

Is the American Jury System Still a Good Idea?

It happens every year: A big trial is covered on television and in the newspapers. People across the country follow it. They discuss the trial with neighbors and friends. They say they know what the outcome ought to be.

But when all the witnesses, evidence, and arguments have been presented, the judge doesn't ask the television audience to decide the case. Instead, the judge charges a **jury** of twelve ordinary citizens to reach a **verdict** (decision) on the case.

Most countries in the world today do not use juries, and only a small percentage of cases in the United States are decided by juries. So why do Americans have juries? What role do they play in our justice system? And does the jury make sense for modern America?

Origins of the Jury System

The jury system arose in England hundreds of years ago. If there was a crime in a community, the **accused** was brought to trial before a judge and a jury. The judge presided over the trial and served as the legal expert. The jury was a group of twelve men who were from the area where the crime was committed. The jury heard the evidence and then they, not the judge, decided whether the accused was guilty or innocent.

The American colonists brought the jury system with them from Great Britain. A famous 1733 case in colonial New York involved John Peter Zenger, a printer. Zenger printed a newspaper critical of the British government. Zenger's attorney convinced a jury of New Yorkers to find in favor of Zenger because Zenger's criticisms were true. This was a triumph for press freedom, but it also was a victory for the jury system. It gave ordinary citizens the power to go against what the king wanted in court.



Trial of John Peter Zenger

To avoid this, the king created special courts where only royal judges made the decisions. This practice was listed in the Declaration of Independence as a reason to separate from England.

Americans later included the right to a criminal trial by jury in the US Constitution, and the Bill of Rights guarantees the right to a jury in the Fifth, Sixth, and Seventh Amendments for everyone in the federal court system. Every state has a jury system, too.

How Juries Work

A person who goes to trial has a choice between a jury of his peers or a bench (judge-only) trial. Juries are selected from **pools** of eligible adult citizens who are summoned to serve as jurors in court. **Jurors** are ordinary citizens,

drawn from the community, who are strangers to each other. Jurors must pledge to judge a case based only on the evidence presented in court.

The jury system has been controversial almost since it began. Juries have great power. Jurors make

their decisions in secret. No officer of the court is permitted to be present when they decide, and no record is kept of their deliberations. If a jury **acquits** someone, that person is free and cannot be retried for the same crime. Because most juries in criminal cases must reach a **unanimous** decision, each individual juror has great power as well.

The Task

Some people ask whether the jury works as well now as it did in the past. Can twelve ordinary citizens really reach the best decision or are bench trials a better idea? Look at the documents that follow and answer our question: *Is the American jury system still a good idea?*

Document A

Source: Administrative Office of the United States Courts, *Judicial Business of the United States Courts: Annual Report of the Director*, 2010.

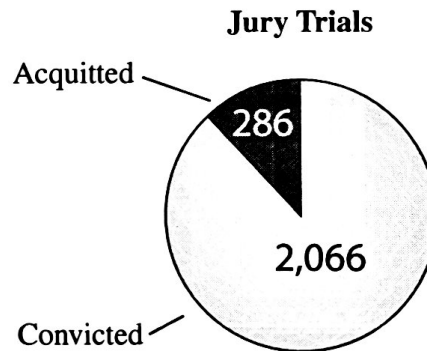
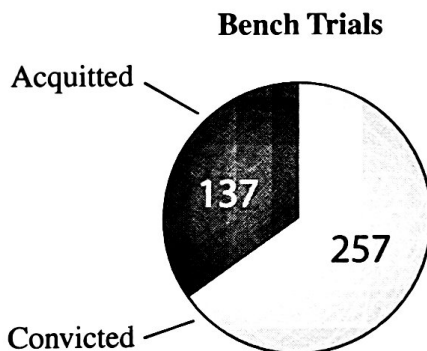
Note: Cases are either civil (such as a divorce or personal injury case) or criminal. The charts below pertain to cases in US federal courts. (There are also state courts.) The vast majority of federal cases are settled before they ever reach trial. This is because in criminal cases, most federal defendants agree to a guilty plea. Point of information: A *bench trial* is one where a judge, not a jury, decides the verdict.

EV

Cases in Federal Courts, 12-Month Period Ending September 30, 2010

	Civil	Criminal	Total
Civil and criminal cases filed	282,895	78,428	361,323
Civil and criminal bench trials	3,206	13,928	14,206
Civil and criminal jury trials	2,154	2,928	5,082

Verdicts for Federal Criminal Trials, 12-Month Period Ending September 30, 2010



Document Analysis

1. According to the top chart, what percentage of federal civil cases were tried before juries in 2010?
2. According to the top chart, what percentage of federal criminal cases were tried before juries in 2010?
3. According to the pie charts, how many federal criminal defendants had a jury trial in 2010? What percentage of criminal jury trials ended in a conviction?
4. In which kind of trial, jury or bench, does a defendant have a better chance of acquittal?
5. How can you use this document to argue for preserving the jury system?
6. How can you use this document to argue for bench trials only?

Document B

Source: Letter to *The Times* [London, England], 3 May 1982.

Of course trial by Jury is one of our sacred cows.* But, you know, if we'd long had trial by Judge in criminal cases and I were now to suggest that his reasoned and professional judgment as to facts and inferences should be replaced by the blanket verdict of pretty well any twelve men and women placed in a cramped box and holed up there for days or even weeks at a time you would rightly think that I had taken leave of my senses.

*A sacred cow is something that people don't like to criticize. Sacred cow refers to Hindu respect for the cow as a sacred or spiritual animal.

Document Analysis

1. What does the expression "sacred cow" mean?
2. What does the letter printed in *The Times* imply about the value of the jury system?
3. How can you use this document to argue for or against the jury system?

Document C

Source: John Gastil and Phil Weiser, "Jury Service as an Invitation to Citizenship: Assessing the Civic Value of Institutionalized Deliberation," *Legal Studies Research Paper Series*, Working Paper, October 4, 2006.

The role of jury service in promoting self-governance and civic participation is hardly an accident. The framers of the United States Constitution viewed jury service as a critically important feature of self-governance and enshrined [guaranteed] the right to serve on juries in the Seventh Amendment.

Observers of the American jury system have remarked on its ability to elevate ordinary citizens into self-governors.... (J)ury service [has] a special role of ensuring popular ... [oversight in] the judicial process. In theory, elections play a similar role in ensuring "the people's ultimate control in the legislative and executive branches"....

Document Analysis

1. According to the title of the source, what does jury service encourage?
2. According to the authors, who benefits from jury service?
3. What do the authors believe is important about jury service?
4. Citizens can participate in the legislative and executive branches by exercising their right to vote. According to this document, how can they participate in the judicial branch of government?
5. How can you use this document to argue for or against maintaining the jury system as an option?

Document D

Source: Adapted from: "Can't Believe It: Reaction to Casey Anthony Verdict," NBC News and msnbc.com, July 5, 2011.

Note: In 2008, a two-year-old Florida girl named Caylee Anthony was killed. Her mother, Casey Anthony, was arrested and tried for her murder. The trial was televised and gained extraordinary media attention throughout the country. Casey Anthony was presumed guilty by many in the public. The large majority of those in the public who followed the story were shocked when a jury found Casey Anthony not guilty of the murder. While the 25-year-old mother was found not guilty, she was convicted of four counts of lying to investigators.

ORLANDO, Fla. – Inside and outside a Florida courtroom, the jury's verdict in the Casey Anthony trial left many stunned, outraged or relieved Tuesday. ...

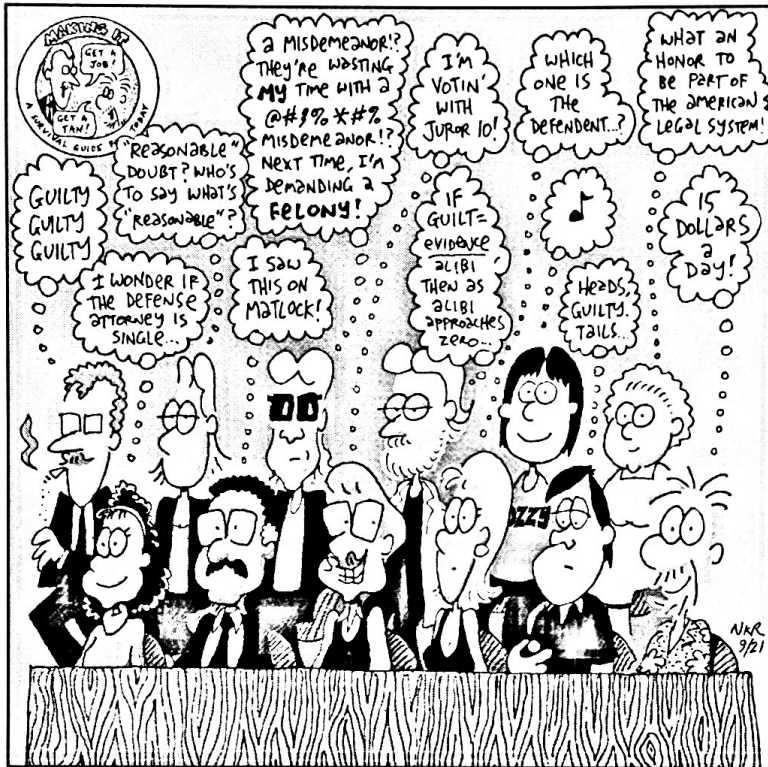
- *Angela Wright, of Elkhart, Indiana.* "I can't believe it. I'm shocked. Oh my God, I can't believe it."
- *Janine Gonzalez who lives a few miles from the Anthony home in Orange County.* "Where's justice for Caylee? Do you mean to tell me that in Florida you can kill your child, toss her on the side of the road and go free? She (Casey Anthony) better move and move to a faraway place."
- *Lawson Lamar, Florida State Attorney.* "We're disappointed in the verdict today because we know the facts and we've put in absolutely every piece of evidence that existed.... This is a dry-bones case. Very, very difficult to prove. The delay in recovering little Caylee's remains worked to our considerable disadvantage."
- *Jose Baez, Casey's defense lawyer.* "While we're happy for Casey, there are no winners in this case," Baez said at a news conference afterward. "Caylee has passed on far, far too soon. And what my driving force has been for the last three years has been always to make sure that there has been justice for Caylee and Casey, because Casey did not murder Caylee. It's that simple."
- *Joe Adamson, an Orlando businessman.* "I think it is really great that we have science, but we also have common sense," Adamson told the *Sentinel*. "These guys (jurors) didn't buy into science fiction."

Document Analysis

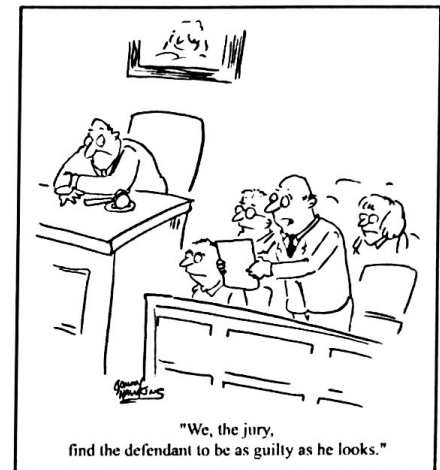
1. Which speakers seemed to agree with the verdict? Which seemed to disagree?
2. What did the Florida State's Attorney mean when he said that the case was very difficult to prove because it was a "dry-bones" case?
3. What do you think Joe Adamson, the businessman who commented on the case, meant when he said, "The guys (jurors) didn't buy into science fiction"?
4. How can you use this document to argue for keeping the jury trial system?
5. How can you use this document to argue for the bench trial system?

Document E

Source: Cartoon 1: "Jury," Keith Robinson, September 21, 2003.



Source: Cartoon 2: Jonny Hawkins.



Source: Cartoon 3: Hemispheres, October 1992.



Document Analysis

1. In Cartoon 1, how many jurors are focusing on the trial? How many seem to be thinking about other things? What do you think is the main idea of this political cartoon?
2. In Cartoon 2, what is the basis of the jury's decision? What do you think is the main idea about juries in this political cartoon?
3. In Cartoon 3, why is the attorney worried about his witness? What do you think is the main idea about juries in this political cartoon?
4. How can you use this document to argue for keeping the jury system?
5. How can you use this document to argue for using bench trials only?

Document F

Source: Mark Twain, *Roughing It*, 1872.

Note: Mark Twain (1835-1910) was an American author and humorist best known for *The Adventures of Tom Sawyer* and *The Adventures of Huckleberry Finn*. Twain started out as a journalist and worked as a travel writer before becoming well known as a novelist and commentator. A very popular figure, Twain toured widely as a public speaker.

“I remember one of those sorrowful farces, in Virginia, which we call a jury trial. A noted desperado killed Mr. B., a good citizen, in the most wanton and cold-blooded way. Of course the papers were full of it, and all men capable of reading, read about it. And of course all men not deaf and dumb and idiotic, talked about it. A jury-list was made out, and Mr. B. L., a prominent banker and a valued citizen, was questioned precisely as he would have been questioned in any court in America:

“Have you heard of this homicide?”

“Yes.”

“Have you held conversations upon the subject?”

“Yes.”

“Have you formed or expressed opinions about it?”

“Yes.”

“Have you read the newspaper accounts of it?”

“Yes.”

“We do not want you.”

Document Analysis

1. In what year was the source published?
2. In the first sentence, what does “farce” mean? In the second sentence, what does “desperado” mean?
3. Why was the banker who answered the questions dismissed as a juror in the case?
4. Does Twain approve or disapprove of the dismissal of the banker?
5. How can you use this document to argue for or against keeping the jury system?