

Sixth Amendment TIMELINE

Defendants can give up the right to a jury trial

1930

In *Patton v. United States*, the U.S. Supreme Court decides that defendants can give up their right to a jury trial, and choose to have the judge alone decide their guilt or innocence. This choice must be made with the understanding of what they are giving up (that is, it must be an “intelligent” or “knowing” choice). In the federal courts and in some state courts, the prosecution and the judge also must agree not to have a jury.



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Exclusion of ethnic groups from a jury is unconstitutional

1954

In *Hernandez v. Texas*, the U.S. Supreme Court rules that the exclusion of Mexican Americans from a jury, through the prosecutor’s use of peremptory challenges (objections to certain potential jurors serving on a jury without any specific reason), violates the Fourteenth Amendment’s requirement that all people be treated equally.

The Supreme Court reverses the conviction of the “Scottsboro Boys”

1932

In Scottsboro, Alabama, nine African Americans known as the “Scottsboro Boys” have been convicted of rape and sentenced to death. The U.S. Supreme Court overturns their convictions in *Powell v. Alabama* because their attorney had been appointed on the morning of the trial and had no opportunity to investigate the case or put on a meaningful defense. In a second trial, the nine men again are convicted, despite testimony by one of the alleged victims there has been no rape. Once again the Supreme Court reverses their convictions because of the exclusion of African Americans from the jury. At a third trial, four of the men are again convicted, while a fifth pleads guilty. Charges against the other four are dropped.



The Supreme Court rejects secret trials

1948

A Michigan law allows judges to hold secret grand jury proceedings. Grand jury proceedings historically have been conducted in private, but a grand jury only has the power to indict someone to stand trial. However, in this case, the grand jury goes further, deciding the defendant’s guilt, and sending him to jail. The U.S. Supreme Court in *In re Oliver*, overturns the conviction of a Michigan man who has been convicted and sentenced after such a secret hearing.



Scottsboro Boys Museum in Scottsboro, Alabama

Photo: Library of Congress

Pretrial publicity can jeopardize the right to an impartial jury

1961

If there has been an excessive amount of press coverage or other publicity before a defendant goes to trial, it may not be possible to find people to serve on a jury who have not prejudged the case. In *Irwin v. Dowd*, the U.S. Supreme Court rules that a criminal defendant is entitled to have a trial relocated to another community to make sure that the jury will be impartial.

The right to counsel is not dependent on the ability to pay

1963

Since 1938 the Supreme Court has ruled that the government has to provide counsel for defendants in federal court trials who cannot afford to pay for one. But the court does not extend this right to state trials until the landmark case of *Gideon v. Wainwright*. In *Argersinger v. Hamlin* (1972) the Court extends its Gideon ruling by specifying that a defendant found guilty, whether of a misdemeanor or a felony, cannot be sentenced to jail time unless offered an attorney at trial.

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The exclusion of jurors based on race is unconstitutional

→ 1965

In *Swain v. Alabama*, the U.S. Supreme Court holds that prosecutors cannot use peremptory challenges to exclude jurors of a particular race (as it had ruled earlier about ethnic groups). The Court sets rules for proving that jurors have been stricken because of their race. Having few or no minority jurors is not proof enough. It is necessary to show that minority jurors in a certain community have been excluded over a series of trials or over a period of years before a constitutional violation can be found. The Court's ruling in *J.E.B v. Alabama* (1994) extends this provision to gender as well as race.

Reservations about the death penalty should not bar one from a jury

→ 1968

A person who expresses reservations about the death penalty is not necessarily unfit to serve on a jury, the Supreme Court rules in *Witherspoon v. Illinois*. The Court holds that a prosecutor can "strike" a person from the jury "for cause" (that is, because of indications that the person cannot be fair) only if the potential juror cannot make an impartial decision about imposing the death penalty.

The Supreme Court relaxes the requirement of a twelve-member jury

→ 1970

Although it is not specified in the Constitution, the Supreme Court in *Thompson v. Utah* (1898) rules that, just as in England, a jury must have twelve people when trying someone charged with a serious crime. However in *Williams v. Florida* (1970), the Supreme Court calls a twelve-member jury a "historical accident" and decides that what matters is if the jury's size will allow it to reach a fair decision. The Court finds that it makes sense to determine the jury's size by the seriousness of the crime.



Photo: iStockphoto

Jury trials are not required for juvenile offenders

→ 1971

Although previous U.S. Supreme Court decisions afforded juvenile defendants many of the same constitutional protections as adults, in *McKeiver v. Pennsylvania*, the Court rules that juveniles do not have a Sixth Amendment right to a jury if tried in juvenile court.

Information in public court documents may be published

→ 1975

In *Cox Broadcasting Corp. v. Cohn*, the U.S. Supreme Court rules that a state cannot prevent the news media from publishing or broadcasting the name of a rape victim in a criminal case, when the name has already been included in a court document available to the public.

Presidential order permits military trials of suspected terrorists

→ 2001

Following the terrorist attacks on September 11, 2001, President George W. Bush signs a military order authorizing the government to detain noncitizens suspected of terrorism, and to try them before military tribunals. Civil liberties groups criticize the order, fearing that the accused might be held indefinitely without receiving a trial, and that trials could be held in secret, without the usual rules about the kind of evidence that is admissible.



President George W. Bush discusses creation of military commissions to try suspected terrorists.

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