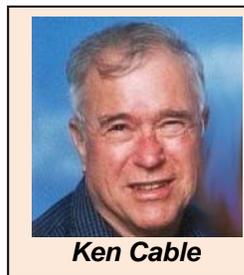


## Time to Improve the Jury System

**By Ken Cable**

It is time to improve the jury system in America. While the fundamental guaranty of this venerable and constitutionally protected institution remains as vital and valid as when it was created, it is time for improvement. Notice, I did not say “change.”



*Ken Cable*

If I were to start this essay by stating that it is time to “change” the American jury system, the reaction would be instantaneous and vocal. It would be interpreted as an assault on a cherished constitutional fixture in the American mindset and rejected without serious consideration.

So I will say, it is time to “improve” the American jury system,” and hope that use of this verb will hold the reader long enough to ascertain why I say that.

I have been called several times to jury duty since I retired. I have yet to be seated in a trial – usually because of my professional background. While I wait for my inevitable dismissal, I am always aware of the buzz of discontent among students trying to study, parents on cell phones trying to arrange baby sitters, business men and women doing work on laptops and cell phones. It is not just the often-substantial financial burden, but the disruptive effect on those called to service that needs review.

My last call to jury duty was in May 2002. And although I have never served on a jury, I used to win the Riverside lottery every year and dutifully called or reported in. One time I advanced all the way to Department 32 along with 199 other winners. Some of us were sent home and told to return on a certain date.

Back in the courtroom my name was called and I entered the jury box and sat in seat number 1. A jury was being selected for a murder trial. I knew I would not survive *voire dire* (examination by the judge, prosecution and defense to determine suitability to serve on a jury) because of my 35 years with the Los Angeles County Sheriff’s Department. About mid-afternoon I was the first preemptive dismissal by the defense.

I think I would have made an excellent juror in this case. And I think others like me would make the same.

If the purpose of a trial is to ascertain the truth of a matter, there is no guarantee that the random, cumbersome, inefficient and costly method now in place will provide it any better - or as well – as a panel drawn from volunteer and/or paid jurors.

I propose a study to determine if the idea of volunteer *or* paid professional jurors chosen from the ranks of retired persons and others with unencumbered time to serve has merit. The current selection process with its impact on *hundreds* of potential jurors called each session— lost work time, transportation difficulties, family issues – most of whom are sent home without serving after a day or two of sitting idly by in the jury room, is an unwieldy system that *can* be improved.

There are thousands of extremely well-qualified retired laymen and professionals who are not faced with a hardship created by absence from family, job or business from which to impanel juries.

Such a jury pool will encompass the wisdom and judgment gained from a lifetime of experience. A particular concern of the Defense Bar, of course, will be the seating of available criminal justice retirees.

The notion that men and women who have served in the criminal justice system would blindly support the prosecution is insulting and demeaning. It is ironic that a society that sends young men and women out to enforce its rules, granting them the power to put people in cages and, in extreme circumstances, to take a life ,would be fearful of their judgment from a jury box.

An improved jury pool will not destroy the advantages of jury selection for adversaries at trial, and the level of animosity sometimes carried into the box by reluctant jurors will disappear with volunteer or paid jurors.

Much is made of trial by a “jury of one’s peers.” I can find no language in the U.S. Constitution requiring a jury of one’s “peers,” only that a jury must come from a “cross section of the community where the offense took place.”

Such a jury structure of “peers” may have easily been accomplished in the early days of our republic when criminal and victim often occupied the same community. It is a far different world today. High mobility and a wide range of peer distinctions make such jury selection impossible – and even undesirable. Consider the notion that a jury listening to evidence of a crime committed by a physician can only be drawn from members of the medical profession, or in an absurd extreme, that a jury of prison inmates only can be seated in a criminal case involving a prison inmate.

While this new type of jury pool might well be voluntary, compensation at a level that will offset the *true* cost of service should be offered. I believe a study will confirm that willing jurors can be impaneled from the citizens at a cost in money and anxiety that is far less than that now paid or suffered. In the search for truth, it doesn’t matter much who discerns it.

In the interest of justice, the California Judicial Council, and similar bodies across the nation, should initiate a study in behalf of the thousands of citizens negatively impacted every day under the current system. Improvement is long overdue.

**Ken Cable is a retired Chief with the Los Angeles County Sheriff's Department. His new novel "Lost!" about three young boys attempting to survive in the high Sierras during a spring storm is due out this fall. You can contact him at [Ken@readerpublishing.com](mailto:Ken@readerpublishing.com)**