

## **Chapter 5. Jurors at court: pools, panels and juries**

The juror summoning survey examined in the two previous chapters was specifically designed to examine the impact of the initial stages of the juror selection process. It addressed how juror catchment areas, random selection from source lists and juror eligibility rules affect black and minority ethnic (BME) representation among those summoned for jury service. However, it was not designed to examine the representative nature of the next and final stages of the juror selection process: the creation of jury pools, jury panels and juries at court. To do so, a more in-depth study of serving jurors was conducted in a selected number of Crown Courts. This chapter presents the findings of the second main phase of the research project, which explored the extent to which those actually attending court as jurors and those selected to serve on juries were representative of the local population. The findings are based on surveys of all jurors attending court for jury service over a four-week period in three Crown Courts where there are substantial numbers of ethnic minorities in the local population.

### **Aims and objectives**

The summoning survey revealed a number of false assumptions about who does and does not do jury service, for instance that ethnic minorities, women and younger people are under-represented among those doing jury service. The strength of the summoning survey lies in the fact that it covered all Crown Courts in England and Wales and captured all aspects of the summoning process. However, it did not provide detailed profiles of the specific groups of jurors attending each court for jury service on a weekly basis (jury pools). It encompassed a single week of juror summoning and therefore was not designed to determine whether summoning of jurors by random selection resulted in any significant fluctuations from week to week in the proportion of ethnic minorities serving at each court. It was also not designed to provide exact profiles in each Crown Court of the socio-economic background of jurors in the jury pool and on juries. Yet as the analysis of ethnic representation in the two previous chapters has demonstrated, the clearest picture of the representative nature of jury service only emerges from an individual court-based analysis. Therefore, in order to more fully understand the extent to which serving jurors are representative of the local population, a more detailed study was undertaken of those actually in jury pools and serving on juries in three Crown Courts. This jury service study specifically explored the representative nature of the last three stages of the juror selection process: the composition of jury pools, jury panels and juries.

Being in a jury pool does not necessarily mean that a juror will serve on a jury. First, the juror must be selected for a jury panel. The jury panel is the group of 13 or more jurors whose names are selected from the jury pool for a specific trial by the court's computerised random selection programme. However, being on the jury panel does not necessarily mean that a juror will serve on the actual jury. The names of each member of the jury panel are printed on cards, all jury panel members are brought into court where the court clerk shuffles the cards and reads out the first 12 names. These 12 jurors then form the jury<sup>221</sup>. This final stage of jury selection (jury empanelling) is the only stage that does not involve computerised random selection of jurors. To examine the representative nature of those doing jury service and serving on juries, the study addressed three main questions:

1. How representative are jury pools in relation to the population in the juror catchment area for each court?
2. What proportion of BME jurors are selected for jury panels and serve on juries in each court?
3. Does final jury selection in open court indicate any bias against BME jurors?

## **The study**

The final stages of juror selection were examined in detail at three separate Crown Courts: Blackfriars, Reading and Manchester Minshull Street. These three courts were selected because they are all High Ethnicity Courts<sup>222</sup>; that is, courts where BME groups comprise a substantial proportion of the population in the juror catchment area<sup>223</sup>. Blackfriars has the highest overall BME population (33%) of the three courts, while Reading and Manchester Minshull Street courts have very similar BME population levels (10% and 11% respectively). However, the ethnic population profile for each court's juror catchment area is different. Figures 5.1 – 5.3 below show the distribution of BME groups throughout each court's catchment area<sup>224</sup>.

Blackfriars Crown Court is a busy inner London court, with a highly mixed urban ethnic population throughout the court catchment area. The Black community comprises the single largest BME group in the catchment area (15%), and this is almost evenly split between Black

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<sup>221</sup> Unless the judge excuses a juror from the case or there is any challenge to a juror, which is rare.

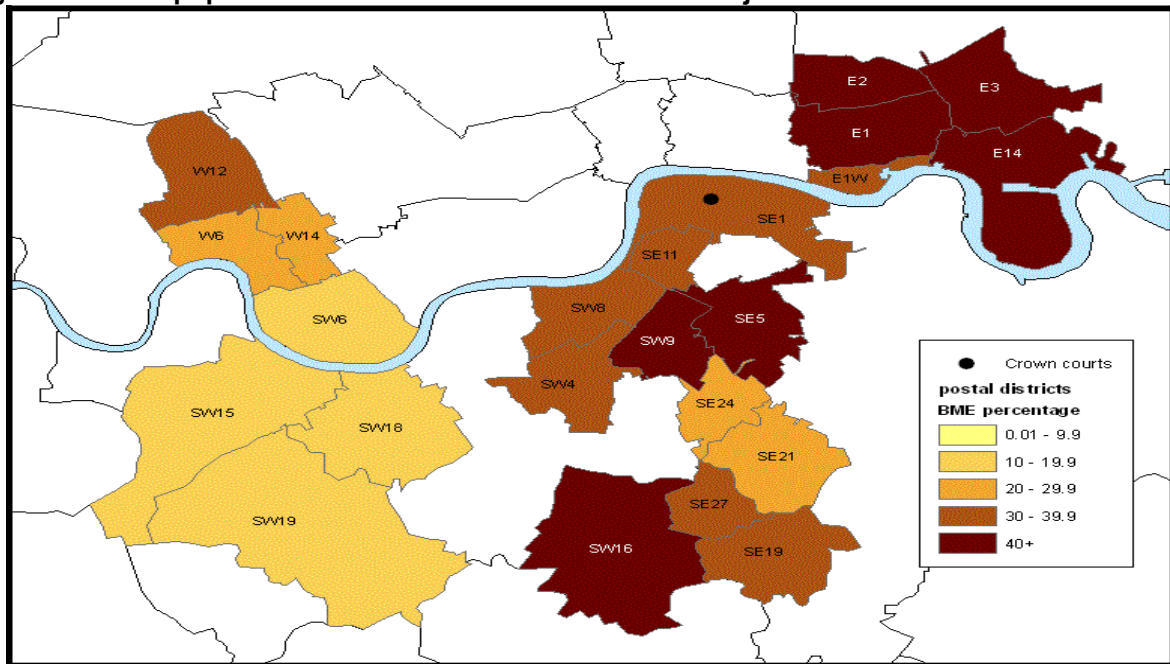
<sup>222</sup> See discussion of High Ethnicity Courts in Chapter 3.

<sup>223</sup> There are some very minor differences in the juror catchment area populations for Reading and Manchester Minshull Street in this study compared to the 2005 summoning survey, due to the fact that some adjustments to the catchment area postcode districts for these two courts were made from 2003 to 2005. The 2003 BME population in the Manchester catchment area was 10.8% but 10.5% in 2005, and the 2003 BME population in Reading was 10.2% compared to 10% in 2005.

<sup>224</sup> These figures show court catchment areas in 2003 when the study was conducted.

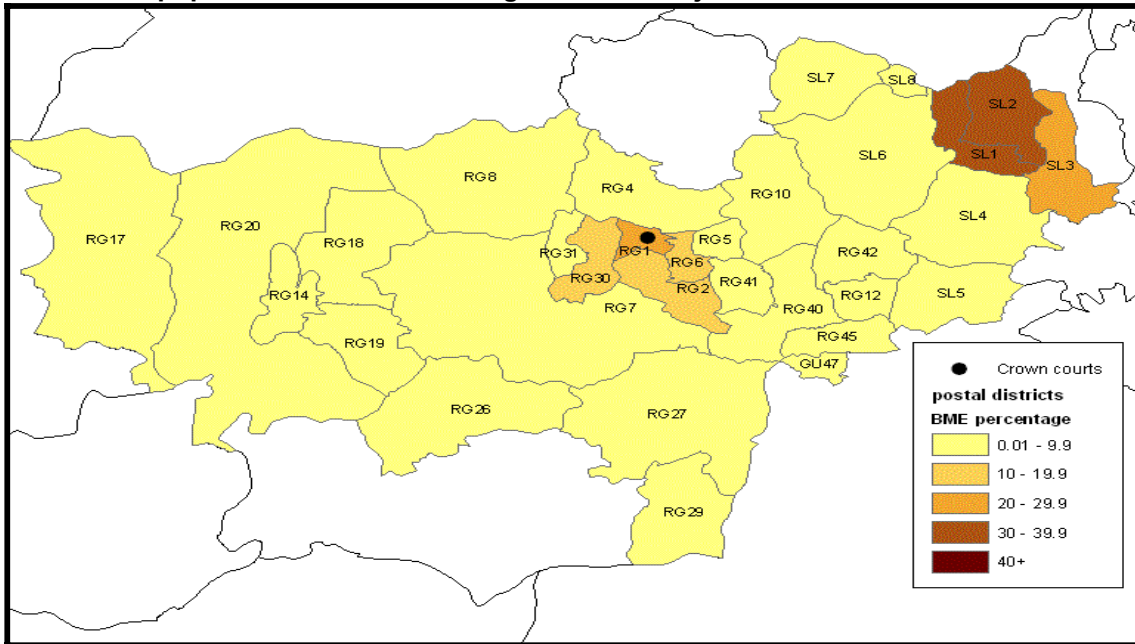
Africans (7%) and Black Caribbeans (6%). There is also a large Asian population (12%), which is predominantly Bangladeshi (8%). Reading Crown Court is a provincial court in the South East, with a juror catchment area encompassing several large Asian populations in Reading and Slough, but also a predominantly White suburban and rural population. The Asian community comprises the single largest BME group (6%), which is predominantly Indian (3%); the Black community comprises only 2% of the overall population. Manchester Minshull Street is a northern inner city court with a mixed urban, suburban and rural juror catchment area, including large pockets of BME populations in both Manchester and Oldham. While there is a similar mix of Asian and Black ethnic groups to Reading (6% Asian, 2% Black), in Manchester the Asian population is predominantly Pakistani (4%), with all other Asian groups comprising less than 2% of the population.

**Figure 5.1. BME population levels in Blackfriars Crown Court juror catchment area**



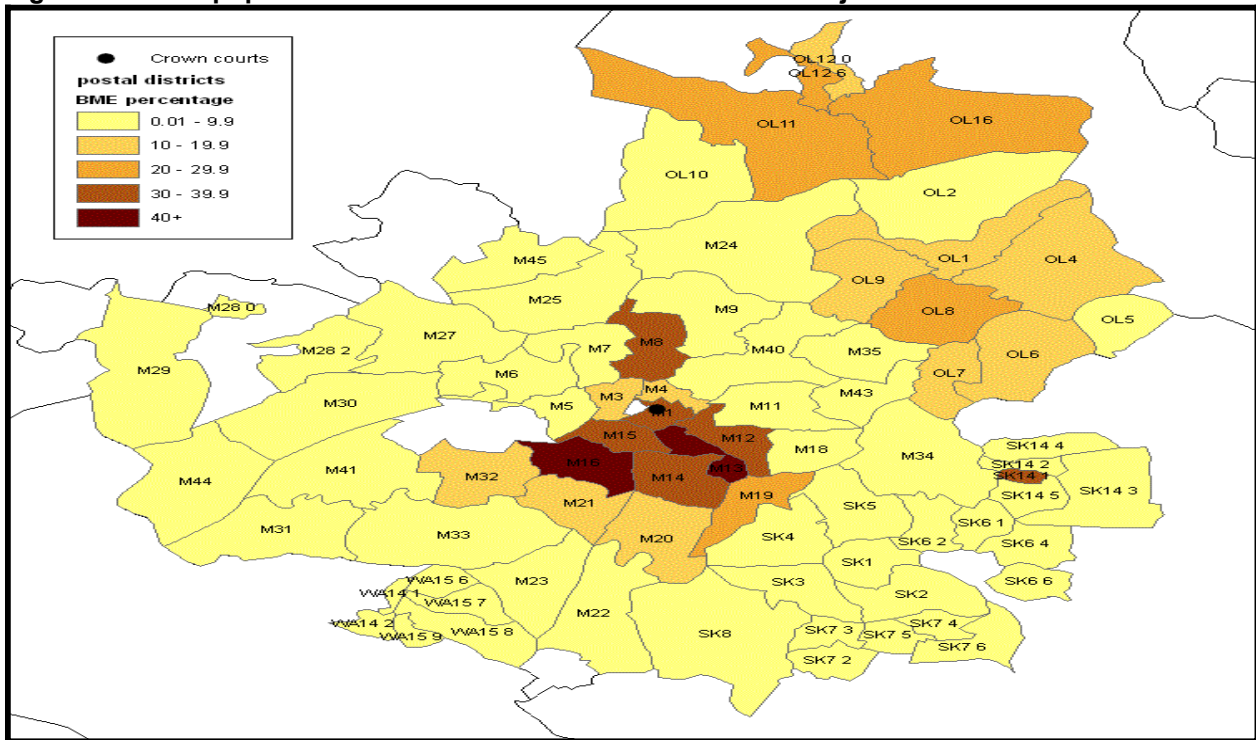
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**Figure 5.2. BME population levels in Reading Crown Court juror catchment area**



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**Figure 5.3. BME population levels in Manchester MS Crown Court juror catchment area**



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The study was conducted over consecutive weeks at each of the three courts between January and November 2003<sup>225</sup>. Each week at each Crown Court in England and Wales a new pool of jurors begins jury service. Most jurors serve for two weeks, so in any one week two jury pools overlap with each other. Collecting juror background data over consecutive weeks meant that as complete a picture as possible could be developed of jurors in the jury pools, selected for jury panels and serving on juries. A juror survey collected socio-economic data from jurors in each new jury pool<sup>226</sup>. The juror profile form was almost identical to the questionnaire used in the summoning survey, and Table 5.1 below summarises all the demographic information requested from serving jurors.

**Table 5.1. Information requested from serving jurors in jury service study**

Juror number
Date of birth
Gender
Prior jury service
Employment status
Occupation
Household income
Ethnic group
Religion
First language

It was crucial that the surveys achieved as high a response rate as possible in each court in order to accurately assess how representative jury pools were in relation to the local population in the juror catchment area for each court, and to examine the composition of subsequent jury panels and juries. There was an extremely high response rate to the survey in all three courts, indicating a high level of reliability in the results. Almost all jurors attending court at Manchester Minshull Street (96%) and Reading (93%) Crown Courts completed a juror profile questionnaire. The response rate was slightly lower at Blackfriars Crown Court (86%), but even this rate is high for such surveys<sup>227</sup> and for surveys conducted in London where response rates are often lower than the national average. For all three courts, the high response rates enabled the study to

<sup>225</sup> The study was conducted over 6 weeks at Blackfriars, and 4 weeks at Reading and Manchester Minshull Street. The first 3 weeks at Blackfriars served as a pilot to determine the most effective way of achieving a high response rate to the survey. Therefore, all results presented in this chapter for Blackfriars cover the last 3 weeks of the study only, where the most complete information on the jury pools exists.

<sup>226</sup> In most cases this was a Monday, but where courts were using split intakes of jurors over a Monday and Tuesday or Monday and Wednesday, data were collected on every day of the week that a new intake of jurors began jury service.

<sup>227</sup> The response rate to the Court Service Users' Satisfaction Survey, for instance, averages around 30%.

construct a nearly complete picture of the ethnic and other socio-economic characteristics of the jury pools in each court.

All analysis was conducted on an individual court basis, and ONS 2001 census data were used to create individual population profiles for each court's juror catchment area for a range of factors including ethnicity, employment, occupation, income, religion, age and gender. The analysis examined whether there were any fluctuations in BME representation in jury pools on a weekly basis. Jury pools representation was then examined in more depth by comparing the religion, employment status, occupation, income, age and gender of the jury pool to the local population in each court area. This is the first time juror representation has been assessed in such precise detail in this country. In the Crown Court Study in the early 1990s, the restrictions imposed on the study prevented the researchers from carrying out such analysis (they were not allowed to identify the Crown Courts where jurors served), and they were therefore only able to make broad assessments about juror representation based on national totals. Examining the socio-economic background of jurors in such depth and on an individual court basis also meant that comparisons could be made with the summoning survey. If the trends in representation found in the summoning survey were consistently found over a number of weeks in these individual courts, this would reinforce the findings about the myths of jury service. Any distinct differences in representation in these courts compared to the survey would also highlight aspects of jury service that may be unique to individual courts.

BME representation on jury panels and on juries in these three courts was also assessed, and this analysis highlight the fact that by the time jury panels and juries are selected, a single BME juror can substantially affect the level of BME representation. Finally, the analysis explored the process of selecting individual jurors by ballot in open court. There was a suggestion that court clerks may sometimes inadvertently avoid cards where a juror's name is difficult to pronounce, and the analysis explored whether there was any evidence to support this concern and whether this was more likely to occur with BME jurors than with White jurors.

### **Ethnicity and jury pool representation**

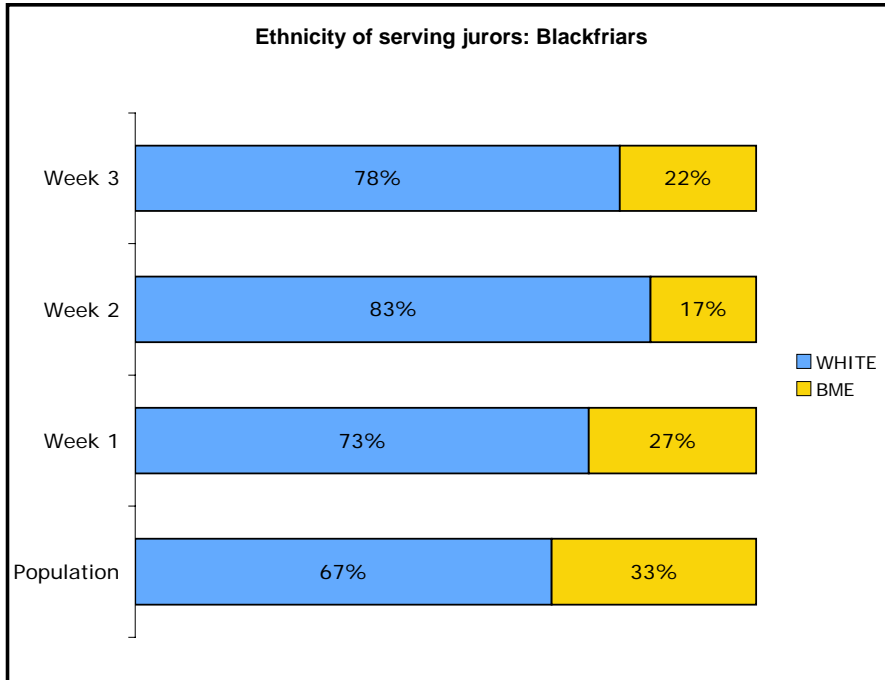
At Blackfriars BME groups comprise 33% of the local population from which jurors are summoned. In the summoning survey, 24% of serving jurors in the study week came from a BME background, but this was not a statistically significant difference. The jury service study showed that the proportion of ethnic minorities in the jury pool at Blackfriars fluctuated from week to week, to levels higher than the week of the summoning (27% in Week 1) and lower (17% and 22% in Weeks 2 and 3 respectively).

BME groups make up 10% of the juror catchment area population for Reading Crown Court, and the summoning survey found that those summoned who served from BME backgrounds were closely representative (9%). In three of the four weeks of the jury service study, BME representation in jury pools at Reading was lower than the BME population in the catchment area (6-7%), but in one week BME jurors were over-represented in the jury pool (12% in Week 2). This clearly illustrates that a small number of BME jurors can substantially affect percentages in the jury pools. In Week 2, where BME jurors were over-represented (12%), there were a total of 5 BME jurors in the jury pool, while in Week 3 which had the lowest percentage of BME jurors in the jury pool (6%) there were 3 BME jurors in the jury pool.

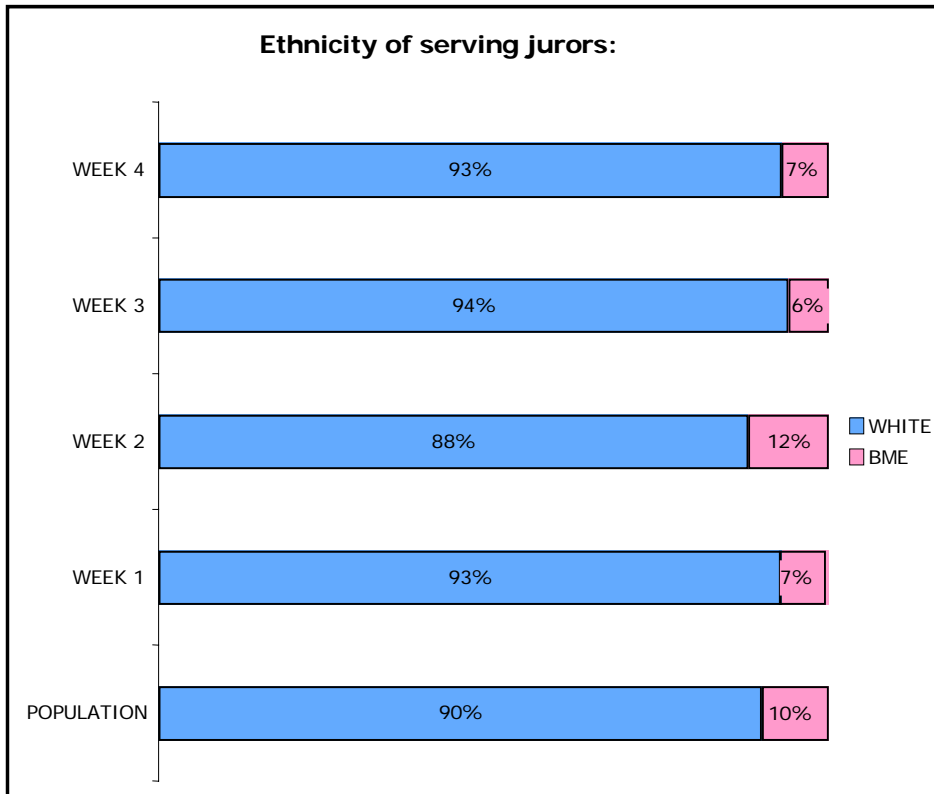
Similar large fluctuations in BME representation in the jury pool which reflected only small differences in actual numbers of BME jurors were also found at Manchester Minshull Street. BME groups comprise 11% of the juror catchment area for this court, and in the summoning survey jurors from a BME background were closely representative (12%). In the jury service study, however, BME jurors were under-represented in each of the four weeks, ranging from a high of 8% in Week 3 to a low of 0% in Week 4. Yet as Table 5.2 below shows, this reflects the fact that a small number of BME jurors can significantly affect BME representation levels in the jury pool. Clearly, BME representation in jury pools can fluctuate, sometimes quite substantially, from week to week. However, when juror numbers are this small, percentages can change substantially with only a very small number of jurors.

Figures 5.4 to 5.6 below illustrate the extent to which BME representation fluctuated on a weekly basis in each court.

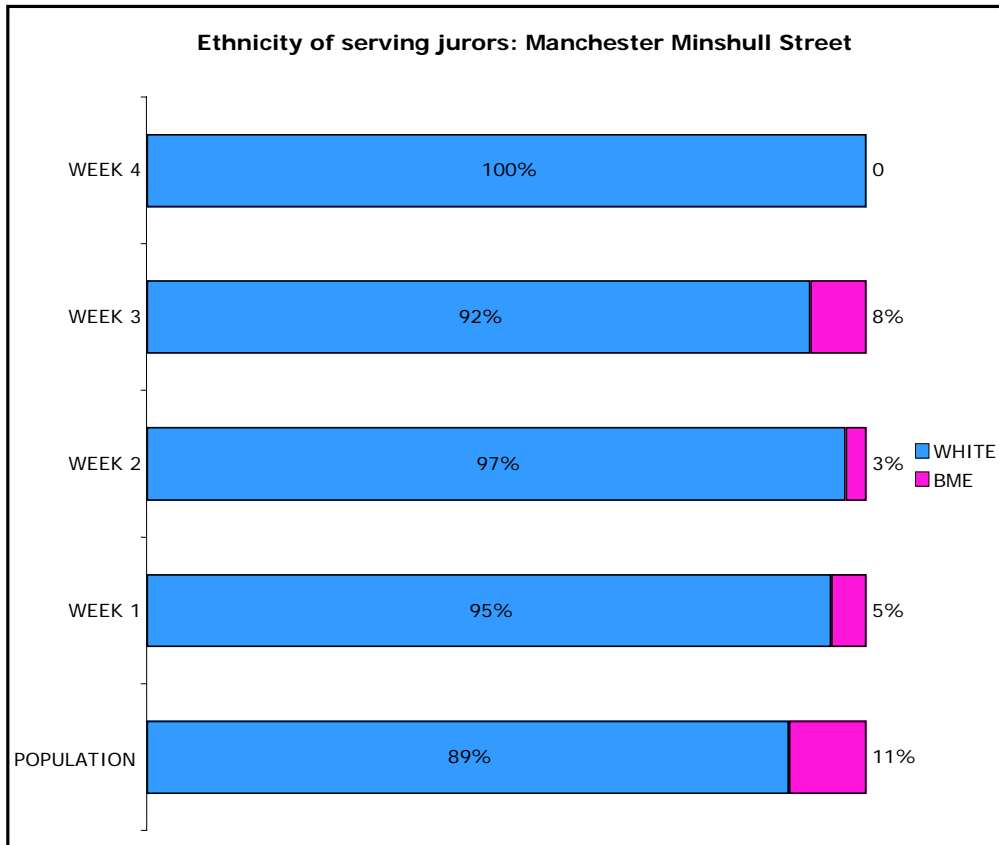
**Figure 5.4. Weekly BME representation in jury pools: Blackfriars (n=171)**



**Figure 5.5. Weekly BME representation in jury pools: Reading (n=161)**



**Figure 5.6. Weekly BME representation in jury pools: Manchester (n=256)**



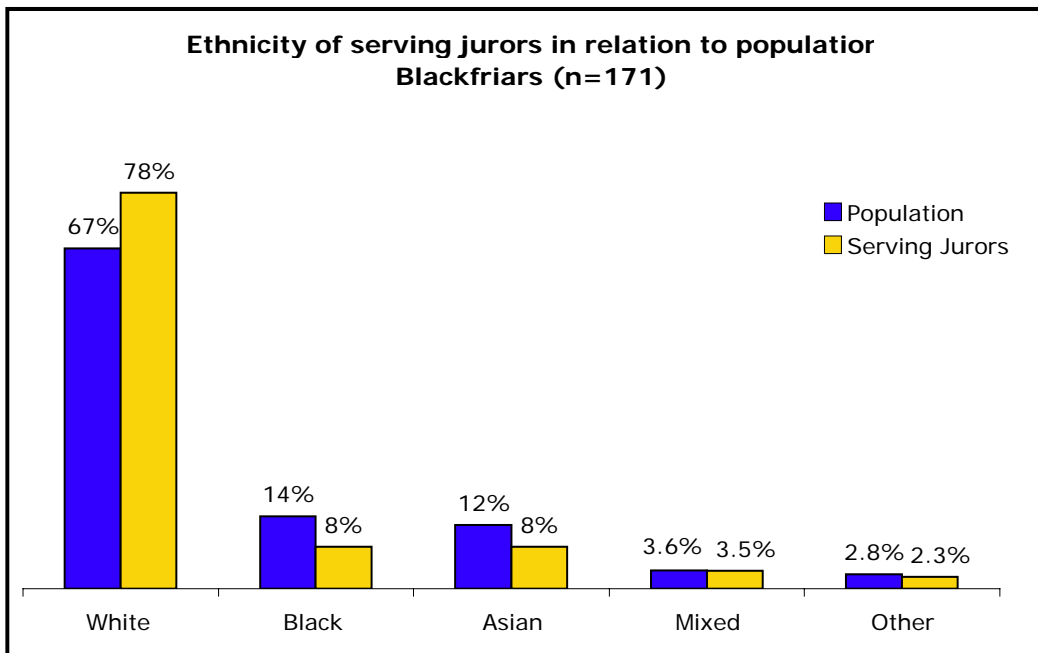
The table below shows the actual numbers of serving jurors and the number of BME jurors in each pool in each court in each week.

**Table 5.2. Weekly fluctuations in BME representation in jury pools**

	Blackfriars			Reading			Manchester MS		
	Jury pool	Ethnicity known	BME	Jury pool	Ethnicity known	BME	Jury pool	Ethnicity known	BME
<b>Week 1</b>	71	60	16	30	28	2	63	61	3
<b>Week 2</b>	63	53	9	42	41	5	75	68	2
<b>Week 3</b>	66	58	13	57	51	3	64	64	5
<b>Week 4</b>				45	41	3	64	63	0
<b>total</b>	<b>200</b>	<b>171</b>	<b>38</b>	<b>174</b>	<b>161</b>	<b>13</b>	<b>266</b>	<b>256</b>	<b>10</b>

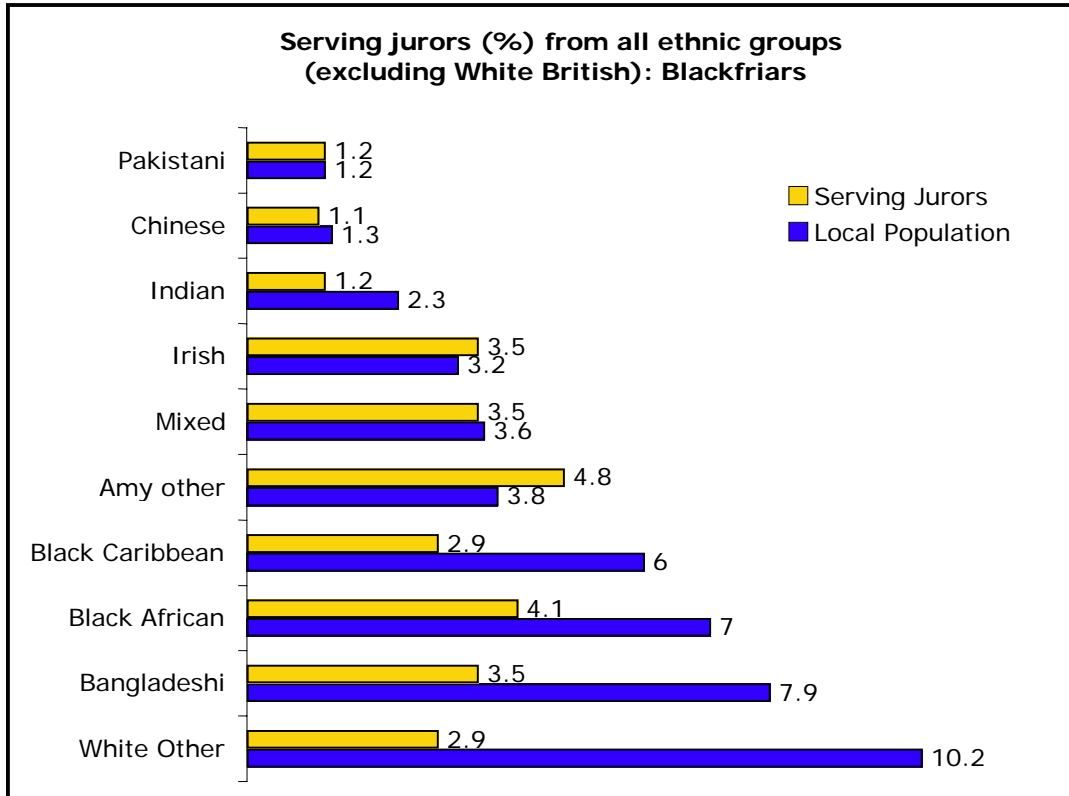
Another finding of the summoning survey and other studies of ethnicity both in the justice system and in other contexts is the need, wherever possible, to distinguish not just between White and BME groups, but between individual ethnic groups as well. Figure 5.7 below shows that, at Blackfriars, both Black and Asian jurors were under-represented among all serving jurors during the three weeks of the study, and this was made up by an over-representation of White jurors.

**Figure 5.7. Ethnicity of serving jurors at Blackfriars in relation to local population**



Within these five main ethnic groups, those jurors describing themselves as White British were over-represented (71%) in relation to their representation in the Blackfriars juror catchment area (53%). The four largest groups in the Blackfriars catchment area outside of the White British group (White Other, Bangladeshi, Black African, and Black Caribbean) were all under-represented, but the remaining ethnic groups were almost all represented in relation to their representation in the local population (see Figure 5.8 below). The highest margin of under-representation was among those classifying themselves in the White “other” category (under-represented by two-thirds). Both of the main Black ethnic groups were under-represented in the jury pools: Black African jurors were under-represented by a third, and Black Caribbeans by half. Among Asian jurors, Bangladeshis had the highest level of under-representation: they comprise 8% of the local population in the juror catchment area but only 3.5% of jurors during the study period. Indians and Pakistanis comprise much smaller proportions of the local population, and while there was some under-representation of Indian jurors, Pakistani jurors were exactly represented.

**Figure 5.8. Proportion of serving jurors at Blackfriars from all ethnic groups (except White British)**



At Reading Crown Court, Figure 5.9 below shows that serving closely reflected the five main ethnic groups in the local population. Asians comprise the largest BME group in the juror catchment area, and were closely represented among serving jurors.

**Figure 5.9. Ethnicity of serving jurors at Reading in relation to local population**

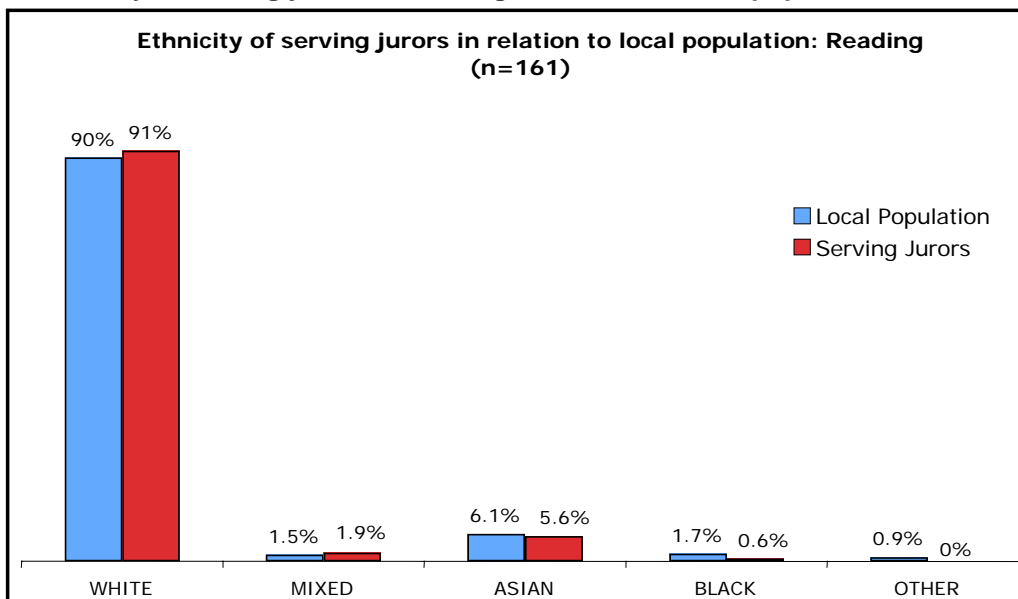
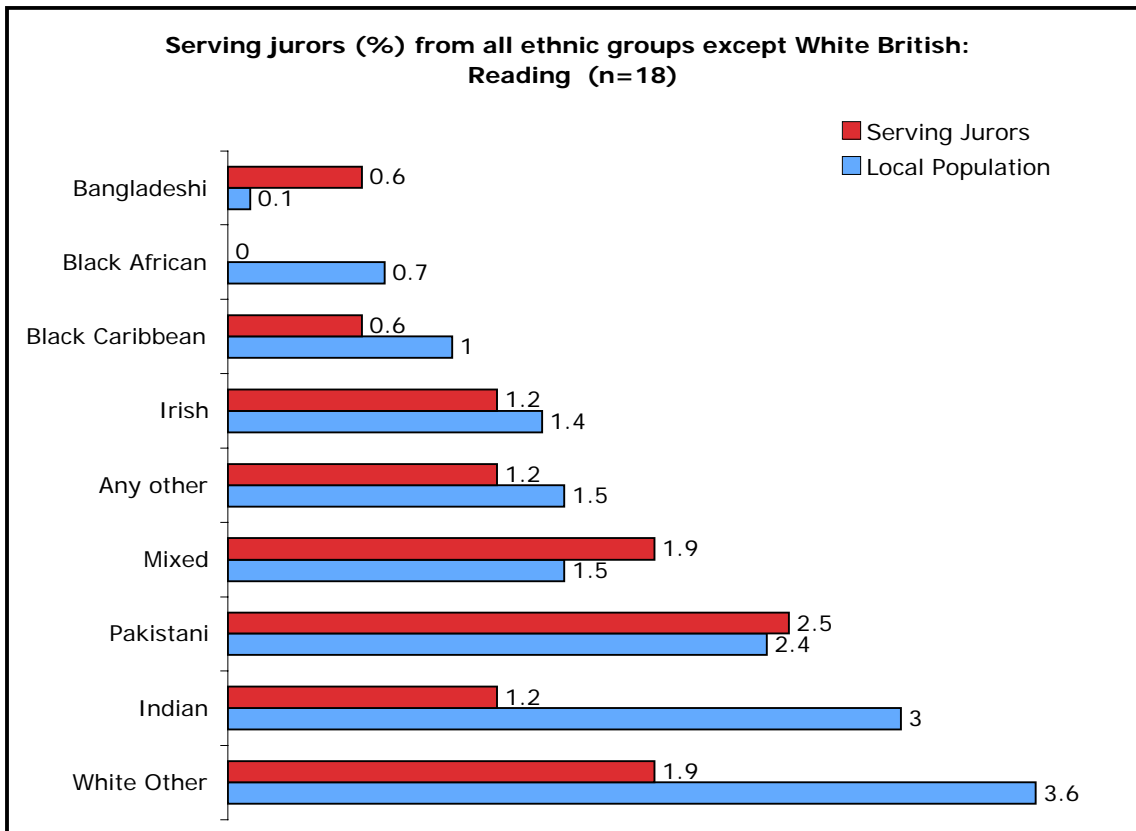


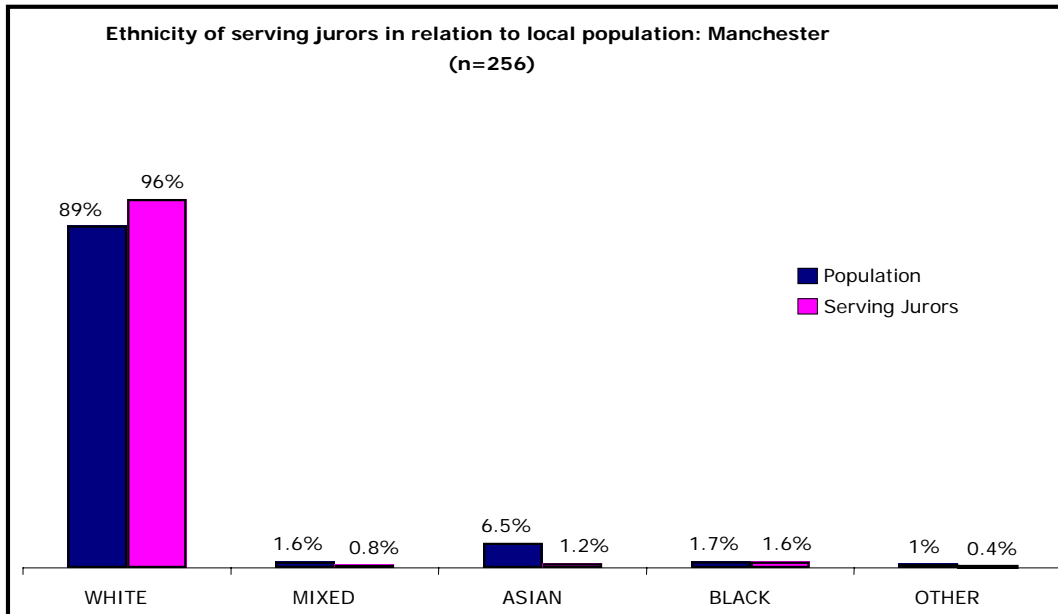
Figure 5.10 below illustrates that among the largest ethnic groups in the Reading catchment area outside of the White British group, the White Other group and Indians were under-represented but that Pakistani jurors were almost exactly represented in relation to the local Pakistani population. All other groups comprised only a very small proportion of the local population, and were generally representative, although this translated into only very small numbers of possible jurors.

**Figure 5.10. Proportion of serving jurors at Reading from all ethnic groups (except White British)**



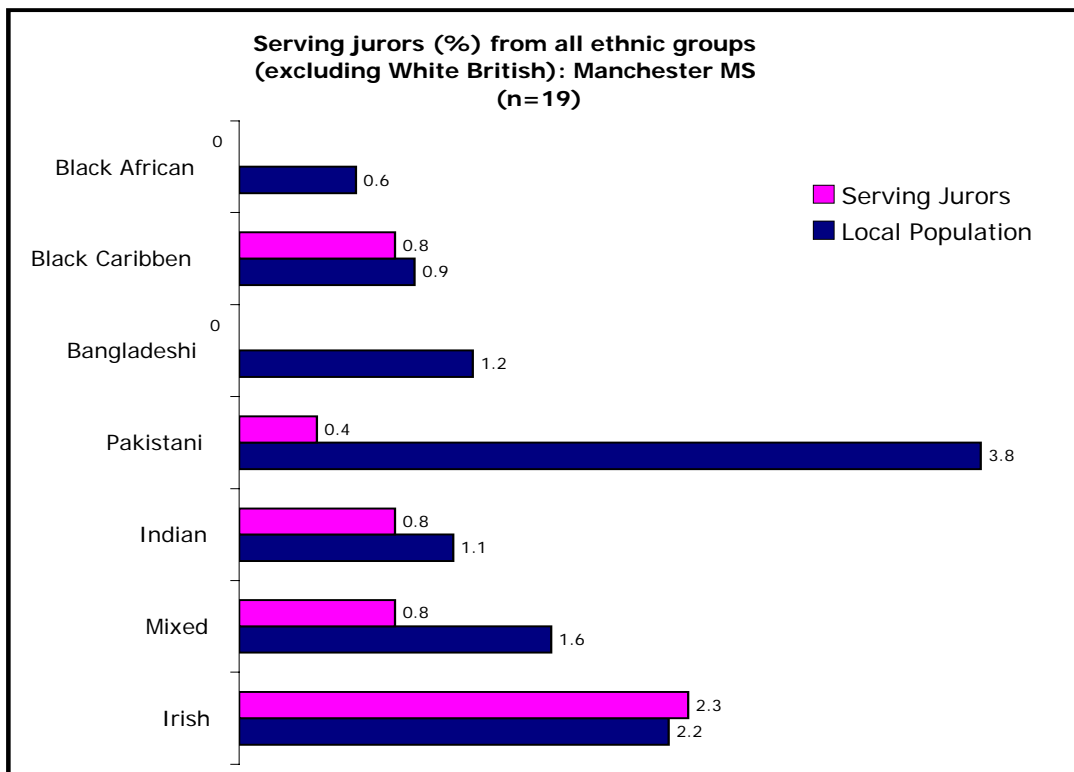
At Manchester Minshull Street (see Figure 5.11 below), it is clear that Asians, which make up the largest single BME group in the juror catchment area, are under-represented among serving jurors. In contrast, Black jurors served in the jury pool in close representation to their proportion of the local population.

**Figure 5.11. Ethnicity of serving jurors at Manchester MS in relation to local population**



As Figure 5.12 below shows, the Asian population in the Manchester Minshull Street catchment area is primarily Pakistani (3.8%), and this group is the one that is most substantially under-represented in the jury pool, with only 0.4% of all serving jurors in the four-week period.

**Figure 5.12. Proportion of serving jurors at Manchester MS from all ethnic groups (except White British)**



All the other ethnic minority groups comprise only a very small proportion of the local population, and in these cases only one or two jurors can substantially affect the percentages.

This under-representation of Pakistani jurors at Manchester Minshull Street reinforces the study's wider finding that the representative nature of jury service can only be understood on an individual court basis, and that the dynamics of ethnic group populations in individual court catchment areas must always be taken into consideration in assessing representation among serving jurors. The under-representation of this one ethnic group in Manchester mirrors the summoning survey finding for Birmingham Crown Court<sup>228</sup>, where Pakistanis make up the single largest BME group and are clearly under-represented among serving jurors. However, at Reading and Blackfriars Crown Courts, Pakistani jurors are either over-represented or equally represented in relation to their representation in the local population.

The summoning survey found that where BME groups are more likely not to serve than serve this is because they are more likely not to meet juror eligibility criteria (usually because they have not been resident for the required period or due to language difficulties). Even though precise statistics do not exist for the language skills of the Pakistani community in the three Crown Court juror catchment areas, there is some evidence that English literacy levels are relatively low in the Pakistani community in Oldham<sup>229</sup>, which makes up part of the juror catchment area for Manchester Minshull Street. There is also evidence to suggest that English language capabilities can differ significantly within South Asian ethnic groups, specifically that Gujarati speakers tend to have a higher command of English than Punjabi speakers<sup>230</sup>. This was reflected in the summoning survey, which found that a higher percentage of Gujarati speakers served when summoned (48%) compared to Punjabi and Urdu speakers (34% and 33% respectively). The variations in juror representation among the Pakistani communities in these three different courts are therefore likely to reflect differences in the language capabilities and residency status of the Pakistani communities in Manchester, Reading and Blackfriars.

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<sup>228</sup> See discussion in Chapter 4.

<sup>229</sup> The Department for Education and Skills estimates that entry level English literacy skills are low in the five wards in the Oldham area (Alexandra, Coldhurst, St. Marys, St. Pauls and Werneth) with the highest ESOL populations (English for Speakers of Other Languages). See [www.dfes.gov.uk/readwriteplus\\_skillsforlifsurvey](http://www.dfes.gov.uk/readwriteplus_skillsforlifsurvey)

<sup>230</sup> *Improving Literacy and Numeracy: A Fresh Start*, Report of the Working Group Chaired by Sir Claus Moser, DfEE (1999) and R. Carr-Hill, S. Passingham, A. Wolf and N. Kent, *Lost Opportunities: The Language Skills of Linguistic Minorities in England and Wales*, Basic Skills Agency (1996).

## Religion

In the summoning survey, Christians and Muslims were under-represented and those with no declared religion were over-represented among all those doing jury service. As Figures 5.13 to 5.15 below show, the only similar trend across all three courts in the jury service study is for those with no declared religion to be over-represented among serving jurors. Serving jurors at Manchester Minshull Street reflect the three general trends in religious representation from the summoning survey, but Reading and Blackfriars show some deviations. At Reading, Christians are under-represented but Muslims are equally represented in relation to their representation in the local population. At Blackfriars, Muslims are under-represented and Christians are over-represented.

At Manchester, where Muslim jurors were under-represented, Pakistanis were the main BME group under-represented among serving jurors, and account for most of the under-representation of Muslims among serving jurors. However, Pakistanis were not under-represented among serving jurors at Blackfriars, where Muslim jurors were also under-represented. This indicates that Muslim under-representation among serving jurors is not always related to a specific ethnic group, and it reinforces the summoning survey finding that religion on its own is not a significant factor in predicting whether someone who is summoned for jury service actually serves or not. In addition, while the proportion of Muslims under-represented at Manchester Minshull Street may seem large (0.4% serving compared to 6.5% in the population), the numbers are in fact small. If Muslims were represented each week at Manchester in direct proportion to their representation in the local population this would have amounted to 3 jurors.

Figure 5.13. Religion of population & serving jurors: Blackfriars (n=171)

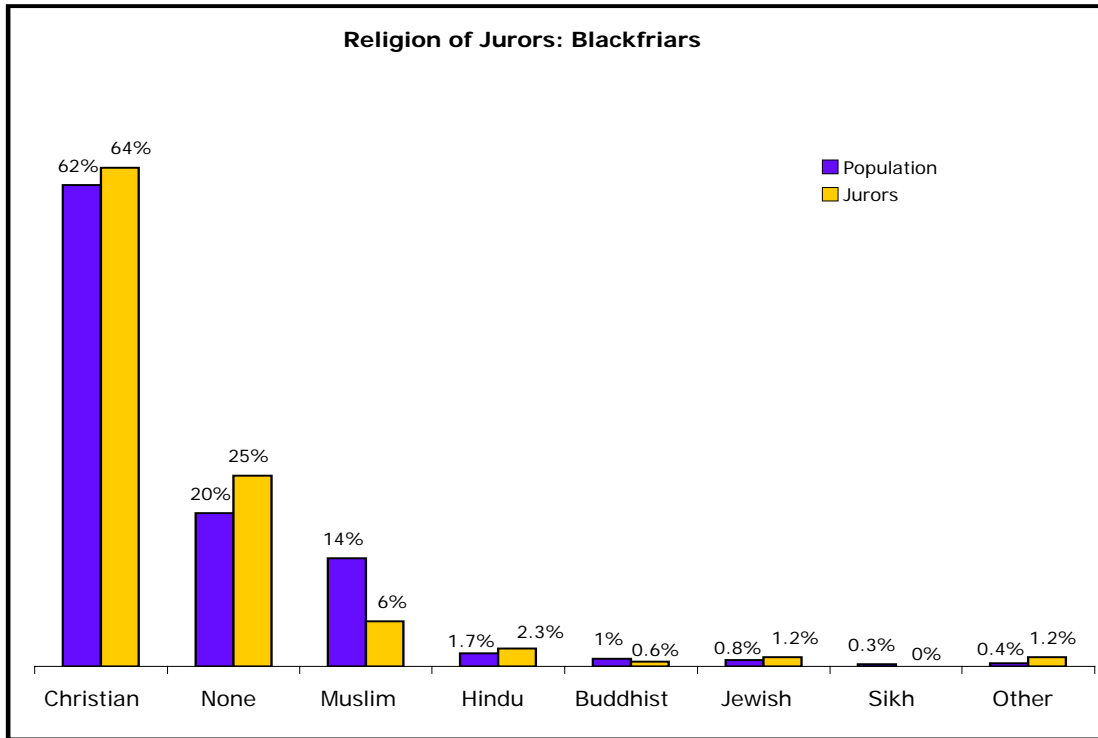
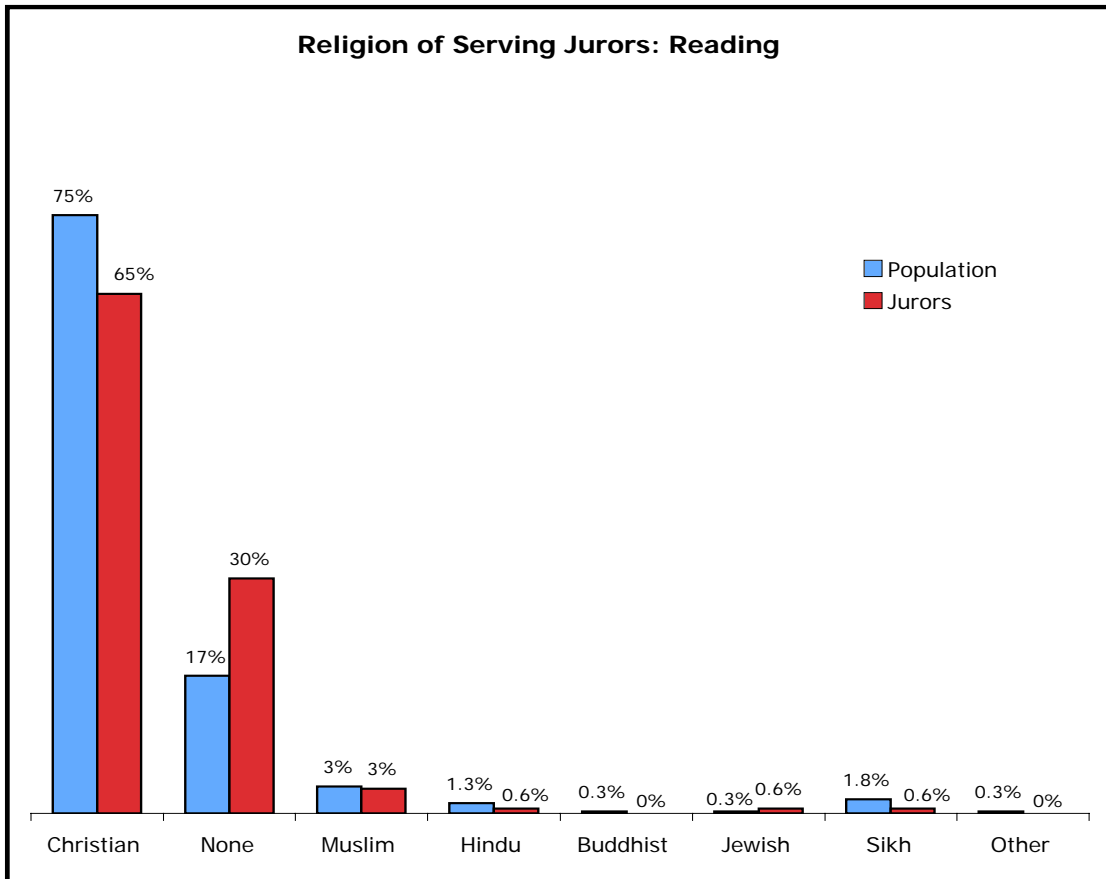
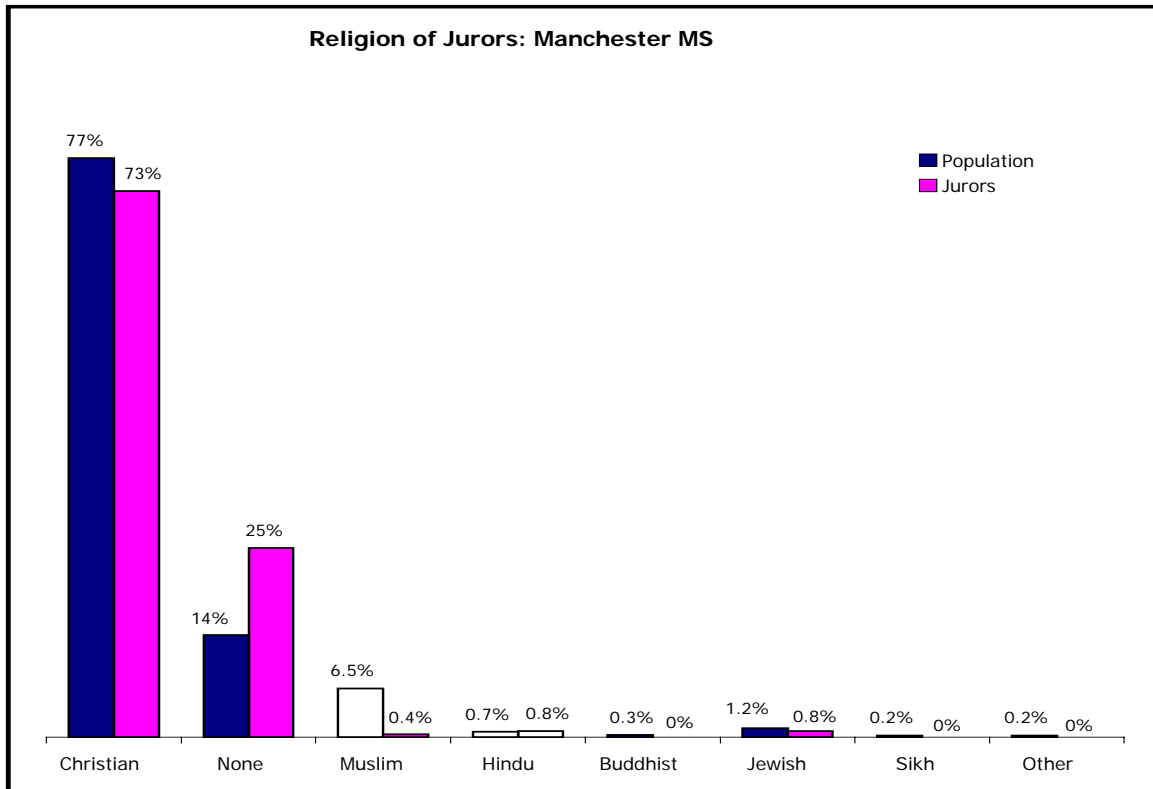


Figure 5.14. Religion of population & serving jurors: Reading (n=161)



**Figure 5.15. Religion of population & serving jurors: Manchester (n=254)**

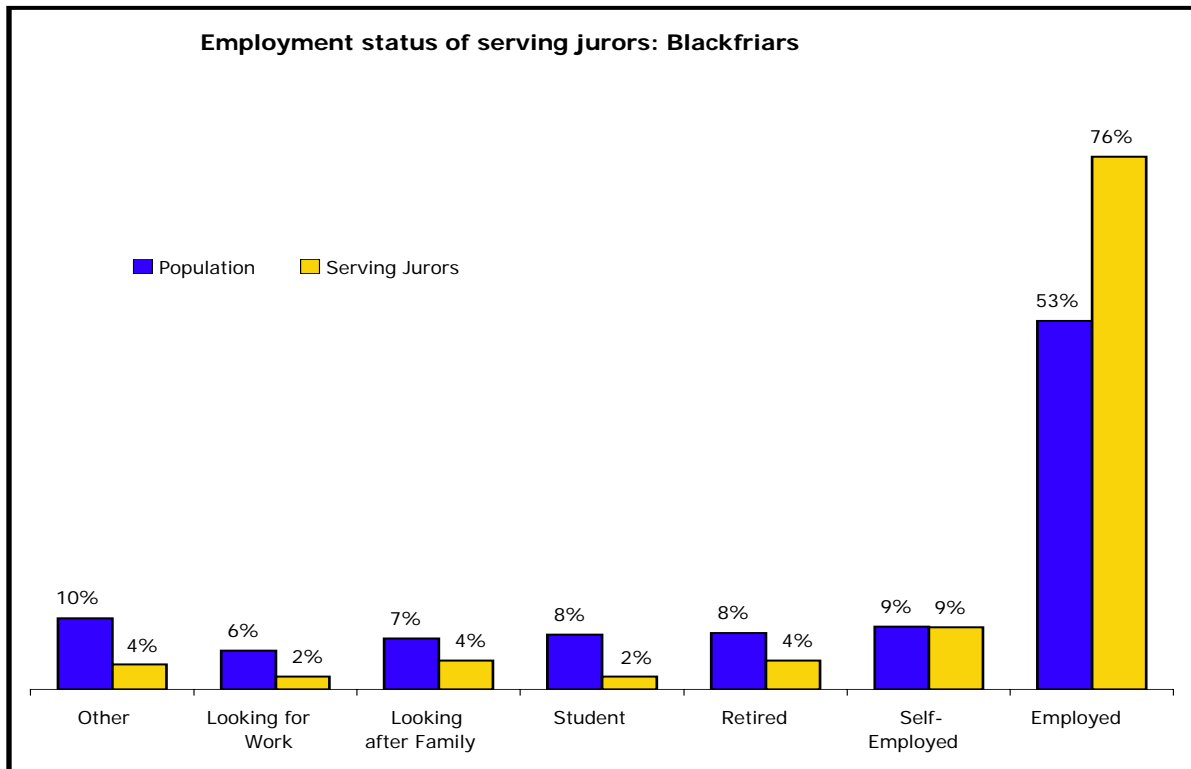


### **Employment status**

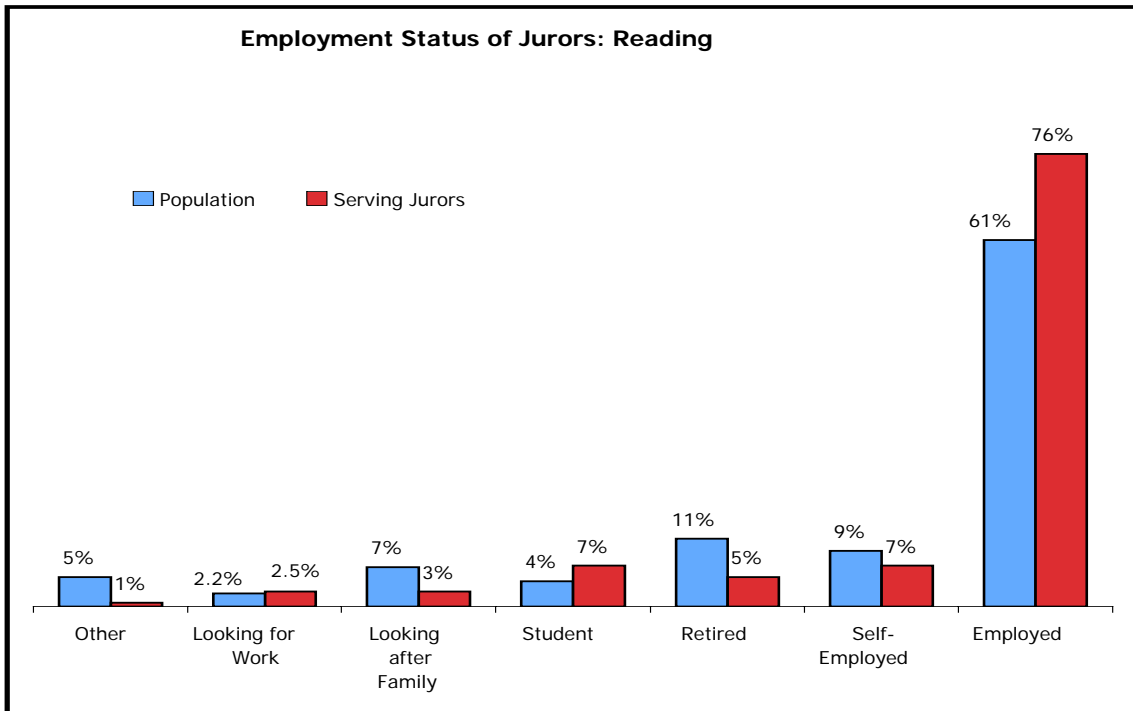
It has been claimed in the past that juries are mostly made up of the unemployed and retired, and it was such sentiments which led the Auld Review to suggest that jury service was only for those not important and clever enough to get out of it. The Review also claimed that the self-employed were virtually exempt from jury service. However, the results of the summoning survey directly contradicted these claims. The survey found that the vast majority of all serving jurors (72%) in England and Wales were employed (either full-time or part-time), and that the employed were over-represented among serving jurors in relation to their representation in the population (54%). The self-employed were equally represented among serving jurors in relation to their representation in the population (9%), and all other groups (the economically inactive) were under-represented among serving jurors. Figures 5.16 to 5.18 below further dispel the myth that jury service is primarily for the unemployed and retired. The employed are by far the single largest group of serving jurors in each of the three courts and are over-represented among serving jurors in relation to their representation in each court's juror catchment area.

Serving jurors at Blackfriars mirror the overall trends found in the summoning survey for all the employment groups. But there are some individual differences in the employment status of serving jurors at Reading and Manchester, which demonstrate that employment representation in jury pools can vary from court to court. At Reading and Manchester (but not Blackfriars), the self-employed were under-represented (although not significantly). One other difference was that students were over-represented among serving jurors at Reading (7% serving but only 4% in the local population), but they were under-represented at Blackfriars and Manchester, which may reflect a lower level of residential mobility in the Reading area than in the larger metropolitan London and Manchester areas.

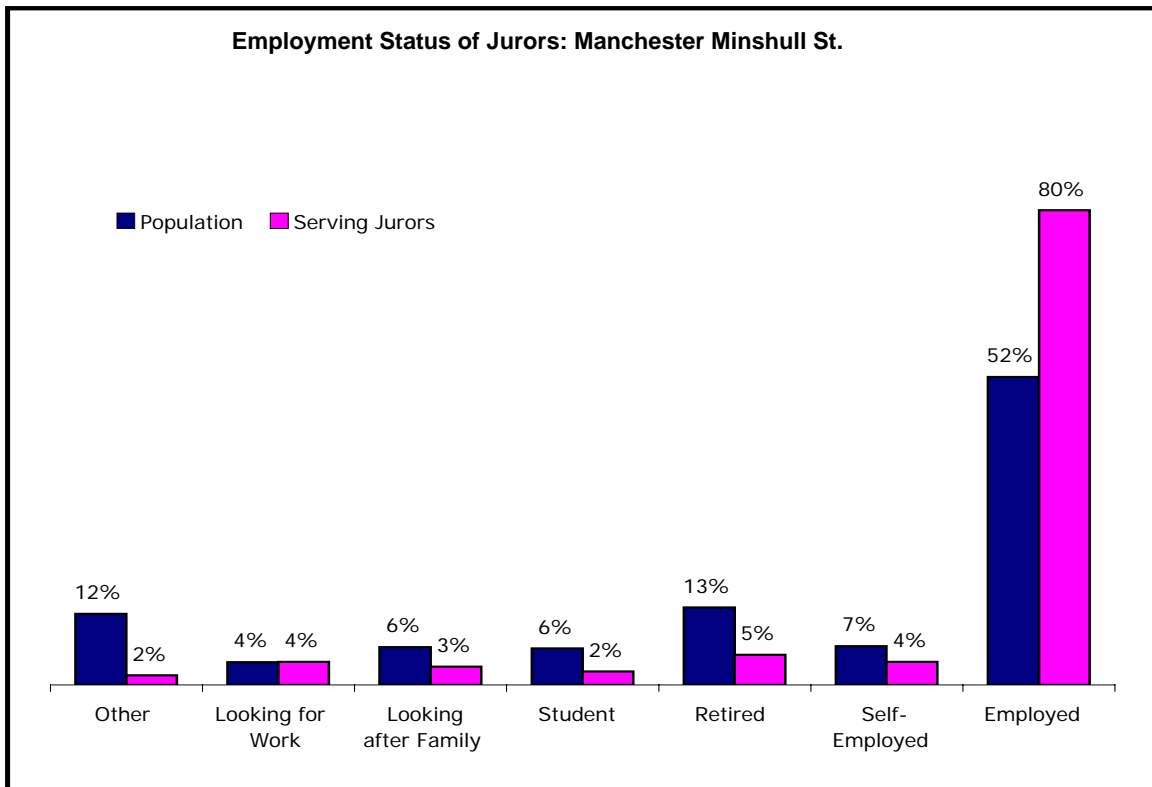
**Figure 5.16. Employment status of population & serving jurors: Blackfriars (n=170)**



**Figure 5.17. Employment status of population & serving jurors: Reading (n=161)**



**Figure 5.18. Employment status of population & serving jurors: Manchester (n=256)**



## Occupation

The Auld Review concluded that juries in England and Wales do not reflect the broad range of skills of the communities from which they are drawn<sup>231</sup>. While the summoning survey did not cover the occupations of those summoned and serving, occupational information was requested from serving jurors at Blackfriars, Reading and Manchester Minshull Street. There are no generally agreed set of occupational categories used in population surveys in this country, but the categories used in this study closely reflect the occupational categories in published data from the 2001 census<sup>232</sup>. Figures 5.19 to 5.21 below show that the single largest group of serving jurors at all three courts was professionals. This not only reflects the fact that professionals make up the single largest occupational group in the three local catchment areas, but further dispels the myth that “the important and the clever” manage to avoid jury service<sup>233</sup>. In addition, no occupational groups were significantly under-represented among serving jurors at any of the three courts, contradicting the assertion that jurors do not reflect the full range of skills in their community. One other trend in all three courts is an over-representation of jurors in the “other occupation” category, although this may simply reflect difficulties in categorising occupations into general groups, and this over-representation may account for under-representation in other groups.

The occupational profiles of the local population at Blackfriars and Reading are very similar. Professional and managerial workers comprise approximately half of all workers in the local population, and the proportion of workers in the local population decreased as occupational skill levels or status decreased. Serving jurors at both courts mirror this profile. The local population for Manchester Minshull Street has a different occupational profile, with fewer workers in the professional and managerial classes (37%), and most (41%) in the middle to lower status occupational groups. Juror representation at Manchester is also slightly more at variance with the occupational profile of the local population, with higher status workers somewhat under-represented and clerical and skilled workers over-represented.

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<sup>231</sup> Auld supra note 23, Chapter 5, paragraph 11. In *Justice for All*, the government maintained that the 1992 Crown Court Study found significant under-representation on juries of those working in the service industry and skilled manual workers. *Justice for All* supra note 51, section 7.24. However, the Crown Court Study in fact concluded that the proportion of jurors in these occupations was “tolerably close” to their representation in the general population. Zander and Henderson supra note 12 p. 239.

<sup>232</sup> See ONS Key Statistics Table 12a Occupation Groups. The categories used on the Juror Profile Form included: Professional or Higher Technical Work, Manager or Administrator, Clerical, Sales or Services, Foreman or Supervisor of Other Workers, Skilled Manual Work, Semi-Skilled Manual Work, and Other. Examples were also given of occupations in each category.

<sup>233</sup> Auld supra note 23.

Figure 5.19. Occupations of population & serving jurors: Blackfriars (n=167)

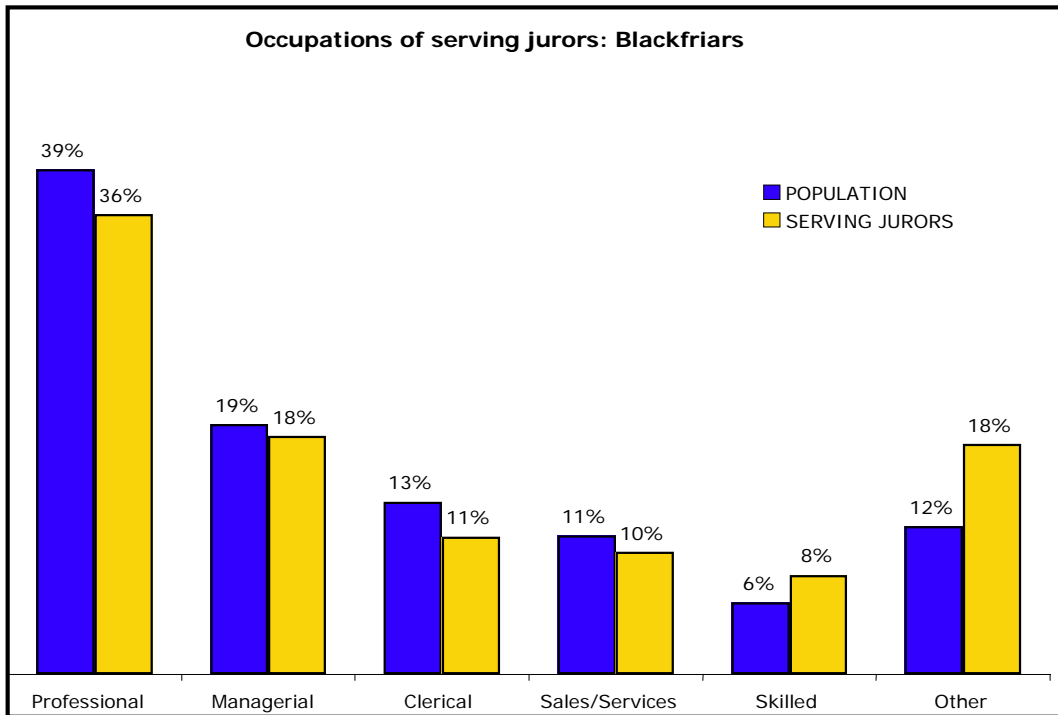
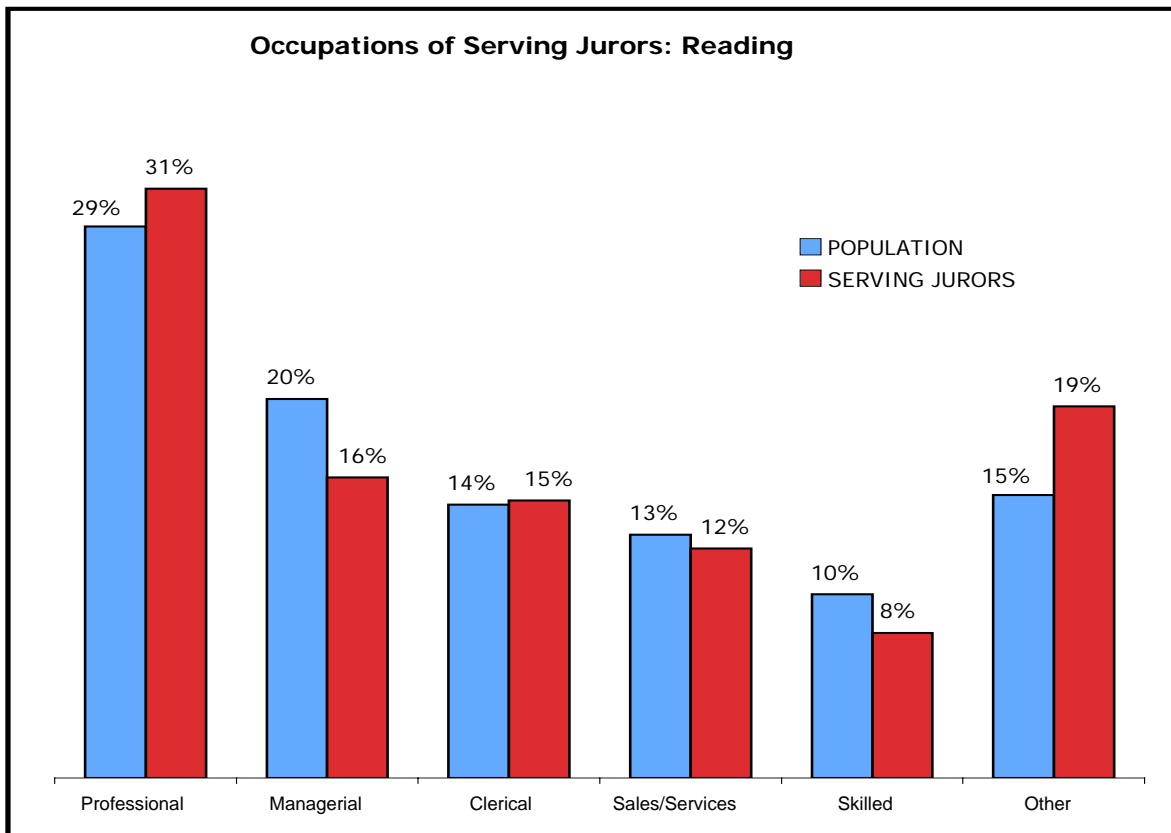
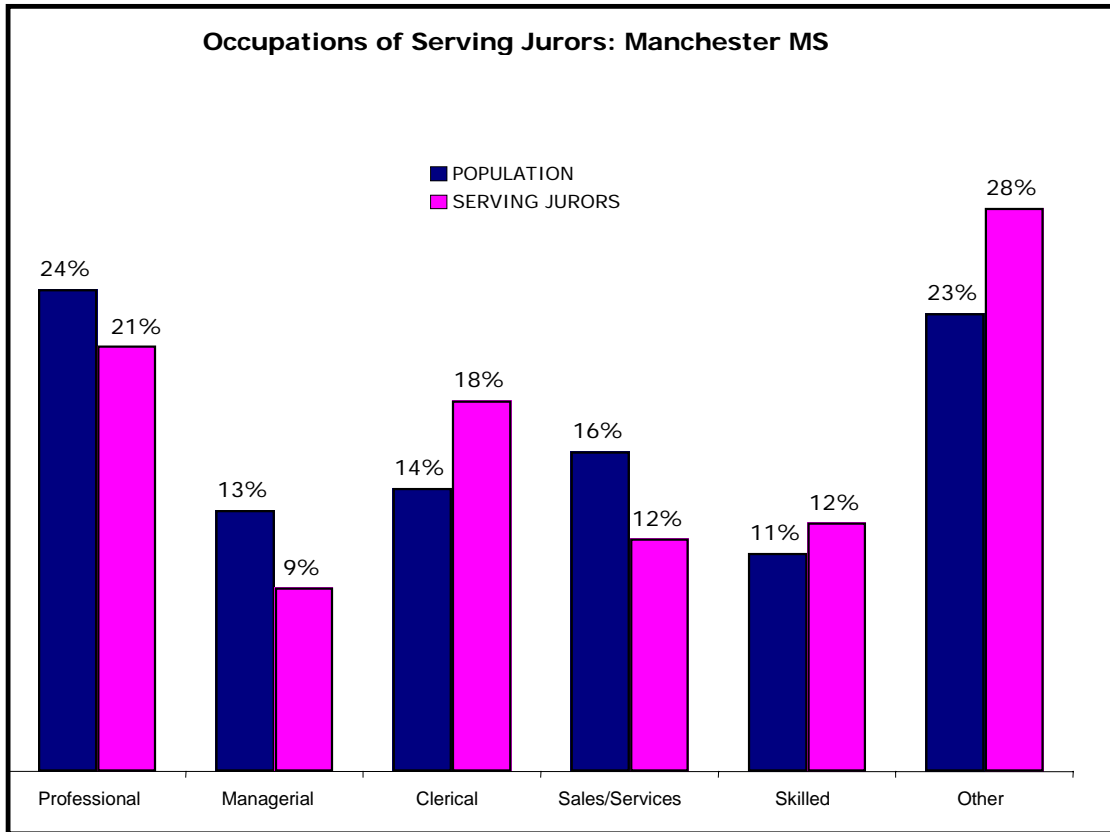


Figure 5.20. Occupations of population & serving jurors: Reading (n= 158)



**Figure 5.21. Occupations of population & serving jurors: Manchester (n=256)**



### Income

One consistent trend in both the summoning study and jury service study was for the single largest group of serving jurors to be from the £20,000-£34,999 household income group. This reflects the national average for household income of just under £30,000<sup>234</sup>. However, household income could not be matched precisely with income levels in each of the three court catchment areas because the 2001 census did not include income, and therefore household income data did not exist in postcode district form. The only comparative data available were regional average household incomes for 2004<sup>235</sup>, published on a per capita basis. The best fit for comparative purposes, therefore, was to double the average per capita incomes to reach an approximate household income average for each court catchment area.

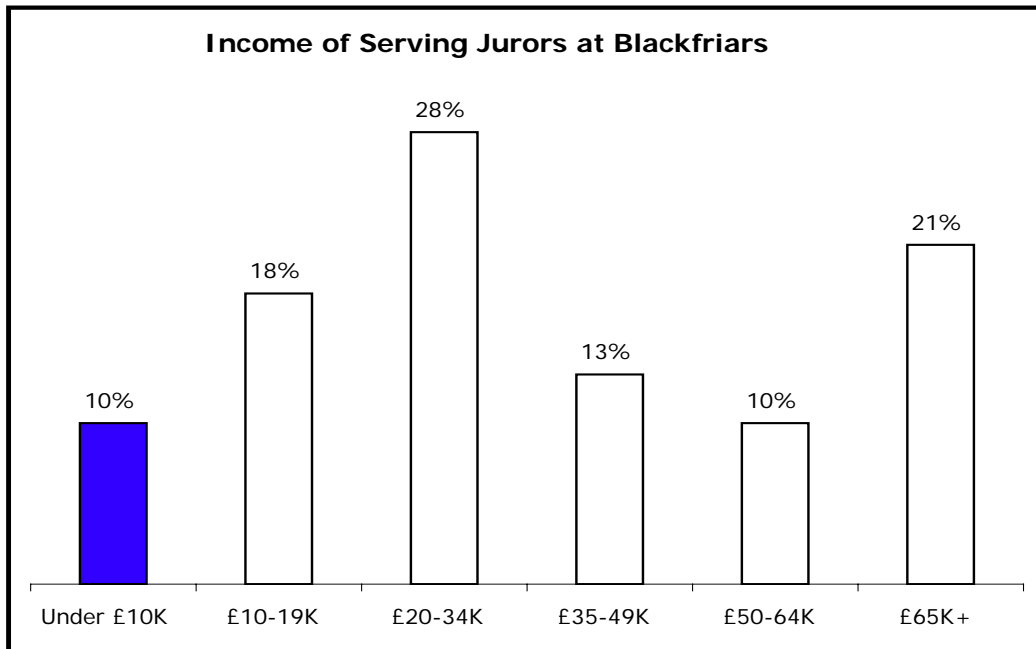
Income data used for Blackfriars were average household income per head for Inner London in 2004 (£16,500 or £33,000 for a two-person household), and the single largest group of jurors serving at Blackfriars (28%) were in the £20,000 - £34,999 household income bracket. Even

<sup>234</sup> See National Statistics, "Household Income: Top fifth 4 times better of than bottom fifth" [www.stastics.gov.uk](http://www.stastics.gov.uk).

<sup>235</sup> See National Statistics "Regional Household Income: Highest per heard in Inner London" [www.statistics.gov.uk](http://www.statistics.gov.uk)

though Inner London has the highest disposable household income per head in the country (£24,505),<sup>236</sup> the study suggests that the highest income earners (£65,000+ per annum) were over-represented among serving jurors (21%) in the study period. The highest income earners also appear to be over-represented among serving jurors at Reading, and the vast majority of serving jurors at Reading (80%) were in the middle to higher income groups. Average household income in the Reading region was approximately £30,000<sup>237</sup>, and this is reflected in the fact that single largest group of serving jurors at Reading were in the £20,000-34,999 household income bracket. Unlike jurors at Blackfriars and Reading, the vast majority (69%) of serving jurors at Manchester Minshull Street were in the lower half of the household income spectrum, and only a small proportion of higher income earners were represented among serving jurors there. In 2004, the average household income in the North West region was approximately £24,000 for a two-person household, and the largest group of serving jurors at Manchester (30%) were in the £20,000-34,999 household income bracket. These findings further illustrate the need to consider court-based differences in assessing the representative nature of serving jurors. In this case, higher income earners may be over-represented at Blackfriars and Reading, but in Manchester they are not.

**Figure 5.22. Household income of population & serving jurors: Blackfriars (n=171)**



<sup>236</sup> See National Statistics Regional Trends "Regional Accounts: Highlights" [www.stastics.gov.uk](http://www.stastics.gov.uk).

<sup>237</sup> Or £15,000 per head for Berkshire, Buckinghamshire and Oxfordshire in 2004.

Figure 5.23. Household income of population & serving jurors: Reading (n=155)

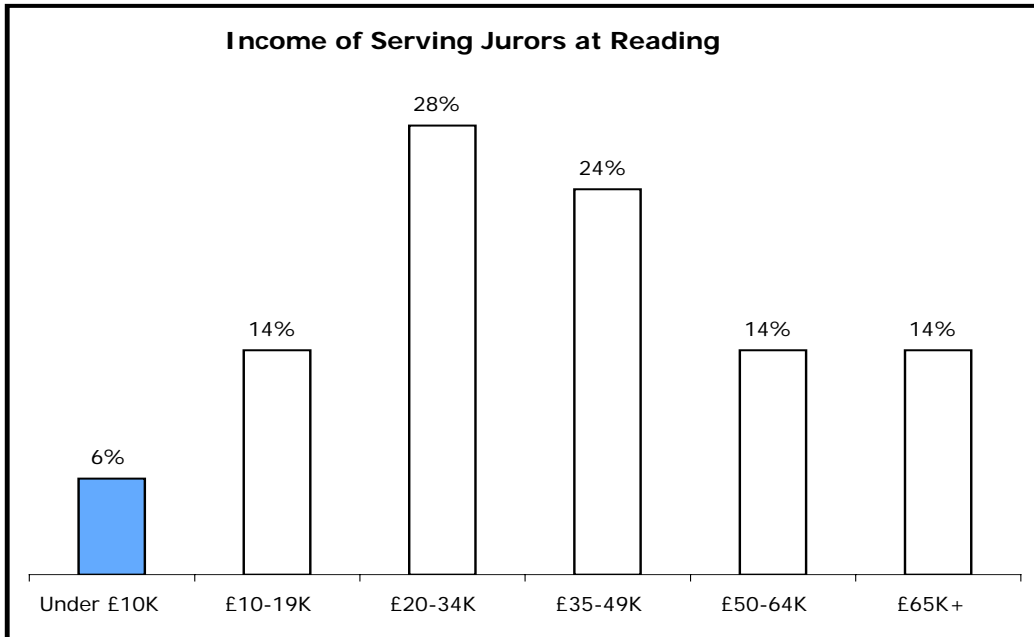
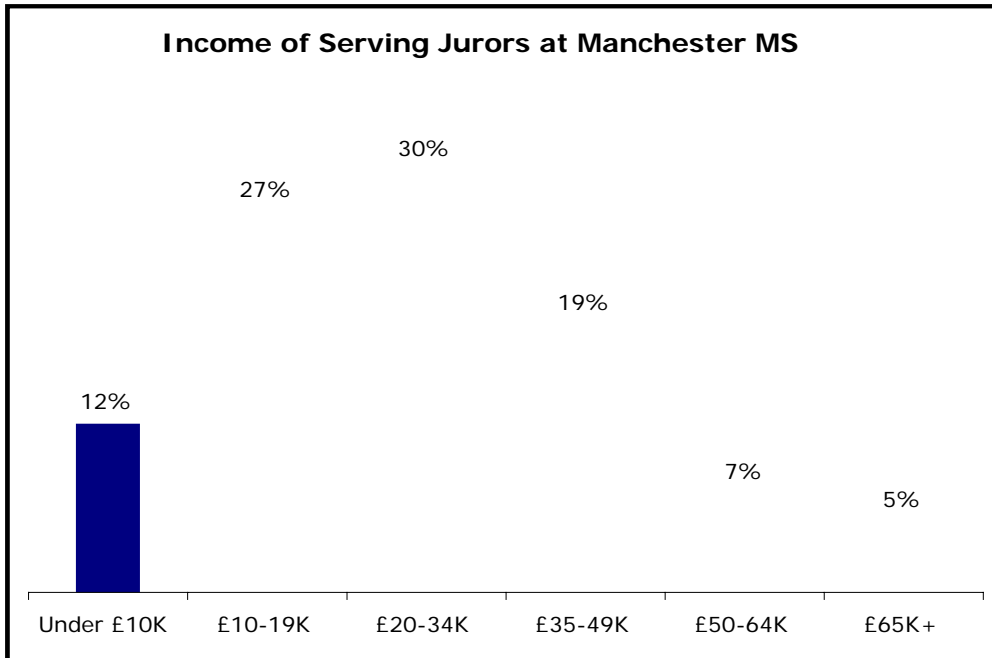


Figure 5.24. Household income of population & serving jurors: Manchester (n= 241)



## Age

As Figures 5.25 to 5.27 below illustrate, jurors serving at all three courts mirror the general age trends found in the summoning survey: the single largest group of jurors were in the 25-44 year old age group, followed by those 45-59. Yet there are differences in the level of age group representation between the three courts, reflecting the different age profiles of the populations in each court catchment area and again indicating the need to consider juror representation in its individual Crown Court context.

For several decades there have been claims that young persons are under-represented among serving jurors, however, the summoning survey showed that those between the ages of 18 and 24 were represented among serving jurors in all courts combined almost exactly in proportion to their representation in the national population. At Reading, jurors 18 to 24 and 25 to 29 were actually over-represented in relation to the local population, while at Blackfriars they were under-represented. However, at Manchester Minshull Street the picture was different again, with those 18-24 under-represented but those 25-29 represented precisely in proportion to their representation in the catchment area. The under-representation of the youngest age group in Blackfriars and Manchester appears to be due to the fact that both juror catchment areas are in highly urbanised areas, which have a high level of rental housing and a high mobility rate among this age group. The 2001 Census showed that young adults move more frequently than others, and that students contribute to the peak in migration in this age group<sup>238</sup>. As Chapter three showed, these factors are also directly related to high rates of non-return of summonses.

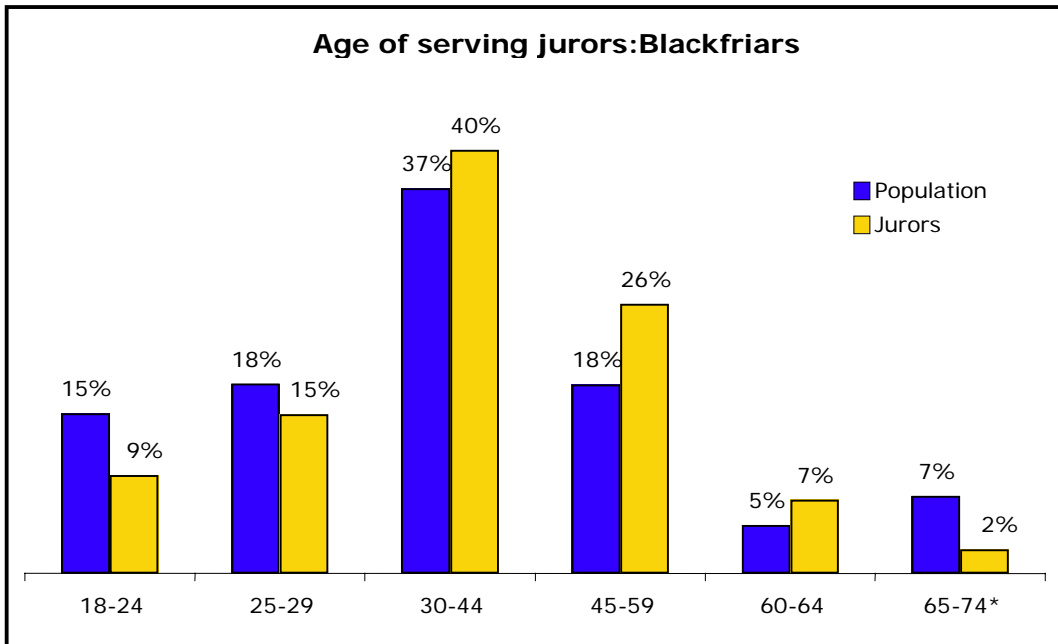
In *Justice for All*, the government also expressed concerns (based on the 1992 Crown Court Study) that those over 65 were under-represented among serving jurors. The summoning survey showed that removing the right to be excused from jury service for in this age group in 2004 resulted in an increased in representation nationally among jurors in this age group by 2005 (from 3% in 2003 to 6% in 2005). The studies at Blackfriars, Reading and Manchester were conducted in 2003, before the new eligibility rules came into effect, and the findings indicate that those jurors 65 to 69 were under-represented at each court before the rules changed<sup>239</sup>.

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<sup>238</sup> See National Statistics, People & Migration: "Moves within UK" [www.statistics.gov.uk](http://www.statistics.gov.uk).

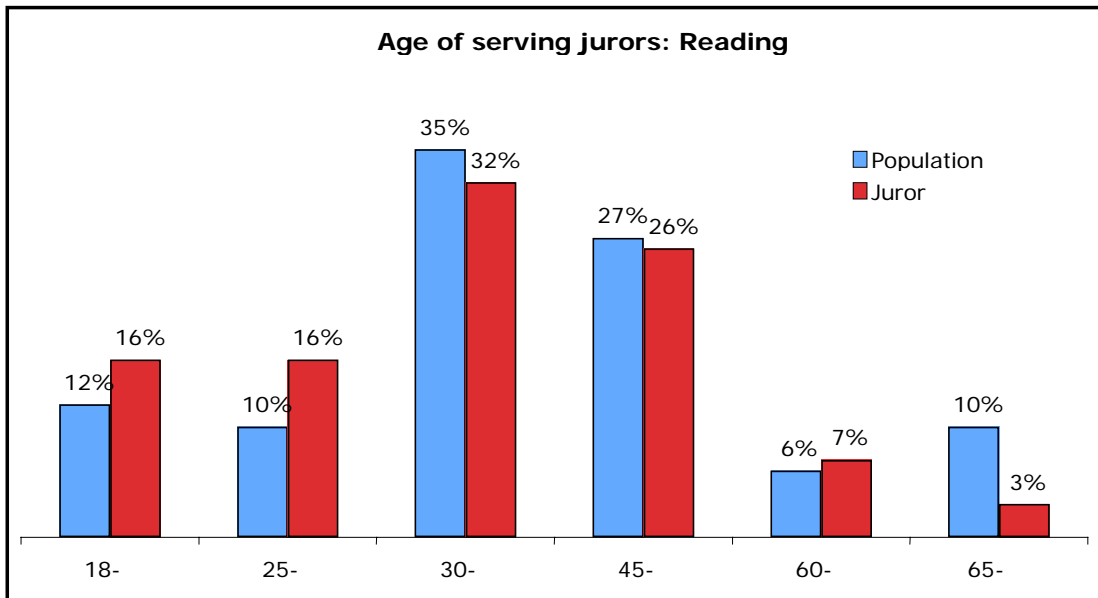
<sup>239</sup> However, it was not possible to match jurors in this age group exactly to 2001 census data because census data in postcode district form only exists for the 65-74 age group, and half of this group (those from 70 to 74) are disqualified from jury service.

Figure 5.25. Age groups of population & serving jurors: Blackfriars (n=171)

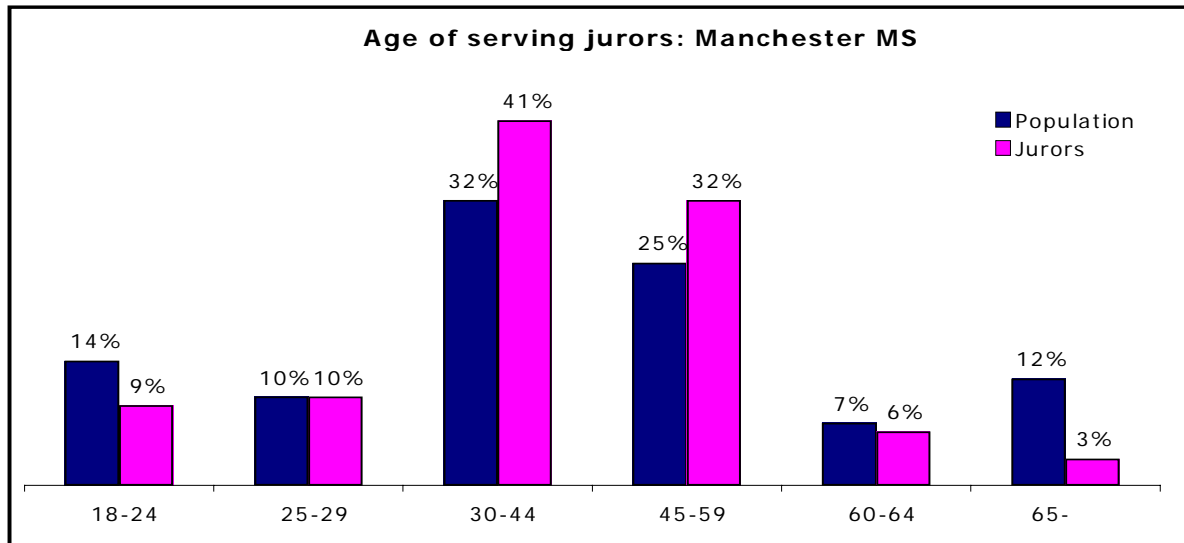


\* Percentage of jurors represents only those 65-70.

Figure 5.26. Age groups of population & serving jurors: Reading (n=160)



**Figure 5.27. Age groups of population & serving jurors: Manchester (n=256)**



## Gender

In *Justice for All*, the Government also expressed concern, again based on the 1992 Crown Court Study, that women were under-represented among serving jurors, but no evidence of this was found in the summoning survey. Among all those summoned who did jury service in all the Crown Courts combined, the proportion of women to men was exactly the same (51% to 49% respectively), and this was also the ratio of women to men in the jury pools at Blackfriars, Reading and Manchester Minshull Street. In addition, on individual juries in these three courts during the study, there were no all-male or all-female juries or even any juries with only one male or one female juror; 88% of all the juries had either a 6:6, 7:5 or 8:4 gender split<sup>240</sup>. These findings strengthen the conclusion of the summoning survey that the under-representation of women among serving jurors is another myth of jury service.

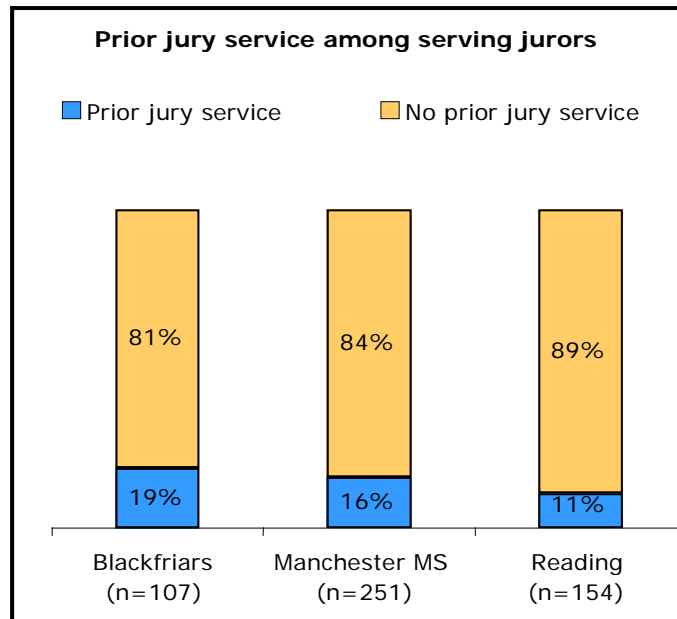
## Prior Jury Service

In the summoning survey, 14% of those summoned that served had previously done jury service, and there were no major deviations from this overall trend among those in the jury pools at the three courts. The highest rate of prior jury service (19%) was among those doing jury service at Blackfriars in London, which casts further doubt on claims that the overwhelming majority of Londoners seek to avoid jury service<sup>241</sup>.

<sup>240</sup> The gender composition of individual juries in these three courts was almost identical to that reported by the Crown Court Study, which included a much larger number of juries and courts. That study found that 80% of juries had a ratio of men to women of 5:7, 6:6, 7:5 or 8:4, while the current study found that 81% of juries fell within these ratios. Zander and Henderson *supra* note 12 p.235.

<sup>241</sup> Darbyshire et al *supra* note 37 claimed that four-fifths of those summoned in London avoid or evade jury service; see discussion in Chapter 3.

**Figure 5.28. Serving jurors with prior jury service at each court**



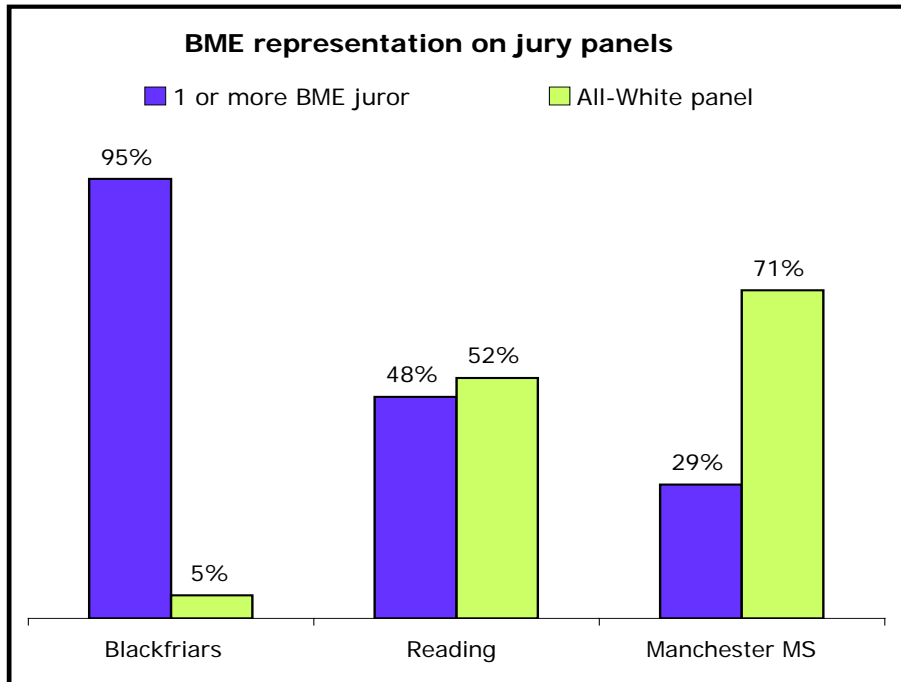
### **Jury panels and juries**

Being in the jury pool does not necessarily mean that a juror will be selected to serve on a jury, and the following section explores how BME representation in jury pools at the three Crown Courts translates into BME representation on jury panels and on juries. A particular issue arises in examining proportional representation of ethnic minorities on jury panels and juries. As juror selection progresses from jury pool to jury panel to jury, there are progressively fewer jurors involved at each stage, and in the final stages of selection for jury panels and juries a single BME juror can have a substantial effect on the representative nature of the panel or jury. For instance, the difference between one BME juror on a jury and two translates into 8% compared to 17% BME representation on a jury. The discussion of High and Low Ethnicity Courts in Chapter three showed that there are only a handful of Crown Courts in England and Wales (20 of 94) where BME groups comprise at least 10% of the population in the juror catchment area. These are the only courts where strict BME representation in the jury pool in relation to BME levels in the local population is likely to result in one or more BME jurors serving on a jury. Therefore, in order to provide as clear a picture as possible of BME representation on jury panels and juries, the following analysis provides actual numbers as well as proportions of BME jurors selected for jury panels and juries.

At each Crown Court when a jury is needed for a trial, the jury manager runs a computerised random selection programme to create a jury panel from among available jurors. The jury panel will always include more than 12 jurors to allow for any juror excusals or challenges in a particular trial (for instance when a juror knows a defendant). At any one time there are two separate pools of jurors at court: those in their first week of jury service and those in their second (and last) week. Jury panels may be selected from all jurors who are currently not serving on a trial (both pools), or it may be from only one jury pool. For instance, where a jury panel is created on a Wednesday for a trial expected to last 4-5 days, it is almost always the case that only jurors in their first week of jury service will be selected for the jury panel. The overlap of jury pools from different weeks means that, at either end of the study period, some jury panels and juries may have contained jurors who were not part of the study (having started jury service either before the study began or after the study finished). The following analysis is therefore based only on those jury panels where all jurors belonged to a jury pool covered by the study period (which meant that ethnic and other socio-economic characteristics were known).

As Figure 5.29 and Table 5.3 below show, there was a substantial difference in the proportion of jury panels at each court which included at least one BME juror. Virtually all of the jury panels created during the study period at Blackfriars Crown Court (95%) were racially mixed. At this court, BME groups comprise 33% of the juror catchment area population, and BME representation in the jury pools was between 17% and 27% during the study period. At Reading, just under half of the jury panels (48%) had one or more BME jurors; at this court BME groups comprise 10% of the juror catchment area population, and BME representation in the jury pools ranged from 6% to 12% in the study period. Manchester had the lowest proportion of racially mixed jury panels (29%) during the study period. Even though its catchment area has a similar BME population level (11%) to Reading, BME representation in the jury pool at Manchester was lower than at Reading, ranging from 0% to 8% during the study period.

**Figure 5.29. BME representation on jury panels by court**



**Table 5.3 Number of jury panels and racially mixed jury panels by court**

Court	Jury Panels	Jury Panels with 1 or more BME jurors
Blackfriars	37	35
Reading	21	10
Manchester MS	34	10

Even though a jury panel has been created, it does not necessarily mean that a jury will be created from this panel. For instance, the defendant may change his or her plea from not guilty to guilty after a jury panel has been created, and in this instance no jury will be selected from the panel. Even when a jury is selected from the jury panel, not all members of the panel actually serve on that jury. After the panel has been randomly selected by the court’s computer programme, the name of each jury panel member is printed on a card; all members of the jury panel are then brought into court and the court clerk shuffles the cards and reads out the first 12 names. Provided there are no excusals or challenges, these 12 jurors are sworn as the jury. Table 5.4 below shows the number of trials in the study period at each court where juries were sworn from jury panels, and the number of these juries where at least one BME juror served on the final jury.

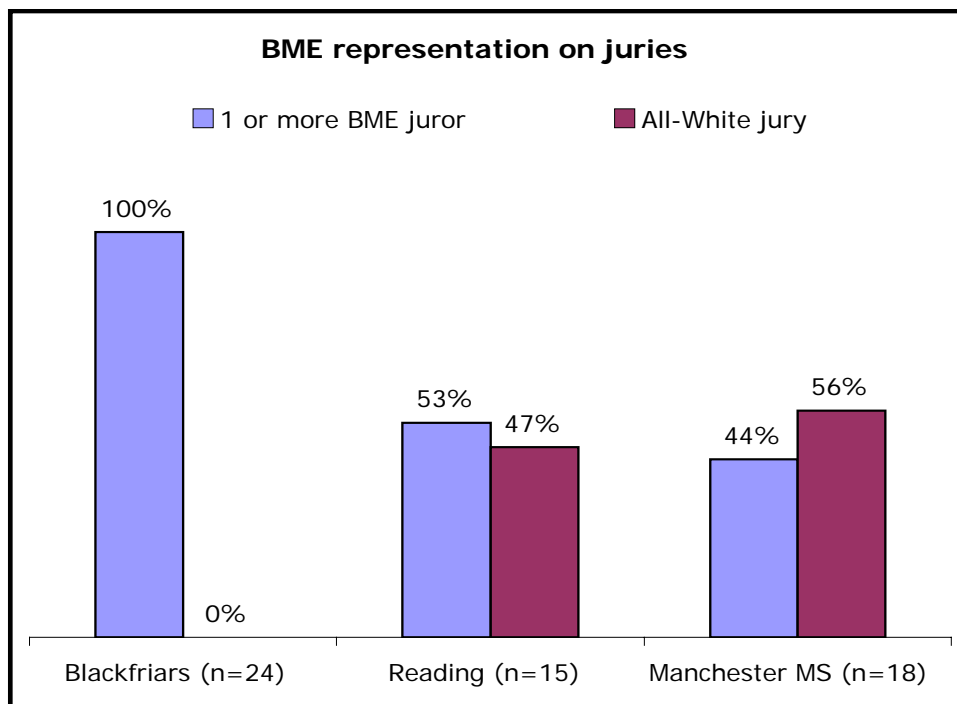
**Table 5.4. Breakdown of trials in each court covered in jury service study**

Court	Trials with Jury Panels	Jury Panels where no jury selected	Trials with juries	Juries where ethnicity known*	Juries with 1 or more BME jurors
Blackfriars	37	12	25	24	24
Reading	21	2	19	15	8
Manchester MS	34	9	25	18	8

\* Either the ethnicity of all 12 jurors known or known that at least 1 juror was from a BME group

For each of the three courts, there was a slightly higher percentage of racially mixed juries during the study period than racially mixed jury panels (see Figure 5.30 below). All of the juries at Blackfriars contained at least one BME juror, compared to 95% of the jury panels. Just over half (53%) of the juries sworn at Reading were racially mixed, compared to just under half of the jury panels (48%). At Manchester, just under half (44%) of juries had at least one BME juror, while less than a third (29%) of the jury panels included at least one BME juror.

**Figure 5.30. Levels of BME representation on juries in each court**



This analysis shows how ethnically representative all juries *combined* are at a particular court. However, this does not address the question of how representative *individual* juries are in relation to the local population. Figures 5.31 to 5.33 below show the proportion of BME jurors on

juries at each court along with the actual number of juries in each category<sup>242</sup>. At Blackfriars, most juries (13 of 24) contained more than one BME juror. But for a jury at Blackfriars to exactly reflect the BME population of the juror catchment area (33%), this would require four of the 12 jurors to be from a BME background. Two of the 24 juries contained exactly four BME jurors, and 2 more juries contained 5 BME jurors; the remaining 20 included less than 4 BME jurors. For a jury at Reading or Manchester to precisely reflect the BME population of the court catchment area (10% and 11% respectively), this would require one of the 12 jurors to be from a BME background. Just over half (6 of 15) of the juries at Reading contained one BME juror, and a third of juries (6 of 18) at Manchester contained one BME juror. Two more juries in each court contained more than 1 BME juror, and all the rest contained no BME jurors.

**What this shows is that, in terms of ethnic representation on juries, distinctions need to be made between High Ethnicity Courts. At High Ethnicity Courts with the highest diversity levels in the local population (such as Blackfriars with a 33% BME population), almost all juries are racially mixed, although each jury is not necessarily proportionately representative of the local BME population. At High Ethnicity Courts with lower diversity levels in the local population (such as Reading and Manchester Minshull Street with 10-12% BME populations), only about a half of all juries are racially mixed, although almost all of these juries will be proportionately representative of the local BME population.**

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<sup>242</sup> These results represent the *minimum* BME representation on individual juries at the three courts during the study period. Because not every juror in every jury pool at each court completed the juror profile form, with some juries it was not possible to identify the ethnicity of all 12 jurors. For instance, in 4 juries at Manchester the ethnicity of 10 or 11 of the 12 jurors was known and one of these jurors was known to be from a BME background. While these 4 juries were clearly racially mixed juries, the exact *proportion* of BME representation on those juries was not known.

Figure 5.31. BME representation on juries at Blackfriars

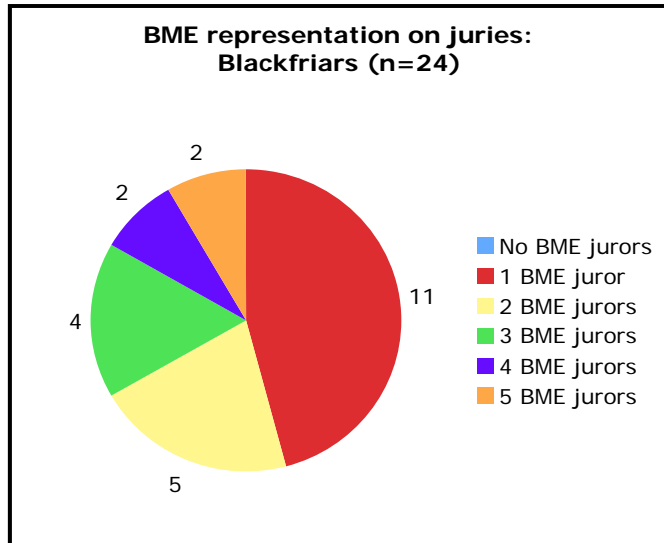


Figure 5.32. BME representation on juries at Reading

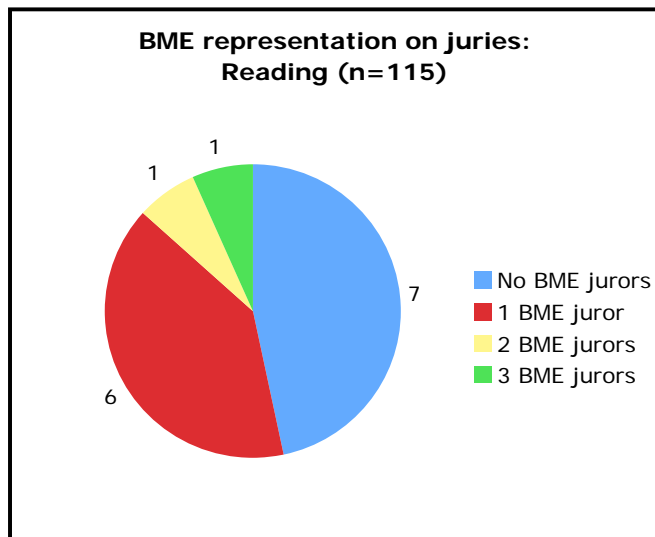
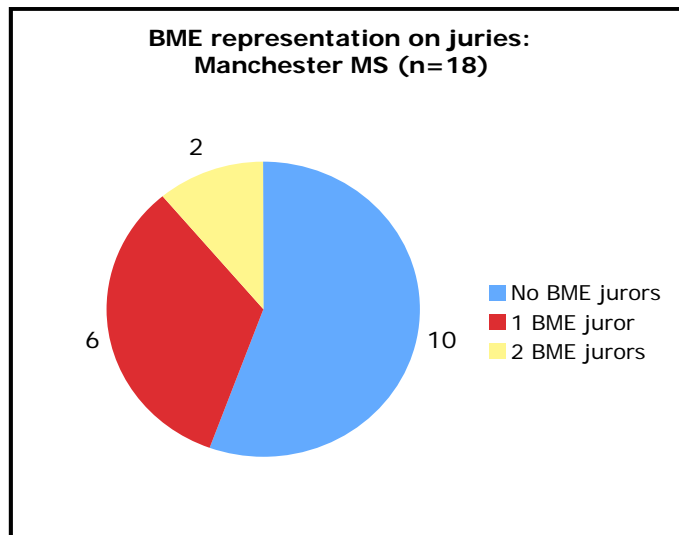


Figure 5.33. BME representation on juries at Manchester MS

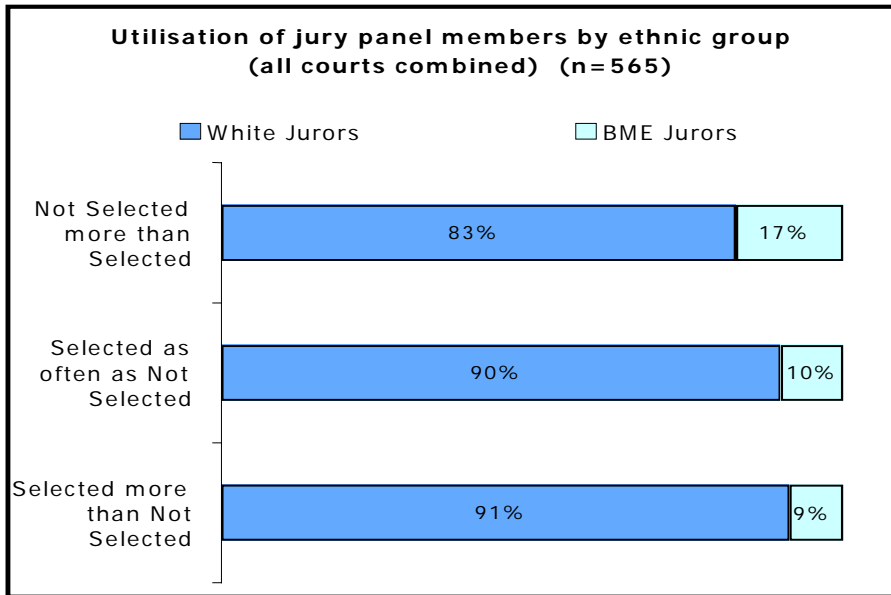


### **Juror selection in open court**

The final stage of jury selection (jury empanelling) is the only stage that does not involve computerised random selection of jurors. Once the computer has selected 13 or more jurors for a jury panel, it also generates cards with each panel member's name on a separate card. The jury panel enters court, and the court clerk is supposed to first shuffle the cards and then read out the names on the first 12 cards in open court. Each juror called enters the jury box, and when 12 names have been read without challenges or excusals, the final jury of 12 is sworn. In the course of the research project it was suggested that, in some instances, court clerks may avoid cards where a juror's name is difficult to pronounce. This was of particular concern because avoidance of unusual juror names may be more likely to occur with BME jurors than with White jurors. There was no indication that, if this was occurring, it reflected any conscious intent on the part of court clerks to exclude BME jurors from juries. Instead, it may simply have been an understandable inclination to avoid embarrassment for the clerk or the juror. However, the effect could be significant in terms of jury representation. The previous analysis illustrated how a single BME juror on a jury can substantially affect the representative nature of that individual jury.

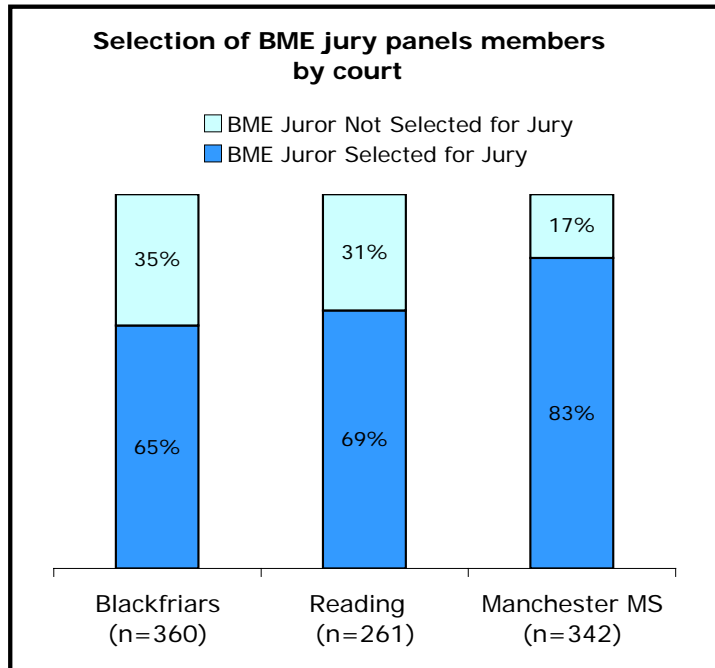
In order to determine whether there was any quantitative evidence of BME jurors being excluded at the final juror selection stage, the analysis examined first whether any differences existed in how often BME jurors were selected for juries compared to White jurors. Figure 5.34 below shows the utilisation of jurors on jury panels by ethnicity. BME jurors on jury panels were not selected for the jury more than they were selected 17% of the time, a higher rate than when they were selected as often as not selected (10%) and selected more often than not selected (9%).

**Figure 5.34. Utilisation of jury panel members by ethnic group for all courts**



Individual jurors may be selected for jury panels several times in the course of their jury service, and therefore the question of whether BME jurors on jury panels may be more likely not to be selected for the final jury repeatedly was also examined. If clerks are avoiding juror names that are difficult to pronounce then repeated non-selection would be more likely to occur. The analysis showed that only BME jurors had a higher rate of multiple non-selection (22%) than single non-selection (9%). While these results suggest some tendency not to select BME jurors at the final jury empanelling stage in open court, these are results for juries at all three courts combined. Figure 5.35 below shows that BME jurors who had been randomly selected by computer for a jury panel were selected to serve on the final jury less often in Blackfriars and Reading than Manchester. The highest rate of non-selection was at Blackfriars, and this court had the highest number of BME jurors serving during the study period (38 or 22% of all serving jurors at Blackfriars during the study). Blackfriars also has the highest proportion of jurors with a first language other than English (9% of all jurors at Blackfriars in the study period compared to 2.5% at Reading and 0.4% at Manchester), and this could have increased the likelihood of names being less familiar and therefore more difficult to pronounce.

**Figure 5.35. Selection of BME jurors from jury panels by court**



However, it is important to point out that none of these findings prove that court clerks at Blackfriars or the other two courts were avoiding BME juror names when empanelling juries. It was impossible in this study, for instance, to know whether there were more jurors with names a court clerk may have found difficult to pronounce at one court than another. It was also not possible to determine whether court clerks in one court were more hesitant than court clerks in other courts to read out such names. It does suggest, however, that this is an issue which court managers may want to raise with clerks in order to insure that no inadvertent discrimination occurs at the final juror selection stage.

### **Summary**

The jury service study provides the most detailed look at representation among serving jurors that has been conducted to date for Crown Courts in England and Wales. The study was able to create detailed population profiles for three Crown Courts based on a precise match between the postcode parameters for each court's juror catchment area and 2001 census data based on these same postcode districts. Based on a wide range of socio-economic factors, the project carried out a survey of the background characteristics of the jurors who did jury service at each court over a number of weeks. By achieving an extremely high response rate in the survey, this allowed a detailed examination of the representative nature of jury pools, jury panels and juries in these courts. The study reinforced the project's overall finding that the representative nature of jury service needs to be understood on an individual court basis, and that the dynamics of ethnic group populations in individual court catchment areas need to be taken into consideration

in assessing representation in jury pools and on jury panels and juries. The study also reinforces the findings of the juror summoning survey, which revealed a number of widespread misconceptions about who does and does not do jury service in this country.

In all three courts, BME representation in the jury pool fluctuated on a weekly basis, but overall there was no significant under-representation of BME jurors, and the fluctuations included both under and over-representation of BME jurors in relation to the BME population levels in the local areas. However, it is only when the ethnicity of serving jurors is disaggregated for each court that a clearer picture emerges of how unique the demographics of ethnicity are among serving jurors at each court. In Blackfriars the largest margin of under-representation was among those classifying themselves as White Other<sup>243</sup>. In Reading while the local Indian population was under-represented among serving jurors, Pakistani jurors were slightly over-represented in proportion to the local Pakistani population. In contrast, in Manchester Minshull Street, Pakistani jurors were the most substantially under-represented group in the jury pool. In Blackfriars, Pakistani jurors were represented in the jury pool in exact proportion to their representation in the local population. These variations in juror representation among the Pakistani community in these three different courts illustrate how crucial it is to consider ethnic representation among serving jurors on a court-by-court basis. The previous analysis found that where BME groups are more likely not to serve than serve this is most often due to individuals not being resident for the required period or due to language difficulties. In the Greater Manchester area, where Pakistanis are under-represented among serving jurors, there is a lower level of English literacy in comparison to the Pakistani community in Reading and Blackfriars (where they are not under-represented).

In the summoning survey, Christians and Muslims were under-represented and those with no declared religion were over-represented among all those doing jury service in England and Wales combined. But the three-court study demonstrated that court-based differences can exist in the levels of religious representation among serving jurors at court, just as they do with ethnic group representation. The only consistent trend across all three courts was the over-representation of those with no declared religion. Comparisons between serving jurors at the three courts also showed that Muslims were not under-represented among serving jurors in all three courts, and that where there is any under-representation this is not always related to a specific ethnic group. This reinforces the finding from the summoning survey that religion on its own is not a significant factor in predicting whether someone who is summoned for jury service actually serves or not.

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<sup>243</sup> As opposed to White British or White Irish.

The one clear consistent trend across all the courts in the study was for the overwhelming majority of serving jurors to be employed. The employed were by far the single largest group of serving jurors in each of the three courts and were over-represented among serving jurors in relation to their representation in each court's juror catchment area. A more detailed analysis of employment status revealed some court-based differences. For instance, students were under-represented among jurors at Blackfriars and Manchester, but not in Reading, reflecting perhaps the greater level of residential mobility among students in larger urban areas such as London and Manchester. The single largest occupational group among serving jurors at all three courts were professionals. This reflects the fact that professionals make up the single largest occupational group in the three local catchment areas, and further dispels the myth that "the important and the clever" manage to avoid jury service<sup>244</sup>. In addition, no occupational groups were significantly under-represented among serving jurors at any of the three courts. This provides further evidence that jurors do in fact reflect the full range of skills in their community, contrary to the concerns expressed in the Auld Review.

Jurors serving at all three courts mirrored the general trends found in the summoning survey in terms of both age and gender. The largest group of jurors serving in all three courts was in the 25-44 year old age group, followed by those 45-59. Yet there were differences in the level of age group representation between the three courts, reflecting the different age profiles of the populations in each court catchment area and again indicating the need to consider juror representation in its individual Crown Court context. In *Justice for All*, the Government expressed concerns that women were under-represented among serving jurors. However, in the jury pools in the three courts, there was virtually no difference in any of the courts in the proportion of women and men doing jury service. In addition, 88% of all the juries had either a 6:6, 7:5 or 8:4 gender split, and there were no all-male or all-female juries in any of the courts. These findings strengthen the conclusion of the summoning survey that the under-representation of women among serving jurors is yet another myth of jury service.

The jury service study was conducted in the three Crown Courts during 2003, prior to the introduction of new juror eligibility rules in 2004. This indicates that these widespread misconceptions about jury service were not valid even before the government introduced new rules restricting the grounds for ineligibility and excusal from jury service. However, jurors 65 to 69 years of age were under-represented in the three courts prior to the eligibility rule changes, which specifically removed the right of those in this age group to be excused from jury service.

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<sup>244</sup> Auld supra note 23.

The study also examined the nature of ethnic representation on jury panels and on juries. Despite the fact that all three courts are High Ethnicity Courts, there was a substantial difference in the proportion of racially mixed jury panels and juries at each court. This reflected the different levels of BME population in the Blackfriars' juror catchment area (33%) compared to Reading and Manchester Minshull Street (10% and 11% respectively). Almost all jury panels and juries are racially mixed (they contain at least one BME juror) at High Ethnicity Courts such as Blackfriars, where the BME population level in the juror catchment area is very high. But this does not necessarily translate into every jury being strictly representative of the ethnic minority population in the court catchment area. Only 17% of juries at Blackfriars during the study period had at least 33% of BME jurors (i.e., 4 or more).

In High Ethnicity Courts where the local BME population level is near the cut-off point between High Ethnicity and Low Ethnicity Courts (10%), such as Reading and Manchester Minshull Street, this resulted in approximately half of all jury panels and juries being racially mixed. This simply confirms the finding of the summoning survey that, even though ethnic minorities are proportionately represented among those summoned and serving at a court, this will not necessarily result in large numbers of ethnic minorities in jury pools, on jury panels and on juries as the actual number of BME jurors is small even in high ethnicity areas. However, all the racially mixed juries at Reading and Manchester were (at a minimum) representative of the local population, as a single BME juror on a jury made the jury representative of the local population.

Finally, there was some evidence that BME jurors on jury panels appeared to be chosen to serve on final juries less often than White jurors on jury panels. This final stage of jury selection is the only stage that does not involve computerised random selection of jurors, but in theory the procedure should not treat jurors differently. Court clerks simply shuffle a set of cards containing each juror's name and read out the first 12, who are then sworn as the jury. However, there were concerns that clerks may avoid reading out names that are difficult to pronounce, and the study did find some disparity in the level of final jury selection between White and BME jurors. But there was not absolute evidence that this was due to the actions of court clerks, and even if it was, this should be a straight forward issue to address by reminding court clerks of the importance of strictly following juror selection procedures in court.