

## Juries and Trials

- Kalven & Zeisel
  - University of Chicago jury project
- Harrisburg Seven

## OJ Simpson case

- Jo-Ellan Dimitrius
- 12 Democrats
- 2 college graduates
- None read a newspaper, 8 watched “tabloid TV” news
- 5 had negative experience with police

## Jury Selection

- Jury pool, Venire
- Voir dire
  - Peremptory challenge
  - Challenge for cause
- Batson v. Kentucky

## Clarence Darrow

I try to get a jury with little education but with much human emotion. The Irish are always the best jurymen for the defense. I don't want a Scotchman, for he has too little human feelings; I don't want a Scandinavian, for he has too strong a respect for law as law. In general, I don't want a religious person, for he believes in sin and punishment. The defense should avoid rich men who have a high regard for the law, as they make and use it. The smug ultra-respectable think they are the guardians of society, and they believe the law is for them.

## Gerry Spence

"Women are more punitive than men by a score of about five to one. There's a reason for that: Women always had to toe the line. Women are splendid jurors for the prosecution in rape cases, baby cases."

Men are better because "men had more experience hell-raising and were more forgiving of it."

Obese people are good because they lack self control and don't "demand as much law-abiding discipline from others."

Yuppies are the worst jurors, "they feared crime, loved property, and hadn't suffered enough to be sympathetic to the accused."

## Keith Mossman

Cabinet makers and accountants ... should be avoided because they require everything in a case to fit together neatly. Carpenters, on the other hand, were said to be more likely to accept the defendant's case, since they are accustomed to making do with available materials. ... not accept any left-handed jurors. ... Jurors of Southern-European descent tended to be more sympathetic to a defendant than did more exacting jurors with German or Scandinavian blood.

## Scientific Jury Selection

- Surveys
- Mock trials
- Shadow juries

## Sam Sheppard



## Pretrial Publicity

- Remedies
  - Continuance
  - Expanded voir dire
  - Change of venue

## Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

## Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## Jury Nullification

- Euthanasia
- Abortion
- Racial cases
- Drug cases

## Maryland Jury Instructions

Member of the jury: this is a criminal case and under the constitution and the laws of the state of Maryland in a criminal case the jury are the judges of the law as well as the facts in the case. So whatever I tell you about the law, while it is intended to be helpful to you in reaching a just and proper verdict in the case, it is not binding upon you as members of the jury and you may accept or reject it. And you may apply the law as you apprehend it to be in the case.

## Proposed South Dakota Amendment

In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf; and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed; and to argue the merits, validity, and applicability of the law, including the sentencing laws.

## Death Qualification

- Bifurcated trial
- Witherspoon v. Illinois
  - “Scruples”
- Lockhart v. McCree

## Death-qualified juries:

- More white and male
- More likely to convict

## Some proposed jury reforms

- No excuses
- No peremptory challenges
- Jurors may take notes, ask questions, discuss case
- Non-unanimous verdicts
- Jury “nullification”