Peremptory Challenges: An Empirical Test of Perceived Bias in Jury Selection

Alexander Barfield
Wayne State University

October 2005

Abstract

Observations of criminal trials from a state court in Detroit, Michigan were used to model how lawyers use peremptory challenges to strike prospective jurors. Ordered regression models were used to identify the factors used in the lawyer’s decision. The proportions of jurors perceived to be pro-acquittal, neutral, or pro-conviction were obtained by maximum-likelihood using a Dirichlet-trinomial distribution. Cross-tabular analyses were used to answer additional questions. The main results of the study are a) race is the dominant factor in the lawyer’s decision to use peremptory challenges, b) Blacks are considered more acquittal-prone than non-Blacks, and c) the proportion of jurors perceived to be conviction-prone is about twice that of those perceived to be acquittal-prone.

1 This is a working paper of my doctoral dissertation to be submitted to Wayne State University in 2006.
2 Correspondence concerning this article should be addressed to Alexander Barfield, Department of Economics, Wayne State University, Detroit, Michigan 48202. Email: barfielda@wayne.edu.