

YOUR POWER ON JURY DUTY

The United States has the largest prison population in the world. Each year more than 14 million arrests are made. There are more than two million citizens incarcerated. That is more than any other nation, even Russia. Every night on local and national news media we hear about prisons over-flowing and inadequate budgets that cut programs and rehabilitative courses. Mandatory minimums are enforced, even though most citizens are sick of watching first time offenders and non-violent criminals filling the prisons to the rim.

Another problem is that many people do not vote simply because they believe it wouldn't count anyway. The only people who are called to jury duty are those who are, in the least, registered to vote (even if they don't). You may be one of those people who is not registered to vote and doesn't believe their vote counts. You are likely sick of seeing politicians fill the prisons with people who would better be served through community based treatment, or who simply deserve a second chance. You actually do have the power if you exercise it, through jury duty.

There is a legal term called "jury nullification". It is a constitutional doctrine which allows juries to acquit defendants who actually may be guilty. Judges, prosecutors and Defendants attorneys are not allowed to talk about nullification with juries, however, it is a legal doctrine.

The U.S. Supreme Court has ruled juries have the power to nullify laws. For example, if a jury does not believe a mandatory minimum is fair, but believe a defendant is guilty, they don't have to convict. That is why you will sometimes see prosecutors indict defendants with a crime along with similar lesser counts (e.g. Assault 1st degree and Assault 2nd degree.) That way if

a jury does not convict for one degree of an offense, they may on another.

However, most prosecutors avoid the lesser count and charge defendants with only one major charge (e.g. Assault 1st degree) and no lesser counts. This usually scares defendants into pleas, or a jury believes they have no choice but to convict for that offense.

However, if a jury (or just a few jurors) believe a law (or possible sentence) is not just they can vote not guilty, which nullifies the case. There is nothing a judge, or prosecutor, can do. Juries have the final say when it comes to guilt or innocence. It's legal and it's a power you can argue in a jury deliberation room if you are ever on jury duty.

Jury nullification has been promoted by former prosecutors as appropriate in non-violent drug cases. Paul Butler, a former Special Assistant United States Attorney in the District of Columbia made such an argument in an article published in Prison Legal News. (See Prison Legal News, June 2009 pgs. 14-15). But jurors should consider it in cases involving excessive mandatory minimum cases, like the so-called "Measure 11" mandatory minimums in the state of Oregon which allow teens as young as 15 to be tried as adults and given sentences as long as five (5) years ten (10) months for "beer runs" (stealing beer and running, which constitutes Robbery in the second degree).

I would encourage any one who thinks their vote does not count to rethink their position. There is never a time when a single voice cannot make a difference, even when faced with what seems like impossible odds. With simple jury duty you change lives, and laws.