

## JURIES 1: SELECTION

### HISTORY OF THE JURY SYSTEM

- The right to trial by jury can be traced back to Magna Carta (The Great Charter of Liberties, 1215).
- The independence of the jury from the judge was established in *Bushell's Case* (1670).

### ROLE OF THE JURY

- In criminal cases, the jury decide if the defendant is guilty or not (approx. three per cent of all crimes, heard in the Crown Court).
- In civil cases, the jury decide if the claimant has proved their case and the amount of damages (compensation). However, it is a right in only four types of civil case: defamation over £10,000, malicious prosecution, false imprisonment and fraud (under 200 trials per year). It is discretionary in other civil cases.

### QUALIFICATIONS FOR JURY SERVICE

To qualify for jury service a person must be:

- (a) aged between 18 and 70;
- (b) registered on the electoral roll; and
- (c) have lived in the UK for at least five years since the age of 13 (s1 of the Juries Act 1974)

### INELIGIBILITY, DISQUALIFICATION AND EXCUSAL

#### **INELIGIBLE**

Those suffering from mental disorders;  
The judiciary and others concerned with the administration of justice;  
The clergy.

#### **DISQUALIFIED**

People with certain criminal convictions;  
Those currently on bail in criminal proceedings.

#### **EXCUSED AS OF RIGHT**

Anyone aged 65-70 years old;  
Anyone who did jury service in the last two years;  
Members of Parliament;  
The medical profession;  
The armed forces;  
Practising members of a religious society.

### **DISCRETIONARY EXCUSAL**

For a “good reason”.

### **DISCHARGE BY THE JUDGE FOR LACK OF CAPACITY**

Because of physical disability (such as deafness) or insufficient understanding of English.

## **SUMMONING JURORS**

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- Jury Summoning Officer has special copy of electoral register, ie names of persons under 18 or over 70, marked.
- Jury Summoning Officer makes random list of up to 150 people.
- People summoned to attend for jury service; notice sent out explaining grounds for ineligibility, disqualification and excusal.
- Jury Summoning Officer may question people to determine if they are qualified for jury service.
- Jury Summoning Officer prepares lists (called panels) of jurors for various court rooms.
- A jury of 12 selected by ballot from the panel in open court.
- A new computer summoning system is being put into operation between September – November 2000 (See LCD Press Notice, Reducing the Trials of Jury Service).

## **JURY VETTING**

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Two types of jury vetting have been authorised:

- The checking of criminal records for convictions (*R v Mason* [1980] 3 All ER 777); and
- The checking of Special Branch and Security Services records in cases involving national security and terrorist cases (Attorney-General’s Guidelines in *Practice Note* [1988] 3 All ER 1086).

## **CHALLENGING JURORS**

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### **CHALLENGING THE ARRAY**

The defendant has the right to challenge the whole jury on the basis that it has been chosen in an unrepresentative or biased way.

### **CHALLENGING FOR CAUSE**

The defendant and prosecution have the right to challenge all or individual jurors on the following grounds:

- juror is not qualified to serve;
- juror is biased;
- juror may reasonably be suspected of bias.

The issue is then tried by the judge.

### **PROSECUTION RIGHT TO 'STAND BY' JURORS**

The prosecution may also require any numbers of jurors to "stand by", ie not to sit on the jury unless there are insufficient members of the panel to make up a full jury.

### **DEFENCE RIGHT OF PEREMPTORY CHALLENGE**

Before 1989, the defence could challenge up to three jurors without giving any reason.

## **CRITICISMS OF THE SELECTION OF JURIES**

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See Jacqueline Martin, *The English Legal System*, for:

1. Use of the Electoral Register
2. Multi-racial juries are not allowed (*R v Ford* (1989) but also note the Runciman Commission (1993))
3. Disqualified jurors have been sitting
4. Too many discretionary excusals leads to an unrepresentative jury
5. The prosecution's right of 'stand by' was kept even when the defendant's peremptory challenge was withdrawn