

The American Jury
Class Syllabus
Fall 2016

August 22, 2016: Introduction to the American Jury

Abrahamson, Introduction and Ch. 1

DeTocqueville, *Democracy in America*, Book 1, ch. 16, pp. 6-10 (“Trial by Jury in the United States Considered as a Political Institution”), located at

http://xroads.Virginia.edu/~HYPER/DETOC/1_ch16.htm

Duncan v. Louisiana, 391 U.S. 145-59 (1968)

Watch “Your Turn” NY Juror Orientation Video at

<https://www.youtube.com/watch?v=XysgJ5t1bMk>.

August 29, 2016: A Fair Cross Section of the Community

Abrahamson, pp. 99-131

Susan Glaspell, *A Jury of Her Peers* (1917) (located at

<http://www.learner.org/exhibits/literature/story/fulltext.html>)

Hannaford-Agor & Waters, *Safe Harbors from Fair Cross Section Challenges? The Practical Limitations of Measuring Representation in the Jury Pool* (located at

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1633034)

September 5, 2016: Voir Dire: Purpose and Mechanics; Challenges for Cause

Gregory E. Mize & Paula L. Hannaford-Agor, *Toward a Better Voir Dire Process*,

TRIAL 50 (March 2008)(located at <http://www.ncsc->

[jurystudies.org/~media/Microsites/Files/CJS/What%20We%20Do/BuildgBetterVoirDire_000.ashx](http://www.ncsc-jurystudies.org/~media/Microsites/Files/CJS/What%20We%20Do/BuildgBetterVoirDire_000.ashx)).

MASS. SUP. JUD. CT. COMMITTEE ON JUROR VOIR DIRE (2016), Executive Summary (pp. 2-16) and Appendix 3 (Report of the Data Collection Group, pp. 43-57) (available on the class website).

Mize et al., *The State-of-the-States Survey of Jury Improvement Efforts: A*

Compendium Report, pp. 27-31 (located at <http://www.ncsc->

[jurystudies.org/~media/Microsites/Files/CJS/SOS/SOSCompendiumFinal.ashx](http://www.ncsc-jurystudies.org/~media/Microsites/Files/CJS/SOS/SOSCompendiumFinal.ashx)).

Hannaford-Agor & Waters, *Examining Voir Dire in California*, pp. 1-7, 25-40

(available at <http://www.ncsc-jurystudies.org/What-We->

[Do/~media/Microsites/Files/CJS/What%20We%20Do/CAVOIRREP.ashx](http://www.ncsc-jurystudies.org/What-We-Do/~media/Microsites/Files/CJS/What%20We%20Do/CAVOIRREP.ashx) .

September 12, 2016: Voir Dire: Peremptory Challenges

Abrahamson, pp. 131-41

Juries for the Year 2000 and Beyond, Recommendation 19 (posted on class website).

September 19, 2016: Jury Comprehension and Performance

Diamond, *Truth, Justice and the Jury*, 26 HARV. J. L. & PUBLIC POL’Y 143 (2003).

Vidmar & Hans, ch. 6-8

September 26, 2016: Jury Trial Innovations; Juror Misconduct—Preventive Measures and Remedies

Munsterman, Hannaford-Agor & Whitehead, Jury Trial Innovations 7-17, 115, 124-129, (2d ed. 2006) (posted on class website).

Hannaford-Agor, Rottman & Waters, *Jurors & Jury Use of New Media: A Baseline Exploration* (NCSC 2012) (located at <http://www.ncsc-jurystudies.org/What-We-Do/~media/Microsites/Files/CJS/New%20Media%20Study/NCSC-Harvard-005-Juror-and-Jury-Use-of-New-Media-Final.ashx>).

Fed. R. Evid. Rule 606(b).

October 3, 2016: Jury Deliberations

Burnette, A Trial by Jury

October 10, 2016: FALL BREAK (no class)

October 17, 2016: Civil Jury Decision-Making on Liability

Brandon L. Boxler, *Judicial Gatekeeping and the Seventh Amendment: How Daubert Infringes on the Constitutional Right to a Civil Jury Trial*, 14 RICH. J. L. & PUB. INTEREST 479 (2011) (posted on class website).

Vidmar & Hans, ch. 13

October 24, 2016: Compensatory and Punitive Damages, Post-Verdict and Appellate Review of Civil Jury Verdicts

CASELOAD HIGHLIGHTS: CIVIL CASES ON APPEAL--PART 1 (2007) (located at <http://www.courtstatistics.org/Other-Pages/Publications/~media/Microsites/Files/CSP/DATA%20PDF/Vol14Num1CivilTrialsonAppeal1.ashx>)

CASELOAD HIGHLIGHTS: CIVIL CASES ON APPEAL--PART 2 (2007) (located at <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/appellate&CISOPTR=94>)

Vidmar & Hans, Ch. 14-15.

October 31, 2016: The Grand Jury

Greg Hurley, *Modern Grand Jury*, in TRENDS IN STATE COURTS (Jan. 2016)(located at <http://www.ncsc.org/sitecore/content/microsites/trends/home/Monthly-Trends-Articles/2014/The-Modern-Grand-Jury.aspx>)

Gordon Griller, *Modern Grand Jury (Part II)*, in TRENDS IN STATE COURTS (Feb. 2016)(located at

<http://www.ncsc.org/sitecore/content/microsites/trends/home/Monthly-Trends-Articles/2014/The-Grand-Jury-Part-II.aspx>)

November 7, 2016: Nullification and Jury Deadlock

Abrahamson, ch. 1-2

Vidmar & Hans, ch. 11

Surf “Fully Informed Jury Association” website at <http://www.fija.org>

November 14, 2016: *Apprendi v. New Jersey et seq.*; Jury Sentencing

Apprendi v. New Jersey, 530 U.S. 466 (2000)

King & Noble, *Felony Jury Sentencing in Practice: A Three-State Study* (located at <http://ssrn.com/abstract=527204>)

November 21, 2016: The Capital Jury

Levinson et al., *Devaluing Death: An Empirical Study of Implicit Racial Bias on Jury-Eligible Citizens in Six Death Penalty States* (located at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2307719).

Watch “Hidden Injustice: Bias on the Bench” at

http://www.americanbar.org/news/abanews/aba-news-archives/2016/02/hidden_injusticebi.html?platform=hootsuite

Vidmar & Hans, ch. 12

November 28, 2016: Vanishing Trials – Causes and Implications for the American Justice System

Hannaford-Agor, *Jury Service: Good for the Justice System, Good for the Community* (located at <http://www.ncsc-jurystudies.org/What-We-Do/~media/Microsites/Files/CJS/Jury%20News/JURY%20SERVICE%20GOOD%20FOR%20THE%20JUSTICE.ashx>).

Judge William G. Young, An Open Letter to U.S. District Judges (posted at *myLaw*) SHORT, SUMMARY & EXPEDITED: THE EVOLUTION OF CIVIL JURY TRIALS (NCSC 2012) (located at <http://www.ncsc.org/SJT/>) (read Introduction, Conclusions and Recommendations, and any two of the six case studies).