

The Garfinkel Essay Scholarship

by Wai Shan Ng

Jury service is important to our democracy because it gives the people a chance to choose the verdict based on what facts and evidence are given and their perception of what is right or wrong. As stated by Chief Justice John Marshall, "The jury have now heard the opinions of the court on the law of the case. They will apply that law to the facts and find a verdict of guilty or not guilty as their own consciences may direct" (Alschuler & Deiss). These jurors that have been chosen for this duty are selected through a randomized process that ensures "eligibility for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, sexual orientation, or any other factor that discriminates against a recognizable group" (Refo). This makes it so that the jurors from the selection process are fair and unbiased. Toward the end of the 1700s, jury duty consisted of white men. In some states, only white people were allowed to serve, while the state of Vermont granted property owners or taxpayers the jury duty. Maryland disqualified the atheists, and three of the states allowed only white people to serve at jury duty (Alschuler & Deiss). In our current jury duty system, almost every individual is eligible unless they are under eighteen years old, not U.S. citizens, not residents of the jurisdiction where they have been instructed to serve, have been convicted of a felony, or who are not able to converse in English without a proper interpreter from the court (Refo).

As stated earlier, jury duty was limited to white men in the late 1700s, but not just any white men. Some states set up additional qualifications that must be met for this service. For example, the white men had to be paying taxes and own property. This excluded African Americans and women from being in the jury selection process and the jury duty. Even though it was declared that African Americans had the right to "testify in federal courts and in state courts" (Alschuler), this promise was not enforced. Therefore, the African Americans were not included

in the jury duty process (Alschuler). The exclusion of African American jurors was seen to be an act of discrimination. As for women, even though they were granted the right to vote, they were not chosen for jury duty unless they volunteered for it (Alschuler). Later, in the late 1960s, women were required to serve as jurors. They were required to register themselves as jurors by going to the courthouse (McCammon). The court tried to have a different variety of individuals so that the entire jury wasn't entirely composed of white people. "Some courts have used color-conscious jury selection methods to ensure the representation of minorities" (Alschuler). It wasn't until much later that the right for jury duty was given to these groups of people after much debate and change of qualifications (Alschuler & Deiss). There was also no randomized selection process to choose the jurors. These individuals were selected based on the choosing by public officials. Some of the time, when these individuals did not appear for their jury service, "statutes permitted court clerks or sheriffs to impanel unqualified 'bystanders'" (Alschuler & Deiss).

African Americans were excluded from jury for the oddest reasons. Some of which included their age, marital status, military status, posture, length of hair, etc. (Liptak). Sometimes the prosecutor or defendant would select people for jurors that would aid their client, rather than hurt them. Excluding African Americans would give a wrong and mixed message to the public in terms of how the legal justice systems conduct their trials (Liptak). There were even instances where white people began to fear African American jurors. They thought when presented with African Americans in drug cases and other cases, white people believed the African American jurors would choose not to render the African American defendants guilty regardless of the evidence that was presented to them (Alschuler).

It was thought that having an all male jury was about the same as having an all female jury or a mixed jury. It is actually different, however, because a community composed of one sex is completely different from a community incorporating both sexes (McCammon). Having

women in the jury was argued that it was an equal right and a responsibility that they serve jury duty. "Excluding them from jury service marked them as lesser citizens" (McCammon). On the other hand, however, some businesses were afraid that women jurors would make their views different on business matters that affected the company. It was also feared that women would not fall easily to the same enticement techniques as men did (McCammon). There were even instances where women didn't want other women to do jury duty because this would impact "their duties as wives, mothers, and homemakers" (McCammon).

These jurors were also not educated about the tasks that had to be performed. They often weren't provided with any instruction of how to proceed. It was assumed that they would judge based on what they believed was right or wrong after being given the facts and evidence. In our current jury duty system, there are numerous accommodations given to those who are selected for jury service. This includes information sessions such as orientations, disability accommodations, extra help for those who are first time jurors, a fee given for the jury duty, etc. (Refo).

There was also a time when the jurors chosen had some sort of relationship with the participants. In around 1803, St. George Tucker stated that juries were usually made up of people who were unfit to pass judgement on the facts and discrepancies that were presented to them. He also stated that the jurors chosen for jury duty were at times corrupted, and even took bribes (Alschuler & Deiss). In our current jury duty process, people who have any type of relationship with the participants in the trial, or people who are biased in their perspective and way of thinking, are excused from the duty. This would make it so that there was no corruption among the jurors in favoring of a certain side of the participants (Alschuler & Deiss).

Jury duty is important because it makes individuals resonate with the constitutional values that are given to us from a single script. It helps the individual gain insight, and enlightens them on practical, and sometimes horrible or terrifying, aspects of the real world and

their community in which they reside in. There will be times when the juror has to question himself or herself in "whether a man lives or dies, or whether a multimillion-dollar company goes bankrupt" (Ferguson). This is important because it will make the juror an active participant in the process for a democratic government. Jury duty also encourages the jurors to come together using the information being presented to them to reach a conclusion. This decision-making process is called deliberation. This is important because it makes the jurors go through critical thinking and decision making based on their different perspectives to reach a final decision.

The invitation for jury duty is important and promotes civic participation, because no matter what kind of job the individuals have, whether it be a doctor or a laborer, they are all equal. They are equal in the fact that each person has one vote, a determination of guilty or not guilty. This encourages the fact that the peoples' vote on the situation matters, given the same amount of information presented during the jury duty. Regardless of what religion people believe in or where they come from, while these individuals are on jury duty, they are all equal and connected with this experience (Ferguson). The anonymous individuals who serve jury duty, in a way, had rid themselves of the labels of an unequal society and have become as equal as the person sitting next to them (Ferguson). The invitation for jury duty itself may be upsetting for some people, as it might stray them away from their usual daily duties and routines, but it is a rewarding experience. In Emily Green's article, "Finding A Jury Of Your Peers Actually Is Pretty Complicated," she comments on how some people actually enjoy participating in jury duty when they are chosen for the task. "San Francisco resident Gerald Spotts, who was waiting outside the courtroom for what would be his third stint on a jury, says he enjoys watching the legal system at work. 'It helps you understand, if you ever get in trouble, what you might have to deal with'" (Green). The active participation of people in their jury duty helps not only to educate people of the legal system, but gives them insight and knowledge. As stated in Andrew

Guthrie Ferguson's article, "Every time you serve as a juror, you become closer to this constitutional spirit; and every time you reflect on and appreciate these principles, you strengthen our constitutional character. That is the joy of jury duty."

Works Cited

Alschuler, Albert W. "Jury: Legal Aspects." *Encyclopedia of Crime and Justice*. *Encyclopedia.com*. 2002. Web. 1 December 2015.

Alschuler, Albert and Deiss, Andrew G. "A Brief History of the Criminal Jury in the United States." (1994): 867-928. Web. 1 December 2015.

Ferguson, Andrew G. "The Joy of Jury Duty." *The Atlantic*. 3 May 2013. Web. 1 December 2015.

Green, Emily. "Finding A Jury Of Your Peers Actually Is Pretty Complicated." *National Public Radio*. 29 December 2014. Web. 1 December 2015.

Liptak, Adam. "Exclusions of Blacks from Juries Raises Renewed Scrutiny." *The New York Times*. 16 August 2015. Web. 1 December 2015.

McCammon, Holly J. "Shoehorning American Women onto American Juries." *Humanities and Social Sciences Online*. Web. 1 December 2015.

Refo, Patricia L. "Principles for Juries and Jury Trials." *American Bar Association*. 2005. Web. 1 December 2015.