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## REPORT

### Why We Need Fully Informed Juries

The American Jury Institute/ Fully Informed Jury Association (AJI/FIJA) is the national advocate for the right of individuals charged with a “crime” to be tried by a jury that is allowed to hear the “facts” of the case and determine whether the “law” itself is being applied justly. In other words, for government to deprive a citizen of his or her personal liberty, AJI/FIJA insists that a jury must be “fully informed” about all aspects of the case, and not be limited to a narrow, one-sided version presented solely by the prosecutors.

How important are these jury rights? An example of today’s broken jury system was reported recently in California, where the federal government convicted a man of selling marijuana for medical use. The problem with this conviction was that the man was working under the auspices of a new California law that permits the sale of marijuana for medical use. The jurors, however, were forbidden by the judge from learning that this man was conducting his activities in accordance with the new state law and under a license from the City of Oakland.



After the conviction, the media interviewed the jurors, and the jurors were appalled that they had wrongfully convicted someone of a “crime” when the state had specifically authorized the activity in question. This man was convicted because the jury was not allowed to hear the “fact” that this man’s activities were “legal under California law.” The federal prosecutor convinced the judge that the simple “fact” (that California permitted this activity) was not relevant to this case. Yet, according to the jurors, had they been “informed” that this man was operating under the auspices of California’s medical marijuana law, they would not have convicted him.

These kinds of atrocities are occurring every day in criminal courts, where “facts” are being wrongfully denied to jurors, resulting in flawed convictions. Even worse than being deprived of critical “facts,” juries are denied any opportunity to evaluate the merits of the “law.” An egregious example of this kind of unbridled prosecutorial power lies within the thousands of pages of “law” contained in the Federal Food, Drug and Cosmetic Act. By arbitrarily citing any “law” out of this politically inspired albatross, the FDA can randomly incarcerate virtually anyone who falls under its vast regulatory umbrella. Even individuals who import lower-priced medications from Canada can be criminally prosecuted if the FDA so chooses.

The only barrier to convicting someone of a “bad law” is a fully informed jury. Today’s judges, however, are withholding critical information from juries at the behest of prosecutors. One result of these gross injustices is that there are more people imprisoned per capita in the US than in any other country in the world!

#### William Penn: Origin of Jury Rights

William Penn was a leader of the Quakers in seventeenth-century London. The sect was not recognized by the English government, which forbade it to meet in any building for the purpose of worship. In 1670, Penn held a worship service that was attended by a peaceful group of fellow Quakers. Penn and another Quaker, William Mead, were arrested on a charge of disturbing the King’s peace and summoned to stand trial.

When brought to court, Penn demanded to know under which law they were being charged. The court refused to supply that information and instead referred vaguely to the common law. When Penn protested that he was entitled to a specific indictment, he was removed from the presence of the judge and jury, and confined in an enclosed corner of the room known as the bale-dock. From there, he could neither confront the witnesses who accused him of preaching to the Quakers nor ask them questions about their charges against him. If convicted, Penn faced execution.



The judge expected the jury to give the government an unequivocal guilty verdict. When the jury failed to convict Penn of practicing an “illegal religion,” the judge was beside himself. The judge then issued the following edict:

“Gentlemen, you shall not be dismissed until you bring in a verdict which the court will accept. You shall be locked up, without meat, drink, fire and tobacco. You shall not think thus to abuse the court. We will have a verdict by the help of God or you shall starve for it.”

Two days passed. The jury had no food, water, heat, tobacco, or bathroom facilities. Nothing. They did not change their minds.

Nine weeks passed. Conditions at the prison were more than deplorable. Jurors were often soaked in their own urine and smeared with their own feces. Finally, England’s high court became involved. A higher court eventually freed the jurors in response to a writ for habeas corpus. It was the first time that the High Court of Common Pleas had issued such a writ.

Penn’s case, and his jury, changed the law. In the future, jurors would not be required to rubberstamp the agenda of government officials. For the first time, government had encountered jurors whose “liberty was not for sale.”

William Penn never forgot this outrage. When he came to America and founded his colony, his laws became a model of freedom. Immigrants flocked to Pennsylv-ania. As an example of his approach to government compared to the Crown’s approach, Penn reserved the death penalty for murder and treason. At the time, Britain reserved such punishment for 200 separate offenses.

Penn was especially cognizant of the iniquity of Britain’s draconian laws. By calling religious dissent “sedition,” the British government had set up an enrichment program for itself. Sedition, a serious crime against the Crown, allowed the government to throw thousands of people into prison and seize their land and property. Penn’s wife and her family had lost their family estate through such “legal” shenanigans.

Thanks to William Penn, America’s founders had an exemplary legal model to follow when they wrote the US Constitution. Thanks to the members of Penn’s jury who endured imprisonment, today’s juries can reach a just verdict even when it is not the popular thing to do.

### **You Could Be the Next Victim**

A flagrant example of prosecutorial misconduct occurred in 1995 when the US Postal Service initiated the arrest of a 72-year-old man and a 30-year-old woman who had ordered the supplement dehydroepiandrosterone (DHEA) from Europe. The postal employees decided that DHEA was illegal to import, even for personal use. They arranged for a local narcotics strike force to set up a sting operation to arrest these two Americans when they came to the post office to pick up their DHEA. The elderly man was handcuffed and forced to sit on the post office steps, where all his neighbors could see him. The young woman was held while her home was searched and her library of health and exercise books seized.

Both victims were members of the Life Extension Foundation and asked us for help. We retained an attorney to document that DHEA is not a controlled substance and had never been so named in the Federal Register. Since DHEA is not contraband, one would think that the charges would have been quickly dropped. The prosecutors, however, were willing only to “reduce” the charges and still wanted to prosecute these innocent people. Only a massive letter-writing campaign by Life Extension members and subscribers to Dr. Julian Whitaker’s newsletter forced the state’s governor to order prosecutors to drop the cases.

Were it not for Life Extension paying an expert attorney and tens of thousands of letters written to the state’s governor, these two people could have faced a jury that would have been told by the prosecutor that DHEA is an illegal substance, that irrefutable evidence shows that these people imported it, and that they should therefore be convicted and sentenced to jail. The jury may never have had the opportunity to learn the “fact” that DHEA is not an illegal substance or that no “law” prohibits its importation. The prosecutor could have censored this information from the jury, and the judge would have ordered the jury to consider only whether sufficient evidence was presented that these two people imported DHEA for their personal use. If the prosecutor proved these people imported the DHEA, then the judge would order the jury to find them “guilty.”

Under today’s flawed system, a prosecutor can present a one-sided story and gain a conviction based on the jury not being fully informed about the facts and not being allowed to judge the merits of the law. Jurors are put into a position whereby judges are ordering them not to consider all the facts or the law, but instead to base their decision on the government’s interpretation of events.

### **Jury Rights Rooted in US Constitution**

The Declaration of Independence defines being deprived of the benefits of trial by jury as absolute tyranny. Having observed the tyranny imposed on Americans when deprived of trial by jury, the Founding Fathers took particular care to ensure this right no

less than three times in the Bill of Rights.

*The intent of the jury system is to do much more than allow citizens to mete out apt punishment to their neighbors. The jury system particularly provides citizens with the means to protect each other from tyrannical abuses of power by the government.*

Thus did the authors of the Declaration of Independence see trial by jury “as the only anchor yet imagined by man by which a government can be held to the principles of its constitution,” as Thomas Jefferson wrote in 1789.

Tyranny, no matter under what guise, has no place in an open society or in a country dedicated to the rule of law. The intent of trial by jury is that of a jury’s independence to judge the law as well as the facts in any case. Jurors have the absolute power to decide whether the law being applied is a just law, whether it is being properly applied in each case, and whether the defendant should be found innocent because of a bad law. Jurors have the right to understand the sentence that will be imposed by their verdict. The highest and best function of the jury is not, as many think, to dispense punishment to fellow citizens accused of breaking government-authored law, but instead to protect fellow citizens from the tyrannical laws imposed by power-crazed government.

Jurors have both a duty and responsibility to ensure that a just verdict is rendered, and they must take into account the facts of the case, any mitigating circumstances, and the merits of the law and its application in each individual case. They must examine the results of their verdict if they are to administer the law as an instrument of justice and of order. The power and right of jurors to assess the merits of the law was established in England before our Constitution was written.

Jurors, as the representatives of the people and the community, hold no agenda during any trial, and most certainly not the government’s agenda. Let us not forget that the prosecutors, judges, and arresting officers, as well as the forensic investigators in most cases, are all a part of, and paid by, the government, with their personal power bases to build and their personal careers to protect through the “productivity” of successful prosecutions resulting in convictions. Jurors are not at all vested and therefore far less arbitrary.

*The first and foremost function of our jurors is to protect private citizens from a tyrannical and intrusive government when expressed through the enforcement of laws that usurp the rights of the people. Jurors protect against tyrannical laws by refusing to convict those being unjustly persecuted by government. Thus did our Founding Fathers plan for the jury to do, and expected that jurors would in fact exercise this power without question. Jurors are the last line of defense for liberty.*

### **Join the American Jury Institute/Fully Informed Jury Association (AJI/FIJA)**

We invite all Life Extension supporters to join the American Jury Institute/Fully Informed Jury Association. A tax-deductible donation of \$25 buys a one-year membership, which includes a quarterly newsletter. To join, send your check to:

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Helena, MT 59604-5570

Websites: [www.fija.org](http://www.fija.org) and  
[www.americanjuryinstitute.org](http://www.americanjuryinstitute.org)  
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Fax: 406-442-9332

**I consider trial by jury as the only anchor yet imagined by man by which a government can be held to the principles of its constitution.**

—Thomas Jefferson, 1789

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