

6th Amendment

Created By: Tecoya Brantley-Williams, Sonja Bryant and Tasha Bowman (2018)

Subject / Lesson: Social Studies

Grade Level: 10-12 grade(s)

Overview/Description: Students will be able to have an applicable understanding of the overall implications of the 6th Amendment as it applies to the rights of those accused.

Duration: 2 class periods for block schedule/ 3 to 4 class periods for traditional schedule

Standards:

USG: 4.5: Evaluate the importance of civil rights and civil liberties for citizens in American political culture and the protective role of the national government through the Bill of Rights, the judicial system, and the Fourteenth Amendment. USG-4.6 Explain how fundamental values, principles, and rights often conflict within

USG: 1.5: Evaluate limited government and unlimited government with regard to governance, including rule of law, the role of constitutions, civil rights, political freedom, economic freedom, and the ability of citizens to impact or influence the governing process.

Objectives: Students will be able to interpret Supreme Court decisions and analyze how they apply to the rights guaranteed by the 6th Amendment.

Materials and Resources:

1. CP Students: Each student will be provided with a list of key vocabulary that is related to each court case.
2. Honors/AP Students will be required to formulate their own list.
3. Appropriate textbook may be used for additional research for each student.
4. Students will need access to computers for research and possible multimedia presentation.
 - o <https://www.oyez.org>
 - o <https://www.supremecourt.gov>
 - o <https://constitutioncenter.org/interactive-constitution>
5. <http://www.uscourts.gov/about-federal-courts/educational-resources/educational-activities/sixth-amendment-activities>:

6. <http://www.uscourts.gov> This resource provides additional information and activities on different 6th Amendment cases as well as videos and discussion questions.

Instruction/Demonstration/Procedures: This lesson will

1. Differentiated student groups for research purposes.
2. Each group will be assigned a different case.
3. Each group will create a multimedia presentation that addresses the following:
 - a. Brief overview of the facts of the case
 - b. Definition of key vocabulary
 - c. Define and explain the importance of the 6th Amendment provision that applies to their individual case
 - d. AP/Honors should include the historical context for their assigned provision.

Activities:

1. Research using the websites
2. Creation of some type of multimedia presentation that may include but is not limited to a PowerPoint or Google Slides presentation or a physical presentation such as a poster/drawing

Links with Background Information:

1. https://www.youtube.com/watch?time_continue=107&v=TywjEd6QPuk : Video on the importance of an impartial federal judiciary
- 2

Assessments/Evaluation:

1. <https://docs.google.com/document/d/16lkVONPxyVS7n1W2xR6ciVEqR6sJ-lgtYeAOYZwXz8s/edit?usp=sharing>
2. Students may use the following to record notes from the other participating groups.

Presentation Group Notes

Group #:

Presentation #:

Period:

Assignment Date:

Group members:

Presentation Date:

1. Case:

2. Facts:

3. Vote:

4. Applicable law:

5. Issue:

6. Court ruling

7. Dissent (if applicable):

8. Evaluation:

Teacher "Cheat Sheet" on the Recommended Cases

Barker v. Wingo 1972

Petitioner: Willie Mae Barker

Respondent: John W. Wingo

Constitutional Question: Can the right to a speedy trial be implicitly waived?

Overview: Willie Barker and Silas Manning broke into the home of an elderly couple and beat them to death in 1958. The State decided to try Manning's case first because they believed it was the stronger of the two cases and Manning's testimony was needed to convict Barker. Barker's case was delayed numerous times due to the prosecution of Manning, however, Barker did not contest the continuances. Barker was brought to trial in 1963 and found guilty. He appealed the conviction stating that he was not granted a speedy trial.

Key Vocabulary:

- indict
- convict
- continuance
- contest
- habeas corpus relief
- affirm

Hurst v. Florida 2016

Petitioner: Timothy Lee Hurst

Respondent: Florida

Constitutional Question: Does the death penalty violate a citizen's trial by jury and the cruel and unusual punishment of the 8th Amendment?

Overview: Timothy Hurst was convicted of murdering his co-worker and sentenced to death. On appeal, he was granted a new sentencing trial because his lawyer previously failed to investigate or present evidence pertaining to his mental state/abilities. At the new sentencing trial, the new evidence relating to his mental ability was not able to be used to remove death from the sentencing options, and Mr. Hurst was again sentenced to the death penalty by a vote of seven to five.

Key Vocabulary:

- appeal
- mitigating evidence
- evidence
- concurring opinion
- dissenting opinion

Lewis v. United States 1996

Petitioner: Ray Lewis

Respondent: United States

Overview: Ray Lewis worked for the postal service and was caught opening mail then stealing its contents. The two charges against him each carried a sentence of six months. The judge in the case denied Lewis' request for a jury trial because the nature of the crime was minor and his sentence was short.

Key Vocabulary:

- bench trial
- aggregate
- petty offense
- pretrial commitment
- Magistrate

Pena-Rodriguez v. Colorado 2017

Petitioner: Miguel Angel Pena-Rodriguez

Respondent: Colorado

Overview: Miguel Pena-Rodriguez was convicted of unlawful sexual misconduct and harassment. His lawyer was later informed by two jurors that one of the other jurors made racially charged comments about Mr. Pena-Rodriguez and his alibi witness during jury deliberations. The racist comments brought into question the impartiality of the jury and thus the validity of the conviction. Mr. Pena-Rodriguez requested a new trial but was denied this request because jurors are barred from sharing any information about discussion or comments made during jury deliberations.

Key Vocabulary:

- affidavit
- bias
- alibi
- inadmissible
- voir dire
- racial animus

Waller v. Georgia 1984

Petitioner: Waller

Respondent: Georgia

Overview: Wiretaps were placed on a number of phones by the Georgia Police in an illegal gambling investigation. Those indicted moved to have the wiretaps and evidence seized during searches suppressed. Georgia moved to close to the public the proceedings related to the suppression of evidence because the evidence included alleged offenders who were not as of yet on trial. The suppression hearing lasted seven days, but less than 2.5 hours were devoted to playing the tapes.

Key Vocabulary:

- alleged
- suppress
- indicted
- acquitted
- presumption

Cunningham v. California (2007)

Petitioner: John Cunningham

Respondent: The State of California

Constitutional question: Trial by jury/sentencing

Overview: Sentencing was conducted by a judge with evidence not considered by a jury and not handed down by the jury.

Key Vocabulary:

- minimum sentence
- maximum sentence
- aggravating factors
- jury
- jury trial
- appeal
- judge discretion

Gideon v. Wainwright (1963)

Petitioner: Clarence Earl Gideon

Respondent: Louie L. Wainwright, Director, Division of Corrections

Constitutional question: Right to counsel

Gideon was not given counsel for his case because it was tried in a state criminal court.

Key Vocabulary:

- felony
- misdemeanor
- capital case
- habeas corpus
- right to counsel

Powell v. Alabama (1932)

Petitioner: Ozie Powell

Respondent: State of Alabama

Constitutional question: Due process

African American teens were accused of sexual assault of a white woman, the trial was rushed through with 3 trials and a death sentence in one day.

Key Vocabulary:

- legal proceedings
- due process
- 14th Amendment
- Counsel
- Racial climate of 1932/Jim Crow Laws

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Discussion Questions

1. How has the interpretation of the Jury Trial Clause changed since the founding of the United States?
2. Many cases are discussed extensively in the media before they are brought to trial. How does extensive media coverage affect the requirement that jurors be impartial?
3. What was the original purpose of the Right-to-Counsel Clause?
4. What is the importance of having a speedy and public trial?

Honors/AP Additional Question

Read the passage below then answer the questions.

5. What is the role of juries according to Tocqueville? Why does he praise them?

Alexis de Tocqueville, *Democracy in America: Historical-Critical Edition*, vol. 2 [1835]

Of the Jury in the United States Considered as a Political Institution:

The jury, which is one of the modes of sovereignty of the people, must be put in harmony with the other laws that establish this sovereignty. – Composition of the jury in the United States. – Effects produced by the jury on the national character. – Education that it gives to the people. – How it tends to establish the influence of magistrates and to spread the spirit of the jurist.

Since my subject has led me naturally to talk about the judicial system in the United States, I will not abandon this matter without dealing with the jury.

Two things must be distinguished: the jury as a judicial institution and as a political institution.

If it was a matter of knowing to what extent the jury, and above all the jury in civil matters, serves the good administration of justice, I would admit that its usefulness could be contested.

The institution of the jury was born in a society that was little advanced, where hardly anything was submitted to the courts except simple questions of fact; and it is not a simple task to adapt the jury to the needs of a very civilized people, when the relationships among men are singularly multiplied and have taken on a complicated and intellectual character.

My principal goal, at this moment, is to envisage the political side of the jury; another path would take me away from my subject. As for the jury considered as a judicial means, I will say only two words. When the English adopted the institution of the jury, they were a half-barbaric people; they have since become one of the most enlightened nations of the globe, and their attachment to the jury has seemed to increase with their enlightenment. They emerged from their territory, and we have seen them spread across the universe. Some formed colonies; others, independent States. The body of the nation kept the king; several of the emigrants founded powerful republics. But everywhere the English equally advocated the institution of [444] the jury.³

They established it everywhere or hastened to reestablish it. A judicial institution that thus obtains the votes of a great people over a long succession of centuries, that is zealously reproduced at all periods of civilization, in all climates and under all forms of government cannot be contrary to the spirit of justice.

But let us leave this subject. It would singularly narrow your thought to limit yourself to envisioning the jury as a judicial institution; for, if it exercises a great influence on the outcome of trials, it exercises a very much greater one on the very destinies of society. So the jury is before all else a political institution. You must always judge it from this point of view.

I understand by jury a certain number of citizens taken at random and vested temporarily with the right to judge.

To apply the jury to the suppression of crime appears to me to introduce into the government an eminently republican institution. Let me explain.

The institution of the jury can be aristocratic or democratic, depending on the class from which you take the jurors; but it always retains a [an eminently] republican character, in that it places the real direction of society in the hands of the governed or of a portion of them, and not in the hands of those governing.

Force is never more than a fleeting element of success; soon after force comes the idea of right. A government reduced to being able to reach its enemies only on the field of battle would soon be destroyed. The true sanction of political laws is therefore found in the penal laws and if the sanction is lacking, the law sooner or later loses its force. So the man who judges in a criminal court is really the master of society. Now, the institution of the jury puts the people themselves, or at least a class of citizens, on the judge's bench. So the institution of the jury really puts the leadership of society into the hands of the people or of this class.⁵

In England, the jury is recruited from among the aristocratic portion of the nation. The aristocracy makes the laws, applies the laws and judges the infractions of the laws. Everything is in accord: consequently England truly speaking forms an aristocratic republic. In the United States, the same system is applied to the whole people. Each American citizen is a voter and eligible for office and jury. The system of the jury, such as it is understood in America, seems to me as direct and as extreme a consequence of the dogma of sovereignty of the people as universal suffrage. These are two equally powerful means to make the majority rule.

All the sovereigns who have wanted to draw the sources of their power from within themselves and lead society instead of letting themselves be led by society have destroyed the institution of the jury or have enervated [446] it. The Tudors imprisoned jurors who would not condemn, and Napoleon had jurors chosen by his agents.

[It was the Bourbons who, in the year 1828, really reestablished among us the institution of the jury by making chance the principal arbiter of the choice of jurors. I cannot in this matter prevent myself from admiring the singular connection of events in this world. Bonaparte, who pretended to hold his right from the national will, made a law directly contrary to the sovereignty of the people, and the Bourbons, who said they held their right from themselves, returned the sanction to the hands of the people.

The law of 1828 was, without the knowledge of those who passed it, an immense advance made toward republican institutions in France. You would have noticed it clearly if the Restoration had not rushed headlong into an abyss. The jury thus emancipated would have been sufficient to bind the government little by little to the desires of the middle classes without having had the need to resort to force, because the majority of jurors was always found among the middle classes.

However evident most of the preceding truths may be, they do not strike all minds, and often, among us, there still seems to be only a confused idea of the institution of the jury. If someone wants to know what elements should make up the list of jurors, the discussion is limited to considering the enlightenment and capacity of those called to be a part of the list, as if it was only a matter of a judicial institution. In truth, that seems to me to be preoccupied with the least portion of the subject. The jury is before all else a political institution; it should be considered as a mode of sovereignty of the people; it must be entirely rejected when you rule out the sovereignty of the people, or must be put in harmony with the other laws that establish this sovereignty. The jury forms the part of the nation charged with ensuring the execution of the laws, as the legislative

houses are the part of the nation charged with making the laws; and for society to be governed in a fixed and uniform manner, it is necessary that the list of jurors be expanded or restricted with the list of voters. This is the point of view that, in my opinion, must always attract the principal attention of the legislator. The rest is so to speak secondary.

I am so persuaded that the jury is before all else a political institution that I still consider it in this way when it is applied to civil matters. [This can seem extraordinary at first glance. Here are my reasons for doing so.]

Laws are always shaky as long as they do not rely on mores; mores form the only resistant and enduring power among a people.

When the jury is reserved for criminal affairs, the people see it act only from time to time and in particular cases; they get used to doing without the jury in the ordinary course of life, and they consider it as a means and not as the only means for obtaining justice.⁶

When, on the contrary, the jury is extended to civil affairs, its application comes into view at every moment; then it touches all interests; each person comes to contribute to its action; in this way it enters into the customs of life; it bends the human spirit to its forms and merges so to speak with the very idea of justice.

So the institution of the jury, limited to criminal affairs, is always at risk; once introduced into civil matters, it stands up against time and the efforts of men. If you had been able to remove the jury from the mores of the English as easily as from their laws, the jury would have completely succumbed under the Tudors. So it is the civil jury that really saved the liberties of England.

In whatever manner you apply the jury, it cannot fail to exercise a great [448] influence on the national character, but this influence increases infinitely the more you introduce it into civil matters.

The jury, and above all the civil jury, serves to give the mind of all citizens a part of the habits of mind of the judge; and these habits are precisely those that best prepare the people to be free.

It spreads in all classes respect for the thing judged and for the idea of right. Remove these two things, and the love of independence will be nothing but a destructive passion.

It teaches men the practice of equity. Each person, by judging his neighbor, thinks that he can be judged in his turn. That is above all true of the jury in civil matters: there is hardly anyone who fears one day being the object of a criminal proceeding; but everyone can have a civil trial.

The jury teaches each man not to retreat from responsibility for his own actions; a manly disposition, without which there is no political virtue.

It vests each citizen with a sort of magistracy; it makes all feel that they have duties to fulfill toward society and that they enter into its government. By forcing men to get involved in something other than their own affairs, it combats individual egoism, which is like the rust of societies [{{that ruins nations more than armies do}}].

The jury serves unbelievably to form the judgment and to augment the natural enlightenment of the people. That, in my opinion, is its greatest advantage. You must consider it as a free school, always open, where each juror comes to be instructed about his rights, where he enters into daily communication with the most learned and most enlightened members of the upper classes, where the laws are taught to him in a practical way, and are put within the reach of his intelligence by the efforts of the lawyers, the advice of the judge and the very passions of the parties. I think that the practical intelligence and good political sense of the Americans must be attributed principally to the long use that they have made of the jury in civil matters.

I do not know if the jury is useful to those who have legal proceedings, but I am sure that it is very useful to those who judge them. I regard it as one of the most effective means that a society can use for the education of the people.

What precedes applies to all nations; but here is what is special to the Americans, and in general to democratic peoples.

I said above that in democracies the jurists, and among them the magistrates, form the only aristocratic body that can moderate the movements of the people. This aristocracy is vested with no physical power; it exercises its conservative influence only over minds. Now, it is in the institution of the civil jury that it finds the principal sources of its power.

In criminal trials, where society struggles against a man, the jury is led to see in the judge the passive instrument of the social power, and it distrusts his advice. Moreover, criminal trials rest entirely on simple facts that good sense easily comes to appreciate. On this ground, judge and juror are equal.

It is not the same in civil trials; then the judge appears as a disinterested arbiter between the passions of the parties. The jurors view him with confidence, and they listen to him with respect; for here his intelligence entirely dominates theirs. He is the one who lays out before them the diverse arguments that have fatigued their memory and who takes them by the hand to lead them through the twists and turns of procedure; he is the one who confines them to the point of fact and teaches them the answer that they must give to the question of law. His influence over them is almost without limits.

Is it necessary to say finally why I am so little moved by arguments drawn from the incapacity of jurors in civil matters?

In civil trials, at least whenever it is not a matter of questions of fact, the jury has only the appearance of a judicial body.

The jurors deliver the decision that the judge has rendered. They lend to this decision the authority of the society that they represent and he, the authority of reason and the law.

In England and in America, judges exercise an influence over the fate of criminal trials that the French judge has never known. It is easy to understand the reason for this difference: the English or American magistrate has established his power in civil matters; afterward he is only exercising it in another theater; he is not gaining it there.

There are cases, and they are often the most important ones, where the American judge has the right to deliver a verdict alone.⁷ He then finds himself, by happenstance, in the position where the French judge usually finds himself; but his moral power is very much greater: the memories of the jury still follow him, and his voice has almost as much power as that of the society of which the jurors were the organ.

His influence extends even well beyond the courtroom: in the diversions of private life as in the labors of political life, in the public square as within the legislatures, the American judge constantly finds around him men who are used to seeing in his intelligence something superior to their own; and, after being exercised in trials, his power makes itself felt in all the habits of mind and even on the very souls of those who have participated with him in judging.

So the jury, which seems to diminish the rights of the magistracy, really establishes its dominion, and there is no country where judges are as powerful as those where the people share their privileges.

With the aid of the jury in civil matters, above all, the American magistracy makes what I have called the spirit of the jurist enter into the lowest ranks of society.

Thus the jury, which is the most energetic means to make the people rule, is also the most effective means to teach them to rule.