

An Inquiry for Truth by Jury

If I could change one thing about the justice system, I would change the fact that most courts in the States of America use an adversarial system of trial. The 6th amendment in the U.S Bill of Rights states that those in the process of a criminal trial have a right to trial by an impartial jury and a fair trial is expected no matter if the case was criminal or civil. The adversarial system, however, can emotionally bias the jury and may as a result lead to the unintended and expensive consequence of a re-trial. The adversarial system should be replaced with the inquisitorial system or, at the very least, should include the elements of allowing the jury to be more involved in questioning witnesses and the conditions that may surround the evidence(s) provided.

In principle, the adversarial system “places distance between the investigation taking place and the person who ultimately decides the outcome”, and “empowers the parties to the dispute to take control of their own case” (Andrew Perkins, “Differences Between an Adversarial and an Inquisitorial Legal System”, *ashfords*, 01/10/2015). While the adversarial system allows the involved parties to argue a case how they interpret it to have happened, the party that can gather more resources would undoubtedly have an unfair advantage. Thus a rich person who could invest more in finding resources and top lawyers would have an advantage over a lower-class person who could not do the same.

As the plaintiff/prosecutor and defendant have the power to present a case favorable to themselves, some aspects of their argument may appeal to the emotions of the jury (when present) who “have more compassion than judges” because of their likely lack of training in law or its enforcement (“Jury vs. Judge: Pros and Cons of Each Option”, *Law offices of Kretzer and Volberding P.C*, 07/12/2021). Decisions are most accurate when supported with logic rather

than feelings. The emotion of “moral outrage”, made from “anger paired with disgust”, can “more than sadness,... the desire for vengeance,...any other emotion, is the one that brings jurors to vote to convict and to be confident in those convictions”(Lauren Kirchner, “The Emotions That Prosecutors Elicit To Make Jurors Vote Guilty”, *Pacific Standard*, 12/04/2013). If a jury made their decision based on the emotion of moral outrage alone, it is plausible to assume that they were overcome with emotion and ignored any logic or contradictions that the evidence may present.

Law can be complicated; without a full grasp of what everything means, unlike a judge, and with the lack of opportunity to ask questions, a jury’s decision may as well be considered an educated guess. The in-court terms jurors are likely not to understand may include “critical aspects of a case, such as evidence, burden of proof, or even the judge’s instructions”(“Jury vs. Judge: Pros and Cons of Each Option”, *Law offices of Kretzer and Volberding P.C.*, 07/12/2021). Even if some jurors understood what was asked of them, what everything meant, and were not overcome by emotion, the rest of the jurors may not have the same understanding. An impartial jury is needed in criminal trials; in civil trials, though varying by state, the number of the jury that would agree would be at least a majority. Juror’s lack of understanding paired with emotional decisions may lead to mistrials followed by expensive retrials or even verdicts that contradict the logic that evidence provides.

Unlike the adversarial system, the inquisitorial system allows a judge to play an active role concerning a case’s evidence and witnesses. A judge has the opportunity to question witnesses or even determine the relevance of the evidence to the trial. In a case, jurors, in comparison to judges, are at the mercy of attorneys’ emotional appeal, so their ability to find truth in an adversarial system could, as a result, be compromised. At the very least, the jurors should be able to use the inquisitorial system to clear misunderstandings and gain a complete picture of a case. By allowing the jury to find the truth instead of relying solely on information they must assume is correct, the jury would be forced to connect the dots between claims,

evidence, and logic, giving them something other than just a strong emotional reaction to depend on when making the verdict. The more knowledge a jury collects for a case, the more informed their decision will be which may prevent unnecessary mistrials and the expensive retrials that follow.

Sources:

Jury vs. Judge: Pros and Cons of Each Option - <https://kretzerfirm.com/jury-vs-judge-pros-and-cons-of-each-option/>

The Emotions That Prosecutors Elicit To Make Jurors Vote Guilty -

<https://psmag.com/environment/anger-disgust-guilty-verdicts-moral-outrage-cameras-70939>

Differences Between an Adversarial and an Inquisitorial Legal System -

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Elisa Ava Mendoza

Although imprisonment rates declined after jailing 1% of our population in 2008, our country still has the highest incarceration rates globally. This problem needs to be addressed, and solutions will need to incorporate novel approaches and multiple disciplines. Recidivism rates in our country are nearly seventy percent and contribute to high incarceration rates. Instead of rehabilitating, imprisonment often entraps citizens into a cycle that is difficult to escape. Prior convictions can be difficult to overcome and create roadblocks to assimilating back into society and leave little opportunity other than to return to crime. By studying other countries with lower recidivism rates and incorporating their rehabilitation and educational methods, we can reduce our imprisoned population in a cost-effective and safe manner. Rehabilitation is less expensive than imprisonment. In addition, societal issues that improve the ability to assimilate after imprisonment, job access, and communities to prevent released prisoners from returning to the same impoverished neighborhoods that contributed to crimes are needed. We need to assess each intervention, determine which works and make adjustments or try novel strategies until success is achieved. Imprisonment has far-reaching impacts on families and neighborhoods and typically is not the most socially or cost-effective method of addressing a crime. For example, the children of imprisoned parents do not deserve sentencing of their own, but parental imprisonment leads to the loss of a parental figure and source of income. This, in turn, increases the likelihood of the child's imprisonment. In addition, neighborhoods with high imprisonment rates lose potentially productive members of society, create a higher percentage of single-parent families and lead communities to become more blighted. This coming fall, I will matriculate to Stanford University and major in Sociology to subsequently pursue a law degree and serve as a national leader in the juvenile justice system. I have particular interests in sociology as I believe the application of social science and data analytics can play a critical role in the justice system. For example, from the Israel Parole Board study, we learned the decision

to grant parole was influenced by the hour at which cases were reviewed. After reading this study and volunteering at a legal internship in the Los Angeles District Attorney's office, I observed how many variables, beyond facts, can impact judgments. Increasing awareness of potential bias will increase the likelihood of consistent judicial rulings. I am particularly interested in teaming with Stanford data scientists to create a database to evaluate judges and public attorneys and assess how much variance exists in sentencing between judges, public defenders, and district attorneys. In addition, are there differences amongst them in sentencing rates between defendants of race, gender, or immigration status? Suppose members of our judicial system evaluated their data and observed differences; they could change. If not, an external evaluation for persistent outliers could move us another step forward in accountability Elisa Ava Mendoza and progress. Databases exist in which teachers or physicians can be evaluated, and a similar system should be put in place for our judicial system. We can also implement social science into sentencing. For which crimes does parole or probation work well? What is the appropriate jail time necessary to effectively rehabilitate a convicted criminal, and what variables beyond the convicted crime determine success for rehabilitation? Who can be provided mental health or substance abuse assistance to prevent another crime? Releasing every noncriminal offender from prison is not a solution because, inevitably, some will commit a crime again. The political backlash will only encourage further bills to reestablish the tough-on-crime laws that led to the astronomical incarceration rates. Perhaps data analytics and social science help us determine who is likely to commit a crime again or become a more violent criminal. We can then use the data to release qualified inmates safely. An over three-decade problem cannot be solved in months or a few short years. However, I believe we can utilize data and science to triumph over political pressures and imperfections of human decisions in the justice system. We should imprison individuals at high risk of repeating a violent crime or those who cannot be rehabilitated, but we should provide rehabilitation, job training, or mental health or substance abuse assistance for our citizens that could thrive with the appropriate support.

This is a time for bold ideas and strategies because the prior solutions disproportionately harmed communities of color and burdened governments financially.

Luke Goldade.

Bills. Junkmail. Fast food coupons. Advertisements. We find all of these and more in our mailboxes. But I hear many adults complaining about their worst mail of all- a jury summons. When did serving on a jury move from an honor to a horror? How did Americans pivot from enjoying their patriotic and constitutionally protected rights to serve on a jury and being judged by a jury of their peers to actively avoiding jury duty? Many Americans now view jury duty as unpleasant and as an unreasonable burden. I would change the justice system by enacting laws to motivate Americans to actively engage in jury duty rather than attempting to evade their civic duty. I propose implementing a required employer payment system to reimburse employees for lost wages while on jury duty utilizing a similar model as the California 2022 Covid-19 Supplemental Paid Leave law, SB-114.

The California 2022 Covid-19 Supplemental Paid Leave law, SB-114, requires employers with 26 or more employees to provide their employees with up to 10 days of supplemental paid sick leave related to Covid-19. Employers may cap the supplemental paid leave at \$511 per day and \$5110 in total. In my proposal, the paid sick leave would be replaced with jury duty paid leave. Days available to use would be determined by variables such as civil or criminal cases and time spent for jury pool selection. This plan would reduce financial hardship imposed on people who miss work without reimbursement from their employers for jury duty.

Today it is difficult to demonstrate extreme financial hardship to a judge as a reason to be excused from jury duty. However, numerous people in California suffer financial difficulties while on jury duty due to the loss of their regular pay. The high cost of living in California, the headache of driving in slow traffic to courthouses, the high price of gas, the high cost of childcare, and the loss of wages while serving on a jury cause stress and negatively impact the family finances of potential jurors. Jurors often go without their regular pay while serving at jury

duty which leads to resentment of the system and a reluctance to serve as jurors. I believe jurors should be reimbursed for jury duty in a similar method as the California 2022 Covid-19 Supplemental Paid Leave system. The emergency system put in place during the Covid-19 pandemic is a proven model that we can build upon to establish an employer paid reimbursement system for jury duty.

California state law does not require employers to compensate employees who are absent due to jury service. Some employers have jury leave policies that provide compensation to employees while they are at court for jury duty. But often, the jury duty pay is limited to several days or no compensation at all. An exception to this are employees of the State of California who receive their regular salary while serving at jury duty. California jurors are paid \$15 per day after the first day with no payment on the first day served, and are paid \$0.34 per mile, one way for the second day of service and every day thereafter. With the minimum wage in California at \$15 per hour, jurors who earn the least amount of money are affected the most when their employers do not reimburse them for jury duty.

America's Founding Fathers argued for Constitutional rights of all American citizens to have a trial by jury. The colonists suffered unfair legal practices in other countries under different leaders. Consequently, our American justice system was established to guarantee a trial by jury. We have a fundamental obligation to support our justice system by being educated and attentive jurors. Instead of thinking of reasons to be excused from jury duty, Americans should approach jury duty without fear of losing wages. A system must be put in place to compensate workers for lost wages to encourage people to approach jury duty with enthusiasm, dedication, and respect for our justice system