RACISM, POLICE BRUTALITY AND THE TRIAL OF TERRENCE JOHNSON

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In recent years there has been substantial interest in the role played by progressive social scientists in political trials (National Jury Project, 1979). In this article we will discuss some issues that arise in such trials in light of a case in which the authors constituted part of the jury selection team. In 1979 Terrence Johnson, a black youth, was tried for the murder of two white policemen in Prince George's County, Maryland—a suburb of Washington, D.C. with a long history of police brutality. Johnson claimed that he was severely beaten by one of the policemen and that he killed him in self-defense. The state charged Johnson with first degree murder and, under the provisions of Maryland law, the state requested and the court ordered that Johnson, a fifteen year old, be tried as an adult.

SOCIAL SCIENTISTS AND POLITICAL TRIALS

One initial use of social science methods in courtroom struggles was the attempt by radical social scientists to combat state repression of the popular movement against the American war in Vietnam. The first use occurred in the trial of the Berrigan brothers and other antiwar activists. The defendants in this case included leading figures in the antiwar protests; they were charged under a conspiracy statute with plotting against the Nixon Administration. Under the conspiracy statute, the federal government could choose to try the defendants in any location where any defendant had resided (even temporarily) during any stage of the alleged conspiracy. The U.S. Justice Department chose Harrisburg, Pennsylvania as the site of the trial. Harrisburg was noted for an electorate which was staunchly conservative, Republican, and pro-war. A group of radical and liberal social scientists became involved in this trial in an attempt to redress the imbalance inherent in this choice of venue (Shulman et al., 1973).

Imbalance is inherent in all legal proceedings. In a criminal trial, the state and the defense are not equal adversaries. An objective analysis of judicial procedures shows the defendant in a criminal case to be at a significant disadvantage. First, the financial, investigative, and legal resources of even a wealthy (not to mention the average) defendant palls by comparison to those of the state. A determined prosecutor in an important case can mobilize a large staff of attorneys, legal workers, investigators, and support staff. In contrast, defendants must rely upon whatever legal services they can afford to buy on the private market or else entrust their defense to understaffed and overworked public defenders or court-appointed attorneys. In the trial itself, the defendant stands in the public courtroom with the full weight of the state arrayed against him or her. For many jurors this, in itself, is an indication of guilt. In surveys of large representative samples across the country it has been found that prospective jurors believe, despite legal presumptions to the contrary, that an indictment is evidence of guilt, that defendants in criminal trials must prove their innocence, and that the testimony of the police is inherently more trustworthy than that of ordinary citizens. In one national survey it was found that 31.0% of respondents agreed with the statement "If the government brings someone to trial, then that person is probably guilty of some crime."[1] In the same survey 52.7% of respondents agreed that "Defendants in a criminal trial should be required to take the witness stand and prove their innocence."

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*The defense reported in this article was the collective labor of a very large number of people who worked tirelessly in a long and principled struggle. Although this report describes one aspect of that collective labor, the positions taken herein are primarily the responsibility of the first author. He would like to thank all of those with whom he worked and from whom he learned, and he trusts that his analysis will not grievously offend them.

Special thanks are due to Brint Dillingham, Fred Solowey, Allen Lenchek, and the National Jury Project. They, however, should be absolved of any blame for the inadequacies of this analysis. The somewhat peculiar byline of this article is intended to acknowledge the role played by Charles Turner in the jury selection and as critic of successive drafts of this report.

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(Similar responses were obtained in our survey of registered voters in Prince George's County, Maryland.)[2]

Historically, the courts have been used as an effective weapon against political dissidents in the U.S. For example, under Attorney General Mitchell (now a convicted felon himself), the U.S. Justice Department, the Federal Bureau of Investigation (FBI), and the Central Intelligence Agency (CIA) undertook a program of harassment of left, black, Latino, and other organizations. The government's actions were not limited to the conspiracy trials but included the infamous COINTELPRO program involving infiltration, burglary of offices, intimidation, extensive unauthorized wiretapping, illegal mail openings, systematic disruption of constitutionally protected organized activities, disinformation programs, agent provocateurs, entrapment, poison pen letters, and other forms of personal attack. Disclosures of internal memoranda in the post-Watergate era suggest that attempts were also made to foment factional hostilities among dissident groups in the hope there would be "unintentional" homicides.

In the Harrisburg trial, the government chose a locale where it was assured massive prejudice against the defendants. In addition, the government used the FBI to conduct field investigations of potential jurors and had access to FBI files on all persons having any record with any law enforcement agency (e.g., all persons who had filed for security clearance, had ever had record checks done by state agencies, etc.).

It was against this background that some radical social scientists attempted to use their skills and their limited personal resources to redress the state's advantages and to halt the use of the state's legal apparatus to coerce dissidents into acquiescence. In their initial analysis, they believed that the right of criminal defendants to a trial by a jury of ordinary citizens could be an important protection against abuses of state power. The jury was interposed between the individual defendant and the coercive and punitive power of the state, and juries could render judgment in accordance with their conscience. The acquittals in Harrisburg and in the conspiracy trials of the Vietnam Veterans Against the War (VVAW) (for their demonstrations at the 1972 Republican Convention) seemed to confirm this belief. In assessing these results, however, one should not underestimate the impact of the government's misconduct in handling these cases. In the VVAW case, for example, an FBI agent was found in the broom closet of a court conference room provided for confidential conferences between defendants and their attorneys.

From the experience of this work, a permanent group known as the National Jury Project (NJP) was established. NJP was sponsored at the outset by the National Lawyer's Guild (the left alternative to the American Bar Association), the National Conference of Black Lawyers, the Center for Constitutional Rights, and the National Emergency Civil Liberties Committee. Over the last decade members of NJP have worked in a variety of political cases, including the Harrisburg 8 trial, various Wounded Knee trials, the Attica Brothers trial, suits over Kent State, the murder of Fred Hampton and Mark Clark, and the Joan Little case. For many radical social scientists involved in this work, it was a constructive way of using their skills in progressive struggles.

With time, the work has changed. The war finally ended, and many of those who had gone underground in the late '60s and early '70s surfaced and were tried. The mid and late-'70s produced a different set of struggles. Recent work has gone into cases reflecting the political realities of present-day America, e.g., labor struggles, litigation of the claims of American Indian peoples for land lost through seizures in violation of treaties in the 18th and 19th centuries, the defense of gay people and women, death penalty cases, and cases such as that of the State of Maryland v. Terrence Johnson.

THE INCIDENT

In June of 1978 fifteen year old Terrence Johnson and his eighteen year old brother Melvin were picked up by the police of Prince George's County, an area adjacent to Washington, D.C., on suspicion of stealing money from coin-operated laundry machines. They were taken to the Hyattsville police station. Despite his age and police regulations, Terrence Johnson's parents were not informed of his detention. At the police station Johnson was roughed up and kicked in the groin by a police officer. When he attempted to resist, he was cursed and called "nigger." One policeman threatened, "I'm going to break your neck."

Policeman Claggett took Johnson to a small sideroom "to calm him down," closed the door, and began to beat him. During the beating, Johnson grabbed Claggett's revolver and killed him. Johnson ran out of the room shooting wildly. One shot just missed his brother Melvin Johnson and a second shot killed policeman Swart. Johnson continued pulling the trigger of the now-empty gun, ran down the hall crying and shouting wildly, slammed blindly into a wall and fell to the ground.

Johnson faced two counts of first degree murder, three counts of illegal use of a handgun, one count of carrying a handgun, one count of attempted escape, and one count of assault with attempt to murder (the last count referred to a third officer). The prosecution alleged that Johnson had committed "cold-blooded" murder in an attempt to escape. The defense would argue that Johnson acted in self-defense in killing the first officer and that he was temporarily insane when he shot the second officer. At the trial in March 1979, Johnson testified that he was in fear for his life when he fought back against the first officer and that he did not remember the second killing at all.

POLICE BRUTALITY IN PRINCE GEORGE'S COUNTY

Johnson's fears are perhaps understandable when understood in the context of the long history of racism and brutality in the Prince George's County Police Department. In the county itself there have been vocal demonstrations against school busing, and cross burnings were not an uncommon occurrence. 56 shootings of civilians by police took place in a five year period ending on December 31, 1977. One well-publicized killing involved William Ray and was described in a report by Brint Dillingham (1979) on police brutality in Prince George's County:

> On Christmas Eve, 1977, Prince George's County Police Officer Peter Morgan shot and killed an unarmed 32 year old black man, William Ray. Ray had earlier been arrested by a security guard at a Giant food store and was accused only of shoplifting two hams worth less than $20.00. After being processed by Morgan at the Seat Pleasant station, Ray fled the station. Morgan and a number of other officers chased Ray. Morgan reported that he called for Ray to stop. When Ray attempted to climb a three foot churchyard fence, according to Morgan, he shot him, hitting Ray in the head. Ray died two days later. Arthur Marshall, P.G. state's attorney, declined pleas by black leaders that he personally present the case to the grand jury, and the grand jury subsequently declined to indict Morgan.

Another incident in December 1975 involved Officer Claggett, the first officer killed by Johnson, in which Thomas Peet was beaten in front of 15-20 witnesses. Dillingham describes that incident as follows:

> On December 4, 1975, Thomas William Peet, a 32 year old black man from Laurel was brutally beaten in a 7-11 parking lot on the Laurel Bowie Road. Peet was in the parking lot helping his nephew and others push a stalled car when several Prince George's County police cars arrived, one by one by one, and eventually blocked off the small crowded parking lot. The officers eventually picked out Peet, charged him with leaving his car unattended while the motor was running, and arrested him when he refused to sign the ticket, but agreed to go to the police station. Soon at least three of the officers, including Claggett, were beating Peet to the ground using a variety of weapons, and leaving a large pool of blood from Peet's head which later required multiple stitches. Besides the original traffic charge, Peet was eventually charged with resisting arrest and assault on a police officer. Fortunately for Peet, a large number of witnesses had gathered—some forced to witness the scene because police vehicles were blocking their exit. These witnesses were uniformly shocked by the police actions. Many protested to officers on the scene, and some called police superiors and the media. Some of those who protested on the scene were themselves physically threatened. Seven of these civilian witnesses, including two called by the prosecution, testified at Peet's trial that they saw Peet strike no one, but that they saw police beat Peet. Peet offered uncontested testimony that when Claggett and another officer took him to the hospital, and after his head wounds were stitched, he was forced to return to the police car so quickly that a nurse had to follow him to the car to give him a required tetanus shot. The state offered as an exhibit an inventory of everything in Peet's car. Nowhere in the inventory was a set of car keys, thus undermining the very charge that precipitated the whole incident—that Peet's car was left running. Peet was acquitted of all charges. He sued the County and Officers Claggett, Ariemma, Low, Murdock, and Panosh. Before his suit was finally settled out of court in early 1978, Peet died under suspicious circumstances (in June 1977), drowning under a Ft. Meade bridge in the presence of an Anne Arundel County Policeman and two military policemen who said he had run from them after being stopped on traffic charges.

The trial of Terrence Johnson for the deaths of officers Claggett and Swart lasted two weeks. During the trial Judge Levin, upon prosecution motions, refused to allow any statements or evidence to be presented to the jury concerning police brutality. After 18½ hours of deliberations over a three day period and reported deadlocks, the jury of four black men, one white man,[3] and seven white women found Johnson not guilty of the second killing by reasons of temporary insanity, and acquitted him of first and second degree murder in the first killing, convicting him instead of illegal use of a handgun and voluntary manslaughter. Johnson was acquitted of all the other charges.

The prosecution was extremely dissatisfied with the verdict. The jury was attacked as biased in the media by the prosecutor and the police association president. The police staged a one day work stoppage protesting the verdict and the president of the police union said, "The men in the department are fed up. I think they are going to use their guns more."

Johnson, however, faces 25 years in jail. Despite

his youth and lack of prior convictions, the judge sentenced Terrence to the maximum of 10 years for the manslaughter conviction and 15 years for the illegal use of a handgun conviction. For good measure, the judge took the unusual step of specifying that the two sentences would run consecutively, not concurrently.

Long before the trial, in fact, from the day the incident occurred popular sentiment about the case was sharply divided—frequently along racial lines. Segments of the black community were organized to raise funds and otherwise provide support to Johnson and his family. Several thousand dollars were raised for his defense at Sunday church sermons and through door-to-door canvassing by church members. There were also multi-racial fundraising activities and demonstrations throughout the area.

ISSUES FACING THE DEFENSE TEAM

The defense team was faced with a series of contradictions in community attitudes. The first was the contradiction between a high public awareness of police brutality among both blacks and whites and the public's inability to see any circumstances in which the killing of a police officer was justified.

The second contradiction was that while the high levels of publicity and prejudice around the case suggested that the defense team should consider a change of venue, in this case community awareness of police brutality was a prerequisite for a successful defense. The history of brutality by the police needed to be understood by the community which had been its victim. In a neighboring county the trial would simply be another cop killing.

There were also problems inherent in a combined defense of self-defense and temporary insanity. Would racism preclude finding white jurors who could accept the self-defense claim? Would the widespread suspicion of the defense of temporary insanity preclude finding jurors who could be open to the insanity defense? Would a jury believe that Johnson acted in rational self-defense in the first killing and seconds later acted out of temporary insanity in the second killing?

The defense team, in consultation with the National Jury Project, decided that a survey of persons eligible for jury service (registered voters) could help in sorting out these issues and thus in planning pretrial and trial strategies. The survey could serve at least four purposes. First, the survey results could be introduced as evidence to support a motion for change of venue if the defense team wished to pursue this strategy. Second, if the survey showed extensive prejudgment of the case in the community, but also indicated that the contradictory nature of community attitudes was such that a change of venue would not remedy the problem, the results could be presented in court to support arguments for extensive and individual questioning of potential jurors during jury selection. Third, the survey could help identify groups within the community who were more (or less) likely to be open to the defense's case and this information could help the defense exercise its twenty peremptory challenges.[4]

A fourth and novel use of survey results was also contemplated. To accept an argument of self-defense a jury must believe that a "reasonable man" finding himself in the same situation would have reason to fear grevious bodily harm. Thus the defense wished to show that given (1) the material history of police brutality in the county, (2) the public perceptions of police brutality, (3) and Johnson's beating and the threats made by the police, this fifteen year old youth had good reason to fear for his well-being. A survey could be used to identify commonly held opinions in the community regarding police brutality. The defense could introduce these results as evidence that Terrence Johnson's fear of the police was consonant with commonly held community opinions, and thus his reaction in self-defense was that of a "reasonable man."

CHANGE OF VENUE[5]

The first question that the defense wished to answer was whether a change of venue should be sought. On the surface, it appeared that any jury in the county would convict Johnson. 96.6% of respondents of our survey knew something about the case, and 43.9% of respondents said they knew "a lot." 68.1% of the sample had an opinion as to the guilt or innocence of Johnson and of those expressing an opinion, 93.8% of whites and 41.4% of blacks thought he was guilty. In fact, 64.0% of black respondents and 32.7% of white respondents said they, themselves, did not believe that a fair trial was possible.

Two factors nonetheless argued against a change of venue. First, Johnson could not get a fair trial anywhere. Once a jury is told that the case involves a black teenager who killed two white police officers, prejudicial opinions would set in. And in this regard, Prince George's County had some advantages. Prince George's County was approximately 35% black. If the trial were moved to a neighboring county the concentration of blacks would be less. In addition, residents of Prince George's County were familiar with the history of police brutality in the county.

Second, the case was not hopeless in Prince George's County. 62.6% of those responding thought it was possible that Terrence Johnson shot the officers in self-defense. In fact, of those responding 75.9% said they would vote not guilty if the evidence showed that Johnson had killed in lawful self-defense and the judge pointed out that self-defense was legitimate. 65.7% responded in the same way to a similarly-worded question on temporary insanity.

The findings of the survey and the opinions of the defense attorneys argued against an attempt to change venue. However, the 24.1% who would still vote guilty in a case of proven self-defense and the 34.3% who would still vote guilty in a proven case of temporary insanity argued for the need for the attorneys to intensely question potential jurors in order to insure that they were given adequate latitude to discover prejudice.

One other point should be made here. The survey suggested that respondents were more likely to accept a self-defense plea than a temporary insanity plea (75.9% vs 65.7%). In fact, whereas 30.7% of those who felt that Johnson was guilty would not be willing to change their vote to "not guilty" if self-defense was proved, 50.6% of those who felt that Johnson was guilty would still vote guilty if temporary insanity were proved. In fact, 50.0% of respondents felt that "lawyers who use a temporary insanity plea are trying to pull the wool over the jurors' eyes." People are suspicious of arguments of temporary insanity. Indeed, no jury in the County had accepted temporary insanity as a defense for over fifty years.

The two defenses could, however, favorably reinforce one another. It was felt that we could show that Johnson was driven to act in self-defense in the first killing. Because he was beaten, was a child, and had just killed a man in a heat of passion while fearing for his own life, he was driven temporarily insane. A burst of insanity was a natural reaction for a sensitive youth being driven to kill while being afraid of being killed. Our findings about the interconnections between self-defense and insanity did have an effect upon the defense attorneys.

PREJUDGMENTS CONCERNING THE CASE

The survey did show extensive prejudgments concerning the case. There was need to have extensive questioning of potential jurors in order to have a fair jury. In the survey we asked a question similar to one typically asked by judges during the *voir dire*:[6] "Feeling as you do, if you were called as a juror in that case, could you put aside your feelings and judge the case only on the evidence you heard in court?" 76.4% of those responding said yes. However, of those saying they could judge the evidence only on what they heard in court, 23.5% said they would vote guilty even if "the evidence showed that Terrence Johnson killed in lawful self-defense." An even larger proportion—34.9% said they would vote guilty despite the evidence in a proven case of temporary insanity although they also said that they could put aside their feelings in judging the case!

There would be little hope of obtaining a fair trial unless those prospective jurors who could not follow the law with respect to the defenses of temporary insanity and self-defense could be identified and excluded through *voir dire* questioning. Because people are usually unwilling to admit prejudice, especially in court, a fair trial could be obtained only if the judge permitted in-depth, open-ended questioning of the prospective jurors on their opinions about the case and their attitudes regarding the defenses and related issues. The defense motion for extensive *voir dire* of jurors, individually and out of the presence of other jurors, was denied. Instead the judge devised a system of *voir dire,* which, while allowing some restricted questioning to be conducted by attorneys, was extremely difficult and grueling for everyone involved—especially the jurors.

POLICE BRUTALITY

The main argument used by the defense was that Terrence Johnson was provoked by the brutality of the police and responded in self-defense. The survey showed that those who saw police brutality as a problem in the county were more likely to vote for Johnson's acquittal.[7] In fact, 72% of those who felt that Johnson was innocent mentioned police brutality as the reason for his innocence in an open-ended question whereas only 20% of those who felt he was guilty mentioned police provocation. Hence, a necessary component of the defense case was to prove that police brutality was perceived as a serious problem in the county. 84.8% of black respondents and 42.2% of white respondents agreed that "police brutality is a serious problem in Prince George's County." Four other questions about police brutality showed similar results. The survey also showed that black people in Prince George's County were fearful of the county police and that a large number of whites shared this fear.

PICKING THE JURORS

The more one is able to question potential jurors, the better one understands their feelings towards a case, and the more likely it is that latent prejudices will be exposed. Even without extensive questioning of jurors one may still be able to use demographic information as predictor variables. For example, manifestations of racism often differ across class and educational, as well as racial groups.

It is important to stress two points. First, the strength and direction of such correlations often varies from community to community, reflecting each communities' particular history. Thus the results of this survey are not necessarily applicable in other communities. Second, demographic predictors of such attitudes are often imprecise, and the strength of most relationships is usually weak. Statistical inference is no more than a tool for improving the process of decision-making during jury selection when the preferred option of extensive attorney-conducted *voir dire* is denied. Inevitably, statistical analyses must be combined with on-the-spot analyses of prospec-

tive jurors' verbal and nonverbal responses to questions, their interactions with attorneys, judge, and each other, etc.

We had six key questions in the survey of the jury-eligible population. They asked whether respondents felt that Johnson was guilty or innocent, might have shot in self-defense, might have provoked the incident itself if he did shoot in self-defense, or would have been treated differently if he were white. They also asked whether they would vote "guilty" if the evidence showed that he did shoot in lawful self-defense or was temporarily insane at the time of the shooting. These questions were cross-tabulated (both singly and in various multivariate ways) with a variety of general attitudinal questions and demographical questions.

The most important demographic variable was race.[8] Blacks were significantly more open to the defense on eight of the thirteen general attitudinal questions,[9] all five of the police brutality questions, and five of the six case-specific questions.[10] This, of course, was no surprise.

We then broke down our tables for whites and blacks and ran separate analyses. Among whites, persons aged 23-40 were more open to the defense arguments; women were more open than men; divorced and non-married were more open than married; blue collar, police, and retired were relatively more closed; the area in which whites lived was important; and generally, the more educated were more open. (This is a summary of hundreds of crosstabulations.)

Blacks were both more favorable and more homogeneous in their attitudes than whites. Age, marital status and sex were not good predictors of attitudes among black respondents. Blacks who were well-educated were more willing to support Johnson, while black blue collar workers were comparatively closed to the defense arguments. Surprisingly, crime victims were more open to the defense than those who were not crime victims.

In addition to results of this sort, our analyses suggested questions to ask potential jurors if extended *voir dire* became a reality. Thus, we knew that attitudes towards police brutality, youth, and reliability of police testimony were highly correlated with our case-specific questions and would be important to ask potential jurors about.

It is important to recognize that although we were able to develop some empirical notions of the demographic characteristics of (relatively) prejudiced and unprejudiced jurors from the survey, there were also other important sources of information available about the jurors. In general, observation of potential jurors during the voir dire questioning is crucial. In other trials, important information has been derived from trial simulations, in-depth interviews of community leaders, and sources within the community. Methods of combining these sources of information and the technical tasks of jury selection are discussed in detail in the National Jury Project publication, *Jury Work: Systematic Techniques*.

POLITICS OF THE CASE

Legal defense teams do not operate within a political void. The legal support committee represented many political tendencies including establishment blacks, students, independent leftists, party groupings, and businesspeople. Their demonstrations and support were widely discussed in the community (9.1% of respondents mentioned demonstrations when asked in an open-ended question what they had heard about the case).

The defense team was split at times. It consisted of a black moderate, who served as lead attorney and was widely regarded as one of the most effective (and financially successful) criminal trial attorneys in Washington, D.C., a white leftist, and a black liberal. Mechanical problems ranged from lack of money to unequal division of labor. The major difference was over what defense to use in the case (in fact, this was not resolved until the trial had actually begun). Potential strategies included arguing only self-defense, only temporary insanity, or various combinations of the two. In practice, temporary insanity was favored by the lead attorney up until the beginning of the trial. This preference may have reflected a belief that he could win with this strategy or, perhaps, a fear of the radical implications of using self-defense as justification for the killing of two white police officers.

We felt that relying exclusively on the insanity defense would lead to disaster. There were two problems. First, in the survey it was apparent that potential jurors, were more likely to accept self-defense rather than temporary insanity. (Actually, as we have pointed out, the two could be linked together in a supportive way.) Second, we believed that the testimony of the white defense psychiatrist was factually misleading in a way that might invite jurors to conclude that Johnson was dangerous by nature. His testimony, we thought, would impede jurors coming to grips with the fact that this small, unarmed, fifteen-year-old boy was reacting to a frightingly real situation in which he had adequate present and historical cause to fear for his safety.

The survey team began meeting on Saturday morning and the trial was scheduled to begin on Monday morning. We had planned to review statistical results of the survey and to receive a briefing from the attorneys on Saturday. In the evening we were supposed to finish coming up with a strategy for jury selection, and on Sunday we were planning to practice *voir dire* procedures and review our own potential testimony. This plan soon collapsed. We could not decide upon a strategy for jury selection until the attorneys had decided upon a strategy for the case. As it became apparent that the strategy would probably lean towards temporary insanity and that the expert witnesses previously mentioned would be utilized, we began to intervene.

Experience teaches that good defense work is

team work. Those conducting the survey or those helping in jury selection should not be used as just technical experts who are divorced from other aspects of the case. The attorneys, defendants, and workers for the defense should be integrated into a defense team. Jury selection techniques must be coordinated with defense strategy and political understanding.

This was not done in this case. Part of the problem is common to other cases. Trial attorneys are socialized to be individualistic, and collective labor and responsibility is not the norm in their work (particularly when the co-workers are not attorneys). It takes weeks or months of collective labor for most attorneys to gain respect for non-attorneys and to see the advantages of team work. In political trials, these problems can be magnified if political differences exist.

THE OUTCOME

Both negative and positive comments can be made about the effect of the survey team. Johnson was convicted of some charges. In fact, it appeared as if the temporary insanity defense was more successful than the self-defense strategy. (Remember that we recommended using both while stressing self-defense.)

A few points should be kept in mind in evaluating this outcome, however. First, Johnson was not convicted of first or second degree murder. Second, Judge Levin's instructions to the jurors stated that a verdict of voluntary manslaughter would mean that Johnson acted in a "sudden heat of passion" and was "under adequate provocation by the deceased person." This closely resembles self-defense. Third, one must keep in mind that all testimony about police brutality was suppressed. Although we did not expect the judge to allow the survey to be introduced as evidence in front of the jury, it was felt that other testimony of the history of police brutality in the county and the background of Officer Claggett might be introduced to show that Johnson's reactions were those of a reasonable man. It is possible that if the testimony were allowed the jury might have voted not guilty on the remaining charges. Fourth, in hindsight, it appeared that we were correct in our assessments of some of the white psychiatric experts who were originally scheduled to testify "on behalf of" Johnson.

CONCLUSIONS

There are inherent inequities in the criminal justice system. Poor defendants cannot match the resources of the state, while people accused of crimes must in practice prove their innocence. Third World defendants must, in addition, counter racist stereotypes held by police, prosecutors, judges, and juries. Defendants in political trials must also fight against outright attacks on their "dissident" political beliefs.

Progressives and political activists can utilize some of the skills available from the "positivist" social science disciplines in order to redress some of the inequities of the judicial system. Other skills beyond surveys have been utilized over the years including simulations, in depth interviews of "knowledgeable" people in the community, psychological evaluations of responses made by potential jurors during the *voir dire,* and so forth.

Methodological skills *can* be used to understand and change society in a positive way.

However, it is important to understand that one does not usually "win" by doing jury work. Defendants, defense attorneys, and lay workers do not decide on whether or not to prosecute. Those accused rarely call the plays. It takes scarce time and resources to defend against attacks made by the state. However, there is also aggressive jury work. Civil suits can be brought against individuals, corporations, groups, and the state. Suits against the manufacturer of the Dalcon Shield, those responsible for the shootings at Kent State, and members of the Ku Klux Klan put these groups on the defensive and can play an important educational role.

Aggressive jury work can also relate to other forms of organizing by educating the community about issues arising in the case. In the Terrence Johnson case demonstrations drew attention of the community to the problems of police brutality. The release of the findings of our survey in a well-publicized press conference also high-lighted police brutality and racism in the community. Jury work can go hand-in-hand with other forms of political work.

FOOTNOTES

1. The national survey was conducted by the **Washington Post** in May 1979. All respondents were aged 18 and over and telephones were selected using random digit dialing in the continental United States. N = 1801.

2. The Terrence Johnson survey was conducted in February 1979. Phone numbers were picked from the phone book and last digits of the numbers were changed. The person to be interviewed from each household was chosen randomly from among the registered voters. Our final sample consisted of 329 respondents and age, sex, and racial distributions fell within sampling error of the 1976 Maryland census report for Prince George's County.

3. Judge Levin appointed the lone white male as foreman of the jury although he was the least educated of the jurors. Defense attorneys were almost held in contempt when they protested this racist and sexist behavior. It was later learned in post-trial interviews of the jurors that this man was in fact a racist and that one of the jurors went to the judge to complain of this man's racist remarks during the trial.

4. In a jury trial the prosecution and the defense may ask the judge to dismiss a potential juror for cause—i.e., the juror is biased. The prosecution and the defense receive a set number of peremptory challenges. With the use of peremptory challenges the prosecution or the defense may excuse a juror without reason. One of the tasks of jurywork is to decide who to strike from the jury by the use of peremptory challenges.

5. A change of venue moves a trial to another location; it requires evidence that the defendant cannot receive a fair trial in the present locale, e.g., because of high publicity.

6. **Voir dire** is the preliminary examination of potential jurors. The more one is able to question potential jurors about their background and beliefs, the easier it is to detect bias.

7. Kendall's Tau B = .32.

8. In later analyses we developed a variable on general attitudes from a factor analyses in which all attitudinal, political, and case-specific questions were included. Questions on guilt or innocence and police brutality loaded high on this factor. We regressed all demographic variables against this factor (using dummy variables) and were able to explain 38% of the variance. The percentage variance explained by race alone was 24%.

9. Of the remaining five, questions only one showed whites as being more liberal.

10. At .05 level using t-test or Chi Square; the choice of test depended upon the level of measurement.

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