



Written by [Selwyn Duke](#) on December 6, 2017

## We Can Thank a Flawed Jury System for the Steinle Verdict

Much has been said about the acquittal of felonious invader Jose Ines Garcia Zarate, the killer of young Kate Steinle, who died in her father's arms. Yet while most of the [focus](#) has been on "sanctuary cities" — a euphemism for treasonous, lawless cities — there perhaps has been no scrutiny of the people whose minds are too often a sanctuary from knowledge and reality: modern jurors.



The problem stems from "The Error of Impartiality," which is the title of an essay on this very subject. For what is often perceived in jurors as fairness is just fecklessness, of the moral variety.

When choosing jurors, pains are taken to dismiss people with preconceived notions about the case. But consider: If in question is a high-profile matter such as the O.J. Simpson or Steinle case, what kind of person would know nothing about it and/or have formed no opinions? Does this reflect impartiality or just indifference?

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Assuming such a person makes the ideal juror is like supposing that someone still undecided the day before a high-profile election is surely a better voter than someone who reads the news and formed an opinion early on. An undecided individual may be a better voter in the particular (relative to a given wrongly decided voter), but in principle this supposition simply is untrue. G.K. Chesterton explained the matter brilliantly in the aforementioned essay, [writing](#):

What people call impartiality may simply mean indifference, and what people call partiality may simply mean mental activity. It is sometimes made an objection, for instance, to a juror that he has formed some primâ-facie opinion upon a case: if he can be forced under sharp questioning to admit that he has formed such an opinion, he is regarded as manifestly unfit to conduct the inquiry. Surely this is unsound. If his bias is one of interest, of class, or creed, or notorious propaganda, then that fact certainly proves that he is not an impartial arbiter. But the mere fact that he did form some temporary impression from the first facts as far as he knew them — this does not prove that he is not an impartial arbiter — it only proves that he is not a cold-blooded fool.

If we walk down the street, taking all the jurymen who have not formed opinions and leaving all the jurymen who have formed opinions, it seems highly probable that we shall only succeed in taking all the stupid jurymen and leaving all the thoughtful ones. Provided that the opinion formed is really of this airy and abstract kind, provided that it has no suggestion of settled motive or prejudice, we might well regard it not merely as a promise of capacity, but literally as a promise of justice. The man who took the trouble to deduce from the police reports would probably be the man who would take the trouble to deduce further and different things from the evidence. The man who had the sense to form an opinion would be the man who would have the sense to alter it.

Chesterton also noted that the logical outcome of our "impartiality" standard is that a "case ought to be



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tried by Esquimaux, or Hottentots, or savages from the Cannibal Islands — by some class of people who could have no conceivable interest in the parties, and moreover, no conceivable interest in the case. The pure and starry perfection of impartiality would be reached by people who not only had no opinion before they had heard the case, but who also had no opinion after they had heard it.”

The essay is pure gold, and I strongly recommend you read the [whole thing](#).

I once wrote a [piece](#) titled “Why Most Voters Shouldn’t Vote,” and a corresponding principle may be that most jurors shouldn’t sit on juries. People so apathetic that they couldn’t be bothered to try and determine reality on high-profile candidates or cases probably won’t transform, magically, into sagacious sleuths of reality upon entering a ballot or jury box. Apathy is not an asset, and ignorance is not a virtue.

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