

Name _____ Period _____ Law and You/Mr. Tripodi

JURY DUTY

True – if inconvenient – democracy

The Citizen's Voice

Thomas Jefferson, a strong support of the rights and powers of juries, believed it was more important that ordinary people serve on juries than vote. The other Founders also regarded serving as a juror to be a citizen's obligation and privilege.

Most early American judges were ordinary citizens who had no formal training, but were known for justly resolving disputes. They generally trusted jurors to understand and apply the law.

As the law became more technical, however, judges began receiving more training. Law schools opened and the legal profession developed. The new professional judges started to instruct jurors on how to understand and apply the law. They rarely informed jurors of their power to nullify an application of the law. This trend has continued to the present.

Today, even as juries remain important protectors of individual rights, most jurors do not appreciate their full powers and responsibilities.

Jury Selection and Responsibilities

As a first step in selecting jurors, courts summon more citizens than it actually needs. All of these people are randomly selected from the community that resides in the court's jurisdiction. They make up the jury pool, which should reflect a fair cross-section of the community.

To empanel a jury, the judge and attorneys review the prospective jurors. This process is called **voir dire**. A French term meaning "to speak the truth," the voir dire is designed to determine a citizen's fitness to serve.

Under the judge's supervision, prosecutors and defense attorneys interview prospective jurors. Each attorney has several "peremptory challenges," whereby the attorney may dismiss a prospective juror for any reason or no reason (excluding race or sex).

Attorneys may also "strike" prospective jurors "for cause," based on their answers to attorneys' questions. Common "causes" include strong personal or political biases.

Also, people who have been victims of particular crimes, or lawyers or police officers whose knowledge of the legal system might bias their decisions, are often dismissed for cause.

Most criminal trials require that a jury of 12 members and two alternates be impaneled.

African Americans and women had to fight long legal battles for the right to be members of juries. Since the Sixth Amendment requires an impartial jury, the Supreme Court has ruled that no one may be excluded from a court's jury pool because of their race, sex, or national origin.

The Fourteenth Amendment's equal protection clause also prohibits attorneys from using a "peremptory challenge" to strike prospective jurors solely on account of race or sex.

Unlike the jury pool, however, an individual jury may not represent a cross-section of the community, depending on how the attorneys use their challenges in voir dire.

Jurors have important responsibilities during trial. They must listen impartially to the evidence presented and be prepared to consider the facts of the case and judge the defendant's guilt or innocence under the law.

Jurors must also keep an open mind until they enter deliberation—which comes after the attorneys finish presenting evidence.

In some cases, jurors have been dismissed for commenting on the guilt or innocence of a defendant prior to deliberation. Jurors are required not to discuss the trial with their families or watch news accounts of the trial.

When the defense and prosecution are done presenting and examining the evidence, the judge instructs the jurors about applying the law. Generally, judges explain the relevant law and how it applies to the case at hand.

The jury then retires to deliberate. To reach a verdict, the jury typically must reach a common understanding of the facts and then reach a verdict on the application of the law.

When a verdict is reached, deliberation concludes, and the jury foreman usually reads the verdict to the court. Though in some civil cases a unanimous verdict is not required, to protect the innocent, all federal criminal verdicts and those in 48 states must be unanimous.

Special Cases

Some criminal juries fail to reach a unanimous verdict, no matter how long they deliberate. These juries are called "hung juries." In such cases, the judge usually declares a mistrial. At that time, the prosecutor may request to have a new jury empanelled to hear the case all over again.

Some criminal juries refuse to convict a defendant for breaking a law they consider unjust. In such cases, the jury is said to have engaged in "nullification."

Famous cases of jury nullification include the trial of William Penn in England; the trial of John Peter Zenger in New York; and numerous cases in which juries refused to apply the Fugitive Slave Act to abolitionists who had assisted escaped slaves.

More recently, juries have refused to convict pacifists who avoided the draft during the Vietnam War; recreational drug users accused of nonviolent offenses; and individuals who engage in or assist with "mercy killings" (euthanasia). Critics of nullification argue that justice requires strict enforcement of the laws.

Proponents argue that nullification is simply one way in which a jury might fulfill its duty. In 1789, Thomas Jefferson wrote to his friend, Thomas Paine, "I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution."

As long as citizens are aware of their powers and responsibilities, juries will remain a powerful means for citizens to have a voice in their government.

VOIR DIRE

A jury selection exercise

Case Overview:

Jonathan Frank, 21, has been charged with manslaughter in the death Jolie Emmanuel, 17, in a fatal alcohol-related car crash last year.

On a date with Emmanuel, Frank bought a 4-pack of wine coolers for the young woman and watched her consume 2 bottles over the course of the evening.

At the end of the date, Frank took Emmanuel back to her car. It was on the drive home that Emmanuel lost control of the vehicle and slammed it into a cement barrier.

She was killed instantly.

The police report indicated alcohol levels below the legal maximum and that Emmanuel had been speeding on rain slicked roads at the time of the accident.

ASSIGNMENT: Determine whether jurors 1-12 would be permitted to participate in this case. Then explain why each one would (or would not) be a "good juror" in the eyes of the prosecution or the defense.

JUROR 1 – Carol Brustein

Middle aged woman with two teenage sons. She has served on a jury before, but the trial ended on a hung jury. She lives in the neighborhood where both Frank and Emmanuel grew up, but does not know them personally. She thinks that one of her sons might have heard of Frank, a star basketball player while at the high school.

JUROR 2 – Carl Sweet

Young male college student majoring in political science and pre-law. He works part-time as an intern in the local D.A.'s office and is a member of the debate team at the university. What little free time he has is used for studying and hanging out with the guys from his fraternity house.

JUROR 3 – Steve Davis

Young man who works at an auto repair shop in the valley. Went to the rival high school and completed vocational tech program. He knew Emmanuel through his girlfriend but was not close to her. He is attends church near where the accident happened and passes the memorial to Emmanuel every weekend.

JUROR 4 – Veronica Rivera

Elderly retired secretary for the police department. She is widowed; her husband was a retired police officer before he passed away two years ago due to complications with adult diabetes. She participates in the League of Women voters and tutors adult English as a Second Language students at the community center in Frank's neighborhood.

JUROR 5 – Parker O'Brien

Retired 65-year-old businessman with a strong New York accent who sold his local copy shop to Kinko's three years ago. Has a daughter about Emmanuel's age, but to his knowledge his daughter does not know Emmanuel personally.

JUROR 6 – Josie Clementine

Doctor in her mid-thirties who is an emergency room physician at the local hospital. Specializes in reconstructive facial surgery. She moved to the area from Washington, DC six months ago.

JUROR 7 – Elias Kinshak

Middle-aged school librarian who works at the local high school, volunteers for the American Library Association annual book drive, and trains for international marathons in his free time. He recently was ranked third in his age group at the New York Marathon.

JUROR 8 – Christi Miller

Eighteen-year-old college freshman who used to live five streets over from the Frank family. She doesn't know Frank personally. Graduated top of her class at the magnet school in the city and plans to become a broadcast news anchorwoman.

JUROR 9 – Sergio Sowell

Middle aged local banker and town councilman. He is married, has three young children in the local Catholic school system, and enjoys reading true crime stories in his limited free time. He hopes to be elected mayor one day.

JUROR 10 – Alice Klein

Single mother and child care worker in a chain daycare center in the heart of town. Dropped out of high school and received her GED. Has served on a jury once before in a civil trial. Commutes from outside of the city and has no connection to either party involved in the suit.

JUROR 11 – Geneseo Kantakoros

Recent immigrant to the United States who works fulltime at a local computer software company. Holds two Ph.D.s, one in Physics and the other in Computer Science. He hopes to start his own business one day and work as an adjunct professor at the local university. As a result, he works 60-80 hour weeks. His new house is in the same development as the Emmanuel family's.

JUROR 12 – Claire Tremont

Middle-aged former horse trainer who lives with her husband on a large ranch located in the peaceful countryside. Five years ago, she was involved in an auto accident that left her unable to participate in equestrian competitions. Her truck and trailer were hit head-on by a drunk driver in a red sports car on the two-lane road that leads to her property.

ASSIGNMENT: Now create three of your own jurors – one who'd assist the defense, one who'd assist the prosecution, and a "dream witness" for both sides. Create a short biography as above in jurors 1-12.

JUROR 13 –

JUROR 14 –

JUROR 15 –