

A Basic Understanding of the Criminal Jury Trial Process in Florida Should Help You Decide Whether or Not You Wish to Exercise Your Right to a Trial by Jury If You Have Been Charged with a Crime

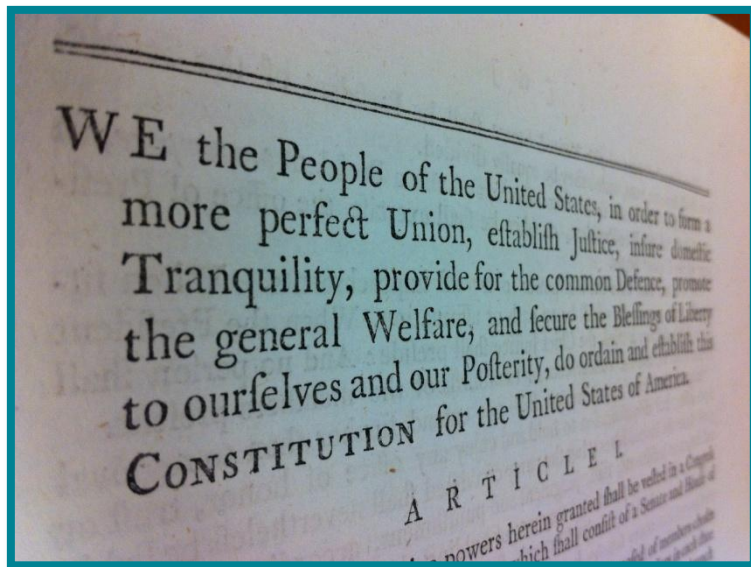
THE CRIMINAL JURY TRIAL PROCESS IN FLORIDA



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In the United States an individual who has been accused of a crime has numerous inalienable rights. One of those rights is the right to a trial by a jury of your peers. For most Americans the right to trial by jury is so fundamental and so deeply ingrained in our concept of a judicial system that we don't realize what an important right it is. Unfortunately, many judicial systems throughout the world do not afford an accused the right to a trial by jury – a right that most of us in the United States take for granted. If you have been charged with a crime in the State of Florida, you will have to decide if you wish to exercise your right to a trial by jury. The final decision should only be made after consultation with your attorney; however, a basic understanding of the criminal jury trial process in Florida should help you make your decision when the time comes.

WHERE IS YOUR RIGHT TO TRIAL BY JURY FOUND?



In the United States we have what is known as a federalist form of government, meaning that authority and power is allocated between the national government and the individual state governments. For that

reason, your right to a trial by jury is actually found at both the federal and state level. At the federal level, the Sixth Amendment to the United States

Constitution guarantees your right to trial by jury. Specifically, the Sixth Amendment says:

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”

Along with your Constitutional right to a trial by jury, the State of Florida also provides an accused with the right to a trial by jury in Florida Statute 918.0157 which reads, in pertinent part:

“In each prosecution for a violation of a state law or a municipal or county ordinance punishable by imprisonment, the defendant shall have, upon demand, the right to a trial by an impartial jury in the county where the offense was committed, except as to any such prosecution for a violation punishable for a term of imprisonment of 6 months or less...”

DOES THIS MEAN I HAVE TO HAVE A JURY TRIAL?

No. Your right to a trial by jury is your right and yours alone. Because it is a right, not an obligation or duty, you may exercise the right or not, the decision is yours to make. When you are formally charged with a criminal

offense the judge (or magistrate) is required to inform you of all your rights, including your right to trial by jury. For cases where you have been charged with a felony, the court will proceed as if you plan to have a trial in front of a jury unless your attorney informs the court that you wish to waive your right to a jury trial. If you do ultimately waive your right to a jury trial you will likely need to do so in court in front of the judge so that the judge is satisfied you have made the decision to waive your right knowingly and voluntarily.

There are two reasons why you might decide to waive your right to a trial by jury. The first reason is that your attorney has negotiated an acceptable guilty plea on your behalf. In this case there will not be a trial at all. You will plead guilty in exchange for a pre-determined and agreed upon sentence. The second reason why you might waive your right to a jury trial is that you prefer to have your case decided by a judge alone. There are strategic reasons why you may wish to do this; however, only your attorney can advise you whether a jury trial or bench trial (trial by judge) would be more advantageous in your specific case.

CHOOSING YOUR JURY – VOIR DIRE



Once you have decided to exercise your right and have your case heard and decided by a jury you must pick the jury. Known as “voir dire”, the jury

selection process allows both sides to question prospective jurors and eliminate some prospective jurors from the panel. A jury consists of six or 12 jurors and an alternate in most cases. In Florida, a 12 member jury is only required in a capital case. In all other criminal prosecutions the jury will consist of six people who are intended to represent your "peers". Prospective jurors are identified from the voter registration records or from driver's license and state identification card records. Prospective jurors receive a summons requiring them to report to jury duty on the day of trial. An initial group is then brought into the courtroom for questioning. The judge, the prosecuting attorney, and your attorney may all ask the prospective jurors general questions about their background and beliefs. They are also questioned to make sure that none of them know the parties involved in the case.



During voir dire, either the prosecution or the defense may challenge a juror for cause. What this means is that there is a legal reason why the prospective juror should not be allowed to become part of the final jury. Challenges for cause are for things such as the prospective juror is of unsound mind, the juror served on a previous jury where the defendant was involved, or the juror is related to the defendant. There is no limit to the number of challenges for cause. Each side is also allowed a specific number of peremptory challenges. These do not require a specific reason. Instead, they are used to excuse prospective jurors that you do not want on your jury. In most jury trials, except capital cases and very minor crimes, both sides are allowed six peremptory challenges. Jurors can be excused for either a challenge for cause or for a peremptory challenge. As jurors are excused additional prospective jurors are brought in for questioning. Once all of the peremptory challenges have been used by both sides you have your final jury.

THE TRIAL



After the jury has been selected and sworn in the trial begins. Both sides will give an opening statement which is intended to tell the jury what their theory of the case will be. The

prosecution always goes first because they have the burden in a criminal prosecution. Next, the prosecution will present evidence and question witnesses. Your attorney will have the opportunity to cross-examine all the state's witnesses. When the state rests its case your attorney will then be able to present evidence and question witnesses for your side. You are not required to testify – this is another one of your Constitutional rights; however, you and your attorney may decide that your testimony would be beneficial. After both sides have finished with their case a closing statement is given by both sides summing up the case. The judge then gives the jury their instructions and they are sent to deliberate.

DELIBERATION AND THE VERDICT

The jury is taken into a room where they will deliberate the case. A foreperson will be selected from the jurors and a preliminary vote may be taken just to see where everyone stands. The jurors then go over the evidence and testimony and deliberate the case. The jurors must reach a unanimous decision. If a single juror believes you are not guilty the jury cannot convict you. In a criminal prosecution the burden of proof is “beyond a reasonable doubt”, meaning that each and every jury member must be convinced beyond a reasonable doubt of your guilt for the jury to return a guilty verdict.

Deciding to take a case to jury trial in Florida is a difficult decision. Numerous factors must be weighed before making the decision. Given what is at stake in a criminal prosecution, you should consult with an

experienced Florida criminal defense attorney before deciding how to proceed with your case.

The Florida Senate, [Florida Statutes 918.0157 Right to Trial by Jury](#)

20th Judicial Circuit, [The Court System Trial Process](#)

Florida Statutes, [913.03, 913.08](#)

ABOUT THE AUTHORS



Amanda Powers Sellers

Florida criminal defense lawyer, Amanda Powers Sellers, has aggressively defended thousands of Florida criminal cases. With over nine years of criminal jury trial experience, she has the necessary background to represent cases ranging from Driving under the Influence (DUI) to First Degree Murder.

Amanda is a seasoned litigator and an aggressive negotiator. With a wealth of experience she has proven that her gentle, but aggressive style of criminal defense litigation consistently achieves results for her clients.



Jenna C. Finkelstein

Florida criminal defense attorney, Jenna Finkelstein, has over sixty (60) criminal jury trials to her credit. Her experience defending individuals charged with crimes in the state of Florida ranges from domestic battery to DUI Manslaughter, Sexual Battery, First Degree Murder and all crimes in between.

She is passionate about the law and promises personal attention to all of her clients and their individual needs. Jenna is a seasoned trial attorney who knows the legal system and its players. Jenna and her team at the Law Offices of Powers Sellers & Finkelstein, PLC, are committed to fighting for you.



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