



# CIVICS IN REAL LIFE

# Jury Selection

Civics is all around us. There is a lot to know about the government and how "We the People" interact with the government and each other. Let's help each other expand our civic literacy.



In November 2021, three white defendants stood trial in Georgia for the murder of Ahmaud Arbury, a Black male. The jury, consisting of 12 people, included one Black member while the remaining jurors were white. Many Americans following this case wondered how a largely white jury could have been selected arguing that it seemed discriminatory and unfair. Similar headlines gripped the nation in 2013 when George Zimmerman stood trial in Florida for the murder of Trayvon Martin as his fate would be decided by an all-female jury. Critics suggested that juries that failed to reflect race and gender proportions in the community could not be considered a "jury of peers" of the accused.

While laws and regulations governing jury selection vary from state to state, the right to a trial by jury is fundamental to the American legal system. [Article III Section 2](#) of the Constitution states that all criminal trials require a jury. The right to a trial by jury is expanded upon in three different amendments in the [Bill of Rights](#) as well. The process for selecting a jury is known as [voir dire](#). French for "to speak the truth" it is an important component of ensuring an impartial jury as guaranteed by the [Sixth Amendment](#).

Step one of the voir dire process involves selecting potential jurors based on individuals that have been summoned for [jury duty](#) and meet standard [juror qualifications](#). From that selection, the judge will first ask standard questions to determine if anyone is not capable of serving on the jury. Reasons could include, for example, being a member of the armed forces or police department, being over a certain age, or if serving would cause "[undue hardship or extreme inconvenience](#)"

The next part of the voir dire process involves the attorneys from both sides asking questions to potential jurors to learn more about them and identify any potential biases. It is through this questioning that the final step in the voir dire process takes place: challenges. Prosecutors and defense attorneys have an unlimited number of "cause" challenges. This means they can remove a potential juror who they believe is not qualified and/or will not be able to reach a fair verdict, but they must justify that challenge to the judge. Lawyers in all states except Arizona also receive a limited number of "peremptory" challenges that allow for rejection without reason.



In its interpretation of the Sixth Amendment, the Supreme Court in [Taylor v. Louisiana](#) (1975) stated that jury selection must be "from a representative cross-section of the community" A framework for determining what a cross-section looks like was later established in [Duren v. Missouri](#) (1979). However, these rulings only apply to the larger jury pool (jury venire) and not the final selected jury members.

Nonetheless, the [Equal Protection Clause of the Fourteenth Amendment](#) protects the right of criminal defendants to a jury selection process that is free from racial, ethnic, or gender discrimination. In [Batson v. Kentucky](#) (1986), the U.S. Supreme Court created a process to determine whether the removal of a juror was due to discriminatory bias, a process now referred to as a "Batson challenge." However, if legitimate nondiscriminatory reasons can be provided for excluding jurors in question, then a Batson violation has not taken place.

Thus, while the seemingly unbalanced make-up of the jury in the Ahmaud Arbury trial or the George Zimmerman trial may seem significant, they do not raise Constitutional concerns.

Of course, any person serving on a jury must decide a case based on the law and not as a representative of a gender or race. In so doing, they are acting as citizens and fulfilling their duty to the courts and the Constitution.

**To Think and To Do:** Jury selection process can vary from state to state. Fill in the chart below with some of the requirements for jury selection for your state. When complete, compare your findings to a neighboring state or the federal district courts.

<b>My State</b>	
Number of selected members for grand juries	
Number of selected members for petit juries	
Number of peremptory strikes in capital cases	
Number of peremptory strikes in felony cases	
Number of peremptory strikes in misdemeanor cases	
Does the judge have discretion to change the number of allowable challenges/strikes?	

### Learn MORE

- [Jury Service](#), from the United States Courts
- [Hernandez v. Texas](#)



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