

# Why Americans Have a Right to Trial by Jury

John Adams said the right to a trial by jury, along with representative government, serve as “the heart and lungs of liberty.”

The right to a trial by jury, deeply rooted in English common law and embraced by America’s [Founding Fathers](#), remains a cornerstone of the U.S. legal system today.

“To the framers, the jury was a fundamental part of our democracy and a check on potential government overreach and abuse,” says [Brianne Gorod](#), chief counsel of the [Constitutional Accountability Center](#).

Codified as the Sixth and Seventh Amendments in the [Bill of Rights](#), the right to a jury trial, along with representative government, serve as “the heart and lungs of liberty,” according to [John Adams](#). “Without them we have no other fortification against being ridden like horses, fleeces like sheep, worked like cattle, and fed and clothed like swine and hounds,” he said.

## Early History

The concept of a trial by jury dates back centuries, with ancient Egyptians, Greeks, Romans, Saxons and early Germanic tribes using early forms of the legal practice. In ancient Greece, massive juries of up to 500 men heard cases, while more modern trial jury systems emerged after the Norman Conquest of 1066 in medieval England and Normandy and during the reign of [King Henry III](#).

The American trial-by-jury system was inspired by the 1215 [Magna Carta](#), the “great charter” of English rights signed by King John. It

stated that the king was not above the law and guaranteed certain civil rights, including a fair trial by jury.

“No free man shall be seized or imprisoned, or stripped of his rights or possessions...except by the lawful judgment of his equals (peers),” [Chapter 39 of the text reads](#). The document, which inspired the [Declaration of Independence](#), as well as the [U.S. Constitution](#), was favored by American colonists who believed a trial by jury to be a fundamental right.

In addition to the Magna Carta, the founders were also influenced by philosophers, such as [John Locke](#) and Montesquieu, according to [Brianna Seid](#), counsel in the [Brennan Center’s Justice Program](#).

“By the 17th century, the right to a jury trial was pretty well established in English common law and was seen as a fundamental right and an essential safeguard against arbitrary rule,” Seid says.

## The Sixth and Seventh Amendments

Following the passage of the [U.S. Constitution](#), [James Madison](#) collaborated with other founding fathers to add a [Bill of Rights](#) to address anti-federalist concerns, including protecting core freedoms and limiting federal power. Ratified in 1791, the Sixth and Seventh Amendments, both concerning jury trials, were included in the first 10 amendments.

The [Sixth Amendment](#), introduced by Madison at the first Congress in 1789, codified the right to a speedy public trial by an impartial jury, the right to be informed of the charges, the right to confront witnesses, to obtain witnesses for the defense and the right to an attorney.

“As the text of the Sixth Amendment makes clear, critical to the framers’ conception of a jury was the belief that members of the jury should be impartial,” Gorod says. “In other words, jurors would decide cases not based on biases toward or against any of the parties, but instead based on the evidence that was presented at trial through our adversarial system of justice.”

The [Seventh Amendment](#) codified the right to jury trials in federal civil cases if the dispute exceeds \$20, a figure that still stands today. Madison also proposed this amendment, which states that once the case is tried, it can't be reexamined in any U.S. court.

In [History of Trial by Jury](#), originally published in 1852, William Forsyth points to the jury system's distinctive characteristic: "namely, that the Jury consists of a body of men taken from the community at large, summoned to find the truth of disputed facts, who are quite distinct from the judges or court."

He writes that the jury is tasked with deciding the question at issue, so that a "right judgment" can be made. "But they are not the court itself, nor do they form part of it," he continues, "and they have nothing to do with the sentence which follows the delivery of their verdict."

## **A Check Against Government Overreach**

According to Seid, the founders were wary of a powerful central government and sought to prevent abuses of power.

"A jury trial was seen as a crucial check against potential government overreach and unjust prosecutions," she says. "The thinking was that a group of peers, unlike biased judges or corrupt government officials, could provide a balanced and impartial assessment of the evidence and that common citizens would uphold community standards and protect against tyrannical government actions."

The fragment of the Sixth Amendment guaranteeing public trials is also important to note, Seid adds. "The goal was to promote transparency in the legal process and ensure that justice was administered openly, fostering public confidence in the legal system," she says.

## **Differences from Other Legal Systems**

The American concept of a trial by jury differed from other legal systems across the globe.

“While England had a well-established jury system, in other countries jury trials were not as central to the legal process,” Seid says. “For example, many European countries only had—and some still only have—jury trials for the more serious criminal cases.”

She adds that judges often handled civil and less severe criminal cases, forgoing juries altogether. “However, in countries like France, the legal system underwent significant changes during and after the [French Revolution](#). The introduction of the jury system in criminal cases was influenced by Enlightenment ideas but still was not as deeply entrenched or widely applied as in America.”

## Changes to the Jury System

Since the inception of the American jury system, it has undergone a few modifications. Seid notes the [U.S. Supreme Court](#)’s decision to extend the Sixth Amendment to the states, thereby guaranteeing the right to a jury trial in both federal and state cases.

“There have also been changes to whether a verdict needs to be unanimous,” Seid says. “At first the Supreme Court said that the verdict did not need to be unanimous in state cases and that individual states could decide, but they later changed their mind on this and said that verdicts do need to be unanimous.”

She also notes that women were not allowed to serve on juries in all 50 states until 1973.

## Serving on a Jury

Serving on a jury is a duty for all Americans age 18 and older. District courts send summons requiring citizens to report to jury duty and potential jury pools are randomly selected. Attorneys for the prosecution and defense choose the jury.

"Today, no less than when the amendments were ratified, the jury right ensures that 'We the People'—everyday Americans—have an important role to play in our nation's judicial system," Gorod says.

Other than voting, Seid says serving on a jury is one of the most basic ways an ordinary citizen can participate in American democracy.

"I think that the founder's reasoning still applies today; jury service empowers ordinary citizens to become instruments of justice while representing the values and norms of their own communities," she says. "Oftentimes, jury service is the only opportunity for this community perspective to have a meaningful impact on the outcome of a case in the criminal legal system."