Bureau of Justice Statistics

State Court Organization

2004

Courts and judges
Judicial selection and service
Judicial branch
Appellate courts
Trial courts
The jury
The sentencing context
Court structure
U.S. Department of Justice
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State Court Organization
2004

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A joint effort of the Conference of State Court Administrators
and National Center for State Courts

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This edition of State Court Organization, like the other four volumes in the series, is a product of the state court community. The Conference of State Court Administrators sponsors the series and makes available its Court Statistics Committee to guide compilation of each edition. The contents of each edition are determined by canvassing the issues and information items of primary concern to state court administrators and in consultation with staff from the Bureau of Justice Statistics. A special subcommittee of the COSCA Court Statistics Committee participated in all stages of work on the new edition. Their keen attention to matters of substance and format went beyond what reasonably can be expected, and their unflaflagging good spirits made our work enjoyable as well as productive. We are grateful for their continued active participation in the State Court Organization series.

State court administrators and appellate court clerks are the primary source of the information included in this volume. Their generous investment of time and effort makes the State Court Organization series possible. Their patience and perseverance is greatly appreciated.

Staff from the Bureau of Justice Statistics, notably Steven Smith, Ph.D. and Thomas Cohen, Ph.D., contributed their expertise on topics from survey design to the visual display of information. The Bureau's funding makes the entire State Court Organization enterprise possible.

Neal Kauder of VisualResearch, Inc. provided the design concept and later refinements for the tables of information that follow, making the contents easier on the eye and patterns in the data easier to grasp.

Finally, we are grateful to our NCSC colleagues who provided insight and assistance on specific topics. Special thanks are due to Paula Hannaford-Agor, Pamela Casey, William Hewitt, and Nicole Waters in the Research Division and to Carol Flango, Madelynn Herman, Jennifer Elek, and Anne Skove in Knowledge and Information Services.

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Part VI: The Jury

This section uses several tables to describe jury selection, jury verdict rules in the state courts, and the composition and function of the grand jury in state courts.

"No person shall be held to answer for a capital, or other infamous crime, unless on a presentment or indictment at a grand jury." That clause from the Fifth Amendment to the U.S. Constitution applies to all felony prosecutions in the federal courts. The information in Table 38 shows that while most states retain the option of a grand jury indictment, few require it to begin felony proceedings. A diminished role for the state grand jury in processing felony cases can be seen early in this century. Grand jury indictments were largely replaced by the practice of prosecutors filing a document called a criminal information, a practice ultimately upheld by the U.S. Supreme Court (In re McNaught, 1909; Palko v. Connecticut, 1937). Table 38 indicates whether a grand jury indictment is required for all felony prosecutions, the size of the grand jury, the number needed to indict, the statutory term of grand jury sittings, and the civic duties undertaken by grand juries.

Table 39 starts the description of trial juries by indicating the basis for the master list from which the jury pool is drawn and the relevant state statute. Most states use a variety of sources to compile a master list. Sources followed by an asterisk must be used; others are generally used at the discretion of local jury commissioners. Qualifications for jury service in terms of age, time elapsed since a prior jury service, residency, and English proficiency are specified. The table indicates, through footnotes, the states that have adopted the provisions of the Uniform Jury Selection and Service Act, which was drafted in 1970 by the National Conference of Commissioners on Uniform State Laws.

Table 40 lists the factors that exempt an individual from jury duty. Exemptions are generally based on age or occupation. Twenty-four states and the District of Columbia do not grant automatic occupational exemptions; several other states limit exemptions to those on active military service. Excusals from jury service follow from claims of undue hardship, extreme inconvenience, public necessity, or mental disability. Table 40 also details the obligations that employers bear in each state toward maintaining the salaries of employees while on jury service. The daily fee, if any, paid to serving jurors is also indicated.

The allocation of peremptory challenges is described in Table 41. The number of peremptory challenges available to the parties to a dispute is indicated for civil and criminal cases. Criminal cases are subdivided into capital, felony, and misdemeanor cases. In criminal cases, the number of peremptory challenges may be different for the state and the defense. Additional provisions for peremptory challenges are sometimes specified for the selection of alternate juries and in cases involving multiple parties.

Since 1970, U.S. Supreme Court decisions have allowed states to move away from the traditional federal jury standard of 12 members who must reach a unanimous verdict. Specifically, six-member juries were found to be constitutional in Williams v. Florida, 399 U.S. 78 (1970) and non-unanimous verdicts in Apodaca v. Oregon, 406 U.S. 404 (1972). Table 42 specifies jury size and verdict rules for felony, misdemeanor, and civil cases. The relaxation of traditional size and verdict requirements is most prevalent for misdemeanor criminal cases. Four states use eight- (Arizona and Utah) or six-member juries (Connecticut and Florida) in their courts of general jurisdiction for non-capital felonies, and two states (Louisiana and Oregon) and Puerto Rico do not require a unanimous verdict in such cases. States that continue to use a 12-member, unanimous verdict jury typically allow the parties to agree to a smaller, non-unanimous jury.

Select Bibliography:


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For links to prominent web-sites devoted to jury issues, see [http://www.ncsconline.org/juries/links.htm](http://www.ncsconline.org/juries/links.htm).

**Table 42:**


"'Black Box Decisions' on Life or Death—If They're Arbitrary, Don't Blame the Jury: A Reply to Judge Patrick Higginbotham," *Case Western Reserve Law Review*, Volume 41, Number 4, 1991.
<table>
<thead>
<tr>
<th>State</th>
<th>Indictment required for all felonies?</th>
<th>Grand jury size</th>
<th>Size of quorum</th>
<th>Number needed to indict</th>
<th>Statutory term</th>
<th>Special civil duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>❌</td>
<td>18</td>
<td>13</td>
<td>12</td>
<td>Less than 50,000 population, not less than two per year; over 50,000 population, minimum of four per year</td>
<td>Inspect jails, examine county treasurer and education superintendent bookingkeeping</td>
</tr>
<tr>
<td>Alaska</td>
<td>❌</td>
<td>12 to 18</td>
<td>12</td>
<td>Majority</td>
<td>Up to four months, unless extended for good cause</td>
<td>Investigate and make recommendations about public safety and welfare</td>
</tr>
<tr>
<td>Arizona</td>
<td>❌</td>
<td>12 to 16</td>
<td>9</td>
<td>9</td>
<td>County grand jury, up to 120 days; statewide grand jury, six months</td>
<td>Investigate corruption of public officers</td>
</tr>
<tr>
<td>Arkansas</td>
<td>❌</td>
<td>16</td>
<td>12</td>
<td>12</td>
<td>1 year maximum</td>
<td>Inspect prisons, investigate corruption of public officers</td>
</tr>
<tr>
<td>California</td>
<td>❌</td>
<td>23/19/11</td>
<td>14/12/8</td>
<td>14/12/8</td>
<td>1 year</td>
<td>Investigate operation of local government, public records</td>
</tr>
<tr>
<td>Colorado</td>
<td>❌</td>
<td>23/12</td>
<td>12/9</td>
<td>12/9</td>
<td>12 months, may be extended by six months</td>
<td>~</td>
</tr>
<tr>
<td>Connecticut</td>
<td>❌</td>
<td>1-3</td>
<td>~</td>
<td>~</td>
<td>Varies</td>
<td>~</td>
</tr>
<tr>
<td>Delaware</td>
<td>❌</td>
<td>15/10</td>
<td>9/7</td>
<td>9/7</td>
<td>Serve for three months in NCC, and one year in Kent and Sussex</td>
<td>~</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>❌</td>
<td>16 to 23</td>
<td>16</td>
<td>12</td>
<td>Up to 18 months, may be extended by six months</td>
<td>Investigate political corruption, election rules violations</td>
</tr>
<tr>
<td>Florida</td>
<td>❌</td>
<td>15 to 21</td>
<td>12</td>
<td>12</td>
<td>12 months, may be extended by six months</td>
<td>Inspect jails, public buildings, offices of superior and probate courts, county treasurer, district attorney, school superintendent; appoint committee to inspect other county offices and officers</td>
</tr>
<tr>
<td>Georgia</td>
<td>❌</td>
<td>16 to 23</td>
<td>16</td>
<td>12</td>
<td>Coterminal with term of court for which summoned</td>
<td>~</td>
</tr>
<tr>
<td>Hawaii</td>
<td>❌</td>
<td>16</td>
<td>8</td>
<td>3/4, but not less than 8 of the jurors present</td>
<td>1 year</td>
<td>~</td>
</tr>
<tr>
<td>Idaho</td>
<td>❌</td>
<td>16</td>
<td>12</td>
<td>12</td>
<td>6 months</td>
<td>~</td>
</tr>
<tr>
<td>Illinois</td>
<td>❌</td>
<td>16</td>
<td>12</td>
<td>9</td>
<td>18 months maximum</td>
<td>Inspect jails</td>
</tr>
<tr>
<td>Indiana</td>
<td>❌</td>
<td>6</td>
<td>5</td>
<td>5</td>
<td>Up to six months, may be extended up to two years</td>
<td>Submit status report on county homes and correctional facilities</td>
</tr>
<tr>
<td>Iowa</td>
<td>❌</td>
<td>7</td>
<td>5</td>
<td>5</td>
<td>1 year, may be extended until investigation completed</td>
<td>Inspect public prisons, county institutions, places of detention, investigate misconduct of public officers</td>
</tr>
<tr>
<td>Kansas</td>
<td>❌</td>
<td>15</td>
<td>12</td>
<td>12</td>
<td>3 months, may be extended to six</td>
<td>~</td>
</tr>
<tr>
<td>Kentucky</td>
<td>❌</td>
<td>12</td>
<td>9</td>
<td>9</td>
<td>20 court days, 90 days for special grand jury</td>
<td>Investigate public corruption, election rules violations</td>
</tr>
<tr>
<td>Louisiana</td>
<td>❌</td>
<td>12</td>
<td>9</td>
<td>9</td>
<td>4 to 8 months, one year in Cameron Parish</td>
<td>Inspect jails and other public facilities</td>
</tr>
<tr>
<td>Maine</td>
<td>❌</td>
<td>13 to 23</td>
<td>13</td>
<td>12</td>
<td>1 year maximum</td>
<td>Inspect local jail conditions</td>
</tr>
<tr>
<td>Maryland</td>
<td>❌</td>
<td>23</td>
<td>13</td>
<td>12</td>
<td>Coterminal with term of court for which summoned</td>
<td>~</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>❌</td>
<td>23</td>
<td>12</td>
<td>12</td>
<td>3 months, may be extended</td>
<td>~</td>
</tr>
<tr>
<td>Michigan</td>
<td>❌</td>
<td>13 to 17</td>
<td>13</td>
<td>9</td>
<td>6 months, may be extended up to one year</td>
<td>~</td>
</tr>
<tr>
<td>State</td>
<td>Indictment required for all felonies?</td>
<td>Grand jury size</td>
<td>Size of quorum</td>
<td>Number needed to indict</td>
<td>Statutory term</td>
<td>Special civil duties</td>
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<td>--------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Minnesota</td>
<td></td>
<td>16 to 23</td>
<td>16</td>
<td>12</td>
<td>1 year maximum</td>
<td>Inspect prison management, investigate public corruption</td>
</tr>
<tr>
<td>Mississippi</td>
<td>■</td>
<td>20</td>
<td>15</td>
<td>12</td>
<td>6 months</td>
<td>Inspect county offices, jails, tax books</td>
</tr>
<tr>
<td>Missouri</td>
<td></td>
<td>12</td>
<td>12</td>
<td>9</td>
<td>Up to six months; may be extended to nine months</td>
<td>Inspect public buildings, investigate conduct of public officers</td>
</tr>
<tr>
<td>Montana</td>
<td></td>
<td>11</td>
<td>11</td>
<td>8</td>
<td>Varies</td>
<td>Inspect prisons, county books and records, investigate public corruption</td>
</tr>
<tr>
<td>Nebraska</td>
<td></td>
<td>16</td>
<td>12</td>
<td>12</td>
<td>Varies</td>
<td>Inspect county jails</td>
</tr>
<tr>
<td>Nevada 10</td>
<td></td>
<td>17</td>
<td>12</td>
<td>12</td>
<td>1 year</td>
<td>Inspect prisons and public records, investigate conduct of public officers</td>
</tr>
<tr>
<td>New Hampshire</td>
<td></td>
<td>23</td>
<td>12</td>
<td>12</td>
<td>30 days maximum</td>
<td>Investigate public affairs and conditions</td>
</tr>
<tr>
<td>New Jersey</td>
<td>■</td>
<td>23</td>
<td>12</td>
<td>12</td>
<td>20 weeks maximum</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
<td>12</td>
<td>12</td>
<td>6</td>
<td>3 months</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td>16 to 23</td>
<td>16</td>
<td>12</td>
<td>No set term</td>
<td>Investigate conduct of public officers</td>
</tr>
<tr>
<td>North Carolina</td>
<td></td>
<td>12 to 18</td>
<td>12</td>
<td>12</td>
<td>1 year (If judge finds burden on jurors and their employers is too great, may fix term at six months)</td>
<td>Inspect jails and other county offices or agencies</td>
</tr>
<tr>
<td>North Dakota</td>
<td></td>
<td>8 to 11</td>
<td>8</td>
<td>6</td>
<td>10 days</td>
<td>Inspect prisons, investigate public corruption</td>
</tr>
<tr>
<td>Ohio</td>
<td>■</td>
<td>15</td>
<td>9</td>
<td>12</td>
<td>Up to four months, may be extended to six months</td>
<td>Inspect jails</td>
</tr>
<tr>
<td>Oklahoma</td>
<td></td>
<td>12</td>
<td>12</td>
<td>9</td>
<td>16 months, may be extended by six months</td>
<td>Investigate public officer conduct, prison management</td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td>7</td>
<td>5</td>
<td>5</td>
<td>Varies by county</td>
<td>Inspect jails and youth detention facilities</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td>23</td>
<td>15</td>
<td>–</td>
<td>18 months, may be extended by six months</td>
<td></td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>N/S</td>
<td>N/S</td>
<td>N/S</td>
<td>N/S</td>
<td>N/S</td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td>■</td>
<td>13 to 23</td>
<td>13 to 23</td>
<td>12</td>
<td>18 months maximum</td>
<td>Investigate conduct of public officers</td>
</tr>
<tr>
<td>South Carolina</td>
<td></td>
<td>18</td>
<td>12</td>
<td>12</td>
<td>2 year maximum</td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td></td>
<td>6 to 10</td>
<td>6</td>
<td>6</td>
<td>18 months maximum</td>
<td>Inspect prisons, investigate conduct of public officers, examine public records</td>
</tr>
<tr>
<td>Tennessee</td>
<td>■</td>
<td>13</td>
<td>12</td>
<td>12</td>
<td>Foreperson serves for two years. The other 12 serve until dismissed by the judge or until the next term.</td>
<td>Inspect conditions and management of prisons and other county buildings, investigate conduct of public officers, inquire into county treasury</td>
</tr>
<tr>
<td>Texas</td>
<td></td>
<td>12</td>
<td>9</td>
<td>9</td>
<td>Varies</td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td></td>
<td>9 to 15</td>
<td>3/4 of jury</td>
<td>18</td>
<td>18 months, may be extended by six months</td>
<td></td>
</tr>
<tr>
<td>Vermont</td>
<td></td>
<td>16 to 23</td>
<td>18</td>
<td>12</td>
<td>6 months</td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td>■</td>
<td>5 to 7</td>
<td>5</td>
<td>4</td>
<td>1 year, may be extended by six</td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td></td>
<td>12</td>
<td>12</td>
<td>3/4 of jury</td>
<td>60 days, may be extended by 60 days</td>
<td>Investigate public corruption</td>
</tr>
<tr>
<td>West Virginia</td>
<td>■</td>
<td>16</td>
<td>15</td>
<td>12</td>
<td>1 term (4 months), may be extended</td>
<td></td>
</tr>
<tr>
<td>Wisconsin 12</td>
<td></td>
<td>17</td>
<td>14</td>
<td>12</td>
<td>31 consecutive days, or time necessary to complete proceedings</td>
<td></td>
</tr>
</tbody>
</table>
### Table 38. Grand Juries: Composition and Function

Legend: --=Not applicable; N/S=Not stated; ■=Yes

<table>
<thead>
<tr>
<th>State</th>
<th>Indictment required for all felonies?</th>
<th>Grand jury size</th>
<th>Size of quorum</th>
<th>Number needed to indict</th>
<th>Statutory term to Indict</th>
<th>Special civil duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wyoming</td>
<td>■</td>
<td>12</td>
<td>9</td>
<td>9</td>
<td>Up to 1 year, may be extended by six months</td>
<td>Inspect jails</td>
</tr>
</tbody>
</table>

*Unless waived by the accused; "No" = not required, but available.

Note: Grand juries in all states have the power to investigate crimes. In all but two states, Connecticut and Pennsylvania, grand juries also return indictments.

#### FOOTNOTES:

**California:**
1. In counties with populations exceeding four million, there are 23 members on a grand jury, with 14 as the number needed for a quorum and to indict; in counties having a population less than 20,000, there are 11 members on the grand jury, with eight as the number needed for a quorum and to indict; in all other counties, there are 19 members on the grand jury, with 12 as the number needed for a quorum and to indict.

**Colorado:**
2. Upon motion by district attorney and for good cause, a grand jury may consist of 23 jurors, with 12 as the number needed for a quorum and to indict; otherwise, grand juries consist of 12 members, with nine as the number needed for a quorum and to indict.

**Connecticut:**
3. The grand jury is composed of judges.

**Delaware:**
4. In New Castle County a grand jury consists of 15 members, with indictment by nine. In Kent and Sussex Counties a grand jury is composed of 10 members, with indictment by seven.

**District of Columbia**
5. A defendant may waive his/her right to a grand jury in non-capital cases.

**Florida:**
6. A grand jury indictment is required for capital felonies, but optional for other felonies.
7. Statewide, a grand jury consists of 18 jurors, with 15 as the number needed for a quorum, and 12 as the number needed to indict.

**Michigan:**
8. For multi-county grand juries, the Court of Appeals shall designate the number of jurors to be drawn. (MCL 767.7e)

**Missouri:**
9. Grand juries may be called by the Circuit Court.

**Nevada:**
10. Every public offense must be prosecuted by indictment or information, except removal of civil officer, offenses arising in militia, and offenses tried in municipal or justice court.

**Rhode Island:**
11. A grand jury indictment is required in capital and life imprisonment cases only.

**Wisconsin:**
12. Wisconsin has not convened a grand jury in at least 30 years, although the grand jury statute is still on the books. As a practical matter, it serves no function.