

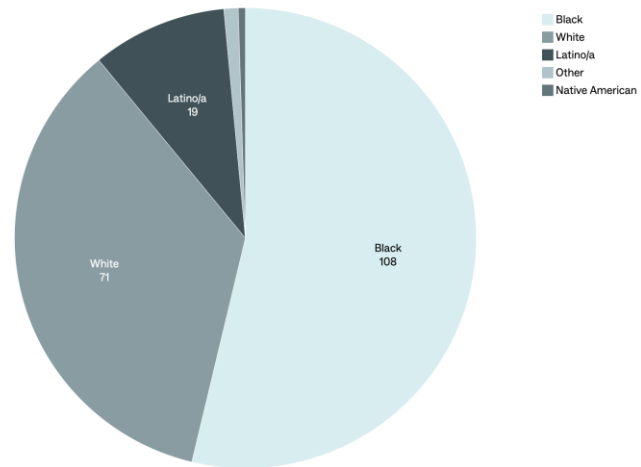
BEHIND THE VERDICT: A CRITICAL EXAMINATION OF THE U. S. JURY SYSTEM

Presented by Dilba Güngörmüs and Nina Bartholet

Nr. 7

Exonerations by Race

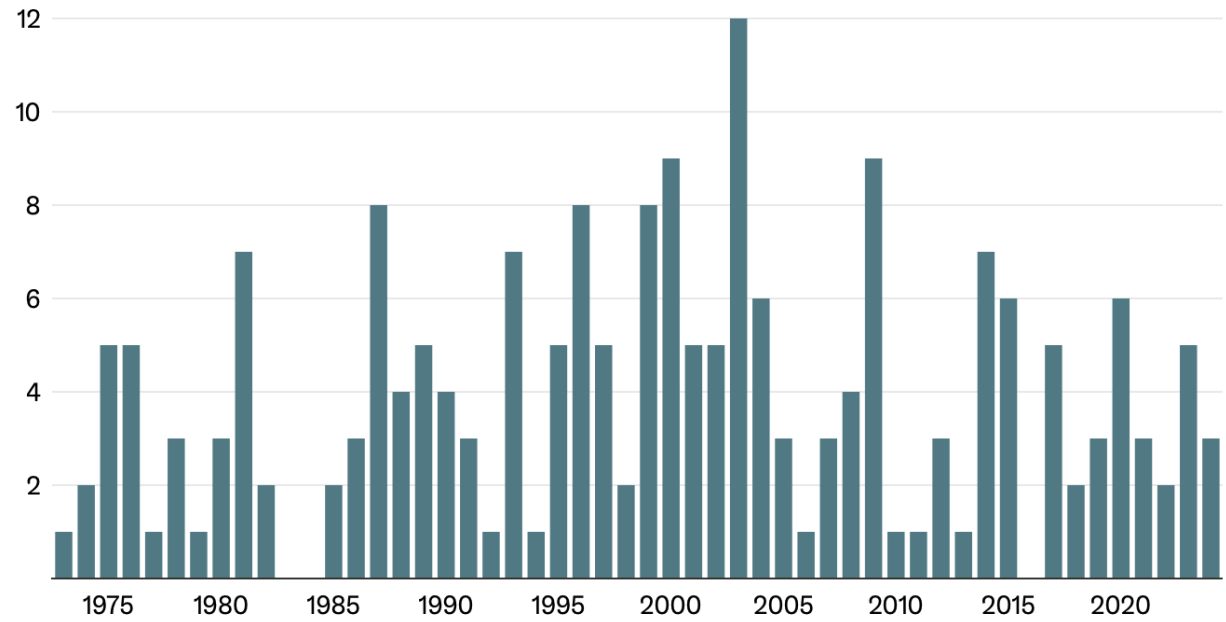
Total Exonerations Since 1973: 201



Death
Penalty
Information
Center

Number of Exonerations Per Year

Total Exonerations Since 1973: 201



Death
Penalty
Information
Center



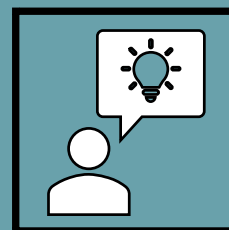
Flawed Evidence: Reliance on eyewitness misidentification, false confessions, or forensic evidence that later proves unreliable



Ineffective Counsel: Poor legal representation for indigent defendants.



Procedural Issues: Courts often focus on legal technicalities rather than the actual merits or potential innocence.



Systemic Bias: Racial or socioeconomic factors can influence outcomes.



JURY EXPLAINED

Jury as a Legal Institution

5th Amendment

*« **No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury**, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.»*

Jury as a Legal Institution

6th Amendment

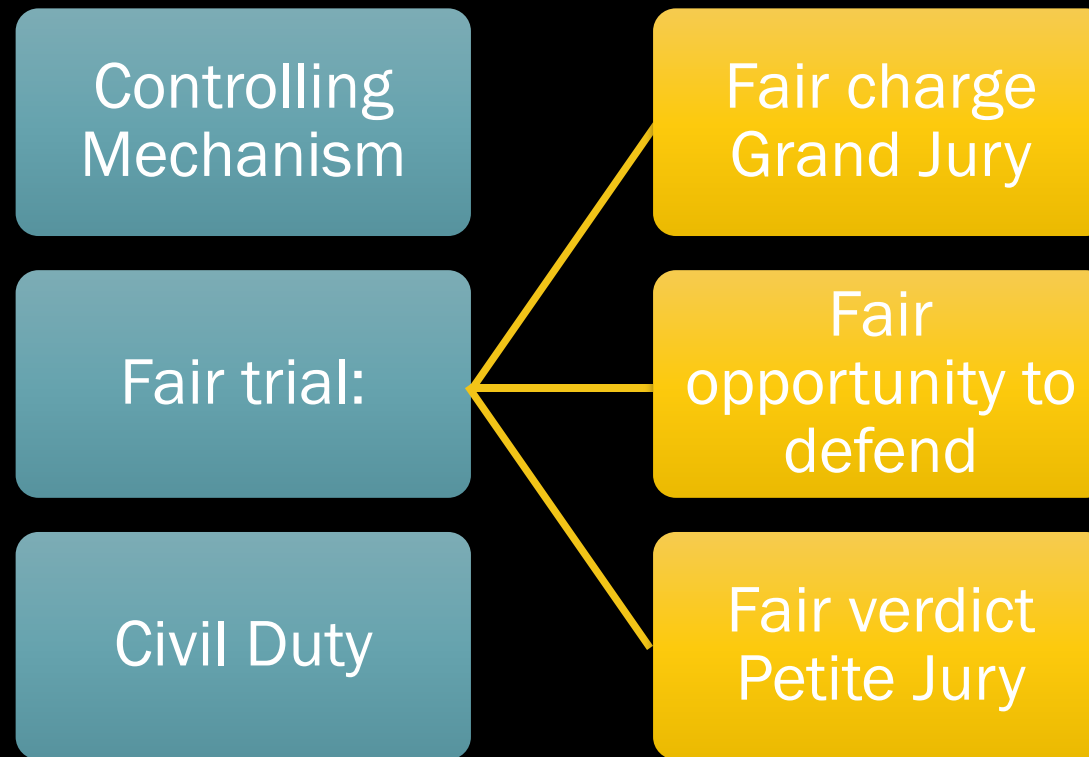
« ***In all criminal prosecutions***, the accused shall enjoy the right to a speedy and ***public trial***, by an impartial jury of the State and district wherein the crime shall have been ***committed***, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.»

Jury as a Legal Institution

7th Amendment

« In **Suits** at common law, where the **value in controversy shall exceed twenty dollars**, the **right of trial by jury shall be preserved**, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.»

Jury as a Legal Institution



Jury Duty

■ Qualifications

- *United States Citizenship*
- *Min. 18 years*
- *have resided primarily in the judicial district for at least one year at the time of completion of the qualification questionnaire*
- *be able to adequately read, write, understand, and speak English*
- *no disqualifying mental or physical condition that cannot be addressed with an accommodation*
- *not currently be subject to felony charges punishable by imprisonment for more than one year*
- *never have been convicted of a felony*

■ Exemptions

■ Excuses

Types of Juries

Grand Jury

- Felonies
- Purpose: Is there probable cause?
 - *If yes: Indictment*
- 16-23 Jurors
- Not open to public

Petit Jury

- Purpose: Examine the facts
- Render a guilty or not guilty verdict
- 6-12 Jurors
- Normally open to public

Voir dire – Preliminary Examination

- Questioning of potential jurors before trial by court and counsel
- To ensure an impartial jury
- Required by the constitution

Peremptory Challenges


- Legal Tool
- During the voir dire
- Attorney can excuse jurors without reasoning
 - *Cannot be excused based on race or sex*




ORIGINS

Historic Background

- Ancient Greece
- Medieval England, King Henry II
 - *Magna Carta (1215)*
 - *Judgment of his peers*
- USA: Constitution & Bill of Rights
- 20th Century Reforms
 - *Woman, minorities = more representative pools (1968)*



STRENGTHS
AND
WEAKNESSES



“Ask not what your country can do for you—ask what you can do for your country.” – John F. Kennedy

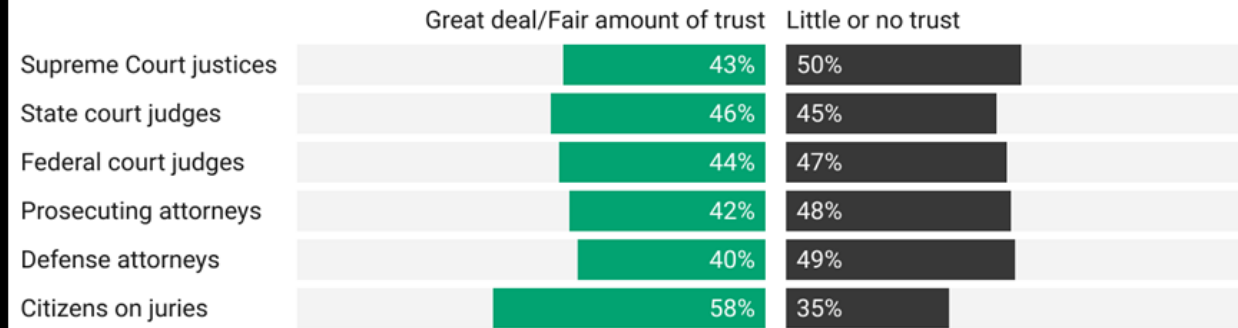
Social Significance

- civic duty
- constitutional right
- representation of society and their views
- injecting community values into legal decision

Americans who serve on juries are more likely to trust the courts and the people who work there

A 2023 survey compared views from 781 adults who had served on juries for either civil or criminal trials in the previous 10 years to those of 1,017 U.S. residents without jury duty experience. Respondents were asked, 'How much trust do you have, if any, in the people working in the following areas?'

General public



Jurors

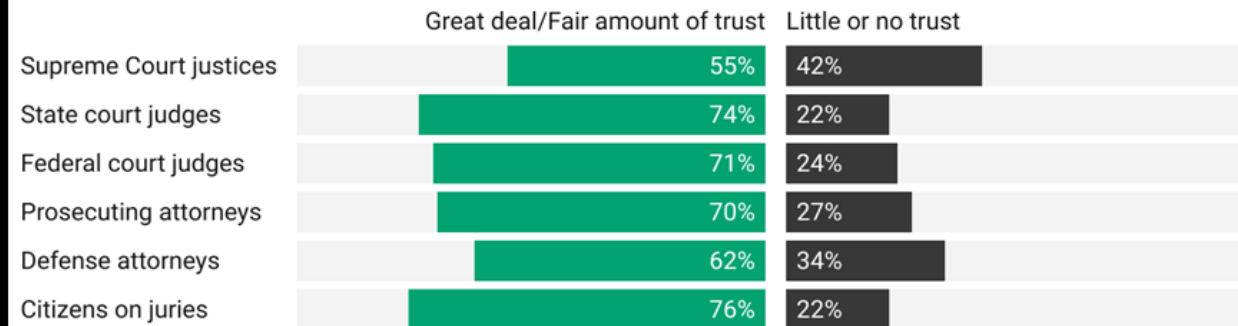


Chart: The Conversation, CC BY-ND • Source: Ipsos • Created with Datawrapper

Democracy and Justice

- more representative of the general public
- no hidden agenda:
 - seeking promotion or reelection
- important aspect of US democracy
 - Citizen are part of decision-making
- supports fairness in trials:
 - declining abuse of governmental power

Problems within the jury

- not as accountable as judges
- lack intelligence, background or stamina to assess evidence in a legal context
- more affected by biases
- racial bias in death penalty trials:
 - White victim leads to more death sentences
 - all-white jury convicts Black defendant 16% more often than a White defendant

Problems within the system

- underrepresentation of society:
 - 1968 women allowed to serve on jury
 - 1875 African American allowed to serve on a jury
- Peremptory Challenge : can be used on discriminatory base
- Trial consultant: social scientist who aid attorney in the presentation of trial → help selecting a bias jury

Problems within the System- *Example*

O.J. Simpson murder trial 1994:

- Defense team hired a consultant
- examined jury prospects
- Black women have a more positive impression of O.J. Simpson
- Jury team consisted of:
 - 1 Black man
 - 1 Hispanic man
 - 2 White women
 - 8 Black women
- verdict «not guilty»

General Problems

timely:
takes longer to
conclude

costly:
needs more
court resources

disruption of the
daily life of
jurors

not always as
necessary



CURRENT DEVELOPMENTS

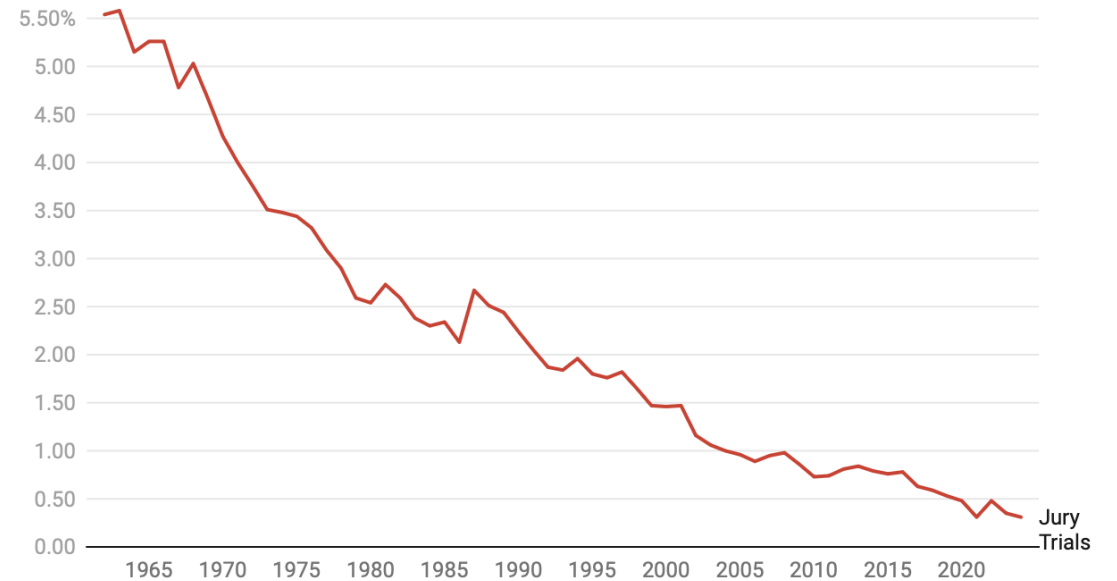


Modern USA

- Juries decide:
 - *less than 4% of criminal cases*
 - *less than 1% of civile cases*

Juries now resolve less than 1% of US civil cases

Since the 1960s, the number of civil cases decided by juries has sharply declined. Most civil cases are resolved through arbitration.



Data source for recent years is Administrative Office of the U.S. Courts, Annual Report of the Director, Table C-4.

Chart: The Conversation, CC BY-ND • Source: Jolly, Hans and Peck 2022, and Administrative Office of the U.S. Courts • [Get the data](#) • [Download image](#) • Created with [Datawrapper](#)

Reasons



PLEA BARGAIN



SUMMERY
JUDGEMENT



ARBITRATIONS
(SCHIEDSVERFAHREN)



SWITZERLAND



Geschworenengericht



- "Geschworenengerichte" abolished
 - *New StPO since 2011*
- Kanton Tessin "Asserssori-Giurati"



CONCLUSION