

# An Examination of Website Advice to Avoid Jury Duty

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The use of a jury in legal proceedings can be traced as far back as the participatory democracies that emerged in Greece in the sixth century BC, although it was not until the signing of the Magna Carta that the right to a trial by a jury of one's peers emerged.<sup>1</sup> In the United States, the Sixth and Seventh Amendments of the U.S. Constitution expressly provide this right in both criminal and civil proceedings.<sup>2</sup> Furthermore, these amendments provide individuals with the right to a trial before an impartial jury.<sup>3</sup> This right intends to serve as a safeguard against unfair treatment during a trial, providing a system of checks and balances to pursue the goal that justice remains at the heart of the legal system. A jury is intended to serve as a cross-section of the community, as it is drawn from and purports to represent the collective community conscience and common sense when resolving disagreements.<sup>4</sup> Despite this rich constitutional history and community context, many residents of the United States actively seek to avoid jury service when they are called, for reasons we discuss further below. Some individuals search the Internet for information about how to avoid participating in jury service. As trial judges are tasked with oversight that spans the entire process of impanelment through *voir dire*, this study sought to provide a contextual background to assist the judiciary in easily recognizing and assessing potential jury avoidance. In the current study, the investigators examined advice offered by popular websites about how reluctant jurors may attempt to be excused from jury service.

A trial by jury represents an important aspect of democracy, offering citizens the opportunity to take an active role in the administration of justice. Although Americans seem to have deeply rooted and affirmative beliefs in the use of juries in civil and criminal trials, many find the prospect of serving on a jury to be undesirable and burdensome. Several possible explanations exist for why citizens may hold a negative view about serving on a jury. One explanation is that individuals are coerced into appearing and potentially serving on a jury. After all, failure to appear when summoned may result in legal sanctions, including fines or possibly jail time. In response, citizens may take a negative attitude toward jury service and even

become oppositional or avoidant, both when summoned and during the *voir dire* process. Psychologists refer to this phenomenon as the “negative participant effect” or, more controversially, the “screw you” effect.<sup>5</sup>

Citizens may also hold negative attitudes toward serving on a jury due to a cognitive distance between what they believe to be their responsibility toward themselves versus toward social institutions such as the judicial process. This phenomenon is similar to the “bystander effect” in which people do not offer assistance to a person in need because they suppose others will assist instead.<sup>6</sup> Upon receiving a summons, some citizens may simply disregard it, assuming other community members will appear to serve. When enough people respond this way or are excused from duty, courts in some jurisdictions may have a difficult time obtaining enough community members to form a jury. For the presiding chief judge in charge of providing an adequate jury pool, improper reductions in the jury pool frustrate the scheduled trial timeline and the overall judicial process if trials must be rescheduled due to an inadequate number of jurors. Furthermore, a shallow jury pool may force the jury to be impaneled with questionable jurors. This smaller number of possible jurors places an unnecessary tension between the Sixth Amendment right to a speedy trial and a person's right to a trial by jury.<sup>7</sup>

As another potential source of negative influence, the media often portray jury service as a burdensome task and something to be avoided. Negative societal attitudes about jury duty are readily observable in popular culture. Pejorative attitudes toward jury service can be found on popular television shows, in newspaper cartoons, and online. For example, in an episode of *The Simpsons*, the character Apu received a jury summons, discarded it in a nearby garbage can, and stated he felt “American” after doing so.<sup>8</sup> In the same episode, Homer explained to Bart that a person could easily avoid jury duty by proclaiming prejudice against all races.<sup>9</sup> Another example appeared in the television show *30 Rock* when main character Liz Lemon was summoned for jury duty.<sup>10</sup> In her attempt to avoid jury service, she arrived dressed as Princess Leia and stated during *voir dire* that she had the ability to read minds.<sup>11</sup>

## Footnotes

1. David M. Sams, Tess M.S. Neal & Stanley L. Brodsky, *Avoiding Jury Duty: Psychological and Legal Perspectives*, 25 JURY EXPERT 1, 4-8 (2013).
2. U.S. CONST. amends. VI and VII.
3. *Id.*
4. AMERICAN BAR ASSOCIATION: DIVISION FOR PUBLIC EDUCATION, DIALOGUE ON THE AMERICAN JURY: WE THE PEOPLE IN ACTION (2005), available at <http://www.americanbar.org/content/dam/aba/migrated/jury/moreinfo/dialoguepart1.authcheckdam.pdf>.
5. Joseph Masling, *Role-Related Behavior of the Subject and Psychologist and Its Effect Upon Psychological Data*, in THE NEBRASKA SYM-

POSIUM ON MOTIVATION 67 (David Levine ed., 1966).

6. John M. Darley & Bibb Latané, *Bystander Intervention in Emergencies: Diffusion of Responsibility*, 8 J. PERSONALITY & SOC. PSYCHOL. 377 (1968).
7. U.S. CONST. amend. VI.
8. *The Simpsons: Much Apu About Nothing* (season 7, episode 23) (Fox Broadcasting Company television broadcast May 5, 1996).
9. *Id.*
10. *30 Rock: The Funcooker* (season 3, episode 14) (NBC television broadcast Mar. 12, 2009).
11. *Id.*

While not every portrayal of jury service is negative, the media often paint jury service as undesirable or unimportant. Unless a show's main characters are involved in jury service, juries do not get much attention on popular television shows. This is even true of procedural dramas like *Law and Order* in which many scenes take place in a courtroom setting. Jury members are minimally included in these scenes, serving as faceless components within the courtroom.

The media are not the only purveyors of negative attitudes toward jury service in popular culture. For example, a perennial joke pokes fun at individuals who fail in their attempts to get out of jury duty, stating that juries are composed of people not smart enough to get out of jury duty. Although intended to be humorous, these examples illustrate the common societal attitude that serving on juries is both unpleasant and avoidable. Further, the derogation of jury service in popular culture may foster the perception that evasion of jury service is normal and even encouraged.<sup>12</sup>

On the surface, it might appear that attempts to avoid jury service have no measurable consequences. Some may find enjoyment in sharing stories about clever efforts to be dismissed from service. Although it may appear harmless and entertaining, the financial costs of absent jurors are often overlooked. When an individual presents for jury service and provides an excuse to be dismissed, the courts and the public incur costs in several areas. One study suggested each juror not chosen for actual jury service costs the community between \$800 and \$1,000 when accounting for juror payment for appearance, administrative court fees, and lost work productivity.<sup>13</sup> It is estimated that between \$25 to \$150 of these costs are incurred directly by the court for every juror that is dismissed, depending on the jurisdiction's compensation policy.<sup>14</sup>

Before the advent of the Internet, individuals who desired to be excused from jury service either had to come up with an excuse on their own or ask a close friend or relative for advice. Now, the Internet allows information to be shared quickly and impersonally. This is a relatively new phenomenon that has not been explored in the context of efforts to avoid jury duty. To investigate relevant Internet search trends among American citizens, we conducted a Google Trends search utilizing the phrase "how to get out of jury duty" (which is, of course, one of many similar phrases a person may use).<sup>15</sup> Google Trends, which was established in 2005, is a service provided by Google, Inc., that indicates how often a term is searched on Google across time and location.<sup>16</sup> The Google Trends keyword

analysis showed that the search volume for this phrase has remained fairly consistent between 2005 and 2015, averaging 12,100 searches per month.<sup>17</sup> Citizens in California, New Jersey, New York, and Pennsylvania conducting this search had the highest frequency.<sup>18</sup> When we conducted a similar analysis to compare the search volume to the search volume for "benefits of jury service," we received a message saying there was "not enough search volume to show graphs."<sup>19</sup> It seems Internet users are far more concerned with forming strategies to avoid jury service than they are with exploring potential benefits of their service.

The primary data we analyzed for this study came from Google as well. We systematically analyzed Google search results to generate a list of 10 of the most popularly visited websites offering information and strategies about how to get out of jury service. The excuses offered by these sites were analyzed for themes regarding strategies for avoiding jury duty. This information may be particularly helpful for the judiciary during initial pretrial screening of the overall jury pool as well as during *voir dire*. Judges currently conduct questioning during *voir dire* in most federal courts and in an increasing number of state courts.<sup>20</sup> In states where attorneys most often conduct *voir dire*, judges may still ask questions at their discretion.<sup>21</sup> Looking to Florida as an example, pursuant to the Florida Rules of Judicial Administration sections 2.255 and 2.256, the judiciary is tasked with overseeing initial state grand-jury selection as well as juror time management, both of which can be streamlined with additional knowledge of popular jury-avoidance tactics.<sup>22</sup> In all cases, it is the responsibility of the judge to oversee the *voir dire* process and maintain the integrity of the judicial system.<sup>23</sup> Research suggests potential jurors are more candid and honest when an attorney conducts *voir dire* than when a judge conducts it.<sup>24</sup> Thus, it is necessary for judges to be able to recognize avoidance strategies employed by potential jurors so that they may better understand and respond to them during *voir dire*. Recognizing themes in juror excuses may also aid in obtaining accurate

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12. Sams et al., *supra* note 1, at 6.

13. Paula L. Hannaford-Agor, *Saving Money for Everyone: The Current Economic Crisis Is an Opportunity to Get Serious About Improving Juror Utilization*, in *FUTURE TRENDS IN STATE COURTS* (2009).

14. *Id.*

15. Google Trends, using the search terms "how to get out of jury duty," <http://www.google.com/trends/explore#q=how%20to%20get%20out%20of%20jury%20duty>.

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. Mark A. Drummond, *Voir Dire: Don't Let the Judge Cut You Out*, LITIGATION NEWS, <https://apps.americanbar.org/litigation/litigationnews/articles-print/050412-practice-points-spring12.html>.

21. Susan E. Jones, *Judge- Versus Attorney-Conducted Voir Dire: An Empirical Investigation of Juror Candor*, 11 LAW & HUM. BEHAV. 131, 143 (1987).

22. Fla. R. Jud. Admin. 2.255 and 2.256 (Oct. 15, 2015).

23. John DiMotto, *The Role of the Trial Judge in Jury Selection*, BENCH AND BAR EXPERIENCES (April 21, 2011), <http://johndimotto.blogspot.com/2011/04/role-of-trial-judge-in-jury-selection.html>.

24. Jones, *supra* note 21.

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information from potential jurors and in facilitating the formation of an impartial jury.

**METHOD  
PROCEDURE**

We collected data by searching with the term “how to get out of jury duty” through the Google.com search engine utilizing computers located at various public educational institutions, in our homes, and at a public library, all with different Internet Protocol (IP) addresses. This measure was taken in an attempt to reduce the “filter bubble effect,” wherein an algorithm is used to provide relevant search results based on an individual user’s location and past searches.<sup>25</sup>

The searches returned nearly 400,000 results, with well over 200 on-target sites. Once the initial searches were conducted, each investigator recorded their top 100 search results. These four sets of top 100 search terms were then compared to each other. Each website was assigned a number based on the order in which it appeared in each investigator’s search. The first website to appear was assigned the number one, the second the number two, and so on. The numbers from each of the four searches were then summed, providing a “hit rate” for each website. The 10 websites with the highest hit rates—that is, the lowest sums—were included in the study. Once identified as a top-10 website, each of the sites was visited and analyzed to identify common themes.

**MATERIALS**

**Websites.** The following 10 webpages were identified through the method described above and served as the materials for our analysis. They are listed as follows in descending order by their popularity, beginning with the most popular:

1. “How to Get Out of Jury Duty”;<sup>26</sup>
2. “The Idiot’s Guide to Getting Out of Jury Duty”;<sup>27</sup>
3. “How To Get Out of Jury Duty”;<sup>28</sup>
4. “How To Get Out Of Jury Duty Summons—16 Fool-Proof Excuses”;<sup>29</sup>

25. ELI PARISER, *THE FILTER BUBBLE: WHAT THE INTERNET IS HIDING FROM YOU* (2011).  
26. *How to Get Out of Jury Duty*, WIKIHOW, <http://www.wikihow.com/Get-Out-of-Jury-Duty> (last visited June 14, 2016).  
27. Marshall R. Isaacs, *The Idiot’s Guide to Getting Out of Jury Duty*, SUMMARY JUDGMENT (Mar. 13, 2009), <http://theunifiedcourt.system.blogspot.com/2009/03/idiots-guide-to-getting-out-of-jury.html>.  
28. *How To Get Out of Jury Duty*, FULLDUPLEX.ORG (June 26, 2007), <http://www.fullduplex.org/humor/2007/06/how-to-get-out-of-jury-duty/>.  
29. *How To Get Out Of Jury Duty Summons—16 Fool-Proof Excuses*, MY TWO DOLLARS (2010), <http://www.mytwodollars.com/2010/06/10/ways-to-get-out-of-jury-duty-summons/>.  
30. Jim Wang, *How to Get Out of Jury Duty (Legally)*, BARGAINEERING, <http://www.bargaineering.com/articles/how-to-get-out-of-jury-duty.html> (last visited June 14, 2016).  
31. Justin Becker, *How To: Get Out Of Jury Duty*, ASKMEN (Feb. 1,

5. “How to Get Out of Jury Duty (Legally)”;<sup>30</sup>
6. “How To: Get Out Of Jury Duty”;<sup>31</sup>
7. “How to get out of jury duty”;<sup>32</sup>
8. “Jury Duty Excuses”;<sup>33</sup>
9. “How To Get Out Of Jury Duty (Ethically)”;<sup>34</sup> and
10. “Getting Out Of Jury Duty Is Easier Than You Think.”<sup>35</sup>

It should be noted that many websites that offer strategies for getting out of jury duty, including some of the websites examined in this study, are open source and may be edited at any time by various independent sources. One pertinent example is Wikihow.com, the most popular website according to our independent search results. Given the open nature of many of these websites, it is possible that some of the quotes presented in this article have changed since the article’s publication. However, all quotes provided in this article were accurate at the time of publication on the websites themselves.

**RESULTS**

While the majority of the websites analyzed in this study rightly advised that not attending jury duty when called or providing false information are both unlawful and inadvisable, these same websites were overtly negative toward jury duty and promoted actions that came close to committing the violations warned against. For example, the sites described jury duty as unpleasant and use phrases such as “escape serving”<sup>36</sup> or “wiggle out of your civic duty”<sup>37</sup> to characterize the intent behind the excuses. Such phrases imply that it is acceptable to bend the truth to avoid serving. Many other websites endorsed making false claims or gross exaggerations of the truth. They further provided information on how to rectify potential consequences of being caught in this evasion.

Our analysis of the content of these websites yielded four major categories. These categories were: (a) legally recognized excuses; (b) expression of biases; (c) exaggeration of personal qualities; and (d) tricks and gambits. Each theme is discussed in the context of verbatim examples.

**1. Legally Recognized Excuses**

Serving on a jury can be a time-consuming, stressful process

2006), [http://www.askmen.com/money/how\\_to\\_60/98\\_how\\_to.html](http://www.askmen.com/money/how_to_60/98_how_to.html).  
32. Chip Rowe, *How to get out of jury duty*, CHIPROW.COM, <http://www.chiprowe.com/articles/jury.html> (last visited June 14, 2016); this article first appeared in *Chip’s Closet Cleaner*, Issue 9 (page number and date of publication unknown).  
33. *Jury Duty Excuses*, THE MOTHER OF ALL EXCUSES PLACE, [http://madtbone.tripod.com/jury\\_duty.htm](http://madtbone.tripod.com/jury_duty.htm) (last visited June 14, 2016).  
34. Hillary Fields, *How To Get Out Of Jury Duty (Ethically)*, BELIEFNET (Nov. 11, 2009), <http://www.beliefnet.com/columnists/everydayethics/2009/11/how-to-get-out-of-jury-duty-ethically.html>.  
35. Gus Lubin, *Getting Out Of Jury Duty Is Easier Than You Think*, BUSINESS INSIDER (Feb. 9, 2013), <http://www.businessinsider.com/how-to-get-out-of-jury-duty-2013-2>.  
36. Becker, *supra* note 31.  
37. Lubin, *supra* note 35.

that requires an individual to be present and attend to large amounts of information for extended periods of time. As such, certain excuses are widely accepted in most jurisdictions to prevent undue personal and financial hardship to potential jurors who meet certain criteria. The websites correctly acknowledge that most states will allow citizens to be excused from jury duty if they can demonstrate that, for physical or financial reasons, they are unable to serve. One major theme is that a potential juror will be excused from duty upon the legitimate demonstration that service will constitute an undue hardship for the individual, although states differ in how they define this condition.<sup>38</sup> While individuals may falsely claim that one of these excuses applies to them, excuses from this category are usually directly observable or verifiable. Legally recognized excuses can be divided into two subcategories—namely, competing personal and occupational responsibilities and medical ailments.

### Competing Personal and Occupational Responsibilities

Broadly speaking, excuses in this category include characteristics of the citizens, their environment, or their occupational circumstances that would hinder them from being able to commit the time or cognitive effort necessary to fulfill duties as jurors. These excuses suggest that jury service would be a detriment to the individual or another's physical or financial well-being. Some of the personal characteristics discussed on one of the sites include being over 70 years old,<sup>39</sup> having served on a jury within the previous two years,<sup>40</sup> being the primary caregiver to a child or elderly person,<sup>41</sup> or being an expectant mother.<sup>42</sup> As noted, many of these excuses are based upon personal characteristics that are readily verifiable.

The personal-characteristics category also included excuses that the individual would be unable to appear for jury service due to logistical reasons. Common logistical excuses include a lack of transportation to the courthouse or issues with being away from one's home for a prolonged period of time. To take advantage of this excuse, one site advises potential jurors to inform judges or court clerks they will be on vacation because "they can't expect you to cut short a trip just for jury duty."<sup>43</sup>

Finally, excuses in this category may be related to occupation or a person's financial situation. Some websites suggested that if an individual can demonstrate that serving on a jury for an extended period of time will result in financial hardship, he or she will likely be excused from serving. These sites recommended framing this excuse as financial hardship resulting from lost wages or stating that the person's place of work will be irreparably damaged due to the person's absence. One site refers to this tactic as playing the "I might get tossed out into the street if I sit on this jury" card.<sup>44</sup> This type of excuse is also verifiable through bank statements or letters from one's

employer.<sup>45</sup> The website Wiki-how.com, the site that was returned first on all four of the investigators' searches, went as far as providing visitors with a template for drafting a letter from an employer.<sup>46</sup>

### Medical Ailments

Excuses and strategies that fall into the medical-ailments category included disclosing physical or psychological ailments that would make it difficult or impossible for a person to sit in one place or attend to information being presented for long periods of time. Most judges and attorneys recognize that sitting for long periods of time can be uncomfortable or nearly impossible for individuals with physical conditions such as chronic lower back pain or bladder-control issues. Similarly, having a mild psychiatric illness such as attention deficit hyperactivity disorder (ADHD) or anxiety can make it difficult to pay attention for long intervals of time. As a result, the websites suggested that individuals who legitimately suffer from one of these conditions should report this information to the attorneys and the judge, though a user on one website suggested this strategy is not always successful even when accompanied by written proof of diagnosis from a mental-health professional.<sup>47</sup> Still, other sites encouraged potential jurors to procure a letter from a physician that validates the existence of such problems, "as the note convinces those working on the trial that you can't work long hours."<sup>48</sup> Due to the mostly non-visible nature of these symptoms, some websites suggested that these symptoms could be falsely reported or acted out.

## 2. Expression of Biases

All 10 of the websites analyzed in this study advised that citizens may avoid jury duty by asserting that they cannot render an impartial judgment due to a pre-existing belief or bias. As such, individuals who possess biases related to the case being tried are encouraged to express these biases during *voir dire*. One of the sites asserted that all people have biases and that the courts are looking for individuals who are willing to set minor biases aside during their jury service.<sup>49</sup> Unlike legally recognized excuses, excuses that are included in this category are difficult to verify due to their primarily covert nature. Juror efforts must be explored and tested by the attorneys through questioning during *voir dire*. As such, the websites encouraged jurors who seek to use this tactic to be firm, adamant, and confident when communicating these biases to the court. One site

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38. Sams et al., *supra* note 1, at 5.

39. *How To Get Out of Jury Duty*, *supra* note 28.

40. Fields, *supra* note 34.

41. *Id.*

42. *How To Get Out Of Jury Duty Summons*, *supra* note 29.

43. *Id.*

44. Fields, *supra* note 34.

45. *How to Get Out of Jury Duty*, *supra* note 26.

46. *Id.*

47. *Jury Duty Excuses*, *supra* note 33.

48. Becker, *supra* note 31.

49. Lubin, *supra* note 35.

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encouraged potential jurors to emphatically repeat, “I cannot be fair and impartial” until they are dismissed.<sup>50</sup> The websites offered excuses and strategies that depict two different types of biases—namely, personal bias and bias against the legal system.

**Personal Biases**

**Race-Related Biases.** To be excused due to a personal bias, these websites recommended that potential jurors express personal values or beliefs that will hinder their ability to render an impartial opinion. The most common biases these websites discussed are biases against a particular race or ethnicity. The implication is that if potential jurors are racially or ethnically biased, they will disregard the evidence presented during trial and allow their decision making to be driven by biases. Due to overuse of the personal-bias excuse, most of the websites advised that simply claiming to be biased in this manner is now insufficient.<sup>51</sup> As such, potential jurors are advised to claim holding such views “if and only if” they are genuinely biased in a way that would prevent them from rendering a fair decision.<sup>52</sup> Obviously, this excuse has a host of related implications for potential jurors claiming racial or ethnic biases, as they are openly claiming to dislike a certain segment of society.

**Personal Involvement.** Focusing on a potential juror’s relationship with the legal system, some websites promoted excuses attributing personal biases to the juror’s relationship with the legal system or its actors.<sup>53</sup> These excuses suggested that negative personal experiences with the law or involvement with an incident that is similar to the situation at hand may impair one’s ability to render a fair and impartial decision.<sup>54</sup> Similarly, to parse out such a bias during *voir dire*, attorneys encourage potential jurors to disclose whether they know someone who has been arrested or convicted of a crime. For example, potential jurors are encouraged to report previous personal experiences that are similar to the case for which they have been called.<sup>55</sup> If the case “is about car theft and your brother just happened to be arrested for the same thing last month, now is a great time to let someone know.”<sup>56</sup> The assumption is that knowing someone who is or has been involved in the criminal-justice system may influence one’s judgment in some way. Providing an example in the criminal context, potential jurors who have family members who are lawyers or police officers are encouraged to share this information with the court because these relationships may create

bias by predisposing those jurors to view legal actors in overly positive or negative ways.<sup>57</sup>

**Bias Against the Legal System**

Website excuses in this category suggested that individuals should express either overly positive or overly negative opinions about a specific entity within the legal system or for the legal system as a whole.<sup>58</sup> These negative opinions about the legal system may be based on unfavorable personal interactions with actors within the justice system or distaste for particular laws. The websites encouraged individuals who have had unsatisfactory experiences with the legal system to share this information, particularly if the individual has ever been involved in an unresolved legal issue or one in which the person was not satisfied with the resolution.<sup>59</sup> The personal bias about the legal system or its actors may result in feelings of doubt or uncertainty about the efficacy of the legal system and result in the belief that “[t]he system doesn’t work.”<sup>60</sup>

Similarly, the websites proposed that potential jurors may choose to express negative beliefs about real or fictitious law-enforcement officials or other legal entities.<sup>61</sup> Doing so suggests that an individual may be holding a grudge against the actors within the legal system that would manifest itself during jury service. Potential jurors may also state negative views based on the controversial outcomes of highly publicized court cases like the trials of O.J. Simpson and Casey Anthony. According to one website, a California judge was quite familiar with this type of excuse and preempted its use by saying, “I don’t want to hear any O.J. Simpson the jury system doesn’t work excuses.”<sup>62</sup>

Another common strategy suggested by many of these sites is to mention the concept of jury nullification,<sup>63</sup> which is a process by which a jury renders a verdict of not guilty because the jurors believe the law is immoral or wrongly applied in the case being tried.<sup>64</sup> One site refers to this strategy as the “nuclear option.”<sup>65</sup> It was stated that mentioning this process will often successfully result in being dismissed from service, as it is believed that no lawyer would risk including such a potentially problematic juror.<sup>66</sup> Potential jurors’ attitudes toward laws may be fertile ground for follow-up questioning when juror nullification is mentioned during *voir dire*. However, these sites failed to consider that such a jury-nullifying position may fit squarely within a defense attorney’s case strategy, making that person a desirable choice for the defense.

**3. Exaggeration of Personal Qualities**

Regardless of a potential juror’s beliefs or biases, some personal qualities may make an individual less appealing to attor-

50. Isaacs, *supra* note 27.

51. *Id.*

52. *Id.*

53. *Jury Duty Excuses*, *supra* note 33.

54. *Id.*

55. *How to Get Out of Jury Duty*, *supra* note 26.

56. *How To Get Out of Jury Duty*, *supra* note 28.

57. Lubin, *supra* note 35.

58. *How to Get Out of Jury Duty*, *supra* note 26.

59. *Id.*

60. *Id.*

61. *Jury Duty Excuses*, *supra* note 33.

62. *Id.*

63. Doug Linder, *Jury Nullification*, FAMOUS AMERICAN TRIALS: JOHN PETER ZENGER TRIAL (2001), <http://law2.umkc.edu/faculty/projects/trials/zenger/nullification.html>.

64. *Id.*

65. Wang, *supra* note 30.

66. *Id.*

neys. Attorneys always want jurors who they can persuade one way or another.<sup>67</sup> As such, individuals wishing to avoid jury duty were advised to exaggerate or feign qualities that may make persuasion difficult and, as a result, make them unappealing for jury service.<sup>68</sup> Potential jurors may choose to present themselves in overly positive or overly negative ways, and the websites offer strategies to assist jurors with presenting these qualities most effectively.

The jury-avoidance websites stated that portraying oneself in an overly positive manner entails demonstrating high intelligence, advanced levels of education, or critical-thinking skills. While these characteristics may be desirable in some contexts, attorneys may worry these individuals may be overly “difficult to persuade one way or the other.”<sup>69</sup> One site suggested that one way to accomplish this is by appearing “for jury duty acting like you know everything before hearing the case.”<sup>70</sup> Using this “play smart” strategy, individuals are advised to exaggerate the amount of knowledge they have about the case or about the law in general. With this strategy, the goal is to appear unable to render a fair and impartial verdict due to one’s obstinacy.<sup>71</sup> One website posits that potential jurors who display high levels of intelligence and critical-thinking skills may be “too attached to the facts and . . . dangerous for both sides.”<sup>72</sup>

Conversely, websites also proposed portraying oneself in an overly negative way through demonstrations of stubbornness or cognitive rigidity.<sup>73</sup> Rather than “playing smart,” jurors may instead choose to “play dumb.” This strategy involves emphasizing that the person knows nothing about how the legal system works and is unable to comprehend common legal terminology. One site advises potential jurors to “try to pass yourself off as a bigger idiot than you already are.”<sup>74</sup> Accordingly, potential jurors may “ask as many stupid questions as possible and ask for clarification about every single topic presented, [which will] not only annoy your potential co-juror peers, but the attorneys and judge as well.”<sup>75</sup>

#### 4. Tricks and Gambits

Tricks and gambits are the most diverse of the four categories proposed by the jury-avoidance websites, and suggestions ranged from clever circumventions of rules to bizarre behaviors meant to baffle attorneys and judges.<sup>76</sup> Excuses in this category are best described as violations of legal standards or socially normative expectations. Excuses that fall into this category can be divided into two subcategories—namely, loopholes in existing practices or policies and exhibiting strange behaviors.

#### Loopholes in Existing Practices or Policies

Excuses that fall into the category of loopholes in existing practices or policies involve taking advantage of gaps in current practices or policies. These excuses do not necessarily involve engaging in overtly unlawful or deceitful behaviors. Rather, these excuses encourage potential jurors to capitalize on the language used in these laws and escape jury service on technicalities, while still maintaining the appearance of being willing to serve. For example, one website explained that individuals living in California can get out of jury service by claiming to have an impending obligation and offering to return for service once this obligation has passed.<sup>77</sup> The website further explained, “Under state law, you will be considered to have already served,” which will render the offer to return later lip service.<sup>78</sup> In other jurisdictions, the websites encouraged jurors wishing to avoid service to try to change the date of their jury service to the month of December because “there’s a far greater chance that trials will be delayed or moved. You may never actually get called in, but you’re still fulfilling your civic duty.”<sup>79</sup> Another strategy was to offer to move one’s jury service forward instead of delaying to a later date, as doing so “is likely to work because the jury pool for earlier trials is likely already set, so they likely won’t be able to seat you.”<sup>80</sup>

#### Exhibiting Strange Behaviors

To attempt an excuse based on the exhibition of strange behaviors, websites advised individuals to behave in socially non-normative ways.<sup>81</sup> The most popular suggestions involve engaging in some odd or eccentric behavior in the hope of appearing unstable and unfit for jury service. Suggestions include making absurd statements as well as engaging in socially deviant behaviors. One of the websites contained over 100 excuses submitted by people from all over the United States, many of which promoted strange or deviant behaviors.<sup>82</sup> Although some of these excuses are possibly valid, many of them are outlandish and obviously fabricated. These excuses entail creating a perception of the individual that suggests instability because “the court is looking for objective, normal people, not self-proclaimed radicals who might overthrow the system.”<sup>83</sup> For example, the site advises potential jurors, “Shave your hair into a pink Mohawk, get some (fake?) piercings, and

**One of the websites contained over 100 excuses submitted by people . . . , many of which promoted strange or deviant behaviors.**

67. *How to Get Out of Jury Duty*, *supra* note 26.

68. *Id.*

69. *Id.*

70. *Id.*

71. Wang, *supra* note 30.

72. *Id.*

73. Lubin, *supra* note 35; *How to Get Out of Jury Duty*, *supra* note 26; *How To Get Out of Jury Duty*, *supra* note 28.

74. *How to Get Out of Jury Duty*, *supra* note 28.

75. *Id.*

76. *How to Get Out of Jury Duty*, *supra* note 26; *Jury Duty Excuses*,

*supra* note 33; *How To Get Out Of Jury Duty Summons*, *supra* note 29.

77. *How to Get Out of Jury Duty*, *supra* note 26.

78. *Id.*

79. *Id.*

80. *Id.*

81. Rowe, *supra* note 32; *Jury Duty Excuses*, *supra* note 33; *How To Get Out of Jury Duty*, *supra* note 28.

82. *Jury Duty Excuses*, *supra* note 33.

83. *How To Get Out of Jury Duty*, *supra* note 28.

**The derogation of jury service in popular culture is consistent with the large volume of webpages in existence that offer advice for avoiding jury duty.**

wear your best Misfits shirt to the jury selection.”<sup>84</sup> The idea is that individuals who exhibit these types of behaviors will not take their roles as jurors seriously. Moreover, they may be inattentive during the trial proceedings and unpredictable in deliberations. While these individuals may be “high-risk, high-reward” selections in some cases, jurors who seem overly reluctant to serve often need to be dismissed.<sup>85</sup>

**DISCUSSION AND RECOMMENDATIONS**

The current analysis examined 10 of the most popular websites that offer strategies to help individuals avoid jury duty in order to inform the courts about the kinds of information the jury venire might uncover before arriving (or not arriving) in court after being summoned. Four reoccurring themes arose: legally recognized excuses; expression of biases (both personal and against the legal system); exaggeration of personal qualities; and tricks and gambits. The themes were further broken down into subcategories to provide richer details. Recognizing these themes may assist judges and other courtroom actors in assessing whether and perhaps which type of strategy a potential juror is employing to attempt to avoid serving.

**Excuse Legitimacy and Juror Characteristics**

The excuses offered may take the form of either a legitimate reason to be excused, an exaggeration of a legitimate reason, or an arguably constructed reason. We hypothesize that the legitimacy of one’s excuse to avoid jury duty provides judges and attorneys with information concerning the individual’s commitment to conventional values, which we define as views or beliefs that are shared by a majority of the members of a community. If avoiding jury duty ultimately fails, the legitimacy of a potential juror’s excuse may also provide information regarding the likelihood that he or she will invest effort in assessing the evidence presented during the trial proceedings and whether he or she will be idiosyncratic and unpredictable during jury deliberations. In the normal range of cases in which the evidence does not clearly favor one side over another, this information may assist in deciding whether or not to strike a reluctant juror.<sup>86</sup>

Some individuals present with a genuine willingness to serve, although they have a compelling, legitimate reason to be excused. More likely than not, their excuse would fall into the category of legally recognized excuses we have described. Individuals who employ these types of excuses are hypothesized to have a high level of commitment to conventional values and to be likely to invest effort into assessing evidence. Because of this likelihood, we believe that there is a low probability of

these individuals being idiosyncratic and unpredictable during deliberations if they are ultimately selected.

At the other end of the spectrum lie individuals who have clearly and consciously devised a strategy, legitimate or not, to avoid serving. Part of this strategy involves presenting excuses that are fabricated. These individuals do not hesitate to report having an attitude or belief that would be sufficient to warrant being excused or to act in such a way that suggests instability. It is most likely that the excuse these individuals offer to be dismissed will come from the “tricks and gambits” category. However, it is also possible that they will report they harbor biases, but the legitimacy of the beliefs they claim to possess will not hold up under close scrutiny. These people are hypothesized to have a low level of commitment to conventional values and little likelihood of paying attention to the evidence being presented. Accordingly, they are also likely to behave unpredictably during deliberations.

Between these two groups lies a third group composed of individuals who are adverse to jury service and may exaggerate a legitimate, though arguably minor, personal quality or reason to be excused. Many of their excuses are overstatements of personal qualities. We predict that these individuals will have a moderate commitment to conventional values, as well as a moderate likelihood of attending to evidence presented during the trial and investing effort in assessing it during deliberations. There is a low to medium likelihood that people who fall into this category will behave unpredictably in deliberations, although these considerations should be made on a case-by-case basis.

**Moral Issues**

The derogation of jury service in popular culture is consistent with the large volume of webpages in existence that offer advice for avoiding jury duty. The frequency with which this advice is being sought suggests that jury service is often viewed as an aversive obligation rather than a desirable right or privilege. However, the issue is raised of whether the existence of websites endorsing devious or unlawful behavior is moral. Before addressing this issue, it should be noted that the most popular website in the study, Wikihow, may be edited by anyone, regardless of background or area of expertise.<sup>87</sup> The other websites were personal blogs and advice columns featured on pop-culture websites. As such, these websites and the authors of the writings would receive protection under the First Amendment’s right to free speech.<sup>88</sup> Furthermore, none of the sites analyzed in this study were operated or maintained by an educational institution or governmental agency. However, the promotion of illegal or morally bankrupt behavior obviously diminishes the ethical credibility of such sources of information.

Some websites offered information regarding legally recognized excuses to avoid jury service. Juror qualifications and exemptions are available on government-run websites, such as the site operated by the U.S. federal courts.<sup>89</sup> Furthermore, in

84. *Id.*

85. Sams et al., *supra* note 1, at 4.

86. *Id.* at 4-5.

87. *How to Get Out of Jury Duty*, *supra* note 26.

88. U.S. CONST. amend. I.

89. *Juror Qualifications*, UNITED STATES COURTS, <http://www.uscourts.gov/services-forms/jury-service/juror-qualifications>.

most jurisdictions, legally recognized excuses also typically accompany jury summonses. In addition to these legitimate excuses, the websites also included other morally questionable tactics that encourage prospective jurors to exaggerate the truth or fabricate an excuse to avoid jury service. These exaggerations directly violate the oath potential jurors take during *voir dire* to provide only truthful information, bringing the moral character of an exaggerating prospective juror into question. Presenting a false excuse as some of these sites suggest would likely constitute perjury or obstruction of justice, both of which can be felonies. Therefore, these sites were offering advice about how to commit and potentially get away with potentially felonious activity.

The lighthearted tone of many of websites offering ways to avoid jury duty and the volumes of information available to interested individuals support the assertion that this offense is not taken seriously. One particularly repugnant example of this found in the sites suggested asserting a personal or ethnic bias to avoid jury duty. Whether or not there is truth in this type of bias, promoting negative biases of any group of persons serves no morally acceptable purpose and should not be encouraged. Finally, the existence and apparent popularity of these websites supports Losh, Wasserman, and Wasserman's finding that willingness to participate in civic duties is declining in the United States.<sup>90</sup>

#### LIMITATIONS AND FUTURE DIRECTIONS

The findings and suggestions presented should be considered in the context of the methodological limitations of this study. One potential limitation is that, due to logistical constraints, it is not known if the sites analyzed in this study would appear in similar Google searches by other people in differing locations. Efforts were made to control for this possibility, but it is plausible that searches in different regions of the country could return a different list. Similarly, it is not known if the use of a search engine other than Google would return different search results. To investigate this possibility, the researchers conducted an identical search using Dogpile.com, a metasearch engine.<sup>91</sup> Metasearch engines conduct a search of the user's search terms across multiple search engines simultaneously and identify the most popular results.<sup>92</sup> The Dogpile search returned 7 of the 10 websites analyzed in the study.<sup>93</sup> The remaining websites were a Yahoo Answers community posting, a website affiliated with court-reporter schools, and an article written by three of this study's authors.<sup>94</sup> Because of the high agreement between the results of the Google and Dogpile searches and because these websites did not differ dramatically in terms of content, it is reasonable to infer that the websites in this study are representative of what other people would find through a similar Internet search.

Future research should examine the characteristics of individuals who use different types of excuses to avoid jury service. Empirical data are necessary to confirm our hypotheses regarding posited personal characteristics and reasons to be excused. Just as individuals who seem overly eager to serve should be carefully questioned and challenged, individuals who seem overly committed to avoiding jury service may have personal agendas that compromise their willingness to carefully consider all of the facts presented in court.<sup>95</sup> Furthermore, future research could be conducted in various international locations to compare differing attitudes toward the use of juries in various legal systems.

#### CONCLUSION

Trial by jury is an important aspect of the United States legal system. The Sixth and Seventh Amendments create a safeguard against unfair treatment by the justice system by guaranteeing all citizens the right to a trial by an impartial jury.<sup>96</sup> While many Americans believe this right is important, some people may make significant efforts to avoid serving on a jury. Excuses found on various websites range from legitimate to obviously fabricated to completely dishonest. The investigators have offered four categories of excuses and have hypothesized characteristics that are common among individuals who use each type of excuse. These categories may prove helpful to judges, trial lawyers, and court clerks when addressing members of a jury pool who are seeking to avoid their service. In cases where the evidence heavily favors one side, the composition of the jury will likely not make a difference in the outcome. However, in cases in which the outcome is not readily apparent, judges have especially compelling reasons to work to facilitate the formation of a fair, unbiased jury.



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90. Susan C. Losh, Adina W. Wasserman & Michael A. Wasserman, *Reluctant Jurors: What Summons Responses Reveal About Jury Duty Attitudes*, 83 JUDICATURE 304 (2000).

91. Dogpile, using the search term "how to get out of jury duty," <http://www.dogpile.com>.

92. Nicholas Tomaiuolo, *Are Metasearches Better Searches?*, 7

SEARCHER 30 (1999).

93. Dogpile, *supra* note 91.

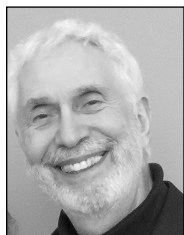
94. Sams et al., *supra* note 1.

95. *Id.* at 4.

96. U.S. CONST., *supra* note 2.



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**Answers to Crossword**  
from page 131

A	C	O	M	E	S	S	A	Y	I	D	E	S
R	I	D	E	S	A	L	E	M	S	L	U	M
O	M	N	I	A	L	A	R	M	P	E	R	U
G	O	V	E	R	A	G	A	I	N	I	T	S
A	C	R	E	S	J	E	F	F	R	A	N	T
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T	A	K	E	A	N	T	H	E	R	L	O	O
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S	I	S	R	E	A	D	T	H	R	O	U	G
P	L	E	A	T	H	E	O	S	E	S	A	I
M	A	N	E	O	S	S	I	E	E	S	A	I
I	D	O	L	C	O	U	R	T	T	I	F	F