

# Jury News

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## JURY SERVICE: GOOD FOR THE JUSTICE SYSTEM, GOOD FOR THE COMMUNITY

One of the most eloquent commentaries on the value of trial by jury was written in the early 1800s by Alexis de Tocqueville in his treatise on *Democracy in America*. The jury's principal virtue, according to de Tocqueville, is its ability to prepare citizens to participate in a well-functioning democracy. As he put it, "I look upon [trial by jury] as one of the most efficacious means for the education of the people which society can employ."<sup>1</sup> This function of jury service — as a way to educate citizens about self-government — is one that is overlooked more often than not as judges and jury managers go about summoning, qualifying, orienting, and selecting trial jurors.

To be sure, most judges and jury managers can speak from firsthand experience about the effect of jury service on the attitudes of citizens about the justice system.

Decades of empirical research, not to mention juror exit questionnaires and "thank you notes" from happy jurors, repeatedly confirm that citizens who participate in a meaningful way in jury service — either by being questioned during voir dire or being impaneled as a trial juror — view jury service more positively and report being more willing to report for service if summoned again than they did before jury service. Studies have also found that jurors have a more positive view of the entire justice system.<sup>2</sup> This is particularly remarkable given the reaction of citizens that come into contact with the courts in ways other than jury service. For example, in the National Center for State Courts study of public attitudes toward the courts, respondents who reported a higher level of knowledge about the courts (e.g., as a litigant, witness, or observer) expressed lower confidence in the courts in their community.<sup>3</sup>

Now, thanks to a research project funded by the National Science Foundation, there is a new and rapidly growing body of literature that strongly supports de Tocqueville's contention that jury service is not only good for public perceptions about the courts, but is also good for the general civic and political health of the community. The "Jury and Democracy Project" is a collaborative venture by researchers at the University of Washington, the University of Colorado at Boulder, and the New Jersey Institute of Technology.<sup>4</sup> Their research is quite provocative in that they approach the topic of jury service not for its own sake, but rather for its institutional role in providing an avenue for citizens to engage in participatory democracy.

The researchers have published several articles in the past couple of years, including one on the impact of jury orientation that appeared in the Summer 2006 issue of *Court Manager*. Each examines slightly different aspects of the impact of jury service on civic and political participation, but all rely on the same underlying research methods and datasets. The researchers obtained data about 13,237 citizens who were impaneled as trial jurors in a diverse selection of jurisdictions<sup>5</sup> from 1997 to 2002 and matched those records against local voting records to gauge how frequently each juror voted before and after jury service. In one of the courts, the researchers also surveyed 3,380 jurors immediately after jury orientation, immediately after completing jury service, and a third time several months later. The combination of these diverse research methods yielded a rich dataset with objective information about the jury experience (e.g., impaneled as juror or alternate, type of trial, trial outcome, etc.), actual voting behavior in state and local elections from 1992 through 2006, jurors' subjective assessment of their jury experience, and demographic and attitudinal characteristics for each juror.

The findings from the Jury and Democracy Project show that the impact of the jury service experience extends far beyond citizens' views about the justice system. In one of the earliest studies based on a single jurisdiction, the voter turnout rates in subsequent elections were 10 percent higher on average for jurors who deliberated to a verdict compared to those who deadlocked, who were dismissed during trial, or who served as alternates. This was true even after controlling for each juror's voting behavior before jury service — that is, the people

who deliberated to a verdict weren't inherently more likely to vote than those who didn't deliberate.<sup>6</sup> In a subsequent study, the researchers found that the effect of jury service was particularly strong for individuals who had not voted regularly before jury service.<sup>7</sup> It really was the experience of jury deliberations that prompted more frequent voting behavior.

The quality of jurors' deliberative experience also had an impact on subsequent voter turnout rates. For example, the 2006 study showed that the number of criminal charges that jurors were required to consider increased post-jury service voter turn-out rates, ostensibly because jury deliberations became longer and more complex. The voting rate effect was also stronger for jurors whose deliberations deadlocked compared to those who reached a verdict, again, presumably because the experience of jury deliberation was longer and inherently more contentious.<sup>8</sup>

A third component of the study examined jurors' subjective assessments of their jury experience and found that jurors who reported that their jury experience was better than they originally expected also increased the frequency of their voting behavior. This was true both for jurors who were impaneled and those who were not actually sworn as jurors, but were only questioned during voir dire.<sup>9</sup> Voting behavior wasn't the only kind of civic engagement affected by jury service. Jurors who reported that their jury experience was better than expected also reported that they followed public affairs in the media more closely and talked about political and public affairs more frequently following their jury service.<sup>10</sup>

The Jury and Democracy Project researchers are continuing to mine these very rich datasets, and I am confident that we can look forward to even more interesting findings about the value of jury service to our communities in the years to come. For the present, however, these early studies suggest that judicial policy makers should at least consider the broader impact on their communities when making operational and procedural decisions that effect jury operations. For example, we have all heard about the "vanishing trial" phenomenon. Many factors have contributed to a precipitous decline in jury trial rates for both state and federal courts (e.g., expanded discovery procedures, sentencing guidelines, ADR procedures, improved judicial case management techniques) over the past few decades.

In most instances, these are viewed as positive events that have improved the efficiency of court operations without compromising the fairness of case outcomes. As policymakers continue to seek operational efficiencies, however, they should at least acknowledge the potential cost to their communities of decreased political engagement that would result from further reductions in jury trial rates. Courts, after all, are public institutions that exist not only to serve the immediate interests of litigants, but also the interests of their local communities. In the final analysis, the costs of reduced public participation in community affairs may not outweigh the potential benefits of improved court efficiency, but they should nonetheless be included in the equation.

Finally, the findings from these studies reconfirms that juror utilization really matters. The greatest increase in voting and other political participation rates occurred for jurors who were impaneled on juries and deliberated to a verdict, although some increase was also found for jurors who were questioned during voir dire and reported that their jury experience was better than expected. In the most recent issue of *Court Manager*, I described how courts can evaluate their juror utilization rates and make appropriate improvements. We already knew that courts that fail to give jurors the positive experience of meaningful participation in jury service hurt themselves through reduced efficiency and reduced public perceptions about the justice system. We now know from the Jury and Democracy Project studies that courts with poor juror utilization also fail to provide their communities with the opportunity for improved civic and political engagement by the citizens who pass through the courthouse doors as jurors.

NOTES

1. Alexis de Toqueville, *Democracy in America*, 334-37 (1835).
2. For a summary of studies on this topic, see Shari S. Diamond, "What Jurors Think: Expectations and Reactions of Citizens Who Serve as Jurors," in Robert E. Litan (ed.), *Verdict: Assessing the Civil Jury System* 282 (1993).
3. National Center for State Courts, *How the Public Views the State Courts: A 1999 National Survey*, 14 (1999).
4. The Jury and Democracy Project maintains a Web site with information about the project, the researchers, and scholarly articles and presentations at <http://depts.washington.edu/jurydem/>.
5. Courts participating in the study were those in Boulder County, Colorado; Cumberland and Swain Counties, North Carolina; Douglas County, Nebraska; El Paso County, Texas; Orleans Parish, Louisiana; Summit County, Ohio; and King and Thurston Counties, Washington.
6. John Gastil, E. Pierre Dees & Phil Weiser, "Civic Awakening in the Jury Room: A Test of the Connection between Jury Deliberations and Political Participation," 64 *J. Politics* 585 (2002).
7. John Gastil, E. Pierre Dees, Phil Weiser & Jordan Lerner, *Jury Service and Electoral Participation: A Strong Test of the Participation Hypothesis* (paper presented at the 2006 International Communication Association conference in Dresden, Germany).
8. *Id.* at 17-19.
9. *Id.* at 23-27.
10. John Gastil & Phil Weiser, "Jury Service as an Invitation to Citizenship: Assessing the Civic Value of Institutionalized Deliberation," 2006 *Policy St. J.* 605.

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