LAW CLASS  
How Courts Work

Steps in a Trial

The Jury Pool

The trial jury in either a civil or criminal case is chosen from a list called a jury pool that has been compiled by the court. The method of selecting names for the pool varies. In many states the list is compiled from voter registration lists or driver’s license lists. The jury pool is sometimes compiled with the help of jury commissioners appointed by the presiding judge.

Most states require that a court official screen the list of potential jurors to eliminate people unqualified or ineligible under state law. Traditionally many people were exempted from jury duty because their jobs were considered so important to society that they couldn't be released from them for jury duty. These automatic exemptions and excuses are becoming less and less common.

Selecting the Jury

Juries of six to twelve persons are selected from the jury pool. The size of jury varies from state to state and depends to some extent on the type of case at trial.

•In civil cases, especially in courts of limited jurisdiction, the standard size in many jurisdictions is becoming six, which can be increased by stipulation of both parties.

•In misdemeanor cases there are sometimes fewer than twelve jurors, though in serious criminal cases twelve jurors are generally required.

•The old requirement that juries be unanimous is also changing. In misdemeanor and civil cases particularly, states often provide for verdicts based on the agreement of three-fourths or five-sixths of the jurors.

Alternate jurors are selected in some cases to take the place of jurors who may become ill during the trial. Alternate jurors hear evidence, but they don’t participate in the deliberations unless they replace an original juror.

In many jurisdictions, jury selection begins with the court clerk's calling twelve people on the jury list and asking them to take a place in the jury box. The judge usually makes a brief statement explaining what kind of case is to be tried and inquiring whether there is any reason the potential jurors cannot serve. The judge or the lawyers then ask them questions as to whether they have any knowledge of the case or have had specific experiences that might cause them to be biased or unfair. This questioning of the potential jurors is known as “*voir dire*” (to speak the truth).

Challenging for cause

If either lawyer believes there is information that suggests a juror is prejudiced about the case, he or she can ask the judge to dismiss that juror for cause.

For example, a juror can be dismissed for cause if he or she is a close relative of one of the parties or one of the lawyers, or if he or she works for a company that is part of the lawsuit.

Each lawyer may request the dismissal of an unlimited number of jurors for cause. Each request will be considered by the judge and may or may not be allowed.

Peremptory challenges

In addition to challenges for cause, each lawyer has a specific number of peremptory challenges (usually 3).

These challenges permit a lawyer to excuse a potential juror without stating a cause. In effect, they allow a lawyer to dismiss a juror because of a belief that the juror will not serve the best interests of the client.

Peremptory challenges are limited to a certain number determined by the kind of lawsuit being tried. They can’t be used to discriminate on the basis of race or sex.

Swearing in

When both parties have agreed upon a jury, the jurors are sworn in to try the case by the court clerk. Those not selected are excused.

Once impaneled, the jurors’ role is to listen to the evidence conscientiously and not draw premature conclusions. They are instructed by the judge not to discuss the case with outsiders or each other (until deliberations). They generally do not have the right to ask questions of witnesses, but some judges permit jurors to submit written questions for the judge and lawyers to consider. (The lawyers have a right to object to these questions, just as they do to questions posed by lawyers during the trial.) If appropriate, the questions may be asked.