

## The American Jury

- I. American Juries:
  - A. In certain circumstances decide whether there is sufficient basis to charge a person with a crime. (**Grand Jury**)
  - B. Decide disputed factual issues in certain criminal and civil trials. (**Trial Jury**)
  - C. **Jurors** are not trained professionally in the law.
  - D. A **trial jury** “sits” for only one proceeding.
  - E. Decision making process is private: no judge or lawyers are present.
  
- II. Historical considerations.
  - A. Alternate dispute resolution in earlier times.
    - ° Compurgation; trial by ordeal; trial by battle
  - B. Early form of the jury.
  
  - C. The jury tradition in the United States.
    1. The jury is seen as a safeguard against abuse of power by the Government.
    2. Constitutional rights: Right to a jury is anchored in the U.S. Constitution.
    3. Procedural differences between the jury systems in England and the United States.

### III. Types of juries

#### A. **Grand jury**

1. Decides whether or not to **indict** an individual (criminal case).
2. Buffer between the individual and the state (**prosecutor**).
3. Right set out in the 5<sup>th</sup> Amendment to the U.S. Constitution  
*“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury...”*
4. Federal constitutional right to a grand jury is not binding on the states. However, many states also use grand juries.
5. Characteristics of a grand jury.
  - a. Size: 16-23 persons: larger than a trial jury.
  - b. Selection procedures similar to those used for a trial jury: random selection.
  - c. Qualifications: Minimum age and citizenship requirements; English language proficiency.
6. Procedures: Meetings closed to public and accused; evidence presented by the prosecutor. Judge reviews transcripts.
7. Grand jury abolished in England in 1933.

## B. Trial jury (petit jury)

### 1. Constitutional guarantees to a trial jury

- a. Federal civil cases where there is a claim for damages (money).
  - 7<sup>th</sup> 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.”*
  - Not binding on the states, however many States have juries in civil cases.
- b. Federal and state Criminal cases.
  - 6<sup>th</sup> 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.”*
  - Article III, §2: *“The trial of all crimes, except in cases of impeachment, shall be by jury.”*
  - All serious crimes; binding for federal and state cases.
    - “Serious crime”: Possible prison sentence of prison of more than six months.

### 2. Characteristics

- a. Size: No fewer than 6 jurors.
- b. “Cross section of the community” is a requirement for the **jury pool**, however the group does not have to mirror the community demographics.
- c. Impartial
- d. “of the State and district”

3. Selection procedures.
  - a. **Jury pool:** persons summoned for jury duty but not yet chosen for a particular: selection procedure can be **challenged:**
  - b. Selection of a jury for a particular case.
    - **Challenges for cause:** claim that juror may not be able to be fair and impartial – unlimited number.
    - **Peremptory challenges:** privilege each part has to exclude a potential juror from serving on jury (limited in number).
4. Role of the jury.
  - a. Jury is responsible only for determining disputed facts after being **instructed by the judge** about the applicable law.
    - Judge makes legal decisions in pretrial and trial phases and instructs the jury on the applicable law.
  - b. Process of jury deliberations.
    - The verdict does not always have to be **unanimous.;** but usually more than a simple majority is required.
    - **Hung jury:** not able to reach a binding decision.
  - c. In civil cases, the jury decides the amount of damages
  - d. Juries are not involved in criminal sentencing except in capital cases (where the death penalty is possible)
  - e. In certain instances, the judge may overrule the jury's decision (right to be used cautiously). Judges more often adjust damage awards.

IV. Appeal rights

V. Improvements and reforms are constantly being implemented, but the jury is a viable institution in the U.S. legal system.