

*The Jury and Democracy:  
How Jury Deliberation Promotes  
Civic Engagement and Political Participation*

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*The Jury and Democracy* will be the first book to establish a causal link between jury service and political engagement, as well as the first to describe in detail the experience of serving on a jury. Our work draws its inspiration from Alexis de Tocqueville's *Democracy in America*, a classic work that continues to influence modern understandings of the jury and civic associations. In the 1991 case *Powers v. Ohio*, the U.S. Supreme Court invoked Tocqueville to explain why all citizens must be free to exercise their constitutional right to serve on a jury:

The institution of the jury raises the people itself...to the bench of judicial authority [and] invests the people...with the direction of society...The jury invests each citizen with a kind of magistracy; it makes them all feel the duties which they are bound to discharge towards society; and the part which they take in the Government...I do not know whether the jury is useful to those who are in litigation; but I am certain it is highly beneficial to those who *decide* the litigation; and *I look upon it as one of the most efficacious means for the education of the people which society can employ.* (italics added)

Where Tocqueville hypothesized a civic educational function for the jury, this book presents the first strong empirical evidence demonstrating the real impact of jury service on civic attitudes and political engagement. Our work demonstrates how powerful the jury experience is for many citizens and how this institutionalized form of deliberation can contribute to democratic society not only in the United States but also in the many other countries using (or considering the adoption of) a jury system.

*The Jury and Democracy* presents the findings of two original investigations. The first uses court and voting records for 13,237 empanelled jurors from eight counties across the United States to show that the deliberative jury experience can significantly increase turnout among people who previously voted infrequently. The second study, sponsored by the National Science Foundation, examines the experiences of 8,483 King County, Washington, residents who reported for jury service in 2004. Through a three-wave panel survey conducted over the course

of the year, this study describes in detail how citizens experience their days in the courthouse and shows how variations in jurors' experiences influence their subsequent attitudes and civic activities. We demonstrate how serving on a jury can trigger changes in how citizens view themselves, their peers, and their government. Partly as a result of these changing attitudes, jury service also sparks long-term shifts in media use, political action, and community group involvement.

We augment these principal studies with in-depth interviews with jurors, first-person accounts of jury service, and other qualitative data that allow a more nuanced description of jury duty in the jurors' own words. These resources also allow us to weave into each chapter short vignettes and informal accounts that make our findings more accessible to non-academic readers.

The conclusions we draw from our research are far-reaching, as our work advances theories of deliberation, democracy, and civic engagement. Since the 2000 publication of Robert Putnam's *Bowling Alone*, academic theorists and social commentators have focused tremendous attention on the role of civil society in democratic life. As a counterpoint, *The Jury and Democracy* demonstrates the importance of institutionalized, state-sponsored deliberative opportunities for citizens to meet and make legally-binding decisions. Taken as a whole, the jury may serve a more powerful role in promoting democracy and citizenship than any voluntary association. In this and many other ways, *The Jury and Democracy* gives the jury—and institutionalized citizen deliberation in general—a more central place in political and social theory.

Demonstrating the civic benefits of juries also has ramifications for the practice of law in modern society. Many countries have scaled back or eliminated juries over the past century, and evolving legal practices as well as recent legal reforms in the United States have reduced the size

and frequency of jury trials. The plea-bargaining process, alternative dispute resolution, and other changes have reduced the number of criminal juries. To date, however, debates over the proper use of the jury system have largely failed to account for the hidden civic costs of circumscribing jury service opportunities. In a similar way, our work will influence legal reform efforts outside of the United States (including countries considering the establishment of participatory juries) by explaining how the jury acculturates citizens to active participation in public life.

*The Jury and Democracy* offers a compelling account of jury deliberation and civic engagement to a wide range of educated readers. The book will appeal to academic readers in political science, sociology, communication, and law, as well as to their graduate students. With clear illustrations of even the most advanced statistical analyses, the book will still be suitable for assigning in undergraduate courses. Outside academia, *The Jury and Democracy* will capture the attention of judges, attorneys, and others concerned with public policy and the law.

Finally, we hope to reach many of the millions of Americans who have served on juries in recent years.<sup>1</sup> This book will give voice to former jurors whose lives were changed by jury service but have never been able to articulate exactly how this happened. For the 95 percent of jurors who talk with family members and co-workers about their time at the courthouse,<sup>2</sup> it is clearly an experience they want to process, understand, and share.

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<sup>1</sup> Based on figures from the 2006 Annenberg Public Policy Center Survey on the Judiciary, one could extrapolate that 17 million Americans have served on juries during the past five years. A 2007 survey by the National Center for State Courts estimates that a full third of United States citizens are likely to have served on a jury at some point in their life.

<sup>2</sup> Figures from our 2004 juror survey reported in chapter 4 of this book.

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## **Chapter Summaries**

### **Introduction**

We open the book with the experiences of two jurors. These first-person accounts provide an entry point for readers into the three main subjects of the book—the texture of jury service, the long-term impact of that service on attitudes and behaviors, and the importance of reconceptualizing the jury as central to American democracy. In addition to previewing the main arguments of the book, we explicitly encourage those readers who have served on juries to reflect on their experiences in relation to our arguments. To those who have never served, we

invite them to lay aside any preconceptions they might have and join us in exploring this unique democratic practice.

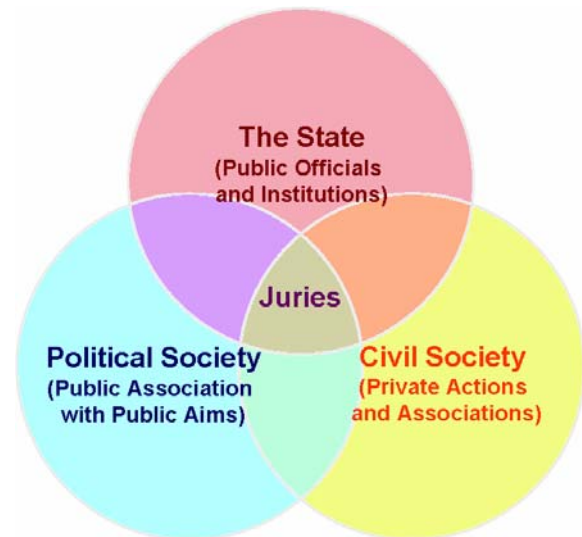
## Chapter 1: Between State and Society

Our first main chapter lays out our theoretical conception of democracy. We argue that it is vital for members of a democratic society to connect not just with each other but also with the state in ways that are inspiring, empowering, educational, and habit forming. This is what we call *political society*—or the public, collective sphere apart from the state (see inset picture).

Political society stands in contrast to both the state (public officials and agencies) and civil society (primarily the private, individual, and community sphere). Civil society, in particular, has become an overburdened term, which often conflates private associational and economic life with collective political action.

The payoff for this theoretical work is a new appreciation of the unique position of the jury,

through which a state institution brings private citizens together to deliberate on a public problem. When viewed in this way, it is clearer why we propose that the jury can help private citizens make new and lasting cognitive connections between their private lives, their communal associations, their public selves, and the state. Those new attitudes and understandings, in turn, can inspire a new—or renewed—commitment to civic engagement.



*Graphic depiction of the central position of juries in democracy.*

## **Chapter 2: From Jury Box to the Ballot Box**

This chapter presents our most simple and compelling finding—that deliberating on a jury causes previously reluctant voters to become more likely to vote in future elections. Methodology rarely captures a reader’s interest, but this chapter is an exception, as we reveal to the reader how we came to learn the complete voting histories of people who had served on juries across the United States. Many readers will learn for the first time that both their voting and jury service records, like so many other seemingly private details about one’s life, exist in the public domain and can be merged using name-matching software.

Using a highly readable mystery metaphor, we present statistical analyses of these public records. We show that the effect of jury service on voting applies only to criminal, not civil, trials and that it occurs for any jury that deliberates, including those that end as hung juries. The effect is also augmented in those cases with multiple charge cases, where jurors have a more complex deliberative task. We use these results to refine deliberative democratic theory and the model we developed in Chapter 1.

## **Chapter 3: Answering the Summons**

How could just two or three days at the courthouse change a person’s inclination to vote years into the future? This chapter provides an answer by taking a careful look at the jury experience by exploring court records and surveys for 8,483 King County, Wash., residents who reported to a county or municipal courthouse in 2004. We will describe the basic features of jury service, such as what is asked of most jurors by a court, but our study draws out the *subjective* experience of reporting to the courthouse to deliberate with fellow jurors. Open-ended survey questions, complemented by vignettes from in-depth interviews, describe what it feels like to be a juror in the language of jurors themselves. There will be many surprises for readers—such as

the eagerness many prospective jurors have to be seated on a jury and the genuine admiration many jurors develop for judges and even attorneys.

#### **Chapter 4: Citizen Judges**

The chapter that follows focuses more narrowly on the experience of deliberating. Spontaneous quotes from jurors are analyzed to learn what deliberation *means* for jurors, and we find that most citizens carry with them a shared understanding of this cultural practice, even if they have never previously set foot in a courtroom. One of the unique features of our data is that the King County judges permitted us to ask questions about the deliberation itself, something that only a handful of courts have ever allowed. This allows us to describe which jurors draw on their personal experiences, how gender and ethnicity shapes deliberation, how jurors judge their own performance, and what leads them to more—or sometimes less—satisfying verdicts. The balance of evidence is encouraging, but this chapter also highlights the challenges that jurors face as strangers who must deliberate together on a complex criminal or civil case.

#### **Chapter 5: From Courthouse to Community**

Having reached a better understanding of the jury service experience, we then return to the impact of that experience. We demonstrate that beyond the voting effects shown in chapter 2, the jury can change many aspects of people’s political and community lives. We juxtapose narrative examples of people being “moved” by their jury experience with quantitative findings from a longitudinal survey. This investigation reveals general patterns, such as increased attention to news media and more frequent participation in conversations with neighbors about community issues. We also find more subtle impacts, such as the tendency of criminal jurors

who reach guilty verdicts to become more active in charitable group activities after leaving the courtroom.

### **Chapter 6: Winning Hearts and Habits**

The sixth chapter shows how jury service changes not only behaviors but also how people see the world. Using the same longitudinal survey data, we show that jury service often makes citizens more supportive of not only the jury system itself but also of local judges and even the Supreme Court. Jurors can develop stronger faith in government and their fellow citizens, and they come to see themselves as more politically capable and virtuous. We also explore the complex relationships between civic attitudes and behaviors in this chapter, showing that the two have a mutually-reinforcing, reciprocal causal relationship.

### **Chapter 7: Securing the Jury**

The last two chapters of the book draw out the implications of our research for democratic theory and the practice of law. Over the past several decades, legislatures and courts have whittled down the American jury system in the interest of expediency. Our research shows that the efficiency we gain in the courtroom may have unintended consequences for our larger democratic society. Low voter turnout, political indifference, and a decline in civic involvement are all symptoms of a malaise for which reinvigorated citizenship is the most likely cure. Securing the jury as a special experience in citizen deliberation is essential, lest we lose this quiet engine of civic engagement. Reforming the jury system is appropriate and necessary over time, but not in a way that does harm to its core features and functions, much as we might reform elections but never take away the vote.

## **Chapter 8: Political Society and Deliberative Democracy**

Returning to Tocqueville and the larger theoretical questions that frame our research, this concluding chapter considers how the civic impact of the jury experience can influence our thinking about deliberation and democracy. Our approach moves beyond an unrefined civil society and concern with free markets to an emphasis on engaged citizenship and building institutions capable of nurturing them. We show how this approach makes sense of efforts to implement juries in countries as varied as Japan, Mexico, and Kazakhstan.

Beyond the jury itself, we show how democracies could flourish by developing nascent deliberative institutions, such as Brazil's Participatory Budgeting process and Canada's Citizen Assemblies. When structured appropriately, such institutions could provide even more powerful deliberative experiences that give citizens confidence in themselves and their state institutions, as well as the skills necessary to participate effectively as free citizens in a democratic society.

### **Author Biographies**

The four authors of this book have worked on this project since 1997, when we first began collecting data on jury service and voting. Each of us has specific responsibilities, with John Gastil serving as the principal author.

**John Gastil** is a professor in the Department of Communication at the University of Washington. He oversees every aspect of the project and is the principal author. Each of his previous books are relevant to the current project, including *Democracy in Small Groups* (New Society, 1993), *By Popular Demand* (University of California, 2000), *Political Communication and Deliberation* (Sage, forthcoming Nov., 2007), and the co-edited volume, *The Deliberative Democracy Handbook* (Jossey-Bass, 2005). He has published relevant works in *Communication Theory*, *Political Communication*, *Small Group Research*, and other journals.

**Perry Deess** is the Director of Institutional Research at the New Jersey Institute of Technology. Throughout this project, he has had primary responsibility for data processing, survey implementation, theoretical background, and editing. He has published relevant works in *Mobilization* and reports on law and public opinion at the Vera Institute of Justice and the Institute for Public Policy. He also has numerous publications in the fields of institutional assessment, program evaluation, and education.

**Phil Weiser** is a professor in the School of Law at the University of Colorado. He has primary responsibility for analyzing the legal and historical context of this research. He is co-author of *Digital Crossroads: American Telecommunications Policy in the Internet Age* (MIT, 2005) and has written articles and chapters relevant to this project in *Deliberation, Democracy, and the Media* (Rowman & Littlefield, 2000), the *New York University Review of Law and Social Change*, and the *New York University Law Review*.

**Cindy Simmons** is a full-time lecturer teaching journalism and media law in the University of Washington's Department of Communication. She describes our work in language that general readers find engaging and understandable, and she draws out the implications of our work for current efforts at jury reform. She holds a J.D. from the University of Washington School of Law and an M.A. in journalism from the University of Wisconsin-Madison. As a journalist, she has covered state government, the courts, and public affairs for 15 years, working for the AP and UPI wire services, newspapers, community radio, and NPR affiliates.