dyke, 1977, p.181; Fukurai et al., 1993, pp.159-160).

With \$10 as their daily fee for jury service in Los Angeles, the lives of jurors were confined to a court-provided apartment for the entire duration of the trial. As the Mitchell-Stans trial in the early 1970's revealed, sequestered juries generally do not represent the fair cross-section of the community (Fukurai et al., 1993). Furthermore, the resulting verdicts by racially and economically demarcated juries do not have strong legitimacy in the eyes of citizens (Fukurai et al., 1993, pp.72-73).

Another important factor setting limits on minority participation at this stage of jury selection is the lack of follow-up of qualification questionnaires sent to prospective jurors. Because jury qualification questionnaires are generally sent by mail, highly mobile people have the least chance of receiving them and a permanent residence becomes essential if one is to participate in the process. One's labor market position as a migrant enhances the probability of being excluded from a jury pool, as those who move and fail to receive jury qualification questionnaires ("undeliverables") or to return them ("recalcitrants")

cannot qualify for selection. In fact, such persons are systematically eliminated. Thus a potential juror who has just entered the job market, and/or who is placed in a less stable, secondary labor market, is likely to be eliminated long before being called into the courthouse. Even if he or she makes it into the courthouse, he or she is likely to be excused for reasons of economic hardship. Consequently, potential jurors from a less stable, secondary labor market have fewer chances of surviving the jury selection process, and in the world of job-structured benefits, those who failed to receive qualification questionnaires or who ask to be excused from jury duty are predominantly members of racial minorities (Fukurai et al., 1987; Fukurai and Butler, 1991, Fukurai et al., 1993, pp.21-22).

Voir Dire

Similar to the first state trial, voir dire - the seventh stage of jury selection - performed the important function in influencing the outcome of the federal trial. Like the state trial in Simi Valley, both prosecution and defense attorneys were prohibited from directly questioning prospective jurors. However, both lawyers in the federal trial were able to conduct in-depth analyses of bias in potential jurors who were assigned to the King trial. Before voir dire, all the assigned jurors were requested to fill out a 53-page, 125-item pre-voir dire jury questionnaire which information became the basis for the selection of final jurors in the trial.

While no black jurors did not serve on the first state jury, the voir dire in the second federal trial was conducted differently and two black jurors were finally selected to serve on the jury. During voir dire the defense had tried to exclude potential jurors who live in the riot area, particularly blacks, on grounds that they might find it difficult to vote for acquittals because that would lead to new disturbances in their residential areas. A black male the defense tried to remove was a Marine veteran who has lived in the Watts neighborhood for 25 years. The defense argued that he should be excused from the panel because the defense saw him as favoring the prosecution based on his experience in Watts and he probably has seen police abuse in his neighborhoods (Kramer, 1993). He also made the statement in the lengthy pre-voir dire questionnaire that he had been disappointed in the verdicts in Simi Valley. However, U.S. District Judge John G. Davies refused to allow the defense to exclude a long-time black resident of the Watts on the ground that jurors cannot be excluded on the basis of race (*Batson v. Kentucky*, 106 U.S. 1712 1986).

Similarly, the defense argued to exclude a black female postal

worker from suburban Orange County. The defense challenged her credibility and sought to remove her from the panel. For example, one day before the trial was to begin the defense told Judge Davies that an excused juror, a white reserve policeman, had called to tell them that the postal worker "disdainfully" blamed defense lawyers about the absence of blacks on the previous jury in Simi Valley that virtually exonerated the officers of state criminal charges. Judge Davies, however, refused to allow the defense to remove the black female postal worker from the panel.

After the lengthy voir dire, it became evident that, for the first time in two years, black jurors were allowed to sit in the trial of four white police officers. In the state trial, almost all participants in the trial were members of the racial majority: all white defendants were represented by all white defense attorneys, the trial was presided over by a white judge, and white defendants were tried by a predominantly white jury which was selected from dominantly white residential areas. District Attorney Terry L. White in the state trial had been the only black person involved in the beating case. Originally appointed superior court judge, Bernard Kamins, was also black but he was later dismissed and replaced by a white judge Stanley Weisberg. While racial backgrounds of participants in the federal trial remained almost identical, the federal jury finally included jurors who shared the same racial and cultural background as the black motorist. For instance, the federal jurors had the following characteristics: (1) 9 white, 2 black, and 1 Hispanic and (2) 8 male and 4 female. The jurors also included: a former Marine, a Watts resident for 25 years, a worker in the real estate industry, a U.S. Postal Service worker, an insurance firm worker, a business dealer, a former security guard who has used a police baton on people twice but in one case then talked the man into giving up a potential weapon, a welder from Denmark who served on six juries, and a retail clerk.

During the trial the names of twelve federal jurors were not disclosed. They were only referred to by number in order to provide each juror greater protection and to try to insulate them from the public and media. However, close ethnographic observations in the courtroom indicated that the jurors were mostly in their 40s and 50s except Juror No. 7, who is a black women believed to be in her 20s who works for the U.S. Postal Service, Juror No. 10, a white man in his 20s, who once was convicted for driving under the influence, and Juror No. 12, a Hispanic man in his 20s or early 30s who said that he had never seen the videotape of King's beating and had no opinion about it.

On April 17, 1993 the jury finally deliberated approximately 60 hours and decided that two of four police officers, Sergeant Stacy Koon

and Officer Laurence Powell, were guilty of violating Rodney King's civil rights. The other two officers, Timothy Wind and Theodore Briseno, were acquitted by the jury.

Conclusions

The jury serves as a reminder that we have a democratic government that derives its power from the people. However, recently mistrust of the jury system has been expressed by many observers and participants. Both accused and victims of crime sometimes doubt the fairness of verdicts, arguing that jurors acted out of emotion rather than reason, or that jurors are prejudiced to racially motivated cases. These criticism have serious consequences for the legitimacy of the judicial system because the jury plays such a unique and important role in our society.

The analysis of the King's beating trials suggested both legal and extra-legal factors that contributed to the acquittal of the white officers by the state jury and the subsequent urban riot. Those factors include: (1) the change of venue to a jurisdiction of a predominantly white community, (2) inherent biases in the jury selection system, ensuring the underrepresentation of minority jurors in the jury box, (3) elimination of a black judge on unsubstantiated information and overruling his decision that the trial be held in Los Angeles County where the alleged crime had taken place, and (4) racism within the Los Angeles Police Department, cojoined to a rising incidence of police abuse against racial and ethnic minorities. While the second federal trial resulted in the conviction of two of the four officers, our analyses revealed that the composition of the federal jury did not reflect a cross section of the community in a federal court jurisdiction of Los Angeles. In January 1990, in *Holland v. Illinois*, the Supreme Court reiterated the idea that no single jury need to be an accurate representation of the community. However, for a racially sensitive trial like the King beating case in Los Angeles, racially balanced juries could have provided much stronger legitimacy in representing collective community sentiments, especially in the eyes of racial and ethnic minorities.

The possible reforms and elimination of biases in the jury selection system include the following: (1) uses of multiple source lists (ROV, DMV, and other sources including property tax and social security lists) so that the compiled source list contributes to the enlarged jury pools available in the jurisdiction; (2) the change of venue to be granted to a new jurisdiction where the race and class makeup is similar to the original site; (3) securing abilities of prosecution and defense attorneys to directly question prospective jurors during voir dire;

(4) requiring mandated follow-ups of non-returned jury qualification questionnaires and jury summonses; and (5) increased payments to potential jurors. As our analysis pointed out, the use of ROV lists alone does not lead to a representative cross section of the community because voter lists automatically exclude large proportions of racial and ethnic minorities. Despite the obvious advantages of using multiple source lists, the majority of states, as well as virtually all federal courts, continue to use only the ROV list to identify potential jurors. The impact of narrowly defined source lists on minority representation is undoubtedly severe and the use of multiple source lists can improve judicial participation by members of racial and ethnic minorities.

Secondly, the change of venue plays an important role in deciding the trial site and the kind of jury pools available for the trial. We recommend that if the trial is to be granted, it should go to a new site where racial and social class compositions are similar to the original trial site. In California, since a single judge can determine the location of the new trial site, the judge should be required to consider extra-legal dimensions of the potential jury pool such as race and social class makeup of prospective jurors in the new jurisdiction.

Thirdly, since jury summonses and qualification questionnaires are generally sent by mail, it is important to require courts to follow up mailings to potential jurors to ensure their appearance for courtroom screening. For example, in Los Angeles, between 1983 and 1984, almost one million jury qualification questionnaires (963,836) were mailed to potential jurors. Approximately 44% (423,779) of them were not responded: 15% undeliverables (140,581) and 29% recalcitrants (283,198). While the follow-up of nonresponses is required by law, it has been virtually non-existent in almost all of state and federal courts (Fukurai et al., 1993, pp.119-122). Thus the follow-up of both undeliverables and recalcitrants becomes crucial in an attempt to obtain a cross sectional representation on jury trials.

Fourthly, Proposition 115 in 1990 eliminated the ability of prosecution and defense attorneys to directly question individual prospective jurors. Federal courts also rely on judge-conducted voir dire methods. While Proposition 115 supporters generally billed the measure as a way to speed up justice, recent research shows that the judge-directed voir dire methods cost as much as attorney-conducted voir dire and that judge-directed voir dire shows greater problems in impaneling "impartial" juries because judge-conducted voir dire is less successful in revealing jurors' potential biases (Johnson, 1990). Since the requirement of trials by impartial jurors is less likely to be met under the judge-conducted voir dire method, attorneys should be allowed to question individual prospective jurors in both state and federal courts.

Lastly, the prospect of getting five to ten dollars a day, less than half the minimum wage, is a disincentive to many potential jurors. Minorities and the urban poor are the least able to give up most of their income for a minimum of one or two weeks. Many of them consequently disregard their subpoenas or manufacture gimmicks to get excused. Thus the inadequate jury compensation contributes to class and race bias in the composition of jurors. There are two ways to cope with inadequate compensation problems. One way of compensating jurors is to make employers continue to pay regular salaries to their employees while serving on juries. In the past, attempts have been made to equalize the economic burden of jury duty by securing mandatory company compensations. For example, Hawaii, in 1966 and 1970, passed a statute requiring employers to continue an employee's salary during jury service. This law required every employer with more than 25 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 the equal protection clause and the taking clause of both the U.S. and the Hawaii Constitutions (*Hasegawa v. Maui Pineapple Co.*, 52 Haw. 327, 475 p.2d 679 1970). While it may not be unreasonable for large corporations who employ the bulk of Americans to subsidize jury functioning as a public service, this might be too big a burden for small businesses to afford. The statute also left out many potential jurors such as hourly-wage and daily-wage earners, the underemployed, and the unemployed. Prospective jurors whose livelihood depends on commissions were also inadequately compensated by mere salary-continuation plans.

Second, since payments to jurors represent a tiny fraction of the total expenses of the legal system, juror pay could be raised substantially. In 1992, although jury fees vary among counties, jurors were awarded \$5 a day in most state and federal courts in California. Savings accrued from using modern techniques for making juror utilization more efficient and averting wasted hours spent sitting in the jury hall may be an important step to obtain the additional funds to pay for the increased wages for jurors. Adequate juror compensations will be an important incentive to the urban poor and contribute to greater jury participation by members of racial and ethnic minorities. After all, the judge and prosecutors are paid by the state because they are considered part of the system. Why not jurors?

After the 1967 summer "riots," the Kerner Commission Report (1968) had warned that the nation was moving toward two societies, one black, one white—separate and unequal—suggesting that the resourceful and imaginative use of available legal processes could

contribute significantly to the alleviation of tensions—providing the black underclass a meaningful opportunity to influence events which affect them and their community. Yet, for the past thirty years, the step towards egalitarianism in the jury system and equal treatment by the law enforcement agency had not been carried out. Rather official violence and legal injustices have continued, with the 1992 acquittal of white police officers and the subsequent urban uprising in Los Angeles and many other urban cities, suggesting that no end is in sight. In order to establish the legitimacy of jury verdicts and win public confidence in police fairness, it is of great significance to eliminate biases in the jury selection process that contribute to the underrepresentation of minority jurors and to work for deep-seated reforms in law enforcement agencies like the LAPD.

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References

- Abramson, Jill, McQueen, Michael, Kotlowitz, Alex, and Rigdon, Joan. 1992. "Ills of Urban America Return to the Spotlight in Politics and Offices." *Wall Street Journal*, May 1.
- American Bar Association. 1983. *ABA Standards for Criminal Justice*. ABA: Standing Committee on Association Standards for Criminal Justice.
- Butler, Edgar W. and Hiroshi Fukurai. 1992. "Computer-aided Evaluation of Racial Representation in Jury Selection," *Computers, Environment and Urban Systems*, 16(2): 131-155.
- Butler, Edgar W., Hiroshi Fukurai, Jo-Ellen Huebner-Dimitrius, and Richard Krooth. 1994. *The Anatomy of the McMartin Trial*. New Brunswick, NJ: Rutgers University Press.
- Cannon, Lou. 1992. "Policemen Win round in L.A. Beating Trial: Judge Excuses 10 Jurors Influenced by Tape." *Washington Post*, February 21.
- Cannon, Lou. 1993. "L.A. Beating Trial Jury Chosen: Judge Refuses Defense Request to Bar Black Resident of Riot Area." *Washington Post*, February 23.
- Contemporary Social Issues in Los Angeles: A Panel Discussion-Final Report. 1992. University of California, Santa Cruz, Social Science Division.
- Cordell, LaDoris. 1992. "Rodney King Verdict Shakes A Judge Into

- Questioning—In Horrified Disbelief—Her Faith In The System She's Part Of," *The Buffalo Soldier Newsmagazine* (East Bay Edition, Special to the Mercury News), May 10.
- Crewdson, John. 1980. "10 Die in Miami Riot," *New York Times*, May 19.
- Daniels, Lee A. 1992. "Some of the Jurors Speak, Giving Sharply Differing Views," *New York Times*, May 1.
- Fukurai, Hiroshi and Edgar W. Butler. 1991. "Organization, Labor Force, and Jury Representation: Economic Excuses and Jury Participation," *Jurimetrics* 32:49-69.
- Fukurai, Hiroshi and Edgar W. Butler. 1994a. "Sources of Racial Disenfranchisement in the Jury and Jury Selection System," *National Black Law Journal* in press.
- Fukurai, Hiroshi and Edgar W. Butler. 1994b. "Black Jurors' Underrepresentation—Intentional or Institutional? Discriminatory Jury Selection Process, Gerrymandered Judicial Districts, and Racially Designated Verdicts," *Phylon*, in press.
- Fukurai, Hiroshi, Edgar W. Butler, and Jo-Ellen Huebner Dimitrius. 1987. "Spatial and Racism Imbalances in Voter Registration and Jury Selection," *Sociology and Social Research*, 77: 33-38.
- Fukurai, Hiroshi, Edgar W. Butler, and Richard Krooth. 1991a. "Cross-sectional Representation or Systematic Jury Representation? Simple Random and Cluster Sampling Strategies in Jury Selection," *Journal of Criminal Justice* 19: 31-48.
- Fukurai, Hiroshi, Edgar W. Butler, and Richard Krooth. 1991b. "Where Did Black Jurors Go? A Theoretical Synthesis of Racial Disenfranchisement in the Jury System and Jury Selection," *Journal of Black Studies* 22(2): 196-215.
- Fukurai, Hiroshi, Edgar W. Butler, and Richard Krooth. 1993. *Race and the Jury: Racial Disenfranchisement and the Search for Justice*. New York: Plenum Publishing.
- Galloway, Laura A. and Ann Griffith. 1992. "Questionnaires reveal attitudes of King jury," *Los Angeles Times*, March 15.
- Gross, Jane. 1992. "In Simi Valley, Defense Of a Shared Way of Life," *New York Times*, May 4.
- Hans, Valerie and Niel Vidmar. 1986. *Judging the Jury*. New York: Plenum Press.
- Johnson, Catherine M. 1990. *Felony Jury Selection: A Social Psychological Analysis*. Unpublished Dissertation. University of California, Santa Cruz.
- Kairys, David. 1972. "Jury Selection: The Law, a Mathematical Method of Analysis, and a Case Study," *American Criminal Law Review*, 12: 771-806.
- Kerner Commission. 1968. *Kerner Commission Report on Civil Disorders*. Washington. D.C.: U.S. Government Printing Office.
- Kramer, Pamela. 1993. "King-case Juror Ill, But Trial Can Go On." *San Jose Mercury News*, April 15.
- Levine, James. 1993. *Juries and Politics*. Pacific Grove, CA: Brooks/Cole Publishing Co.
- Los Angeles Times. 1992a. "Understanding the Riots, Part 2: Images of Chaos." *Los Angeles Times*, May 12, Section T.

- Los Angeles Times*. 1992b. "Understanding the Riots, Part 4: Seeing Ourselves," May 14, Section T.
- Margolick, David. 1992. "Switching Case to White Enclave May Have Decided Outcome," *New York Times*, May 1.
- Mydans, Seth. 1992a. "Officers' Assault Trial Nears Opening," *New York Times*, March 2.
- Mydans, Seth. 1992b. "Los Angeles Policemen Acquitted in Taped Beating," *New York Times*, April 30.
- Newsweek*. 1992a. "The Siege of L.A.," May 11.
- Newsweek*. 1992b. "Crime: A Conspiracy of Silence," May 18.
- Reinhold, Robert. 1992a. "After Police-Beating Verdict, Another Trial for the Jurors," *New York Times*, May 9.
- Reinhold, Robert. 1992b. "Acquittal of All 4 Officers Was Shock, Gates Says," *New York Times*, May 21.
- Reinhold, Robert. 1992c. "Judge Sets Los Angeles for Retrial of Officer in Rodney King Beating," *New York Times*, May 23.
- Report of the Independent Commission*. 1991. The Independent Commission led by Warren Christopher, Los Angeles.
- Smith, Danyel. 1992. "Justice for All: Searching in Vain After the Verdict," *Express*, East Bay, Vol 14, No. 30, May 8, 1, 14.
- Smith, Leef. 1992. "Juror Selection Begins in Videotaped-beating Trial," *Washington Post*, February 6.
- Stevens, Ann Sarah. 1992. "Deciding Moment of the Trial May Have Been Five Months Ago," *Wall Street Journal*, May 1.
- Van Dyke, Jon. 1977. *Jury Selection Procedure*. Cambridge: Gallinger.

5

Public Opinion Before and After a Spring of Discontent¹

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Yet to do all of these things and spend the sums involved will all be for naught unless the conscience of the community, the white and the Negro community together, directs a new and, we believe, revolutionary attitude toward the problems of our city.

—The McCone Commission, 1965

This alternative will require a commitment to national action—compassionate, massive and sustained, backed by the resources of the most powerful and the richest nation on this earth. From every American it will require new attitudes, new understanding, and, above all, new will.

—The Kerner Commission, 1968

Can we all get along?

—Rodney King, 1992

The Los Angeles rebellion of 1992 differed from its predecessors of the 1960s and 1980s not merely in terms of the magnitude of the devastation and the level of the emergency response needed to quell the civil unrest, but in several other important respects (Johnson et al. 1992).²

First, the participants in the civil unrest represented a range of ethnic groups. For example, more Latinos were arrested and killed than were blacks.

Second, the violence had a much more systematic quality and was targeted at another ethnic minority: Korean entrepreneurs.

Third, events in Los Angeles ignited deep and powerful grievances