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Can't, Don't Want To, or Nobody "Asked?"

Jury Participation as Civic Engagement

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Abstract

This study conceptualizes jury service as a form of civic engagement and asks who has had the opportunity to serve on a jury one or more times. Drawing on existing literature on other forms of civic involvement, we examine human capital, motivation, and social capital factors as predictors, considering how these variables will be affected by the variety of organizational practices that determine jury participation. Using survey evidence from a sample of 1380 Texas residents, we find that social capital – particularly residential stability and state nativity – and a willingness to serve distinguish former jurors from people who have experienced attrition at an earlier stage in the “selection” process; voting history and education also have effects. Neither race nor ethnicity accounted for participation when we controlled for age. We consider the implications of these results for understanding how organizational practices shape civic participation.

Jury participation in the United States conjures up a variety of images and narratives. One reflects an ignoble history of racial exclusion and disparate treatment of minority group members who appear for service. Compared to census figures, Hispanics are under-represented on juries (Fukarai, Butler and Krooth 1993; Hays and Cambron 1999; Walters, Marin and Curriden 2005), as are blacks (Alker, et al 1976; Benokraitis and Griffin-Keene 1982; Fukarai et al 1993; see summaries in Van Dyke 1977). Studies of jury selections for criminal trials also show that juror race predicts which people attorneys will dismiss (e.g., Baldus et al 2001; Rose 1999; Sommers and Norton 2006). Just recently, a Supreme Court justice cited these practices in calling for a re-examination of how juries are chosen (see *Miller-el v. Dretke* 2005, Breyer, J., concurring).

A second narrative focuses on human capital constraints facing jury-eligible citizens and the ways in which courts and legal rules exacerbate such limitations. Jurors are, on average, better-educated and of higher socioeconomic status than the population in their communities (Alker, Hosticka and Mitchell 1976; Fukarai, et al 1993; Levin and Emerson 2005). Various laws and court practices can disproportionately restrict participation by citizens of limited means, especially decisions about how to create a sampling frame from which to summon jurors, whom to qualify for service and whom to exempt, and how much to compensate people for jury service (e.g., Boatright 1998; Fukarai et al 1993; Van Dyke 1977; Walters, Marin and Curriden 2005).

Another aspect of jury participation focuses on individual responsibility, attitudes and the sense of civic duty that is necessary for the jury system to operate as intended. Given the lax enforcement of laws surrounding response to a summons, some have bemoaned the ease with which people scoff at jury service (see review in Boatright 1998). Some of this may reflect negative attitudes toward the court (Seltzer 1999) or a more general decline in civic engagement and civic pride (e.g., Putnam 2000). Interestingly national poll data contradict a picture of

overall jury participation as in decline: In 1999, 24% of population reported that they had served on a jury, a 50% increase in the rate reported in 1983 (National Center for State Courts 2000), most likely a result of the organizational commitment to expanding participation in the last few decades (e.g., Jury Service and Selection Act 1968; Uniform Jury Service and Selection Act 1970; *Casteneda v. Partida* 1977; *Taylor v. Louisiana* 1974, *Batson v. Kentucky* 1986). Nevertheless, strategies for getting out of service abound (e.g., Richert 1977) and rates of ignoring summonses can exceed 20% (Boatright 1998).

These distinct, and in some ways competing, images of jury participation all involve basic questions of social stratification, civic behavior and attitudes, and how organizational practices may interact with these issues. With few exceptions (Fukarai et al 1993), the sociological literature has neglected the question of who serves on juries and why. By and large, jury participation is an orphan in a civic engagement literature devoted solely to citizens' voluntary decisions to vote or to commit time to political or civic organizations (cf. Verba, Scholzman, and Brady 1995; Musick and Wilson in press; Putnum 2000; Rossi 2001; Wilson 2000). This is unfortunate given the jury's central role in the Founders' democratic vision of government (e.g., Amar 1995). Additionally, jury participation can offer tangible benefits to jurors, which should lead social scientists to care about how it is distributed among the citizenry. Consistent with de Tocqueville's claim that the American jury operates as a "school" for democracy, participation on a jury can improve impressions of the court system (see Consolini 1992; Diamond 1993) and, possibly, spur people to become involved in other civic domains (see Gastil, Deess, and Weiser 2002). Such individual-juror benefits are in addition to the societal benefits that flow from the greater perceived legitimacy of verdicts from diverse juries (Ellis and Diamond 2003) or the fact that more racially and attitudinally diverse panels do better on some

measures of deliberation quality (see, e.g., Sommers 2006; Cowan, Thompson, and Ellsworth 1984).

What we know about jury participation comes largely from studies of jury representativeness; however, the composition of juries and the jury participation of individuals are distinguishable concepts. In theory juries could mirror the demographic composition of a community but be made up of the same set of people who have served many times in the past, meaning some citizens would never have an opportunity to serve. Likewise, a set of juries in a given time and place could fall short of meeting standards for representativeness¹, but over the course of their adult lives, a wide variety of citizens might have at least one opportunity to participate on a jury. Further, representativeness studies necessarily depend upon access to court records, which risks selecting on factors that may have been relevant to having been contacted by the court in the first place. By contrast, in a study of jury participation, the individual citizen is the source of data, and the relevant question is whether this person has ever served and, if so, how often.

In this paper, we take up this latter question through a survey of a representative sample of Texans. Respondents answered several questions about their jury service histories and also provided information on factors which, based on theoretical accounts of voluntary forms of civic participation, might also distinguish people who have served on juries from those who have not. Although participation depends upon organizational practices that summon, qualify, and select people for service, we ask how individual differences in human capital, motivation, or social capital might contribute to attrition along the process of going from citizen to selected juror, and whether these factors might account for participation differences based on race. Our analysis of

¹ Defendants who make a claim that their jury did not represent a “fair cross section” of the community must demonstrate that the under-representation of a cognizable group was “substantial,” a standard that can imply several different statistical yardsticks (see Detre 1994).

the entirety of the selection process allows us to consider what points in the process are associated with the most non-random attrition.

Jury Participation as Civic Engagement

Dominant models of civic behavior focus on the effects of three types of individual-level predictors. In modeling political involvement, Brady and colleagues (1995) argue that participation is first a function of human capital, which refer to personal resources such as time, money, or skill sets – that is, one’s ability to participate. Second, motivations, including attitudes about the type of engagement, reflect a desire to be involved. Finally, social capital (Coleman 1988), or the resources that accrue through attachments to social networks, influence voluntary civic participation. Those with greater levels of social integration are more likely to participate in civic life. For example, religious associations positively predict both volunteering (Musick and Wilson in press) and political behavior (Verba et al 1995), in part because people learn about engagement opportunities and norms for participation from others within their social network. Brady and colleagues summarize the above by arguing that people fail to participate in civic life either “because they can’t, because they don’t want to, or because nobody asked” (1995:271).

In connecting to this literature, it is necessary to emphasize the important differences between voluntary forms of participation such as voting and a non-voluntary activity like jury duty. In modern juries, whether people are “asked” to serve is not a direct function of social capital, although before the 1970’s social networks sometimes did create jury lists. In Texas and elsewhere, a so-called “key men” system existed in which community leaders named eligible jurors (Van Dyke 1977). Legal reforms calling for a random selection process eliminated this practice (Jury Service and Selection Act 1968; Uniform Jury Service and Selection Act 1970). (Although, as we argue below, social capital is likely still relevant to participation.) For jury

service, a variety of *organizational practices* shape whether someone will be called to serve or not. We use the term “organizational practices” broadly to refer to the laws, court policies and customs, and the specific actions of individual court actors, all of which (alone or in combination) will contribute to the likelihood of being tapped to serve.² By contrast, in models of voluntary civic involvement, organizational factors (e.g., voting laws, the behavior of those who control polling sites) are assumed to be largely fixed across individuals and different sociodemographic groups (e.g., Brady et al 1995: footnote 1). (Brady et al note that this was not a plausible assumption in the past due to racially discriminatory practices. Some might argue that it remains a controversial assumption today; see, e.g., Uggen and Manza 2002; Herbert 2004).

For jury service, organizational practices can create an absolute barrier to participation, since some otherwise able and willing people will never receive a summons, or they may appear at a courthouse but never be called for questioning for a specific trial. However, the mere fact that organizations tap some citizens but not others for service is not necessarily problematic because, if done properly, these barriers will be randomly distributed in the population. As the opening to this paper suggested, however, an additional question is whether organizational practices create barriers that are higher for some groups than for others.

Organizational Practices and Individual-Level Predictors of Jury Participation

Although volunteering for an organization or voting in an election may involve a series of smaller steps (e.g., for voting, one must register, receive a voter card, go to the polls, and actually

² Organizational practices are themselves constrained by societal demand for jury trials, which will be shaped by whether parties can and do pursue trial over settlement and by the types of cases they bring (e.g., if parties disproportionately bring lengthy cases to trial, courts can provide fewer cases on which jurors can serve). Demand for jury trials increased through the middle of 1980’s but since that time, the number of both bench and jury trials has diminished (Galanter 2004). There is some evidence that this drop-off was also true for Texas but was smaller in magnitude than other areas (Hoffman 2005).]

cast a ballot), the winnowing process for jury service is even more extensive. Indeed, jury “selection” is largely a misnomer. More accurately, one participates on a jury because one has “survived” a series of steps that others did not. This process has three broad phases, each enacted by different sets of organizational actors and governed by different legal or policy regulations: (1) the summoning phase, (2) the summons response and qualification stage, and (3) selection in a particular courtroom. We depict these stages and the steps within each in Table 1, which describes the relevant organizational practice for each part of the jury selection process and, given this practice, how individual-level differences in human capital, motivation, and social capital will shape the likelihood of jury participation. As the following discussion should make clear, although jury participation depends upon being recruited by the courts, there are numerous opportunities for individual differences to have effects.

 Insert Table 1 about here

Summoning stage. The organizational practices that determine whether someone will be sent a summons include a jurisdictions’ choice about what source list to use to sample people for service (e.g., Van Dyke 1977), how frequently these lists are updated to increase accuracy of the addresses listed (Fukarai et al 1993), the sampling method used to draw names (Ellis and Diamond 2003; Fukarai, Butler and Krooth 1991), and the actual mailing of the summons. Research links human capital constraints, and to some extent motivation, to types of source lists used. In addition, one form of social capital (residential stability) strongly affects the likelihood of recruitment at this stage.

Since the Jury Service and Selection Act 1968, most states (Rottman et al 2000) use voter rolls as a source list; however, inclusion depends upon people's ability and willingness to opt-in to the list. Voter registration is lower among those with less education (Kinder 2006), and rates of registration are not constant across racial and ethnic groups; they are particularly low among Latinos (de la Garza et al 1992). Additionally, areas that use only voter rolls as sources lists will, de facto, make jury service voluntary, thereby introducing a motivational component to this stage. The number of people who avoid registering to vote so as to shirk jury duty appears to be small, but is not zero (see Oliver and Wolfinger 1999). Despite the fact that some may see a benefit to limiting jury service to only those people who "care" enough to register to vote (see New Hampshire Superior Court Jury Reform Study Committee 1997, cited in Boatright 1998), most states appear to disagree: the vast majority, including Texas, now mandate or allow court officials to supplement voter rolls with other lists, the most common of which is a person's driver's license record (Rottman et al 2000). Yet drivers license lists may still under-represent those with human capital constraints (i.e., they cannot afford to keep a vehicle).

Correct contact information for an individual is a second strong determinant of receiving a summons. This is directly tied to a form of social capital identified by Coleman (1988): stability of residence. In this non-voluntary context, residential stability as social "capital" – that is, a network-based resource that people may use to obtain other benefits (see Durlauf and Fafchamps 2004) – may seem counterintuitive. However, although there will be differences in whether individuals want to serve (e.g., Rose 2005), jury participation reflects a connection with and involvement in one's community. Because representativeness studies indicate that remaining in one place makes one more likely to appear on a source list, and the summons is more likely to arrive at the correct address (Fukarai et al 1993; Munsterman et al 1991),

integration into the community appears to generate more community involvement. That is, social capital may not merely allow people more chances to find civic involvement opportunities (Musick and Wilson 2007; Brady et al 1995); opportunities may also more be more likely to “find” those with stable social networks. However, it is not clear that effects found in representativeness studies will generalize to lifetime participation.

Summons response and qualification process. Even when people receive a summons, to continue to selection, people must recognize it and respond; they must be eligible (or “qualified”) to serve; they must not seek an exemption; and, upon appearing at the courthouse, they must be assigned to a courtroom for questioning. There is state-by-state variation in laws and practices regarding several of these issues, including summons design (Boatright 1998), English fluency (see *State ex rel. Martinez v. Third Judicial District Court* 2000), number and types of occupational exemptions (New York Unified Court System 2001) and compensation for service (Boatright 1998). Courts also vary in their “utilization rates,” i.e., the proportion of people who appear who are either selected or questioned but excused (Litras and Golmant 2006).

Individual-juror differences are highly relevant to this stage, if only because many of the qualifications and exemptions either directly recognize constraints on ability (e.g., fluency, hardship or illness exemptions) or likely interact with human capital (e.g., having a felony record, the amount of juror compensation). Additionally, differences in motivation are implicated because advancement requires an individual to respond to the summons and to come to the courthouse on the appointed day.

According to research, human capital best accounts for attrition. For example, whether employers will compensate people for jury duty is a strong predictor of seeking a hardship

exemption (Fukarai and Butler 1991; Losh, Wasserman and Wasserman 2000) and whether people ignore a summons (Eades 2001). Boatright (1998) considered both human capital (income, education, and beliefs about jury-relevant skills) and motivation variables (whether it would be “interesting” to serve, views of how representative juries are) to distinguish between those who both responded to a summons and those who ignored it (about 10% of the sample). He found few attitudinal differences between responders and non-responders. Other reports, however, do find negative attitudes toward jury service among non-responders (Selzer 1999).

There has been little theoretical attention to social capital effects; nonetheless, we see several reasons why social capital could contribute to participation at this phase. First, mobility of residence remains relevant in a concrete way because people who have moved out of a jurisdiction will no longer be eligible to serve in that area. Beyond this particular effect, those with better social networks may have more resources to compensate for hardship circumstances, thereby offsetting barriers associated with getting to court or requiring an exemption (e.g., someone interested in serving could find help with childcare instead of opting out). Social capital also tends to generate more informal social control (Coleman 1988), likely because of stronger group identification (Durlauf and Fafchamps 2004). This could alter people’s motivations because those with better social integration may feel more attachment to community institutions or feel more concern about fulfilling the community’s normative expectations. With respect to jury service, the frequent absence of summons enforcement (Boatright 1998) makes informal social control relevant. Networks also share information with one another (Durlauf and Fafchamps 2004), which could affect attitudes toward service. For example, Boatright finds people have fairly accurate understandings of jury service even if they have never served and concludes, “Clearly, jurors are communicating their views on their service to others” (1998: 14).

Of course, social capital need not produce prosocial behaviors and motivations (e.g., Sampson, Morenoff, and Earls 1999), and communities could certainly foster a negative attitude towards service.

Relevant data are contradictory. Fukarai and Butler (1991) found that married persons were actually more likely to seek a hardship exemption, whereas Losh et al (2000) showed the opposite. The former study also found no effect for residential stability on exemption-seeking (Fukarai and Butler 1991). Thus, we see a need for more data on whether social capital generates more participation beyond altering the likelihood of recruitment at the summoning phase.

Courtroom selection process. Once people have been assigned to a courtroom for questioning, there are far fewer ways to be eliminated from service, and organizational actors largely control this process (Rose 2005). Some people who undergo questioning (“voir dire”) for a trial will be dismissed through a challenge for cause, which the judge grants either for reasons of hardship or because there is evidence that the individual cannot be fair and impartial; people may report a conflict of interest or may say they cannot be fair (Rose and Diamond 2006). Judges vary in how vigorously they question jurors for bias (e.g., Mize 1999; Nietzel and Dillehay 1987) and whether they will grant hardships at this late stage (e.g., Rose 2003). Additionally, attorneys will view some jurors as posing a risk to the advocate’s side and may use one of their limited number of peremptory challenges; the number available to attorneys varies across case types and jurisdictions (Munsterman, Hannaford-Agor and Whitehead 2006).

The majority of research on this phase focuses on the effects of organizational practices, especially attorney decisions, which can be seemingly haphazard (e.g., Finkelstein and Levin 1995) or based on racial or other stereotypes of people (Baldus et al 2001; McGonigle et al

2005). However, individual-level factors (beyond race) could remain relevant. For example, those low in resources may be more likely to plead hardship. The confidence with which people present themselves during questioning shapes judges' decisions about bias (Rose and Diamond 2006); confidence, in turn, may reflect differences in actual or perceived skill sets or, perhaps, motivations. Some excused jurors also report that they actively worked to shape the attorneys' impression in order to be eliminated (e.g., by playing to a stereotype; Rose 2003), again implicating motivation. Although we know of no research on social capital, because it may reduce human capital constraints and create informal social control (discussed above), we might also expect to see social capital effects at this stage as well.

Current Study

As the above discussion indicates, individual-level factors contribute to attrition across the entirety of the jury selection process. Because differences in human capital, motivation, and social capital have potential implications for all phases of the jury selection process, we expect that those low of these factors will, over their lifetimes, participate on fewer juries than those with higher personal and social resources and motivations. Further, consistent with the literature on jury representativeness, racial and ethnic minority group members should also have lower lifetime jury participation; however, this disparity should be accounted for by controls for human capital resources, motivation, or social capital. Apart from predictors of frequency, the most useful analysis would explore at what phase of the jury selection process each of these factors contribute most to distinguishing those who have served from those who have not. To investigate these hypotheses and questions, we sampled from Texas, a state that has an unflattering history of racial discrimination at various stages of the selection process (see, e.g.,

Casteneda v. Partida 1977; *Miller-el v. Dretke* 2005), making it a pertinent research site to examine the demographics of jury participation.

Method

Data

Conducted from November, 2003 to January, 2004, the Survey of Texas Adults (Musick 2004) involved 30-35 minute CATI survey on a variety of topics, one of which was civic engagement. The pool of potential respondents consisted of community-dwelling adults residing in Texas, aged 18 and over. Sampling used a modified random-digit dialing design with a sampling frame constructed by Survey Sampling, Inc. (SSI). SSI generated a list of working telephone exchanges throughout the state of Texas and then produced telephone numbers using 4-digit randomization, further screening against Yellow Pages directories to find and eliminate phone numbers for businesses. Once a household was contacted, the sample member was chosen using a random selection procedure. The Office of Survey Research at the University of Texas at Austin collected the data and allowed participants to conduct the survey in Spanish if they desired. The process yielded 1,504 completed telephone interviews, producing a household-level cooperation rate of 37% and a respondent-level cooperation rate of 89% (The American Association for Public Opinion Research 2004). Because non-U.S. citizens are ineligible for jury service, the present study excludes non-citizens for a total sample of 1,380. Unless otherwise indicated below, missing cases for predictors were imputed using the mean value for ordinal and continuous variables and the mode for dichotomous ones. All analyses in this study weighted the data on known population characteristics (gender, race, age, education) to match the sample to the population from which it was drawn.

Measurement

Dependent Variables

Respondents reported on whether they had ever been selected to serve on a case (1 = yes, 0 = no) and, if so, how often. This *frequency of participation* variable serves as the dependent measure in the Tobit regression model. In addition respondents also reported (yes/no) on (i) whether they had ever received a summons or qualification questionnaire for jury duty and, if yes, (ii) whether attorneys or the judge had ever questioned them for a case but then excused them from serving on that case. Responses to these two items, together with the question about whether someone had ever served, formed a 4-level *stage of participation* variable which indicated the furthest point a person had reached in the jury summoning/selection process: 4 = selected, 3 = questioned but never selected, 2 = summoned but never questioned, and 1 = never summoned. We analyzed this item through bivariate and multinomial logit analyses.

Independent Variables

Demographics. A single dummy variable represented respondent *sex* (0 = male, 1 = female) and two separate dummy-variables indicated *race/ethnicity* (Black and Hispanic, both coded as 1, respectively, for non-white Hispanics and African-Americans, with “White/Other” as the omitted reference category). We modeled *age* through dummy variables for each of the following: 25 – 44, 45 – 64, and over 65, with 18 - 24 as the reference group. (These dummies help to identify any non-linear effects for age, perhaps due to changes in the legal environment that may have differentially affected the participation of different age/cohorts.)

Human capital. An ordinal measure of *education* included: [1] less than high school; [2] high school diploma or GED; [3] an associates degree; [4] a bachelor’s degree; and [5] any post-bachelor’s degree. For *income*, the categories were: [1] under \$15,000; [2] \$15,000 and up to \$34,999; [3] \$35,000 and up to \$49,999; [4] \$50,000 and up to \$64,999; [5] \$65,000 and up to

\$84,999; and [6] \$85,000 and over. The income variable had a high number of missing cases (34% of the sample). For this item, we imputed values from an equation predicting income based on 7 sets of variables (marital status, education, race, age, home ownership, physical health, and whether the individual was self-employed or not). To ensure that this imputation did not affect the estimate for income, we included a dummy variable which indicated whether the person had missing data on income (0 = no, 1 = yes). This dummy variable was consistently non-significant and never had more than negligible effects on income or other parameters.

Motivation. We considered two motivational-variables. First, people reported their *willingness to serve on a jury* if called (1 = not at all willing, 7 = very willing). In addition, we tapped *support for the jury* as an institution through four items that asked people whether they would “prefer a jury or judge to decide” a case under different circumstances (1= jury, 0 = judge or don’t know/no preference): “If you wanted a decision to be the most accurate, would you prefer a jury or a judge?”; “If you were accused of a crime?”; “If you were suing someone because you had been injured in an auto accident?”; “If you were being sued for causing an injury in an auto accident?” We summed across the four items to create a total score.

Social capital. Given its relative novelty within the jury domain, we used a variety of indicators for social capital. Respondents indicated their *length of residence* (in years), whether they were *married* (1 = yes, 0 = no), and whether they were *native Texans* (1 = yes, 0 = no). This latter item serves as an additional, non-time-varying indicator of residential stability and may also tap a greater sense of attachment to community that could arise from being a native to a state (perhaps especially within a state known widely for a strong sense of state pride). In addition, we asked about frequency of *religious attendance* (1 = never, 2 = less than once a month, 3 = 1 – 3 times a month, 4 = once a week, 5 = several times a week). Although religious

attendance changes slightly with age (Hout and Greeley 1987), the effect tends to be small in size (Firebaugh and Harley 1991), making current church attendance a reasonable proxy for past attendance.

Voting behavior. Given its link to source lists, we included a dummy (0 = no, 1 = yes) representing whether the individual had *voted* in a federal, state or local election in the last five years. Although the likelihood of actually voting varies across the life course, political attitudes and intentions are quite stable (Kinder 2006). We therefore considered recent voting to be a reasonable proxy for whether an individual has been a registered voter, although because voter turnout is never 100%, it is an underestimate.

Analytic Strategy

We undertook three separate sets of analyses. First, we examined bivariate associations by estimating the relative odds for each of the stage of participation categories (i.e., never summoned, summoned but never questioned, questioned but never selected, has been selected), given a respondent's value on a single independent variable. To consider participation in a multivariate manner, we used a Tobit model to calculate the frequency of service (including none), given a set of predictor variables. We conducted this analysis in stages, considering initially only demographic factors (race and gender, and then race, gender, and age), afterward adding in the remaining individual-level variables. For descriptive purposes, we followed the approach recommended by Roncek (1992) to decompose the overall Tobit coefficients to show each predictor's effect on the change in probability of serving at all and the change in the frequency of service. Finally, to isolate the stage at which people fail to survive to service, we estimated a multinomial logit model, using the four-category participation variable (already described) as the dependent variable. The selected group served as the reference category, and

we compared the relative odds of being in the group of selected jurors rather than being in one of the other categories given the full set of predictors.

Results

Descriptive Results

Table 2 describes the sample. Twenty-six percent has served on a jury. This group has served on an average of 2.33 juries (mode and median = 1, range 1 to 15) (not depicted in the table). A greater proportion (35%) say they have never been summoned, or have been summoned but not undergone questioning for a case (29%). Just 10% have been questioned but excused without ever serving.

The typical respondent was in the 25 to 44 age category (mean = 42.79), had a mean income of approximately \$35,000 per year, a few years of education beyond high school, had lived in his or her residence just under 11 years, and had attended a religious institution about 1 to 3 times per month. Majorities of respondents were married at the time of the survey, had voted in an election in the last five years, and were native Texans. Willingness to serve on the jury was rated above the mid-point of a 7-point scale ($M = 4.79$) and, on average, the respondents selected a jury over a judge in just under 3 of the 4 hypothetical circumstances presented ($M = 2.70$).

Insert Table 2 about here

We examined all these factors by race/ethnicity. Compared to African-Americans and Hispanics, whites were older, more educated, wealthier, more willing to serve on a jury, and more supportive of the jury (all p-values for tests of means $< .05$); they were also more likely to

have voted in the last five years (75% versus 50% and 60% for Hispanics and African-Americans, respectively). The picture for social capital was more mixed: Whites were more likely to be married (62% vs. 54% for Hispanics and 29% for African-Americans), whereas Hispanics were the most likely to be native to Texas (76%, compared to 67% and 61% for African-Americans and whites, respectively) and to be residentially stable ($M = 11.44$ years versus 8.32 years for blacks and 11.26 years for whites, all p 's $< .05$). African-Americans had significantly higher rates of church attendance than either whites or Hispanics.

Table 2 reports the odds ratios of being in any single category (e.g., never summoned versus all the other groups) as predicted by each variable on its own. All of the following predicted the likelihood of reporting that one has served rather than not: being older, white rather than African-American or Hispanic, higher in income and education, more willing to serve and more supportive of the jury, more residentially stable, being married, and having voted within the last five years. On all these measures, the never-summoned group was the foil to those who have served. Being younger, a minority group member, lower in human capital, less motivated to serve, lower in residential stability, and not having voted recently all made one more likely to be in the never-summoned group rather than one of the other categories; in addition, men and people who attended church less often were more likely than women or frequent church attenders, respectively, to be in the never-summoned group.

Effects for the other two groups were more sporadic: only age, Hispanic ethnicity, human capital, and voting history distinguished those who said they had been questioned but never selected from the other groups; being female, less willing to serve, married, and a voter each made someone more likely to be in the summoned but never questioned group compared to one of the other groups.

Frequency of Participation

Table 3 presents results of the Tobit analysis, which considered multivariate predictors of frequency of service. In the first model, we entered only the effects of race and gender. Gender was non-significant, but consistent with the descriptive analyses, being black or Hispanic had negative effects on participation. The first column under Model 1 presents the overall Tobit coefficient, which was significant for each variable. The “Served” and “Times Served” decomposes this effect (Roncek 1992) and indicates that being black made it 10% less likely that someone had served; also, compared to whites, blacks have served on 0.30 fewer juries. Results were similar for Hispanics as compared to whites.

 Insert Table 3 here

When we accounted for respondent age (Model 2) both effects for race/ethnicity became non-significant. As expected, the likelihood and frequency of service increased with age; this model exhibited no evidence for a non-linear effect, as coefficients increased in magnitude across all age groups. Model 3 included all human capital, motivation, and social capital variables, as well as whether the individual voted in the last five years. Jury participation was positively predicted by age, greater willingness to serve, residential stability, nativity to Texas, and being a recent voter. Each increase in willingness to serve was associated with a 2% increase in the likelihood of having served, and each year of residential stability increased the chances of serving by 1%. The effects for voting were similar in size to those appearing in the race-only model: Those who voted within the last five years were 10% more likely to have served and to have served on about 0.27 more juries than non-voters.

Attrition and the Stages of Participation

The multinomial logit model distinguished among different groups of non-jurors, reflecting elimination at the different stages of the selection process and allowing us to distinguish former jurors from each of the non-selected groups. Results appear in Table 4. We begin with the null findings. As in the Tobit analysis, neither race, ethnicity, nor gender predicted membership in any of these groups, although women were somewhat more likely to be in the summoned/never questioned category than the selected group ($p < .10$). Second, no variable, including age, distinguished former jurors from the group of people who said they had been questioned for a case but never selected.

 Insert Table 4 here

At the earlier stages of the process, several variables proved significant. Greater residential stability and nativity to Texas, together with a marginal effect for being married, made it less likely that someone would say they had never received a summons rather than that they had been selected. In addition, better-educated people were less likely to be in the never-summoned group, as were those who voted in the last five years. Not surprisingly, the chances of being never-summoned rather than selected decreased with age.

Turning to the group of people who have been summoned but never questioned, people were more likely to be in this group rather than the selected group if they were younger, less willing to serve on a jury, less residentially stable and not native to Texas. Income marginally decreased the likelihood of being in the summoned/never-questioned group rather than the selected group.

Discussion

There have been three dominant narratives about jury participation in the United States. One has concerned race and race-based exclusion at all stages of the jury selection process. Second – partly to account for racial underrepresentation (Fukarai et al 1993) – studies have highlighted how laws and other organizational practices create barriers for participation that disproportionately affect those with the fewest personal resources. Finally, there has been a narrative about alienation from the jury and an absence of civic responsibility and willingness to participate. Our examination of jury participation comports with some of these narratives but disagrees substantially with others. We also highlight a social capital effect by considering the multiple ways that participation may depend upon staying in one place, including remaining in the state in which one was born.

Race, Ethnicity and Jury Participation

Bivariate associations were consistent with jury representativeness studies, indicating that both blacks and Hispanics were less likely than whites to have served on one or more juries. However, multivariate models revealed no link between race and lifetime participation that is not explained by a simple control for age (in this sample, African-Americans and Hispanics were the younger, on average, than the white/other group). Thus, contrary to our expectation, we did not have to control for individual-level factors such as human capital to mediate race effects because there were few such effects to be explained.³

³ To test the robustness of this effect, we re-ran models to consider some sub-groups. For example, we considered only those who had not voted in the last five years, and we re-ran results separately by sex of the respondent (e.g., males may be more likely to have a felony background). In no instance did an effect for race or ethnicity emerge as significant. Second, as we noted under Methods, respondents could opt to take the survey in Spanish. About 7% of our sample did so, 99% of whom said they had never served on a jury. Although clearly English fluency is a human capital factor that restricts participation, we did include a dummy variable for this group in the main analyses because of the skewed distribution across categories of participation and because it is unclear that opting to speak in Spanish for this survey accurately taps their true English fluency. We considered the effect on results by including a dummy for this group. The only change in the patterns we observed is that Spanish language use accounts for some

Because we have emphasized a distinction between the representativeness of particular jury panels and the distribution of jury service in an entire population, these null effects do not signify the end of race-related biases in the jury selection process. For example, we do not know how often people have been contacted. For some, a single summons may be all that is necessary to serve on a jury, whereas for others, courts may have to contact them multiple times to produce a single instance of participation. Neither do we know if whites were more likely than minorities to serve on some types of juries (e.g., criminal rather than civil cases). Thus, we see no reason to cease being vigilant about striving for jury panel representativeness.

Instead, consistent with our unit of analysis, the findings indicate that any benefits (or burdens) of exposure to jury service are not being enjoyed (or shouldered) disproportionately by one racial or ethnic group. This is significant because as a unique form of democratic involvement, jury service can teach people about how the court system operates, give them an experience of deliberative process, and offer citizens a voice in legal judgments, all of which can positively affect their attitudes and democratic behaviors (Diamond 1993; Consolini 1992; Gastil et al 2002). Such effects on individual attitudes and behaviors may not be long term. In the present study voting in the most recent election did not distinguish former jurors from all other non-juror groups, which we would have expected if jury service causes a lasting commitment to voting. Further in multinomial models, support for the jury (i.e., preference for a jury over a judge) was not significantly higher among those who have served. Yet even if benefits are short-lived – or even if they are absent, and the issue is framed solely in terms of how fairly the burden

of the nativity to Texas result (Spanish speakers are less likely to be native to Texas and are less likely to have served). In the Tobit model, the effect for state nativity remains positive but goes to non-significance; however in the multinomial logit model, even after accounting for Spanish-speaking, native Texans remain significantly less likely to be in the never-summoned group and in the summoned/never questioned group compared to the selected group.

of service is distributed to people (Rose 2005) – we see the absence of an association between race and participation as welcome news.

Organizational Practices, Individual Characteristics and Participation

Apart from identifying which individual-level factors predict lifetime jury participation, we also sought to isolate at which point in the process these effects predict attrition. A major finding from this study is that the group of people who fail to survive the final phase – the point at which people are questioned for a particular case – are indistinguishable from those who have ever been selected. On every single variable, the questioned-but-excused group and the selected group were statistically equivalent. There have been vigorous calls for changes to current courtroom jury selection practices, particularly to eliminate attorney challenges, to reduce discrimination (see, e.g., Baldus et al 2001; Miller-el v. Dretke 2005). If attorney conduct or any other practice distorts the representativeness of particular jury panels, these factors are, in the aggregate, irrelevant to issues of lifetime jury participation. Instead, the most severe non-random attrition occurs earlier in the process.

Recent voting history strongly predicted service in the Tobit model; further, according to the multinomial model, a voting history made it less likely that someone would say they had never been summoned rather than that they had served. As the effect was non-significant in distinguishing the other groups from those selected, we find no evidence that electoral participation makes one either a more eager or more seemingly competent juror. Rather voter registration determines who gets sampled in the first place, a long-standing concern for those interested in jury representativeness (Alker et al 1976; Fukarai et al 1993; Van Dyke 1977). Although Texas has expanded its source lists to include drivers license records, this change

occurred in earnest just slightly over 10 years ago.⁴ Whether drivers license lists will, over time, reduce the contingency between voting participation and jury participation remains to be seen. Because human capital factors strongly predict voting behaviors, especially education (Verba et al 1995; Kinder 2006), use of voter rolls as source lists will restrict the range of human capital within the jury pool. Indeed, in these data, education significantly distinguished the never-summoned from the group of former jurors.

In view of concerns expressed about the competence of the jury (see, e.g., summaries in Hans and Vidmar 1986; Levin and Emerson 2006), might communities not prefer a more civically-minded and better-educated jury pool? Whatever benefits this outcome may hold for legal decision making, any standard of democratic process makes the voting and education effects suspect. More engaged and better-educated jury pools have not arisen because court personnel, judges, or attorneys developed an effective screen for jury competence, one that the public could observe and perhaps critique. Moreover, no legislation has made this combination of factors an explicit requirement of service; indeed, the move toward expansion of source lists in all but a few states (Rottman et al 2000) suggests a legislative preference for de-linking voluntary political behavior from jury service. If one benefit of jury service is training in democracy (see Consolini 1992), those who may receive the most benefit from exposure to the jury process (i.e., the least-educated and non-voters) should not be unnecessarily omitted.

Participation also depends upon social capital. Current residential stability predicted jury frequency and distinguished selected jurors from both the never-summoned and the summoned/never-questioned group. Studies of jury representativeness likewise show that summoning depends upon locating people at their correct addresses (Alker et al 1976; Fukarai et al 1993), but we here show that this extends to lifetime participation as well. We also document

⁴ Personal communication with Michelle Brinkman, Deputy Clerk for Travis County, 10/15/2006.

residential stability's relationship to surviving the summons response stage. Naturally, current stability need not indicate lifetime stability and, as with several of our other measures, this measure is limited by not being assessed contemporaneous to the time that someone was summoned, responded to a summons or was questioned/selected (we return to this general limitation, below). However, nativity to Texas is not time-bound, and it likewise had similar (albeit weaker) effects, even after controlling for potential confounding factors with nativity (see Footnote 3). We conclude that increased social capital not only creates more opportunities for participation in voluntary civic-minded activities (e.g., Musick and Wilson in press; Verba et al 1995; Wilson 2000) but also in this non-voluntary form of service.

The mechanisms by which social capital increases jury participation require additional investigation. For the summoning stage, the effect likely reflects the greater ease in locating individuals. The possible effects on the summons response phase are more complex, if only because here the category itself is multi-faceted. People would be in the summoned/never-questioned group if they reported having received a summons but were disqualified, formally exempted from service, arrived at a courthouse but never been called up for questioning, or if they ignored their summons all together (see Table 1). If the residential stability effect is strongest for those who have ignored their summons, the most likely explanation is a decrease in informal social control (attachment to institutions, concerns about social sanction for shirking) or a decrease in opportunities to learn about jury service from others in a network. If the effect is strongest for people seeking exemptions, then the explanation likely has more to do with the ways that networks compensate for decreased resources. Interestingly, such compensatory effects are not related being married or to having a religiously-based network, as these variables were non-significant. Finally, on occasion, residential instability can more directly decrease jury

participation by increasing the opportunities to be disqualified, i.e., someone moves to a new jurisdiction but receives a summons relevant to their former area. We have no estimates about how often this situation occurs, but its very specificity leaves us suspicious that it could account fully for the social capital effects we observed here. Instead, we believe this research highlights the need to continue to better understand the complex social implications for civic-mindedness and prosocial behavior that result from remaining in one place (cf. DiPasquale and Glaeser 1999; Hagan, MacMillan, and Wheaton 1996; Sampson et al 1999; South and Crowder 1992).⁵

Limitations

Although novel, our approach to jury participation is limited a somewhat low household response rate, a cross-sectional and retrospective design, and a single-state site. We have attempted to overcome the response rate issue by using a weighted analysis, but bias could remain if the same variables that predict jury service also predict whether someone will respond to a telephone survey. It bears mentioning, however, that this type of response bias should have worked *against* finding differences between the never-summoned group and those selected, since the hardest-to-reach persons would not be in the sample. Further, some evidence (examining political engagement) finds that low response rates do not create strong differences in results (Keeter et al 2000).

Retrospective reports of jury service create a limitation not only in terms of potential errors of recall (e.g., some people may not remember having received a jury summons), but also because several measures of interest were not taken contemporaneously to the jury service experience and may have changed since the time of service, especially, income levels, residential

⁵ Residential stability does not appear, by itself, to create a generalized prosocial civic orientation. Civic engagement in the form of voting was more likely among those who were more residentially stable ($r = .21, p < .0001$) but not among Texas natives ($r = -.08, p < .01$), whereas both residential stability and state nativity were unrelated to reported willingness to serve: r 's = $-.02$ and $-.04$ for stability and nativity, respectively.

stability, voting behavior, marital status, and attitudes toward the jury and jury service. This limits our ability to interpret some significant effects, such as the interesting relationship between attitudinal variables and the summons response phase – precisely the point at which individual initiative is most crucial. Consistent with Boatright’s findings (1998), a general sense of alienation from the jury (i.e., jury support) was not a significant predictor of participation; contrary to Boatright’s conclusions, willingness to serve was. Nevertheless, we cannot know if willingness causes attrition, e.g., by leading people to ignore a summons, or instead reflects the views of people who are highly unlikely to ever serve, i.e., because of qualification or exemption issues. The best solution to cross-sectional, retrospective measurement would be a prospective design. However, given the low chances of someone being summoned in any given year, such a design faces considerable practical constraints.

With respect to our study population, we see both advantages and disadvantages. On the one hand, most people in a single state will have been subject to the same laws on participation (although certainly people could report experiences of attrition or service from a time they lived in another state). On the other hand, Texas is unique in terms of its size, geographic diversity, and the fact that juries in Texas handle a relatively broader case mix than juries in most other states (e.g., some child custody cases are determined by a jury). Hispanics in Texas also tend to be more politically conservative than in other areas (DiSipio and de la Garza 2000). Ideally our results would be replicated and extended elsewhere. A look at other states would be particularly useful in determining whether state nativity has consistent effects across different regions.

Conclusions

Although most citizens groan over the arrival of a jury summons, we unabashedly view jury participation as beneficial – to individuals’ sense of connection to their communities, as an

introduction to the courts, and because the system benefits – and therefore encourage greater research attention to how it is distributed in society. Our goal for this study has been to introduce the concept of lifetime jury participation as an important and neglected area of research on civic engagement and to consider how individual differences in human capital, social capital and motivations affect participation at different stages and in response to different organizational practices. We find that biased source lists constrain who will be “asked” to serve, especially in human capital terms; that willingness to serve is associated with attrition at the summons response phase; and that social capital in the form of residential stability increases lifetime participation. Our work also isolates the earliest phases of the process as most responsible for attrition in participation. As have others (Fukurai et al 1993), we cast a wary eye toward organizational practices that limit opportunities for people to serve and encourage research into how to cast a wider net and a greater yield of potential jurors. That said, it must be recognized that issues besides individuals differences and organizational practice will condition participation. In the current political environment, for example, some social movements (on the part of, for example, large corporations) have sought to restrict use of the jury (Daniels and Martin 1995). In addition, broader sociolegal trends have contributed to fewer total jury trials over the last two decades, for reasons that remain unclear (Galanter 2004). Thus, something more than sociological research is necessary to ensure the jury remains an important gateway into civic involvement.

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Table 1. Stages of selection and predicted effects of individual-level factors.

Steps necessary for selection:	Organizational practice	Effect of low Human Capital	Effect of low motivation	Effect of low social capital
I Receiving a summons				
a. must appear on a source list	Choice of source list, how frequently lists are updated	May predict attrition from source list	May avoid opt-in source lists (e.g., voter rolls)	Less likely to appear on source list
b. must be sampled	Sampling	--	--	--
c. must receive summons	Summons mailed	--	--	Less likely to receive summons
II Summons response/ qualification				
a. must recognize the mailing as a jury summons and determine that it requires a response	Design of summons may enhance chance of recognition-	More likely to be illiterate/ unfamiliar with summons	More likely to ignore	Fewer sources of information/ lower informal social control
b. must be jury-eligible (e.g. citizen, 18+, resides in jurisdiction, non-felon, proficient in English)	Eligibility laws	More likely to lack English skills or to have prior felony	--	More likely to have moved out of jurisdiction
c. must not be eligible for, nor seek, a statutory exemption (e.g., over 70, a student, caregiver to young child, seriously disabled)	Laws/rules on exemptions	Fewer personal resources to compensate for conflicts	More likely to seek an exemption where available	Fewer social resources to compensate for conflicts
d. must not be eligible for, nor seek, any other exemption from service (typically a medical or financial hardship request)	Laws/rules on hardships and juror compensation	Fewer personal resources to compensate for hardship	More likely to seek an exemption where available	Fewer social resources to compensate for conflicts
e. must come to the courthouse on the assigned date	--	Transport or other resource barriers	More likely to shirk appearance	Fewer social resources/ lower informal social control
f. must be called up for individual questioning on a specific case	Utilization rates	--	--	--
III Courtroom selection processes				
a. must be legally-eligible to serve on a case by being free of bias (i.e., not subject to a challenge for cause); does not seek hardship	Varying legal or judicial standards for bias; varying judicial searches for bias or leniency on hardship cases	More likely to seek hardship excuse; may underestimate ability to be fair	More likely to shape answers to be seen as biased	Fewer social resources to compensate for conflicts/ lower informal social control
b. attorney must view the individual as appropriate for the case/ not exercise a peremptory challenge	Challenges available, views of “undesirable” juror	May underestimate ability to be fair	May answer so as to seem unfavorable	Lower informal social control

Note: Sample qualification/exemptions based on Texas law (give cite).

Table 2. Means of Study Variables and Zero-Order Associations with Jury Service.

	Means	Never Summoned	Zero-Order Associations ¹		Has Served
			Summoned / Never Questioned	Questioned / Never Selected	
Jury Service Means	--	.35	.29	.10	.26
Demographics					
Female (ref: Male)	.52	.69 **	1.38 *	1.17	1.02
Black (ref: White)	.13	1.54 *	1.10	.76	.62 *
Hispanic	.29	1.85 ***	1.13	.49 **	.55 ***
Age 25 – 44 (ref: Age < 25)	.38	.19 ***	2.05 ***	11.39 ***	9.68 ***
Age 45 – 64	.29	.07 ***	1.26	18.40 ***	32.46 ***
Age 65+	.14	.06 ***	1.23	10.65 ***	44.42 ***
Human Capital					
Education	2.41	.67 ***	1.07	1.28 ***	1.25 ***
Income	2.81	.83 ***	1.01	1.21 ***	1.11 **
Motivations					
Willingness to serve	4.78	.94 *	.93 **	1.08 +	1.14 ***
Support for jury	2.50	.87 **	.93	1.11	1.23 ***
Social Capital					
Length of residence	10.65	.95 ***	.99 +	1.01	1.05 ***
Native Texan (ref: non-native)	.65	1.00	.80 +	1.10	1.22
Religious attendance	3.08	.92 *	1.02	1.01	1.08
Married (ref: not married)	.54	.43 ***	1.48 **	1.22	1.66 ***
Other Political Participation					
Voted (ref: did not vote)	.65	.17 ***	1.39 *	3.35 ***	4.59 ***

Notes: ¹ Unadjusted logistic regression odds-ratios are shown.
 + $p < .10$; * $p < .05$; ** $p < .01$; *** $p < .001$

Table 3. Estimated Net Effects of Human and Social Capital and Other Factors on Odds and Frequency of Jury Service.¹

	Model 1			Model 2			Model 3		
	b	Odds	Times Served	b	Odds	Times Served	b	Odds	Times Served
Demographics									
Female	.02	.00	.00	-.38	-.04	-.10	-.36	-.04	-.09
Black	-1.16 *	-.10	-.30	-.14	-.01	-.04	.02	.00	.00
Hispanic	-1.13 **	-.10	-.29	-.14	-.01	-.04	.13	.01	.03
Age 25 – 44				3.83 ***	.36	.99	3.40 ***	.34	.88
Age 45 – 64				6.41 ***	.61	1.66	5.26 ***	.52	1.36
Age 65+				7.45 ***	.71	1.93	5.89 ***	.58	1.52
Human Capital									
Education							.13	.01	.03
Income							.12	.01	.03
Missing income							-.10	-.01	-.03
Motivations									
Willingness to serve							.23 ***	.02	.06
Support for jury							.17	.02	.04
Social Capital									
Length of residence							.06 ***	.01	.01
Native Texan							.63 *	.06	.16
Religious attendance							.02	.00	.01
Married							.12	.01	.03
Other Participation									
Voted							1.03 **	.10	.27

Notes: ¹ Tobit regression estimates are shown.
+ $p < .10$; * $p < .05$; ** $p < .01$; *** $p < .001$

Table 4. Estimated Net Effects of Human Capital, Social Capital and Other Factors on Stages of Jury Selection.^{1,2}

	Never Summoned	Summoned / Never Questioned	Questioned / Never Selected
Demographics			
Female	.88	1.39+	1.21
Black	.75	.96	.90
Hispanic	1.19	1.16	.73
Age 25 – 44	.08 ***	.16 ***	1.42
Age 45 – 64	.02 ***	.06 ***	.95
Age 65+	.03 ***	.06 ***	.53
Human Capital			
Education	.79 **	.96	.99
Income	.91	.91+	1.12
Missing income	1.30	.85	1.35
Motivations			
Willingness to serve	.93+	.86 ***	.95
Support for jury	.91	.93	.98
Social Capital			
Length of residence	.95 ***	.98 **	.99
Native Texan	.44 ***	.60 **	1.01
Religious attendance	1.01	1.01	.99
Married	.70+	1.14	.68
Other Political Participation			
Voted	.32 ***	.78	1.06
Intercept	4.33		
R ²	.34		

Notes: ¹ Reference outcome is the selected group.
² Multinomial logistic regression model odds-ratios are shown.
+ $p < .10$; * $p < .05$; ** $p < .01$; *** $p < .001$