

Gus J. Solomon Inn of Court, Group 4 (February, 2008) Jury Pool Diversity: Fact or Fiction

Report on Examination of Jury Master For Washington County (March 13, 2002)

(State v. Spencer C00-0928CR, Circuit Court for Washington County)

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Report on Examination of Jury Master for Washington County

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Summary:

I have completed a preliminary study of the characteristics of the Washington County master jury list for the years 2000, 2001, and 2002. Most of the analysis was conducted on the 2002 list since it is the list now being used. Each of these lists consists of 85,000 names of potential jurors taken from voting records and driver license records. The list contains the following information: Name, a first and second address, zip code, date of birth, and whether the name was taken from the voting register or the driver's licenses lists. The characteristics of the people on the master list were compared with the characteristics of Washington County as reported in the 2000 US Census data provided by the Center for Population Studies at Portland State University.

Age:

My examination showed that the age distribution of the Washington County master jury list was consistently biased towards the younger ages compared with the U.S. Census Data for Washington County residents 18 years of age and older. (See attachment). Consistent with this finding, my analysis found that the master jury list underrepresented older citizens. For instance, 12.2 percent of the people on the master jury list were between the ages of 20 to 24, while only 9.3 percent of the population of Washington County are in that age range according to the census. This is a difference of almost 3 percent; a difference is statistically significant beyond a .05 probability level.

At the older level, the master jury list underrepresents people above the age of 35. Just of all age groups under 35 are overrepresented in the master jury list, all age groups over 35 are under represented on the master jury list compared to the Washington County population characteristics as report by the US Census.

In sum, there is a consistent and significant age bias towards younger people in the master jury list.

Hispanic Surname:

Ethnicity or race is not reported on the master jury list. However, we made an attempt to exam the percentage of the jury master list that was Hispanic by identifying and then counting Hispanic surnames. While this process seems straight forward, an analysis of the list showed several hundred different Hispanic names. We also recognize that this approach only approximates the number of Hispanic people on the master jury list, since last names do not always coincide with ethnic identity.

Understanding these limitations, we found that 11,019 of those on the 2002 master jury list had Hispanic surnames, or about 12.96 percent. This compares with the U.S. Census that reports that 11.2 percent of Washington County was Hispanic in 2000. While this seem to suggest that the master jury list has more Hispanics than there is in the Washington County population, in fact the U.S. Census only reports those who self-report themselves as Hispanic, and not those who may be of Hispanic ancestry, but who do not care to call themselves Hispanic any longer. Therefore, the percent of Washington County that has Hispanic surnames may be closer to 15 percent or 20 percent. While there is no way of knowing this for sure, it does suggest that the master jury list may under represent Hispanics by 5 or more percent.

Duplicate Names:

Other factors may be creating some bias in the jury master list. One concern is duplicate names. These occur with names that appear on both the voting records and the driver licenses list. The State process of preparing the names for the master lists normally purges the list of duplicate names, but in some instances duplications may appear on the master list, especially in cases where the same person uses two different names. For instance if a person votes under the name of Bill Johnson, but received his driver's license as William Johnson, he will appear as two different people on the master list. It was impossible to find all such instances of duplicate names, but a visual survey of the list indicated that perhaps as many as one or two per hundred names were duplicate. Given that the master list is 85,000 names, this would mean there could be as many as 800 to 1600 duplicate pairs in the list.

Incorrect or out of date Addresses

It is impossible to know in all cases if the addresses are correct, but there is some indication that some of the addresses may be incorrect or out of date. If true, it would mean that people who are no longer in Washington County are on the Master Jury List and would create a bias towards those who are less mobile.

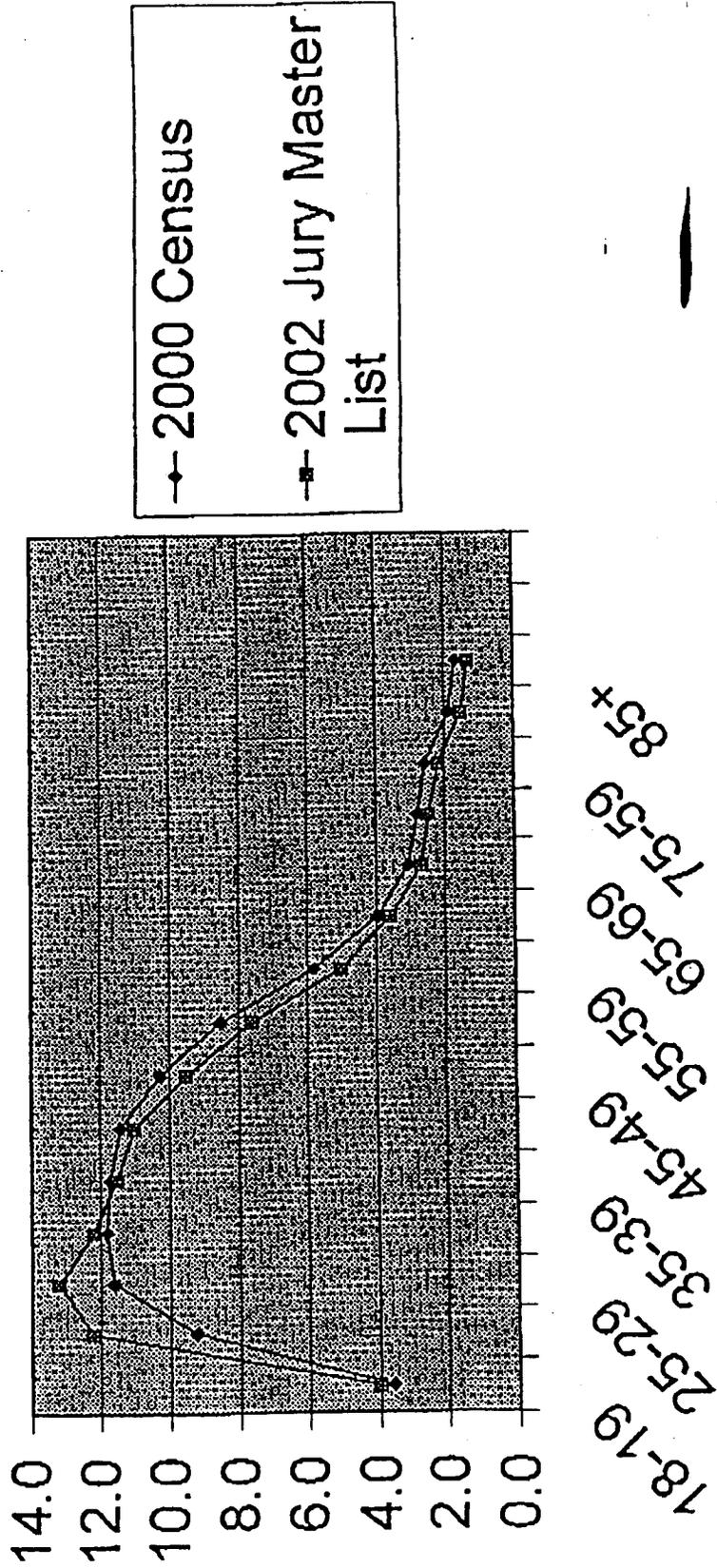
Further Studies:

Since the master jury list contains only limited information with regards to the representation of various cognizable group. This list, for instance, contains no information regarding gender, race, or other important data. Therefore, I suggest that a further study be considered that would allow a more thorough examination of the whether or not the major cognizable groups are fairly represented on the master jury lists. The most effective and efficient method to conduct a thorough study of the master list would be to conduct a mail survey of several thousand individuals randomly selected from the list. This would allow us to accurately assess the composition of the jury list with regards to key variables within acceptable intervals and at acceptable levels of statistical significance.

Age Distribution Comparisons -- 2002 Master Jury List and Census

	18-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85+
2000 Census	3.8	9.3	11.6	11.8	11.7	11.4	10.3	8.5	5.8	4.0	3.1	2.8	2.6	1.9	1.7
2002 Jury Master List	4	12.2	13.2	12.2	11.5	11	9.5	7.6	5	3.6	2.7	2.5	2.2	1.5	1.3

Age Distribution



◆ 2000 Census

■ 2002 Jury Master List

Table DP-1. Profile of General Demographic Characteristics: 2000
Geographic Area: Washington County, Oregon
 [For information on confidentiality protection, nonsampling error, and definitions, see text]

Subject	Number	Percent	Subject	Number	Percent
Total population.....	445,342	100.0	HISPANIC OR LATINO AND RACE		
			Total population.....	445,342	100.0
SEX AND AGE			Hispanic or Latino (of any race).....	49,735	11.2
Male.....	221,712	49.8	Mexican.....	38,491	8.6
Female.....	223,630	50.2	Puerto Rican.....	898	0.2
Under 5 years.....	35,111	7.9	Cuban.....	438	0.1
5 to 9 years.....	34,317	7.7	Other Hispanic or Latino.....	9,908	2.2
10 to 14 years.....	31,715	7.1	Not Hispanic or Latino.....	395,607	88.8
15 to 19 years.....	29,553	6.6	White alone.....	346,251	77.7
20 to 24 years.....	30,254	6.8			
25 to 34 years.....	76,375	17.1	RELATIONSHIP		
35 to 44 years.....	75,433	16.9	Total population.....	445,342	100.0
45 to 54 years.....	61,343	13.8	In households.....	441,241	99.1
55 to 59 years.....	18,974	4.3	Householder.....	169,162	38.0
60 to 64 years.....	12,916	2.9	Spouse.....	92,254	20.7
65 to 74 years.....	19,218	4.3	Child.....	131,800	29.8
75 to 84 years.....	14,645	3.3	Own child under 18 years.....	111,172	25.0
85 years and over.....	5,488	1.2	Other relatives.....	19,560	4.4
Median age (years).....	33.0	(X)	Under 18 years.....	5,588	1.3
18 years and over.....	325,724	73.1	Nonrelatives.....	28,485	6.4
Male.....	160,360	36.0	Unmarried partner.....	9,747	2.2
Female.....	165,364	37.1	In group quarters.....	4,101	0.9
21 years and over.....	309,210	69.4	Institutionalized population.....	1,519	0.3
62 years and over.....	46,470	10.4	Noninstitutionalized population.....	2,582	0.6
65 years and over.....	39,351	8.8			
Male.....	15,739	3.5	HOUSEHOLD BY TYPE		
Female.....	23,612	5.3	Total households.....	169,162	100.0
RACE			Family households (families).....	114,074	67
One race.....	431,218	96.8	With own children under 18 years.....	60,200	35
White.....	368,007	82.2	Married-couple family.....	92,254	54
Black or African American.....	5,119	1.1	With own children under 18 years.....	48,890	27.8
American Indian and Alaska Native.....	2,913	0.7	Female householder, no husband present.....	15,211	9.0
Asian.....	29,752	6.7	With own children under 18 years.....	9,893	5.8
Asian Indian.....	4,924	1.1	Nonfamily households.....	55,088	32.8
Chinese.....	5,868	1.3	Householder living alone.....	41,741	24.7
Chinese.....	2,871	0.6	Householder 65 years and over.....	11,270	6.7
Filipino.....	2,811	0.6	Households with individuals under 18 years.....	63,810	37.7
Japanese.....	4,577	1.0	Households with individuals 65 years and over.....	27,879	16.5
Korean.....	4,831	1.1	Average household size.....	2.61	(X)
Vietnamese.....	4,070	0.9	Average family size.....	3.14	(X)
Other Asian ¹	1,325	0.3	HOUSING OCCUPANCY		
Native Hawaiian and Other Pacific Islander.....	448	0.1	Total housing units.....	178,913	100.0
Native Hawaiian.....	228	0.1	Occupied housing units.....	169,162	94.5
Guamanian or Chamorro.....	107	-	Vacant housing units.....	9,751	5.5
Samoan.....	542	0.1	For seasonal, recreational, or occasional use.....	693	0.4
Other Pacific Islander ²	26,100	5.9	Homeowner vacancy rate (percent).....	2.4	(X)
Some other race.....	14,126	3.2	Rental vacancy rate (percent).....	6.5	(X)
Two or more races.....					
<i>Race alone or in combination with one or more other races:³</i>			HOUSING TENURE		
White.....	378,299	84.9	Occupied housing units.....	169,162	100.0
Black or African American.....	7,307	1.6	Owner-occupied housing units.....	102,477	60.6
American Indian and Alaska Native.....	6,183	1.4	Renter-occupied housing units.....	66,685	39.4
Asian.....	35,197	7.9	Average household size of owner-occupied units.....	2.75	(X)
Native Hawaiian and Other Pacific Islander.....	2,876	0.6	Average household size of renter-occupied units.....	2.39	(X)
Some other race.....	30,800	6.9			

- Represents zero or rounds to zero. (X) Not applicable.

¹ Other Asian alone, or two or more Asian categories.

² Other Pacific Islander alone, or two or more Native Hawaiian and Other Pacific Islander categories.

³ In combination with one or more of the other races listed. The six numbers may add to more than the total population and the six percentages may add to more than 100 percent because individuals may report more than one race.

Source: U.S. Census Bureau, Census 2000.

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Report on Survey of Washington County Master Jury List 2002

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Summary of Findings:

These findings were derived from the analysis of several studies and from information gathered from official sources. Specifically this report uses data from the following sources.

- A survey of the 2002 master jury list for Washington County authorized by the Circuit Court of the State of Oregon for the County of Washington by the Honorable Marco Hernandez to assess the degree to which the master jury list adequately represents the citizens of Washington County.
- A survey of the responses of potential jurors to receiving a jury summons by randomly examining Washington County Court data for nine randomly selected days during the 2002 year.
- A study of the validity of the addresses in the master jury list.
- Information from the U.S. Bureau of the Census regarding the undercounting of Hispanic persons in the 2002 Census.
- Information from other jury studies regarding the nature of those who actually respond to jury summons.

An analysis of the data gathered from these sources showed the following:

- That the master jury list is considerably older than the general adult population.
- That the master jury list is considerable whiter than the general adult population.
- That the master jury list contains fewer people of Hispanic origins than the general adult population by between 9.5 and 10.5 percent.
- That the master jury list is more apt to include people with higher levels of education than the general adult population.
- That the master jury list includes people who are wealthier than the general population.
- That of those summoned for jury duty in Washington County in 2002 only approximately 28 percent actually became available jurors.
- That many of the addresses on the master jury list are incorrect or out of date.

All of these results were statistically significant beyond the 95 percent probability.

Survey of Master Jury List

This survey was authorized by the Circuit Court of the State of Oregon for the County of Washington by the Honorable Marco Hernandez to examine the degree to

EXHIBIT B
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which the 2002 master jury list for Washington County adequately represented the citizens of Washington County in five cognizable groups; age, race, Hispanic origin, income, and education. Two thousand names from the master jury list of 85,000 names were randomly selected and sent questionnaires by mail. Responses were received from 643 households for a response rate of 32.2 percent. Survey results were compared with data from the 2000 census for Washington County.

Sampling Procedure and Response Rate:

This survey was completed in May of 2002. Two thousands names from the 2002 Washington County Master Jury list were randomly selected and sent questionnaires (see attached) with a letter of authorization from The Honorable Marco Hernandez Presiding Circuit Court Judge for Washington County (also attached) and a stamped return envelope. From this initial list of mailing of 2000, 315 surveys, or 15.8 percent, were returned from by the Post Office indicating invalid addresses, vacant property, no mail receptacle, or other such reasons. Completed questionnaire were received from 643 respondents or 32.2 percent of the initial sample. Table I shows the responses.

Table 1
Responses to the Survey

Categories	Number	Percent
Questionnaires Mailed	2000	100%
Returned Complete	643	32.2%
Invalid Address	50	2.5%
For forwarding Address	58	2.9%
Attempted Unknown	207	10.4%
No Response	1042	52.1%

In May of 2002, information on nine jury-reporting dates between May 2000 and April 2002 was requested from Ms. Andy Sells, Washington County Court Administrator. The requested dates were picked at random (only dates falling on Tuesday through Friday were used) and were sent with a letter that asked for the following information: the number of jurors summoned to report for duty, how many jurors were excused by the court (including the reason for excusal/deferment, if available), the number of jurors who did not respond to the summons, and the number of summons that were returned to the court as undeliverable. Ms. Sells complied with our request, sending PSU a juror report for each date, including a printout of the jurors who were active, excused, or non-responsive.

For the examination of addresses, a random sample of 50,000 names were chosen from the 85,000 addresses contained in the master list and sent to the customer service center of the U.S. Postal Service for standardized zip+4 sorting. This procedure compares the addresses to the postal service's database, puts the addresses in a standardized format, and generates a report that lists addresses not found in the database or that contain errors.

Age:

An important cognizable group affecting jury participation is age. The survey sample, and by statistical implication the master jury list, is considerably older than the citizens of Washington County. In all categories below 45 years of age the sample shows that the jury list under-represents the general population, and for all age categories over 45 years of age the survey sample shows that the master jury list over represents the general population. This is particularly significant for those in the 25-34 age group, which are significantly under-represented in the jury list, and for the age group over 65, which are significantly over-represented in the jury list compared to the general population. For instance, over 23 percent of the people sampled were over the age of 65, but only a little over 12 percent of the general population are over 65 years of age. Likewise almost 47 percent of the general population is between the ages of 25 and 44, but only 34 percent of the people sampled were in that age group. Since this is a random sample of the master jury list, this indicates that the master jury list is heavily weighted towards older people and away from people under 45 years of age.

Table II
Age Distribution for Survey Sample and Population

Age	Survey Sample	Population	Difference
Under 20	1.9%	3.4%	-1.5%*
20-24	6.4%	9.3%	-2.9%*
25-34	15.4%	23.4%	-8.0%*
35-44	18.9%	23.2%	-4.3%*
45-54	20.9%	18.8%	2.1%
55-59	6.9%	5.8%	1.1%
60-64	6.2%	3.9%	2.3%*
65-74	10.1%	6.0%	4.1%*
75-84	10.7%	4.5%	6.2%*
Over 85	2.6%	1.7%	0.9%
Total	100%	100%	

* Statistically Significant Beyond the 95% level.

Race:

This survey found a considerable difference between the distribution of races in the jury master list as indicated in the survey sample and the general population of Washington County as indicated in the 2000 Census. The survey showed that Whites were over represented in the jury list by 7 percent; Whites constituted over 90 percent of the sample, but are only slightly under 84% percent of the adult population of Washington County according to the Census. On the other hand, all other racial groups, including Black, American Indian, Asian, and Hispanic were under-represented in the survey. This discrepancy is particularly noticeable for Hispanics which make up over 9

percent of Washington County's adult population, but only a little over 3 percent of the jury list. Table III show the results.

Table III
Distribution of Race in Survey and in General Population (adults)

Race	Survey Sample	Population	Difference
White	90.9%	83.9%	7.0%*
Black	0.2%	1.1%	-0.9%*
Native American	0.2%	0.6%	-0.4%
Asian	5.5%	6.8%	-1.3%
Hispanic	3.1%	9.6%	-6.5%*
Other	2.6%	5.1%	-5.1%*
Two or More	0.6%	2.2%	-1.6%*

*Statistically Significant Beyond the 95% Level.

Income:

The sample survey indicates that the master jury list has fewer people with poorer incomes and more people with higher incomes than the population of Washington County in general. The cut off point is approximately \$50,000 income per year. The survey shows that the master jury list has fewer people in the income categories below \$50,000, except for those below \$5,000 annual salary, and more people with incomes above \$50,000. In other words, the survey indicates that the master jury list for Washington County is slanted towards the wealthier and away from the low and middle incomes. This is particularly noticeable for those with incomes above \$100,000. People with incomes above \$100,000 make up only 4.3 percent of the Washington County population, but they constitute 16.7 percent of the sample taken from the master jury list; almost a four-fold difference.

Table IV
Income Distribution for Survey Sample and General Population

Income	Survey Sample	Population	Difference
Less than 5,000	4.7%	2.7%	2.0%*
5,000-10,000	2.2%	5.5%	-3.3%*
10,000-15,000	6.0%	6.5%	-0.5%
15,000-25,000	10.7%	16.6%	-5.9%*
25,000-35,000	11.4%	17.8%	-6.4%*
35,000-50,000	15.2%	21.2%	-6.0%*
50,000-75,000	19.7%	19.3%	0.4%
75,000-100,000	13.4%	6.0%	7.4%*
Above 100,000	16.7%	4.3%	12.4%*

*Statistically Significant Beyond the 95% Level

Education:

As with income, the survey indicated that the master jury list under-represents the lower educational categories and over-represents the more educated people compared with the general population of Washington County. With education the breakpoint is at the high school diploma level; people with a high school diplomas or less are under-represented in the jury list and those with some college education and higher are over-represented. The findings show that if you have not gone beyond high school you have a lower chance of being on the jury list than if you continued your education after high school.

The most significance finding is for those who have received a Bachelors degree or higher; they have almost a 10 percent greater chance of being on the master jury list.

Table V
Distribution of Income in Sample and in the General Population

Education	Survey Sample	Population	Difference
8 th Grade or Less	2.1%	4.0%	-1.9%*
Some High School	4.5%	7.8%	-3.3%*
High School Grad	16.2%	22.8%	-6.6%*
Some College	29.2%	27.2%	2.0%
Associates Degree	8.6%	8.4%	0.2%
Bachelors Degree	22.5%	20.6%	1.9%
Grad/Prof. Degree	11.5%	9.2%	2.3%*
High School or Higher	93.5%	88.2%	5.3%*
Bachelors or Higher	39.5%	29.8%	9.7%*

*Statistically Significant Beyond the 95% Level

Further Examination of Hispanic Population:

Due to the under-representation of Hispanics in the results of the jury survey, the high number of returned mail by the post office, and evidence that census figures underestimate the actual population of Hispanics, we further explored the data concerning the Hispanic population. According to the Census Bureau memo dated April 4, 2002, the Census Bureau estimates that there was a 1.25 percent net undercount of the Hispanic population in the 2002 census (see attached memo). In addition, a manual estimate of the number of Hispanics in Washington County indicates that the number of Hispanic adults is probably closer to 13 percent. This would also mean that the Hispanic population was under represented in the Master List by between 9.5 to 10.5 percent. We should also point out that both the survey data and the census data show self-reported racial/ethnic identity and may additionally under-represent the actual number of individuals of Hispanic origin.

Because those who are young, those who are racial minorities, and those of lower socioeconomic status (income and education) were underrepresented in the survey results, we looked at the possibility that these groups may not be mutually exclusive. Our findings indicate that 68.4 percent of Hispanics were under 45 years of age, 52.8 percent of Hispanics reported incomes of \$25,000 or less, and 42.2 percent of Hispanics reported

educational attainment of high school or less. In comparison, 42.1 percent of non-Hispanics were under 45 years of age, 22.3 percent of non-Hispanics reported incomes of \$25,000 or less, and 21.8 percent of non-Hispanics reported educational attainment of high school or less.

In addition we looked at what percentage of the surveys returned by the post office had Hispanic surnames on the mailing labels. We found that 57, or just over 18 percent of the 315 returned surveys were addressed to persons with Hispanic surnames.

Juror Reporting:

On the average, just over a quarter of the jurors summoned become active jurors ($\mu = 28\%$). For the nine days surveyed, active juror percentages ranged from a low of 15.8% (9/21/00) to a high of 34% (1/4/02). Of those summoned who do not become active jurors, almost one third are excused from jury duty ($\mu = 30.8\%$), with another third are deferred to another date ($\mu = 29.2\%$). Additionally, a smaller percentage of those summoned do not respond. These rates greatly fluctuated, ranging from a low of 2% (9/21/00) to a high of 20% (1/4/02). Exact numbers regarding juror response is given in the table below.

Table VI
Juror Response to Summons

Date	Summons Sent	Active Jurors	Excused	Deferred Out	Deferred In	No Response
6/6/00	275	81 (29.5%)	114 (41.5%)	69 (25.1%)		11 (4%)
9/21/00	400	63 (15.8%)	136 (34%)	193 (48.3%)		8 (2%)
2/15/01	380	115 (30.3%)	112 (29.5%)	139 (36.6%)		14 (3.6%)
5/23/01	380	115 (30.3%)	119 (31.3%)	82 (21.6%)		64 (16.8%)
8/17/01	300	77 (25.7%)	110 (36.6%)	80 (20%)		53 (17.7%)
10/9/01	360	118 (32.8%)	109 (30.3%)	80 (22.2%)		53 (14.7%)
12/5/01	375	108 (28.8%)	119 (31.7%)	88 (23.5%)		60 (16%)
1/4/02	250*	85 (34%)	43 (17.2%)	68 (27.2%)	4	50 (20%)
4/23/02	323*	79 (24.5%)	80 (24.8%)	130 (38.4%)	6	40 (12.4%)

* Numbers for deferment were not available in reports before 2002. For years prior to 2002 deferment numbers were calculated by subtracting the number of active, excused, and non-responses from the number of summons sent out. There is no way to tell how many jurors may have been deferred into the jury panel for dates prior to 2002.

Table VIII
Excuses in Relation to Summons Sent

Date	Summons Sent	Returned Mail	Non-County	Age	Alton	Medical	Deceased	Other
6/6/00	275	54 (19.6%)	25 (9.1%)	11 (4%)	7 (2.5%)	1 (0%)*	1 (0%)*	15 (5.5%)
9/21/00	400	56 (14%)	30 (7.5%)	18 (4.5%)	14 (3.5%)	5 (1.3%)	3 (0%)*	10 (2.5%)
2/15/01	380	37 (9.7%)	15 (3.9%)	12 (3.2%)	20 (5.3%)	5 (1.3%)	3 (0%)*	20 (5.3%)
5/23/01	380	44 (11.6%)	30 (7.9%)	19 (5%)	12 (3.2%)	4 (1.1%)	0 (0%)*	10 (2.6%)
8/17/01	300	39 (13%)	27 (9%)	17 (5.7%)	13 (4.3%)	3 (1%)	2 (0%)*	9 (3%)
10/9/01	360	37 (10.3%)	31 (8.6%)	14 (3.9%)	13 (3.6%)	3 (0%)*	1 (0%)*	10 (2.8%)
12/5/01	375	57 (15.2%)	23 (6.1%)	15 (4%)	10 (2.7%)	2 (0%)*	2 (0%)*	10 (2.7%)
1/4/02	250	12 (4.8%)	14 (5.6%)	4 (1.6%)	6 (2.4%)	2 (0%)*	0 (0%)*	5 (2%)
4/23/02	323	28 (8.7%)	16 (5%)	11 (3.4%)	11 (3.4%)	3 (0%)*	1 (0%)*	10 (3.1%)

* less than 1% of total summons sent

Address Validity

According to the report received from the U.S. Postal Service, almost 97% of the 50,000 addresses we sent in for sorting were valid. However, the report also indicates that just over 10% of these valid addresses had to be corrected by the post office before they could be standardized. Common errors included: address component had changed (3.45%); incorrect secondary number (1.47%), missing secondary number (1.34%), error in street spelling (1.5%), incorrect zip code (1.14%), and other miscellaneous errors (1.34%). Information received from the post office indicated that any of these errors could cause mail to be returned to the sender as undeliverable. In other words, had the court sent summons to these 50,000 jurors, approximately 13% would potentially be returned as undeliverable (this figure does not include the number of summons that may be returned due to no/expired forwarding addresses). In comparison, 15.8% of the 2,000 surveys that were sent out for the study were returned as undeliverable, either because of expired forwarding or invalid addresses.

Comparison to Other Juror Studies:

In March of 2002, we conducted a study that examined the cognizable characteristics of jurors who reported for a murder trial in Multnomah County. Congruent with the information reported above for Washington County, those who reported Hispanic ethnicity, had an educational attainment of high school or less, and those in the lower income bracket were underrepresented at a .05 level of statistical significance. Additionally, younger individuals were also under-represented, though not at the .05 level of statistical significance.

A visual examination of a sample of Multnomah County's master list found that 6.4 percent were not residents of the county. Additionally, just over 5 percent of individuals summoned were excused because they did not reside in the county and almost 10 percent of individuals were excused because the summons was returned to the court as undeliverable. Taken together, these results indicate that invalid and incorrect addresses are a major problem with the source lists that are used to create the jury pool.

The Oregonian

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2001 PULITZER PRIZE WINNER FOR PUBLIC SERVICE

SATURDAY

April 27, 2002

PORTLAND, OREGON

People over 70 left out of jury pool

Lincoln County excluded older citizens, who may refuse to serve, but lawyers say that skews juries

By **MATT SABO**
CORRESPONDENT, THE OREGONIAN

Lincoln County culled more than 1,100 citizens from a list of potential jurors this year because they were over 70 — an age group representing 17 percent of the county's eligible jurors.

Nancy Lamvik, trial court administrator in Lincoln County, said that before the practice was halted this month, a clerk in her office routinely had not been sending jury summonses to older residents because so many of them took advantage of the state law allowing anyone over 70 to decline jury duty.

But Newport attorney Rose Jade, who uncovered the practice in March while researching how Lincoln County jury pools are selected, says it raises

JURY OF THEIR PEERS?

The problem: Juries in Lincoln County have not been drawn from a cross section of the community because 17 percent of eligible jurors were eliminated from the pool.

What about others? Defense attorneys wonder if this is an isolated incident specific to Lincoln County, or if other groups are excluded elsewhere.

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Jury: Lawyer thinks

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some troubling questions.

"For me, what it says is I'm not getting a fair cross section of the community (on juries)," Jade said. "And I'm not getting it because the court was culling those people from the jury pool with no basis in law for doing it."

She said it flags other problems as well, including lack of training and supervision for jury clerks.

"There's clear evidence right here that the jury pool was being manipulated beyond what the statute says, and I would be very curious to know what else is going on," Jade said.

Bradd Swank, special counsel

for government administration in the State Court Administrator's Office in Salem, said he was not aware that elderly residents in Lincoln County were not being sent jury summonses. Whether it tainted the outcome of civil and criminal cases in Lincoln County is an issue for a judge to decide, he said. Lincoln County had 49 jury trials last year and 42 in 2000.

Swank defended the jury selection system and the employees who administer it.

"By and large they arbitrarily don't go off and do things," Swank said. "Following the law is actually a high priority at every level."

Lamvik said the clerk, whom she declined to identify, had good intentions.

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