

## **Improving the Jury System: Nonunanimous Verdicts \***

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Abstract

Critics of the jury system characterize it as inefficient, unreliable and unpopular. The system, they argue, contributes significantly to the expense and delay that characterize both the civil and criminal justice systems today. Verdicts, at least in several recent and highly publicized cases, appear to depart from what common sense and the evidence, as the media report it, seems to indicate. The public seems disillusioned, and increasingly views jury service as inconvenient and intrusive.

This paper is part of a series examining ways the jury system might be improved. Some observers of the jury system believe that the requirement that the jury's verdict be unanimous in serious, criminal cases should be changed. By allowing juries to decide cases by a 10-2 or 11-1 vote, the number of mistrials could be reduced, saving time and money. Further, the problem of hold-out jurors who stymie the jury by taking unreasonable positions could be solved, which would increase the esteem in which the jury is held by eliminating obvious miscarriages of justice.

Majority verdicts would clearly reduce the number of hung juries. Allowing majority verdicts would also, probably, reduce the amount of time juries spend deliberating in all cases. Critics of majority verdicts argue that using majority verdicts undercuts the basic, deliberative function of a jury, by suggesting that the jurors need not consider each other's opinions and interpretations of the evidence once a majority has been reached. The best available data suggest that it is rare for a single juror or two to hold-out unreasonably, and, so, such a radical change in the basic character of the jury system is unwarranted.

\* This paper is one of four in this volume on improving the jury system. The other papers are: *Peremptory Challenges*, *Jury Instructions: Helping Jurors Understand the Evidence and the Law*, and *Reducing Jury Size*.