
Democracy in Action



THE JURY SYSTEM AND JURY SERVICE IN NEW YORK

A MESSAGE FROM THE CHIEF JUDGE OF NEW YORK STATE

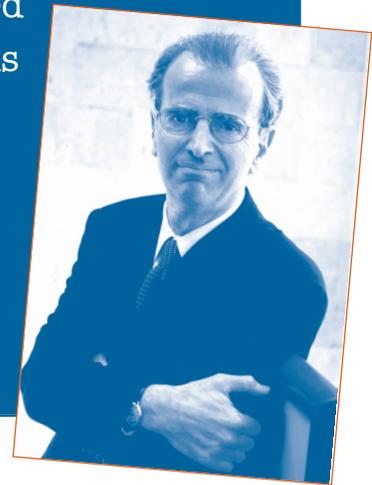
Each year, millions of Americans representing all races, faiths and occupations — including thousands of New Yorkers — serve on juries deciding legal cases that not only affect the lives of the parties involved but also have a profound impact on our society.

Someday, you too may be called for jury service. The more you understand about our jury system and the essential role that juries play, the better able you will be to fulfill this important civic duty when that day comes.

The purpose of this booklet is to acquaint you with our prized jury system and raise awareness about the importance of serving as a juror. We hope that you will share this information with friends and family, and that the ideas presented here inspire lively discussions about this vital democratic institution.

Jonathan Lippman

Chief Judge of the State of New York



TRIAL BY JURY: A TREASURED FREEDOM

The American justice system is based on the idea that people are entitled to have their case heard by a jury of their peers. Both the New York State Constitution and the United States Constitution guarantee defendants in criminal cases and parties in certain types of civil lawsuits the right to a trial by jury. New York's Judiciary Law also confers the right to a jury selected from a fair cross-section of the community, and provides that all eligible citizens shall have both the opportunity and the obligation to serve.

In criminal cases, trial by jury places a group of citizens between the power of the State and the rights of the individual charged with a crime. A person who is charged with a crime cannot have his or her liberty or property taken away unless the State meets its burden of proving to the jury's satisfaction that the accused is guilty beyond a reasonable doubt. **In civil cases**, the jury represents the collective wisdom of the community in resolving disputes that involve the legal rights or duties of the parties. In both criminal and civil cases, the job of the jury is to evaluate the evidence fairly, listen to the legal instructions given by the judge and make a decision.

For many citizens, jury service is the most direct involvement in government they will ever have. Jury service thus also offers an opportunity to learn about the law and legal process. "The jury . . . may be regarded as a . . . public school, ever open, in which every juror learns his [or her] rights," wrote Alexis de Tocqueville, a nineteenth-century French statesman who traveled across America in 1831, studying its political and social institutions. Nearly 200 years later, many Americans who serve on juries also describe the experience as educational and rewarding, reporting a renewed sense of pride in our system of justice.

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Do you know anyone who has recently been called for jury duty? If yes, ask them about their experience. Did they serve on a trial? What did they learn from the process? How did the experience change their ideas about the justice system?

TRACING THE ORIGINS OF AMERICA'S JURY SYSTEM

Some historians trace the roots of the American jury system back to the Anglo-Saxon kings who ruled England from the sixth to eleventh centuries. In those days, a person accused of a crime had to produce witnesses to swear to that individual's honesty. An accused unable to find enough people to serve as character witnesses might be forced to undergo **trial by ordeal**, a harsh physical test used back then to determine innocence or guilt. For example, a person accused of a crime might be forced to enter deep water weighed down by rocks.

Over time, two kinds of juries developed: the grand jury, which evaluates evidence to decide whether to charge an individual with a crime, and the petit or trial jury, which decides in criminal cases whether the State has proven guilt beyond a reasonable doubt and in civil cases whether the plaintiff (the party suing) has proved its claims by the greater weight of the evidence. Of the 650,000 jurors who are called each year in New York, 25,000 serve on grand juries.

The Sixth Amendment guarantees a criminal defendant the right to a trial by jury, though the defendant may opt for a bench trial – a trial before a judge without a jury. Can you think of any reasons why a defendant might choose a bench trial over a jury trial?

A person who drowned would be judged guilty. Imagine the odds of a fair verdict in those days!

King Henry II, who ruled England from 1154 to 1189, played a major role in the development of the jury system, using panels of 12 men to resolve land disputes and later criminal matters. Unlike modern juries, which listen to evidence in court, these panels conducted investigations to uncover the facts of the case on their own. They were free to base their verdict on their own personal knowledge of the alleged crime as well as evidence presented in court. As time passed, courts began to insist on the impartiality of jurors to guard against corrupt rulers who might secretly place biased jurors on a case to manipulate the outcome. Thus, the system of **trial by an impartial jury** evolved.

Juries in Early America

In 1735 a New York printer, John Peter Zenger, was on trial for publishing newspaper articles critical of an unpopular royal governor. Under English law at the time, it was a crime called seditious libel to publish any statement – true or false – criticizing the government or public officials. Mr. Zenger’s lawyer argued that the published statements could not be libelous if they were true. The jury found Zenger “not guilty,” establishing that truth is an absolute defense and paving the way for what Americans would come to embrace as **freedom of the press**.

The First Congress of the American Colonies, held in 1765, included trial by jury in its list of essential rights and liberties. Among the reasons given by signers of the Declaration of Independence to “dissolve the Political bonds” that connected them to Great Britain was the deprivation “in many cases, of the benefits of Trial by Jury,” a reference to the Crown’s denial of jury trials to colonists accused of violating the hated Stamp and Navigation Acts of 1765.

After the American Revolution, the Framers of the United States Constitution considered trial by a jury of one’s peers so vital that **Article III** provides the right to trial by jury for all crimes except impeachment. The **Sixth Amendment** grants the right to be tried by an impartial jury in criminal cases, while the **Seventh Amendment** provides this right in civil cases. Our state constitution contains similar guarantees.

Sixth Amendment to the U.S. Constitution

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed . . . “

Seventh Amendment to the U.S. Constitution

“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved . . .”

The Fight for Representative Juries

Jury service has not always been as universal a right as it is today. Until the nineteenth century, only white males who owned property were permitted to serve on juries. In 1868, the Fourteenth Amendment to the Constitution was ratified, promising equal protection of the laws to all citizens. A few years later, the United States Supreme Court ruled that equal protection applied to trial by jury, in that case deciding that a person could not be excluded from jury service because of prior status as a slave.

In 1880, the Supreme Court ruled that a West Virginia law restricting jury service to white males violated the Fourteenth Amendment and that **jury service could not be restricted by race. However, in many parts of the country African-American men would continue to be regularly excluded from juries**, a practice that began to weaken with the emergence of the civil rights movement in the 1960s.

Likewise, women fought long and hard for their right to serve as jurors. Up until the 1970s, when additional legal protections were put in place to ensure that jurors are selected from a fair cross-section of the community and not excluded from service for discriminatory reasons, females were also a rarity on juries.

“Jury service has not always been as universal a right as it is today.”

WORD SCRAMBLE

Unscramble each set of letters to form real words relating to the subject of this brochure. When you've formed all nine words, rearrange the letters in the orange boxes to form the bonus phrase.

DIRECTV

GUDEJ

SAWTIUL

IVOR RIDE

NESTMITYO

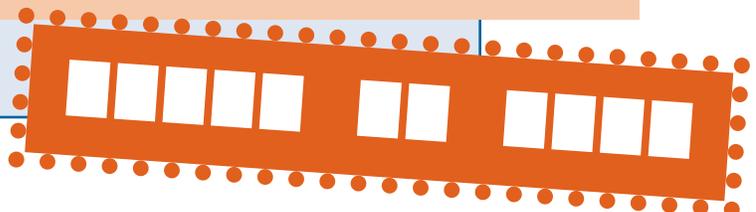
LUGITY

MOMSUNS

TREEBDIALE

VEEDICEN

Bonus Phrase:



THE JURY SYSTEM TODAY

The makeup of the population in New York and our nation has changed dramatically over the years, with today's juries reflecting this growing diversity. And since being a juror does not require any particular expertise or education – just the ability to fairly evaluate the evidence presented in a case – people serving on juries these days come from all walks of life.

How are the Names of Potential Jurors Picked?

In New York, the names of potential jurors are selected randomly from several sources, including lists of registered voters, licensed drivers, state tax filers, and recipients of public assistance and state unemployment benefits.

Selected individuals are sent a juror qualification questionnaire to determine their eligibility to serve. The questionnaire can be completed and returned to the local jury commissioner's office by mail or online. Responses can also be made by phone. Citizens may volunteer to be included in the pool of people from which juries are selected by contacting the jury commissioner in their local county, calling **1-800-NYJUROR** (toll-free) or visiting www.nyjuror.gov.

A juror found qualified may be sent a summons, an official notice to report for jury service.

A New York law that automatically excused individuals from a range of professions and occupations was repealed in January 1996. Today, even lawyers, doctors, judges and celebrities serve on juries in New York.

Who's Eligible to Serve?

To be eligible for jury service in New York State, you must:

- be a United States citizen at least 18 years of age
- be a resident of the county in which you're called to serve
- have no felony convictions*
- be able to understand and communicate in English

**Those convicted of a felony may be eligible for jury service if they have a Certificate of Relief from Civil Disabilities or a Certificate of Good Conduct*

What Happens Next?

Qualified individuals are randomly selected to receive a summons to serve. Usually the summons arrives about four weeks before the date the juror is expected to appear. Anyone summoned for jury service is entitled to one automatic postponement. Summoned individuals arrive at the courthouse and report to a central location called the **jury assembly room**. Some will be interviewed to sit on a trial jury. This interview process is called **voir dire**, a French phrase translated as “to see and speak the truth.”

The purpose of the voir dire is to screen out jurors who may not be able to decide the case objectively. For example, potential jurors may be asked if they

know any of the parties in the case or would not be able to judge the case fairly for some other reason. Prospective jurors may also be asked questions about their education, employment or life experiences as well as similar questions regarding people close to them. Sometimes the nature of a case makes it necessary to ask personal questions. The purpose is not to pry or embarrass jurors, but rather to get information relevant to a juror's service. Prospective jurors who prefer to answer such questions only in the presence of the judge and attorneys have the option to do so.

The selection of a trial jury is essentially the same in criminal and civil cases. In a criminal trial involving a **felony** (a crime for which the punishment may exceed a year in prison), 12 jurors are required; civil cases require six jurors. Depending on the anticipated length of the trial, two or more **alternate jurors** may also be chosen. They will take the place of jurors who may become ill during the trial or will not be able to finish their service for some other reason. Once the jury is selected, the court clerk swears in the jurors to try the case.

Can you think of any reasons why a potential juror might not be selected to serve on a trial where the defendant was charged with robbery? Why might a prospective juror not be chosen for a civil case involving medical malpractice?

What is the juror's role during the trial?

The juror's role is to listen to the evidence carefully and impartially, evaluate it fairly, and with the other members of the jury reach a final decision or verdict in the case.

Jurors are not allowed to read, watch or listen to stories in the media or on the Internet relating to the trial, nor are they allowed to discuss anything about the case with anyone prior to deliberations.

STEPS IN A TRIAL:

Every trial is different, but here's a general format you can expect:

Opening Statements: General statements from attorneys for each party that explain the case, also outlining the evidence that will be presented and the issues to be decided by the jury. In a criminal case, where the burden is on the State to prove its case beyond a reasonable doubt, the defendant's attorney may choose not to make an opening statement.

Presentation of Evidence: Witness testimony and exhibits are presented by the attorneys.

Closing Arguments: Attorneys for each party summarize the case from their client's point of view.

Judge's Charge to the Jury: The judge tells the jury the issues to be considered and the laws that apply to the case.

Jury Deliberations: The jury goes to the jury room to review the evidence presented during the trial, discuss their views of the evidence and deliver a verdict.

How do juries reach a verdict?

Before the lawyers make their closing arguments, the judge will instruct the jury about the law that applies to the case. This is known as the judge's **charge to the jury**. Jurors may not discuss the case with the other jurors until the jury is ready to deliberate. After receiving the judge's instructions and hearing final arguments, the jury retires to the jury room to **deliberate**, which means they review the evidence presented, discuss their views of the evidence and reach a verdict. Jury deliberations are **absolutely private**.

There are no specific procedures the jury must follow about how to conduct their deliberations. During deliberations, however, jurors should keep an open mind, listen carefully to each other and be prepared to tell one another what they think about the case and why. When the trial is over, jurors are free to discuss it with others or to keep silent.

In **criminal cases** tried in the New York state courts, a defendant cannot be found guilty unless there is a unanimous verdict of all 12 jurors. If the jury reaches a guilty verdict, the judge will determine the **sentence** (punishment) in accordance with the law. If the jury cannot reach a unanimous verdict, it is a **hung jury**. The judge will declare a mistrial, and the case may be tried again before another jury.

In **civil cases** tried in the New York state courts, a verdict does not have to be unanimous. Agreement by five of the six jurors is enough. In a civil trial, the **plaintiff** (the party bringing the suit) has the burden of proving that the **defendant** (the person being sued) is liable (legally responsible). If the jury finds that the plaintiff has proven its claims by a **preponderance of the evidence** (that is, the greater weight of the evidence), it may also be asked to determine whether there should be an award of money **damages**, and if so, how much should be awarded.

American law permits the media to interview jurors after they deliver a verdict. Jurors are free to choose to be interviewed or not. If you were a juror on a high-profile case, do you think you would consent to a press interview following the trial? Why or why not?



Cartoon by David Clark reprinted with permission of *Governing: The Magazine of States and Localities*

WHO'S WHO IN THE COURTROOM

Along with the judge and jury, the others in the courtroom include:

Attorney	Represents each party in a civil or criminal case; an attorney representing the State in a criminal case is called the prosecutor or assistant district attorney, and in some cases the assistant attorney general.
Court Clerk	Maintains the court files, preserves the evidence presented during trial, and may also administer the oath to jurors and witnesses
Court Officer	Keeps order, maintains courtroom security, and assists the judge and jury as needed
Court Reporter	Keeps the official record of the trial by recording every word which is spoken
Defendant	In a civil matter, the party who is being sued; in a criminal case, the person who has been charged with a crime
Interpreter	Under oath, provides translation services for the court on behalf of non-English speaking or hearing-impaired parties or witnesses
Plaintiff	In a civil case, the party bringing the suit
Spectators	Members of the public who are generally permitted to observe court proceedings; often spectators include representatives of the media
Witnesses	Provide testimony, under oath, as to what they have seen or heard regarding the case

“By serving, not only are you protecting the right of all Americans to trial by an impartial jury, you’re also getting a first-hand view of our courts at work and playing an active part in our democracy.”

MAKING JURY SERVICE IN NEW YORK BETTER

Emphasizing Juror Convenience and Comfort

In the last decade, New York has worked hard to make jury service as convenient as possible. For citizens appearing for service who are not selected on a case, jury service can be as **short as one or two days**. Those selected on a jury are **required to serve on only one trial**. Whether or not chosen to serve on a jury, the juror’s role is vital to our legal process. Many times, the very presence of the jurors encourages the parties to resolve their disputes out of court.

Juror facilities throughout the state have also been upgraded to make them more comfortable and convenient. Many now feature such amenities as

Do you think you would find note-taking beneficial as a juror? Why or why not?



computer work stations, free Internet access, a wide variety of reading materials and vending machines for snacks and beverages.

Trial Practices that Promote Juror Participation and Understanding

Today, jurors in New York state courts may be permitted to take notes during the trial, a practice considered helpful to the trial process by many judges and jurors alike.

Also, in some cases judges may give their instructions to jurors in writing (so they can be reviewed during deliberations) as well as orally. Additionally, jurors in certain cases are allowed to ask questions of witnesses (to help clarify factual issues of the trial), by giving their questions in writing to the judge.

DO YOU KNOW YOUR JURY?

Now that you've learned about the jury system, test your knowledge with this true-and-false quiz (you can find all the answers on the previous pages).

True **False**

<input type="checkbox"/>	<input type="checkbox"/>	1. Lawyers and doctors are automatically excused from jury-service
<input type="checkbox"/>	<input type="checkbox"/>	2. One must be at least 21 years old to serve as a juror
<input type="checkbox"/>	<input type="checkbox"/>	3. Jurors can read, watch or listen to media stories relating to the trial to which they are assigned
<input type="checkbox"/>	<input type="checkbox"/>	4. The right to trial by jury is guaranteed by the New York State constitution
<input type="checkbox"/>	<input type="checkbox"/>	5. England's King Henry VIII is credited with playing a major role in the development of the jury system
<input type="checkbox"/>	<input type="checkbox"/>	6. The names of potential jurors are selected randomly from voters' and other lists
<input type="checkbox"/>	<input type="checkbox"/>	7. Jurors are allowed to discuss the case with each other before the jury retires to the jury room to deliberate
<input type="checkbox"/>	<input type="checkbox"/>	8. In criminal cases tried in the New York state courts, the jury's decision must be unanimous
<input type="checkbox"/>	<input type="checkbox"/>	9. In a civil case, the burden of proof is on the defendant
<input type="checkbox"/>	<input type="checkbox"/>	10. Members of the public are generally permitted to observe jury trials
<input type="checkbox"/>	<input type="checkbox"/>	11. Grand juries evaluate evidence to decide whether or not to charge the accused with a crime

CRISS CROSS

Fit these jury-related words into the proper spaces in the diagram. Words are listed in alphabetical order according to the number of letters. The words in parentheses () do not fit into the puzzle grid.

Four letters:

- **duty** (*civic*)
- **fair**
- **oath** (*pledge taken by jurors*)

Five letters:

- **civil** (*trial*)
- **court**
- **judge**
- **juror**
- **legal**
- **right** (*to trial by jury*)
- **trial**
- **truth** (*what jurors seek*)

Six letters:

- **accuse**
- **burden** (*of proof*)
- **liable** (*legally responsible*)
- **twelve** (*members on a felony jury*)

Seven letters:

- **citizen** (*you must be one to serve on a jury*)

- **summons** (*notice to report for jury service*)
- **verdict** (*jury's final decision*)
- **witness**

Eight letters:

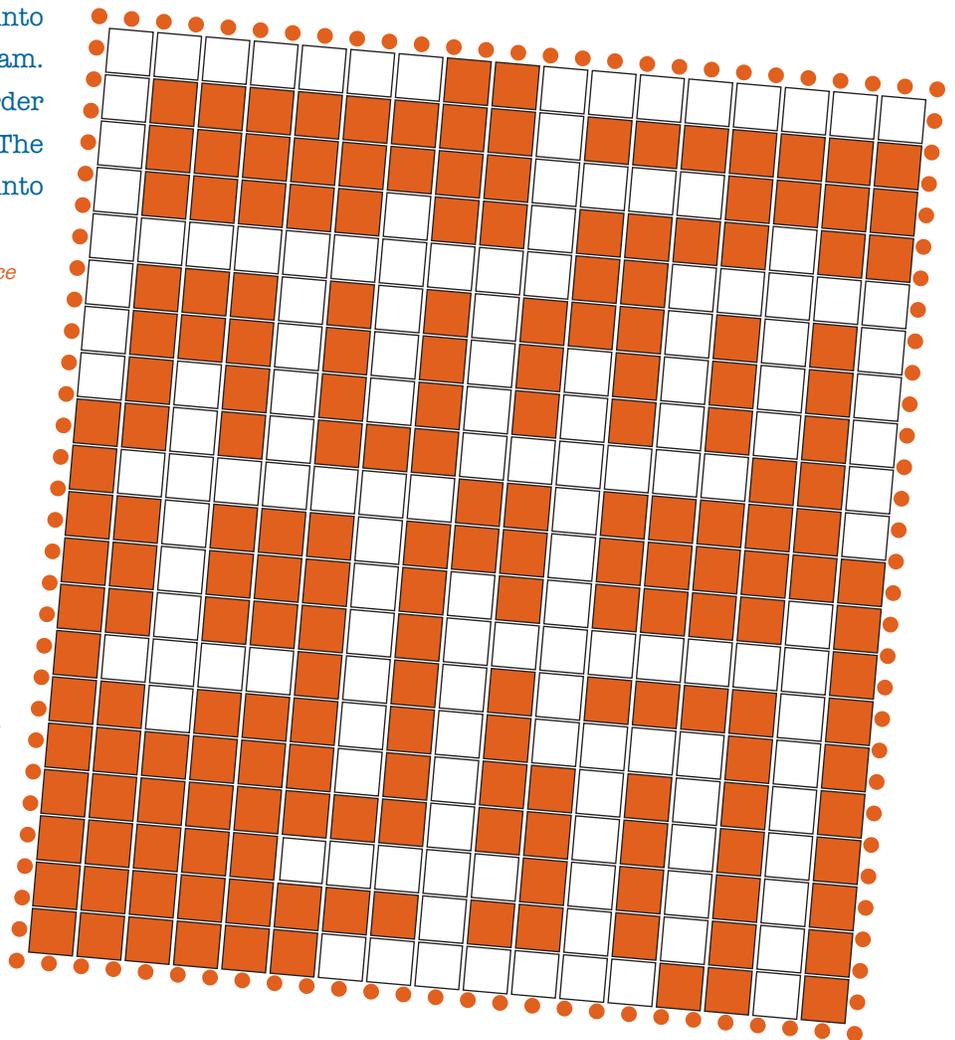
- **criminal** (*trial*)
- **evidence**
- **jury pool** (*large group of potential jurors*)
- **voir dire** (*jury selection process*)

Nine letters:

- **defendant** (*in a civil case, party being sued; in a criminal case, person charged with a crime*)
- **plaintiff** (*in a civil case, party who sues*)
- **testimony**

Ten letters:

- **deliberate**



A UNIQUE PRIVILEGE AND REWARDING EXPERIENCE

By giving average citizens the opportunity to make public decisions and participate directly in government, the jury system has helped shape the course of our nation's history. With over a million Americans serving on jury trials every year – making important decisions that affect many lives and issues of great concern to our communities – juries continue to have an impact today.

And while jury service may require that we reschedule our appointments or miss work, it's a unique privilege that we enjoy as Americans. By serving, not only are you protecting the right of all Americans to trial by an impartial jury, you're also getting a firsthand view of our courts at work and playing an active part in our democracy. But who to say it more eloquently than our own jurors, some of whom so graciously contributed the following observations on jury service. ■

Here's what some New Yorkers had to say about their recent jury service:

“There was something exciting about sitting in a room with a cross-section of people from my community. We should keep in mind that most people around the world don't get this opportunity.”



“In order to understand how the system works, you've got to be a part of it.”



“Jury service is an educational experience that gives a person that special sense of accomplishment that comes with doing one's civic duty.”

“Though I have to admit that I walked into the jury assembly room with a certain amount of cynicism, being part of the process gave me a newfound appreciation for our system of justice.”



“I was very impressed with how wisely the jurors' time was spent.”



“As a new citizen, I felt so proud to undertake this important civic responsibility.”

“I learned a lot about the role of jurors and the trial process, and also met many interesting people.”



For more information about jury service in New York, visit www.nyjuror.gov or call our toll-free number, 1-800-NYJUROR (1-800-695-8767).

For additional copies of this booklet or to obtain other court publications, contact the court system's Office of Public Affairs at (212) 428-2116.