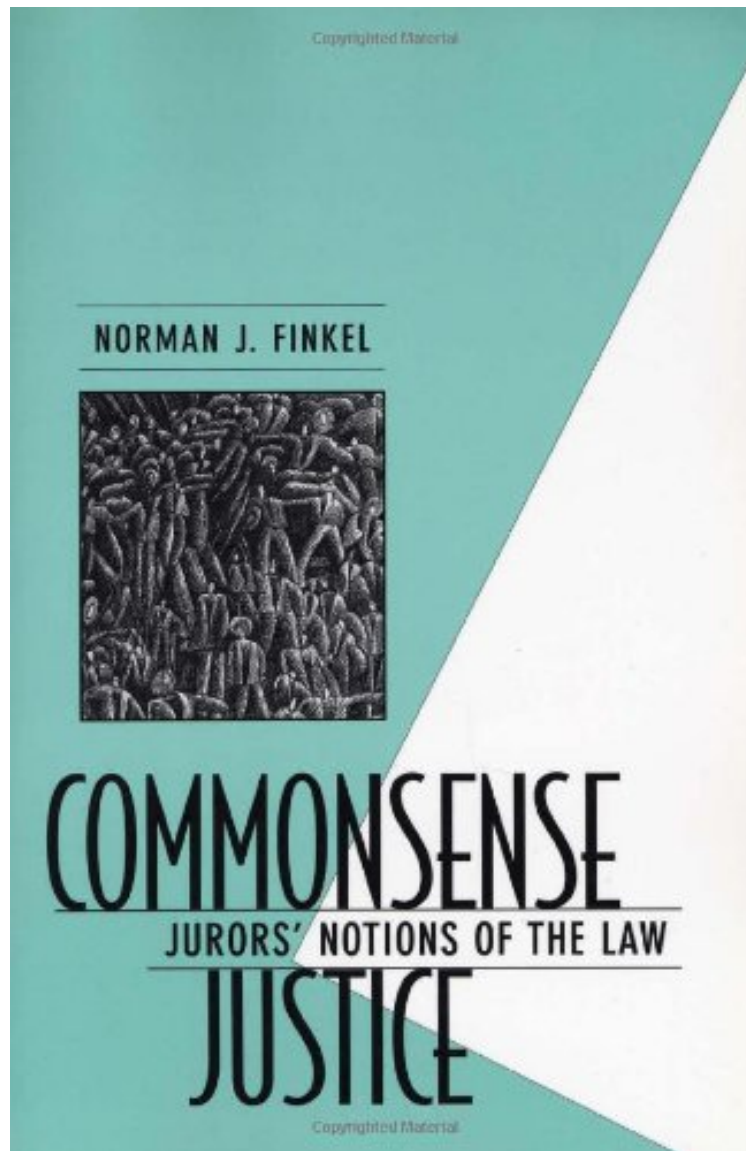


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## Commonsense Justice: Jurors' Notions of the Law

*Norman J. Finkel*

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0 of 0 people found the following review helpful. Three StarsBy Lenny S.class textbook12 of 13 people found the following review helpful. GREAT BOOKBy Clay S. Conrad (jury power@aol.com)Until recently, jury nullification,

and the role of jury discretion, were relatively obscure topics. Although there were literally hundreds of law review articles and other academic writings on the topic, almost none of them were available outside of the larger law libraries. The newspapers discussed the topic - inaccurately and sensationalistically - and the general public had no reliable source of information. Today, however, there are several books on the topic. Godfrey Lehman's "We, the Jury" looks at the subject from a historical perspective. Jeffrey Abramson's "We the Jury" (now, sadly, out of print) and my own "Jury Nullification: The Evolution of a Doctrine" look at jury nullification from a historical perspective. Norman Finkel looks at how juries work - and when and why they nullify - from a psychological and sociological perspective, using legal cases to highlight when the law fails, and how. This wonderful work shows how jurors - and other citizens - view the law, and how the law SHOULD work, and contrast those views with those of judges and legislators. If anything, this book shows that jurors should be less shy about standing up for what they consider just. Chances are, if the jury believes the law is wrong - most of the rest of society would agree.

For the first time in our history, U.S. prisons house over a million inmates, enough to populate a city larger than San Francisco. Building prisons is the new growth industry, as the American public reacts to a perceived increase in violence and politicians take a hard line toward crime. But this eagerness to construct more prisons raises basic questions about what the community wants and will tolerate and what the Supreme Court will sanction. In this timely book, Norman Finkel looks at the relationship between the "law on the books," as set down in the Constitution and developed in cases and decisions, and what he calls "commonsense justice," the ordinary citizen's notions of what is just and fair. Law is an essentially human endeavor, a collection of psychological theories about why people think, feel, and behave as they do, and when and why we should find some of them blameworthy and punishable. But is it independent of community sentiment, as some would contend? Or, as Finkel suggests, do juries bring the community's judgment to bear on the moral blameworthiness of the defendant? When jurors decide that the law is unfair, or the punishment inappropriate for a particular defendant, they have sometimes nullified the law. Nullification represents the jury's desire not to defeat but "to perfect and complete" the law. It is the "no confidence" vote of commonsense justice refusing to follow the path the law has marked out--and pointing to a new path based on what seem to be more just grounds. Finkel brings to life the story behind the jury and judicial decisions, interweaving anecdotes, case law, and social science research to present a balanced and comprehensive view of important legal and social policy issues.

Timely in light of the recent acquittal of O.J. Simpson, this book addresses jury nullification, or the ability of juries to make law and not simply determine facts. (Choice) At a time when the jury system is under increasing scrutiny and there is evidence that jurors in some cases are rebelling against the law, Norman Finkel's [book] is a welcome addition to the literature on this venerable but beleaguered institution. This book explores the relation between 'black letter' law and 'commonsense justice' or 'community sentiment'...Finkel's central question is 'should the law follow the path laid by community sentiment, or should the community follow the path the law has laid?'...Commonsense Justice is a book of broad scope, embracing issues of substantive constitutional and criminal law and empirical research on juries. (Thomas Schmeling Law and Politics Book ) About the Author Norman J. Finkel is Professor of Psychology, Georgetown University.