

**Why is jury service important to our democracy?
Does it promote civic participation?**

by Mavis Duncan-Dyer

How a person thinks about jury service is how a person conceptualizes democracy. The role of the jury is to provide unbiased views or resolution to evidence presented in a case in a court of law. Jury service helps to support fairness in trials; jury service is able to give impartial viewpoints on cases that are presented in court. Overall, the jury service system is important to democracy because of the unbiased, impartial viewpoints that can be derived from our citizens who are selected from a wide cross-section of society. Jury service is a civic duty and an honored privilege bestowed upon ordinary citizens. We are accountable through our participation in jury service. Yes, jury service does promote civic participation.

The question is asked, why is jury service important to our democracy? A French aristocrat back in 1831 seemed intrigued about the United States as a republic. Alexis de Tocqueville (Dudley, et al) came to the United States to study the U.S. prison system, but seemed to be fascinated by what was, in his eyes, "a great republic" (Dudley, et al). Google's definition of the word republic is "a state in which supreme power is held by the people and their elected representatives, and which has an elected or nominated president rather than a monarch." I will pull on a part of the prior explanation for the word republic ("supreme power is held by the people and their elected representatives"). This right here sheds a powerful light on how important jury service is to our democracy. The government and its citizens walk hand-in-hand; there is none without the other. On the other hand, the populace deserves to have an unbiased view in a court of law. I once was called to serve on a jury for a murder trial and I was amazed at how the jury was selected. The prosecution, as well as the defendant's side, was intent on selecting jurors who will work out favorably for their client in the end, so it was important to

select people who would provide unbiased views. Jury service and voting are both civic participation. Both are important to democracy, but let us look at jury service and how it plays into democracy. How does jury service affect an individual? When citizens are summoned for jury service, they immediately have a litany of questions and concerns, such as, will it go over a week and concerns of personal information being exposed. On the other hand, if we understand what democracy is, then we should know that we are bound through citizenship and governed by democracy to participate in jury service. Alexis de Tocqueville writes, "The institution of the jury may be aristocratic or democratic, according to the class from which the jurors are taken; but it always preserves its republican character, in that it places the real direction of society in the hands of the governed, or of a portion of the governed, and not in that of the government" (Dudley, et al). If a jury doesn't present itself to be working within the democratic system of government, then the Declaration of Independence would prove to be ineffective. Our founding fathers, Charles Carroll, and others would have signed a useless document – but, of course, it's not!

The Declaration of Independence brought our democracy into being when it was signed on July 1, 1776. The Declaration of Independence is so important to the practice of democracy, as noted by one writer, "virtually every historian of American government, as well as presidents and political philosophers and anyone seeking a deeper understanding of the actual practice of democracy" (Dudley, et al). Essentially, saying everyone within these groups of people uses the declaration for clarity on democracy. Democracy has a great political impact on society. Dudley writes, about the French man: "He discusses the political impact of juries, which he sees as little schools of democracy. By familiarizing average people with the law and their rights, juries instill habits of mind that make Americans better voters and citizens that are more self-confident. Juries were initially self-informing, relying on their own knowledge and investigation rather than

on evidence presented in court. The earliest jurors thus were witnesses as much as they were judges." Even in 1671, long after jurors had come to base their verdicts on courtroom evidence, Chief Justice John Vaughan's opinion in *Bushell's Case* (124 Eng. Rep. 1006 [Common Pleas 1671]), "declared that jurors could rely on their personal knowledge as well." Juries make up our democracy in whole or in part, because who could have imagined that ordinary people who have never been to law school, or have never studied a law book, can be taught in a short space of time enough of the laws to make final judgment on a person who has been convicted of a crime. The jury system can be looked at as raising the class of certain citizens to the position as judges within our democracy. Wow! That's powerful! We the citizens are actually an investment into the system of democracy. This brings up the next question, does it promote civic participation?

Do people even care about civic participation? I would say yes, but only if they are given a choice, such as in voting, which is also civic participation. When one votes, it's your choice; you are not summoned to vote as you are summoned for jury service. When I contemplate civic participation within the jury system, it brings to my mind involuntary participation, as Gastil and Weiser amply describe it, "Institutionalized." I have no choice as to when I am going to be called on to participate in this system of jury. More people resist the process as much as possible, so as not to serve on the jury. But instead of resisting, maybe we the citizens need to take a step back and consider how we can contribute positively to our democracy, because as Gastil and Weiser write, "It is a means for transforming private individuals into public citizens." Through jury service, a social security number now becomes a face; a face that is no longer obscure in this huge well of citizenry. This is a perfect opportunity for us to understand our justice system. There is also a sense of accountability that comes from participating in jury service. "The window provided by the jury service experience underscores what is lacking and how to reform other opportunities for civic engagement." — "We as citizens have a very

important role in this democratic society, jury service roles promotes civic participation and self-governance" (Gastil and Weiser).

Self-governance is simply the concept that is applied to jury service. The Supreme Court has made it clear that jury service focuses equally on protecting this important civic opportunity. Not long ago, the Supreme Court explained that "with the exception of voting, for most citizens the honor and privilege of jury duty is their most significant opportunity to participate in the democratic process" (*Powers v. Ohio*, 1991, p. 407). The framers of the Constitution ensured us an opportunity to engage in self-governance and to inculcate civic virtue; the framers placed a special emphasis on the role of the jury. One observer of the American jury system has remarked on its ability to elevate ordinary citizens into self-governors (De Tocqueville, 1961). As I continue to argue civic participation, I ponder why are these two words, "duty" and "service," used interchangeably depending on whom you are speaking to – why is it jury duty and not jury service?

Whether it's called jury duty or jury service, in my mind it is the same civic participation and it is a privilege. As noted by the Honorable Tom C. Clark, Texan and former justice of the United States Supreme Court, "The jury system improves the quality of justice and is the sole means of keeping its administration attuned to community standards." I think jury service is considered by some citizens to be a duty because, more often than not, many people are not willing to serve, so it becomes a duty, an unwelcomed hindrance. Suddenly their lives are being disrupted from its normal flow. But, on the other hand, it's an honorable civic privilege awarded to us by our democracy. The Texas courts rightly state:

"Jury service is a privilege that offers the average citizen an unequalled opportunity to influence and deliberate over fundamental matters of justice. As a juror, you are in a position of responsibility, you will need to be fair, impartial, and be willing to make decisions that are not based on your personal feelings and biases" (www.txcourts.gov/about-texas-courts).

One of our previous high court Justices wrote on the importance of and how much civic responsibility is valued. Supreme Court Chief Justice Earl Warren writes:

"The men and women who are called upon to serve on juries in both our federal and state courts have maintained a standard of fairness and excellence throughout the history of our country. They have demonstrated a vision and a will toward the administration of justice that is a wellspring of inspiration" (U.S. Supreme Court Chief Justice Earl Warren [1962]).

In conclusion, jury service is important to our democracy because it does promote civic participation, in that it provides unbiased views and resolution to evidence presented in a case in a court of law. Also, jury service helps to support fairness in trials and is able to give impartial viewpoints on cases presented in a court of law. Just for a moment in time, ordinary citizens are placed in seat of a judge!

Works Cited

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