

## Representative and Impartial Juries Resource List

### General

Strengthening the Sixth Website, [www.strengthenthesixth.org](http://www.strengthenthesixth.org)

- [ABA Principles for Juries and Jury Trials](#), (2005).
- [Juries](#), Last Week Tonight with John Oliver, Aug. 17, 2020 (video)
- [The Center for Jury Studies](#) (National Center for State Courts)
  - [Data dashboard](#) (examine state practices regarding compensation, source lists, length of service, excusal rules, etc.)
- [The Juror Project](#) (website)

### Case Law:

- [Glasser v. United States](#), 315 U. S. 60, 85-86 (1942) (The equal protection clause requires that “the jury ‘*be a body truly representative of the community . . . , and not the organ of any special group or class.*’”)
- [Peters v. Kiff](#), 407 U.S. 493 (1972) (“When any large and identifiable segment of the community is excluded from jury service, the effect is to remove from the jury room qualities of human nature and varieties of human experience, the range of which is unknown and perhaps unknowable. It is not necessary to assume that the excluded group will consistently vote as a class in order to conclude, as we do, that its exclusion deprives the jury of a perspective on human events that may have unsuspected importance in any case that may be presented.”)
- [Smith v. Texas](#), 311 U. S. 128 (1940) (“It is part of the established tradition in the use of juries as instruments of public justice that the jury be a body truly representative of the community.”)
- [Taylor v. Louisiana](#), 419 U.S. 522, 528 (1975) (A jury selected from **a fair cross section of the community** is “an essential component” of the Sixth Amendment’s impartial jury guarantee.) (“The purpose of a jury is to guard against the exercise of arbitrary power -- to make available the common sense judgment of the community as a hedge against the overzealous or mistaken prosecutor and in preference to the professional, or perhaps overconditioned or biased response of a judge. *Duncan v. Louisiana*, 391 U.S. at 156. This prophylactic vehicle is not provided if the jury pool is made up of only special segments of the populace or if large, distinctive groups are excluded from the

pool. Community participation in the administration of the criminal law, moreover, is not only consistent with our democratic heritage, but is also critical to public confidence in the fairness of the criminal justice system. Restricting jury service to only special groups or excluding identifiable segments playing major roles in the community cannot be squared with the constitutional concept of jury trial.” *Taylor*, 419 U.S. at 530.)

### **Achieving and Valuing Diversity**

- [Assessing and Achieving Jury Pool Representativeness](#), By Judge William Caprathe (ret.), Paula Hannaford-Agor, Stephanie McCoy Loquvam, and Shari Seidman Diamond. *Judges’ Journal* • Vol. 55 No. 2, 2016.
- [Fair and Implicitly Impartial Jury: An Argument for Administering the Implicit Association Test During Voir Dire](#), Dale Larson, 3 *DePaul J. for Soc. Just.* 139 (2010).
- [On Racial Diversity and Group Decision Making: Identifying Multiple Effects of Racial Composition on Jury Deliberations](#), Samuel Sommers, *J. Personality and Social Psychology*, 2006, Vol. 90, No. 4, 597– 612 (2005).
- [Racial Representativeness of Juries: An Analysis of Source List and Administrative Effects on the Jury Pool](#), Ronald Randall, James A. Woods, & Robert G. Martin , 29 *Just. Sys. J.* 71, 81 (2008).
- [The Impact of Jury Race in Criminal Trials](#), Shamena Anwar, Patrick Bayer, and Randi Hjalmarsson, 127 *Q.J.Econ.* 1017,1021,1032 (2012).
- [There’s overwhelming evidence that the criminal justice system is racist. Here’s the proof.](#), By Radley Balko, *The Washington Post*, June 10, 2020.
- [Time to Reflect: Has the research changed regarding the importance of jury size](#),(Erica J. Boyce, National Center for State Courts, Center for Jury Studies, 2021).
- [Why Diverse Teams Are Smarter](#), David Rock and Heidi Grant, *Harvard Business Review* (Sept. 2016).

### **Barriers to Representative Juries**

- [Benevolent Exclusion](#), Offit, Anna, *Wash. L. Rev.* (2021 Forthcoming), SMU Dedman School of Law Legal Studies Research Paper No. 490.
- [Color-Blind But Not Color-Deaf: Accent Discrimination in Jury Selection](#), Jasmine Gonzales Rose, 44 *N.Y.U Rev. L. & Soc. Change* 309 (2020).



- [Minnesota jurors must speak English — some worry that's a proxy for race in jury selection](#), By Tom Crann and Megan Burks / MPR News, *West Central Tribune*, Dec. 9, 2021.
- [Rigging the jury: How each state reduces jury diversity by excluding people with criminal records](#) (Prison Policy Initiative, February 2021).
- [Race and the Jury: Illegal Discrimination in Jury Selection](#) (Equal Justice Initiative, 2021).
- [Twenty Million Angry Men: The Case for Including Convicted Felons in Our Jury System](#)- James Binnall (2021) (book).

### **Fair Cross Section Challenges**

- [A 'Glitch' Left Young People Off the Jury Rolls. Does That Violate the Constitution?](#)- *New York Times*
- [No Records; No Right: Discovery & the Fair Cross-Section Guarantee](#), Nina Chernoff, 101 Iowa L.R. 1719 (2016)
- [Systemic Negligence in Jury Operations: Why the Definition of Systemic Exclusion in Fair Cross Section Claims Must Be Expanded](#), Paula Hannaford-Agor, 59 Drake L. Rev. 761 (2011)

### **Case Law**

- *Castaneda v. Partida*, 430 U. S. 482 (1977) (Addressing the underrepresentation of Mexican-Americans on grand jury panels).
- *Duren v. Missouri*, 439 U.S. 357 (1979) (No distinctive group may be systematically excluded from jury service).

### **Batson and Peremptory Strikes**

- [A Call to Criminal Courts: Record Rules for Batson](#)- Catherine Grosso and Barbara O'Brien, *Kentucky Law Journal*, Vol. 105 (2017).
- Arizona Supreme Court Rules change [eliminates peremptory strikes](#)
- [Asymmetry as Fairness: Reversing a Peremptory Trend](#), Anna Roberts, 92 Wash. U. L. Rev. 1503 (2015).
- [Batson Reform: State-by-State](#), Berkeley Law (web resource)



- [Beyond Batson's Scrutiny: A Preliminary Look at Racial Disparities in Prosecutorial Preemptory Strikes Following the Passage of the North Carolina Racial Justice Act](#)- Catherine Grosso and Barbara O'Brien, 46 U.C. Davis L. Rev. 1623 (2013).
- [California Adopts New Laws to Fight Racism in Jury Selection](#), By Kyle C. Barry, *The Appeal*, September 30, 2020. (see also, [AB3070](#)).
- [Object Anyway](#), More Perfect by NPR, July 2016 (podcast).
- [Washington General Rule 37](#) (In 2018, Washington's Supreme Court adopted General Rule 37, which designates a list of reasons for a preemptory strike that judges must treat as presumptively invalid because they have been "associated with improper discrimination in jury selection.)
- [Whitewashing the Jury Box: How California Perpetuates the Discriminatory Exclusion of Black and Latinx Jurors](#) (Berkeley Law, Death Penalty Clinic, June 2020)

#### Case Law

- [Batson v. Kentucky](#), 476 U.S. 79 (1986) (The exercise of racially discriminatory preemptory challenges violates the Equal Protection Clause of the 14<sup>th</sup> Amendment)
- [Flowers v. Mississippi](#), 588 U.S. \_\_\_\_ (2019) (Successful challenge of racially motivated strikes by the prosecution, based on a pattern of conduct over the course of 6 trials. In Sept. 2020 the state dropped the charges against Flowers.)
- [Foster v. Chatman](#), 578 U.S. \_\_\_\_ (2016) (Successful challenge of racially motivated strikes by the prosecution, relying on after discovered evidence of prosecution team notes)
- [Georgia v. McCollum](#), 505 U.S. 42 (1992) (holding the Constitution prohibits the defendant from engaging in purposeful racial discrimination in the exercise of preemptory challenges.)
- [J.E.B. v. Alabama](#), 511 U.S. 127 (1994) (prohibiting the exercise of preemptory strikes on the basis of gender).
- [People v. Silas](#), A150512 (Cal. Ct. App. Sep. 17, 2021) (Contra Costa, CA)(Reversing a conviction for racially discriminatory strikes based upon juror support of Black Lives Matter.)

