

JURY SELECTION IN ERIE COUNTY: CHANGING A SEXIST SYSTEM*

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Prior to January 1974, jury selection procedures violating basic standards of randomness had resulted in juries in Erie County, New York, which were overwhelmingly male. This paper describes the biased selection procedures, their discovery by volunteers engaged in a project to ensure a fair trial for prison inmates under indictment for events occurring in the Attica uprising, and the consequences of both improved procedures and an amended law for sexual equality in jury selection.

Two linkages between law and society are explored. First, the existence of a "woman's exemption" had led the jury commissioner and staff to make systematic prejudgments about women's behavior which then resulted in their underrepresentation on juries. Second, lawyers and social scientists worked together, using procedures and concepts from both disciplines to achieve a goal of mutual interest: improvement of the methods of jury selection, so that jury composition would more closely resemble the composition of the community. Possibilities and problems of social scientists working with lawyers are described briefly.

In June 1974 the Erie County Division of the Supreme Court of the State of New York disallowed the 114,689 names in the Erie County permanent jury pool which had been selected prior to January 1, 1974. A major reason for discarding the names was a finding by the court that as the result of discriminatory selection procedures in use until December 1973, women were markedly underrepresented on Erie County juries (*People v. Attica Brothers*, 79 Misc. 2d 492, 359 N.Y.S. 2d 699, 1974).¹

The discovery and eradication of the discriminatory procedures was in part the consequence of a concerted effort to help a group of prisoners awaiting trial. In the autumn of 1971 more than forty persons had been killed and a number of others injured in the encounters between prisoners and the state police during the Attica prison riots. Sixty-one Attica inmates were

* The authors want to thank Crucian Messina who took office as Erie County Jury Commissioner in October, 1973. Mr. Messina supervised the changes in selection procedures described in this paper. He and his deputy commissioner, Matilda Garner Smith, cooperated with the Fair Jury Project researchers, as well as with the authors of this paper.

1. The court found that there had been intentional and systematic discrimination against both women and students prior to January 1, 1974, but not against occupational groups, young persons, or the poor. In this paper, we will focus on the discriminatory selection of women for jury service.

subsequently indicted; most of these men were black and less than thirty-five years old. Following the indictments, the Attica Brothers Legal Defense Organization was formed by persons interested in assuring that the prisoners obtained counsel and received a fair trial. By July 1973 a subgroup of that organization had formed a Fair Jury Project. This group consisted of more than fifty volunteer social scientists, mathematicians, lawyers, university students, and other community people who worked together for a year (Stuart, 1975).

In the first phase of the research one group of volunteers spent the summer of 1973 visiting courtrooms and examining printed jury lists. By simple inspection and enumeration they found that most jury members were white men, apparently in their mid-forties and older. The next phase of the research encompassed three projects. One was an attitudinal study of the local community (Stuart, 1975), another a survey of jury selection methods used in other parts of the United States, and the third an analysis of the procedures for jury selection in Erie County. It is the third study only which will be described in this paper.

Late in the summer of 1973 a motion was filed in the Appellate Division of the New York Supreme Court, Fourth Department, to obtain documentation to show the impossibility of a fair trial in Erie County, because the defendants would not be judged by a "jury of peers."² The petitioners hoped to prove discrimination as a basis for seeking a change of venue or a change in the jury pool. The brief³ in support of the motion pointed out that 54 percent of the population of Erie County was female, and that 50.4 percent of Erie County's registered voters between the ages of 21 and 74 were estimated to be women, but that only 10 percent of the jurors were female.⁴ In order

2. New York Judiciary Law, sec. 658. "When the law speaks of a jury of peers, it does not contemplate a jury of persons of identical race or similar backgrounds. It does contemplate, however, a random selection of persons in the community reflecting a normal cross-section thereof. . . . [A] defendant can only be successful by showing that absence of a particular class was caused by deliberate discrimination." *People v. Henry*, 284 N.Y.S.2d 726, 730 (1967).

A defendant can challenge the constitutionality of a jury on the grounds that it excludes a given category even if he or she does not belong to that category. *Taylor v. Louisiana*, 419 U.S. 522, 526 (1975).

3. *In re* the application of Attica Brother Alsayeh, indicted as James Brown, *et al.* Notice of motion and affirmation dated July 13, 1973. The documentation for *People v. Attica Brothers* is filed with the clerk, Supreme Court of Erie County, Buffalo, New York.

4. Figures on the total number of registered voters in Erie County were obtained from the Erie County Board of Elections. At the time of the research the figures did not differentiate by sex as

to verify what appeared to be *prima facie* discrimination, the movants requested access to the confidential files of the Erie County jury commissioner, whose office is responsible for jury selection. The Appellate Division granted the motion five weeks later, in mid-September 1973 (Beth Bonora Affidavit, March 25, 1974).

The rules for the investigation were negotiated with the new jury commissioner, and signed by the judge. Researchers had to sign affidavits agreeing neither to record nor to transmit the specific names on the records. The project commenced, with a corps of volunteers assiduously reading the New York judiciary laws and cases relating to jury selection and working under the guidance of consultants from the local universities in the fields of sociology, law, mathematics, and survey methodology.

No one may be excluded from jury duty in New York State because of race, color, creed, religion, sex, or national origin. The concept of a "jury of peers" requires that the panels from which prospective jurors are selected must be chosen at random from a cross section of the community.⁵ To be eligible to serve as a juror, a person must be a citizen, resident in the county,⁶ between the ages of 18 and 74,⁷ in good health, literate, and must never have been convicted of a felony or misdemeanor involving moral turpitude (New York Judiciary Law, sec. 662). Persons not meeting these criteria are deemed "not qualified." Certain persons are not allowed to serve, including elected officials, sheriffs, and those in other specified governmental position; these are "disqualified" (New York Judiciary Law, sec. 664).

they do at the present time. According to the 1970 census, there were 336,795 women (21-74 years) in the county (U.S. Bureau of the Census, 1973b). In the November 1972 election, 75.2 percent of women in the northeastern United States registered (U.S. Bureau of the Census, 1973a); $75.2 \times 336,795 = 253,270$ or 50.4 percent of the total of registered voters (502,225).

5. "The requirements for a 'cross-section of community' are satisfied if the names are selected for the jury list at random from among the persons residing in the district reasonably convenient to the court house and the persons finally placed thereon are chosen by rules and standards of qualification which, except as permitted by established criteria such as financial hardship or the property or character requirements, do not deliberately or systematically discriminate against either sex or any geographical area on economic, occupational, social, racial, religious or other group"—*U.S. v. Flynn*, 106 F. Supp. 966, 979-80 (S.D.N.Y., 1952).
6. The residence requirement for jurors states: "A person dwelling or lodging or having or maintaining a dwelling or lodging in a county for the greater part of the time between October first and June thirtieth next thereafter, or a resident therein more than six months of the year, is a resident of that county, within the meaning of this section" (New York Judiciary Law, sec. 596).
7. Prior to September 1, 1974, the minimum age was twenty-one. New York Judiciary Law, sec. 596(2).

Some classes of persons may claim exemptions from jury duty. These include occupational categories, such as clergy, journalists, firefighters, physicians, and lawyers; members of the armed forces; and persons over seventy. In addition, prior to 1975, women were entitled to an exemption based solely on their sex (New York Judiciary Law, sec. 665).

The research team found that the Erie County Jury Commissioner's office administered the state laws governing jury selection in the following manner:

1. In order to meet the yearly need for some 8,000 jurors, the jury commissioner's office mailed questionnaires to about 15,000 persons in the county. The clerks were told how many names to select from the voter registration books (called "blue books") but were not given specific guidelines on how to select names. The clerks chose names, using their own discretion, and then underlined those names in the blue books, to indicate that questionnaires had been sent to the selected people.⁸

2. The questionnaires were completed, signed, and returned by the recipients.⁹ Statutory exemptions were supposed to be requested at the time of filling out the questionnaires, although respondents were not told that failure to make the request at that time constituted a permanent waiver.¹⁰ (New York Judiciary Law, sec. 666).

8. The jury commissioner said he was not certain how repetition was avoided when the voter registration books were updated periodically. He assumes that the clerks checked off in the new books the names that had been underlined in the previous ones (interview with Crucian Messina, July 16, 1976).

9. The jury commissioner estimated that at present 10 to 15 percent of recipients do not respond to the questionnaires. No record is kept of the characteristics of nonrespondents, and he could not estimate the rate of return of questionnaires prior to his taking office (interview with Crucian Messina, July 16, 1976). See Alker *et al.* (1976:9) for a discussion of the importance of nonreturn of questionnaires.

10. The questionnaire in use at the time of the research made no mention whatsoever of exemptions. The section of the law describing the questionnaire to be used includes a statement to be completed by the respondent wishing to claim an exemption. The law does not state that the exemptions allowable must be specified on the questionnaire, nor that the respondents must be told that they must request the exemption at the time of completing the questionnaire (New York Judiciary Law, sec. 661).

At present, the form in use in Erie County provides space to request an exemption, the information that the request must be made at the time of questionnaire completion, and a partial list of allowable exemptions. The exemptions listed have not been updated to include persons caring for young children—a substitute for the former exemption, "VII A woman," which has been crossed off the list. Nor is the exemption for proprietors and managers of small businesses included (see New York Judiciary Law, sec. 665). The jury commissioner said that when people inquire they are told of these two exemptions (interview with Crucian Messina, July 16, 1976).

3. The jury commissioner and deputy commissioner examined all the returned questionnaires, eliminating those persons not qualified, or disqualified, by statute. They also passed upon claims for exemptions.

4. The remaining persons were considered qualified to be jurors. Their names were placed on index cards, numbered sequentially, with matching numbers on the questionnaires. The cards and questionnaires were filed separately.

5. A "ballot"—a small white card—was then made out for each qualified person, listing the name, address, and occupation of that person. The ballots were placed in a large metal revolving drum. The jury pool grew as names were continually selected and added to the drum. As of January 1974, there were 114,689 ballots in the drum with names selected from 1922 through 1973.

(At this point, readers with a minimal knowledge of statistics have noted not only that the described sampling frame was limited, albeit legal,¹¹ but in addition that there was no attempt to ensure a random selection of the persons who would receive questionnaires. A further departure from random selection of a representative cross section of the community was caused by the maintenance of a pool of names for half a century, despite changes both in the jury selection statutes and in the composition of the community.)

6. Once a month, with the deputy commissioner, a sheriff's deputy, and a county judge present as witnesses, the jury commissioner drew from the jury pool the number of ballots he "believe[d] necessary and sufficient" for the upcoming trials (New York Judiciary Law, sec. 669). In Erie County more than a thousand names were drawn each month. The office staff then checked the ballots against the qualified index cards. Ballots of persons who had served within the last three years were separated, for they were ineligible for service. An attempt was made to keep the records up to date. For example, staff members read obituary notices and cleared the qualified files of the questionnaires and index cards of deceased persons. The names of persons no longer qualified were placed in an "off-file."

7. Summonses were sent to all persons whose names remained after the preceding step, ordering them to appear in court

11. Permitted sources of jurors' names include "the latest census enumeration, the latest published city, town, or village telephone or other directory, the assessment rolls, the voter's registry list and any other source of names" (New York Judiciary Law, sec. 658). In Erie County only voter registration lists are used. See Alker *et al.* (1976) for further discussion of the bias involved in using such limited sources of names.

on a certain day. The list of those names was sent to the Buffalo Police Department, where a criminal record check was done on each one. This information was submitted to the jury commissioner's office and attached to the individual's questionnaire.

8. The list of names for each court was printed and dated, and became known as the "venire list" or "court sheet." Of those who responded to the summons, some were disqualified, some were granted postponements, and some were granted exemptions. The jury commissioner's office staff also removed the names of persons who had died, had moved, or could not be located. Again, the documents of those removed from the qualified category were placed in the off-file, and their names were crossed off the venire lists.

9. The persons whose names remained appeared in court as the venire panel. Lawyers selected jurors and alternates for each trial from this panel.

METHODOLOGY

The methods used by the Fair Jury Project were a combination of legal and social scientific, informal and formal. Some have already been mentioned. Volunteers observed working juries and examined the lists of jurors called for duty during the months of July and August 1973. Some people talked briefly with the jury commissioner and others with lawyers in order to get general information about jury selection procedures in the county. A discovery motion was filed arguing discrimination on the basis of the disparity between female population of the county and the number of female jurors empanelled. When it was granted, the next phase of the research began, an exploratory study of the procedures used in the jury commissioner's office.

A one-in-ten random sample was taken of the 16,976 names printed on the 1972 venire lists. The completed Qualified Sample contained 1,650 names. There was also an Off-file Sample of 449, containing the names of persons in the Qualified Sample who had subsequently been removed from the qualified list. Twenty-seven percent of the names in the Qualified Sample thus appeared in the Off-file Sample as well. The sample data were drawn from the questionnaires and index cards that had been completed by the individuals selected and by the jury commissioner's staff. The project volunteers coded the following information to forms prepared for computer analysis: gender,

address, occupation, place of employment, place of birth, date of birth, years in Erie County, property ownership (if available), physical disability, criminal conviction, number of times called for jury duty, year questionnaire was received, and reason for being in the off-file. These categories were derived in part from the jury law and the coders also indicated whether, in their judgment, the jury commissioner's decisions seemed questionable (for example, exempting someone from jury service for medical reasons without a doctor's note).

FINDINGS

An examination of the Off-file Sample of 449 revealed 135 women's names, 104 of whom (77 percent) had been granted the women's exemption. Some 10 percent of the latter were apparently unnecessary, since the women could have been exempted for other reasons, such as physical handicaps. But, despite these superfluous invocations of the women's exemption, the high percentage of the Off-file Sample who had claimed it seemed to confirm that women were underrepresented on juries because they had requested, and been granted, their special exemption.

An examination of the entire Qualified Sample, however, showed that the percentage of women claiming the women's exemption was far smaller than the 77 percent mentioned above. There were 1,650 names in the Qualified Sample, of which 276 were women. The 104 granted the women's exemption thus represented only 37.6 percent of the 276 qualified women. That is, of those women claiming an exemption, 77 percent claimed the women's exemption, but of these women included in the Qualified Sample, only 37.6 percent claimed the women's exemption. Thus invocation of that exemption at that stage could not explain the underrepresentation of women on juries.

More striking, however, was the fact that in a county where women constituted 53 percent of the population (U.S. Bureau of Census, 1973b: Table 35), a systematic sample of voters qualified for jury duty included only 16.7 percent women (276/1650). Shortly thereafter a fortuitous event occurred when a project volunteer, glancing through a "blue book," noticed that there were apparently far more men's than women's names underlined. (See step 1 of the selection process.) Following that discovery, the research focused upon an examination of sixteen blue books used in 1972 and 1973, representing sixteen towns and councilmanic districts in the county. The number of pages per book to be examined was determined by systematic stratified cluster

sampling,¹² so that 5 percent of some books and 10 to 15 percent of others were sampled.

Eighteen hundred and eighty underlined names were examined, and caution was exercised by assuming that all names of unclear gender were female (e.g., Leslie). Of the underlined names, 295 (15 percent) were categorized as female. In seven of the towns, 90 percent or more of the underlined names were men's and in two books the sample yielded no women's names at all (Martin Feinrider Affidavit, March 25, 1974). One of the statistical consultants testified in court that the probability of such an event occurring by chance was less than 1 in 10⁹⁰ (Jack Kiefer Affidavit, March 25, 1974). Obviously women were not being given the same opportunity as men to serve on juries, for they were "dealt out" in the first round.

TABLE 1
DISTRIBUTION OF MEN AND WOMEN IN THE ERIE COUNTY
POPULATION AND FAIR JURY PROJECT SAMPLES

	Total	Women		Men	
		Number	Percent	Number	Percent
a1970 Erie County population, aged 21-47	635,413	336,795	53	298,618	47
b1972 Erie County registered voters, aged 21-74	502,225	253,270	50.4	248,955	49.6
1973 Voter Registration Book Sample	1,880	295	15.7	1,585	84.3
1973 Qualified Pool Sample	1,650	276	16.8	1,370	83.2
1973 Off-file Sample	449	135	30	314	70

a From U.S. Bureau of the Census, 1973b: Table 35.

b Total figures were obtained from the Erie County Board of Elections. Estimates of the proportion of men and women voters were made by use of materials from U. S. Bureau of the Census (1973a) (see note 4).

RESULT

In the spring of 1974, hearings were conducted to determine whether the Erie County jury selection system had been illegal. One clerk testified that when she started her job, some thirteen years previously, the jury commissioner told her not to select women's names from the blue books. Two other clerks testified that they, too, had deliberately chosen fewer women than men but that this had been their own idea, based on the belief that women would be more likely than men to claim exemptions (*Buffalo Evening News*, May 29, 1974: 37).

12. *Systematic* means that every *ith* case is selected, instead of selection being purely random. The "cases" here were pages, not separate names, and thus the sampling was of *clusters*. Since each book was sampled it was a *stratified* sample, and different percentages were used to ensure equivalent representation of books of varying numbers of pages.

The underrepresentation of women on both federal and state juries in our country is a matter of long standing. At one time women were categorically excluded. For many years, this has not been legal, but under the guise of compassion and protection women have been precluded from serving on juries by such practices as compulsory registration¹³ and general exemptions based on sex (Kanowitz, 1969:28-31; *Minn L. Rev.*, 1967:552; Davidson *et al.*, 1974:26-35).

In this case it is apparent that the exemption affected the behavior of the relatively few women who were offered the opportunity. But more important, the very existence of an exemption based upon sex alone had encouraged discriminatory behavior on the part of the jury commissioner and the clerks by rationalizing their assumptions about the expected behavior of women. The exemption was there to be used, and the clerks assumed that women would not want to serve on juries.¹⁴

The immediate result of the inquiry into the integrity of the Erie County jury selection process was an order by the presiding judge, clearing the jury pool of names selected before January 1, 1974,¹⁵ thus permitting a more accurate representation of the current demographic composition of the county.

Additional changes have occurred since the jury pool proceedings. After the court determined that the pool should be cleared of all names selected prior to January 1, 1974, a computerized system was established for selection of names. The first drawing using the new system was held in December 1974 for juries empanelled in January 1975.¹⁶

In January 1975, the United States Supreme Court ruled in *Taylor v. Louisiana*, 419 U.S. 522 (1975), that women could not be categorically excluded from jury service, or given automatic

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13. Compulsory registration refers to the practice whereby women must formally apply in order to be considered for jury service. This practice was declared unconstitutional by the Supreme Court in January 1975 (*Taylor v. Louisiana*, 419 U.S. 522, 1975).
 14. The removal of a woman's name from the qualified list was a permanent event. Her name would never appear in the pool again, thus further diminishing the probability of women being selected for jury duty. At present, persons claiming an exemption for the care of children are excused for a period of five years, and then can be called again.
 15. The court's decision was based upon violation of the equal protection clause of the Fourteenth Amendment. The court found the determining factor to be the evidence of "intentional and systematic discrimination" (*People v. Attica Brothers*, 79 Misc. 2d 492, 494, 359 N.Y.S.2d 699, 702, 1974). Forrest (1975:348) argues that, had statistical disparity between the group's representation in the community and in the jury pool been found, by itself, to violate the equal protection clause, the entire pool would have been discarded rather than just that portion selected prior to January 1, 1974.
 16. Interview with Crucian Messina, June 22, 1976.

exemptions based on sex alone. The court found that such exemptions result in juries that do not represent a cross section of the community, and thus violate the Sixth Amendment guarantees of a fair jury trial.

In Louisiana, a woman's name did not appear on the list used to prepare the jury pool unless she submitted a written request that it be placed on the list. In New York, by contrast, women's names appeared on the voter registration lists used to prepare the jury pool and it was only thereafter that women were allowed to request an exemption on the basis of sex alone. But Justice White's characterization of the Louisiana procedure was equally true of Erie County at the time of this study: "The . . . jury selection system does not disqualify women from jury service, but in operation its conceded systematic impact is that only a very few women, grossly disproportionate to the number of eligible women in the community, are called for jury service" (*Taylor v. Louisiana*, 419 U.S. 522, 525, 1975).

One week after the *Taylor* decision, a bill was introduced into the New York Legislature to amend the women's exemption, and it was quickly passed and signed by the governor¹⁷ (Laws of 1975, c. 382, sec. 3). Where the Judiciary Law, sec. 665, formerly read "A woman," the amended version reads:

A parent, guardian or other person who resides in the same household with a child or children under sixteen years of age, and whose principal responsibility is to actually and personally engage in the daily care and supervision of such child or children during a majority of the hours between eight a.m. and six p.m., excluding any period of time during which such child or children attends school for regular instruction.

As a consequence of the improved procedures of jury selection mandated by the rulings described in this paper, the opportunity for women to be represented on juries in Erie County has improved considerably, as has their actual participation.

In June 1976 the jury pool contained 61,891 names, of which 35,996 were women (58 percent).¹⁸ The progression from summons to empanelling of jurors is shown in Table 2, for var-

17. Governor Rockefeller, in signing the amendment described the New York exemption, granted to any woman who asked for it, as very close to the Louisiana practice (McKinney's, N.Y. Sess. Laws, Feb. 6, 1975:1731).

18. According to the Election Board of Erie County, women were 53 percent of the registered voters in the county, as of October 1975 (258,283/486,977).

The rest of the information in this section was provided by Jury Commissioner Crucian Messina, on June 11, 1976. He suggests that the reason that 58 percent of the pool is female, while 53 percent of the registered voters are, may be the greater numbers of men disqualified by reason of occupation.

TABLE 2

MALE-FEMALE DISTRIBUTION OF JURORS WHO SERVED IN ERIE COUNTY IN THE FIRST HALF OF 1976 (SELECTED WEEKS)

Dates: Week Beginning	Jan. 5		Jan. 12		Jan. 19		Feb. 2		April 19		May 24		June 14	
	men	women	men	women	men	women	men	women	men	women	men	women	men	women
Summioned	211	182	181	173	145	180	170	203	155	214	151	219	168	199
Postponed	34	30	33	50	28	36	35	32	44	57	42	56	36	55
^a Excused	4	25	5	39	8	34	11	30	5	39	6	33	3	32
^b Off	12	14	15	18	40	25	16	27	19	37	20	35	17	26
^c Reported	161	113	128	66	105	85	108	112	90	81	83	95	112	86
^d Venire Panel														
Total	207		147		152		147		130		131		145	

- ^a Excused for five years, exemption for child care. Applicant must send a letter to the Jury Commissioner stating the age of children and requesting an exemption.
- ^b Off, for reasons of age, physical infirmity, or having moved.
- ^c Reported to court on the day assigned. These people can then ask for an adjournment, or they may be disqualified at that point. (See New York Judiciary Law, sec. 528.)
- ^d Empanelling lists do not indicate sex.

The sources of the information in this table are the records kept by Crucian Messina, Jury Commissioner for Erie County (June 18, 1976).

ious weeks in the month from January to June 1976. During those weeks 53.7 percent of persons summoned were women (1370/2551). Women constituted 44.7 percent of those reporting to court (638/1425), 56.8 percent of those asking for a postponement (316/568), and 56.6 percent of those excluded for reasons of disability, age, or moving (182/321). Not surprisingly, women invoked the amended child care exemption far more often than men, comprising 84.6 percent of the group requesting this excuse.

While the table represents figures selected in a nonsystematic way, they certainly indicate that the women of Erie County are not being passed over by the jury selection procedures. Even more important are the figures for actual participation on juries. According to the records of payments for jury service, between January 5th and June 14th, 1976, a total of 3,588 jurors served in the Erie County courts of whom 49.7 percent were women. The new methods and the amended law must be accounted successful in correcting the imbalance of women on the juries in Erie County.

DISCUSSION

The level at which the initial discriminatory acts occurred in this case has important implications for an understanding of the forces affecting behavior, and the possibilities of social intervention. The attempt to locate, prevent, and stop discriminatory

behavior required considerable knowledge about many levels of the system.¹⁹

Laws and ruling may be necessary but are not sufficient in themselves for the elimination of discrimination. People in administrative positions, charged with carrying out a law, must comply with its intent if social change is to result. In the Erie County Commissioner's office, stereotypical prejudices had been communicated to workers who developed methods to enable them to carry out complex, monotonous processes with the least disruption, but their methods undermined the possibility of forming juries representative of the sex composition of the county. A self-fulfilling prophecy—that women would not serve on juries—was thus realized.

There are implications here for social scientists who use systematic frameworks for exploring discriminatory practices embedded in the institutions of society. By the application of systems and organizational theories they can categorize and analyze bureaucratic structures by size, supervision and control, specialization, responsibility, and variety of duties to find the general directions in which, and the specific places at which, important decisions are made. The most critical points may be the routine choices delegated to persons not thought of, or rewarded, as "decision makers." Social scientists have the training essential for collecting data and drawing inferences and generalizations that can become evidence for lawyers preparing arguments for new, altered, or reinterpreted laws. And they can encourage the use of modern technology to create an objective bureaucracy.

When social scientists and lawyers work together to ameliorate social problems through legal means there are intricacies at many levels. In this example, evidence first had to be collected to convince a judge that further inquiries should be made; the research project simply could not have proceeded without court permission. Here social scientists had to convince someone other than a panel of colleagues from their discipline that their proposed research was worthwhile. They had to sign affidavits confirming that they would preserve the anonymity of records, and later had to testify in court about the information they had collected. Social scientists and lawyers each learned something about the others' attitudes toward statistical evidence and the use to which it could be put in the legal decision-making process.

19. As Forrest (1975) points out, the final decision was not based upon the statistical analyses. However, the fact that a court hearing took place, and that the procedure was questioned, was the consequence of the research effort by the lawyers and social scientists. The statistical analyses provided important information for the lawyers bringing the case.

While the Fair Jury Project was not undertaken to test theoretically based propositions, there are instructive conclusions to be drawn. For those who are interested in learning about the problems of discrimination against women, this case provides one more example of the pervasiveness of discriminatory behavior engaged in by persons and systems operating in an open and ostensibly legal manner. For those who want to do something about discrimination, it provides an illustration of the scrupulous attention that must be directed at discretion exercised in unanticipated places. And finally, the consequences in this case demonstrate that an improved law speaking directly to a problem, with improved procedures utilizing modern technology and implemented by persons interested in carrying out the intent of the law, can indeed lead to a reduction in discrimination, in short, to social reform through law.²⁰

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20. Some of the lawyers and social scientists who worked on the Fair Jury Project, and similar projects in other places, have prepared a manual of information for lawyers, legal workers, and social scientists interested in "systematic methods for detecting and reducing the effects of prejudice within the confines of the existing jury and voir dire systems" (Kairys, 1975:2).

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