



Juries in Wisconsin: An Overview

TYPES OF JURIES IN WISCONSIN

There are three types of juries used in Wisconsin: the grand jury, the petit jury, (sometimes called the trial jury), and the coroner's jury. Each type of jury has its own characteristics and serves a unique purpose. This paper will discuss each type of jury, how its members are chosen, how it functions, and what purposes it serves.

CONSTITUTIONAL RIGHT TO A TRIAL BY JURY

The right to a trial by jury is guaranteed by the United States Constitution. The Sixth Amendment states that every person accused in a criminal prosecution enjoys the right to have his or her case decided by an impartial jury. The Seventh Amendment states that every person has a right to a jury trial in a civil matter where the value in controversy exceeds 20 dollars. Article I, section 5, of the Wisconsin Constitution also protects this right, stating in part that the "right of trial by jury shall remain inviolate."

Although the right to have a unanimous jury verdict is not explicitly guaranteed in either the United States Constitution or the Wisconsin Constitution, courts have consistently held that a defendant in a criminal trial must be found guilty by every juror. The Wisconsin Constitution explicitly states that the legislature may sanction a

verdict by five-sixths of the jury, but only in civil cases.

HOW JURIES ARE CHOSEN

Over the years, efforts have been made to make the jury process more inclusive, for the benefit of the parties involved and to encourage full participation in the judicial process for a greater number of citizens. Where jurors were once culled from land ownership records or voting records, increasingly large numbers of states initiated alternative methods of including a wider variety of citizens in its pools of potential jurors.

In Wisconsin, the Department of Transportation compiles, for each circuit court, a list of persons in that court's jurisdiction who have a driver's license or an identification card. The clerk of each circuit court uses this list and, in addition, may use voter registration lists, telephone and municipal directories, utility company lists, property tax rolls, lists of persons receiving certain aid, or lists of high school graduates, to compile a master list of potential jurors. These additional sources are intended to provide a wider reach into the general populace in order to create a jury pool that is truly representative of the jurisdiction's population. To create a jury, a court randomly selects names from the list and further

selects qualified jurors from among those selected until the desired number of jurors is obtained.

To serve as a juror, a person must be at least 18 years of age, a citizen of the United States, and able to understand the English language. It is indicative of the high value placed on jury service that if a person has been convicted of a felony and his or her full civil rights have not been restored, that person may not serve on a jury.

GRAND JURY

A grand jury is chosen at the discretion of a circuit court judge, who requests the clerk of the circuit court to assemble a grand jury. To form a grand jury, the clerk of the circuit court randomly selects not fewer than 75 nor more than 150 names from the master list of potential jurors. The judge and the district attorney then question each potential juror to determine if he or she is suitable to serve on the grand jury. A grand juror may not have any predisposition for or against the person under inquiry and must swear or affirm that he or she will indict (or refuse to indict) according to the best of his or her understanding of the evidence presented to the grand jury.

A grand jury consists of no fewer than 17 persons. Once a grand jury of at least 17 persons is chosen, the district attorney presents the evidence he or she has gathered

against a particular person and the grand jury determines whether the evidence is sufficient to charge the person with a crime. If at least 12 members of the grand jury determine that the person should be charged with a crime, the grand jury issues an indictment against the person. All proceedings involving a grand jury, from the identity of the grand jurors, to the evidence it reviews, to each vote on each issue presented, is kept secret.

PETIT JURY

A petit jury determines a person's guilt or innocence in a criminal trial, or liability in a civil trial. A petit jury consists of 12 persons in a felony case, unless both parties agree to a smaller number, six persons in a misdemeanor case, and six persons in a civil case, unless one party requests a greater number, in which case up to 12 persons may serve. Like members of a grand jury, members of a petit jury are chosen randomly from the clerk of circuit court's master list of potential jurors. A person who was a grand juror may not serve on the petit jury for the same case.

Once chosen, potential jurors are questioned by the judge and the attorneys for both sides of the case that the jurors are set to hear to determine if any juror holds any bias toward or against any of the parties involved. The judge and each attorney may excuse any juror from serving on the jury if the juror demonstrates bias. A juror excused for having a bias is said to have been removed from the jury "for cause." Additionally, each side may excuse a certain, limited, number of jurors for any or for no reason. A juror removed in this manner is said to have been removed by "peremptory challenge."

Each party may exercise up to three peremptory challenges in a civil case. In a criminal case, the number of peremptory challenges depends on whether multiple defendants are involved and the severity of the potential punishment each defendant faces. At a minimum, each side is entitled to four peremptory challenges. There is no limit to the number of jurors that can be excused "for cause."

When the appropriate number of jurors is seated, each juror swears or affirms that he or she will consider all of the evidence presented and render a verdict according to the law and the evidence presented in court. At that point, the criminal or civil trial may begin.

After the evidence has been presented, a petit jury deliberates, or discusses, the evidence. Under certain circumstances, a jury may be sequestered, or prevented from communicating with others.

In a criminal case, the jury must render a unanimous verdict to convict the defendant. In a civil case, five-sixths of the jurors must agree to the verdict.

CORONER'S JURY

Upon the request of a county's coroner, the clerk of circuit court chooses jurors from the same master list of potential jurors that is used to select grand and petit jurors. Six jurors serve on a coroner's jury and determine whether a death occurred naturally or as a result of suicide or homicide. As with a civil jury, five-sixths of a coroner's jury must agree on the result. A coroner's jury is seldom called in Wisconsin.

SUMMARY

In Wisconsin, every citizen has the right, and duty, to serve upon a jury. Conversely, by virtue of the United States Constitution and the Wisconsin Constitution, every citizen has the right to have his or her civil or criminal trial decided by a jury. While not unique to the United States, the right to a trial by an impartial jury is rarely found in other parts of the world and is a cherished cornerstone of our rights as citizens of this country. Recognizing its importance, Thomas Jefferson stated that trial by jury is "the only anchor ever yet imagined by man by which a government can be held to the principles of its constitution."

To preserve this right to its fullest, clerks of Wisconsin courts use a variety of sources to gather a comprehensive and representative list of potential jurors for criminal, civil, and coroners' investigations and trials. The juror, once accepted to serve, must swear or affirm to consider only the evidence presented and to render a decision based on the law and the evidence, free from bias or undue influence. Whether a grand jury, petit jury, or coroner's jury is convened, a citizen's right to an impartial arbiter of truth is protected.

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Study Questions

1	What are the qualifications for becoming a member of a jury?	
2	Explain how the role of a grand jury is different from the role of a petit jury.	
3	Carl is being interviewed to be a juror for a case involving armed robbery; he has been a victim of armed robbery. Is he likely to be selected as a juror?	
4	What problems might emerge if the circuit courts used only voter registration lists for jury selection?	
5	Other countries have abolished or moved away from jury trials in certain types of cases. Most jury trials happen in the United States. What are some social pros and cons of juries?	
6	Would you support a bill that proposed a tax break for jurors instead of compensation, currently \$16 per day plus mileage? (See 2003 Assembly Bill 171.) Why or why not?	

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Study Questions in the Cognitive Domain

1	What are the qualifications for becoming a member of a jury?	Jury members must be at least 18, U.S. citizens, and able to understand English. A potential juror who has been convicted of a felony must have restored civil rights. In Wisconsin a felon may not vote or serve on juries until completing the entire sentence.	Cognition
2	Explain how the role of a grand jury is different from the role of a petit jury.	A grand jury determines whether the state has enough evidence to indict someone of a crime. If the grand jury votes to indict, the case goes to trial where a petit jury decides if the person is guilty or innocent.	Comprehension
3	Carl is being interviewed to be a juror for a case involving armed robbery; he has been a victim of armed robbery. Is he likely to be selected as a juror?	Carl would likely be removed "for cause" (having a bias). Even if the judge believed Carl could rule fairly in the case, the defending lawyer would probably remove him as one of his or her peremptory challenges.	Application
4	What problems might emerge if the circuit courts used only voter registration lists for jury selection?	Some people might not to vote in order to avoid jury duty. People who register to vote might not be a good representation of the population. What if people from a particular race or social class were more likely to register to vote, and, consequently, juries represented the interests of that demographic more than other groups?	Analysis
5	Other countries have abolished or moved away from jury trials in certain types of cases. Most jury trials happen in the United States. What are some social pros and cons of juries?	Jurors are participating directly in government. Juries check state power by ensuring a conviction by peers, not state representatives. But jurors often must consider complex information that may be difficult to understand; jurors may be easily swayed by specious arguments; and jurors may decide cases with prejudice.	Synthesis
6	Would you support a bill that proposed a tax break for jurors instead of compensation, currently \$16 per day plus mileage? (See 2003 Assembly Bill 171.) Why or why not?	This is an opinion question, but students might consider (1) economic hardship for people who are paid hourly or who do not get vacation days; (2) a citizen's civic duty over the state's obligation to reimburse lost wages; and (3) that loss of state income from the tax break means cuts for other state programs.	Evaluation