

Jury Service as an Invitation to Citizenship: Assessing the Civic Value of Institutionalized Deliberation

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When considering the merits of deliberative democracy, it is important to look into the experience of the American jury system. The jury has demonstrated the potential for citizen deliberation to play a central role in longstanding governmental institutions, but it has also played an unrecognized role in promoting civic engagement. Building on previous research demonstrating how jury service spurs increased electoral participation after jury service, we present results from a three-wave panel survey that show that a subjectively rewarding jury experience can spur broader civic engagement beyond voting. Given the value of the jury as both a model of deliberation and an engine of civic spirit, we consider the potential value of creating citizen juries to improve the initiative process, which currently lacks the citizen deliberation that is essential for any effective direct democratic processes.

Introduction

How one thinks about public participation says a great deal about how one conceptualizes democracy. If democracy is nothing more than a pluralistic means of aggregating private interests, then interest groups, lobbying, periodic elections, and initiative campaigns go a long way toward creating formal opportunities for expressing public sentiment. If, by contrast, one imagines democracy as a deliberative process, public participation is more about transformation than translation—it is a means for transforming private individuals into public citizens, private interests into public judgments.

This transformative vision is precisely the position advanced by deliberative democratic theory. Over the course of the past two decades, numerous political and communication theorists have sketched out visions of deliberative democracy (Bohman, 1996; Cohen, 1989; Elster, 1998; Fishkin, 1991; Gastil, 2000; Gutmann & Thompson, 1996; Mathews, 1994). In a comprehensive review of the theoretical literature, Chambers (2003) offers this concise summary of deliberative democratic theory's core tenets:

Deliberative democratic theory . . . begins with a turning away from liberal individualist or economic understandings of democracy and toward a view anchored in conceptions of accountability and discussion. Talk-

centric democratic theory replaces voting-centric democratic theory. Voting-centric views see democracy as the arena in which fixed preferences and interests compete via fair mechanisms of aggregation [e.g., elections]. In contrast, deliberative democracy focuses on the communicative processes of opinion and will-formation that precede voting . . . Consent (and, of course, voting) does not disappear . . . [Deliberative democracy] is rather an expansion of representative democracy. (p. 308)

Consistent with this theoretical orientation, deliberative methods of public engagement were once ideas floated as thought experiments or idealistic imaginings (e.g., Barber, 1984; Dahl, 1989; Fishkin, 1991), but they have now become commonplace, veering toward conventional, in the best sense of the word. They are currently in use to address environmental and other policy problems and the more popular deliberative processes include Citizen Juries (Crosby & Nethercutt, 2005), collaborative learning exercises (Cheng & Fiero, 2005), 21st century Town Meetings (Lukensmeyer, Goldman, & Brigham, 2005), on-line dialogues (Bonner, Carlitz, Maak, & Ratliff, 2005), consensus conferences and planning cells (Hendriks, 2005), and deliberative polls (Fishkin & Farrar, 2005).

What is here today, however, may be gone tomorrow. The deliberative turn has come and gone at least once before in American public life. Roughly a century ago, many of the nation's most prominent educators and civic reformers popularized the idea that group discussion and town meetings could reawaken the public spirit that de Tocqueville (1961) saw as an American hallmark in the nation's early years. From about 1900 onward, "open forums" appeared across the United States, and prominent venues such as New York's Town Hall became models for civic discussion (Gastil & Keith, 2005). However, these practices all fell out of fashion, and the current enthusiasm for deliberation may also wane.

If the deliberative vision of public participation is to thrive, its proponents must understand and articulate its real, tangible benefits for society. Deliberation promises many direct benefits, such as better public decisions (Fishkin, 1991; Yankelovich, 1991) and dampened public conflicts (Gutmann & Thompson, 1996; Pearce & Littlejohn, 1997), but the most profound effect of deliberation is its *transformative* power. In this view, deliberation not only resolves conflicts in a way that yields improved policy outcomes, it also transforms the participants in the deliberation in important ways—altering how they think of themselves and their fellow citizens (Warren, 1993). Simply put, deliberation promises to change how people act as citizens (Mathews, 1994).

It is precisely this feature of deliberation that we consider—the potential for a meaningful, consequential experience in public deliberation to change a person. As we mentioned earlier, there is no shortage of deliberation programs in existence to yield a potential sample of deliberators, but these cases typically have significant limitations as research settings. Although some processes emphasize the random selection of participants (e.g., Crosby & Nethercutt, 2005; Fishkin & Farrar, 2005), more often, participants at deliberative events are self-selected—often already entering the deliberation at a high level of education and civic engagement.

Moreover, those deliberative processes that do use random samples often lack the institutional authority—i.e., to participate in self-governance—that could be critical to deliberation's transformative effect. In short, the ideal deliberative setting would involve a broad cross-section of the public in an experience that concluded with real legal or policy outcomes. As it happens, there is only one such research setting in the United States at this time—the trial jury.

Although the criminal or civil juror does not make sweeping policy decisions, he or she does have the experience of sitting in the seat of government, deliberating with fellow citizens, and rendering decisions that have real consequences for plaintiffs, defendants, and the state. In this way, a study of the transformative effect of jury service provides us a window through which we can glimpse the potential impact of other deliberative processes.

The window provided by the jury service experience underscores what is lacking and how to reform other opportunities for civic engagement. In particular, jury service relies on a delegation of legal authority to a select group of citizens invested with the resources necessary to make effective decisions. By contrast, the initiative process invests all voters with authority without such resources. Both to remedy this failing, as well as to provide an additional opportunity for meaningful political participation, we recommend the use of citizen juries as a device for screening appropriate ballot propositions as well as for helping citizens decide how to vote on them.

In short, this article develops three related points. First, we explain that the original justification for jury service recognized its potential civic impact and its important role in self-government. Second, we present original data on the actual impact of jury service, marshalling evidence that illustrates its transformative effect on citizens. Finally, we turn to the question of new opportunities for civic deliberation as part of jury-like institutions and make the case for using citizen juries both as an institution for self-government and as a means of making the initiative process more effective.

Why Jury Service Should Matter

The role of jury service in promoting self-governance and civic participation is hardly an accident. The framers of the U.S. Constitution viewed jury service as a critically important feature of self-governance and enshrined the right to serve on juries in the Seventh Amendment. Although often framed as the right of citizens to face a trial by jury (for either civil or criminal offenses), the Supreme Court has made 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). Were efficient and fair dispute resolution the only relevant constitutional goal, the framers of the Constitution might well have chosen alternate safeguards; to ensure an opportunity to engage in self-governance and to

inculcate civic virtue, the framers placed a special emphasis on the role of the jury ("Development," 1997).

Observers of the American jury system have remarked on its ability to elevate ordinary citizens into self-governors. As de Tocqueville (1961) wrote,

The institution of the jury raises the people itself, or at least a class of citizens, to the bench of judicial authority [and] invests the people, or that class of citizens, 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. (pp. 334–37)

The confidence that citizens take their responsibility to serve on juries seriously places jury service in a special role of ensuring popular oversight of the judicial process. In theory, elections play a similar role in ensuring "the people's ultimate control in the legislative and executive branches," (*Blakely v. Washington*, 2004), although even the most generous accounts of voting behavior do not assess the role of a voter as being on par—at least in terms of deliberation—with a juror (e.g., Popkin, 1994).

Jury Service and Voting

But do juries really lift the civic spirits of those who serve on them? One criticism of deliberative democratic theory would suggest otherwise. In her widely read 1997 article "Against Deliberation," Lynn Sanders (1997) argued that jury service had a poor track record as the most venerable institution of citizen deliberation. Drawing on prior jury research, principally on mock juries, Sanders pointed out that jurors' relative social status often dictates who gets named as foreperson, who speaks the most, whose views carry the most weight, and so forth. As a result, juries may principally reinforce preexisting hierarchies—both within jury deliberation and in the wider justice system. Far from a unique and transformative experience, this portrait suggests that jury service might be nothing more than another opportunity for conventional political expression and subordination of minority viewpoints. (For a related set of theoretical critiques of deliberation, see Benhabib, 1996, and Fraser, 1992; for a reply, see Dahlberg, 2005).

One problem with the preceding line of critique is its emphasis on hypothetical argument and artificial juries, as opposed to real juries that deliberate on the fates of actual defendants. In a series of studies, we have begun to assess the transformative effects of real juries by focusing on how jury service is linked to voting in the United States. Our initial study looked at a single locale, Thurston County, Washington, home to the state capitol of Olympia. Gastil, Deess, and Weiser (2002) collected court records and voting records from 1994–1997 and merged them by

matching jurors' full names with unique matching records in the voter database. This first study found that after controlling for other trial features and past voting frequency, citizens who served on a criminal jury that reached a verdict were more likely to vote in subsequent elections than were those jurors who deadlocked, were dismissed during trial, or served as alternates. The effect was augmented by the number of charges against the defendant, with trials including more charges yielding greater increases in jurors' voting rates.

A grant from the National Science Foundation made possible an extensive follow-up to the Thurston County study, and this study yielded three interrelated findings (Gastil, Deess, Weiser, & Lerner, 2006). First, in-depth interviews with a small sample of jurors revealed that citizens typically recognize jury service as a basic civic duty and two-thirds, without further prompting, compared it to voting. In other words, jurors drew a cognitive connection between jury service and voting.

Second, a data set gathered from Colorado, Louisiana, Nebraska, North Carolina, Ohio, and Washington found the same pattern of increasing voting rates, except that this larger data set revealed that the critical distinction was between those who deliberated (including hung juries) and those who did not. Once again, the number of charges against the defendant had an additional, significant effect on post-service voting rates. This study was also large enough to permit breaking down participants into two subgroups, and this analysis found that the increased voting effects were apparent only for previously infrequent voters (voting less than 50 percent of the time) who served on criminal trials. Frequent voters and all of those who served on civil juries did not have a significant increase in voting after jury service.

A third set of findings in Gastil, Deess, and Lerner (2006) revealed that subjective experience was also a critical variable in predicting changes after jury service. Specifically, results showed that for both empanelled jurors and those reporting for service but not empanelled, the degree to which the jury service experience exceeded their expectations was positively associated with increased post-service voting rates. In other words, those who found jury service to be better than they expected became more likely to vote in the future relative to those whose expectations were barely met (or worse).

Summarizing across these studies, it is apparent that jury service can have a significant impact on people's broader civic participation. Whether it has such an effect depends on the person and the jury experience—with the clearest effect being for those persons who come into jury service with lower levels of civic engagement, have an experience of sustained deliberating on a jury, and have a positive subjective assessment of their time spent in the courtroom.

The Behavioral Impact of Jury Service Beyond Voting

In this article, we go beyond Gastil et al. (2006) to consider whether jury service has a behavioral impact beyond voting. Our previous research focused on voting not only because of the vote's unique importance among the various means

of citizen participation, but also owing to the ability to measure voting rates reliably using public records. This had the advantage of establishing a clear causal relationship—impervious to claims of self-reporting biases and other measurement errors. From the outset, however, we have presumed that voting was just one among many likely civic impacts of jury service. After all, the civic education de Tocqueville ascribes to jury service connects to the wider menu of civic attitudes and activities, not simply voting, *per se*.

Study Participants

To examine the wider civic impact of jury service, we conducted a large-sample survey of persons reporting to jury duty in King County, Washington, the largest county in Washington state and home to Seattle, adjoining urban centers such as Kent, Bellevue, and Redmond (of Microsoft fame), and more rural communities in the Cascade mountain range. King County's most important feature, for the purposes of the present study, is that it had a judiciary that was willing to permit researchers to survey the entire jury pool repeatedly over a period of months.

Our sample consisted of 3,380 persons who reported for jury duty at the downtown King County Courthouse, 2,530 at the Kent Regional Justice Center, and 710 at the Seattle Municipal Courthouse between February 10, 2004 and August 20, 2004. Response rates were high for every facet of the study, with a cooperation rate over 70 percent for the Wave 1 survey and comparable rates of completion for Waves 2 and 3 (69 and 73 percent, respectively).¹ Even considering only the 2,385 participants who completed all three waves of the survey, this study had sufficient statistical power to detect even small effect sizes, i.e., $r = 0.10$ (Cohen, 1989).

Only 1,871 (28.7 percent) of the 6,515 records in this survey correspond to persons who became sworn jurors, but all respondents who reported for jury service are included in this study to permit comparisons of jurors and nonjurors. Hereafter, the term "prospective jurors" is used to refer to all persons reporting for jury service. "Empanelled jurors" (or simply "jurors") refers to those who were seated on an empanelled jury, whereas "nonjurors" refers to those who were not.

Fifty-three percent of the prospective jurors were female, and 86 percent were White, with 7.6 percent Asian American, 2.7 percent African American, 2.1 percent Native American, and 1.8 percent Hispanic. The median educational level was a college degree (B.A., B.S., or A.B.), with 37.7 percent having less formal education and 31.0 percent having more. The median age was 49, with the middle 75 percent of jurors between 31 and 64 years of age.

Seventy-three percent of the prospective jurors were sent to courtrooms holding criminal trials, ranging from murder to misdemeanors, with the remainder sitting in an equally diverse set of civil trials. Almost all of those who were not seated on a jury stayed at the courthouse exactly two days. The median service for empanelled jurors was four days, with 77 percent spending six or fewer days there. The median juror deliberated for four hours, with 78 percent deliberating for six hours or fewer.

Data Collection

Each record in the data set combined information from up to four sources—official court records and three different surveys. Researchers visited the three King County courthouses every week of the study to photocopy relevant court documents, but the bulk of the data presented herein came from a series of three surveys.

From February to August, researchers attempted to approach every person who signed in for jury duty to request their voluntary participation in a study on community life. This first survey was typically administered just after jury orientation—before jurors had been sent to courtrooms. This first survey (called Wave 1) measured preservice attitudes, demographics, and other variables. A random subset of those who responded in Wave 1 were recontacted after completing their jury service and invited to complete a follow-up survey on paper or online that included questions about their attitudes and their jury experiences. The median lag time between completing jury service and returning the Wave 2 survey was 20 days. Finally, in November 2004, months after completing jury service, jurors were recontacted a final time to record a final measure of their attitudes. The median lag time between receiving and returning the Wave 3 survey was two weeks.

These surveys yielded three important types of variables—civic engagement, subjective jury experience, and demographic/attitudinal control variables. (See the Appendix for the phrasing of each survey question and response scale.) The Wave 1 and Wave 3 surveys provided before—and—after measures of civic and political engagement. Four groups of items were developed based on the key variables identified in previous research in political communication (McLeod, Scheufele, & Moy, 1999), political participation (Verba, Scholzman, & Brady, 1995), and social capital (Putnam, 2000). The principal components analysis shown in Table 1 confirmed the four-factor structure for the Wave 1 data: The first factor encompassed five political action items (attend rallies, volunteer for campaigns, participate in political or civic/nonpartisan groups, and contact public officials); the second factor represented political conversation (talk about community issues, political talk to persuade, political talk to learn, and interest in community affairs); the third factor measured community group involvement (charitable, religious, educational cultural, and neighborhood groups); and the final factor captured the degree to which respondents regularly followed public affairs through the media (TV news viewing, newspaper reading, following politics and government, and public affairs radio listening). Factor analytic results for Wave 3 were essentially identical to those obtained for Wave 1.

Subjective jury experience was measured with the same item reported in Gastil et al. (2006)—a question that asked whether respondents' expectations for jury service were met during their time at the King County or Seattle municipal courthouse. This question was phrased as follows: "People usually have expectations that come with them when they show up for jury service. Overall, how would you rate your experience as a juror in relation to your initial expectations?"

Table 1. Four-Factor Solution to Principal Components Factor Analysis of Civic and Political Engagement Items from Wave 1 (Prejury Service) Survey for All Prospective Jurors

Survey Item	Factor Number and Title			
	1. Taking Political Action	2. Discussing Public Affairs	3. Group Involvement	4. Staying Informed
PI_ATEN	0.803			
PI_VOL	0.799			
GP_POL	0.757			
GP_NPAR	0.627			
PI_CNTC_REV	0.448			
CL_TALK		0.752		
PI_LERN		0.706		
PI_TALK		0.627		
CL_INTR		0.616		
GP_CHAR			0.702	
GP_RELI			0.628	
GP_EDUC			0.587	
GP_CULT			0.502	
GP_NEIG			0.430	
TVNEWS				0.770
PRNTNEW				0.600
PI_INTR_REV		0.499		0.596
RADIO				0.452

Notes: Extraction method: principal component analysis. Rotation method: varimax rotation with Kaiser normalization. Rotation converged in seven iterations. Items are sorted by size of factor loading, with loadings below 0.40 not shown.

Responses were generally positive but widely distributed: 2.0 percent marked “much worse than I expected”; 8.1 percent circled the “below expectations” option; 43.2 percent said the experience was “about what I expected”; 32.6 percent reported it as “better than I expected”; and 14.1 percent said jury service was “much better than I expected.” Because of the potential nonequivalence of the intervals of this five-point scale, it was converted to a simple three-point scale (EXPECT) by collapsing responses 1 and 2 into “below expectations” (1), making “about what I expected” the scale midpoint (2), and merging responses 4 and 5 into “above expectations” (3) ($M = 2.37$, $SD = 0.66$).

The other variables included in this analysis were used as control variables because of their theoretical association with subjective jury experience and/or civic and political engagement (see Appendix for item wording). These included the number of times one had previously been called to jury service (SUMMONED), the number of times reporting to such summons (REPORTED), how hopeful one was to be seated on a jury (HOPEFUL), willingness to report for jury service in the future, as measured on the first day of orientation (FUTURE), years of age (AGE), biological sex (FEMALE), educational level (EDUC), political activity level of friends and family (PNETWORK), and political knowledge (PKNOW). By controlling for these variables, it is possible to see more clearly the direct relationship between civic engagement and subjective jury experience.

Results

Given these variables, a straightforward method of analysis is partial correlation, which correlates two variables while controlling for the pair’s associations with a set of other variables. In this case, subjective jury experience (EXPECT) was correlated with each postservice civic engagement item while controlling for the pre-service engagement score and the demographic and attitudinal variables enumerated above. This is a more rigorous form of analysis than one using change-scores because it takes into account not only the absolute change in a variable but also the starting point from which that change took place.

In addition, each analysis was broken down by whether or not prospective jurors were ever empanelled. This comparison makes it possible to assess whether a positive experience is enough, or whether the positive impact of jury service depends on both exceeding prior expectations and giving prospective jurors at least the experience of being a seated juror.

Initial partial correlations used factor scores from the before- and after-service factor analyses, and the results are shown in Table 2. EXPECT had a significant effect for empanelled jurors with the factor scores for discussion of public affairs, with a partial *r* (hereafter simply *pr*) = 0.126, *p* < 0.001. EXPECT was also significantly associated with staying informed through using public affairs media (*pr* = 0.07, *p* = 0.027). None of the partial correlations for nonjurors even approached statistical significance.

Looking beyond the general association with factor scores, Table 3 shows the partial correlations for each of the civic engagement items, and the items are sorted in descending order from highest to lowest partial correlation. Half of the 18 items have significant associations with EXPECT after taking the controls into account, and the list of nine significant items includes items from each factors, except for community group involvement. The strongest association (*pr* = 0.118) was with a standard “follow politics” item from the National Election Study (PI_INTR), but the only media-specific item with a significant association was listening to public affairs on the radio. The second-highest association was for one of the political

Table 2. Partial Correlations of Subjective Jury Experience (EXPECT) with Four Wave 3 Civic Engagement Factor Scores for Jurors and Nonjurors, Partialling Out Wave 1 Factor Scores and Demographic/Attitudinal Controls

Factor score	Juror (N = 758)	Nonjurors (N = 1,033)
Taking political action	0.027	-0.029
Discussing public affairs	0.126**	-0.010
Group involvement	0.002	0.001
Staying informed	0.070*	-0.021

Note: **p* < 0.05, ***p* < 0.01 (one-tailed directional alpha). Demographic/attitudinal controls include SUMMONED, REPORTED, HOPEFUL, FUTURE AGE, FEMALE, EDUC, PNETWORK, and PKNOW (see Appendix for item wording).

Table 3. Partial Correlations of Subjective Jury Experience (EXPECT) with Individual Wave 3 Civic Engagement Items for Empanelled Jurors, Partialling Out Wave 1 Item Scores and Demographic/Attitudinal Controls

Civic Engagement Category	Survey Item	Partial <i>r</i>	<i>p</i> -Value
Staying informed	PI_INTR_REV	0.118	<0.001
Taking political action	PI_VOL	0.096	0.003
Discussing public affairs	PI_LERN	0.096	0.003
Discussing public affairs	CL_TALK	0.095	0.003
Taking political action	GP_POL	0.086	0.006
Discussing public affairs	CL_INTR	0.081	0.010
Staying informed	RADIO	0.066	0.029
Discussing public affairs	PI_TALK	0.063	0.036
Taking political action	PI_ATEN	0.060	0.041
Taking political action	GP_NPAR	0.036	0.152
Group involvement	GP_EDUC	0.035	0.159
Staying informed	PRNTNEW	0.031	0.187
Taking political action	PI_CNTC_REV	0.025	0.234
Group involvement	GP_CULT	0.021	0.275
Group involvement	GP_RELI	0.005	0.447
Staying informed	TVNEWS	0.002	0.473
Group involvement	GP_CHAR	-0.009	0.401
Group involvement	GP_NEIG	-0.017	0.311

Note: Minimum N = 807.

action items (PI_VOL $pr = 0.096$). This, coupled with the significant associations with political group involvement (GP_POL $pr = 0.086$) and attending political events (PI_ATEN $pr = 0.060$), suggest that subjective jury experience *does* have an impact on broader political engagement, notwithstanding the nonsignificant association with the five-item factor score. The remaining significant associations were with each of the four items measuring discussion participation (PI_LERN $pr = 0.096$; CL_TALK $pr = 0.095$; PI_TALK $pr = 0.063$) and interest in community affairs (CL_INTR $pr = 0.081$).

Reading across these correlations, a rewarding jury experience was associated with increases in a wide range of civic and political behaviors, but not with increased involvement in nonpolitical group activities in the community. The level of participation in *political* groups did increase in relation to subjective jury service experience, but educational, nonpartisan, charitable, and other group activities showed no change. In addition, it is important to contrast this pattern of positive changes against the absence of any statistically significant changes for nonjurors, regardless of their subjective jury experience.

Two additional analyses give greater insight into the role of subjective experience in sparking behavioral changes among jurors after jury service. First, it appears that *exceeding* expectations (rather than merely meeting them) is critical to change. This can be illustrated with simple change scores (calculated without incorporating demographic/attitudinal controls). For instance, PI_LERN rose 0.09 for jurors whose expectations were not met, 0.04 for those whose were just met, and 0.21 for those whose expectations were exceeded. For PI_VOL, the corresponding

change scores were 0.02, 0.07, and 0.14. For PI_INTR, the scores were 0.08, -0.02, and 0.13, respectively. This pattern is consistent across other change scores—with scores for those with unmet or just met expectations being closer to one another and scores for those with exceeded expectations standing apart from both.

What objective features of jury service were associated with exceeded expectations? Although trial type (criminal vs. civil) and number of charges played important roles in Gastil et al. (2006), they were not significant predictors of EXPECT in this study. Returning to the contrast used in Gastil et al. (2002), however, there was a significant difference between those jurors who reached a verdict versus those who did not. A chi-square juxtaposing EXPECT with trial outcome was significant ($X^2 = 22.8$, $df = 8$, $p = 0.007$): 65.3 percent of those deliberating and reaching verdicts reported that their expectations were exceeded; 75.4 percent of those whose trials ended in a guilty plea had exceeded expectations; 60 percent of those serving as alternates (i.e., no deliberation) had expectations exceeded; only 54.5 percent of those serving on hung juries had exceeded expectations, as did 54.3 percent of those with other nonoutcomes (mistrial, dismissed case, etc.). It is noteworthy that a guilty plea was as good as reaching a verdict through deliberation, as far as the average juror's subjective experience was concerned.

Summary of Results

Stepping back from the details of these results, this study is consistent with previous research on jury service and voting—as well as the original justification for empowering juries to make important public decisions. For most people serving on juries, the experience is enlightening and encouraging, and for many, the experience is better than they had expected. Although those who report for service and never sit on a jury do not experience profound change in their civic lives, many of those who do sit on juries experience such a change when their overall subjective experience is a positive one. For these jurors, the experience is transformative because it increases the rate at which they participate in public life after leaving the courtroom. In sum, our research suggests that for over two hundred years, the jury system has been quietly replenishing the reservoir of civic spirit and political engagement in the United States.

Our encouraging conclusion about the role of jury service in spurring civic engagement begs two notable questions. First, are there other such opportunities that can be made available to citizens and, second, can such opportunities address macro public issues as well as micro ones? As we discuss below, the answer to both questions is yes, and we recommend that reforms along these lines be pursued.

Building Deliberative Electoral Institutions

When looking for opportunities to institutionalize civic deliberation along the lines of the jury model, the current practice of direct democracy is an obvious

candidate for reform through the introduction of a "citizen jury." Direct democracy, as practiced in many states through ballot propositions, represents a far cry from the jury model we described above. Consequently, the introduction of a citizen jury not only promises an additional opportunity to provide civic engagement, but it also promises a macro-level policy reform that can improve the results flowing from the initiative process.

The critical shortcomings of voting as a civic activity is that citizens often do not receive information through an adversary process and do not have an opportunity to deliberate before deciding how to cast their vote (Gastil, 2000). In the case of ballot propositions, the lack of deliberation comparable to that exemplified by juries is particularly problematic. With elections on candidates, there are often prescreening devices (e.g., party primaries) and substantive decisions are deferred until the elected officials have the opportunity to deliberate on behalf of their constituency; in the case of ballot propositions, the vote of the citizenry ends the matter.

Consider just how far the voting on ballot propositions may deviate from the deliberative ideal. First, unlike a jury system (or even most candidate elections), there are a number of ballot propositions where a concentrated interest will press a proposal that has diffuse consequences on a large number of citizens, but does not spur opposition. In such cases, many citizens will only hear one side of the story.

Second, unlike the role of the prosecutor and judge in the jury system, there is often very little filtering of what matters are presented to the public via the initiative process.² Rather, well-funded groups (either motivated by ideological or monetary rewards) can generally get a proposition on the ballot, whether or not a wellspring of voter sentiment supports their objectives.

Finally, even where citizens hear both sides of the story and where the agenda is set by true voter sentiment, voting on ballot propositions invariably asks citizens to make choices outside of a larger context. Take, for example, the decision to restrict government spending by enacting a "Taxpayer's Bill of Rights." Standing alone, this provision may well appeal to a state's citizens. Similarly, that same state might well embrace a commitment to continuing investing in education to raise its level of spending to the national average. Taken together, however, these two propositions threaten to hamstring government and undermine other programs that the citizenry may well have failed to consider in voting on them separately.

The enactment of contradictory initiatives is becoming increasingly common in states like Colorado and Washington which frequently decide important issues through a direct vote. As Gillette (2005) explains, the initiative process can permit voters to make discrete decisions without deliberating on the potentially conflicting consequences of each decision:

An obvious example would be an initiative that affected a local school budget by requiring a minimum per pupil expenditure, and that necessarily reduced funding for other local public goods such as policing, fire fighting, and parks. Voters who face an opportunity to vote on one piece

of the budget without simultaneously considering the effects of their vote on interconnected parts may skew the allocations that would be made if the entire budget were considered comprehensively. (p. 852)

In a similar vein, Kousser and McCubbins (2005) pointed out that “[for] voters to weigh the policy choice of prison versus schools,” among other examples,

they must know not only the costs of each policy, but also how the two policies affect each other. We know that, in the absence of a tradeoff between services or tax levels, voters will prefer more of almost all government services, or the same level of services with lower taxes. So, the relevant question about the information environment is whether voters will receive and use the information, or substitute cues, to choose between initiatives focused on schools, jails, lottery, insurance, and nuclear power. . . . It is difficult to imagine that initiative supporters will provide this type of universal tradeoff information. (p. 963)

This dynamic helps to explain why ballot propositions may, at least in some cases, inspire a cycling effect and promote contradictory measures, some of which will undo the effects of ones from only a few years before (Kousser & McCubbins, 2005).

To respond to the critical shortcomings in the initiative process, there are two principal lines of reform: better prepare all voters to vote on such matters or better filter ballot propositions through a prescreening device. In a proposal to achieve the former, Ackerman and Fishkin (2004) suggest a national holiday for a “Deliberation Day” when citizens would all gather to discuss the matters on the ballot. In their view, this reform would change the electoral process, by transforming civic opinion from “raw preferences” to “refined preferences” and changing the nature of political discourse. This model, however, overlooks two of the key features of what makes the jury successful: it invests a few citizens with authority to make decisions on behalf of the public and gives them the appropriate information to make such decision. As Lupia (2004) observes, institutionalizing effective deliberation requires a sensitivity to civic competence—recognizing the limited circumstances in which citizens will attend to the available information that can help them make competent judgments.

A better model for improving the level of deliberation and effectiveness for ballot propositions would be to use quasi-juries built along the model of the American jury system, such as the aptly named “Citizen Juries” (Crosby & Nethercutt, 2005). Through a process of randomly selecting a panel of citizens, the government could establish a device both for screening what propositions were permitted to be placed on the ballot (along the lines of a “reasonable cause” standard used by grand juries) as well as an “advisory verdict” for how citizens should vote. States might consider using different forms of such civic juries, including ones in each county, to better educate the public on ballot propositions that, for the reasons noted above, will often fail to engage the public in a deliberative manner.

In designing how a citizen jury would operate, states should evaluate carefully what makes trial juries successful and seek to replicate their relevant features and safeguards. To date, some commentators have suggested additional safeguards for effective deliberation (e.g., Crosby & Nethercutt, 2005), but there is still much work to be done in this area (e.g., Sunstein, 2005). Notably, some of the most critical safeguards for ensuring effective deliberation—such as ensuring that group members are exposed to arguments to which they are not inclined—parallel some of the same features of the American jury system (Sunstein, 2003, pp. 164–65). Given their current stage of development, it makes sense for different states to experiment with different versions of citizen juries (as they do for trial juries), provided that they provide citizens with information from different sources, encourage them to listen to the viewpoints of fellow jurors, and ensure that jurors have the opportunity to deliberate carefully on a manner that will have a real world impact.

The use of a citizen jury is more than an abstract idea. Scores of citizen juries and other deliberative bodies already have been convened across the globe. The citizens participating in these events have performed admirably, even though they were not given any formal authority (e.g., Carson & Hartz-Karp, 2005; Crosby & Nethercutt, 2005; Hendriks, 2005). Last year, for example, the government in the Canadian province of British Columbia created a random-sample deliberative citizen body with a modicum of legal authority (Ratner, 2004, 2005).³ British Columbia convened a Citizens' Assembly to consider revising its electoral system, and the Assembly consisted of 160 randomly-selected citizens—one man and one woman from each electoral district plus two at-large Aboriginal members. In October, the Assembly voted 146–47 in favor of replacing the British Columbia electoral system with a Single Transferable Vote model, which lets voters rank candidates within multimember districts. The Assembly's final recommendation was then submitted to the British Columbia electorate as a referendum in May, so that the general public could approve or reject it. The province had set the hurdle for final passage at 60 percent, and in a May 2005 election, 57 percent of the public supported the Assembly's measure.

In using a sample of the public to screen a suggested reform, the British Columbia Citizens' Assembly has established an important precedent and begun to demonstrate the merits of such a reform. In particular, this case suggests that a representative sample of the general public is capable of drafting policy recommendations of sufficient quality and precision to be made into law. Previous experiments in deliberation had shown the wisdom of such public microcosms, but the Assembly has settled the question of whether citizens can function at such a high level when acting as an institution—a legally defined part of the policymaking process. The Assembly's success should encourage policy makers and civic reformers to move further in this direction, from demonstration programs and unofficial advisory processes to legally-recognized institutional deliberation along the lines of using citizen juries to complement the initiative process.

Conclusion

The longstanding impact of jury deliberation is not just a happy accident. As the U.S. Supreme Court has often remarked, jury service is *the right of every citizen*. Notably, the Court has recognized that the jury is not merely a tool for administering justice, with juries ensuring the right of the accused to be judged by their peers. Instead, the Court views jury service as a means of affording every citizen the chance to step into the state's shoes, to see the inner workings of the justice system, and to feel first-hand the power of self-government. In other words, the jury is a sacred, institutionalized opportunity for citizens to experience the transformative power of public deliberation.

As we have shown, the jury system works as a transformative experience for many of the people who enter it. Moreover, these effects flow from a relatively humble institution, one which usually asks for only one-to-three days of service and only an hour or two of face-to-face deliberation on a relatively narrow question of fact. If a nation institutionalized processes like the Citizens' Assembly, which confronted larger issues in even greater depth, it is promising to imagine what long-term, positive effect this might have on the wider public's view of government and itself. Thus, if implemented successfully, new institutionalized jury-like deliberation can not only improve public decision making through the initiative process, but it can also empower the participants in citizen juries—like their trial counterparts—to recommit themselves to constructive roles as active democratic citizens.

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Notes

This material is based upon work supported by the National Science Foundation (NSF) Directorate for Social, Behavioral and Economic Sciences: Law and Social Science Program under Grant No. 0318513. Any opinions, findings, and conclusions or recommendations expressed in this material are those of the authors and do not necessarily reflect the views of NSF. Assistance with the design of the study was offered by Valerie Hans, Reid Hastie, Dick Madsen, Kay Schlozman, Eugene P. Deess, and Cindy Simmons. For assistance with collecting and processing the data reported herein, we wish to thank Giorgia Aiello, Ray Calluori, Tina Gall, Irina Gendelman, Hillary Gillings, Sophia Liu, and Rachel Nez. At the Seattle Municipal Court, we received helpful cooperation and oversight from Court Services Manager Kathleen Friedman and Judge Fred Bonner, assistance collecting survey data from Jury Administrators Kendra Lafayette and Juliet Dickens, and court records retrieval assistance from Sharon Petty. At the King County Court, we received cooperation and oversight from Jury Manager Greg Wheeler, Court Operations Manager Paul Manolopoulos, Judges Richard Eadie, Ron Kessler, and J. Wesley Saint Clair, and the members of the Jury Committee; assistance collecting survey data was provided by Belinda Fernandez, Tamera Kato, and Irene Szczerba. Editorial assistance was provided by Jaimie Moshin.

1. It was possible to estimate—but not precisely calculate—the Wave 1 response rate because many prospective survey participants were pulled from the jury room before they could be counted, let alone invited to participate in the study. At the Seattle Municipal Courthouse, 99 percent of prospective jurors were invited to participate, and 79 percent completed surveys. In the downtown

King County courthouse, jurors were occasionally sent out before the survey was administered, and only 64 percent of all those reporting for jury duty completed the survey. At the Kent courthouse, many more jurors could not be reached before being sent to courtrooms, and the response rate was only 57 percent. Based on our survey administrators' estimates of how many prospective jurors could not be reached before leaving for courtrooms, it is likely that over 70 percent of those invited to participate in the Wave 1 survey did so, which means the refusal rate was below 30 percent. Note that the Wave 2 and 3 response rates take into account that not all participants were invited to participate in each survey wave; noninvitations were caused by either inadequate contact information or administrators' efforts to control survey costs by not mailing to all of those who did not serve on juries—a subsample more abundant than its empanelled counterpart.

2. Matters referred by the legislature (generally called "referenda," rather than initiatives) would not be subject to this criticism.
3. For details on the Citizens' Assembly, visit <http://www.citizensassembly.bc.ca/public>.

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Appendix: Question and Response Scale Phrasing

Civic Engagement Measures

PI_INTR: Some people seem to follow what's going on in government and public affairs most of the time, whether there's an election going on or not. Others aren't that interested. Would you say you follow what's going on in government and public affairs most of the time, some of the time, only now and then, or hardly at all?

- 4 Most of the time
- 3 Some of the time
- 2 Only now and then
- 1 Hardly at all

TVNEWS: During the past six months, how often did you learn about politics and public affairs watching television news programs?

- 1 Never
- 2 Less than once a week
- 3 Once or twice a week
- 4 Nearly every day
- 5 Every day
- 97 Don't know

PRNTNEW: During the past six months, how often did you learn about politics and public affairs reading news in magazines, in newspapers, or on Internet websites?
[same response scale as TVNEWS]

RADIO: During the past six months, how often did you learn about politics and public affairs listening to the news on the radio?
[same response scale as TVNEWS]

PI_TALK: During the past six months, how often have you talked to someone to change their mind about a political issue, a candidate, or a ballot initiative?

- 1 Never
- 2 Less than once a month
- 3 Monthly
- 4 Weekly
- 5 More than once a week
- 97 Don't know

PI_LERN: During the past six months, how often have you talked to people to learn more about a political issue, a candidate, or a ballot initiative?

[same response scale as PI_TALK]

PI_ATEN: During the past six months, how often did you attend political meetings, rallies, speeches, or dinners?

- 1 Never
- 2 Once or twice
- 3 Three or four times
- 4 Five or more
- 5 Don't know

PI_VOL: During the past six months, how often did you do an hour or more of volunteer work for a political cause, a political party, a candidate, or an initiative campaign?

- 1 Never
 - 2 Less than once a month
 - 3 Monthly
 - 4 Weekly
 - 5 More than once a week
- 97 Don't know

PI_CNTC: Sometimes people feel strongly enough about a local or national issue that they contact a public official to express their views or discuss that issue. In the past six months, have you contacted a public official, agency, or board?

- 1 Yes
- 0 No

CL_INTR: Thinking about your local community, how interested are you in local community politics and local community affairs?

- 1 Not Interested
 - 2 Somewhat Interested
 - 3 Very Interested
- 97 Don't know

CL_TALK: During the past six months, how often have you discussed local community affairs with other members of your community?

- 1 Never
- 2 Less than once a month
- 3 Monthly
- 4 Weekly
- 5 More than once a week
- 97 Don't know

GP_POL: During the past six months, how active have you been in political groups (e.g., political parties or interest groups promoting a particular cause or point of view on an issue), including attending meetings, doing volunteer work, or participating in other activities?

- 1 I have NOT been involved at all in such groups.
- 2 I have occasionally participated in group activities.
- 3 I have often participated in group activities.
- 4 I have become so active that I am now an organizer, officer, or other important member of this group.

GP_CULT: cultural organizations (e.g., museum, symphony, public radio or television)

[same phrasing for question and response scale as for GP_POL]

GP_EDUC: educational institutions (e.g., school, college, PTA, alumni organization)

[same phrasing for question and response scale as for GP_POL]

GP_NEIG: neighborhood groups and associations (e.g., homeowner or condo association, block club, neighborhood council)

[same phrasing for question and response scale as for GP_POL]

GP_CHAR: charitable or service organizations (e.g., service club, fraternal organization, relief agency)

[same phrasing for question and response scale as for GP_POL]

GP_NPAR: nonpartisan or civic organizations (e.g., the League of Women Voters, or better-government associations)

[same phrasing for question and response scale as for GP_POL]

GP_RELI: religious congregation (church, synagogue, mosque, or other group)

[same phrasing for question and response scale as for GP_POL]

Meeting Expectations for Jury Service

EXPECT: People usually have expectations that come with them when they show up for jury service. Overall, how would you rate your experience as a juror in relation to your initial expectations?

- 1 Much worse than I expected
- 2 Below my expectations
- 3 About what I expected
- 4 Better than I expected
- 5 Much better than I expected

Control Variables

SUMMONED: How many times have you been summoned for jury duty? (Not including current service.) [Responses: 0, 1, 2, 3, 4, 5 or more]

REPORTED: How many times did you report? [Responses: 0, 1, 2, 3, 4, 5 or more]

HOPEFUL: I am hopeful that I will be required to serve on a jury today.

- 1 Strongly disagree
- 2 Disagree
- 3 Agree
- 4 Strongly agree

FUTURE: I would report to jury duty if asked to do so in the future.
[same response scale as for HOPEFUL]

AGE: In what year were you born? [Converted to number of years]

FEMALE: Are you male or female?

- 0 Male
- 1 Female

EDUC: What is the highest level of formal education you have completed?

- 0 Elementary or some high school
- 1 High school graduate/GED
- 2 Trade or vocational certification
- 3 Some college, or an associate degree
- 4 Bachelor's degree (e.g., BA, BS, AB)

- 5 Some graduate school
- 6 Master's degree (e.g., MA, MSW, MBA)
- 7 Professional degree (e.g., MD, JD, DDS)
- 8 Doctoral degree (e.g., PhD, ED)

PNETWORK: Calculated as the average of responses to the two items listed below (inter-item correlation = 0.42, alpha = 0.59).

PNET1: These days, how active are your adult friends in politics or community affairs?

- 1 Not active at all
- 2 Somewhat active
- 3 Very active
- 97 Don't know

PNET2: These days, how active are your adult family members and relatives in politics or community affairs?

- 1 Not active at all
- 2 Somewhat active
- 3 Very active
- 97 Don't know
- 96 I have no immediate family

PKNOW: Calculated as the number of correct answers to the five items listed below (five-item alpha = 0.58). These questions were prefaced by two sentences: "The following are multiple-choice questions about the political process. Answer to the best of your knowledge, and feel free to guess even if you aren't completely sure of your answer."

PK1: Which party had the most members in the U.S. Senate as of January 1st, 2004?

- 0 Democrats
- 1 Republicans
- 0 Neither party had a majority
- 0 Don't know

PK2: What public office is now held by Colin Powell?

- 1 Secretary of Defense

- 0 Speaker of the House
- 0 Secretary of State
- 0 Supreme Court Justice
- 0 Don't know

PK3: How long is the term of office for a United States Senator?

- 0 Two years
- 0 Four years
- 0 Five years
- 1 Six years
- 0 Don't know

PK4: In the State of Washington, how are State Supreme Court justices chosen?

- 0 They are appointed by the state House of representatives
- 0 They are appointed by the state senate
- 0 They are chosen by the other Justices
- 1 They are elected by the general public
- 0 Don't know

PK5: Who is currently the King County Executive?

- 1 Ron Sims
- 0 Mark Sidran
- 0 Greg Nickels
- 0 Norm Rice
- 0 Christine Gregoire
- 0 Don't know