

*Volume and Frequency of Jury Trials in State Courts*

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**2023**

**State-of-the-States  
Survey of Jury Improvement Efforts**

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# The Volume and Frequency of Jury Trials in State Courts:

## Updated Estimates from the 2023 State-of-the-States Survey of Jury Improvement Efforts

In 2007, the National Center for State Courts (NCSC) published findings from the *State-of-the-States Survey of Jury Improvement Efforts* (2007 SOS Survey), the first comprehensive snapshot of jury operations and jury trial practices in the United States. One of the more surprising findings from the 2007 SOS Survey was the unexpectedly high number of jury trials conducted in state courts each year: 148,558. Previous estimates of jury trial activity were largely based on aggregated reports from state general jurisdiction trial courts.<sup>1</sup> The 2007 SOS revealed that limited jurisdiction courts regularly conduct large numbers of jury trials that had previously gone uncounted.

The 2023 *State-of-the-States Survey of Jury Improvement Efforts* (2023 SOS Survey) provided an opportunity to update the estimates of the jury trials in the United States. While the 2007 study provided a generalized annual estimate, the 2023 survey asked courts about the number of trials in three specific years: 2019, 2020, and 2021. To calculate the updated estimates, the NCSC calculated the statewide total number of jury trials reported by survey respondents for each year, then extrapolated national estimates based on the proportion of the state population reflected in the Local Court Survey.

**Limited jurisdiction courts regularly conduct large numbers of jury trials that often go uncounted in national estimates.**

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<sup>1</sup> GREGORY E. MIZE et al., THE STATE-OF-THE-STATES SURVEY OF JURY IMPROVEMENT EFFORTS: A COMPENDIUM REPORT 7-8 (April 2007) [*hereinafter* 2007 SOS Survey].

## ESTIMATED NUMBER OF JURY TRIALS IN STATE COURTS

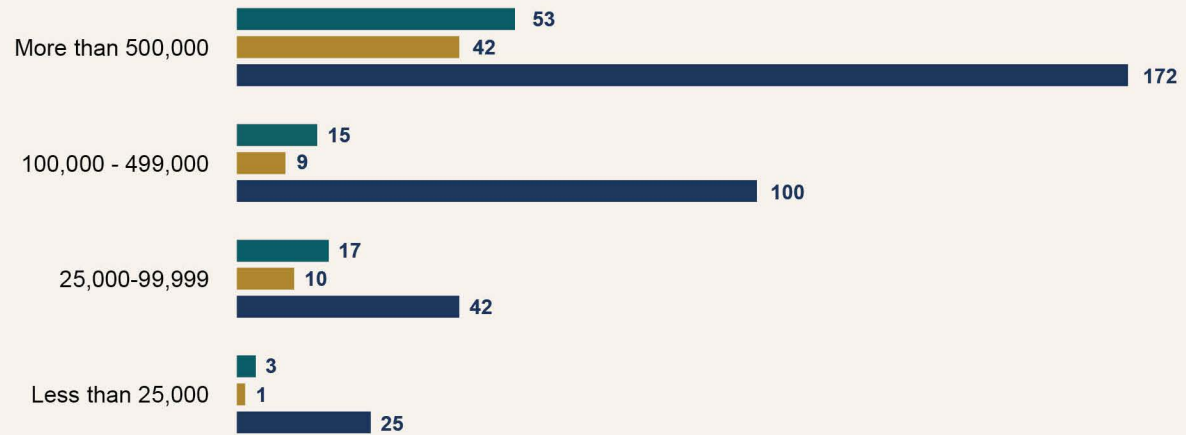
2007	2019	2020	2021
<b>148,558</b>	<b>125,222</b>	<b>33,880</b>	<b>48,764</b>

In 2019, state courts conducted an estimated 125,222 jury trials, which tends to confirm anecdotal reports that jury trials continue to vanish in both state and federal courts. A closer examination of jury trial rates shows an even more dramatic picture. In 2007, the rate of jury trials per 100,000 population was 58.6, but this rate fell to 37.7 in 2019, a 26% decrease. It was only because the US population grew 9% during the same period that the decrease in the raw number of jury trials fell only 17%.

Unsurprisingly, global disruption from the COVID-19 pandemic dramatically reduced the estimated number of jury trials to 33,880 in 2020. While the 2023 SOS Survey did not obtain

month-by-month tallies of jury trials, it is reasonable to assume that the rate of jury trials continued at approximately the same rate as in 2019 (10,453 per month) until March 13, 2020, when the federal government declared COVID-19 to be a national emergency. Consequently, nearly three-quarters of jury trials conducted by state courts in 2020 likely took place on or before March 13. After that date, the number of jury trials for the remainder of 2020 declined to only 233 per month nationally — a fraction of the trial rate in 2019. After COVID-19 vaccines became broadly available in 2021, the number of jury trials rebounded to an estimated 48,764, a 44% increase over 2020, but still less than half the number of 2019 jury trials.

**FIGURE 1**  
Average number of trials per year, by population size



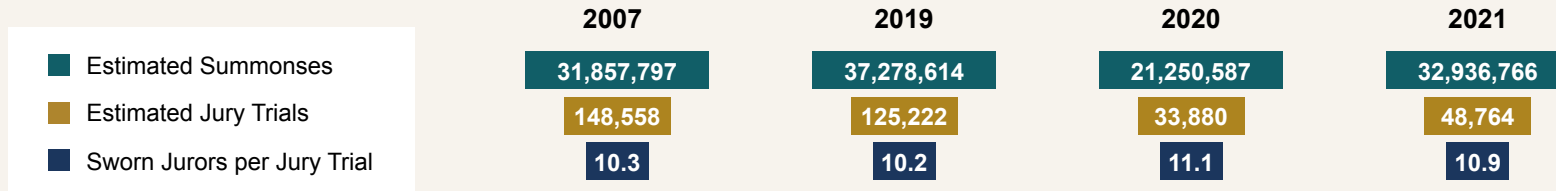
Only a very small proportion of cases (2% of felony cases, 1% of misdemeanor cases, and less than 1% of civil cases) are ultimately disposed by jury trial.<sup>2</sup> Because courts serving urban areas receive disproportionately more case filings than those in suburban and rural areas, they also conduct disproportionately more jury trials. In 2019, for example, courts serving urban areas — that is, serving populations greater than 500,000 — conducted an average of 172 trials per year (14 per month) while courts serving rural areas (serving populations less than 25,000) conducted only 25 jury trials per year (2 per month).

Courts serving large suburban (population 100,000 to 499,999) and small suburban areas (25,000 to 99,999) averaged 100 and 42 jury trials per year, respectively.

The impact of COVID-19 on jury trials differed greatly based on the size of the population size served by the court. In urban courts, the average number of jury trials decreased from 172 in 2019 to 42 in 2020 and 53 in 2021. Although small suburban courts conducted less than half the average number of jury trials as large suburban courts in 2019, this difference evaporated in 2020 and 2021. Rural courts conducted an average of only 1

2 [BRIAN OSTROM et al., TIMELY JUSTICE IN CRIMINAL CASES: WHAT THE DATA TELLS US 24 \(2019\)](#); [NAT'L ASSN CRIM. DEFENSE LAWYERS, THE TRIAL PENALTY: THE SIXTH AMENDMENT RIGHT TO TRIAL ON THE VERGE OF EXTINCTION AND HOW TO SAVE IT \(2018\)](#); [PAULA HANNAFORD-AGOR et al., THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS 25 \(2015\)](#).

**FIGURE 2 | National Estimates of Jury Summonses, Jury Trials, and Sworn Jurors per Trial**



trial per year in 2020 (4% of 2020) and 3 trials per year in 2021 (12%).

To select jurors to serve in jury trials, courts must first randomly select names of prospective jurors to receive a jury summons. Less than half of all persons who are mailed a jury summons are qualified and available to serve. Some summonses are returned by the U.S. Postal Service marked “undeliverable,” some individuals do not meet the statutory qualifications to serve, and others are exempt from jury service or ask to be excused or

deferred due to hardship or a preexisting commitment. An even smaller proportion are ultimately sworn as trial jurors.<sup>3</sup> Figure 2 illustrates the ratio of jury summonses to jury trials and sworn jurors to jury trials from 2007 to 2021. In 2007, state courts mailed an estimated 32 million jury summonses to empanel jurors for 148,558 jury trials (214 summonses per jury trial). Jury yields — that is, the proportion of summoned jurors who are ultimately qualified and available for jury service — declined from 52% in 2007 to 44% in 2019 for courts employing a one-step jury system.<sup>4</sup> Although the estimated number of jury trials

3 See *2023 State-of-the-States Survey of Jury Improvement Efforts: Performance Measures in Jury Operations (2024)* and *State-of-the-States Survey of Jury Improvement Efforts: Voir Dire Practices in U.S. Courts* at <https://www.strengthenthesixth.org/> for additional information.

4 Over two-thirds of Local Court respondents (70%) in the 2023 SOS Survey reported using a one-step jury system in which the court summons and qualifies prospective jurors in a single mailing; the remaining courts reported using a two-step system in which courts randomly select the names of prospective jurors to receive a qualification questionnaire to determine their eligibility for jury service. If the juror is deemed qualified, their name is placed on a qualified list from which the court randomly selects names to receive a jury summons. Two-step courts are much less efficient, with average jury yields that are 9 to 25 percentage points lower than one-step courts depending on the size of the population served by the court. In the 2023 SOS Survey, two-step courts reported overall jury yields of 33% in 2019 compared to 40% in 2007. *2023 State-of-the-States Survey of Jury Improvement Efforts: Performance Measures for Jury Operations (2024)*.

decreased to 125,222 in 2019, the decreased jury yield resulted in an increase in the number of jury summonses per jury trial to 297.

Surprisingly, COVID-19 did not dramatically change the average jury yield in state courts. In fact, one-step courts experienced a 1 percentage point increase on average while two-step courts experienced a 1 percentage point decrease.<sup>5</sup> However, it appears that courts did not reduce the rate at which they summoned jurors to coincide with the sudden decrease in jury trials in 2020 and 2021. The number of summonses per jury trial was 627 in 2020, which is nearly double that of 2019. To ensure that enough qualified jurors are available from which to select juries, courts typically mail jury summonses at least four to six weeks before the anticipated trial date. In the early, chaotic days of COVID-19, it is likely that most courts continued to mail their regular volume of jury summonses with the expectation that pandemic-related suspensions of jury trials would be lifted relatively quickly and they would need the regular complement of jurors to meet demands for jurors as trials resumed. These overly optimistic projections appear to have continued into 2021

as summoning rate increased yet again to 675 summonses per jury trial.

As expected, the decreased number of jury trials also resulted in a decrease in the number of persons who were ultimately sworn as trial jurors. In 2019, almost a quarter of a million fewer people were sworn as trial jurors compared to 2007. These numbers dropped even further in 2020 —more than 900,000 fewer jurors — before increasing by approximately 156,000 jurors in 2021 as the volume of jury trials increased.

An interesting wrinkle in these trends, however, was a slight increase in the average number of sworn jurors per trial. In 2019, the average number of jurors per trial was 10.2—a barely perceptible decrease from the 2007 rate of 10.3 jurors per trial that was likely due to the shift in caseload composition. From 2007 to 2019, proportions of felony and civil trials decreased, with an uptick in both misdemeanor cases and “other” cases.<sup>6</sup> All but three states empanel the traditional 12 -person juries for felony cases, but many states empanel smaller juries for misdemeanor and civil cases (Figure 3).

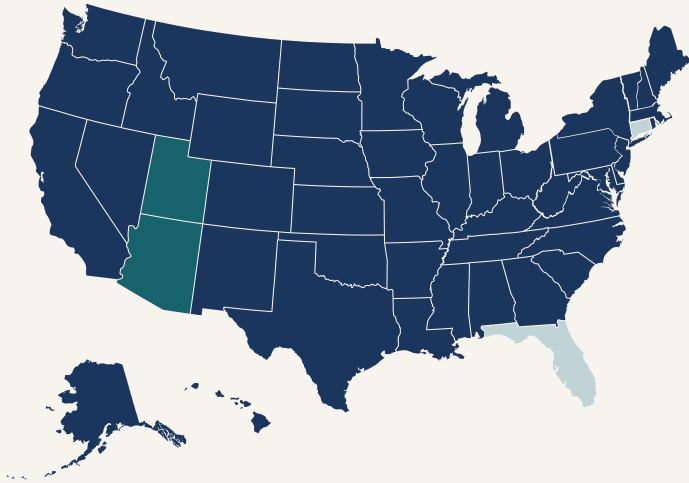
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5 *Id.*

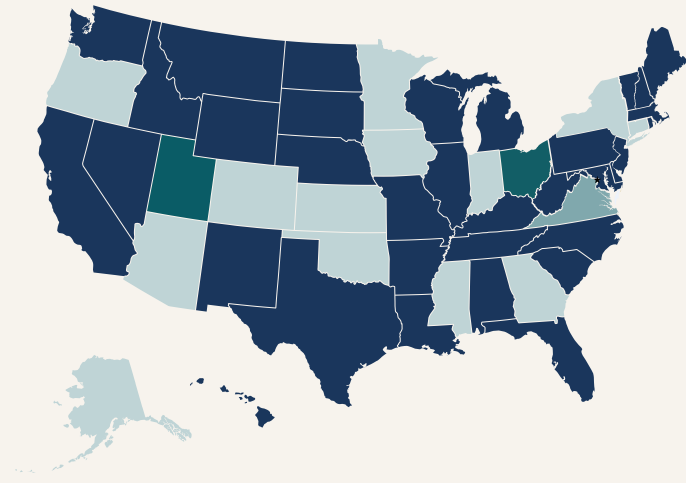
6 In the 2019 dataset, some respondents were unable to distinguish case types in their reports of jury trials and instead entered all trials as “other” case types, inflating this number.

**FIGURE 3**

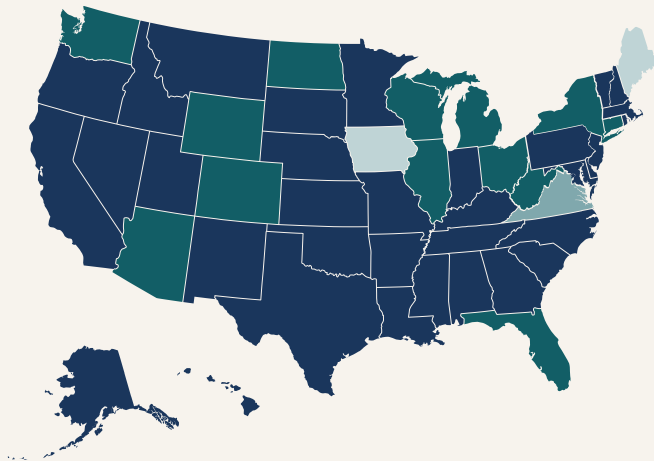
**Felony Jury Size**



**Misdemeanor Jury Size**



**Civil Jury Size**

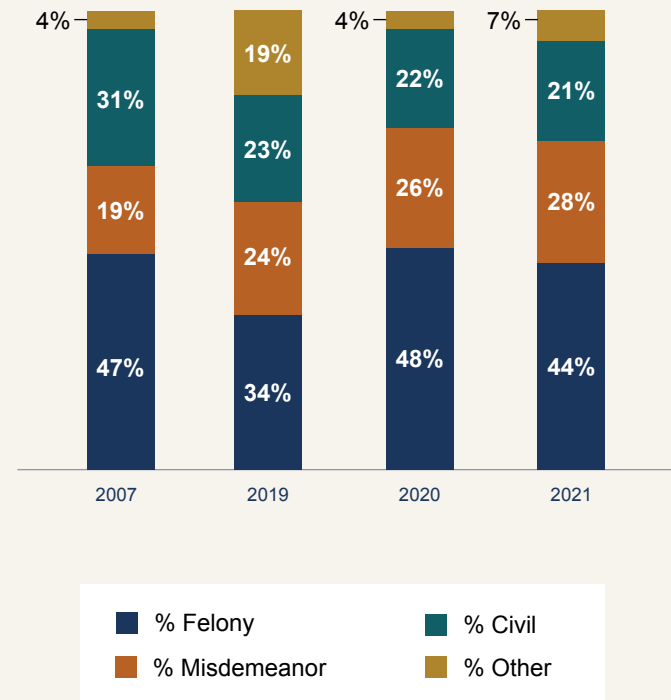


**Legend**

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- 8
- 12

As seen in Figure 4, felony cases were only 34% of jury trials in 2019, but almost half of jury trials in 2020. This increase occurred as courts prioritized felony cases in jury trials during the pandemic, while many civil and misdemeanor cases were put on hold. By 2021, misdemeanor trials had increased slightly, but civil trials continued well below their 2007 levels. The shift in trial caseload composition during the pandemic also affected the number of jurors who were ultimately empaneled in those trials, increasing the average number of sworn jurors per trial to 11.1 in 2020 before decreasing slightly to 10.9 in 2021.

**FIGURE 4**  
Trial Composition





## Conclusions

Proponents of trial by jury have been sounding alarms about vanishing jury trials since the 1990s. In 2003, the American Bar Association sponsored a symposium on vanishing trials that documented the decline in bench and jury trial rates in both state and federal courts.<sup>7</sup> A study of cases filed in state courts, for example, documented a 15% decrease in criminal jury trials from 1976 to 2002 and a 32% decrease in civil jury trials during the same period.<sup>8</sup> Multiple factors are alleged to contribute to this decline, including the cost of litigation, insufficient capacity of the bar to take cases to trial and the bench to preside over

trials, disproportionately harsh sentences imposed on criminal defendants who are convicted after exercising their right to trial, and the erosion of trial advocacy skills and judicial expertise.<sup>9</sup> Data from the 2023 SOS Survey indicates that, even before COVID-19 when trial rates plummeted, this downward trend continued apace from 2007 to 2019. It is too soon to tell how much jury trial rates may recover from their low in 2020 or whether they reflect a new baseline and will continue to decline even further in the future.

## Acknowledgements and Disclaimers

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7 The Symposium featured scholarly papers on the causes of vanishing trials, the consequences to the justice system, the experience with other forms of adjudication, and the nature of courtroom activity in the absence of trials. Symposium papers were subsequently published in in 2004 volume 1, issue 3, of the *Journal of Empirical Legal Studies*.

8 Brian J. Ostrom, Shauna M. Strickland & Paula Hannaford-Agor, *Examining Trial Trends in State Courts: 1987-2002*, 1 J. EMPIR. LEG. ST. 755 (2004).

9 NAT'L ASSN CRIM DEFENSE LAWYERS, *supra* note 2.



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