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Australian Institute of Criminology

Practices, policies and procedures that influence juror satisfaction in Australia

Report to the Criminology Research Council
July 2007 (Funded by CRC Grant CO1/06-07)

Jane Goodman-Delahunty

Neil Brewer

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Research and Public Policy Series

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Director's introduction

Although jury trials account for only a small proportion of criminal matters, juries help to promote fairness within the criminal justice system and are an integral part of the administration of justice. Australian studies involving interviews with jurors are rare, due to the legal restrictions on soliciting information from jurors, and previous research has not addressed the issue of juror satisfaction. To overcome this gap in knowledge, in 2005 the Criminology Research Council commissioned a study into juror satisfaction in New South Wales, Victoria and South Australia.

The report highlights a range of issues regarding the jury system and processes. These include community perceptions, juror information and jury management during and after trials. Community surveys demonstrated a willingness to participate in jury service; however, some barriers to participation, such as the lack of accurate information about the jury system, were identified.

Jury satisfaction was strongly influenced by personal comfort with the physical environment, clarity of the information presented and jury procedures and remuneration as well as remuneration and job protection. Dissatisfaction with remuneration emerged as a significant barrier to jury participation and therefore the representativeness of juries. Jurors were generally satisfied with their jury experience, and this satisfaction was strongly correlated with their confidence in the jury system. Confidence in the fairness of the criminal justice system was also increased by involvement in the jury process.

The report makes a number of recommendations for improving the practices, policies and procedures that affect juror satisfaction. A number of key policy recommendations focused on promoting jury service, reducing the financial impact of such service and improving information for potential jurors. It is also recommended that the jury summoning procedures be streamlined and that legal arguments be presented to the trial judge prior to empanelment, to minimise frustrating delays for jurors.

Further research is recommended, including examining the ways courts use jurors, manage their time and the associated costs and implications for justice; examining relative satisfaction levels and representativeness of juries on the basis of length of service required; and means of managing jurors' perceptions of their employment protection. The report calls for research on the use of multimedia to assist jurors and ways to streamline presentation of evidence. The need for future research to assess jurors' responses to specific types of cases and explore ways to manage confrontational evidence is also considered. Research on tools to streamline jury deliberations and how the extent of jurors' political trust impacts on confidence in the jury system is also recommended.

Toni Makkai
Director
Australian Institute of Criminology

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Executive summary

Background

In 2005, the Criminology Research Council commissioned a study of practices, policies and procedures affecting juror satisfaction in New South Wales, Victoria and South Australia, where jury administrators had affirmatively responded to an invitation to participate extended to all Australian jurisdictions. The study sought the views of the community, relevant stakeholders and jurors themselves on a variety of factors that may contribute to jury satisfaction, namely communications with jurors prior to empanelment, court facilities and amenities, incidents and conditions of jury service, and the perceived fairness of jury procedures.

Specific aims of the research were to:

- summarise policies, legislation and practices regarding the management of jurors in the three participating jurisdictions
- evaluate the relationship between juror management policies and effectiveness, and sources of juror satisfaction and dissatisfaction in each state
- examine perceptions and knowledge of prospective and empanelled jurors regarding jury duty to identify any barrier to jury participation and educational needs
- identify policy implications flowing from the findings to develop optimal procedures for managing jurors in Australia.

Method

The study drew upon a range of archival, qualitative and quantitative information. First, jury legislation, regulations and policies in the three jurisdictions were compared. This analysis was supplemented by interviews with jury administrators to gain a practical understanding of the procedures adopted in implementing the legislation. Next, documents and information provided to jurors by the courts were evaluated, including preliminary documents, such as the summons, questionnaire and orientation materials (e.g. brochures and videotapes describing the role of the jury). These documents were assessed in terms of their coverage of relevant issues, readability and usefulness to the lay juror. Qualitative data were derived from observations and interviews. First, the facilities and amenities in the physical environments in which jurors work, such as the jury assembly room, jury box and jury deliberation room, were evaluated for functionality and comfort. Next, 53 structured interviews were conducted with key stakeholders across the three states: 12 Supreme Court judges, nine District/County Court judges, 12 prosecutors, 10 defence counsel and 10 jury administrators. These interviews probed for information about best practices and areas for improvement in the jury management systems in each state.

Quantitative information was obtained from surveys of community members and jurors. The majority of survey responses were recorded on a five-point Likert scale, ranging from one (not at all confident/strongly disagree) to five (very confident/strongly agree), with a 'neither agree nor disagree' option at the midpoint of the scale. Community attitudes to jury service and the criminal justice system were assessed by means of an online survey. A total of 4,765 participants responded (41% male, 59% female, ages 18–65+ years). Participation rates were approximately equal across the three states, with 70 percent of the respondents drawn from metropolitan areas.

Empanelled and non-empanelled jurors were surveyed in District Courts, County Courts and Supreme Courts in both metropolitan and regional areas. The surveys were administered by court staff from March to May 2007. Responses from non-empanelled jurors who attended jury service but were ultimately not empanelled in a trial were compared with those of empanelled jurors to investigate whether the experience of being empanelled and serving on a jury differentially influences juror satisfaction and perceptions of the criminal justice system.

A total of 1,048 (318 in NSW, 476 in Vic and 254 in SA) non-empanelled jurors completed the written survey. The survey addressed topics such as jurors' level of satisfaction with communications from the courts, the physical work environment, their treatment by jury administration staff, juror remuneration, exemptions and deferrals, and their confidence in the criminal justice system. A total of 628 (156 in NSW, 317 in Vic and 155 in SA) empanelled jurors completed the survey at the conclusion of their jury service. In addition to the topics already mentioned, empanelled jurors were asked about their knowledge of juror support services, understanding of the trial process and their satisfaction with information provided about topics such as how to deliberate and ask questions.

Results

Survey responses gathered from a total of 6,441 participants across three states with different degrees of exposure to the criminal justice system provided a rich dataset to assess the veracity of anecdotal information previously available about jury satisfaction.

Barriers to jury service

Results of the community survey demonstrated that the jury-eligible citizens held generally positive views about jury service and expressed a willingness to participate. However, some barriers to participation were identified. One of these was a lack of accurate information about jury duty. For example, many persons were unaware of the option to postpone jury duty, few understood what a 'one-day/one trial' system was or whether this was available in their state, and citizens were poorly informed about the average length of jury duty, even in communities in which the duration of jury duty is relatively lengthy, e.g. one month in South Australia.

Comfort of and satisfaction with the physical environment

The physical environment which jurors experience is a substantial contributor to comfort and general satisfaction with the experience of jury service. Certain court buildings, such as the heritage purpose-built Darlinghurst Court, date from the 19th century, while others, such as the Downing Centre in Sydney and the Sir Samuel Way Building in Adelaide are refurbished department stores. More modern courtrooms surveyed typically date from the 1990s, while the Victorian County Court opened in 2002 contains spacious, purpose-built areas for jurors. An expert evaluation of different court buildings in which jurors serve revealed extensive differences in the quality of court facilities within and between states. Consistent with these independent, objective analyses of the court spaces, jurors rated the facilities at the new purpose-built courthouse as significantly more comfortable and satisfactory than purpose-built heritage courthouses; and adaptively reused buildings received intermediate ratings.

Overall, only about one-half to two-thirds of the jurors surveyed were satisfied with the comfort and privacy of the jury assembly areas, and the comfort of the courtrooms and jury rooms (e.g. the facilities available for working while waiting, food and beverages provided, availability of self-catering facilities). Large discrepancies emerged in satisfaction with facilities among jurors in the three states; satisfaction was significantly higher in Victoria regarding the comfort of the assembly room, jury room and courtroom. New South Wales jurors consistently expressed the least satisfaction with their facilities. South Australian jurors were most satisfied with the physical comforts provided such as self-catering facilities and the quality of the food and beverages.

Clarity of information and jury procedures

Potential jurors experience their first contact with the jury administration system through a questionnaire or summons received in the mail. This is accompanied by information regarding their future role and the criteria for eligibility, exemptions and deferrals. Overall, citizens expressed a high degree of satisfaction with these pre-service communications. About three out of four potential jurors were satisfied with the amount of notice given (70%), the information provided with the notice (74%) and the helpfulness of jury office staff in answering preliminary enquiries (77%). Comparisons of satisfaction levels among the three states revealed that jurors in Victoria and South Australia were generally more satisfied than jurors in New South Wales with the information provided in advance of jury service.

When the day for jury duty arrived, satisfaction levels were higher, with approximately 85 percent satisfied with the way they were treated by court staff and the information provided about the role of jurors. Satisfaction with the orientation videotape ranged from 52 percent in New South Wales to 82 percent in Victoria, and satisfaction with explanations for why jurors had to wait in the assembly room ranged from 47 percent in New South Wales to 74 per cent in Victoria.

Jurors obtain information in a variety of forms to assist them in following trial proceedings. The majority of jurors reported the use of charts or visual aids (83% and 74% respectively) during the trial, and received copies of the exhibits in the jury room (83%). Most jurors agreed that complex legal terminology was adequately explained by judges (88%), while the vast majority of jurors served on a jury with members who took notes (93%). Jurors made strong distinctions between the clarity of information received from different participants in the trial process. In general, jurors found the information provided by judges especially clear, with the prosecution and defence lawyers' opening and closing addresses falling slightly behind in perceptions of clarity. By comparison, jurors tended to perceive the witness testimony and visual evidence as fairly unclear (less than one-half of the jurors reported the witness evidence to be clear).

Remuneration

Of particular concern to jurors is the financial burden of jury duty. One of the strongest messages to emerge from this study from jurors and other stakeholders is that jury remuneration is inadequate. Overall, less than one-quarter (24%) of jurors were satisfied with their remuneration, while only 18 percent were satisfied with their travel allowances. Sixty-four percent of jurors (82% in South Australia) agreed that 'jurors need more compensation for their expenses'. There was near unanimity amongst stakeholders that the amounts should be increased. Furthermore, a small percentage of jury-eligible citizens identified financial, work and child care responsibilities as barriers to jury participation, and a substantial percentage reported avoiding jury service due to financial hardship.

Dissatisfaction with remuneration may be a significant barrier to participation in jury service, and thus the representativeness of juries. Increasing financial compensation is particularly crucial for self-employed citizens, casual workers and those whose employers do not pay them while serving on a jury, and in states where daily allowances do not meet citizens' financial needs. Thirteen percent of jurors felt that serving on a jury placed their job at risk.

Perceptions of and confidence in the jury system

In general, these results revealed that persons with more direct contact and experience with court, even if as a defendant, were more eager to serve as jurors and expressed more support for the jury system and more confidence in the criminal justice system. Citizens most likely to avoid jury duty were those with the least experience and past contact with the courts, and with less accurate information and knowledge of the jury system. As was the case with the stakeholders, most citizens expressed strong support for jury trials over trial by a judge alone in criminal cases, irrespective of whether the question was answered from the perspective of a victim or a defendant.

Overall, jurors expressed satisfaction with the experience of jury duty, with 58 percent satisfied or very satisfied, and 25 percent neither satisfied nor dissatisfied. Only 11 percent expressed dissatisfaction with the experience. This was a positive outcome, in light of the intrusive and onerous nature of jury service. Levels of satisfaction were significantly higher in Victoria, followed by South Australia and then New South Wales.

The current study revealed a strong positive correlation between overall satisfaction with the experience of jury service and confidence in the jury system: the more jurors were satisfied with their experience, the more confidence they expressed. Conversely, dissatisfaction with the process tended to undermine jury confidence in the system. For example, dissatisfaction with remuneration and travel allowances appeared to be associated with dissatisfaction with the overall jury experience, although it was less strongly related to overall confidence in the criminal justice system. Conversely, comfort of jury facilities was positively associated with both overall satisfaction and confidence. These findings suggest that improvements to the quality of the jury experience may positively influence juror perceptions of the criminal justice system more generally.

The survey results demonstrated that confidence was significantly higher among those more familiar with the jury system and among citizens who attended jury service, whether empanelled or not, compared with community members who have never served. Involvement in the jury process increased perceptions of the fairness of the criminal justice and jury system, and confidence in the capacity of juries and judges to perform their tasks.

Conclusions and recommendations

Jury service is an important but onerous civic responsibility. For the period of jury service, the court is a juror's workplace. However, it is a workplace over which jurors can exert very little control, and about which they are rarely consulted. It is therefore incumbent on government to ensure that every measure is taken to assist jurors to perform this essential task as efficiently and comfortably as possible. Broadly, these results indicate that confidence in the courts and the jury system can be enhanced by increasing participation in jury service. Improving juror satisfaction is a matter with implications beyond the comfort of individual jurors: it accords juries due respect and dignity, demonstrates recognition for the important role that jurors perform in the criminal justice system and may also contribute to improved confidence in the criminal justice system. Recommendations are:

- Develop and provide community-based education programs to reduce barriers to jury participation, and to correct common misconceptions that jury duty is onerous and best avoided.
- Encourage wider community participation in jury duty, as increased contact with and knowledge about the jury system reduces misconceptions that prevent citizens from participating as jurors and increases confidence in the criminal justice system.

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- Critically examine the categories of exemptions and excusal with a view to making amendments to increase participation by members of all professions.
 - Allow more flexibility in deferral of jury service to increase jury representativeness.
 - Examine barriers to Indigenous participation to increase the fairness of juries, especially in areas where many defendants are Aboriginal or Torres Strait Islander persons.
 - Reduce the potential financial burden of jury duty, increase juror remuneration to reflect average weekly earnings or tailor remuneration to individual circumstances.
 - Increase juror allowances for transportation and other reasonable out-of-pocket costs of attending jury duty, such as childcare expenses.
 - Legislate to protect jurors' jobs and income during jury duty.
 - Critically review information provided to juror to ensure that jury summonses are clear, informative and easy to respond to.
 - Disseminate basic information about opportunities to seek deferral of jury duty and about the fundamental terms and conditions of jury service.
 - Provide potential jurors with more extensive information in advance of their attendance at court regarding their role, responsibilities and the expected duration of jury duty.
 - Streamline jury summonsing procedures to minimise the amount of time non-empanelled jurors are kept waiting at court. For example, summons jurors as needed, and on any given day, call to court only jurors who are needed that day.
 - Representatives of the jury management office should personally contact citizens who do not respond to the jury summons to seek an explanation and to offer the citizen an opportunity to serve on a jury at a later date. To foster an atmosphere of cooperation, sanctions for noncompliance should be avoided.
 - Ensure information provided to jurors is multimodal, interesting, informative and easy to understand. Preliminary orientation information should cover a range of topics to ensure that jurors are interested and engaged.
 - Regularly update orientation videotapes to ensure that they are interesting and engaging, while informing jurors about their role and the part they play in the criminal justice system. Where possible, videotapes should be tailored to location and type of court.
 - Encourage more communication between judges and jurors during the orientation period.
 - Ensure that juror facilities such as the jury assembly room, courtroom and jury deliberation room are comfortable, inviting and upgraded in accordance with best architectural practices.
 - Enhance the quality for food and beverages provided to jurors and ensure that jurors have access to water in the courtroom.

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- Provide self-catering facilities such as microwave ovens, refrigerators and kitchen areas for use by empanelled and non-empanelled jurors.
 - Arrange for counsel to present legal arguments about evidentiary matters to the trial judge prior to the empanelment of a jury, to minimise frustrating delays for jurors.
 - Provide jurors with additional time to apply for excusal after they hear the list of witnesses and charges in a case.
 - Avoid embarrassment or humiliation of individual jurors by allowing them to submit private notes to the trial judge specifying reasons for seeking excusal.
 - Improve the utility of peremptory challenges by providing the parties with more information about prospective jurors, such as name and occupation.
 - Minimise the humiliation or embarrassment of jurors by reading a joint list of numbers of jurors challenged rather than requiring individual jurors to parade before the parties while challenges are announced.
 - Allow empanelled jurors sufficient time to settle before the trial commences, as jurors benefit from time to organise their personal affairs to absorb the orientation information, and to adjust to the new task and environment.
 - Allow empanelled jurors time to become acquainted before requiring them to select the jury foreperson.
 - Provide jurors with explanations for delays and interruptions to the trial.
 - Present information, evidence and witness testimony in a clear and coherent manner to facilitate juror comprehension. Where possible, provide jurors with transcripts and copies of the trial exhibits to refer to during deliberations.
 - Encourage more active participation of jurors in trial by allowing jurors to submit questions to the trial judge about matters that are confusing or questions they may wish to have witnesses address.
 - Foster more communication with jurors at the conclusion of the trial, by establishing procedures to debrief jurors and by informing jurors of the date of the sentencing hearing in cases where the jury convicted the defendant.
 - Conduct regular evaluations of the experience of jury duty to ensure that issues affecting juror participation, performance and satisfaction are continually monitored and addressed.

Introduction

Juries are central to the fairness of the criminal justice system, as they provide an application of the law 'consonant with community conscience' (Findlay 1994). Juries are intended to be representative, impartial and independent to help ensure that defendants receive a fair trial (Auty & Toussaint 2004; Horan & Tait 2007). Thus, it is imperative to understand the reasons why jury service is sometimes described as an 'onerous chore best avoided' (Matthews, Hancock & Briggs 2004).

In recent decades, juries have been the focus of considerable academic study. Although jury trials represent only a small proportion of cases dealt with by Australian courts (Chesterman 2002; Barker 2003), they are retained for the most serious criminal trials and remain an important feature of the criminal justice system (Goodman-Delahunty & Tait 2006). Much previous jury research has focused on issues such as the representativeness of juries (Dunstan, Paulin & Atkinson 1995; Israel 1998), the ability of juries to understand complex evidence (Findlay 2001; Goodman, Greene & Loftus 1985, 1989) and the reliability of jury decision-making (Salmelainen, Bonney & Weatherburn 1997; Vodanovich 2004). Relatively few studies have examined the experience of jurors and their satisfaction with jury service (Matthews, Hancock & Briggs 2004), although several Australian and international researchers have begun to address issues surrounding jury participation (Findlay 1994), comprehension (Brewer, Harvey & Semmler 2004; Ogloff, Clough & Goodman-Delahunty 2007; Semmler & Brewer 2002) and satisfaction (Cutler & Hughes 2001; Deborah Wilson Consulting Services 2000; Schaubel 2006). The application of this research is somewhat limited by jurisdictional differences that can make generalisation problematic (Findlay 1994). For example, in Australia, no voir dire of juries is conducted, as is the norm in the United States.

An earlier Australian study investigated factors that influenced jury management in New South Wales (Findlay 1994) by examining management procedures applicable at different stages in the jury system to identify where policy might be advanced to improve the efficiency and effectiveness of the jury system. Jurors were interviewed using closed and open-ended questions to investigate their concerns regarding the comfort and convenience of jury service, and their understanding of the trial procedures. Additional observational analyses were conducted to identify other issues in the management of jurors. This study investigated many aspects of jury management in one jurisdiction but did not specifically examine juror satisfaction and confidence in the criminal justice system. The current study extends the research by Findlay by incorporating both quantitative and qualitative approaches to investigate juror satisfaction under the current legislation, and includes a comparison of jury management procedures in three Australian jurisdictions. The present study also explores factors that may comprise barriers to jury service.

Studies in which Australian jurors have been interviewed, as in the foregoing study by Findlay, are rare (it is a criminal offence to solicit information about deliberations from a juror or former juror, as is discussed further in section 'Legislative analysis'). Typically, these studies have addressed topics other than juror satisfaction (e.g. Chesterman, Chan & Hampton 2001 on pretrial publicity; Wheate 2006 on jury understanding of expert evidence).

One recent study in Queensland about jury responses to court symbolism and traditions (Richardson 2006) gathered some information from jurors about their experiences by conducting interviews following the conclusion of their term of jury duty. As in the case of South Australia, jury duty in Queensland lasts for a period of one full month. Jurors reported that this experience was burdensome, particularly the difficulty of juggling a personal life and jury duty when the management of their schedule was unpredictable and they had little control over it. For example, one juror commented on the inconvenience of remaining on call with little notice about court attendance, regardless whether one was assigned to a particular trial:

The thing that was most irritating was you had to ring and find out whether you were needed in court, because even if you weren't on the trial you had to go in because you were booked for a month. ... So you had to telephone the court two or three times to make sure that you heard your number properly because she would rattle it off in such a hurry to get through all the numbers ... You wouldn't always be called the next day. It would be very strange, sometimes you'd go on a Monday and you wouldn't be called again until Thursday ... So I thought it was very poor, and I thought there must be another system that they could do. And, then, the other comment was 'Well, you can look it up in the paper.' Like, you could ring after five o'clock to find out. I liked to know the night before what I was doing. I didn't particularly want to rush out in the morning, run to get the paper, and then see if my trial was listed. So, I didn't consider it, looking in the paper. I wanted to find out the night before, you know, when I was going to be needed.

Another juror interviewed by Richardson (2006) emphasised the difficulty of juggling workplace responsibilities and jury service, and the financial burden imposed by jury duty:

I guess the other thing... the big inconvenience for some people to attend jury service, because they don't pay you – they don't pay you very much. I was lucky because my work would keep paying me I just took some flexitime off for it.

Other jurors in this study reported frustrations with the trial presentations, e.g. that the sequence in which barristers entered evidence to the record was distracting and difficult to follow. For example, one juror commented:

... barristers don't follow sequence which you think. Well, if I'm going to ask all about what she did, or such and such, you'd ask a series of questions. But, they don't. They leap back, and then they come back, and say 'Well, on the 17th...' and you think 'Hey, what were they talking about?'

A thoughtful and provocative contemporary report about the jury experience from the perspective of a New South Wales juror was provided by Knox (2005), a lawyer and journalist who spent one month serving on a criminal trial at the Downing Centre in Sydney. In his book, he paints a fairly dismal picture of many aspects of jury duty, arguing that jurors are denied fundamental assistance and respect, and treated in a demeaning fashion,

more like prisoners or children than dignified and conscientious participants in the legal decision-making process. Major elements that detracted from the experience according to Knox were physical discomfort, inefficient time management, appallingly bad communication and poor remuneration. For example, he noted the low productive use of jurors' time: an average of 4.5 hours of in-court testimony per day, for a total average of less than 20 hours per week. Nonetheless, Knox emerged from this experience as an enthusiastic advocate for the jury system, and would willingly serve again as a juror. Many of the frustrations documented by Knox (2005) were previously noted in the course of jury interviews conducted by Chesterman, Chan and Hampton (2001) in New South Wales. A significant and noteworthy outcome to emerge from the description provided by Knox (2005) is that willingness and eagerness to participate as a juror should not be interpreted as satisfaction with the conditions and terms of jury service.

Moreover, Knox (2005) pointed out that courts should communicate more basic information to jurors earlier, in a more effective way to counteract the paradox that jurors' knowledge of the criminal process was overestimated, and that the gap was typically filled by erroneous assumptions on the part of jurors. Accordingly, Knox contended that jury orientation to the task should be expanded beyond a videotape and tour of a courtroom to include more general information and some case-specific information. In particular, he saw a need for pre-instruction on the criminal process, burden of proof, onus of proof, presumption of innocence, differences between counsels' arguments and evidence, the right to nullify, the right to ask questions, and clarification as to what deliberation is and is not. Information that he recommended jurors receive as a form of pre-instruction before a trial commences included the law of the indictment, the arrangement for and notice to jurors that they would receive a written transcript of the evidence and preferably a videorecording of the evidence for playback during deliberations as a memory aid. Finally, he included some recommendations regarding information that will assist jurors at the close of trial, e.g. provision to the jury of the summing up in writing in simple, plain English and more information about the decision rule in reaching a verdict (majority decision vs unanimity).

These recommendations are congruent with findings in past studies that have revealed that jurors who have more knowledge about the legal system are more comfortable with their role (e.g. Bradshaw et al. 2005). For example, civil jurors in Victoria who responded to a survey conducted by Horan (2005) indicated that they often lacked understanding of the adversarial system and adversarial processes, and wanted more assistance in understanding their role and duties. Many jurors reported that they wanted an opportunity to speak to the judge but this did not seem possible (Ryan 2002). Horan (2005) found that jurors were unclear how to resolve problems that arose, such as clarifying questions when they were confused or to whom to address their questions. Other researchers have confirmed that juries often experience frustration with legal phrases such as 'beyond a reasonable doubt', and then are perplexed as to how to resolve their questions (Nolan 2003).

The physical location in terms of rural versus urban courts can further influence the nature of the jury experience, and raise different issues for jurors. For example, in New South Wales, concerns were expressed by jurors in rural communities that they knew the victims, accused and families, thus experienced anxiety about their verdicts as whatever the decision, they would offend some party (Feldman & Bell 1991; McGrath & Ryan 2004). Together, these studies and the comments from jurors such as those documented by Richardson (2006), Knox (2005) and Chesterman, Chan and Hampton (2001) indicated that research enquiries about jury satisfaction should address jury orientation, the quality of the jury facilities, jury time management, the duration of jury duty, jury remuneration and jury responses to the presentation of evidence during trial, as all of these features might contribute to satisfaction with the experience of jury duty. Thus, an assessment will be made of the extent to which physical comforts can contribute to a positive or negative experience on jury duty. In addition, information will be gathered about the relationship between juror satisfaction and the nature and scope of information provided to them about their duties.

Some empirical research investigating the experiences of jurors and their satisfaction with jury service has centred on citizens' reactions to a jury summons and citizens' perceptions of the jury system in general (Boatright 1999; Rottman 1998). A common limitation of these studies is a narrow focus on one or two isolated aspects of juror satisfaction (e.g. comfort or confidence) rather than a systemic analysis of the jury experience from the time of first contact with the court until a verdict is returned following jury deliberation (Devine, Clayton & Dunford 2001). A small number of studies conducted in North America have examined aspects of juror anxiety and stress (Bornstein et al. 2005), with some mixed results as to whether jurors experience anxiety and its sources. Primary sources of juror stress identified in these studies include the routine aspects of jury duty, such as the disruption to jurors' daily lives (Bornstein et al. 2005), factors relating to the complexity of the evidence, elements of the decision-making task itself (the 'burden of justice') and the secrecy imposed on deliberations (Chopra & Ogloff 2000), although less routine factors such as gruesome evidence can arouse more intense emotions and distress (Bright & Goodman-Delahunty 2006; Cush & Goodman-Delahunty 2006).

A comprehensive survey conducted in North Carolina of jury satisfaction examined a wide range of aspects of the jury experience (Cutler & Hughes 2001) and produced outcomes showing disparities in different components of satisfaction. Jurors reported high levels of satisfaction with their treatment by court personnel, the jury process and the way the trials were conducted, but were significantly less satisfied with the terms and conditions of jury service; in particular, the remuneration, out-of-pocket costs and inconvenience experienced. Legislative and other practical differences between the state jury system in North Carolina and Australian jury management systems raise a question as to whether these findings will be replicated in Australia. To promote effective social justice practices, this project examined attitudes of citizens to jury service and experiences of jurors in three Australian states: New South Wales, Victoria and South Australia.

Perceptions of the criminal justice system

The accuracy of people's knowledge about jury service can influence their willingness to respond to a jury summons and to serve on a jury. Past investigations have shown that public perceptions of justice are not driven by reality, but by the way in which this topic is depicted (Indermaur & Roberts 2006), with 98 percent of people gaining their news and information from the media (Denemark 2006). Thus, media reports can influence jurors sitting on trials as well as potential jurors (Chesterman, Chan & Hampton 2001). The content of the majority of media articles regarding the jury system and jury duty is overwhelmingly negative (Findlay & Duff 1988; Pratley, Goodman-Delahunty & Tait 2007). If the media persistently convey negative perceptions of the jury system, these perceptions may create a disincentive or barrier disinclining citizens from participation in jury service.

The United States 1999 National Survey indicated that the American public rated the performance of the courts in their community as mediocre (National Centre for the State Courts 1998). However, a review of research conducted in the United States, where the media coverage of juries is not uniformly negative, produced little support for popular beliefs that citizens do not care about jury service, or that they disregard the importance of jury duty, notwithstanding the public's views of the courts. To investigate factors that may serve as barriers to participation in jury duty, a comparison of responses from citizens who do and who do not respond to their jury summons was conducted in the US (Boatright 1999). Findings revealed that neither group held more positive or negative attitudes than the other regarding jury service. Rather, citizens who avoided jury duty were more likely to endorse myths and misconceptions about jury service than were the citizens who responded to their jury summons. Furthermore, citizens who ignored their jury summons tended to be less confident in their ability to serve as fair and impartial jurors, to believe that jury service would financially and personally inconvenience them, and did not expect to be treated respectfully by the court or by lawyers. This researcher concluded that 'jurors do not need a lesson in the importance of jury service; rather, the courts need to demystify the jury, to emphasise that anyone can serve competently' (Boatright 1999). In addition, courts were advised to ensure that information provided to citizens addressed the actual beliefs, fears and apprehensions of potential jurors. Accordingly, in studying jury satisfaction, it is important to include components that probe the extent of citizens' knowledge and misconceptions about jury service. A more thorough understanding of citizens' and jurors' beliefs will be instrumental in developing policy recommendations to address myths and misconceptions about jury duty.

Within Australia, although there is no parallel study to that conducted by Boatright of perceptions of jury service, findings from the 2003 Australian Social Science Survey (AuSSA, Gibson et al. 2004) revealed that the majority of citizens expressed a substantially lower level of community trust and confidence in the courts (29%) than prevailed in the US. The AuSSA included data gathered in 2003 as part of a broader survey of assessing the confidence of Australians in 12 organisations or institutions, including 'the courts and legal system' and 'the police in my state' (Bean 2006). Bean compared the 2003 results with comparable

data gathered in 1995 and 2001. Overall, there was little change in levels of confidence in the courts and legal system in Australia over a period of eight years, although the direction of the change was negative, i.e. a small decline from 36 percent confidence in 2001 to 29 percent confidence in 2003. By comparison, three-quarters of the respondents maintained high levels of confidence in the police as a whole (72 percent in 2003). With respect to public confidence and trust, the researcher noted that 'Confidence, at least in the public sphere, is more about expressing faith in how well organisations operate' (Bean 2006: 129), and that one important reason for assessing confidence and trust in organisations and institutions, such as the courts and the jury system, is to assess 'social capital': 'Social capital theory anticipates a close relationship between participation and trust ... if trust declines, social cohesion may be undermined as citizens cooperate less at work and in their local and broader communities' (Bean 2006: 123, 134). Given the ever-diminishing percentage of jury trials in Australia, we wondered whether assessments in the current study of trust in the courts and confidence in the operation of the jury system as an institution would produce levels of confidence closer to the expressed level of confidence in the courts, or to that in the police, or somewhere between. We also wondered what the impact of participation in the jury system would be on confidence in the criminal justice system and the jury.

Bean did not examine jury participation in relation to trust, and trust and confidence in the jury system was not one of the 12 institutions he assessed. However, using the 2003 AuSSA data, he explored political participation in relation to two types of trust: social and interpersonal trust, and political trust. Political trust/trust in government was essentially the view that the federal government is run for the benefit of all (high political trust) versus the notion that federal government is run for big interests (low political trust). Higher levels of political trust were associated with less political participation or action, i.e. the more trusting citizens took less active roles, and were less likely, for example, to contact a politician or government official, or work with people who shared a common concern. Conversely, people who expressed higher levels of social and interpersonal trust in others were more likely to participate in group and political activities. One implication of these findings is that citizens with high levels of political trust and confidence in the jury system and who are high in political trust may be less inclined to participate in jury service. Citizens who have a high degree of social and interpersonal trust in others may be more inclined to participate in jury service. In other words, participation in jury service may be influential in increasing trust and confidence in the jury system, but experience may not be the sole determinant of confidence and trust in juries. Whether the markedly low level of confidence in Australian courts deters citizens from participation as jurors and generalises to low levels of confidence in the jury is an open question. Other commentators have suggested that participation in the trial process may increase citizens' confidence in the criminal justice system (Indermaur & Roberts 2006).

Empirical research in the US and the UK has examined the influence of participation on confidence in the justice system. For example, one study conducted in Wisconsin reviewed a range of US court evaluation surveys conducted over a period of nine years (1990–98) in a variety of courts. This study revealed that recent court experience tends to produce at least

a short-term improvement in citizens' views of the courts, and that support for the courts increased following specific positive court experiences but deteriorated following specific negative court experiences (Kritzer & Voelker 1998). One explanation for these findings is that greater familiarity with the courts increased people's knowledge and perceptions of court procedures. However, contrary findings have emerged. For example, based on a court survey conducted in Louisiana in 1997, Rottman (1998) reported that 'there is no confidence gap between people with and without court experience'. He found that experience with courts enhanced knowledge about the courts, but did not significantly alter people's perceptions of and confidence in the court system. Jurors and witnesses reported the most positive perceptions of the courts in terms of fairness. Together, the findings by Kritzer and Voelker, and Rottman, suggest that the quality of the court experience encountered, specifically whether it is positive or negative, may be more influential in promoting or inhibiting a positive perception of the court system. In neither of these studies were comparisons made of responses of jurors who served in different courts or settings within the same jurisdiction. One implication of this research for jurors is that if the quality of physical aspects of the working environment differs, these differential experiences may influence perceptions of the court system and of justice.

One instructive empirical study conducted in North Carolina in 2000 compared responses of 1,478 jurors who were empanelled to serve on a trial with those of 3,146 jurors who reported for duty but were not empanelled (Cutler & Hughes 2001). Consistent with the findings reported above, citizens' perceptions of the court system were equivalent irrespective of the nature of their experience with the courts. However, responses from empanelled jurors were significantly more positive overall than those of non-empanelled jurors. Put another way, jurors who reported a positive change in their perceptions of the court system following jury duty tended to rate their jury experience as positive and informative. Conversely, jurors with more negative perceptions reported more general dissatisfaction with the efficiency of the justice system. These results suggest that citizens with more in-depth experience and exposure to the jury system gained by service on a jury will report higher confidence in the criminal justice system if their experience is engaging, pleasant and informative. Subsequent satisfaction with and attitudes towards jury service appear to be contingent not only the extent of experience with the jury system, but on the quality of that experience.

Juror satisfaction

Public confidence in the court and jury system is a multi-dimensional construct that can be difficult to measure, as it may include perceptions about the efficiency or economic viability of the system and processes; juror satisfaction with procedures and their personal, subjective experiences; or a philosophical preference for one type of justice process over another (Cutler & Hughes 2001). Juror satisfaction is an important element to investigate, as jurors who are dissatisfied with their experience are likely to share their views with others, which may in turn influence other citizens' willingness to participate in jury service.

Furthermore, since jury service is often a citizen's only contact with the court, dissatisfaction with this experience may consequently erode an individual's overall confidence in the criminal justice system (Diamond 1993).

Jurors who respond to the jury summons are called to court, where they are provided some orientation, assuming they have not done jury duty before. As courts require jurors, jurors comprising a 'panel' are sent to the courtroom where that trial will take place. Empanelling refers to the process of examining, challenging and selecting individuals from a jury panel until the 12 who will serve on a particular criminal case are resolved (Litras & Golmant 2006). Whereas in the US, many questions are asked at this stage of prospective jurors (*voir dire*), in Australia, jury selection is conducted primarily on the basis of the physical appearance of the juror. In South Australia, counsel are provided the name, suburb of residence and the occupation of the juror to assist in the selection process. At this time, jurors may be challenged for cause or by means of peremptory challenges. Because the number of potential challenges varies by state, i.e. more are available in Victoria than in New South Wales or South Australia (see section 'Legislative analysis' for legislative details), the jury administrators must take the number of potential challenges into account in sending a panel to court. To minimise the amount of time that jurors must spend waiting before or after empanelment, the jury administrators attempt to keep the number of prospective jurors who are neither selected nor challenged at a minimum. Underutilisation of jurors, i.e. calling more jurors than needed, is costly, inconveniences jurors and may impact the satisfaction of jurors who are not empanelled. Having courts schedule simultaneous empanelment sessions can be efficient: for example, if one case settles, the jurors can be used on another panel. Thus, staggering the start times of trials can reduce the amount of time that jurors spend waiting in the assembly room.

Some previous research on juror satisfaction has examined juror responses to the information received in advance of jury duty. For example, jurors surveyed in Queensland, Australia reported a high level of satisfaction with the information and notices provided in advance of jury service (Deborah Wilson Consulting Services 2000) and similarly, high satisfaction was expressed regarding the orientation information provided upon jury attendance at court in the form of introductory videotapes (Cutler & Hughes 2001). More sophisticated analysis conducted in one study revealed that the orientation videotapes, rated as helpful, increased potential jurors' knowledge about the legal system, which consequently led to increased comfort levels and satisfaction regarding jury service (Bradshaw et al. 2005). Confirmatory findings have come from other research indicating that juror satisfaction was related directly to juror's comprehension of the court proceedings, suggesting that the more prepared, educated, engaged and enthusiastic jurors are, the less distracted and dissatisfied they will be. For example, one outcome of the research conducted in Queensland was that juror dissatisfaction was higher when jurors received less information and fewer explanations about the jury deliberation process, and where the quality of the facilities and the nature of the physical comforts and working environment were lower (Deborah Wilson Consulting Services 2000).

A recent study conducted by the Home Office in the UK investigated whether direct involvement as a juror increases or decreases citizens' confidence in the jury system, and the relationship between juror satisfaction and understanding and direct jury experience (Matthews, Hancock & Briggs 2004). The research was based on interviews (a combination of qualitative and quantitative methods) with 361 jurors who had recently completed jury service at six Crown Courts in the UK. The interviews were conducted by telephone after jurors completed their jury service.

Overall, jurors' confidence in the jury system was closely associated with the perceived fairness of the process (procedural justice), adherence to due process, juror and staff commitment and professionalism and, above all, the diversity of the jury. A considerable percentage (43%) of those who participated in jury service reported a higher degree of confidence in the criminal justice system following jury service, while one-fifth emerged from the experience with a lower degree of confidence in the criminal justice system. These differences were measured by asking participants whether their general attitudes to the jury and criminal justice system changed as a consequence of completing jury service. Juror satisfaction was predominantly related to the quality of the jury facilities, amenities and services, and the treatment by jury administrative staff; but was also affected by less tangible and obvious factors such as juror perceptions and understanding of the trial process, their overall experience of jury service and their confidence in the criminal justice system (Matthews, Hancock & Briggs 2004).

Results of the Home Office study further indicated that jurors were very satisfied with the orientation information provided before and upon arrival for jury service. They were generally less satisfied with the quality of the courts' amenities and facilities for jurors. Overall, jurors reported a high level of understanding in relation to trial process, although some jurors were confused by the legal terminology and discussions about points of law. Only a small percentage of jurors (4%) reported that the trial evidence was not presented in a clear and easily coherent manner (Matthews, Hancock & Briggs 2004). Laudably, this study attempted to more comprehensively investigate jurors' perceptions and understanding of the trial process to elucidate the factors that influence juror satisfaction. However, the researchers reported only very limited quantitative data that lacked statistical analysis. Although these data were supplemented by qualitative information in the form of quotations extracted from the interviews, there was no indication that the qualitative analysis was more rigorous or systematic, leaving some question as to the reliability of the reported outcomes.

It stands to reason that more satisfied jurors are better able to focus their full attention on the case, which aids in 'rendering a fair, factually based verdict to each litigant', and suggests that juror understanding is integral to the fairness of the criminal justice process (Schaubel 2006). However, one limitation of many of the foregoing studies that examined juror understanding in relation to juror satisfaction was reliance on self-reported juror understanding, as jurors tend to overestimate their understanding of the information conveyed or are unaware of deficiencies in their comprehension. Although experimental

methods are best to assess jury comprehension (Ogloff & Rose 2005), in a survey context, better formulated questions ask jurors how 'clear' or 'unclear' they found different aspects of the trial, as opposed to asking whether they understood certain evidence or instructions, or seek information about how well other jurors appeared to understand the information, so as to avoid egotistical biases. This is the approach implemented in the current study. A substantial body of research indicates that the major impediment to jurors' understanding of proceedings is the use of unfamiliar legal terminology, the presentation of evidence and the quality of explanations provided regarding the legal proceedings (Matthews, Hancock & Briggs 2004). The current study includes questions to address each of these elements.

Aims of this research

In 2005, the Criminology Research Council commissioned a study of practices, policies and procedures affecting juror satisfaction in New South Wales, Victoria and South Australia, where jury administrators responded to an invitation extended to all Australian jurisdictions to participate. The study sought the views of the community, relevant stakeholders and jurors themselves on a variety of factors that may contribute to jury satisfaction, namely communications with jurors prior to empanelment, court facilities and amenities, terms and conditions of jury service, and the perceived fairness of jury procedures.

Specific aims of the research were to:

- summarise policies, legislation and practices regarding the management of jurors in the three participating jurisdictions
- evaluate the relationship between juror management policies, and effectiveness and sources of juror satisfaction and dissatisfaction in each state
- examine perceptions and knowledge of prospective and empanelled jurors regarding jury duty to identify any barrier to jury participation and educational needs
- identify policy implications flowing from the findings to develop optimal procedures for managing jurors in Australia.

Method

By examining data from seven different sources, using a variety of methodological approaches, a comprehensive and insightful overview was derived of factors that influence jury satisfaction and confidence in the criminal justice system in the three states. Convergent sources of information were examined using a combination of three methods of data collection: archival (review of legislation and communications with jurors), qualitative (interviews and field observations) and quantitative (quasi-experimental surveys).

First, archival data were examined: (1) a legislative analysis was conducted of policies, regulations and legislation on jury management; and (2) a content analysis and comparative review was conducted of written and videotaped communications issued by jury administrators for the courts to eligible jurors prior to their jury service and during their orientation. Second, qualitative data were gathered regarding actual jury practices. Sources of information included: (3) structured interviews with key stakeholders (judges, prosecutors, members of the criminal defence bar and jury administration staff); and (4) on-site evaluations by jury researchers and architects of court buildings and jury facilities. Third, data were gathered in a quasi-experimental study by means of a survey of three groups of jury-eligible citizens: (5) citizens who have not served jury duty; (6) jurors who respond to a summons for jury duty but have not been assigned to a trial; and (7) jurors who respond to a jury summons and complete service on a trial. A brief description of the method and approach implemented for each of these seven components of the study follows.

Legislative analysis

A comparison was made of the legislation, regulations and policies regarding jury service in the three target jurisdictions. To supplement the information gained from these documents, interviews were held with the New South Wales Jury Manager, the Victorian Juries Commissioner, and the South Australian Sheriff. The information provided in these interviews clarified the various practices adopted in each jurisdiction in implementing the legislation, and in particular highlighted points where the legislation and practices diverged, and whether they influenced jurors' experience of jury duty. Details are provided in section 'Legislative analysis'.

Communications with prospective jurors

Copies were obtained of all standard written communications issued to prospective jurors by courts in the three jurisdictions from the point prior to being summoned until jurors are selected to serve on a trial. The documents analysed included materials sent to potential jurors prior to orientation (e.g. notice of inclusion on the jury roll, summons) as well as orientation materials provided on arrival at court (e.g. brochures and videotapes describing jurors' roles in criminal trials). The documents were compared and contrasted, and systematically evaluated using a rating system developed by the researchers to assess

their accessibility in terms of their readability and the substantive content. All modes of presentation were analysed by three separate evaluators. When there was disagreement between evaluators as to the content item, the majority response was chosen. In all, 22 documents from the three states were analysed.

The communications were assessed using an objective measure of readability to provide a reading age at which they are aimed and a rating of difficulty. A content analysis was also conducted to determine what information is provided to jurors in each jurisdiction. Using these methods of analysis, best practices with regards to the court's communications with jurors were identified. Details regarding the analyses of communications with potential jurors are presented in section 'Communications with prospective jurors'.

Stakeholder interviews

Participants drawn from four groups of key stakeholders (judges, prosecutors, members of the criminal defence bar and jury administration staff) in each state were interviewed by the researchers to establish perceptions of the jury management systems implemented in those states by the professionals and practitioners most familiar with their operation. A total of 53 interviews were conducted on the following topics: perceptions of the efficacy of the jury management system, observations of factors that enhance or impede jury satisfaction and confidence in the criminal justice system, and the perceived representativeness of juries to enhance jury experiences and performance.

A structured interview questionnaire was developed to ensure comparable data were obtained. A number of questions posed to community members and jurors were asked of stakeholders to allow more detailed comparisons across groups. Jury administration staff responded to additional questions regarding the jury management systems in place in their state. All interviews were tape-recorded and responses professionally transcribed to allow systematic data analysis. Details of the stakeholder interviews are presented in section 'Interviews with stakeholders'.

Assessment of jury facilities

Major court buildings and jury facilities were reviewed, classified and described to assess their functionality and comfort for jurors. The key jury facilities in the three states (e.g. jury assembly rooms, jury waiting areas, bathrooms, deliberation rooms, smoking areas, lunch areas) were evaluated objectively by teams of jury researchers and architects.

Site visits of approximately one hour duration were conducted of jury facilities, focusing on all areas that a juror would experience in the building, in the sequence in which they would be encountered, i.e. the main entry, security checkpoint, jury assembly area, courtroom,

jury deliberation room, and separate jury entrance/exit where present. The visit was documented photographically and by means of a facilities checklist developed for this purpose. The checklist features itemised aspects of the environment which are documented to influence juror satisfaction, such as the quality of the environment (e.g. access to natural light, quality of ventilation and air); the quality, accessibility and quantity of amenities and facilities (e.g. the cleanliness, privacy and number of bathrooms, extent of kitchen facilities, quality of finishes on tap ware, fittings). Furthermore, the ability for the jury to control their environment was considered (e.g. control over the air conditioning, temperature, level of both natural and artificial light, and of views both in and outside the jury rooms).

The objective ratings by professionals were compared with subjective juror ratings of satisfaction with the jury working environment and facilities in each of the three states.

Community survey

Information was gathered from a sample of 4,765 jury-eligible citizens who had never been called for service or who had a voided it, to determine factors that may discourage or deter jurors from service and the extent to which myths and misconceptions about jury duty inhibit citizens from fulfilling their role as jurors. A market research company recruited participants and conducted an online survey in rural and metropolitan areas in the three states. The survey consisted of 69 items and was completed in approximately 10 minutes.

The survey assessed participants' level of confidence in aspects of the jury trial system, how keen they would be to serve as a juror and their level of support for current exemption categories. The survey also asked participants to agree or disagree with a number of attitudinal statements. The majority of responses were reported using a five-point Likert scale, ranging from one (not at all confident/strongly disagree) to five (very confident/strongly agree), with three as a 'neither agree nor disagree' option. Details of the survey of community members are presented in section 'Survey results'.

Survey of jurors who appeared at court but were not empanelled

A pen-and-paper survey was developed and administered to jurors who appeared for jury duty but were not selected to serve on a trial. This pre-service questionnaire addressed all topics in the community survey, plus additional questions regarding jurors' level of satisfaction with the physical environment at court, their treatment by jury administration staff, procedures to obtain exemptions and deferrals, their confidence in the criminal justice system, juror remuneration and previous experience with the courts. A total of 984 non-empanelled jurors completed to the survey. The questionnaire consisted of 74 items

and was completed in approximately 10–15 minutes. Responses were recorded using a five-point Likert scale as in the community survey. Jurors completed the survey prior to their discharge from service. Details of the survey of non-empanelled jurors are presented in section ‘Survey results’.

Survey of empanelled jurors

Post-jury service questionnaires were administered assessing the same issues that were included in the pre-service questionnaire plus additional topics pertinent only to jurors who served on a trial, such as knowledge of juror support services, comfort of the courtroom and deliberation room, understanding of the trial process, and satisfaction with information provided on how to deliberate and ask questions. A total of 549 empanelled jurors were surveyed. The questionnaire consisted of 126 items and was completed in approximately 15–20 minutes. The survey utilised the same response technique as the community survey and survey for non-empanelled jurors. Details regarding the survey of empanelled jurors are presented in section ‘Survey results’.

Analysis and reporting of quantitative results

Participants responded to the survey questions on a five-point Likert scale, indicating the strength of their agreement with several statements in categories ranging from ‘strongly disagree’ to ‘strongly agree’. The midpoint of the scale was marked ‘neither agree nor disagree’. Throughout the results section, we report the combined percentage of participants who endorsed the statements positively, by indicating their agreement or strong agreement with the proposition, as these are the responses of major interest. This reporting format permitted us to present numerous findings in a parallel way in a succinct and readily accessible form. From the percentages reported in each column, readers can infer the reciprocal percentage of participants who responded to each question by neither agreeing nor disagreeing, disagreeing or strongly disagreeing with the statements. Readers seeking more detailed information regarding responses can consult the frequencies showing the full range of responses to all five options in appendixes P to R. Statistical tests to assess significant differences between scores were conducted by means of one-way analyses of variance (ANOVA), chi-square tests or Pearson correlations as appropriate.

Ethics approval

The project received ethical approval from the University of New South Wales Human Research Ethics Committee (HREC 06315) and the Victorian Department of Justice (BC/06/6413). In addition, permission was granted by the Attorneys-General in each state to survey jurors at the courts (appendixes F to H). The Chief Justice and Chief Judge in each state were informed about the project and all provided their support (see appendixes I to N) subject to Attorney-General and appropriate ethical approval.

The conduct of jury research in Australia is severely limited by legislation which makes it an offence to solicit information from a juror. Although exceptions are allowed for research if authorised by the Attorney-General, and such an exception was made in this case by the Attorneys-General in New South Wales, Victoria and South Australia, the researchers were nonetheless forbidden from contacting any individual juror directly. Thus, there was no opportunity in this study to interview jurors and ask them questions about their experiences or to delve into the factors that they found satisfying and those that left them dissatisfied. All the data from jurors were required to be gathered by means of a written survey and all contact with the jurors was performed by the relevant court authorities in each state. The researchers had access only to the anonymous and/or aggregate data. Even in writing, the jurors were not permitted to answer open-ended questions in case this encouraged an unwitting breach of confidentiality of deliberation information. Thus, all questions included in the jury surveys were framed using multiple-choice to safeguard the confidentiality of the jury deliberation process.

Legislative analysis

Any review of the jury system must take into account the legislative and policy framework which governs it. To guide this project, a comprehensive review of jury legislation in New South Wales, South Australia and Victoria was undertaken. Meetings were then held with jury administrators in each jurisdiction to canvas issues arising out of the review to gain a practical understanding of the procedures adopted by jury administrators in implementing the legislation. The review emphasised issues of most relevance to juror satisfaction to pursue in the empirical phase of the project.

The following review summarises relevant legislative provisions and, where applicable, matters of practice and policy. Unless otherwise mentioned, references to legislation and regulations are, in New South Wales, the *Jury Act 1977* and Jury Regulation 2004, in South Australia the *Juries Act 1927* and Juries (General) Regulations 1998, and in Victoria the *Juries Act 2000* and Juries Regulations 2001. The term 'jury administrators' is used to refer collectively to the New South Wales Jury Manager, the Victorian Juries Commissioner and the Sheriff of South Australia. Unless otherwise specified, the phrase 'each jurisdiction' refers collectively to New South Wales, Victoria and South Australia.

Jury selection

In each jurisdiction, the jury pool is randomly selected from the respective state electoral roll (ss 12, 25 (NSW); s 4 (Vic); ss 23, 29 (SA)). Although in broad terms every citizen above 18 years of age and on the electoral roll is eligible to serve as a juror (s 5 (NSW); s 5(1) (Vic); s 11 (SA)), there are three categories of person who may not have to serve on a jury. These categories are summarised in Table 1.

The first is those persons who are ineligible for jury service (s 6(b) and sch 2 (NSW); s 5 (3) and sch 2 (Vic); s 13 and sch 3 (SA)). This includes persons ineligible by reason of occupation (for example, certain government officials, judicial officers, lawyers, police and others associated with the administration of justice), those unable to communicate in or understand the English language adequately and those people with a physical or mental disability which renders them incapable of performing jury service. In each jurisdiction a number of Commonwealth office holders are also exempt by virtue of the *Jury Exemption Act 1965* (Cth) and the Jury Exemption Regulations 1987 (Cth).

The second category is those who are disqualified from jury service. This principally relates to persons who are disqualified because of their criminal history (s 6(a) and sch 1 (NSW); s 5(2) and sch 1 (Vic); s 12 (SA)).

The third category is those jurors who are eligible to serve but who may be excused/exempted upon application. Legislation in each jurisdiction specifies a number of grounds on which a prospective juror may apply to be excused/exempted (s 7, 39 and sch 3 (NSW); ss 8, 9 (Vic); s 16 (SA)). In NSW, the term 'exemption' is applied to those persons specified in Schedule 3). The grounds for excuse/exemption vary between jurisdictions but may include

such grounds as prior jury service, ill health, religious practice, conscientious objection, long distances to travel, financial or other hardship, certain occupations (e.g. doctors), inconvenience to the public, care of dependants and advanced age. (In South Australia, jurors cannot be over 70 years of age.)

A general power is also vested in jury administrators to excuse a prospective juror from jury service based on ‘good cause’ (ss 18A(2), 38 (NSW)), ‘good reason’ (s 8(2) (Vic)), or ‘reasonable cause’ (s 16(2)(d) (SA)). There is also general provision for any matter of ‘special urgency or importance’ (s 18A (NSW); ss 16(2)(c), s 8(3)(k) (Vic)). This general power to excuse is of considerable significance. It vests in the jury administrators the power to accommodate different circumstances which may impact on a juror’s ability to serve, but which fall outside specific categories of exemption. In New South Wales in 2005–06, 39,896 potential jurors were excused for good cause before attending, and of those who attended 9,490 were excused by the Sheriff and 2,541 by the trial judge (NSW Law Reform Commission 2006 [8.3]).

Whether these categories of persons may be excused as of right or on application also varies between jurisdictions. New South Wales has the greatest number of categories which may be exempted as of right. New South Wales is the only one of the jurisdictions to have formal guidelines for the exercise of the power to excuse, although these are not publicly available.

Two of these categories warrant further discussion in the context of juror satisfaction: distance travelled and employment-related hardship.

Table 1: Summary of eligibility for jury service

Disqualified

- NSW**
1. A person who at any time within the last 10 years in New South Wales or elsewhere has served any part of a sentence of imprisonment (not being imprisonment merely for failure to pay a fine).
 2. A person who at any time within the last three years in New South Wales or elsewhere has been found guilty of an offence and detained in a detention centre or other institution for juvenile offenders (not being detention merely for failure to pay a fine).
 3. A person who is currently bound by an order made in New South Wales or elsewhere pursuant to a criminal charge or conviction, not including an order for compensation, but including the following:
 - a. a parole order, a community service order, an apprehended violence order and an order disqualifying the person from driving a motor vehicle,
 - b. an order committing the person to prison for failure to pay a fine,
 - c. a recognisance to be of good behaviour or to keep the peace, a remand in custody pending trial or sentence and a release on bail pending trial or sentence.

Table 1: continued**Disqualified**

- Vic**
1. Those convicted of an offence within the last two years and are presently on probation or a bond.
 2. Those who, at any time, have been convicted of one or more indictable offences and sentenced to jail for a total of three years or more.
 3. Those who have, within the past five years:
 - a. served time in jail of less than three months; or
 - b. served an intensive correction order, suspended sentence or sentence at a youth training centre; or
 - c. served a community-based order.
 4. Those who, within the past 10 years, have been in jail for more than three months (excluding imprisonment for non-payment of a fine).
 5. Those currently on bail for an indictable offence.
 6. Persons who are undischarged bankrupts.

- SA**
1. Those convicted of an offence for which death or life imprisonment is a mandatory, or the maximum, penalty.
 2. Those sentenced to imprisonment for a term exceeding two years.
 3. Those who, within the period of 10 years immediately preceding the relevant date:
 - a. have served the whole, or a part, of a term of imprisonment; or
 - b. have served the whole, or a part, of a term of detention in an institution for the correction or training of young offenders; or
 - c. have been on probation or parole.
 4. Those who within the period of five years immediately preceding the relevant date:
 - a. have been convicted of an offence punishable by imprisonment; or
 - b. have been disqualified by order of a court from holding or obtaining a driver's licence for a period exceeding six months; or
 5. Those, at the relevant date, subject to a bond to be of good behaviour.
 6. Those who have been charged with an offence punishable by imprisonment and the charge has not yet been determined.

Ineligible

- NSW**
1. The Governor.
 2. A judicial officer (within the meaning of the *Judicial Officers Act 1986*).
 3. A coroner.
 4. A member or officer of the Executive Council.
 5. A member of the Legislative Council or Legislative Assembly.
 6. Officers and other staff of either or both of the Houses of Parliament.
 7. An Australian lawyer (whether or not an Australian legal practitioner).
 8. A person employed or engaged (except on a casual or voluntary basis) in the public sector in law enforcement, criminal investigation, the provision of legal services in criminal cases, the administration of justice or penal administration.
 9. The Ombudsman and a Deputy Ombudsman.
 10. A person who at any time has been a judicial officer (within the meaning of the *Judicial Officers Act 1986*) or a coroner, police officer, Crown Prosecutor, Public Defender, Director or Deputy Director of Public Prosecutions, or Solicitor for Public Prosecutions.
 11. A person who is unable to read or understand English.
 12. A person who is unable, because of sickness, infirmity or disability, to discharge the duties of a juror.

Table 1: continued

Ineligible

- Vic**
1. A person who is or, within the last 10 years, has been:
 - a. the Governor or the Official Secretary to the Governor;
 - b. a judge, a magistrate or the holder of any other judicial office;
 - c. a member of the Police Appeals Board;
 - d. a bail justice;
 - e. an Australian lawyer (within the meaning of the *Legal Profession Act 2004*);
 - f. a person employed or engaged (whether on a paid or voluntary basis) in the public sector within the meaning of the *Public Administration Act 2004* in law enforcement, criminal investigation, the provision of legal services in criminal cases, the administration of justice or penal administration;
 - g. a member of the police force;
 - h. the Secretary to the Department of Justice or the Department of Human Services;
 - i. a member of the Legislative Assembly or Legislative Council;
 - j. the Auditor-General;
 - k. the Ombudsman or the Acting Ombudsman;
 - l. an employee of the Ombudsman;
 - i. the Director, Police Integrity or Acting Director, Police Integrity;
 - ii. an employee in the Office of Police Integrity;
 - iii. the Special Investigations Monitor or acting Special Investigations Monitor;
 - iv. an employee in the office of the Special Investigations Monitor;
 - m. a person employed as a Government shorthand writer or court reporter or in connection with any court recording service.
 2. A person who is:
 - a. the Electoral Commissioner;
 - b. the Legal Ombudsman or an acting Legal Ombudsman;
 - c. employed by a person admitted to legal practice in Victoria in connection with legal practice.
 3. A person who:
 - a. has a physical disability that renders the person incapable of performing the duties of jury service;
 - b. is a patient within the meaning of the *Mental Health Act 1986*;
 - c. has an intellectual disability within the meaning of the *Intellectually Disabled Persons' Services Act 1986*;
 - d. is a represented person within the meaning of the *Guardianship and Administration Act 1986*;
 - e. is subject to a supervision order under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*;
 - f. is unable to communicate in or understand the English language adequately.

Table 1: continued

Ineligible

- SA**
1. A person who:
 - a. is mentally or physically unfit to carry out the duties of a juror; or
 - b. has insufficient command of the English language to enable him or her properly to carry out the duties of a juror; or
 - c. is one of those persons declared by Schedule 3 to be ineligible for jury service.
 2. Schedule 3. The following persons are ineligible for jury service:
 - a. The Governor, the Lieutenant Governor and their spouses or domestic partners;
 - b. Ministers of the Crown and their spouses or domestic partners;
 - c. Members of Parliament;
 - d. Members of the judiciary or magistracy and their spouses or domestic partners;
 - e. Justices of the peace who perform court duties and their spouses or domestic partners;
 - f. Legal practitioners actually practising as such;
 - g. Members of the police force and their spouses or domestic partners;
 - h. Persons employed in a department of the Government, or employed by a body prescribed by regulation, whose duties of office are connected with the investigation of offences, the administration of justice or the punishment of offenders;
 - i. Persons employed in the administration of courts or in the recording or transcription of evidence taken before courts.

Exemptions

- NSW**
1. Clergy.
 2. Vowed members of any religious order.
 3. Persons practising as dentists.
 4. Persons practising as pharmacists.
 5. Persons practising as medical practitioners.
 6. Mining managers and under-managers of mines.
 7. A person employed or engaged (except on a casual or voluntary basis) in the provision of fire, ambulance, rescue, or other emergency services, whether or not in the public sector.
 8. Persons who are at least 70 years old.
 9. Pregnant women.
 10. A person who has the care, custody and control of children under the age of 18 years (other than children who have ceased attending school), and who, if exempted, would be the only person exempt under this item in respect of those children.
 11. A person who resides with, and has full-time care of, a person who is sick, infirm or disabled.
 12. A person who resides more than 56 kilometres from the place at which the person is required to serve.
 13. A person who:
 - a. within the three years that end on the date of the person's claim for exemption, attended court in accordance with a summons and served as a juror, or
 - b. within the 12 months that end on the date of the person's claim for exemption, attended court in accordance with a summons and who was prepared to, but did not, serve as a juror.
 14. A person who is entitled to be exempted under section 39 on account of previous lengthy jury service.

Table 1: continued

Exemptions

- Vic**
1. A person, or another person on their behalf, may, at any time before the person becomes a member of a panel, apply to the Juries Commissioner for the person to be excused from jury service for the whole or any part of the jury service period.
 2. On an application under subsection (1), the Juries Commissioner may excuse a person from jury service for the whole or any part of the jury service period if satisfied that there is good reason for doing so.
 3. For the purposes of subsection (2), good reason includes any of the following:
 - a. illness or poor health;
 - b. incapacity;
 - c. the distance to travel to the place at which the person would be required to attend for jury service is:
 - i. if the place is in Melbourne, over 50 kilometres; or
 - ii. if the place is outside Melbourne, over 60 kilometres;
 - d. travel to the place at which the person would be required to attend for jury service would take excessive time or cause excessive inconvenience;
 - e. substantial hardship to the person would result from the person attending for jury service;
 - f. substantial financial hardship would result from the person attending for jury service;
 - g. substantial inconvenience to the public would result from the person attending for jury service;
 - h. the person has the care of dependants and alternative care during the person's attendance for jury service is not reasonably available for those dependants;
 - i. the advanced age of the person;
 - j. the person is a practising member of a religious society or order the beliefs or principles of which are incompatible with jury service;
 - k. any other matter of special urgency or importance.

- SA**
- A person may be excused:
1. on the ground that the person has served as a juror within the previous three years;
 2. on the ground that the person is one of two or more partners from the same partnership, or of two or more persons employed in the same establishment, who have been summoned to attend as jurors on the same days;
 3. because of ill health, conscientious objection or a matter of special urgency or importance;
 4. for any reasonable cause.

Distance travelled

In each jurisdiction, a juror may be excused from jury service if he or she has to travel an unreasonable distance to attend court. In New South Wales, a fixed distance exceeding 56 km is applied (sch 3, cl 12). Such fixed exemptions can cause difficulties, as some areas which are outside the 56 km limit may be well-served with public transportation, while others within the limit may be poorly serviced (NSW Law Reform Commission 2006 [7.37]). Fixed limits also make less sense in regional areas where people may routinely travel long distances.

In Victoria, the Juries Commissioner can excuse a person who must travel more than 50 km to Melbourne, more than 60 km to a court outside Melbourne, or where travelling 'would take excessive time or cause excessive inconvenience' (s 8(3)(c)(d)).

In South Australia, as the House of Assembly lists are used, most jurors called live within 50 km of the court. Jurors encountering genuine transport difficulties are excused. Where a prospective juror lives more than 150 km from the court, they are given written notice that they will not be included within the jury list unless within one month of the notice they provide a written request to be included (s 23(3a)). Apparently none have asked to be included.

Employment-related issues

Discussions with jury administrators revealed that employment-related concerns, particularly financial hardship, are a common excuse for not performing jury service. Some specialised professions, such as specialist medical practitioners, may be difficult if not impossible to replace, and their absence may also cause public inconvenience. In New South Wales, certain occupations have a right to be excused; for example, doctors, dentists, pharmacists and emergency workers (sch 3). In addition, a number of occupations were approved by the Attorney-General for exemption, such as nurses, sole traders and students. In the other jurisdictions, such cases would be determined on a case-by-case basis. Even for those jurors who do serve, remuneration is likely to be one of the most significant issues related to juror satisfaction. The procedure and quantity of jury remuneration varies considerably between the jurisdictions. A summary of rates of compensation and allowances awarded in each jurisdiction is provided in Table 2.

Table 2: Attendance fee and other allowances payable to jurors, by state

State	Days attended	Daily amount	Allowances
NSW	1 day		Travel allowance: 28c per km (minimum \$3.95 each way, maximum \$28.10 each way)
	Under 4 hrs not selected	Nil	
	Under 4 hrs and selected	\$41.80	
	Over 4 hours (whether or not selected)	\$83.90	Refreshment allowance: \$6.10 per day
	2–5 days	\$83.90	
	6–10 days	\$97.50	
11 days or more	\$113.70		
Vic	1–6 days whether or not empanelled	\$36	Travel allowance (regional jurors only): 38c per km for travel in excess of 8 km from court; one way only
	7 days–12 months	\$72	
	In excess of 12 months	\$144	
SA	If no financial loss	\$20	Travel allowance: 20c per km
	If financial loss or costs incurred	\$100 max.	
	If designated by minister as a long trial	\$200 max.	

New South Wales

In New South Wales, a person is entitled to be paid at the prescribed rate for attendance for jury service in accordance with the summons if that person does not successfully apply to be exempted from service (s 72). Under Regulation 5, the prescribed payment is the sum of the attendance fee (if applicable), the travelling allowance and the refreshment allowance (if applicable). Since 1995, these amounts have been increased annually as a matter of practice (NSW Law Reform Commission 2006).

The attendance fee is not payable if the juror is paid their full wage or salary on a day of attendance by their employer (except where that amount is less than the attendance fee). A juror also receives nothing if they attend for less than four hours and is not selected. Jurors who attend less than four hours on their first day and are selected are paid \$41.80. Jurors who attend more than four hours on their first day, irrespective of whether selected or not, are paid \$83.90. This is also the daily rate for days 2–5 of the trial, whereupon the rate increases to \$97.50 for days 6–10 and to \$113.70 for day 11 and any subsequent days of service.

A travel allowance is payable for each day of attendance, for one journey each way between the juror's place of residence and the court. The rate is 28.1 cents per km with a minimum payment of \$3.95 each way and a maximum payment of \$28.10 each way. This allowance is payable whether or not public transport is used.

Jurors in New South Wales are entitled to a refreshment allowance of \$6.10 if released by the trial judge during a luncheon adjournment. However, they are more commonly provided with refreshment 'in-house' rather than given the meal allowance.

On 1 July 2007, the remuneration awarded to jurors increased so that jurors who attend less than four hours on their first day and are selected are paid \$42.90, and those who attend over four hours (regardless of selection) are paid \$86.20. This remains the rate for the first five days, then the rate increases to \$110.10 until day 11, then onwards it becomes \$116.80. The minimum travel allowance payable increased from 28.1c per kilometre to 28.9c per kilometre with a minimum of \$4.00 and a maximum of \$28.90 payable each way. The refreshment allowance was increased from \$6.10 to \$6.90 per day.

Victoria

In Victoria, each person who attends court for jury service in response to a summons is entitled to the prescribed rate of remuneration or allowances whether or not the person is empanelled as a juror (s 51(1)). However, a person who attends for jury service and is excused is not to be paid any remuneration or allowances if the person was aware of a circumstance that may constitute a reason for excusal and did not apply to be excused at the first reasonable opportunity after becoming aware of the circumstance, or the person knowingly made an untrue or misleading statement to the Juries Commissioner (s 51(2)).

Where a juror is not required to attend during the course of a trial, the judge may direct that the juror be paid remuneration and allowances at the prescribed rate for any day up to a maximum of five days for each 40 days on which the juror has attended court (whether or not the juror has lost income as a result of serving as a juror); and for any further days in respect of which the juror has lost income as a result of serving as a juror (s 51(3)). This section is ambiguously worded. Literally, it would appear to apply only to trials lasting more than 40 days. In practice, it is applied on a pro rata basis.

Irrespective of any term in the contract of employment to the contrary, an employer is required to reimburse an employee who has been summoned for jury service and who has attended court, whether or not they have actually served on a jury, an amount equal to the difference between the amount of remuneration paid under s 51 and the amount that the employee could reasonably expect to have received from the employer for that period (s 52(2)). This provision does not extend to independent contractors (s 52(1)).

Under s 53, an employee is required to notify their employer as soon as possible of the date on which they are required to attend for jury service. They must also give the employer written details of the date on which the employee attended for jury service, the duration of the period of jury service, any remuneration paid to the employee under s 51 and any other information as directed by the Juries Commissioner.

The rate of remuneration under s 51 is set out in Regulation 6 of the Juries (Fees, Remuneration and Allowances) Regulations 2001. The prescribed rates are \$36 for each day of attendance at court (whether the juror has actually served or not) not exceeding six days, \$72 for each day in excess of six days but not exceeding 12 months and \$144 for each day in excess of 12 months (reg 6(1)). These amounts are not indexed for inflation, and have not changed since the early 1990s.

If a juror on the last day of a trial is required to serve for more than eight hours (excluding the period of any adjournments for meals), the juror must be paid twice the amount prescribed for the day (reg 6(2)).

Where a juror resides outside the jury district for Melbourne, they are eligible for an allowance for travelling either to or from court from his or her residence by the shortest practical route. This allowance is calculated at a rate of 38 cents per kilometre travelled in excess of eight kilometres (reg 6(4)). It is unclear why the remuneration is payable for only one leg of the journey (reg 6(4)), or why it applies only to jurors who reside outside Melbourne.

It is an offence for a juror to receive any additional payment in respect of their jury service except as provided for in the Act (s 75).

Victoria is the only jurisdiction which makes specific provision for compensation for jurors injured in the course of jury service (Part 8). In other jurisdictions such situations are likely to be addressed by public liability insurance or by the Attorney-General's department directly.

South Australia

In South Australia, a person who attends court in compliance with a summons is entitled to be paid at the prescribed rate unless they are paid wages or salary by an employer in respect of the period of jury service (s 70). If the person is paid wages or salary for that period, then the employer is entitled to be reimbursed the amount that the juror would have been entitled to if they had not been paid wages or salary for the period of jury service. This sum can be paid directly to the employer. Jurors are provided with a brochure to give to their employer explaining this process.

Regulation 5(1) of the Juries (Remuneration for Jury Service) Regulations 2002, the rate of remuneration is as follows. For each day's attendance at court, jurors are paid \$20 per day if the attendance did not cause the juror to suffer a monetary loss exceeding \$20. If it did cause the juror such a monetary loss, an amount equal to the loss but not exceeding \$100 per day is payable. In the case of a long trial, the no-monetary loss amount remains the same, but the monetary loss amount may increase to \$200 per day. Under Regulation 5(2) the minister may, on the advice of the court, declare a criminal trial to be a long trial by posting a notice in the *Government gazette*, either before or after empanelment (reg 5(3)). The maximum daily amounts payable in long trials (but not other trials) is indexed for inflation (reg 5(5)). Jurors in long trials (but not other trials) are entitled to be paid the daily rate for each sitting day whether or not they are actually required to attend (reg 5(4)).

In all trials, where the sheriff is satisfied that a juror has necessarily incurred costs by attending court, they may be paid a sum equal to the costs but not exceeding \$80. These costs, when combined with the daily rate payable, must not exceed the allowable daily rate (reg 5(6)). According to the South Australian Sheriff's office, approximately 85 percent of jurors apply for and receive the maximum daily rate. Jurors are also entitled to travel expenses for travel between the court and the juror's home at the rate of 20 cents per kilometre travelled. This payment is in addition to any other payment made to the juror (reg 5(7)).

There has been recent reform in this area. Regulations introduced in South Australia on 1 July 2007 increased the daily rates to \$125 (\$225 for long trials). Travel allowances increased from 20 to 60 cents per kilometre, with a minimum payment of \$7.20 and no maximum. These amounts will be indexed according to the consumer price index.

It is an offence for a juror to take any sum beyond the scale allowed by the Act under the pretence that he or she is entitled to that sum as a fee or remuneration for attendance as a juror. This incurs a maximum penalty of \$1,250 (s 78(1)(d)).

In each jurisdiction, the model of juror remuneration favours those in an employer–employee relationship. Those who are self-employed, independent contractors or casual employees are the most likely to be financially disadvantaged by jury service.

Also, people on moderate to high incomes are likely to be financially disadvantaged if they receive only the prescribed remuneration. Of course, it is a matter for individual employers whether to pay employees for jury service. Public service and large employers commonly pay jurors while they are on jury service, but smaller employers may not. However, in Victoria an employer is required to reimburse the difference between the fee and a juror's ordinary pay, while independent contractors or the self-employed receive only the prescribed fee.

Security of employment

A related issue is that of job security. Jurors may be concerned not only by the remuneration they receive, but also whether their employment will be jeopardised by the time away from work. Although beyond the scope of this project, there is some uncertainty as to the impact of recent amendments to Federal workplace legislation on remuneration and job security in the context of jury service (*Workplace Relations Act 1996* (Cth); NSW Law Reform Commission 2006).

In New South Wales and Victoria, it is an offence for an employer to terminate or threaten to terminate the employment of an employee or otherwise prejudice the position of the employee because of the employee's absence for jury service. In New South Wales, this incurs a maximum penalty of 20 penalty units (s 69), while in Victoria the maximum penalty is 600 penalty units in the case of a body corporate or 120 penalty units/12 months' imprisonment (s 76). In South Australia, such conduct may fall under the more general offence of preventing or dissuading, or attempting to prevent or dissuade, a person from attending as a juror, and incurs a maximum penalty of seven years imprisonment (*Criminal Law Consolidation Act 1935* (SA), s 245(3)). The defendant will not be guilty of this offence unless he or she knew, or was recklessly indifferent as to whether the person was or may be required to attend as a juror, or he or she was acting with lawful authority or a reasonable excuse (*Criminal Law Consolidation Act 1935* (SA), s 245(4)).

The jury selection process

A review of the grounds of exemption for jury service revealed that in general the categories of people who may be ineligible or excused from jury service are more relevant to the question of the representativeness of juries than jury satisfaction. Accordingly, they are outside the scope of this project (see NSW Law Reform Commission 2006). However, the question whether jurors have sufficient opportunity to claim an exemption in a non-intimidating environment is of considerable significance to jury satisfaction, and is recognised as such by jury administrators. The procedure for jury selection is similar in each jurisdiction. There are effectively four stages (three in South Australia) at which the issue of exemption may be raised by a juror: the questionnaire/notice of inclusion, the summons, selection of a jury pool/panel and empanelling.

The jury questionnaire

The initial contact with jurors is obviously an important form of communication and likely to impact on juror satisfaction. The purpose of this first contact is to establish eligibility for jury service. In New South Wales and Victoria, prospective jurors are sent a questionnaire to ascertain their eligibility for jury service (s 13 (NSW); s 20 (Vic)). In New South Wales, in practice the questionnaire is referred to as a 'notice of inclusion'. Although South Australia has had authority to submit questionnaires since 1985 (s 25), this provision has never been implemented on the basis that it would involve increased administration costs with no real benefit. The summons performs the same function as the questionnaire in other jurisdictions, and is accompanied by a brochure outlining relevant information in relation to eligibility, excusal, etc.

Receipt of the questionnaire does not require attendance; it simply means that the juror may be then summoned. However, failure to return the questionnaire is an offence incurring a maximum penalty of 10 penalty units in New South Wales (s 61) and 30 penalty units in Victoria (s 67).

Jury summons

After responses to the questionnaire are screened, eligible jurors may be issued with a summons. It is the summons which requires the attendance of prospective jurors, and in each jurisdiction failure to attend for jury service without reasonable excuse is an offence. The maximum penalty is 20 penalty units in New South Wales (ss 60, 63), \$1,250 in South Australia (s 78(1)) and 30 penalty units or three months' imprisonment in Victoria (s 71). In New South Wales in the 2005–06 financial year, of approximately 40,000 prospective jurors who were required to attend, 12,202 failed to attend (NSW Law Reform Commission 2006 [9.39]).

In New South Wales, failure to attend may be dealt with by way of penalty notice (ss 64, 66). Current practice is for the Sheriff's Office to write to the person requesting an explanation. The person may then provide such a reason and pay the fine, or choose to have the matter heard before a Local Court. If the person fails to respond, the Sheriff will issue a penalty notice for failure to attend (NSW Law Reform Commission 2006 [9.42]-[9.43]). If not paid, the matter will then be referred to the state debt recovery service.

Typically, issues of ineligibility and disqualification will be raised in response to the questionnaire/summons, as well as applications to be excused/exempted. In New South Wales and Victoria, it is an offence to knowingly fail to disclose a ground for disqualification or ineligibility, incurring a maximum penalty of 10 penalty units in New South Wales (s 62A) and 30 penalty units in Victoria (s 69).

In New South Wales, disqualification on the basis of criminal history relies primarily upon self-disclosure. In Victoria and South Australia, criminal record checks for the purposes of

disqualification are carried out independently by jury administrators (s 75B (NSW); s 26 (Vic); s 12(1a)(SA)).

The questionnaire/summons is also the first opportunity to determine the language skills of potential jurors, and the issue is specifically raised in each jurisdiction. People who do not have sufficient English skills may indicate this fact. Normally, this requires another person to send supporting information on their behalf such as a letter or statutory declaration. Multilingual information is provided with the questionnaire and summons in New South Wales and South Australia but not in Victoria. In New South Wales, the available languages are Arabic, Chinese, Croatian, Greek, Italian, Maltese, Polish, Portuguese, Serbian, Turkish and Vietnamese, although information in these languages is not currently being provided (see section 'Communications with prospective jurors'). In South Australia the information is provided in Chinese, Greek, Italian, Pitjantjatjara, Polish, Serbian and Vietnamese.

A key issue is the amount of time provided to jurors to respond to the information contained in these documents. This is particularly important in allowing jurors to plan for jury service. In each jurisdiction, the time allowed was generally greater than that specified in the legislation, although in some cases jurors may be required at short notice.

In New South Wales, jurors have 28 days to respond to the notice of inclusion. Although the summons need only give seven days' notice (s 26(3)), in practice there is about four to six weeks between summons and trial. The summons gives an indication of the likely length of trial. In Victoria, jurors are required to receive 10 days' notice and in general must not be compelled to attend for jury service for more than five consecutive court days (ss 27, 28). Although this is the statutory requirement, they are in practice provided with 17 days' notice. There is approximately six weeks between the questionnaire and the summons to the jury pool, and the questionnaire informs potential jurors of the window of time (typically eight weeks) in which they are likely to be called for jury duty. In South Australia, jurors are entitled to seven days' notice from the date of the summons (s 30(3)). In practice they receive up to six weeks' notice, and not less than 10 days.

The jury pool/panel

Those prospective jurors who attend at the court in response to the summons form a jury pool. Further information on jury service is provided as part of the induction process. The process of selecting jury panels varies in each jurisdiction.

In New South Wales the Jury Administrator's staff pre-select jurors for a panel based on their availability for trials of a specified length. The summons specifies the panel to which the prospective juror has been allocated. The panels are then called when requested by a trial judge, and may be combined as necessary depending on the number of jurors required.

In Victoria, when the jury pool supervisor is advised that a court requires a jury panel, the supervisor randomly selects a sufficient number of cards from the ballot box of jurors in

attendance in the jury pool from which to form the panel. As the cards are drawn from the box, the supervisor calls the name/number appearing on the card. People called form the jury panel and are required to attend before the judge who has requested that a jury be empanelled (ss 30, 31 and regs 5, 9).

In South Australia, jurors are randomly placed into one of five jury sections (comprising approximately 25 to 30 jurors) at the time of induction. Depending upon the number of trials to commence on any day, the Jury Manager will call in sufficient jury sections to commence the number of trials listed. This may involve combining jury sections or moving jurors between jury sections to provide an appropriate number of jurors to the court.

Both NSW and Victoria endeavour to apply a policy of 'one day/one trial'. That is, where possible, jurors who are not empanelled are only required to attend for one day. Of course, this is not always possible and in some cases a juror who is not empanelled for one trial may be empanelled for another on the same day, or may be asked to return the following day. In Victoria, this policy currently applies only to trials in Melbourne, although it may be extended to regional areas within 18 to 24 months. In New South Wales the policy applies in all regions.

In South Australia, jurors are required to be available for empanelment for one month or until excused from further attendance by a judge or the Sheriff (reg 5). Jurors are therefore 'on call' during this period. They may not be required every day, although they may serve on more than one trial. There are three ways in which jurors are notified that they are required for a trial after induction; publication of a notice in the newspaper, calling a pre-recorded message accessible through a 1800 number, or SMS sent by the court to jurors' mobile telephone numbers. (At the time of this report, the SMS service was available in the Adelaide Jury District only.)

Attendance in the jury pool provides another opportunity for jurors to apply to the Jury Administrator to be excused. If unsuccessful, the potential juror may apply to the judge during empanelling. Both the Victorian and South Australian legislation specifically provide for a right of review from the decision of a Jury Administrator (s 10 (Vic); s 16(5) (SA)). It also provides an opportunity for jury administrators to assess the language skills of potential jurors. These usually become apparent when the person has difficulty with written information, or with instructions given in English. In each jurisdiction the jury administrators were confident that any difficulties with language would be picked up at this stage of the process, if not earlier.

Deferral of jury service

Jurors in Victoria and South Australia are able to apply to defer their jury service. In New South Wales, jurors are not given the option to defer their service, but may indicate the length of time for which they are available. In South Australia, deferral occurs as part of the excusal process. That is, the reason for deferral must fall within a category of excuse

(s 16(4)). Jurors are generally able to nominate a particular month within the next 12 months in which to complete their jury service. This is coordinated by the Sheriff's Office using a manual system. As the average trial is approximately three to four days, with long trials lasting 10 to 15 days, most trials can therefore be accommodated within the month of service.

In Victoria, the Juries Commissioner has discretion to grant a request to defer jury service to a date within the next 12 months (s 7). A recent amendment to the Victorian *Juries Act* also provides that '[t]he Juries Commissioner or a pool supervisor may enquire of persons called to a pool as to their availability for particular lengths of trials' (s 29(4A)). However, it has been held that this does not confer upon the Juries Commissioner the power to excuse a potential juror from participation in a particular trial by excluding such person from the relevant jury pool (*R v Cavic, Athanasi and Clarke* [2007] VSC 47 at [14] per Coldrey J). Such applications must be made in open court.

All jury administrators held the view that deferral is a very positive tool in managing jurors as it allows the individual circumstances of jurors to be accommodated. For example, teachers may not be available during examination periods. Business people may have particularly projects that must be attended to. Within reason, such circumstances may be accommodated by deferral. None of the jury administrators considered that the deferral process was unduly onerous to manage, particularly in light of its perceived benefits.

In each jurisdiction, the panel of prospective jurors is taken by a court officer to the court where the trial is to be heard. The ballot cards of the members of the jury panel are handed to the judge's associate, who places them in another ballot box in the court ready for empanelling (s 28 (NSW); s 42 (SA); s 30(4) (Vic)).

Empanelling

The last opportunity for a juror to be excused (as opposed to discharged) is during the empanelling process. Following empanelment of the jury, a juror cannot be excused but only discharged (*R v Panozzo* [2003] VSCA 184 [18] per Vincent JA). In each jurisdiction the trial judge has the power to excuse a juror from further attendance (s 38(1) (NSW); ss 11, 12, 32(3) (Vic); s 56(1) (SA)). Although not ideal, this is also the last opportunity for language or comprehension difficulties to become apparent.

In New South Wales, the Crown prosecutor is required to inform the jury as to the nature of the charge and the identity of the accused and prosecution witnesses (s 38(7)). In Victoria, the court must inform the jury panel, or cause them to be informed, of the nature of the charge(s), the name of the accused, the names of the principal witnesses, the estimated length of the trial and any other information the court thinks relevant (s 32). Although there is no equivalent section in the South Australian legislation, the practice is that the panel will hear the defendant arraigned, names of actual or potential witnesses and the nature of the trial. Prior to going to court the sheriff will advise the panel of the approximate duration of the trial.

Once this information has been provided to the panel, the judge then asks if any of them wishes to be excused, and the grounds for their request. The way in which this process is conducted is generally within the purview of the trial judge, and may vary considerably. Some judges ask only those applying to be excused to remain in court, while others ask the whole panel to remain. Some judges allow the reason to be written down if personal. While in Victoria jurors are generally required to state their reason(s) on oath, this is not the practice in South Australia, and in New South Wales the practice varies depending upon the trial judge. In South Australia, jurors are asked to approach the bench and the reason is discussed with the judge privately.

Once the hearing of excuse applications has been completed, the empanelling of the jury begins. The relevant court officer draws cards at random from the ballot box (s 48 (NSW); s 39 (Vic); s 49 (SA)). The number of cards drawn will depend on the number of defendants on trial, due to the number of peremptory challenges/stand asides that are provided to each party.

Peremptory challenges

In each jurisdiction, in addition to challenges for cause (ss 41, 44 (NSW); ss 37, 40 (Vic); ss 66–68 (SA)) both the prosecution (s 42(1)(b) (NSW); s 38 (Vic); s 61(1) (SA)) and defence (s 42(1)(b) (NSW); s 39 (Vic); s 61(1) (SA)) have the right to peremptorily challenge jurors. (In Victoria, where this right is exercised by the Crown it is known as ‘standing aside’.) The challenge must be made between the calling of the juror and the juror taking his or her seat/being sworn (s 45 (NSW); s 39(2) (Vic); s 64 (SA)).

In New South Wales and South Australia the number of peremptory challenges is three per party (s 42 (NSW); ss 61, 65 (SA)). In New South Wales the trial judge may discharge the jury if in his or her opinion the exercise of the peremptory challenge rights has resulted in a jury whose composition is such that the trial might be, or might appear to be, unfair (s 47A). In Victoria, the number of peremptory challenges available is six per party where there is one defendant, five per party where there are two defendants, and four per party where there are three or more defendants.

In each jurisdiction the issue of peremptory challenges is explained as part of the induction process. However, it is an issue which may impact on juror satisfaction. For example, how do jurors feel after completing a questionnaire, responding to a summons, attending juror orientation and meeting jury selection criteria, only to be excluded when challenged at the last moment?

Identification of jurors

Fear of being identified by name is likely to be of concern to some jurors. In New South Wales and South Australia, jurors are identified by identification number only (s 29 (NSW); see generally *R v Ronen* [2004] NSWCCA 176). In Victoria, the name or number and

occupation of each prospective juror in turn is called (s 36). The court has the power to direct that the jury panel be identified by number only (s 31(3)). Although this is up to individual judges, it appears that the practice is becoming increasingly common (*R v Goldman* (2004) 145 A Crim R 51 [18]–[20] per Redlich J and *R v Strawhorn* [2006] VSC 251). In *Director of Public Prosecutions v Ivanovic* 2003 VSC 388 [6]–[7], Justice Cummins stated, in relation to s 31(3) of the *Juries Act 2000*:

...I consider that no special or extraneous reason need be established in order to activate the power in sub.s(3). The requirement of 'other reason' is satisfied if the Court considers it is good management to use numbers rather than names. In my view, generally speaking it is good management to use numbers rather than names. Citizens called for jury service should be supported by the reassurance of anonymity; the administration of justice – trial by jury – is enhanced thereby, and an accused is not disadvantaged, because the juror's occupation (or last occupation) is stated.

In South Australia, the use of numbers to identify jurors is a practice agreed to by the Chief Justice and Chief Judge (s 89 (SA)). Each juror's full name, suburb and occupation is available to counsel but is not read out in court. Information about jurors is retrieved by the Sheriff's Office after empanelling. In New South Wales, a person who attends at a trial in accordance with the summons is not required to disclose their name or any other matter that identifies or is likely to lead to the identification of the person. However, the person must provide such information to the Sheriff (s 37).

Concern as to being identified may extend beyond the trial, and in each jurisdiction it is an offence to disclose the identity of jurors. In New South Wales, it is an offence to publish or otherwise disclose any information which is likely to lead to the identification of a juror or former juror in a particular trial, incurring a maximum penalty of two years' imprisonment, 50 penalty units or both (s 68). This does not apply to the identification of a former juror with consent (s 68(2)), or for the purpose of research conducted with the permission of the Attorney General (s 68(5)). It is an offence under s 67A (1) for a person to inspect, or make available to any other person, a panel or card prepared for the purposes of the Act by the Sheriff.

In Victoria, it is an offence for designated persons, including jurors or former jurors, to either directly or indirectly make a record of or disclose or communicate to any person any information enabling the identification of persons on any jury roll, list, pool, panel or jury. Under s 65 (Vic) this incurs a maximum penalty of 120 penalty units or imprisonment for 12 months. There is an exception for disclosure to a medical practitioner/psychologist for treatment in relation to issues arising out of jury service, although the doctor or psychologist is then bound not to disclose (ss 65(4)(5)). Under s 77 it is also an offence to publish, or cause to be published, any information or image that identifies or is capable of identifying a person attending for jury service. This offence may result in a maximum of 3,000 penalty units in the case of a body corporate, or 600 penalty units/five years' imprisonment.

In South Australia, it is an offence to disclose or publish ‘protected information’ (s 246 of the *Criminal Law Consolidation Act 1935* (SA)). ‘Protected information’ is defined to mean:

- particulars of statements made, opinions expressed, arguments advanced and votes cast by members of a jury in the course of their deliberations, other than anything said or done in open court; or
- information that identifies, or is likely to identify, a person as, or as having been, a juror in particular proceedings (s 246(11)).

The section provides for a number of exceptions including the consent of the person identified (s 246(8)) and where the disclosure is in accordance with an authorisation granted by the Attorney-General to conduct jury research (s 246(5)(6)(7)).

Swearing of the jury

The juror’s oath or affirmation in all states requires the juror to give a true verdict according to the evidence (s 72A (NSW); s 42 and sch 3 (Vic); s 33 and sch 6 (SA)). Interviews with jury administrators indicated that the taking of an oath/affirmation by jurors did not appear to be a significant issue, if it arises at all. Various faiths/religions are incorporated as necessary, both in oaths/affirmations but also in accommodating religious practices more generally; for example, prayer times. Figure 1 provides a summary of how jurors move through each stage of the system within each jurisdiction.

Jury management during the trial

Jury permitted to separate during trial

The ability of the jury to separate is obviously an important aspect of juror comfort/wellbeing. Before retiring to reach a verdict, jurors are allowed to separate in each jurisdiction. In New South Wales, they *must* be permitted to separate at any time before they retire to consider their verdict unless the court orders otherwise (s 54(1)(a)). In Victoria and South Australia, the court may permit the jury to separate prior to considering its verdict and when having retired to consider its verdict (s 50 (Vic); s 55(1)(SA)).

Discharge of jurors

In some cases, it may be necessary for an individual juror to be discharged prior to verdict, without discharging the entire jury. Although there is no specific provision in New South Wales on this point, s 22 refers to continuing with a reduced jury where ‘any member of the jury dies or is discharged... whether as being through illness incapable of continuing to act or for any other reason...’. It therefore seems implicit that a juror may be discharged.

Figure 1: Summary of juror movement in each jurisdiction

The New South Wales jury selection process

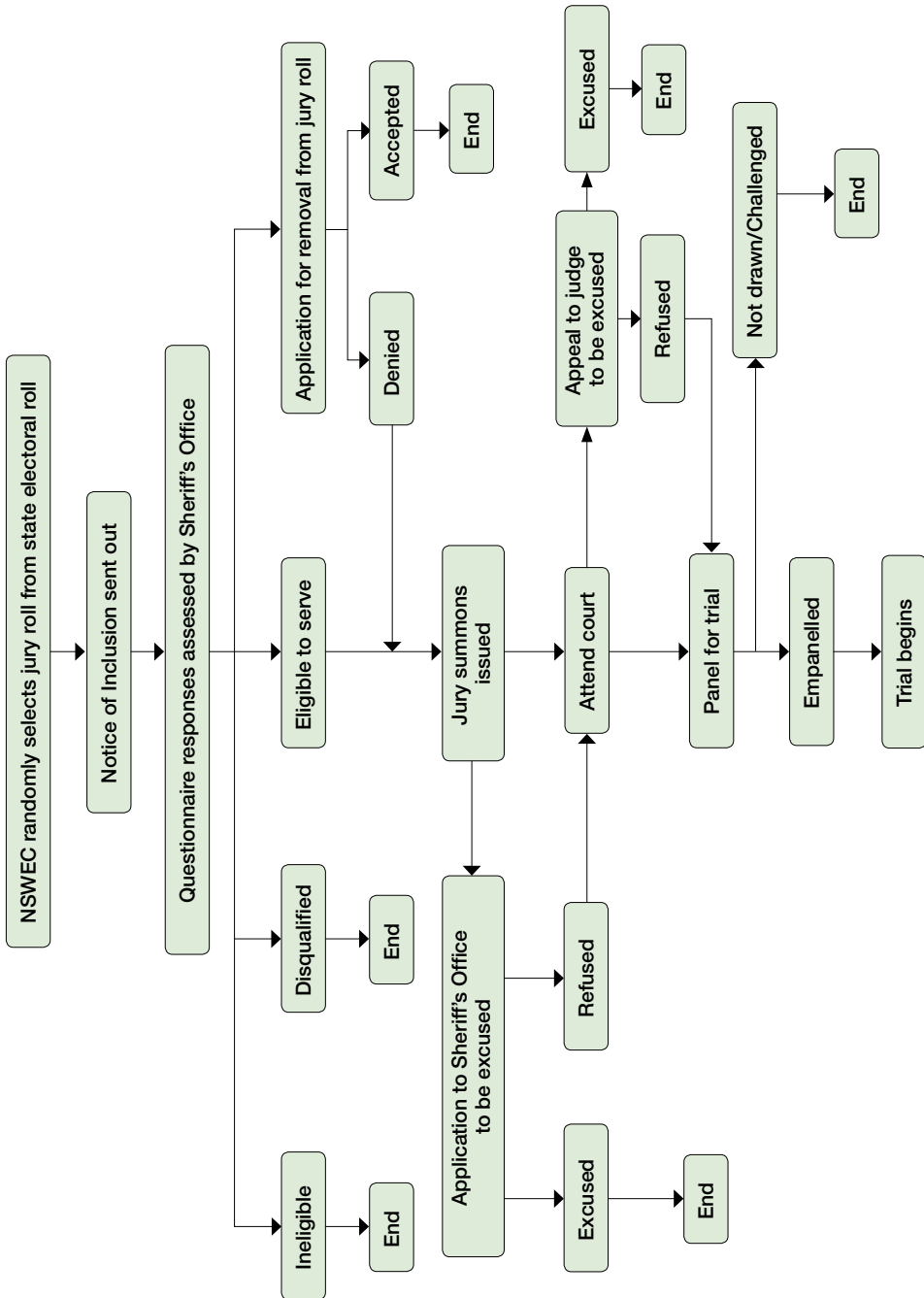


Figure 1: continued

The Victorian jury selection process

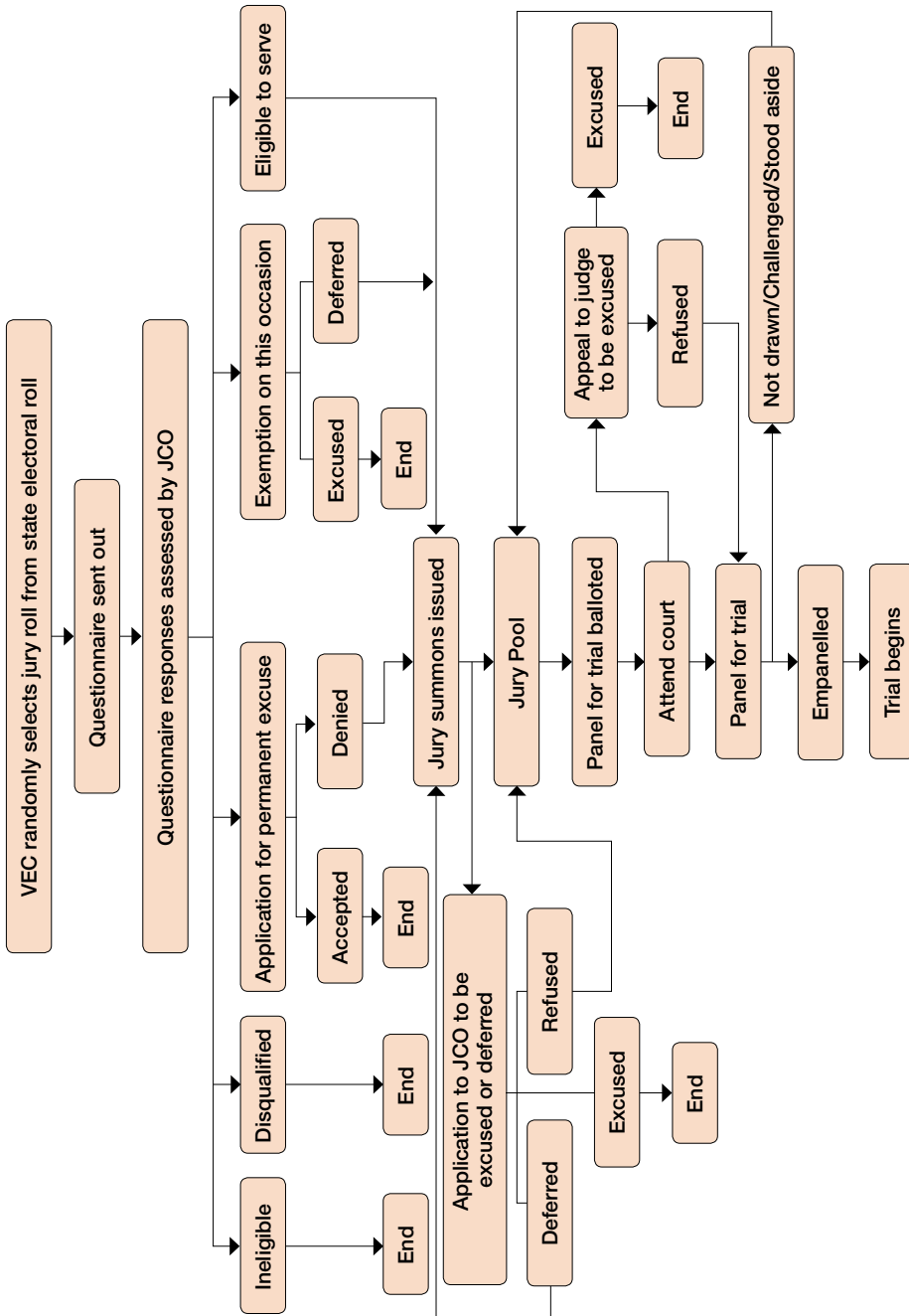
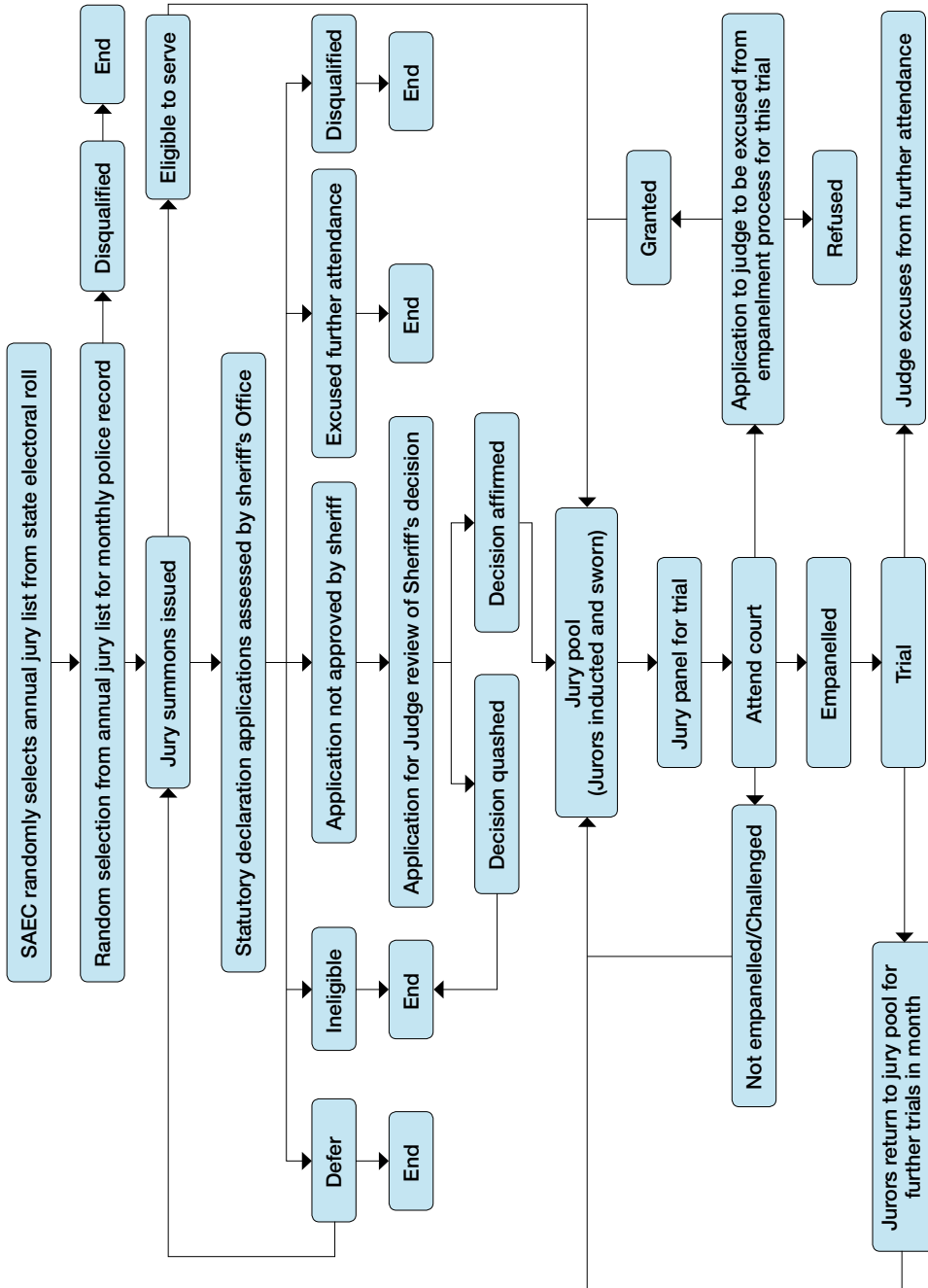


Figure 1: continued

The South Australian jury selection process



In Victoria, a judge may discharge a juror if:

- it appears to the judge that the juror is not impartial (as to the test to be applied in such cases, see *R v Webb* [1999] 181 CLR 41 [53]–[54] per Mason CJ and McHugh J)
- the juror becomes incapable of continuing to act as a juror
- the juror becomes ill
- it appears to the judge that, for any other reason, the juror should not continue to act as a juror (s 43).

In South Australia, a juror may be excused from further attendance if the judge is satisfied that he or she should be excused because of ill health or ‘a matter of special urgency or importance’ (s 56(1)).

In all jurisdictions, if a juror dies or is discharged, the trial may continue with a reduced number of jurors which, in a criminal trial, may be no fewer than 10 (s 22 (NSW); s 44 (Vic); s 56(2) (SA)). In South Australia, this also applies if a juror fails to attend without lawful excuse (s 56(2)). In New South Wales, the number of jurors may be reduced below 10 with the written approval of the prosecution and defence, or where the trial has been in progress for at least two months, in which case the number of jurors must be no fewer than eight (s 22).

Discussions with jury administrators revealed that the discharge of jurors during the trial is relatively rare, with the most common reasons being illness or the need to care for a family member. Judges normally will not discharge jurors for work or travel commitments even if a trial overruns its estimated length. (For a recent example where a juror was discharged after becoming distressed due to his own experience as a victim of crime, see *R v Goodall* [2007].)

Refreshments

Both New South Wales and South Australia make legislative provision in relation to refreshments being provided to the jury. In New South Wales, refreshments are allowed in the jury room after jurors retire to consider their verdict (s 55). South Australia imposes a general duty on the Sheriff to make reasonable provision for the comfort and refreshment of the jury (s 54). In Victoria there is no specific provision but refreshments are provided to jurors.

Verdict

The process of reaching a verdict can be lengthy and presumably stressful. The legislative provisions that have most relevance in this context are those which relate to the ability to return a majority verdict, and the question of whether jurors are able to separate before returning their verdict.

Majority verdicts/discharge of jury

Each jurisdiction makes provision for majority verdicts in certain cases where jurors are unable to reach a unanimous verdict.

In New South Wales, the minimum period of deliberation is eight hours (s 55F(2)), and a majority verdict will not be accepted where fewer than 11 jurors remain (s 55F(1)). There must only be one dissident (s 55F(3)). The decision to accept a majority verdict is made by the trial judge following examination on oath of one or more jurors to the satisfaction of the judge that the jurors are unlikely reach a unanimous verdict after further deliberation (s 55F(2)). If, after examination on oath of one or more of the jurors, it appears unlikely that the jurors will reach a unanimous or a majority verdict, then the jury may be discharged (s 56(1)). (Section 56(3) applies where there are 10 or fewer jurors and it appears likely they will not be able to reach a unanimous verdict.) The jury may not be discharged if, after examination on oath, it appears likely that the jurors will reach a majority verdict (s 56(2)).

In Victoria, the minimum time the jury must deliberate before the jury is either discharged or a majority verdict accepted is six hours (s 46(2)). A 'majority verdict' is one where there is only one dissident, whether the jury consists of 12, 11 or 10 jurors (s 46(1)). The six-hour period is a minimum only, and the court must refuse to take a majority verdict if it considers that the jury has not had a period of time for deliberation that the court thinks reasonable, having regard to the nature and complexity of the trial (s 46(3)). A unanimous verdict is required for murder, treason and offences against ss 71 or 72 of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) (s 46(4)).

In South Australia, the minimum period of deliberation before the jury is discharged or a majority verdict accepted is four hours (s 57(1)). A majority verdict is one where there can be up to two dissidents out of 12, or one dissident where there are 11 or 10 jurors (s 57(4)). A majority verdict of guilty cannot be accepted for murder or treason (s 57(2)). However, the legislation is silent in relation to not guilty verdicts for these offences and so the practice is that a majority verdict of 'not guilty' can be accepted in such cases after at least four hours of deliberation.

In all jurisdictions, verdicts in relation to Commonwealth offences must be unanimous as required by s 80 of the Commonwealth Constitution (this requirement is specifically referred to in New South Wales and Victoria (s 55F(4) (NSW); s 46(4) (Vic)). Only New South Wales makes specific provision for the discharge of the jury after they have reached their verdict (s 55E). Section 360 of the *Crimes Act 1958* (Vic) makes provision for the discharge of the jury where a trial is postponed.

Apart from these specific statutory requirements, the way in which this issue is handled is up to individual judges. Past research has shown that judges are generally reluctant to provide jurors with guidance in relation to their deliberations, including how to deal with disputations (Ogloff Clough & Goodman-Delahunty 2007). Where it is apparent that the jury is having

difficulty reaching a verdict the trial judge may give what is known as a *Black* direction (*Black v R* (1993) 179 CLR 44). Whether it is appropriate to give such a direction is a matter for the trial judge. In general, such a direction should only be given where the jury has indicated that they are having difficulty reaching a unanimous verdict (*R v Mackrae-Bathory* [2006] VSCA 179 [51] per Chernov, Nettle and Neave JJA).

Additional jurors

A related issue is the experience of those jurors who are empanelled but balloted off prior to verdict. Although ordinarily a jury consists of 12 jurors (s 19 (NSW); s 22(2) (Vic); s 6(2) (SA)), both Victoria and South Australia make specific provisions that, where appropriate, up to three additional jurors may be empanelled and reduced by ballot prior to verdict (ss 23, 48 (Vic); s 6A (SA)). There is no equivalent provision in New South Wales.

Procedures allowing the size of the jury to be increased anticipate the natural attrition of jurors in lengthy trials. An issue which relates to juror satisfaction is the experience of supplementary jurors who sit through an entire trial but never deliberate. It has been held that there is no 'right' for additional jurors empanelled to participate in determination of the verdict; their continued participation being conditional upon the terms of the relevant legislation (*Ng v R* (2003) 197 ALR 10 [13] per Gleeson CJ, Gummow, Hayne, Callinan & Heydon JJ).

Jurors permitted to separate during deliberation

In each jurisdiction, whether jurors are allowed to separate after retiring to consider their verdict is within the discretion of the trial judge (s 54(1)(b) (NSW); s 50(1) (Vic); s 55(1)(2) (SA)). There is no requirement that a jury be sequestered in every case, whether before or after retiring to consider their verdict (*Brownlee v R* (2001) 207 CLR 278).

Victorian jurors are not allowed to separate until they have been sworn in accordance with Schedule 5 of the Act, which relates to discussions in relation to their deliberations (s 50(2)). Failure to do so is a fundamental irregularity (*R v Clarke* (2002) 5 VR 480). The Victorian provision specifically allows that an individual juror may be allowed to separate (s 55(1)(b)). This could occur, for example, where a juror needs to attend a funeral.

The South Australian provision specifically states that whether before or after retiring, the court may impose conditions on the jurors. Examples given include requiring the jurors to reassemble at a specified time and place and/or prohibiting the jurors from discussing the case with anyone (except another juror) during the separation (s 55(3)).

Although the impact on jurors of being kept away from home has significance, it is relatively rare in both New South Wales and South Australia. In New South Wales, if it occurs, it is most likely in high-profile cases to ensure the security of the jury process. In South Australia jurors are sequestered on average once or twice per annum (four in 2000, two in 2001 and 2002, two in 2003, three in 2004 and one in 2005). In Victoria, while approximately one

percent of County Court juries are sequestered at the deliberation stage, the figure is approximately 32 percent for Supreme Court trials.

Jury administrators were well aware of the importance of jury comfort in such cases. Jurors are accommodated in relatively nice hotels with jury administration staff on hand to assist and to provide security during transport to and from the court as well as over night. Where necessary, limited contact with family, etc. is arranged within the limits of jury confidentiality.

Confidentiality of jury deliberations

The secrecy of the jury room is a sacrosanct principle in the Australian common law tradition, and each jurisdiction makes provision for criminal offences relating to the confidentiality of those deliberations. However, in recent times all courts have provided the option of counselling to jurors. It is therefore important that these offences do not inhibit the ability of jurors to seek counselling if they wish to.

In New South Wales, it is an offence to solicit information about deliberations from a juror or former juror; the maximum penalty is seven years' imprisonment (s 68A (NSW)). There are some limited exceptions; for example research conducted with the permission of the Attorney-General (s 68A(3) (NSW)). It is also an offence for a juror to disclose information about jury deliberations, including statements made, opinions expressed, arguments advanced or votes cast by members of the jury in the course of their deliberations, the maximum penalty being 20 penalty units, or 50 penalty units if disclosed for fee or reward (s 68B (NSW)). Although there is no specific exception in relation to health care providers, the offence actually prohibits a person from soliciting information. Furthermore, the provision relating to disclosure by a juror only relates to disclosure during the trial or for fee or reward. These provisions would therefore allow for disclosure in the context of counselling, so long as the counsellor did not solicit information relating to deliberations and the post-trial disclosure was not made for fee or reward.

In Victoria, under s 78 it is an offence to disclose, publish or solicit any statements made, opinions expressed, arguments advanced or votes cast in the course of the deliberations of a jury; this applies to jurors as well. A specific exception is provided in relation to disclosure to a medical practitioner or psychologist for treatment in relation to issues arising out of jury service, although the doctor or psychologist is then bound not to disclose (s 78(5)(6)). There is also an exception for research conducted with the permission of the Attorney-General (s 78(9)).

In South Australia, the confidentiality of deliberations is protected under the 'protected information' offence described above. Although there is no specific exception provided in relation to health care providers, the nature of the offence is such that it is unlikely to apply to disclosures in that context. The offence of disclosure applies where the person is aware that, in consequence of the disclosure, the information will, or is likely to, be published (s 246(2))

Criminal Law Consolidation Act 1935). Similarly, the offence of soliciting or obtaining protected information applies only where there is the intention of publishing or facilitating the publication of that information.

An issue which arises from these provisions is the extent to which the secrecy of deliberations is explained to jurors. Jurors may have concerns as to whether they are able to talk to family about the case, either during or after the trial.

Summary

A summary of differences in legislation between each of the jurisdictions is shown in Table 3.

Table 3: Legislative differences between the states			
Legislation and regulations affecting juror satisfaction			
	New South Wales^a	Victoria^b	South Australia^c
Eligibility			
Who is eligible	pt 2, schs 1–2	s 5, schs 1–2	s 11
Discharge, deferral and cancellation	s 38, s 39	s 7, reg 7	
Exemption/Exclusion	ss 3, 7, 14, 15	ss 8–13, 15	s 16
Ability to enlarge/reduce jury pool	s 18	ss 16–17, reg 6	
Jury districts	s 9	s 18	s 8
Distance travelled	sch 3 Jurors living more than 56 km from court are excused	s 8 Jurors living more than 50 km from court are excused in Melbourne, more than 60 km outside Melbourne	s 23 Jurors living more than 150 km from court must request to be included on the jury list
Jury rolls/Lists	ss 10–12, 14, 18A Jurors selected from electoral roll	s 19 Jurors selected from electoral roll	pt 4 Jurors selected from electoral roll
Appeal decision of Jury administrator	s 15	s 10	
Random selection	s 25	s 4	ss 23, 29
Summoning the Jury			
Jury questionnaire	s 13 Is sent to determine eligibility	s 20 Is sent to determine eligibility	s 25 Authority to send questionnaire exists but is not practiced
Jury administrator to determine eligibility and prepare jury list	ss 23, 25	s 21, 25	ss 12, 13, 20, 29

Table 3: continued

	New South Wales^a	Victoria^b	South Australia^c
Size of jury	ss 19, 22, 28	s 22–23	ss 6(2), 6A
Summons	ss 26, 75	s 27	s 30
Time to respond to summons	s 26 Seven days' notice, in practice given 28 days' notice	ss 27–28 10 days' notice, in practice given 17 days'	s 30 Seven days' notice, in practice given 10 days to six weeks' notice
Period of attendance		s 28	
Empanelling			
Jury pool and panel	s 28 Jurors allocated panel based on availability for trial length	ss 29–31, regs 5, 8–9 Cards randomly selected from ballot box	s 42, reg 5 Jurors randomly allocated into jury sections at induction
Information for panel and excuses	ss 38–9 Crown prosecutor must inform jury nature of charge(s), identity of accused and witnesses	s 32 Court must inform jury of the nature of the charge(s), names of accused and witnesses, estimated length of trial and other relevant information	No legislation, in practice, panel will hear the defendant arraigned, names of actual or potential witnesses, and nature of charge(s)
Jury selection	ss 48, 52–3 Court officer draws cards randomly from ballot box	s 36, reg 10 Court officer draws cards randomly from ballot box	s 46 Court officer draws cards randomly from ballot box
Peremptory challenges	pt 6, ss 41–3, 47A Three peremptory challenges per party	ss 37–40 One defendant: six peremptory challenges per party. Two defendants: five challenges per party. Three or more defendants: Four challenges per party	pt 7 Three peremptory challenges per party
Identification of jurors	s 29 Jurors identified by number only	s 36 Jurors identified by name or number and occupation	s 89 Allows the chief judge and chief justice to make a rule which dictates that jurors be identified by number only, but each juror's full name, suburb and occupation is available to counsel
Supplementary jurors	s 27, 51	s 41	
Swearing of jury	s 72A	s 42, sch 3	s 33
May have exclusively male/female jury			s 60A

Table 3: continued

	New South Wales^a	Victoria^b	South Australia^c
Trial			
Jury permitted to separate	s 54 Jurors must be permitted to separate before deliberation	s 50 Court's discretion prior to and during deliberation	s 55 Court's discretion prior to and during deliberation
Judge may discharge juror	No legislative provision, although may occur in practice due to illness or other reasons	s 43 If juror is not impartial, becomes incapable of performing duties, becomes ill, judge sees any other reason	s 59 Due to health or 'matter of special urgency or importance'
Reduced jury	s 22 No fewer than 10, unless written approval provided by prosecution and defence; no fewer than eight if trial has been in progress more than two months	s 44 No fewer than 10	s 56 No fewer than 10
Judge may discharge jury	ss 55E, 56		
Court ordered view		s 45	s 88
Verdict			
Minimum deliberation time	s 55F 8 hours	s 46 6 hours	s 57 4 hours
Majority verdicts	ss 55F, 57 At trial judge's discretion, not accepted where fewer than 11 jurors, only one dissentient allowed	s 46 At trial judge's discretion, not accepted where fewer than 10 jurors, only one dissentient allowed. Unanimous verdict required for murder, treason or offences under ss 71–72 of <i>Drugs, Poisons and Controlled Substances Act 1981</i>	s 57 Two dissentients allowed if 12 jurors, one dissentient if 10 or 11 jurors. Unanimous guilty verdict required for murder or treason; in practice a majority 'not guilty' verdict accepted in these cases
Additional jurors	No legislative provision	s 48 Three additional jurors may be empanelled and balloted off prior to deliberation	s 6A Three additional jurors may be empanelled and balloted off prior to deliberation
Jury may separate	s 54 At discretion of trial judge	s 50, sch 5 At discretion of trial judge	s 55 At discretion of trial judge

Table 3: continued

	New South Wales^a	Victoria^b	South Australia^c
If no objection, court may try issue with jury which has previously tried any other issue			s 50
Remuneration/Compensation			
Remuneration (see Table 2)	s 72, reg 5, sch 1	pt 7, reg 64 ^d	s 70, reg 55 ^e
Offences			
Identification	ss 29, 37, 67A, 68 Maximum penalty of two years' imprisonment or 50 penalty units ^f or both	ss 65, 77 Identification: maximum 120 penalty units ^g or 12 months' imprisonment. Publishing identification: maximum 3000 penalty units for body corporate or 600 penalty units/five years' imprisonment for individuals	s 246 <i>Criminal Law Consolidation Act 1935</i> Offence to disclose or publish 'protected information', including identities of jurors
Disclose information about deliberations	ss 68A–B Maximum 20 penalty units, 50 penalty units if disclosed for fee or reward	s 78 600 penalty units or imprisonment for five years	s 246 <i>Criminal Law Consolidation Act 1935</i> Offence to disclose or publish 'protected information', including information about deliberations
Inquiries by juror prohibited	s 68C		
Failure to answer questions/inform	ss 61–62A Maximum 10 penalty units	ss 67–70, 81(c) Maximum 30 penalty units	
Providing false information	ss 13(3)	ss 68, 70, 80	
Failure to attend	ss 63–64, 66 Maximum 20 penalty units	ss 71–72, 81 Maximum 30 penalty units or three months' imprisonment	s 78(1)(a) \$1,250
Refusal to be sworn		ss 73, 81(1)(e)	
Extra payment		ss 75, 82(b)	s 78(1)(d)
Employment not prejudiced	s 69 Offence for an employer to terminate or threaten to terminate an employee's position due to jury service	s 76 Offence for an employer to terminate or threaten to terminate an employee's position due to jury service	s 245 <i>Criminal Law Consolidation Act 1935</i> states that it is an offence to prevent or dissuade a person from attending jury duty
Personation	s 67	ss 74, 82(a)	

Table 3: continued

	New South Wales ^a	Victoria ^b	South Australia ^c
Other			
Refreshments	s 55 Refreshments provided in jury room during deliberation	No legislative provision, but jurors provided refreshments in practice	s 54 Sheriff must make reasonable provision for comfort and refreshment of jury
Exhibits	s 55A	s 19 <i>Crimes (Criminal Trials) Act 1999</i>	
Written directions	s 55B	s 19 <i>Crimes (Criminal Trials) Act 1999</i>	
Access to transcript	s 55C	s 19 <i>Crimes (Criminal Trials) Act 1999</i>	

a: Except where otherwise mentioned, section references are to the *Jury Act 1977* (NSW), and regulation references are to the Jury Regulation 2004 (NSW)

b: Except where otherwise mentioned, section references are to the *Juries Act 2000* (Vic), and regulation references are to the Juries Regulations 2001 (Vic)

c: Except where otherwise mentioned, section references are to the *Juries Act 1927* (SA), and regulation references are to the Juries (General) Regulations 1998 (SA)

d: Juries (Fees, Remuneration and Allowances) Regulations 2001 (Vic)

e: Juries (Remuneration for Jury Service) Regulations 2002 (SA)

f: In New South Wales, one penalty unit = \$110

g: In Victoria, one penalty unit = \$110.12

Communications with prospective jurors

Most jury members have little prior understanding of normal court procedures or legal terminology. Jury experience can initially be quite confusing (NSW Law Reform Commission 1986). The easier this task is made, the more effective will be the jury's performance and the more reliable the verdict. One way that courts attempt to assist jurors is to provide information before the trial regarding their role and obligations to orient them to the trial process.

The literature on juror orientation is limited. Accordingly, it is difficult to ascertain topics that should be addressed in the jury orientation process. Several key content areas aimed at making the orientation process more informative, more inspirational and more consistent were itemised for American juries (Munsterman 2004). These included reminding jurors of the positive features of a jury system, acknowledging the citizen's time and their contribution to the administration of justice. These points formed one frame of reference for the content analysis applied to written, oral and video communications provided to jurors in the states of Victoria, New South Wales and South Australia.

Given the dearth of juror orientation literature, we examined other orientation methods that have been better researched, such as workforce orientations, which are based on similar principles. At the start of a new job, employees often seek confirmation that they have made the right decision in accepting the position. If the employee arrives at orientation with a negative impression of the company, the orientation process can assist in changing this impression (Davis & Kleiner 2000). The importance of first impressions may be equally important for jurors. Many people view jury duty as an inconvenience (Boatright 2001), therefore reinforcing the importance of the role of juries and the value of jury duty at the outset may help dispel such concerns.

Inspiration is necessary for a successful orientation and performance (Davis & Kleiner 2000). A positive orientation experience provides an opportunity for the employer to maintain or inspire motivation within the employee, which in turn leads to heightened productivity and success for the company. Inspiration can be achieved by providing new employees with corporate history, instilling pride in tradition, and emphasising the importance of each individual employee. Similarly, reminding jurors of their role in the judicial process and of the long-standing tradition of a jury system may be an effective way to inspire jurors and increase their willingness to serve.

Workplace orientation should include the establishment of new relationships with coworkers and management of anxiety and stress that often accompany the new experience (Wanous & Reichers 2000). Addressing employee expectations, company intentions and the responsibility of both parties is crucial to establish mutual trust between employee and employer. For juror orientation, this includes establishing an environment where jurors feel comfortable and trust the court personnel, including administrators, tipstaff and judges.

The ability to learn and remember the required task will ensure jurors feel comfortable and willing to participate in jury service. Empirically supported theories on human learning suggest that people use separate (dual) channels for processing auditory and visual information, and that each channel is limited in the amount of information it can process at any one time

(Mayer 2001). Proponents of multimedia learning argue that people learn better and more accurately when information is presented both visually and verbally, as this reduces the cognitive load on each of the channels (Mayer 2001; Sweller & Chandler 1994). Our working memory processing system is divided into at least two partially independent sub-processors: an auditory system devoted heavily to language; and a visual system for handling images, including writing. Because both systems can be used simultaneously, limited working memory capacity might be effectively increased if information that must be stored or simultaneously processed is presented in a manner that permits it to be divided between the two systems, rather than processed in one system alone (Paivio 1990). Research-based principles for designing multimedia instruction have improved learning in people with little prior knowledge on a topic and in people who are 'visualisers' (Chun & Plass 1997; Mayer & Massa 2003), or who have a preference for visually rather than verbally presented information (Felder & Spurlin 2005). The latter group, i.e. those with a verbal learning preference, comprises approximately 25 percent of the population (Felder & Soloman 1997). All three states have incorporated multimodal communications into their orientation.

Repetition further improves comprehensibility of the task at hand. In a simulated grand larceny trial, multiple exposures to the law assisted mock-jurors to understand the rules and assisted in their comprehension levels (Cruse & Browne 1987). Repetition influences both recollection and familiarity (Jacoby, Jones & Dolan 1998), suggesting that repeated exposure to information during orientation will assist jurors to perform their task.

Overview of information provided to jurors

The information provided to prospective jurors by courts in New South Wales, Victoria and South Australia included written material issued to jurors prior to their appearance for jury duty as well as the videotaped presentations, oral presentations and written material provided upon their initial attendance at the court. The nature and quantity of information provided to jurors before jury service, upon arrival at court, and upon completion of jury duty, differed dramatically in the three states, as is illustrated in Table 4. The documents (e.g. summonses, juror handbooks) discussed in this chapter can be accessed online at <http://www.justiceenvironments.edu.au>.

Preliminary information provided to prospective jurors

New South Wales

In advance of jury service, potential jurors in New South Wales receive three documents. Initially, they are sent a Notice of inclusion which simply states: 'This form is a notice of inclusion on a jury roll. It is not a jury summons'. The following sentence invites confusion, stating: 'You have been selected for jury duty in the district shown above for the period [e.g.] August 2006 to July 2007'.

The bottom of the *Notice of inclusion* has space for jurors to note changes in their personal details. The reverse side provides a checklist for people to use to determine whether they are disqualified, ineligible, or eligible for exemption from jury duty. To determine disqualification, potential jurors are asked three questions and indicate a response by ticking the relevant box. To determine ineligibility, the format is not parallel, but a series of fragmented statements are provided without any introductory statement or explanations to guide respondents (e.g. the phrase ‘a judicial officer’ is introduced without definition). The third category of persons eligible to claim an exemption is presented by a combination of fragmented statements (e.g. ‘pregnant women’) and questions (e.g. ‘Are you a parent/guardian of a child/children aged under the age of 18 and you have daily care and control of that child/children?’). The absence of an introductory statement to this section, coupled with the lack of uniformity in the use of statements and questions, results in a document that is difficult to read and comprehend. Furthermore, the extensive use of parentheses increases incomprehensibility, particularly where parentheses are opened but not closed, or vice versa.

Table 4: Forms of communication with jurors in New South Wales, Victoria and South Australia

	NSW	Vic	SA	Total items
Preliminary information	Notice of inclusion	Notice of selection for jury service	Summons for jury service	12
	Jury summons	Jury eligibility questionnaire	Jury service information	
	Jury summons brochure	Notes to questions	Information for employers of jurors	
		Information for employers of prospective jurors		
	Jury summons	Information for summoned jurors		
Orientation at court	A guide for jurors – welcome to jury service	Juror’s handbook	Juror information handout	9
	Video	Video	Video	
		Oral presentation	Oral presentation	
			Courtroom visit	
Completion of trial	Jury support service			1
Total items	6	9	7	22

Following the *Notice of inclusion*, jurors may receive a *Jury summons*. The contents of this form are set out in three sections. The first section, 'Jury summons details', provides the time, date, and address where jurors should appear, and in some instances, the expected length of the trial. The second section, 'Confirmation of jury attendance', uses bullet points without any introductory statement to explain that jurors must telephone to confirm that they are required for jury duty, and no instructions on what to do if they experience difficulties with the telephone system. The third section, 'Instructions', provides bullet point information on how to apply to be excused or where to address other queries, again without an introductory statement. The reverse of the page provides space for jurors to apply to be excused from jury duty or update their personal details. A lack of personalisation coupled with cramped layout and small font results in two forms that are intimidating in appearance. The three sections of the questionnaire bear the titles 'Schedule 1', 'Schedule 2' or 'Schedule 3'. This unnecessary use of legal language is confusing and meaningless to the majority of citizens. Furthermore, to the right of each question is a column entitled 'Office use', which contains a series of codes for use by jury administration personnel. This information is also meaningless to potential jurors who complete the form, and its presence must be questioned.

Provided with the *Jury summons* is the *Jury summons brochure*. This document presents practical information about jury duty. The brochure is a fold-out pamphlet, with plain text and no illustrations. The brochure has black text on a white background, with red headings and a dark blue border at the top and bottom, and includes numerous spelling errors.

Victoria

Victorian prospective jurors first receive a *Notice of selection for jury service*, which is accompanied by a *Jury eligibility questionnaire*, *Notes to questions*, and *Information for employers of prospective jurors*. The notice of selection is formatted as a letter, signed by the Juries Commissioner. As with the New South Wales *Notice of inclusion*, the primary purpose of this letter is to determine whether the recipient is eligible to serve as a juror. The Victorian *Notice of selection for jury service* does not explain the difference between a summons and a notice of selection.

Potential jurors are instructed to complete the *Jury eligibility questionnaire*, with the assistance of the *Notes to questions*. The *Jury eligibility questionnaire* is comprised of 10 questions, each of which has an opening statement followed by a direct question. The *Notes to questions* provide further explanations to assist jurors in answering the questions. The *Notes to questions* and *Jury eligibility questionnaire* use legal language, but provide plain English explanations of their meaning. There are no spelling or grammatical errors; however, the provision of critical information on two separate forms (*Jury eligibility questionnaire* and *Notes to questions*) is awkward and complicates the task unnecessarily.

The Victorian *Jury eligibility questionnaire* and *Notes to questions* are currently being redesigned as a simpler form. This new form will be one document instead of two, which will be more user-friendly and simpler to complete.

Following completion of the *Jury eligibility questionnaire*, prospective jurors are sent a *Jury summons* which provides details of the time, date and place they should attend for jury service, as well as information regarding what they need to bring. Similar to the *Notice of selection*, the *Jury Summons* is formatted as a letter to the prospective juror from the Juries Commissioner. *Information for summoned jurors* is a two-page document with 15 headings which raise likely questions jurors might have and addresses them with a series of bullet points.

An information sheet for employers (*Information for employers of prospective jurors*) is provided with the summons. This is a two-page document, set out in the same format as the *Information for summoned jurors*, and designed to be provided by the juror to their employer.

South Australia

The court's initial contact with South Australian jurors is a *Summons for jury service*, which is provided alongside two brochures entitled *Jury service information* and *information for employers of jurors*. The summons itself informs jurors that they have been selected for jury service for a particular month, and provides information about when and where they need to attend, the consequences of non-compliance, and information about excusal for people who live more than 150 km from the court. The brochures provided with the summons provide further information about the logistics of serving, reasons for exemption or deferral, and information for employers regarding their legal obligations and financial matters.

The information is clearly presented and set out; it is formatted as a letter addressed to the juror from the Sheriff, and information is presented in paragraphs. There are no spelling or grammatical errors. The brochures are decorated with interesting artwork.

To receive an exemption from jury duty, potential jurors are required to complete a statutory declaration that is enclosed with the summons. On this declaration, jurors indicate if they are seeking to be excused from jury duty or a deferral to another month, and specify their reasons for so doing. The declaration requires the signature of a justice of the peace, and is to be posted or faxed to the Sheriff's Office prior to the commencement of the month for which the juror is summoned.

Orientation information

The videotapes used to orient jurors ranged in length from 16 to 30 minutes in length (NSW: 16 min.; Vic: 23 min.; SA: 30 min.). Some of the videos were more recently produced (2002, 2006 and 2001 respectively). New South Wales is in the process of evaluating whether a new videotape is needed.

The presentation format included information provided by a narrator, a judge and actors role-playing jurors. The interest level was enhanced in the New South Wales and Victorian videos by having information conveyed by a variety of actors portraying a diverse group of

jurors. By comparison, the majority of the information in the South Australian video was conveyed by one judge. Maintaining concentration on the judge's voice was difficult as there were few variations in the presentation format. Some effective use was made of written 'pop up' information to complement the oral information presented by the judge.

Jurors in all states are provided with handbooks, which are easily carried throughout jury duty. The handbooks answer common questions jurors may have about their duty and the trial process. Many of the handbook topics are addressed in the pre-orientation information and video presentations. In South Australia, jurors are given a separate handout containing information for employers, and *Notes for guidance of jurors attending criminal sessions*. The *Notes* are contained on two A4 pages of black text on a white background, and provide information to assist empanelled jurors with their duty, such as information about appointing a foreperson and how to ask questions before and after retirement. Upon completion of their service, jurors in New South Wales receive a pamphlet providing information about the Juror Support Program.

In New South Wales, jurors do not attend an in-person oral presentation about jury service. An oral presentation is delivered in person by the Jury Pool Supervisor in Victoria and by the Sheriff in South Australia. In Victoria, the presentation outlines administrative duties, and explains the balloting process, the jury's duty, courtroom procedures, the option to take an oath or affirmation, and jury remuneration. The Victorian presentation provides a verbal reminder of the ineligibility and disqualification categories specified in the *Juries Act 2000*.

The South Australian presentation includes administrative details, attendance, payments, empanelment, the process of taking an oath or affirmation, note-taking during the trial, questions during the trial, and deliberation. A judge is available to attend the jury assembly room and to answer any questions jurors have prior to empanelment. At the conclusion of the presentation, jurors are taken to a courtroom to familiarise themselves with the environment.

Analysis of pre-orientation and orientation materials

Examination of the content of the written pre-orientation and jury orientation documents and videotapes in each target state revealed that they addressed 40 discrete topics, although the nature and extent of the coverage on each topic varied from one state to the next. Inter-rater reliability was calculated; agreement between raters was highest for the pre-orientation materials (90%), followed by the juror handbooks (69%) and orientation video (62%). Table 5 provides a summary of the content addressed in the materials by state. A brief description of the content of each topic covered in these materials is discussed next, in turn.

1. Perspectives on the history of trial by jury

None of the orientation videos provides a great deal of information about the tradition and history of the jury system. The New South Wales video and handbook state that juries have been a part of the justice system for 200 years. In Victoria, there is a brief mention at the outset that the role of the jury was developed through centuries of tradition. Along similar lines, South Australia's video orientation provides no historical information.

2. Instilling pride in the jury and its place in a democracy

Both the New South Wales and the South Australian videos mention that the jury system protects personal liberties and acts as a safeguard for the community. The Victorian orientation informs jurors of the importance of the jury trial, that the jury system represents democracy and holds a pivotal place in the criminal justice system. Jurors are reminded that they bring common sense and varied experiences of life to the deliberation room. This information is repeated in both the video and the handbook.

3. Distinguishing reality from media and fictional portrayals of juries

The New South Wales pre-information orientation briefly comments that jurors cannot be questioned as seen on TV. In New South Wales, the video states that its jury system is nothing like portrayals in American television shows. The Victorian orientation instructs jurors not to allow anything they might have seen in films or on TV to play a role in their decision. The South Australian jury video informs jurors that the jury system differs from what is portrayed in the newspapers and on television. The judge informs jurors that the media have access to courtrooms and selectively report what they think is of public interest, which is not the same as what jurors hear. No further information is repeated in the written material or oral presentation.

4. Reminding jurors of the value of the jury

Both New South Wales and South Australian jurors are reminded that they represent the community and are the voice of the community. The handbook provided in New South Wales goes further and suggests 'your decision will have a significant effect on the lives of other people', to reiterate the importance of their duties. In South Australia and Victoria, potential jurors are informed by the summons of the importance of performing their civic duty. The Victorian video states that it is preferable to have many opinions in a case rather than the opinion of one judge. The video suggests that the jury is central to the process of justice because jurors make the decisions. The handbook further reiterates the value of being a juror.

5. Allaying jurors' fears about jury service

The New South Wales and South Australian videos depicted numerous individual jurors presenting their concerns about participating in jury duty. Specific topics demystified were

the wearing of robes by barristers and judges and the slim chances of sitting on a murder trial. The New South Wales and Victorian summonses provide information to potential jurors about their anonymity, and explain the security measures that are taken at court.

6. Information about selection

In all three states, jurors are informed prior to orientation that selection for jury duty is random. New South Wales and Victoria explain the frequency with which an individual can be summoned for jury service.

7. Non-compliance

The pre-orientation material in all three states clearly specifies the sanction for non-compliance with a jury summons.

8. Where to attend

The pre-orientation material in each of the three states tells potential jurors which court they should attend, and the date and time they should appear. None of the states provide information about which entrance to the court building jurors should use. Only South Australia specifies where potential jurors should go after entering the court building. All three states describe the availability of car parking and public transport.

9. Eligibility for jury duty

The pre-orientation information received by potential jurors in each state provides details of who is eligible to be a juror. Each state also informs potential jurors how to apply for an exemption or deferral (or the possibility of attending a shorter trial in New South Wales).

10. Introducing jurors to the court facilities (tea room/toilets/reading area, etc.)

The New South Wales and South Australian orientations do not introduce jurors to the facilities; however, the South Australian presentation briefly refers to the coffee and toilet facilities located in the lounge. The New South Wales and Victorian pre-orientation materials describe the facilities available for potential jurors in the jury assembly room. The Victorian video displays the court facilities, shows jurors where they can find tea and coffee, play a game of pool, or read books, newspapers, etc. The handbook provides similar information.

11. Explaining what jurors should bring to court

In New South Wales, potential jurors are instructed not to bring mobile phones and this warning is reiterated in the handbook. Information provided with the Victorian and South Australian summonses states that jurors should bring something to entertain them while waiting on their first day of jury duty. The Victorian summons informs jurors to bring their jury summons and photo identification, and a reminder is made during the orientation.

The South Australian handbook explains that jurors are not required to bring anything specific, and outlines what jurors should not bring, namely, metal items such as pocket knives and knitting needles.

12. Food and beverages information

The South Australian handbook and *Juror information handout* inform jurors of their options for purchasing food and beverages near the court buildings.

13. Explaining what jurors should wear to court

The pre-orientation material in all three states dictates that jurors should wear neat clothing (New South Wales: 'neat and tidy daywear'; Victoria: 'neat and casual'; South Australia: 'neat comfortable'). The Victorian summons provides further information about what jurors should not wear. In the South Australia and New South Wales orientation material, jurors are reminded to wear neat and comfortable clothes. This information is not repeated in Victoria.

14. Explaining how long jurors will be required

The South Australian pre-orientation materials explain that jurors will be required for a month, while the Victorian information provides details about the average length of a trial. The South Australian and Victorian summonses provide potential jurors with an approximation of how long they will be required on the first day. In New South Wales, potential jurors are sometimes provided with details of the expected length of service, but no information is given about how long the first day will last. The New South Wales pre-orientation materials explain to potential jurors that they may experience delays while waiting to be selected for a trial. All three states provide information about court sitting days and hours.

The Victorian handbook reminds jurors that they will be required initially for one to two days in city courts or three to four days in regional courts if not empanelled. If empanelled, service length depends on the length of the trial. In South Australia, jurors are informed that they are required to be available for one sitting month, and that they may be empanelled at any stage during this month.

15. Employment information

The pre-orientation material in each of the states provides advice about employment. Victoria and South Australia provide potential jurors with handouts they can give their employers. At orientation, Victorian jurors are provided with another handbook that they can give to their employers.

16. Payment details

The pre-orientation material in New South Wales and South Australia further provides information about how payment will be made. The New South Wales orientation mentions

jurors will be reimbursed travel allowance and will be paid based on a sliding scale increasing, if necessary, on days five and 10. Details of rates are not provided at any stage. Prior to arrival at the court, South Australian and Victorian potential jurors are aware of what they will be paid for their service. The South Australian orientation provides details regarding pay per day plus travel expenses covered. It provides information about claiming child care costs and reimbursement for lost income. The Victorian orientation describes the amount of reimbursement jurors will receive.

17. Balloting to form a jury panel

New South Wales provides little information on balloting to form a jury panel. The video indicates that in some trials, numbered cards are provided to jurors to maintain anonymity during empanelment. In Victoria, jurors are informed that jury selection or balloting to form a jury panel takes place in the general pool assembly room by random selection, and that the presiding judge in a case decides whether jurors will be called by name or by number in a random selection process. This information is provided in the video, the oral presentation and the handbook. The South Australian presentation demonstrates the random balloting process to form a jury panel in all three modes of communication.

18. Informing jurors of the process before the start of the trial

In New South Wales, the video demonstrates how jurors are empanelled and the process of taking an oath or affirmation. The video prepares jurors to be sent to the jury deliberation room prior to the commencement of the trial while legal arguments ensue before the judge. The Victorian orientation video and handbook provides a brief but effective explanation of the process that transpires in the courtroom. Jurors are informed that the case often opens with technical argument before the judge, and that this information can be quite complex. After these preliminary legal arguments, the judge will call for a jury to start the trial. The video demonstrates that once the jury has been chosen, jurors are sworn by oath or affirmation. The narrator explains that the jury must select a foreperson before the trial begins. South Australia provides little information in its orientation video on these processes.

19. Introducing jurors to the courtroom

The New South Wales video and handbook does not orient jurors to the courtroom. The Victorian video displays the exterior design of different courts, showing the more modern, steel County Court and the older, more traditional Supreme Court. The latter is likened to rural courts. The narrator emphasises that despite differences in the appearance of the courts, the jury process is the same. A diagram of the courtroom layout is provided in the handbook. The South Australian video makes reference verbally and visually to the location of every relevant party in the trial, and South Australian jurors are provided further information as to the location of trial participants in the courtroom when they visit the courtrooms as part of their orientation.

20. Introducing jurors to judges, counsel and court personnel

The New South Wales handbook describes the role of each person in the courtroom, and the video provides limited information on the attire of the judge and counsel, and their role in the courtroom. In Victoria, key figures such as the tip staff, jury keeper, judge, judge's associate, prosecutor and defence lawyers, are introduced. Each figure's role is described. The handbook provides more detail than the video. The South Australian video provides an extensive introduction to the judge's associate, court reporters, counsel, the accused, and the Sheriff's officer, describing their roles and their location in the courtroom. The handbook provides a diagram of the courtroom and the positions occupied by relevant people involved in a trial.

21. Explaining where the participants will be located in the courtroom

The Victorian video and handbook does provide a visual representation showing where jurors will be seated and where the foreperson will sit in relation to the other jurors. In South Australia jurors are shown on the video that they will be seated in the jury box. The handbook also demonstrates where the participants will be located in the courtroom. The New South Wales video explains that jurors are seated in the jury box facing the defendant and the handbook provides jurors an understanding of where relevant participants will be seated in the courtroom.

22. Explanation as to where the defendant will be seated

Both New South Wales and South Australia demonstrate where the defendant will be seated during the trial in the handbook and the video. The Victorian orientation depicts the defendant and their seating position in relation to others in the courtroom.

23. Peremptory challenges and challenges for cause

In New South Wales, potential jurors receive information about challenges with their pre-orientation materials. The New South Wales video demonstrates how jurors can be challenged by the defendant, but does not explain the reason challenges are allowed. The Victorian video provides an excellent description of the challenge process: jurors are informed that the accused and the prosecution may each challenge six potential jurors for no particular reason. Although jurors are told they may be asked to 'stand aside' and that this process is important to create an unbiased jury, no explanation is provided as to what this means. The video tells jurors that they should not feel embarrassed if challenged. The handbook also provides information on challenges, but does not describe challenges for cause. The South Australian orientation describes how counsel have a right to challenge three jurors and what to do if challenged. The judge suggests that jurors should not be embarrassed if challenged.

24. Excusal from jury duty after selection

The New South Wales pre-orientation material describes what jurors should do if they know somebody involved in the trial. The video in New South Wales provides very little information on this topic other than to state that an employer cannot excuse his or her employee from jury duty. No information is provided in the handbook.

The Victorian and South Australian orientation accurately represent some of the circumstances in which a juror can be excused from jury duty. The Victorian video provides examples, e.g. if a juror knows the accused, a witness or something about the accused, a juror may be excused. The video explains that if, later in the trial, a juror realises that he or she knows the accused, a witness or circumstances related to the issues in the case, the judge must be informed, as sometimes a trial may need to be stopped and a new jury empanelled. The video demonstrates how a juror who seeks to be excused must apply to be excused and respond to questions from the judge under oath. Another example of a circumstance eligible for an excuse is if a trial is expected to be lengthy and a juror can provide an adequate reason as to why this will cause hardship. One illustration is offered of a juror whose excuse did not appear adequate. In Victoria, jurors are also provided with the ineligibility and disqualification categories pursuant to the *Juries Act 2000* in written form.

25. Informing jurors about the stages of the trial

In New South Wales, very little information is provided on this topic. The handbook states that counsel will make opening addresses to provide the jury with an overview of the case. The video demonstrates that the judge will provide directions as to the law and that jurors will not be required to provide a sentence following their verdict. In Victoria, the content in relation to the proceedings of the trial in the video was brief; however, it was more thoroughly outlined in the handbook. Similar information is provided to that provided by South Australia. The South Australian video includes an in-depth, step-by-step outline of the trial proceedings. The video demonstrates how a jury is selected, explains that the prosecution will provide an opening statement and will call upon a witness to conduct an examination-in-chief, following which the defence may also question the witness by means of a cross-examination. When all prosecution witnesses have been heard, the prosecution concludes its case and the defence begins its arguments. The video also explains that the accused may call witnesses and can be called to give evidence in the witness box. In this instance, counsel may raise an objection. The judge explains that legal arguments will take place at some times with the jury in the jury box, and at other times, outside the presence of the jury. After all the witnesses have testified, the video explains that final addresses will be made, these are called submissions. In the last stage, the judge explains that he will summarise the law relevant to the evidence. No information is provided in the handbook. This explanation was more detailed and thorough than that contained in both the Victorian and the New South Wales video presentations.

26. Selecting a foreperson

In New South Wales, jurors who would like to be foreperson are told that they must volunteer by raising their hand. The duties of the foreperson are not described in the video but a brief outline is presented in the handbook. The narrator of the Victorian orientation video describes how the judge asks jurors to select a foreperson while they are still in the jury assembly room. The narrator outlines where the foreperson will sit and his or her duty to the court and to other jurors. The handbook also provides an in-depth explanation of this process. No information about selecting a foreperson is mentioned in the South Australian video although the oral presentation and written material provides information about when the foreperson should be selected and the foreperson's role in the trial.

27. Informing jurors of the deliberation process

In New South Wales, jurors are directed to discuss a verdict only in the deliberation room and to vote guilty or not guilty. In Victoria, a thorough explanation is provided about deliberation and some guidance on how to commence deliberations is given in the handbook. No information on the deliberation process is provided in the video. The South Australian video informs jurors to consider real life situations and draw on their own life experiences. Jurors are instructed not to carry bias and/or prejudice into the deliberation room. One of the handouts explains majority verdicts. No guidance on what to do in the event of an impasse is provided in any of the three states.

28. How to approach exhibits

In New South Wales the video indirectly refers to using physical evidence, i.e. a letter as evidence without identifying it as an exhibit. The Victorian handbook provides the most information on exhibits which comprise evidence. The South Australian video informs jurors that they will be able to examine exhibits in the courtroom and in the jury deliberation room, if needed. In South Australia, no reference is made to the importance of exhibits or how they can be used as evidence.

29. Avoiding bias/keeping an open mind

All the states' videos discuss the importance of keeping an open mind and refraining from bringing bias to the courtroom. In Victoria, the handbook goes into detail about what the key qualities for a juror are, namely, to bring an open mind, to be fair and impartial, to be objective, etc. The judge in South Australia briefly mentions that jurors must keep an open mind and judge the evidence without bias, but does not explain the consequences if jurors fail to do so.

30. Informing jurors of appropriate conduct inside and outside the courtroom

New South Wales, jurors are instructed to discuss the trial only with other jurors and only in the jury room. This instruction is reiterated in the handbook. The Victorian video and handbook instructs jurors not to talk to the general public, the accused or lawyers while

they are escorted from the County Court to sit on a trial in the Supreme Court. Jurors are not informed of appropriate conduct in the courtroom or following discharge from a trial. South Australian jurors are told that it is an offence to disclose anything about the case outside the jury room, including after the jury has been discharged. They may consult with other jurors sitting on the same trial outside of the deliberation room as long as this consultation does not occur in a public place. This information is repeated in all three modes of communication.

31. Informing jurors how to get help if needed, including how to respond to juror misconduct

In New South Wales, jurors are told to seek clarification from the judge if they need to during the deliberation and are informed of the procedure to do this. This information is communicated in both the handbook and video. The orientation in Victoria informs jurors that they may ask the judge for assistance with the law if they are unable to decide the facts, and explains the process required to do so. The handbook also informs jurors that if something arises that makes the juror think it would be improper to continue, they should inform the judge immediately by giving a note to the tipstaff. Examples are given to illustrate improper conduct. In South Australia, the oral presentation informs jurors how to ask questions before and after retirement, and how to deal with approaches by others. This information is not included in the video.

32. Information regarding the burden of proof

New South Wales does not orient jurors to the burden of proof in criminal trials. The handbook in Victoria outlines that in all criminal trials the prosecution must prove that the accused is guilty 'beyond reasonable doubt'. It also provides a brief explanation about what this means. The South Australian video states that the burden of proof lies on the prosecution to prove the defendant's guilt beyond a reasonable doubt.

33. Details about procedural law (e.g. presumption of innocence, function of jury)

In Victoria, the judge depicted in the video explains that she is the judge of the law and that the jury is to judge the facts. She further explains that jurors must listen carefully to the evidence and that the accused is only guilty if the jury finds him or her culpable. The handbook also mentions the presumption in our legal system that an accused person is innocent until proven guilty and that the accused does not need to prove his or her innocence. Similarly, the South Australian video indicates that the judge presides over the law and that only legally admissible evidence is presented to the jury. The jury must listen to and assess all the evidence and decide the facts. The judge further explains that the fundamental principle is that every accused person is presumed innocent until the prosecution proves their guilt. The judge emphasises that an accused person should not be wrongly convicted.

34. Information about the criminal justice system

The pre-orientation material in New South Wales and Victoria describes the difference between civil and criminal trials. New South Wales, jurors are not informed about the relationship between the investigative and adjudicative phases of the criminal justice system. The Victorian orientation outlines where the trial fits within the criminal justice system. The narrator states that a defendant is tried because the police have alleged that they have committed a crime, and that the accused is not guilty when they have been charged. The judge presides over the trial to ensure the evidence is presented fairly so that the jury can render a verdict of guilty or not guilty. Examples of types of offences that are heard in the County Court and Supreme Court are provided. In South Australia, jurors are informed that every accused person who pleads 'not guilty' is tried by the criminal justice system, and that no member of the community can be found guilty of a serious offence except by a jury. A report of each crime is recorded and the police gather all the evidence including statements. After a charge has been laid, the accused is brought before the magistrate for a preliminary hearing and it is the magistrate that decides if there is enough evidence to start a trial.

35. Representation of jurors diverse in age, gender, race, disability

Actors depicting jurors in the New South Wales and Victorian videos reflected persons of different ethnic groups, ages and gender. No persons with disabilities were represented. Jurors depicted in the South Australian video did not represent diverse ethnic and age groups.

36. Juror support/counselling

Both New South Wales and Victoria provide the option to seek support or counselling by contacting the Sheriff or the Juries Commissioner in the event that an individual feels depressed, upset or has difficulty coping with the experience of the trial. This information is provided in the handbook. Jurors in South Australia are provided this information during the oral presentation, through posters in the jury deliberation rooms and in their juror information handout.

37. Information provided in alternative languages

For jurors who speak English as a second language, information in Greek, Italian, Pitjantjatjara, Polish, Serbian, Chinese and Vietnamese is provided with the summons in South Australia. In New South Wales, brochures are available in 11 languages (Arabic, Chinese, Croatian, Greek, Italian, Maltese, Polish, Portuguese, Serbian, Turkish and Vietnamese), although information about how jurors can access these multilingual brochures is currently not being provided with the summons information.

38. Jurors with a disability

New South Wales and Victoria provide information for people with disabilities.

39. Updating personal details

New South Wales and Victoria provide potential jurors with information on how to update their personal details in the pre-orientation materials. South Australian jurors are asked whether their details are correct as a matter of course when they arrive for jury service on the first day.

40. Smokers

The pre-orientation information in New South Wales describes the facilities for smokers, and that smoking breaks will not always be possible.

Table 5: Topics of information provided to jurors

1 = pre-orientation information; 2 = written and oral orientation; 3 = videotape; T = total; R = repeated

x = absent; ✓ = present; P = partial coverage; N = not applicable; R = repeated

	Topic	NSW					Vic					SA				
		1	2	3	T	R	1	2	3	T	R	1	2	3	T	R
1	History of trial by jury	x	P	P	P		x	x	P	P		x	x	x	x	
2	The role of juries in a democracy	x	P	✓	✓	R	x	✓	✓	✓	R	x	x	✓	✓	
3	Real vs fictional/media juries	P	x	P	P		x	✓	x	✓		x	x	✓	✓	
4	The value of jury service	X	✓	✓	✓	R	✓	✓	✓	✓	R	✓	x	✓	✓	R
5	Allaying fears jury duty	✓	x	✓	✓	R	✓	x	x	✓		x	x	✓	✓	
6a	Information about the jury roll	✓	x	x	✓		✓	x	x	✓		✓	x	x	P	
6b	Frequency of jury duty	✓	x	x			✓	x	x			x	x	x		
7	Sanctions for non-attendance	✓	x	x	✓		✓	x	x	✓		✓	x	x	✓	
8a	Which court to attend	✓	x	x	P		✓	✓	x	✓	R	✓	x	x	✓	R
8b	Which entrance to use	x	x	x			✓	x	x			x	x	x		
8c	Which room in the court to attend	x	x	x			✓	✓	x			✓	x	x		
8d	Parking and public transport	✓	x	x			✓	✓	x			✓	✓	x		
9a	Eligibility criteria	✓	x	x	✓		✓	x	x	✓		✓	x	x	✓	R
9b	Applying for exemption	✓	x	x			✓	x	x			✓	✓	x		
9c	Applying for deferral	P	x	x			✓	x	x			✓	✓	x		
10	Jury facilities (tea, toilets, work area)	✓	x	x	✓		✓	✓	✓	✓	R	x	✓	P	✓	R
11	What jurors should bring to court	x	x	x	x		✓	✓	x	✓	R	✓	✓	x	✓	R
12	Food and beverages	x	✓	x	✓		P	P	x	P	R	✓	✓	x	✓	R
13	Attire for court	✓	P	x	✓	R	✓	P	x	✓	R	✓	✓	x	✓	R
14	Duration of jury duty	P	x	x	P		✓	✓	x	✓	R	✓	✓	x	✓	R
15	Employment information	✓	x	x	✓		✓	x	x	✓		✓	x	x	✓	
16a	Amount of pay	x	x	x	P		✓	x	x	✓		✓	✓	x	✓	R
16b	How jurors are paid	✓	x	x			✓	x	x			✓	✓	x		

Table 5: continued

**1 = pre-orientation information; 2 = written and oral orientation; 3 = videotape;
T = total; R = repeated**

x = absent; ✓ = present; P = partial coverage; N = not applicable; R = repeated

	Topic	NSW					Vic					SA				
		1	2	3	T	R	1	2	3	T	R	1	2	3	T	R
17	Balloting for a jury panel	x	x	✓	✓		P	✓	✓	✓	R	x	✓	✓	✓	R
18	Procedures before start of trial	x	x	✓	✓		x	P	✓	✓	R	x	x	P	P	
19	Introducing the courtroom	x	x	x	x		x	✓	✓	✓	R	✓	✓	✓	✓	R
20	Introducing judges, counsel and court personnel	x	✓	✓	✓	R	x	✓	P	✓	R	x	P	✓	✓	R
21	Where participants are located in the courtroom	x	✓	✓	✓	R	x	✓	✓	✓	R	✓	P	✓	✓	R
22	Where the defendant will be seated	x	✓	✓	✓	R	x	✓	✓	✓	R	✓	P	✓	✓	R
23	Challenges to jurors	✓	x	P	✓	R	x	✓	✓	✓	R	x	✓	✓	✓	R
24	Excusal after selection	✓	x	P	✓	R	x	✓	✓	✓	R	x	✓	✓	✓	R
25	Stages of the trial	x	P	P	P	R	x	✓	✓	✓	R	x	x	✓	✓	
26	Selecting a foreperson	x	P	✓	✓	R	x	✓	✓	✓	R	x	✓	x	✓	
27	The deliberation process	x	P	✓	✓	R	x	✓	x	✓		x	P	P	P	R
28	How to approach exhibits	x	x	P	P		x	✓	x	✓		x	x	x	x	
29	Keeping an open mind	x	P	P	P	R	x	✓	✓	✓	R	x	x	✓	✓	
30	Appropriate conduct	x	✓	P	✓	R	x	✓	✓	✓	R	x	✓	✓	✓	R
31	Getting help and juror misconduct	x	✓	✓	✓	R	x	✓	P	✓	R	x	✓	x	✓	
32	Beyond reasonable doubt	x	x	x	x		x	✓	x	✓		x	x	x	x	
33	Presumption of innocence	x	x	x	x		x	✓	x	✓		x	x	✓	✓	
34	Criminal vs civil trials	✓	x	x	✓		x	P	P	P	R	x	x	P	P	
35	Diversity in juries	N	N	✓	✓		N	N	✓	✓		N	N	P	P	
36	Juror support services	x	✓	x	✓		✓	✓	x	✓	R	x	✓	x	✓	
37	Alternative languages	x	x	x	x		x	x	x	x		✓*	x	x	✓	
38	Information for jurors with a disability	✓	x	x	✓		✓	x	x	✓		x	x	x	x	
39	Updating personal details	✓	x	x	✓		✓	x	x	✓		x	✓	x	✓	
40	Information for smokers	✓	x	x	✓		✓	x	x	✓		x	✓	x	✓	

* Chinese, Greek, Italian, Pitjantjatjara, Polish, Serbian, Vietnamese

Readability analysis

Readability tests can be used to determine whether a document is written in plain English. The Flesch formula is well researched, and calculates ease of reading based on the average length of words and sentences in a text or text sample (Flesch 1981). The results are reported in terms of the reading age equivalence of the text difficulty, and each reading age level is associated with a verbal descriptor ranging from ‘easy’ to ‘difficult’. Standard consumer communications typically conform to a reading age level equivalent to early high school competence, or 13–14 years of age.

A readability analysis was conducted on each written document provided to convey information to jurors at the pre-orientation or orientation phase in each of the three states. Table 6 summarises the findings. The results of this analysis indicated that courts in each state provide potential jurors with information that is easy to read. The readability level of the material provided to jurors was generally equivalent to that requiring the reading ability of a 13-year-old. There were two exceptions to this rule: the *Notice of selection* in Victoria; and the *Juror support service brochure* in New South Wales, each of which achieved a reading level appropriate for a 15–16-year-old. Despite these minor differences, most jurors who participate in a trial in any of these states should be able to understand the materials.

Table 6: Readability of written materials provided to jurors in New South Wales, Victoria and South Australia

State	Written document	Word length	Reading age	Text difficulty
NSW	Notice of inclusion	1,006	13–14 years	Standard
	Jury summons	500	13–14 years	Standard
	Jury summons brochure	1,482	13–14 years	Standard
	A guide for jurors – welcome to jury service	3,531	12 years	Fairly easy
	Juror support service brochure	486	15–16 years	Fairly difficult
Vic	Notice of selection for jury service	1,137	15–16 years	Fairly difficult
	Jury eligibility questionnaire	781	12 years	Fairly easy
	Notes to questions	2,089	13–14 years	Standard
	Information for employers of prospective jurors	1,062	13–14 years	Standard
	Jury summons	337	13–14 years	Standard
	Information for summoned jurors	1,123	13–14 years	Standard
	Juror’s handbook	5,944	12 years	Fairly easy
SA	Jury summons	264	12 years	Fairly easy
	Jury service information booklet	1,299	13–14 years	Standard
	Juror information handout	1,366	12 years	Fairly easy
	Notes for guiding jurors attending criminal sessions	1,368	13–14 years	Standard
	Employer information booklet	612	13–14 years	Standard

In sum, the readability analysis conducted on all written materials provided to jurors in each of the three states revealed that written communications are presented at a level accessible to most jurors, within the reading capacity expected of early high school age students. Therefore, most empanelled jurors will be able to read and understand this information.

Amount of information provided to jurors

Analyses conducted on the content of the video, oral and written presentations used in each state to orient citizens to jury service revealed coverage of approximately 40 discrete topics. The New South Wales orientation materials included 35 of the 40 key topics. However, eight of those topics were only partially present, suggesting that jurors were less well informed about the following matters: history of trial by jury, the difference between real and fictional juries, where to go, the length of jury service, the amount of pay, stages of the trial process, how to approach exhibits and avoiding bias. In addition, jurors were not oriented to five topics identified as significant, namely introduction to the courtroom, what to bring to court, information regarding beyond reasonable doubt, procedural aspects of criminal law and the option of receiving information in alternative languages. This finding demonstrates that New South Wales does not provide as much information about the legal context or as much detail to facilitate understanding before jurors enter a courtroom as do Victoria and South Australia. Less written material is distributed in New South Wales than in Victoria and South Australia, and the New South Wales jury orientation video is considerably shorter than those used in the other states.

Victoria oriented jurors to most of the important aspects of jury service outlined by several researchers (Davis & Kleiner 2000; Munsterman 2004; Wanous & Reichers 2000), namely 39 of these topics, three of which were partially represented. The three partially represented topics were history of trial by jury, food and beverage information, and aspects of the criminal justice system. Victoria neglected to provide information for potential jurors who speak languages other than English.

The orientation in South Australia also presented information on most topics identified as important aspects of a juror orientation program. In total, 36 topics were addressed in the course of the South Australian orientation, five of which were partially present. Jurors were partially informed about length of jury duty, the process before the trial starts, the deliberation process and the criminal justice system. The South Australian video represented jurors who were less diverse than those community members represented in the videotapes in New South Wales and Victoria, and thus was rated at a 'partial' level on this topic. The content areas unaddressed in the South Australian orientation materials were perspectives on the history of trial by jury, how to approach exhibits, information for jurors with a disability and information for smokers. South Australia also missed some of the fundamentals described by Davis and Kleiner (2000) and Wanous and Reichers (2000), such as providing inspiration and forming a positive impression of jury service.

All three states presented information by at least two modes of presentation: visual and verbal. New South Wales was the only state that did not include an in-person oral presentation; however, this did not seem to impact on repetition of the content areas. New South Wales repeated 15 of the 38 (39.5%) content areas (use of different actors and alternative languages are not relevant to this analysis) across two orientation modes (written and video). Victoria repeated 23 of the 38 content areas (60.5%) across three orientation modes. This repetition ensures that the key communications received by potential jurors in Victoria are reinforced. South Australia repeated 18 of the 38 (47.4%) of the content areas across three orientation modes (video, oral and written).

The previous results suggest that the orientation in Victoria is more effective at inspiring juror confidence in the system and in increasing juror willingness to serve than that in New South Wales and South Australia. Repetition of the information was more extensive in Victoria than the other two states. South Australia provided jurors with most of the content topics identified as key aspects of the juror orientation process. The orientation in New South Wales covered fewer key topics and was less substantial, in that many of the areas covered were not explained in great depth compared to coverage in Victoria and South Australia. Based on this analysis, one can hypothesise that to the extent that juror satisfaction is related to preparation and orientation to the task, jurors in Victoria and South Australia will be more satisfied and more confident than jurors in New South Wales.

Conclusions

When providing jurors and potential jurors with information about their role, best practice is to use multimodal forms of communication, including written information, video information and an oral presentation, preferably by a judge. Having a judge to provide jurors with information serves the dual purpose of alleviating jurors' tension about the formal nature of the criminal justice system, and also reminds jurors of their integral role in the criminal justice system. Victoria and South Australia provide standardised oral presentations to jurors at orientation, which may increase juror satisfaction with the information received about their role. South Australia further conforms to best practice standards by incorporating a visit to an actual courtroom as part of the orientation.

Information provided to jurors should be repeated across the communication modes. The brochures issued to jurors in each state ensure that jurors can readily access the required information. For this reason, these brochures should be as comprehensive as possible, and should include information about topics that may arise during the trial, such as how to deliberate, how to deal with conflict in the deliberation room and how to obtain assistance.

Information provided to jurors in the communications they receive from the courts should be in plain English, free of legal jargon or fully explained where necessary. A reading level of 13–14 years ensures that the information is readily accessible.

Interviews with stakeholders

Introduction

To ensure that we understood the practices applicable within each of the three states, and to develop an understanding of best practices regarding jury administration, interviews were conducted by the researchers with representatives of the major stakeholders in the criminal justice system within each of the participating states. The purpose of the interviews was not to comprehensively survey those stakeholder groups, but to supplement the information gathered by means of the legislative and practice review to build a more comprehensive picture of the operation of the jury management system, with the goal of identifying practices that worked well and those that might benefit from some revision. The questions sought information about perceptions of the efficacy of the jury management system, observations of factors that enhance or impede jury satisfaction and confidence in the criminal justice system, the perceived representativeness of juries, and recommendations to enhance jury experiences and performance.

The Chief Justice and Chief Judge in each state were contacted and asked to refer names of Supreme Court and District/County Court judges with criminal trial experience to the researchers. Similar enquiries were made of the Director of Public Prosecutions in each state to identify potential prosecutors with relevant expertise, and of the Bar Association to identify similarly situated defence barristers. With the assistance of the jury administrators associated with the project, jury administrative personnel were identified to interview. Efforts were made to ensure that some interview participants had experience in both rural and metropolitan areas within each state so that a diverse range of experience was canvassed.

Interviewees were not randomly sampled from the target group. Because there was no random sampling and because of the relatively low number of interviews conducted within each stakeholder sector, no claims are made that the responses are in any way representative of the views of all judges, lawyers or jury administrators in a particular state. A total of 53 stakeholder interviews was completed. In all, 12 interviews were conducted with Supreme Court judges, nine with District/County Court judges, 12 with Crown Prosecutors, 10 with defence barristers and 10 with jury administration personnel. More male (72%) than female interviewees participated in the study. Approximately 17 interviews were conducted in each state. Table 7 displays the distribution of stakeholders interviewed in each state.

A structured questionnaire consisting of 17 questions was prepared by the research team (Appendix A) to gather information from the stakeholders. Interviews were conducted by members of the research team in person or by telephone in March and April 2007. On average, the interviews lasted approximately 45–60 minutes. All responses were tape-recorded and professionally transcribed to facilitate analysis. Interview excerpts quoted below are presented anonymously to protect the identity of the interviewees. The stakeholders are identified as members of a particular group (e.g. judge, prosecutor).

Table 7: Stakeholder interviewees by group and state

Stakeholder group	NSW	Vic	SA	All states
Supreme Court judges	4	4	4	12
District/County Court judges	3	3	3	9
Crown Prosecutors	4	4	4	12
Defence barristers	4	3	3	10
Jury administrators	3	4	3	10
Number of interviewees	18	18	17	53

Summaries of stakeholder responses to the questions gathered in each state are presented in five sections addressing the following broad topics: jury management and orientation procedures, jury representativeness, support for jurors, enhancement of the jury experience and confidence in the criminal justice system.

Jury management and orientation procedures

New South Wales stakeholders

The overall level of satisfaction with the current jury management system varied among stakeholders, with some indicating a reasonable level of satisfaction while others reported a more negative view. As a group, judges expressed some dissatisfaction with the current system for managing jurors. Opinions of lawyers were divided among those who were reasonably satisfied, those who felt there was room for improvement and those who lacked information about jury management system. Forty percent of all the judges and lawyers interviewed (three in each group) indicated that they either did not know how the system of managing jurors operated, or felt that it was not their business to know such details.

While there was some variation in the perception of how well jurors are handled by Court Officers/Sheriff's staff, it was acknowledged that these individuals manage significant workloads and generally perform satisfactorily. Suggestions were made to address the process of recruiting and training jury managers more thoroughly. Judges in particular raised concerns about the degree of training received by Sheriff's officers.

One aspect of the system in New South Wales that received positive endorsement was the protection of juror anonymity, e.g. a system of assigning numbers to prospective jurors during empanelment prevents disclosure of jurors' names.

An overarching concern is that the New South Wales jury management system is outdated and needs upgrading to operate more efficiently and address current issues in the administration and management of juries. For example, better integration of the government computer system might avoid summoning individuals who are disqualified from serving on juries (e.g. persons with criminal convictions).

The daily management of the jury and the process of delivering the jury to and from court is overly time-consuming, resulting in long delays for both jurors and judicial officers. Several stakeholders noted that this problem is largely attributable to the poor design of the court buildings and the inadequacies of the facilities at the court. However, the waiting time could be minimised by more effective communication and liaising between judicial officers and jury administration staff.

A related issue was the view that the empanelment process is more intensively focused on conserving the budget than ensuring that the process runs smoothly and efficiently.

One judge remarked:

There are a lot of delays ... it seems to be that the major concern is the budgetary concern rather than cooperation between the sheriffs and the judges and the Court Registry so that everybody knows that what they're trying to do is to facilitate the empanelment of the jury so that the trial can be run, so there can be a proper administration of criminal justice. And it seems to me that what's more important to the Sheriff's Department is to keep the budget as low as possible for jurors.
(New South Wales judge 6)

Another concern raised was the difficulty in recruiting sufficient numbers of jurors for longer trials. Stakeholders commented that the procedure for summoning jurors in long trials is ineffective and leads to significant difficulties in empanelling a jury.

Regarding juror orientation, the general view amongst stakeholders is that it is adequate in conveying the necessary information to jurors. However, some concern was expressed that prospective jurors are not paying attention, or not absorbing or understanding the orientation materials before proceeding to trial.

The stakeholders proposed changes to enhance jury orientation. First, there was a recommendation that the orientation materials (brochure and videotape) be reviewed to ensure that they are up to date and that the contents are presented in plain language and in a format accessible and understandable to prospective jurors. Second, the suggestion was made that jurors' retention of information can be enhanced if the orientation is conducted over a few days so that individuals have adequate time to digest their responsibilities as a juror. Third, following empanelment, many stakeholders recommended providing jurors more time to settle in and absorb the orientation information before beginning the trial.

One judge remarked:

I tend to think that jurors are so shocked by the whole idea of being selected for a jury that they don't listen to much of what you say in the first few moments of a trial. So I usually give the jury, as soon as they're empanelled, 20 minutes or so just to calm down without the trial starting. I let them make telephone calls if they need to make them, make any childcare arrangements or ring their employers that sort of thing, meet each other. (New South Wales judge 1)

Victorian stakeholders

Most stakeholders in Victoria reported satisfaction with the current jury management system, including the orientation provided to prospective jurors. The stakeholders had nothing but praise for the Juries Commissioner and his office. The Juries Commissioner expressed a high degree of satisfaction with the orientation process, while acknowledging room for further improvement, for example, by ensuring a consistent approach state-wide.

Most interviewees were aware of the videotape that jurors review upon arrival for jury duty. One judge mentioned the Law Foundation's *Juror handbook*, commenting that the handbook and video together comprise 'excellent approaches' to jury orientation. Another judge thought the video was rather rudimentary and should be more professionally produced to achieve 'movie quality'.

Another judge strongly recommended that jurors need to be prepared for jury service much earlier:

...if the idea is preparing people for an experience then we need to begin the process of communicating what they're going to do at a much earlier stage than when they arrive there to do it....[We need to prepare] people for jury service as well as we prepare them for the right to vote. (Vic judge 3)

Accordingly, suggestions were made that the video and other materials be distributed earlier to potential jurors, e.g. prior to attending court for jury duty, perhaps also by placing the jury video on the internet for public access. The Juries Commissioner is exploring the possibility of streaming the DVD online. The Juries Commissioner noted that efforts at increasing community education were having a positive impact, and had received positive feedback from members of the community.

One judge commented that the idea of a judge visiting the jury assembly room each morning to address the jury pool personally was 'brilliant':

The judge convening the trial themselves could go down with the counsel and address the panel...they could go down there in lounge suits and say we're about to engage in this process, this is what's going to happen. So before everybody's all tense, the judge is down there speaking to them in a conversational mouth, explaining what will happen, then it happens, and people are much more accustomed for what is to follow. (Vic judge 6)

South Australian stakeholders

Most stakeholders in South Australia reported reasonable satisfaction with the current jury management system. Some areas for improvement were noted, but many stakeholders thought the system was effective in recruiting and managing jurors from summons through

trial, and successful in providing jurors with the necessary information regarding the operations of the courtroom.

A unique feature of the South Australian jury management system is that jurors serve continuously for one calendar month period, and may be empanelled on more than one trial during this term of jury duty. Administratively, an advantage of this system is the greater efficiency that can be achieved by organising induction and orientation for only one incoming jury pool each month.

Most stakeholders in South Australia indicated a preference for the month-long service system used in that state over a 'one day/one trial' system. Cited advantages include the fact that the system allows jurors to form stronger social bonds with other jurors over the course of the month. In addition, this system develops 'experienced jurors,' a feature seen as beneficial, as jurors gain more confidence and satisfaction in the system after serving for a full month:

I think there's such a thing as an experienced juror which is not a bad thing. I think by the end of the month they're even probably better jurors than they were at the beginning of the month. And, I think if you're having a sort of a series of first-off jurors, especially if it's for a difficult trial, I think that could be a bit unfortunate.
(SA judge 1)

One jury administrator commented:

I think it's very good within South Australia – we have receptive judges who will account for jurors and their wellbeing. We have a jury manager who's very client-orientated with regards to jurors and their wellbeing. The sheriff's officers as well that are attached to the supreme and criminal courts in South Australia are hand-picked from our recruits who we believe have good customer relations as well. So I think they all add to a body of people who work for jurors. (SA jury administrator 3)

The systematic quarterly surveys of former jurors to obtain regular feedback (Appendix O) regarding jury service was identified as another positive feature of the South Australian jury management system. Another positive attribute identified by stakeholders was the presence of experienced jury managers who are sensitive to the task that jurors face and are able to effectively manage the needs of jurors and deal efficiently with any issues that arise. One judge noted:

I think that works quite effectively. I think a lot depends upon the personality of the jury managers but in South Australia we're fortunate in having people who are sensitive to the task of jurors and to the physical needs to which they face, they seem to me to be quite experienced in that area. And they know when to bring matters to the attention of the judge so that if necessary the judge can help with the issues. (SA judge 7)

However, another stakeholder was concerned that the level of contact between jury managers and sitting jurors was at times inappropriate, e.g. with respect to scheduling when jury administration staff and judicial officers may have different objectives. For example, one judge in South Australia made the following comment:

For instance (jury managers) may indicate that if the jury has been deliberating for a number of hours and its coming towards the end of the day that ‘Oh, the judge will send you home, and it’ll be ok, and you can reconvene tomorrow, and continue your deliberations.’ Now, it’s that sort of contact with a sitting jury that I strongly disapprove of, in relation to the intimating to a jury that the judge will let you go home, when the judge may in fact take a different view about whether or not they should be allowed to separate whilst they’re considering their verdict. (SA judge 3)

One particular issue identified by stakeholders was the treatment and management of regional jurors. Many individuals serving on juries in country areas travel significant distances to perform their jury duty, and there was concern that not enough care is taken in addressing the needs of this group of jurors.

Of the 17 judges and lawyers interviewed, 10 (58.8%) acknowledged not being fully aware of the content of the orientation provided to jurors. Most were aware that jurors view a videotape, but had not seen it. Despite a relatively low level of knowledge about orientation content, the view of most stakeholders was that juror orientation is satisfactory and successful in providing jurors with the necessary information regarding their role and associated responsibilities as jurors. Specifically, stakeholders noted that the orientation is a good method of familiarising jurors with the roles and duties of the key participants (e.g. judges, counsel) in the jury system. In support of this view, jury administrators reported that the feedback from jurors regarding the orientation was positive. However, there were some concerns voiced regarding the extent to which jurors are able to absorb the orientation information before proceeding to trial.

As in other states, comments were made that the orientation process in South Australia can be enhanced by presenting the preliminary information a few days before beginning a trial so that jurors have adequate time to digest and absorb the orientation information. One judge noted:

I’d prefer to see a system where they’re shown the videotape the week before and they’re actually given a hand book which explains court room procedures even to the extent explaining that sometimes jurors are asked to leave the court room while the judge rules on issues of law. (SA judge 4)

It was also suggested that jurors should be given additional information relating to trial procedures, and issues that are potentially confusing, such as majority verdicts, in the *Juror information handout*. The *Juror information handout* is distributed prior to displaying the orientation video.

Finally, a similar recommendation was made in South Australia to that in other states where it was acknowledged that jurors should be provided with more time to settle in following empanelment:

I would like to see an introduction of a system where once a jury's empanelled, that we immediately have an adjournment for twenty minutes, so that they can get their lives in order, ring home, phone home, speak to each other, introduce themselves, digest what this is about, and so that when they come back into court and prosecution opens the case, they are much more likely to be focused and have all the extraneous worries that they must have, sorted out. (SA lawyer 3)

Jury representativeness

New South Wales stakeholders

With respect to the jury pool, stakeholders voiced concerns that the fact that many individuals are not required to complete jury duty (due to categories for excusal and inadequate pay) introduces a lack of representativeness, which negatively impacts the fairness of the jury process. Notably, New South Wales has the greatest number of categories for excused as of right (see p. 23 for details). In terms of how the categories might be amended, most interviewees recommended that all individuals, except those participating in the criminal justice system, be permitted to perform jury duty. There was some disagreement regarding eligibility of judges and lawyers as jurors, as their presence could potentially overwhelm others in the jury room, and have a negative or prejudicial influence on jury deliberations.

Consensus emerged that if the prospective jury pool was larger and more flexible in allowing deferrals for individuals who, for good reason, are not available to complete jury duty at the time of the initial summons, representativeness would improve. The difficulty in developing concrete rules for exclusions was noted, as flexibility is needed to excuse particular cases, such as individuals who seek excusal for serious employment or financial issues. These were acknowledged as difficult to avoid in a changing society in which many people are unable to dedicate sufficient time to jury duty without risking serious financial loss. However, the overall consensus was that the existing categories for exemption are too broad and that the system should be amended to make it far more inclusive of individuals who have previously not been required to serve to ensure that jury service is a fair process which targets a wider range of individuals in the community. One judge noted:

There are plenty of occupations of people who historically have been exempted or excused from serving on juries who to my mind no longer have any entitlement. (NSW judge 3)

Many stakeholders indicated that juries seem to be representative of the broader community in terms of age and gender. With respect to other dimensions such as education and occupation, they commented that it is very difficult to determine whether juries are representative, as details of occupation or educational attainment are not disclosed in New South Wales. However, there is some concern that juries are not representative on these dimensions and that juries lack representation from specific occupational groups, such as self-employed workers:

They are among the category of people who in my experience claim exemption frequently and I have sympathy for it. I mean people who are self employed in a business without very many staff are in real difficulty in a trial of any length.
(NSW judge 2)

The difficulty of this issue was further highlighted by a lawyer:

We don't get a full representation but I'm not quite sure what the solution is because there are some people who are probably more important to a community working and looking after families than they are sitting on juries. (NSW lawyer 1)

Several stakeholders commented that juries lacking ethnic diversity and few Aborigines serve on juries. This is particularly problematic in regional courts where Aborigines are not adequately represented (if at all) on juries. As was noted by a lawyer:

Repeatedly I've found that those Aboriginal accused were not being tried by their peers, they were being... in fact it was much worse than that, they were usually tried by white people who had a very stereotyped view of... of Aboriginal people.
(NSW lawyer 4)

Almost all stakeholders agreed that more members of the community should be encouraged to serve as jurors:

[Jury service] should just be seen as one of the most important services that they could perform and be encouraged by all parts of society to fulfil that service the best way they can. (NSW lawyer 4)

Stakeholders suggested accomplishing greater representation by increasing remuneration for jury duty to a level more closely approximating the average wage, educating employers about the importance of allowing employees to serve jury duty and ensuring that jurors' jobs are adequately protected while serving jury duty. Developing public advertising campaigns and educational initiatives to inform and remind the public of their civic duty to be available for jury duty was also suggested, as was encouraging former jurors to discuss positive jury experiences in the public domain. Finally, it was noted that emphasising and educating the community about citizenship and the importance of jury duty could play a vital role in encouraging more citizens to participate in jury service.

With respect to citizens who fail to respond to the summons, stakeholders agreed that this was a serious matter that warranted some follow-up, although recommendations as to the type of appropriate follow-up varied, particularly regarding imposition of a financial penalty on non-responders. A few stakeholders advocated enforcement of penalties for non-attendance, but the majority of those interviewed felt it was more important to obtain an explanation and understand why citizens do not respond than to impose sanctions, as this information could inform initiatives to address the concerns or misconceptions that citizens hold about serving on juries. This information could be used to encourage more citizens to complete jury duty. As one lawyer in New South Wales stated:

Perhaps some follow-up as to why you didn't do it, what are the problems, what do you see as the difficulty is and then perhaps formulating some way to address those concerns, rather than penalising people. (NSW lawyer 4)

Other stakeholders dismissed the need for any follow-up as only citizens who are motivated to serve should perform jury duty. For example, one lawyer with this view responded:

But, people who don't respond would probably just behave that way because of a deliberate decision not to want to be involved and frankly I'd prefer to have people on the jury who have come along and manifested their intention to be involved. (NSW lawyer 3)

In response to questions about the procedures undertaken by jurors seeking excusal, most New South Wales stakeholders agreed that these were suitably sensitive to jurors' privacy since jurors have more than one opportunity to apply for excusal, e.g. from the sheriffs in the jury room, and before the presiding trial judge. However, some stakeholders commented that the manner in which excusal applications are heard in court by the trial judge varies significantly, depending on the particular judge, and in some instances may be confronting or intimidating for jurors. In this situation, it was suggested that the courtroom experience could be made less daunting by asking jurors to write confidential reasons for excusal on a piece of paper to be read and dealt with by the judge privately.

Stakeholders commented that the three peremptory challenges afforded to each party in New South Wales encourage largely superficial judgments based on a juror's demeanour, and are unlikely to have a significant influence on the composition of the jury. However, in some trials (e.g. sexual assault) some defence counsel may exercise these challenges to try to shift the gender balance in a manner perceived to be more favourable for their client.

Victorian stakeholders

On the whole, the Victorian interviewees did not perceive the need to change existing grounds for exemption from jury duty. The Juries Commissioner was of the view that since the review of the *Juries Act 1967*, and implementation of the *Juries Act 2000*, reform of the categories of exemption, disqualification and ineligibility had achieved a pool of potential

jurors broader and more representative of the community. A few of the interviewees thought that the representativeness of juries had improved, but that the unemployed, retired and those with home duties were still overrepresented, while workers, particularly professionals, upper managers and persons with tertiary education were under represented. One lawyer identified that this problem was particularly evident in regional juries. The Juries Commissioner was concerned that implications of the new WorkChoices legislation for jury service were unclear, and might impact the number of people seeking exemption on the basis of financial hardship.

According to the Juries Commissioner, the Victorian jury pool is broadly representative of the community in terms of attributes such as gender, occupation and age, when compared with ABS statistics in relation to the Victorian population. However, following empanelment a significant gender discrepancy emerged, with far more men serving on criminal trials than women. Although no formal statistics are available, the Commissioner estimated that the imbalance is in the order of 80:20 in favour of male jurors in criminal trials, whereas the reverse is true in civil trials.

One judge recommended that the grounds for exemption be further limited: 'Everyone who can serve ought to be able to serve', including lawyers, judges and those involved with the justice system: 'We should aim for maximum service but the system should be shown to be appropriately adjusting to the needs of the community' (Vic Judge 5). Several other interviewees thought that lawyers should be excluded from jury service on the basis that they might dominate jury deliberations. All but three interviewees agreed that more members of the community should be encouraged to serve as jurors, but ways that this can be accomplished are less easy to specify. One lawyer suggested that paying jurors more adequately would encourage jury service. Two other lawyers suggested an advertising campaign. Two judges proposed school education as the key. Another judge suggested changing the legislation, to make it clearer that there is a community expectation of jury service and that it is enjoyable. Two judges strongly endorsed a holistic approach to community education about jury duty:

I'd advance the case for a much more disciplined education of the community as a body of people about what a jury does, how it operates, and so forth. So that goes back to schooling, to outreach work by the courts and to the need for the courts and the justice system to have an overall communication strategy with the community at large. (Vic judge 6)

'There has to be an entire rethink...and the Courts are not just passive recipients of what Government might do in this respect. I see them as being part of the process of achieving that. That's why I believe there ought to be a communication strategy adopted by each Court, which involves them outreaching into the community and accepting responsibility, to some extent, to explain what it is that they do. Now if we do that across the board, it ought to improve the understanding of the community of

the legal system and make people more likely to be prepared to participate in jury service...the objective is not just to encourage people or to reinforce the idea of participation, but to use it as a way to explaining how the legal system works, what the basis of a legal system is and so on. (Vic judge 6)

The Juries Commissioner agreed that the focus should be on education. This would involve educating the adult community about jury service, and encouraging civics and citizenship and social responsibility within the school education system. For example, the Juries Commissioner outlined an initiative with the Victorian Law Foundation to develop materials that can be used from Year 9 through to Year 12, where teachers can access materials prepared in consultation with his office, dealing specifically with the duties and responsibilities of jury service.

Two judges and two lawyers noted that juries are less representative on longer trials due to the greater need for the courts to accept legitimate excuses. As one interviewee explained, 'the reality is that in order to make juries representative in longer trials, people have to receive adequate compensation for doing so. That's not the case at the moment' (Vic lawyer 5). A lawyer also noted that the more defendants on a trial, the greater the number of challenges to the panel available and the less representative a jury will be.

To further increase representativeness, interviewees in Victoria supported some follow-up of citizens who fail to respond to the summons for jury duty. The general consensus was that 'a moderate sensible' approach should be taken allowing the recalcitrant citizen to explain his/her absence. This is consistent with the approach adopted by the Juries Commissioner to personally contact citizens who fail to appear, give them an opportunity to provide an explanation for their non-attendance and encourage them to serve at a future date. Automatic fines were thought to be 'heavy handed, unnecessary' and not to inculcate a positive attitude toward participation in a jury.

Victorian stakeholders strongly felt that jurors do not have sufficient opportunity to raise reasons for excuse in a non-intimidating environment. However, the Juries Commissioner clarified that jurors can seek to be excused at several points before empanelment, from the time when the notification of selection for jury service is received. Making an application before a trial judge is likely to be intimidating, but there are ample opportunities prior to that to seek to be excused. A relatively new practice of members of the jury panel entering the courtroom with a prepared note for the judge was welcomed by all the interviewees: 'It should be a definite part of the whole procedure' (Vic Judge 4). These prepared notes are usually the result of advice to jurors from a member of the Juries Commissioner's office.

Where application to be excused is made to the trial judge, interviewees observed that the way in which such applications are dealt with varies considerably depending on the particular judge. One lawyer noted that such large variation in practice gives cause for concern. Other lawyers mentioned that there is an unspoken rule that if a juror's application to be excused is refused, one of the parties will challenge that person as they do not want

someone on the panel who prefers not to be there. A general concern was voiced that people who probably should seek to be excused lack the courage to do it. As noted by one judge:

I'm conscious of the fact that a lot of people are just intimidated by the whole environment of being in a courtroom and therefore once they're in there, they may well feel that they really can't express themselves. (Vic judge 5)

One lawyer believed that some judges are not aware of the potential for humiliation of jurors who must provide excuses in open court, especially in sexual offences cases. He suggested that the panel should be taken out. One judge thought there was merit in allowing a victim of sexual assault to nominate excusal on the return summons form. A lawyer suggested that in cases involving distressing evidence, more information should be provided to the jury panel before excuses are taken. Information that is relevant to a person seeking to be excused is not always provided to a panel, e.g. information about the subject matter of the case (particularly if there will be some distressing evidence) and practical aspects to serving on a jury. As one judge described:

I always say, 'see those stairs over there. You've got to be able to get up and down there.' I say 'Look at the jury box. There's not a lot of room in there. You've got to be able to sit there and get in and out. If you are feeling sick, then you need to seek to be excused.' (Vic judge 6)

Jurors who have legitimate excuses, but who fail to raise them when excuses are sought, often raise the issue the next day, after the trial has commenced. This adds more expense to the process. To avoid this problem, and to make allowances for the intimidating environment, two judges explained:

After hearing excuses I will give the panel another opportunity to nominate to make an excuse. More often than not I get one or two others who will then seek to be excused and more often than not I'll grant them the request. (Vic judge 5)

One of the judges, who asks the jury twice for excuses, observed that whilst you want to encourage people to raise their excuses at the appropriate time, you do not want to make it too easy for people to be excused; 'There has to be some kind of discipline...otherwise we end up with voluntary jurors' (Vic judge 6).

Another intimidating aspect to jury empanelment identified by many stakeholders was the Victorian tradition of making the jurors parade before the defendant while the accused and their solicitor whisper and point. When 'the accused says "challenge" you can see everybody jumps' (Vic judge 3). Some of the lawyers described this practice as embarrassing, but necessary. One judge held the view that whilst parading before the defendant is intimidating, it is a well-explained procedure, and should not be changed. Another judge said: 'I watch people in criminal matters where they have to walk past the dock, and I think some are very intimidated and embarrassed. But explaining the process would assure them – I think we can do a lot more to explain along the way what's going on,

and to try to diffuse that sort of thing' (Vic judge 3). This practice appears to be one of custom rather than statutory requirement, and is not necessarily explained to jurors in advance. By comparison, in civil cases, jurors' names are struck off a list so that jurors cannot discern who challenged a particular juror. One judge described a challenge process in a criminal case as follows:

In one empanelment, it was very obvious that the accused was challenging all women. And the rest of the panel noticed this. It is possible that the jury used this against the accused. (Vic judge 3)

Whilst many of the interviewees were of the opinion that peremptory challenges changed the representativeness of juries, most of those believed that the current system should nevertheless remain; two interviewees were not concerned either way. Increasing the defendant's confidence in the trial process was a common reason provided for supporting the status quo, i.e. an important attribute of a fair trial is the opportunity, albeit limited, of the defendant to determine the composition of the jury by which he or she will be judged. The jury administration staff interviewed observed that peremptory challenges are exercised by the defence more than the prosecution.

One lawyer favoured eliminating peremptory challenges:

I think there is too much of a skewing of the jury by challenges. A handful of challenges like the civil jury system would be enough. I don't see challenges as a necessary aspect to obtaining justice. It may be something that's more of a symbolic value to the defendants. (Vic lawyer 7)

If peremptory challenges remain, stakeholders favoured providing the name and occupation of the potential jurors to the parties to give an indication of cultural background which may be perceived to conflict with the defendant's own background. The occupation allows the defendant to challenge those on the jury panel that may be influenced by their field of employment. Identification of jurors solely by number was considered to be appropriate only in particular cases where safety of the jury was a concern.

South Australian stakeholders

Stakeholders expressed some concern that the current jury management system in South Australia does not attract a representative sample of individuals in the community. A small number of interviewees commented that the month long duration of jury service may be too much of an imposition for certain citizens, and that a 'one day/one trial' system would encourage more individuals to participate, and may be worthy of consideration in the future. Despite the one-month period of jury duty, poor representativeness was perceived to be particularly problematic in longer trials, which excludes individuals in the community who are unable to commit to jury service for a significant length of time.

Many interviewees commented that certain groups in the community are often absent from juries, specifically individuals from certain occupational, professional, educational attainment and socioeconomic groups. One judge summarised his observations as follows:

I think that the people in the community on higher salaries and with better educational qualifications aren't properly represented. It doesn't mean that I'm saying that either of them would be better, but we tend to get now quite a lot of students, but not young students, usually not in the 18 to 22 or 23 year old group, but what we would call mature age students, or older students, and a lot of unemployed people, and now, quite a lot of retired people. But the section of the community who are out there in sort of managerial positions, running the show, I don't think are adequately represented. (SA judge 2)

Another judge commented on the influence of discretionary exemptions on jury representativeness:

I think that there are certain professions that... and certain exemptions given to people who have responsible jobs and for professions – so many exemptions are given in that area that you... you don't get an entirely balanced panel. (SA judge 6)

Numerous stakeholders endorsed the view that the inadequate fee paid to jurors contributes significantly to the number of excusals and the problems with representativeness. Another judge noted that under the current system:

We've got to be very careful to ensure that people don't automatically get exemption on the basis that they run a business or that they have certain responsibilities in life. Otherwise there's a very real danger and it's happened I think that jurors are not truly representative of the community. (SA judge 4)

Interviewees further noted that juries lack representation from the Aboriginal community, particularly in regional areas. Speaking about trials in Port Augusta, one lawyer stated:

A number of the accused are Aboriginal. We rarely have an Aboriginal juror, and rarely is there an Aboriginal person in the jury panel, which is usually a group of 30 people chosen from the community. So it seems that Aboriginal persons are either avoiding jury duty, or they're being excused or being made exempt before the panel stage. (SA lawyer 3)

The Sheriff of South Australia cites a number of causes that contribute to this problem. First, to be selected as a juror, citizens need to be on electoral roll with current address, which is often not the case for Indigenous Australians living in remote South Australian communities. Second, Indigenous Australians who work in community settings and are selected as jurors often request not to sit on trials with an Aboriginal defendant, as this role will affect their standing in the community. Third, the police record check excludes

a higher proportion of Indigenous Australians than non-Indigenous Australians. The final point made by the Sheriff is that it is not always possible to determine if a juror is Aboriginal simply by appearances.

There was some disagreement amongst stakeholders on current grounds available for exemption from jury duty, including discretionary grounds for excusal. Some regarded both as realistic and adequate; others noted that changes could be made to allow a greater cross-section of the community to participate in jury service. The flexibility of the system in allowing people to defer their service was seen as a positive feature that helps meet the needs of individuals and reduces the number of excusal applications.

Stakeholders acknowledged that reducing exemptions (including discretionary excusals) might yield greater community representation; however, appropriate remuneration must be available. One judge commented:

Assuming you can properly recompense jurors for their lost work time which is often the problem, and here they don't get paid very well, so my preference would be to expand and make sure that the representation is as wide as possible and that would probably mean locally increasing the amount actually paid to jurors. (SA judge 2)

One interviewee commented that, in principal, members of the legal profession should be able to serve on juries, while another expressed concern that these individuals might have an overwhelming presence in the jury room and negatively influence jury deliberations.

Most South Australian stakeholders agreed that jury service is an important community responsibility and that there should be some follow-up for those individuals who do not respond to the initial summons, as the overall representativeness of the system is affected by those who avoid jury service. One judge noted:

I think citizens should be followed up if they fail to respond to a summons. I think they should be called to account. I mean, the jury system operates on the participation of the community and the goodwill of the community, and if you have people who are not prepared to cooperate, then the system as a whole suffers. (SA judge 4)

However, the number of citizens in South Australia who ignore a summons is nowhere as prolific as in New South Wales. One jury administrator noted that in 12 to 14 years, there was only one case of an individual failing to respond to a summons. The consensus by stakeholders was that the police or sheriffs should telephone or pay a home visit to non-respondents to inquire about the reasons therefore. This is the current practice of the South Australian Sheriff's Office. The practice of imposing sanctions or penalties on non-responders was generally not endorsed. For example, one lawyer commented, 'I wouldn't suggest any sanctions or any penalties, because we don't really want unwilling participants in such an important system' (SA lawyer 3). A small number of stakeholders took this view further and voiced the opinion that follow-up is not necessary as only individuals who want to serve should be able to perform jury duty. For example, one judge responded: 'I think

there's a lot of people who want to be jurors, and I think those that don't want to be are better off not being, to be quite frank' (SA judge 1).

Most stakeholders agreed that jury duty is a community responsibility and that more people should be encouraged to complete jury service to obtain a balanced and representative jury. One judge stated:

I think everybody should be encouraged to serve as jurors who possibly can. I think the burden, and it is a very significant burden, should be borne by as many people as possible. (SA judge 7)

Some proposed strategies for encouraging jury service in the community include expanded education outreach. For example, young people can be educated in legal studies classes at school about the role of the jury. In addition, the need for more community education about the jury trial process and the benefits of jury service was noted, perhaps by having judges attend community groups, explain the importance of jury service and promote the role of jurors, emphasising the enjoyment and responsibilities that coexist with jury service:

I think that there could be more education, general education, to people in the community. A little bit more publicity about jury service and the responsibilities of people to undertake jury service and the importance of it in maintaining the kind of criminal Justice system that we have. (SA judge 6)

Jurors in South Australia are given multiple opportunities to raise reasons for excusal before attending court (via statutory declaration forms which are distributed with the initial summons), on induction day with jury administrators. Most stakeholders agreed that this procedure was suitably sensitive to applications for excusal. Nonetheless, many stakeholders noted that the experience of applying for excusal before a judge in open court is more intimidating than applying to the Sheriff and that the extent to which jurors feel comfortable in court depends largely on how the proceedings are handled by the trial judge. The courtroom experience can be made less confronting by allowing jurors the opportunity to speak privately and discreetly with the judge regarding excusal applications, or jurors may be encouraged to prepare a letter for the trial judge containing confidential issues which can be dealt with privately.

Many stakeholders commented that peremptory challenges may have a slight impact on the representativeness of juries, but that generally, parties are not provided with enough information about jurors to significantly shape the composition of the jury by means of these challenges. However, stakeholders reported some concern that counsel in South Australia target individuals from particular occupational groups – particularly schoolteachers – during peremptory challenges, and that this practice may influence the representation of these individuals on empanelled juries.

Support for jurors

Jurors are rarely addressed directly by the court regarding their experience from the time that a trial commences until they return a verdict. We asked stakeholders a series of questions regarding support for jurors, and their observations of aspects of jury duty that are particularly challenging, frustrating and enjoyable for jurors. In all cases, the issue of financial support for jurors and financial stress for jurors under the current regime was paramount.

New South Wales stakeholders

As noted above, the issue of remuneration for jury duty has a significant influence on applications for excusal and the overall representativeness of juries. Many stakeholders indicated that the current level of remuneration in New South Wales is not adequate and that jury service imposes serious financial stress on many individuals. One judge stated:

I think there's a real problem. The pay is very low, particularly if you're engaged in jury service for a lengthy period, and if your employer isn't prepared to pick up the tab for the difference. Then it's unfair that people should be exposed to that... to a real financial burden as the result of jury service. (NSW judge 2)

The impact of remuneration on excusals and the representativeness of juries was noted by another judge:

I have an opinion that jurors are poorly paid and I perceive that may be one reason why people who are adequately paid, according to Australian standards, try to get out of jury service when perhaps I'd rather see them taking their place in a jury; and I think that's where everybody's disadvantaged. (NSW judge 3)

Other stakeholders highlighted the difficulty in determining a level of compensation that is fair to all prospective jurors, as the appropriate amount of remuneration for each individual may vary significantly. As summarised by a lawyer in New South Wales, 'for some it would be totally inadequate, for others it would be... terrific pocket money' (NSW lawyer 6).

With respect to how pay should be adjusted, some recommendations by stakeholders included compensating jurors for travel expenses incurred at the summoning stage, and providing a greater increase in compensation for longer trials. It was also suggested that remuneration should be adjusted to reflect the average weekly earnings:

Well it should be at least the average weekly earnings you know people lose a lot of money through being on juries and the jury trials are by average becoming more and more longer and longer all the time. (NSW judge 1)

One lawyer suggested compensating for lost salary at an individual level, which would bear resemblance to the Victorian model where employers are required to pay the difference to their employees:

I believe that the... that the set rate should be increased and that there should be some mechanism by which they should be... there should be some way in which someone who foregoes a larger salary for whatever reason, that there should be compensation for that. I don't think a... a one... one size fits all payment is appropriate. But I... I think the base figure should be increased and there should be some ability to match the payments to the lost salary. (NSW lawyer 8)

With respect to systems in place to address jury questions in New South Wales, once a trial commences, jurors who have questions regarding a case specific issue may liaise with the judge via written correspondence. For any administrative issues, jurors may contact court officers, who do the best they can to support jurors in a manner that does not compromise their involvement in the trial. As noted by one jury administrator, 'we have good officers that support people through it as much as they can' (NSW jury administrator 1).

A judge in New South Wales commented further on the crucial role of court officers: 'they seem to look after the jurors very well and they seem to in many cases develop quite a...a pleasant rapport with them during the course of the trial...' (NSW judge 6).

During the trial, jurors experiencing difficulty with any issues may be directed to receive third party counselling if necessary, a practice which is rare and considered controversial in Victoria and South Australia. A jury administrator in New South Wales provides an alternative view:

We wouldn't expect people to shoulder all that concern right through to the end of the trial because it could be affecting virtually how they think, how they approach the process so if somebody has need to sort of speak to some other third party about their experience, not deliberations, but their experience in the trial and we would certainly facilitate as best we could. (NSW jury administrator 3)

Following the trial, jurors are informed of a counselling service available to them. This information is contained in a brochure that is distributed about the jury support program, describing the available counselling facilities. However, there was some concern amongst stakeholders that jurors do not take advantage of the post-trial counselling service and that the information regarding counsellors could be more explicitly communicated to jurors. This is particularly relevant before and during traumatic trials where jurors may not receive the appropriate support. In these cases, there should be more effort made to remind jurors of the available post-trial counselling.

When asked to identify aspects of the jury experience that are enjoyable for jurors, stakeholders in New South Wales highlighted the social aspects – the opportunity to socialise and develop new friendships with other jurors, the dramatic features of a trial (viewing real-life drama and enjoying the theatrical nature of a trial), visiting the area in which the crime in question took place, and being included in the process of delivering justice and performing civic duty.

Some elements of jury duty identified by stakeholders as potentially challenging to jurors included judging another individual and deciding a verdict, coping with expert evidence and deciding on difficult scientific issues (e.g. statistical evidence), as well as facing confronting issues (such as those in sexual assault trials) which are outside the realm of daily life and interpreting complicated legal directions.

Stakeholders acknowledged a number of elements of the court system as potentially frustrating for jurors, such as trial delays and interruptions, and particularly long periods of waiting while legal arguments are being heard without being kept informed about the reasons for these delays. They also identified poor quality facilities as a source of frustration for jurors, including inadequate jury rooms and poor electronic facilities for viewing audiovisual materials. Aspects of the trial procedures that stakeholders identified as frustrating for jurors included trying to understand legal jargon used in court, along with having to passively observe a trial without being able to provide feedback.

Victorian stakeholders

With regards to financial support provided to jurors, all but two interviewees were strongly of the opinion that jurors are not paid adequately for their time. Some stakeholders described the pay as 'abysmal', 'meagre' and 'disgracefully low'. 'The jurors are not paid enough. I think it's an enormous imposition on people to require them to come in for how little they're paid' (Vic judge 3). One judge observed that the major reason for excuse from jury service is financial considerations. Another observed that Victoria pays as badly as most other jurisdictions. All stakeholders agreed that citizens should not be penalised for serving on a jury, but most acknowledged the administrative difficulty in pursuing additional compensation.

The Juries Commissioner noted that in Victoria there is a legislative requirement for employers to make up the difference in pay to what the juror would reasonably have expected to earn had he or she not attended jury duty. In his view, jury fees should be reviewed annually and adjusted according to an independent indicator so the remuneration level remains current.

Out-of-pocket expenses such as lunch and transport costs were raised as matters that should be compensated as a matter of course. One judge commented:

A number of jurors that commented to my tippee that it costs them so much to get to the city and to buy their lunch. These are not costs they would normally incur.
(Vic judge 3)

Two of the lawyers also expressed concern about jurors who are casual workers or who rely on overtime. One lawyer justified the financial sacrifice that jurors make as a duty of citizenship. Another observed that if you do not assume that employers top up the pay there is a real problem. Another two lawyers expressed concern as to the impact of the federal

enterprise bargaining agreements on whether some citizens will not be able to afford to sit on a jury. This will impact upon jury representation as judges will be compelled to excuse such people from serving.

Although stakeholders agreed that the facilities provided to jurors in Melbourne are adequate, some interviewees described the regional facilities as 'atrocious':

In Hamilton, if the courts are all being used, the jury panel has to stand on the grass out the front for hours sometimes...they're just left out on the nature strip with all the parties and their barristers and their solicitors and the media milling around.
(Vic judge 3)

Regarding psychological support services, the Juries Commissioner expressed the view that providing counselling and support during the trial warranted further exploration, as during lengthy trials, such assistance for jurors may be beneficial. Other interviewees were concerned that counselling during trial may unduly interfere with the deliberation process.

All interviewees thought that counselling should be available to jurors following a stressful trial. Many of the barristers noted the good job that the judge and the judge's staff do in looking after the welfare of jurors during the trial. Support for jurors by way of counselling and debriefing after they have completed their jury duty is available in Victoria. The Juries Commissioner indicated that from time to time, jurors are offered group debriefing sessions, and these had proved quite successful. Other judges and counsel thought that debriefing by a judge was not appropriate in an adversarial process, and that judges are not trained to debrief. However, one of the judges interviewed has begun debriefing jurors in appropriate cases. Both counsel are invited to sit in on the process. This judge explains what he cannot talk about during these sessions and why this is so. The judge undertakes a debriefing only in cases where he senses that it is appropriate and that there is no perceived danger of a juror speaking about the deliberations. One lawyer supported more debriefing after a trial concludes for the following reasons:

For somebody to be brought in from perhaps a fairly sheltered life, thrust into the nastiness, and seeing what is a very sad side of human life, and then simply being told, goodbye thank you very much you've been great guys, go; I feel troubled by that. I think there should be a debriefing and I say not looking at the reasons, it's just how they feel, whether they've got any concerns, whether they'd like to talk about how they feel, would they like help afterwards cause some cases are terrible...we need to do more and we need to probably follow up with them and see how they're going for a period of time afterward. (Vic lawyer 7)

Another lawyer thought that it was fair to give some more feedback to the jury after the trial, such as telling a jury about a defendant's prior convictions following a guilty verdict.

When asked what aspects of the court system the interviewees thought were particularly enjoyable for jurors, most said that it was the role of doing something worthwhile for the community; 'the sense of satisfaction of standing up for essential moral rules which we all share and which have to be enforced and accepting the responsibility as a single member of the community with twelve others...' (Vic judge 6). Other responses identified the fact that jurors enjoy the camaraderie of being part of a 'Who done it?' a 'fascinating human drama'. Another interviewee indicated it was a fascinating learning experience, where jurors gain an understanding of the trial process which relatively few people experience.

The aspect of jury service that jurors are thought to be most frustrated by was 'the constant interruptions in order to deal with matters in their absence' (Vic judge 6). One judge compiled a list of perceived jury frustrations:

The rantings and ravings of defence counsel, apparently illogical rules of evidence... turgid charges by judges, seemingly turgid addresses by counsel, the totally inadequate (Supreme Court) court rooms and jury facilities, time limits that seem indeterminate which are frequently broken, the fact that you don't get properly paid, the extraordinary stress experienced by your family, friends and workmates by reason of your association with the jury. The fact that both sides do have a case and you may have to convict or acquit in circumstances where you do have to exercise personal judgment and therefore personal responsibility from the judgment that you make. (Vic judge 6)

As an addendum, this judge observed: 'I'm sure the enjoyable part outweighs that list'.

One of the prosecutors picked up on the 'turgid' nature of addresses to the jury as an aspect of jury service that jurors would find frustrating:

I think the language used. We've got to be better on the language. I think that there's a problem with charges, they're over complex, they're over repetitive, they're over mechanistic... (There is a fear of being appealed)... I think one of the things that makes the system fail is a fear by judges to actually go outside what's in the charge book....The better judges will tailor it specifically to the case. You've got a jury, they've got a 40 minutes attention span, you've got to get the real stuff into their brain before then. If you are charging for three days going through the whole of the charge book, you're not doing your job. (Vic lawyer 7)

One of the judges acknowledged that you have to be supremely confident to depart from the charge book. The charge book is a 'security blanket...which has survived on appeal and you therefore can have confidence in providing it to the jury, but in fact you could split probably by half the number of things you say to the jury...if you're supremely confident about your subject matter then you could be more innovative, more confident, more effective as a communicator' (Vic judge 6).

Whilst several of the interviewees suggested that the fear of the Court of Appeal is a bar to improving judicial charges, one judge observed that:

I don't think we can blame ineffective trial judge communication with jurors on the Court of Appeal. I think we can blame it on other things; a lack of preparedness to innovate, following standard scripts, boredom (and time pressures). (Vic judge 6)

Time pressures during a trial can restrict judges, particularly the less experienced judges, from using the most effective approach in communicating with juries. This judge observed that there are no legal impediments to using visual aids but the main impediment to more effective communications with juries is 'largely cultural'. 'The capacity of the judge to touch-type can be an impediment'. The inability to create and the lack of facilities in courtrooms to effectively use PowerPoint presentations is another.

The Juries Commissioner, who has observed a number of jury trials, stated that the major recommendation he would make for judges and counsel to enhance the jurors' experience would be to focus on the language used and better use of IT-based communication aids.

South Australian stakeholders

The issue of inadequate compensation for jury duty in South Australia is regarded as an important problem for the jury trial system that has a serious impact on excusal applications and the overall representativeness of juries. Many stakeholders commented that the amount of compensation for jury duty in South Australia has not changed since 1989, and that the level of remuneration is inadequate for many individuals in the community. As described in the Legislative Analysis, only the amount payable for long trials is indexed for inflation in South Australia.

One judge highlights the issue:

The pay is disgraceful and that's why you have people who have well-paid occupations trying to avoid jury service, and they're often exempted on that basis. Even the non professional juror I don't think is really adequately compensated... (SA judge 4)

The stakeholders recognised that more resources are needed to amend the payment scheme and increase the level of compensation for jury duty:

The biggest improvement that we need in South Australia is... is money. You know we've got to be able to pay these people their average daily wage to... to make sure their... their not paying or that their employers are not paying to run this system. Now we should be paying to run our own system. (SA jury administrator 1)

With respect to how pay should be adjusted, some recommendations by stakeholders included increasing compensation for travel costs, which is particularly relevant for jurors in regional areas who travel long distances to court. Stakeholders also suggested increasing

the minimum payments made to reflect at a minimum, the average daily wage, and allowing for some flexibility in the system such that pay can be adjusted according to the level of income lost. Note that the rate of remuneration awarded to jurors in South Australia has increased recently.

With respect to other support mechanisms for jurors in South Australia, there was general consensus amongst stakeholders that jurors are able to access adequate support while they are performing jury service. For administrative or day-to-day issues, jury managers provide all-round support and try and meet jurors' needs as best they can throughout their service. As summarised by two jury administration staff members in South Australia:

Basically...what we say in orientation is that we are here to support you from day one, we're here to support you on the last day and we're here to support you after your last day. (SA jury administrator 1)

You put them first and if they've got any individual difficulty or problem or issue, you just go out of your way to do what you can within... within your boundaries. (SA jury administrator 2)

Jurors may also receive additional counselling support during trial if necessary. Jurors are initially told about counselling services at induction and additional information on these services is posted in jury deliberation rooms. If jurors feel the need to seek counselling, jury managers are able to help facilitate this process. As explained by a jury administrator:

There's not much we can't help them with, but we are certainly more than happy to provide a talk, direct them to a counselling service if they need that as well. (SA jury administrator 2)

A judge in South Australia further commented on how jury managers have improved the level of support available to jurors:

I think in recent years there's more sensitivity to the counselling of jurors in certain situations and I think that's a very appropriate innovation and I think that the jury managers are more conscious of the psychological affect that sitting on the jury can have with jurors and they look out for that more than they previously did. (SA judge 7)

However, there is some concern regarding the support and counselling facilities available in regional areas. This is particularly problematic for jurors who do not live in areas with these facilities, and consequently may be required to travel to obtain counselling. It was also noted that jurors often struggle with childcare arrangements and that providing childcare facilities would possibly enhance the extent to which jurors feel supported in their role.

With respect to case-specific questions and the practical support jurors receive, jurors are able to communicate with the judge throughout the trial (via written correspondence). In terms of facilities, there is some concern that jurors are not provided with adequate writing materials (i.e. notepads, pens) during the trial.

The aspects of jury duty which were identified as potentially most enjoyable for South Australian jurors are very similar to those identified by stakeholders in New South Wales and Victoria. These included the social aspect of having the opportunity to be part of team and to form new friendships with other jurors, the dramatic aspects of observing good counsel during cross-examination and the atmosphere and drama of the trial, visiting the crime scene and the opportunity to hear scientific/forensic evidence. The educational factors were also highlighted, such as the opportunity to participate in the trial and see the myths of TV dispelled, and having the opportunity to gain a better understanding of the legal system and the trial process. Finally, stakeholders suggested that jurors would enjoy the responsibility of their role and would feel satisfied in performing their civic duty.

Some elements of the jury trial identified as potentially challenging to jurors included the clearly understanding their role, i.e. that as jurors, they are not responsible for sending people to jail. Similarly, stakeholders suggested that jurors may find it difficult to understand complicated legal terms and issues pertaining to a case, as well as developing a clear understanding of the concept of 'beyond a reasonable doubt'. The process of deliberating and arriving at a verdict was also seen as challenging for jurors, particularly in difficult cases, as would be coping with confronting or traumatic cases.

Some elements of the court system that stakeholders anticipated may be potentially frustrating for jurors included trial delays/interruptions and particularly long periods of waiting while legal arguments are heard, and not being kept informed of the reasons for these delays. Similar to this is the slow and repetitive nature of the system, and the formality of the trial process. Stakeholders proposed that jurors would find it frustrating when deliberations extend into the evenings. With regard to information provided by the court, stakeholders expect jurors to become frustrated if they are not being kept informed of certain information, such as previous convictions of a defendant, not fully understanding rules of evidence, and not receiving enough assistance from judicial officials on complicated legal terms and concepts. Procedurally, jurors may become frustrated by not being able to take a more active part in proceedings and having to follow excessively long, irrelevant lines of questioning. With regard to physical comforts, South Australian stakeholders identified substandard facilities including the jury rooms and inadequate facilities for smokers as a potential source of frustration for jurors.

Enhancement of the jury experience

New South Wales stakeholders

Stakeholders identified a number of ways in which jurors' experience can be enhanced.

The comfort of juror facilities can be enhanced by ensuring that jury administration staff provide a positive, respectful and encouraging environment for jurors, and treat jurors with respect and making them feel comfortable in their role. This will include jurors being well

provided for in terms of basic amenities and refreshments. Several interviewees noted that the jury should be treated like they are the most important people in the room and provided with whatever aids are necessary to facilitate their understanding of case-specific facts and evidence, as well as any other requirements they have to enhance their level of comfort. Stakeholders recommended ensuring that the physical facilities for jurors are adequate, such as having enough space in the jury box to make notes during the trial.

Other recommendations from stakeholders on ways to enhance the jury experience included making changes to the way in which the trial is managed, increasing communication between the judiciary and jurors, and improving the physical facilities used by jurors. With regards to the trial management, stakeholders advised that juries need adequate time to settle in and meet other jurors before beginning the trial and before selecting a foreperson. Jurors should be kept informed of the trial progress and of upcoming issues throughout the trial. Hearing of legal arguments should be organised in a manner that will be of least inconvenience to the jurors: 'I'm always trying to think how can we maximise the amount of time that we have with them whilst they're here and minimise the inconvenience to them' (NSW judge 5). The stakeholders recommended that jurors be given sufficient breaks throughout the trial.

Greater cooperation is needed between officers of the court (i.e. judicial officers and sheriffs) to ensure that trials run as efficiently and smoothly as possible. Inconvenience to jurors who are often required to wait for long periods of time while legal arguments are heard in court should be reduced by delaying empanelment until all foreseeable legal arguments are heard. A related issue is making sure jurors are kept informed, and delays are explained and avoided when possible. One interviewee noted that the efficiency of trials could be increased by making greater use of the mechanism of 'agreed facts' and not wasting extra time arguing these issues.

Jury administration staff have a responsibility to ensure that jurors are aware of resources available to them (e.g. counselling service). All who come into contact with juries should endeavour to communicate using plain language and avoid complicated legal jargon. In this regard, judicial directions should be simplified and explained to jurors in accessible terms and language. It would also be helpful to provide jurors with written materials outlining important case issues or legal materials. These documents could include descriptions of the offence elements, flowcharts of alternative verdicts, charts or diagrams describing technical evidence. Providing jurors with transcripts throughout the trial and any other assistance or aids necessary would ensure that they understand all of the issues and evidence. It was noted by a few stakeholders that the jury should be considered the primary audience in judicial summations, rather than the Court of Criminal Appeal and that summations are delivered in language that jurors are able to understand and digest. To this end, it would be helpful to provide judges with more training and education on how to communicate effectively with jurors, as one lawyer noted: 'A way of improving the system for juries is to in fact better educate judges as to the instructions they give to jurors' (NSW lawyer 4).

An introductory speech by the trial judge outlining the role of the jury and the issues at stake in the case would have the dual role of providing information to jurors, and also helping them to relax and feel more comfortable before the trial. Both judicial officers and the jury administration staff should ensure that jurors know that they are able to communicate with the judge (via written correspondence) regarding any case specific queries. The stakeholders agreed that feedback should be sought on jurors' experiences, similar to the evaluation surveys regularly conducted in South Australia. Communication between officers of the court and jurors can be improved by providing positive feedback to jurors indicating that they have done their job well. Steps should be taken to ensure that jurors are comfortable in their role and understand precisely what is expected of them throughout the trial. As stated by one lawyer:

I think that they just need to be vigilant... needs to be vigilant to ensure that the juries are kept completely informed about what's going on and they be directed carefully about what they can and can't do and what they should and shouldn't do and what the expectations of them are. (NSW lawyer 2)

The jury instructions pertaining to the confidentiality of deliberations is a very important issue that is taken seriously by officers of the court. The overall view of stakeholders was that this instruction is satisfactorily communicated in a manner that is clear and understandable to jurors. Some suggestions as to how these instructions are most successfully conveyed to jurors include providing a rationale or justification for the instruction, explaining why it is important that confidentiality be maintained throughout the trial and emphasising that they must comply with this instruction to properly carry out their duties as a juror. Jurors should be reminded of this instruction throughout the trial and provided with a written copy of the instruction such that it can be reviewed at any time throughout the trial. It was noted that following empanelment, if jurors are given sufficient time to settle in they will be in a better position to fully attend and absorb judicial instructions.

In sum, when asked to suggest areas for change, the New South Wales interviewees identified the following areas as most noteworthy:

- upgrading facilities to make them more comfortable and convenient for jurors
- reducing the number of peremptory challenges
- simplifying rules of evidence to achieve greater efficiency in the trial process
- training judges to interact effectively with juries, to simplify judicial directions and summations so they are easier to follow
- amending the payment scheme to better remunerate jurors so they are not distracted by issues that do not relate to the trial, this is particularly relevant in longer trials
- changing exemption categories to increase the representativeness of juries
- improving the efficiency of the empanelling process and reducing delays

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- changing the legislation allowing trials be divided into two parts so that pre-trial matters are addressed before the jury is empanelled without inconveniencing the jury
 - allowing jurors sufficient time to digest information during the trial
 - focusing less on the speed of trials and more focus on ensuring that the quality of justice is not compromised.

Victorian stakeholders

The interviewees suggested a number of steps to enhance jurors' experience on jury duty. From the perspective of the Juries Commissioner, the provision of information is crucial to enhancing the jurors' experience. Prospective jurors come into a strange environment and are required to perform an important task. Giving them more information helps to lower their anxiety levels. He indicated that his office provides as much information as possible to make their experience positive, without overloading them. The focus is on explaining what they are going to experience during the course of the day, answering their questions and keeping them informed of proceedings during the course of the day. The Juries Commissioner expressed the view that as a result, jurors feel more at ease and feedback had been positive.

The Juries Commissioner also tries to ensure that jurors are summoned on an 'as needs' basis. There are systems in place which allow them to call only as many people as are required on any given day, and in Melbourne there is a 'one day/one trial' system.

Whilst most legal practitioners and judges thought that visual aids (such as charts, maps, diagrams, chronologies, videos of crime scenes, PowerPoint presentations, expert reports and transcript) enhanced juror understanding, very few of them actually used these tools on a regular basis, in part because of perceived systemic resistance to the introduction of such devices in criminal trials. As one lawyer explained:

...in spite of the legislature trying to change things and trying to modernise things and trying to have things done that will help the jury, things haven't generally across the board changed all that much. There are some judges who will give written directions and charts and things...but there are many who would never consider that.

(Vic lawyer 1)

One reason identified for the lack of use of visual aids by judges is fear that the Court of Appeal will allow an appeal if there is one written word out of place on any written directions given to a jury. As a result, one lawyer explains that 'my personal view is I'd rather judges do it verbally' (Vic lawyer 1). Defence counsel complained of lack of funds and time to prepare such visual aids. One of the judges complained that the screens in the County Court of Victoria are too small for effective PowerPoint presentations.

Another jury aid that appears to be controversial amongst the Victorian judiciary is the provision of a transcript to juries. Some judges complained that it requires a lot of work to prepare the transcript, as legal submissions must be edited out. The judges that do provide

a running transcript dispute that it is time consuming. They argue that it saves them a lot of time with their summary of the fact and has the added benefit of avoiding a dull and long summary of facts, enabling them to focus on the important issues rather than recounting the evidence. Another judge disputed that the evidence could never take the place of the judge's duty to summarise the evidence. One lawyer observed that in complex cases, the fact that the jury knows that they have access to the transcript reduces their need to take notes and encourages attention to the oral evidence: 'See we're in the modern world. They should be able to have the transcript'. When asked directly, two of the lawyers said that they thought that a word processor should be available to enable the jury to find parts of the evidence more easily.

Another aspect to enhancing the jurors' experience relates to whether jurors feel that they can ask questions. Stakeholders indicated that there is no uniform practice amongst the judges. Two of the judges check with counsel and explain to the jury at the start that they are allowed to ask questions anytime. It is then explained that the barristers know more about the case, and that some answers are likely to come from a later witness. However, if they think something important has been missed in relation to a witness then they are at liberty to raise it by telling the judge (preferably through the foreperson) that they want to put it in writing. As one judge observed, asking the jury to put the question to the judge in writing crystallises in their minds what the question is. If a written question is received, it is read and provided to counsel. If they agree that the question can be addressed then it is asked. If the question should not be asked then the judge briefly explains why this is so.

Interviewees were asked whether they thought confidentiality of deliberations (in terms of discussing the case with partners, etc.) was explained to jurors appropriately. All but one of the interviewees agreed with this proposition. One of the judges explained that the explanation is provided to the jurors as part of a one page written guide to jury deliberations, and the Juries Commissioner noted that it is explained to jurors as part of their orientation. One lawyer thought that it was explained too often and was repetitive. Another lawyer thought that forbidding jurors from discussing the case with their partners was unrealistic and inconsistent with the way Australians in the 21st century make decisions. A judge observed that whilst 'the idea of confidentiality is fundamentally sound, it shouldn't get in the way of other fundamental and sound ideas such as debriefing, counselling, research and things like that' (Vic judge 6).

Interviewees were asked if there is any aspect of the jury trial process that they would like to see changed. Areas for improvement mentioned by a few of the interviewees included:

- a well-designed separate jury entrance to the court and to the courtrooms
- allow the jury to choose their foreperson in their own time (usually within the first few days) rather than put them on the spot at the start of the trial
- taking photos of witnesses immediately before they give evidence may assist jury recollection in long trials

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- the judge's summary of evidence should be shortened and the bench book directions on the law need to be simplified
 - ensuring jurors are kept well-informed as to what they can expect and what is happening
 - many matters are kept from the jury by strictly applied rules of evidence. The rules of evidence should be relaxed so as to allow the jury greater access to all the relevant information available.

South Australian stakeholders

Aspects of the criminal justice process that South Australian stakeholders identified as needing change included budgeting allocations, the way in which the court communicates with jurors, and manages jury trials, and the physical facilities available to jurors. With regards to budgeting, it was recognised that providing better facilities that are more comfortable and convenient for jurors will increase their satisfaction with and enjoyment of the jury experience. Satisfaction will also be enhanced by improving the way in which the court communicates with jurors, court officers should be encouraged to avoid using complicated legal terms and to speak in plain English to jurors. Jurors should also be provided with more thorough judicial instructions at the start of the trial reviewing important details about the trial process and the roles and responsibilities of jurors, and strides should be taken by judges to make charges/directions to the jury shorter and more concise.

Stakeholders suggested implementing changes to the standard laws on evidence to allow juries greater access to relevant facts of the trial. Furthermore, long delays should be reduced, and where delays are necessary, jurors should be kept informed as to the reasons behind them, as one judge explains:

I think provided juries have got some explanations and general comments about what's happening or why there's a delay or and the legal directions provided it's a sensible explanation without too many legalities I think generally they would be happy. (SA judge 3)

South Australian stakeholders also identified that strides need to be taken to make juries more representative, and that reducing trial length will improve the efficiency of the trial process. They suggested simplifying matters of law for the jury so that information is more accessible to them.

Stakeholders identified a number of ways in which jurors' experience can be enhanced. These include aspects of trial management, communication and physical comfort. With regards to trial management, directions should be adequately spaced out throughout each day such that jurors do not feel overwhelmed and are given enough time to absorb such important information. Jurors should be encouraged to wait until they get to know one another and are familiarised with their role before selecting a foreperson, as one judge stated:

...I don't encourage them to actually select the foreperson until a significant way through the trial until they get to know each other and they decide amongst themselves who might be the best to represent their views when questions need to be asked or in the delivery of the verdict or verdicts. (SA judge 3)

Stakeholders also suggested providing jurors with additional writing materials (i.e. notebooks with plastic sleeves, textas, pens, etc.) to help them organise notes and exhibits. Finally, jurors should be provided with sufficient breaks.

When communicating with jurors, South Australian stakeholders suggested using plain, accessible language, particularly in orientation materials and ensuring that they receive adequate and understandable directions on important legal issues. They also recommended keeping jurors informed, explaining reasons for any delays or adjournments, and apologising for any inconvenience caused to the jury. Visual aids would also facilitate juror understanding and jurors could be provided with written materials outlining important case issues or legal materials. These documents could include a copy of the indictment, a schedule of exhibits, and charts or diagrams describing complicated evidence. Court officials should ensure that the expectations and responsibilities of their role are explained clearly, and at all times complicated legal jargon should be avoided; use plain language in communicating with jurors during trial.

Most stakeholders agreed that satisfactory steps are taken during orientation/induction by jury administration staff and judges to ensure that confidentiality of deliberations is appropriately communicated to jurors. Some stakeholders voiced concern that, despite the efforts of jury officials and judges to convey this information, jurors may not fully adhere to the instruction. Indeed, there may be some individual differences amongst jurors in how the term 'confidentiality' is interpreted, and this may impact their behaviour outside of the courtroom. However, as a few stakeholders noted, it is difficult to control how each individual juror could interpret this information: 'I think that is a very difficult issue... but I don't think they'd realise how serious it is' (SA judge 2).

South Australian stakeholders suggested that the instructions regarding confidentiality would be better conveyed to jurors by including written directions about confidentiality in the handbook and providing a clear rationale for the instruction and stressing the great inconvenience that can be caused if a jury is discharged due to breach of confidentiality. They also recommended providing constant reminders of the importance of confidentiality throughout the trial and ensuring that the instruction is provided in simple terms that are easily understood by jurors.

Stakeholders recommended including jurors as much as possible and encouraging them to submit written queries regarding case-specific issues/evidence to the judge. A system of conducting quarterly surveys seeking juror feedback on how to improve the system and the facilities was proposed, which is in fact implemented by the Sheriff's Office in South

Australia. Finally, thanking jurors at the conclusion of trial and reminding them that they have done their job well is identified as a step court officials can take to enhance the jury experience for jurors.

Juror comfort could be enhanced by ensuring that jurors are the first priority for jury managers and that every effort is put forth to meet their needs and make them more comfortable. The jury administration staff in South Australia identify this as being the way they operate; 'I think it's just our methodology here or ethos that we just... if they want or need something we just do it' (SA jury administrator 2). Stakeholders identified that a rapport between judge and jury will make jurors feel comfortable and relaxed in their role.

Stakeholder confidence in the criminal justice system

When asked to rate their confidence in various aspects of the criminal justice process, the capacity of juries to do their job was the topic about which stakeholders had the most confidence (mean of 84% confident or very confident). Ironically, the efficiency of the criminal justice process in jury trials received the lowest mean rating of confidence (28%) (Table 8).

Table 8: Mean confidence of stakeholders in the criminal justice process

	Confidence (%)	Total (n)
The capacity of juries to do their job	84	45
Confidence in the jury system	81	44
Fairness in how defendants are treated in jury trials	76	45
The capacity of judges to do their job	73	45
Fairness of the criminal justice process in jury trials	72	46
Fairness in how victims are treated in jury trials	52	44
The ability of prosecution lawyers to do their job	36	44
The ability of defence lawyers to represent their clients	31	45
Efficiency of the criminal justice process in jury trials	28	46

Stakeholders in each jurisdiction were asked if they would prefer a trial by jury or judge alone if they were a victim, and if they were a defendant. Many stakeholders responded by stating that their preference would depend on the type of criminal case. Responses revealed that more stakeholders held a preference for a judge trial if they were a victim of a crime. The reverse trend emerged when this question was considered from the perspective of a criminal defendant; that is, stakeholders expressed a preference for jury trials if they were a defendant in a case, as shown in Table 9.

Table 9: Stakeholder preference, judge vs jury trial (percentage)

	Judge	Jury	Depends on case
Victim	31	24	40
Defendant	2	51	40

Conclusions

In this section, some of the major issues identified by stakeholders are summarised. Many stakeholders endorsed different points of view regarding these issues. Where there was consensus, this is noted.

Length of jury service

Stakeholders in the three jurisdictions were divided in their opinion regarding how long jury service should last. Strengths of a longer period of jury service include administrative economies, one orientation session per month, time for jurors to settle in, to bond with each other, and gain experience with the criminal justice system. A longer service period increases jurors' chances of serving on a trial which, in turn, increases juror satisfaction.

Advantages of a shorter period of service or a 'one day/one trial' system are that more citizens can participate because the time commitment is less onerous. To increase juror satisfaction and the efficiency of the justice process, jurors should be summoned as needed.

Jurors who fail to comply with summons

All stakeholders encouraged a jury management officer to personally contact each non-responding citizen to seek an explanation, and to offer the individual an opportunity to defer jury service to a later date. Sanctions for noncompliance were not recommended.

To reduce the high number of jurors who are excused

Stakeholders favoured deferral of jury service to meet individual needs and reduce excusal applications. They recommended more uniform practices by judges regarding excusal. In distressing cases, judges should disclose more information in advance of the trial regarding issues to be encountered so jurors can ask for excusal if necessary. Reduce intimidation of jurors by allowing them to speak privately and discreetly with a judge or writing this information on a confidential note to the judge. Finally, courts should provide multiple opportunities for jurors to apply for excusal, a practice which is in effect in each of the states.

Jury representation and participation

General consensus among stakeholders was that juries are currently not representative of the community. Representativeness can be improved by reframing the legislation positively to reflect a presumption that citizens will serve, and by narrowing grounds for exemption, e.g. allowing more professionals to serve as jurors. The reasons for low Indigenous representation on juries should be examined, especially in areas where many defendants are Aboriginal.

Encourage more people to serve on juries

More people will be encouraged to serve on juries by increasing the remuneration for jury service. Two systems of remuneration were recommended: the average wage; and a flexible standard that takes into account the jurors' lost income, i.e. their individual average income. Added remuneration incentives should be provided in longer trials. Compensation for travel costs should be increased. The potential to provide childcare facilities at courts to support jurors should be explored. Governments need to fund the system effectively to enhance the quality of justice.

Educational outreach is required to encourage citizens to participate in jury service. Children should be educated at school. Former jurors should be permitted to discuss their positive experiences in public.

Protection of juror anonymity

Juror anonymity can be safeguarded by providing a separate entrance to court from that used by the lawyers, the public and the defendant, and by assigning numbers to prospective jurors during empanelment.

Orientation

More information should be provided about jury duty, both via mail and on the court website, for jurors in advance of their attendance at court. Jurors should be well prepared for the fact that they may at times be asked to leave the courtroom while the judge rules on legal matters raised by the parties. The videotaped information can be provided online.

A general orientation for jurors should be provided a day prior to service on a trial as jurors benefit from more time to absorb the orientation information, to settle in and adjust to the new environment. Judges should attend the jury assembly room and speak to jurors prior to their empanelment on a trial. Education should be provided to judges to enhance the communication between the judiciary and jurors.

Responses of some stakeholders reflected the need for more education about the operations of the jury management system. Educational seminars should be conducted by the courts to acquaint judges, prosecutors and defence barristers with the all aspects of the jury management system.

Empanelment

Jurors need additional time to apply for excusal after they hear the list of witnesses and charges in a case. Juror anxiety and humiliation will be decreased if they are allowed to submit a prepared note to the judge for excusal in lieu of discussing this topic in open court.

Peremptory challenges can be more intelligently exercised if the parties are provided more information about prospective jurors, such as names and occupations. Avoid humiliating or embarrassing jurors by requiring them to stand up or parade in front of the defendant.

To reduce juror apprehension

Retain a staff of jury managers who are sensitive to juror needs. Foster a high degree of cooperation between jury managers, officers of the court and judges. Include opportunities during the orientation period to establish rapport between the jury and the judge, for example by addressing jurors in the assembly room.

Jury facilities and amenities

Jurors should be provided with easy access to outdoors, and facilities and options for smokers should be improved. As a general rule, jury facilities should be up to standard, comfortable and inviting.

To minimise inconvenience to jurors, empanelment should be delayed until all legal arguments are heard. Allow jurors to delay selection of a foreperson until they know each other better. Jurors should be provided with as much information as possible calculated to reduce their anxiety in a new environment with new experience. Instructions to jurors should be timed appropriately, and a rationale provided for instructions that are given, for example, regarding confidentiality of deliberations and excusal from court while legal arguments are made. Keep jurors informed as to reasons for any delays or other events during the trial.

Provide jurors with a copy of the indictment, the schedule of exhibits, a list of charts or diagrams describing complex evidence. Ensure jurors are provided adequate materials for note-taking and space in the jury box for note-taking. Court officials should avoid legal jargon; use plain, accessible English when communicating with jurors. Allow jurors sufficient breaks.

During the trial, ensure that all jurors can see any visual display, and that the information technology facilities for jurors are adequate. The length of summation and jury charges should be reduced, and jurors should receive written copies in advance. It is helpful to provide jurors with transcripts throughout the trial as well as photos of witnesses. A deliberation handbook to guide jurors through the process of deliberation was suggested.

At the end of the trial

Courts should thank jurors at the end of the trial and ensure that they feel supported in their verdicts. Group debriefing should be offered to jurors by judges or jury managers when cases are particularly intense. A counselling service should be available for any jurors who become distressed or who need professional support.

Where a verdict of guilty is returned, jurors should be invited to return to court for the sentencing to obtain closure. Regardless of the verdict, jurors should be provided with positive feedback regarding their service.

Jury administration staff should obtain regular evaluative feedback from jurors about their experiences on jury service, for example, by conducting regular written surveys of all persons summoned. This information can be used to monitor jury satisfaction and to identify aspects of the jury management that are successful and those that require modification.

Assessment of jury facilities

Introduction

As noted in sections 'Communications with prospective jurors' and 'Interviews with stakeholders', a major challenge for courts and jury administrators is to prepare jurors for an unfamiliar task in an unfamiliar environment. Jurors experience anxiety because of uncertainty as to what to expect, and loss of control over their environment and schedule. The experience of a juror may also vary depending on the type of court building in which jury service is conducted (Goodsell 1988; Jacob 1994; Kennedy, St John & Tait 1999; Maass et al. 2000; Saarinen 1976). Environmental and architectural psychology is the study of human behaviour and wellbeing in relation to the sociophysical environment. This discipline employs an array of methodologies to improve the human environment through the work of design professionals such as architects, interior designers and urban planners.

A number of concerns about architectural psychology and environmental aspects of court buildings are relevant to the jury experience (Missingham, Heywood & Brawn 2002). For example, environmental psychologists seek to ensure that the environment in which jurors work does not reduce the significance of justice in our democratic society (Kerr & Tacon 1999). Another is that the jurors should be able to continue with their work or daily lives while waiting to the maximum degree possible (Reidel-Martinez 2000). Thus, jurors require sufficient space and facilities in the jury assembly room to conduct these activities.

Past environmental psychological research has shown that architectural features in the jury environment have a calming effect and can reduce jurors' anxieties, such as certain ceiling heights, effective use of colour, the placement of art objects to humanise the process, adequate spaces in which jurors can reflect, maintenance of a comfortable temperature, the presence of trees in the environment and natural light (Missingham, Heywood & Brawn 2000). Moreover, since personal emotions expressed in the courtroom and in the deliberation room can be intense, and quite close to the surface, environmental features that can provide relief to jurors from these complex conditions, even momentarily, are desirable. For example, if jurors can focus their attention on something beyond the immediate room, such as view through a window, this can offer jurors some relief from the intensity of their activity (Kerr & Tacon 1999).

Relatively little empirical research has examined the influence of aspects of the built environment on jurors. One relevant exception is an experimental study conducted in Padua, Italy, which investigated the extent to which traditional versus modern courthouse buildings were perceived as intimidating by members of the public. Participants were asked to assume that a friend was charged with theft of a motor scooter and was on trial in either the traditional or the newer court building in which they were going to attend the trial. The participants were shown four photographic slides that simulated the approach to one of these court buildings. The first slide depicted the courthouse from a distance of 20 metres, the next from a distance of 10 metres, the third showed the entrance, and the final slide was just at the entrance to the court. Next, participants responded to questions about their reaction to the appearance of the building in terms of whether it appeared hospitable or

hostile (was it oppressive, intimidating, liberating, innocuous or threatening?). Participants provided judgments about the aesthetics of the building (was it beautiful or ugly, light or dark, wide or narrow, colourless or colourful?) Participants described their reactions upon entering the building (did they feel anxious, tense, relaxed, worried, lost, confident, etc.). Finally, they provided an estimate of the likelihood that their friend would be convicted or acquitted.

Results indicated that participants who were not acquainted with the buildings rated the traditional and the new courthouse similarly in term of perceived discomfort, and that the aesthetics of the buildings were perceived independently of their function or symbolism. Irrespective of familiarity, participants regarded the newer courthouse as slightly more attractive than the traditional courthouse, although both were rated equivalently aesthetic. Irrespective of familiarity, participants rated the newer courthouse as much more intimidating, oppressive, hostile and threatening than the traditional courthouse. Among participants who were familiar with the buildings, the newer courthouse produced ratings of significantly more discomfort. The more personal discomfort reported by participants, the higher the likelihood of conviction. Conviction of the friend was rated more likely in the newer courthouse building, irrespective of participant familiarity with the two courthouses.

In sum, this study concluded that although the newer courthouse was rated as attractive, its architectural features generated sentiments of discomfort and hostility. Those negative reactions to the built environment were significantly associated with anticipation of negative outcomes (a conviction). Findings of this nature show that newer, more modern courthouse buildings are not necessarily perceived as more hospitable, and that features other than aesthetics can influence citizens' wellbeing and exert an impact on their judgments about justice.

As noted in section 'Introduction', information provided by jurors in the course of interviews about their experiences revealed dissatisfaction with many aspects of the physical environment. For example, jurors who participated in 44 different trials in New South Wales frequently reported frustration with poor jury accommodations, poor food, restrictions as to when they could leave the jury room or court, extensive and numerous interruptions and delays in the trial proceedings, the inadequate size of the deliberation rooms, the lack of natural lighting, the lack of access to outside areas for breaks, and the lack of facilities to spend time away from each others during jury service (Chesterman, Chan & Hampton, 2001). Knox (2005) described the particular frustrations that a jury at the Downing Centre in Sydney, New South Wales experienced because of poor working conditions that included cramped, airless, windowless quarters, atrocious food, a persistently broken jury chair, being left for long periods without explanation, no knowledge as to when the trial would end and no opportunity for exercise during lunch breaks. He strongly recommended providing enhancements to juror comfort in the form of facilities and amenities such as natural light, windows, fresh air and private toilet facilities. He also complained that jurors had no self-catering facilities and that jurors with special dietary requirements, such as vegetarians, were not accommodated. He recommended provision of a lunch allowance for jurors so they could spend the funds outside of the court on food of their choice.

Drawing on the empirical literature in the field of architecture and environmental psychology, and the information gathered from jurors about their experiences on jury duty, an assessment of the jury facilities and jury environments in the three states was conducted to evaluate aspects of the built environment and facilities which jurors experienced. This aspect of the research project had two major aims:

- to assess how the facilities compared within and across states, and the extent to which the jury facilities conformed to best practices in the field
- to determine whether juror reports were congruent with expert evaluations of the jury facilities.

Although it was not possible to visit every facility in every state where jury trials are conducted (there are more than 60 jury sites in New South Wales alone), the research team assessed a range of court buildings to facilitate a comparison of the working environment of jurors in each state. Jurors attending these sites were asked to rate various aspects of these facilities from a subjective standpoint using Likert scales. A comparison of the objective ratings by professionals with the subjective perceptions gathered from jurors permitted insight into the extent to which certain elements of the environment have a greater impact on juror satisfaction than others.

Ten courts were visited, selected in accordance with the aim of the overall project to include examples of Supreme and District/County Criminal Courts in both metropolitan and regional areas. A range of building types were chosen for analysis, including recent constructions, newly refurbished heritage landmarks and ageing refurbishments of heritage buildings. Of the court buildings visited, four types of structures were distinguished, each of which has different characteristics. The reason for ensuring this variability in the assessment was that architectural features can create distinct advantages or disadvantages from the viewpoint of a juror and, as demonstrated by Maass et al. (2000), the aesthetic aspects of the architecture are distinct from the hostility or hospitability of the working environment. The four types of court buildings included in this study were:

- purpose-built heritage court buildings (original building dating from 1800–1920) that have not been conserved or upgraded. Examples included the original Bendigo Court in Victoria and the old Port Augusta Court in South Australia.
- purpose-built heritage court buildings (original building dating from 1800–1920) that have been conserved and upgraded. Examples included the Darlinghurst Court and the King Street Courts in Sydney, New South Wales.
- adaptively reused heritage buildings (original building dating from 1800–1920), which were built for some other purpose and converted into court buildings within the last 30 years. Examples included the Downing Centre in Sydney, New South Wales and the Sir Samuel Way Building in Adelaide, South Australia.
- new purpose-built court buildings (1990 onwards). Examples included the Melbourne County Court, the Geelong Court and Ballarat Court in Victoria, and the new Port Augusta Court in South Australia.

Descriptions of court facilities and amenities

To promote a better understanding of the different possible experiences available to a juror, three qualitative narrations are provided below to illustrate the surroundings that a juror experiences in each of the three main types of buildings encountered: a retro-fitted heritage building, adaptively reused as a court; a conserved and upgraded purpose-built heritage court building; and a new purpose-built court. One example is provided from each of the three jurisdictions included in this study.

Adaptively reused heritage building: Adelaide, South Australia

Jurors entering the Sir Samuel Way Building in central Adelaide pass through the security screen in the entrance foyer, which opens onto a grand hallway with a central staircase. New jurors are led to the jury assembly area, with natural lighting and outside views, where they sit on comfortable bench seating. The jury assembly room has a TV and an ample collection of magazines. Like all jury facilities in South Australia, the Sir Samuel Way Building has kitchen facilities with boiling water, filtered water, a refrigerator and microwave, although jurors typically leave the building for lunch.

The courtrooms have high peaked ceilings in moulded layers, which enlarge the well of the court and create a sense of solemnity. Enhanced acoustic technologies permit the jurors to hear the evidence clearly, although in one court the distance between the jury box and the witness stand makes it difficult to see the witness. Acoustic privacy is an issue, as the toilets are audible from the jury room, and jury laughter emanating from the deliberation room is reportedly sometimes heard in the courtroom. Each jury deliberation room is equipped with a whiteboard integrated into the wall, with plenty of marker pens, and butcher paper on a neat roll. Jury Deliberation Room Three contains a large wooden oval table, with comfortable desk chairs, extra video monitors and a break-out space with lounge chairs. Three artworks serve to brighten the room. Deep purple carpet and soft furnishings have been added to contrast with the white walls, which at times make the room feel too bright. However, the room is fitted with a few optional light settings so that a softer lighting setting may be chosen; the provision of up-lighting creates opportunities to vary light and shade.



Photos (left to right): (1) Sir Samuel Way Building exterior; (2) Jury assembly room; (3) Jury deliberation room; (4) Jury deliberation break-out area.

Photography: interiors – PTW Architects, exterior image – <http://www.courts.sa.gov.au/courts/district/index.html>

Purpose-built heritage building (conserved and upgraded): Sydney, New South Wales

Jurors entering the King Street Courts pass through warmly lit stonework, and small intimate hallways to reach the jury assembly room. Due to the age of the building, disabled access has been retrofitted. As such, wheelchair access for the Registry wing of the building is via the rear, aided by an unobtrusive lift system. The King Street Courts have been recently conserved, and over the past 10 years most spaces have been freshly painted and carpeted in finishes that recreate the original interiors. Juror initiation and assembly takes place in the jury assembly room and the historic Alexander Dawson room, which has intricate stencilled friezes and ornate plasterwork on the ceiling and columns.

Newly upholstered historic furniture and a new stainless steel kitchenette provide a comfortable and interesting setting for waiting. Moving past interpretation panels about the building's history, and glass flooring revealing old brick drains beneath the foundations, jurors are ushered into the courtroom where they are empanelled. With highly decorative ceilings, intricate heritage joinery and lively Victorian patterned carpets, the courtrooms are both warm and authoritative. Large windows let in sunlight and views to the trees in the courtyard beyond. Modern technology (microphones, audiovisual equipment and computers) is inserted unobtrusively within the setting, with subtle brass grilles in the flooring providing air conditioning. The jury box houses modern ergonomic individual leather chairs, with individual tables for writing, and space in front to store notebooks and pens.

The jury deliberation room, accessed directly from the courtroom, is intimate without being claustrophobic. The original 19th century table enhances the solemnity of the space. Individual timber lockers with personal keys are incorporated into the built fabric, with fabric panels providing both acoustic privacy and warmth. Bathroom and kitchen amenities are of a very high quality, clean, generous with sophisticated finishes, separated by a level change, and private.



Photos (left to right): (1) The King Street Courts; (2) visually interesting areas; (3) The jury deliberation room; (4) The Alexander Dawson Room.

Photography: Christopher Shain

Purpose-built new building: Ballarat, Victoria

Jurors enter the new Ballarat Court Complex through a glazed entry past slender columns. Black and white terrazzo pavers lead up a bright timber-lined staircase with dynamic volumes and light wells. A dark interpretive sculptural element referencing Ned Kelly's helmet subtly connects the visitor with local history. The jury assembly room is awash with natural light from cubed timber-lined shafts and a wall of full-height windows to the exterior wall. The white internal walls throughout convey a sense of vibrancy. The amenities are of high quality, clean, comfortable and accommodating.

The jurors proceed to the courtroom either by stair or by lift. The courtroom is coloured in eucalyptus tones and allows reflection of natural light. Access for wheelchair-bound jurors is provided by electronic doors to both the courtroom and the jury room. An empty space within the jury box can accommodate a juror who uses a wheelchair.

Empanelled jurors have direct access to the jury deliberation room which feels spacious, despite its small floor dimensions, due to the tall ceilings and windows that afford a high level of natural light. Whilst the juror lockers are not incorporated into the built structure, they provide ample space for storage of belongings.



Photos (left to right): (1) Ballarat Court Complex entrance; (2) The internal staircase; (3) The jury box; (4) Jury deliberation room.

Site visits of 10 jury facilities in the three states were conducted by members of the research team and an architect between late March and early June 2007. Each site visited lasted approximately one hour. During the visit, the researchers focused on all areas that a juror would experience in the building, in the sequence in which the areas would be encountered, i.e. the main entry, security checkpoint, jury assembly area, courtroom, jury deliberation room and separate jury entrance/exit where present. A summary of information about courts visited is presented in Table 10. In all, three courts were visited in New South Wales, four in Victoria and three in South Australia.


Table 10: Courts visited in each state and region

Facility	Court	Location	Date of construction	Age of last fitout	Building type
NSW					
The King Street Courts 	Supreme	Metropolitan	1827–96	1996 – ongoing	Purpose-built heritage building (conserved and upgraded)
The Downing Centre 	District	Metropolitan	1908, in 1924 converted into Mark Foy's Department store	Converted in 1985 to court building	Adaptively reused heritage building
The Darlinghurst Courthouse 	District	Metropolitan	1826, 1837–44. Alterations in 1886. High Court added in 1922.	Victoria Street Wing added 1963. Various internal upgrades and conservation work.	Purpose-built heritage building (partially conserved and upgraded)
VICTORIA					
Geelong Court Complex 	Magistrates, Supreme	Regional	1992	1992	New purpose-built

Table 10: continued

Facility	Court	Location	Date of construction	Age of last fitout	Building type
VICTORIA					
Ballarat Court Complex 	Local	Regional	2000	2000	New purpose-built
Bendigo Court Complex 	Magistrates, Supreme	Regional	1892–96	2003, neighbouring Post Office adaptively reused to house courtroom	Purpose-built heritage building (partially refurbished)
Melbourne County Courthouse ^a 	District, with some Supreme court sittings.	Metropolitan	2002	2002	New purpose-built
SOUTH AUSTRALIA					
The Sir Samuel Way Building ^b 	District, Supreme	Metropolitan	1916, originally built as a department store for Charles Moore & Co. Ltd	1983	Adaptively reused heritage building
Old Port Augusta courthouse ^c 	District, Supreme	Regional	1884	approx. 1970s	Purpose-built heritage building (not recently refurbished)

Table 10: continued

Facility	Court	Location	Date of construction	Age of last fitout	Building type
SOUTH AUSTRALIA					
New Port Augusta Courthouse ^c	District, Supreme	Regional	2007	2007	New purpose-built
					

Photography: PTW Architects

a: Image taken from <http://www.thelibertygroup.com.au/files>

b: Image taken from: <http://www.courts.sa.gov.au/courts/district/index.html>

c: Data collected in this sample include both the Old Port Augusta Court and the New Port Augusta Court.

The Old Port Augusta court was in the process of relocating to the New Court when this study was undertaken.

Court buildings refurbished or constructed since the early 1990s focus modifications on enhancing the physical aspects of the facilities, the procedural aspects of the trial, and juror comfort and security. Physical improvements include providing equal access for all participants of the court regardless of ability, integrating variable temperature air conditioning and improving the natural ventilation within the building (Zimring, Weitzer & Knight 1982). Access to natural light establishes a sense of time passing and maintains a connection to circadian rhythms (Heschong 1999; Lam 1977). New purpose-built courts try to provide views to outside (Han 2003; Schweitzer, Gilpin & Frampton 2004; Ulrich 1993), or a sense of space beyond, using false windows lit with artificial light where an openable window is not possible (Brager et al. 2004).

Protection from weapons is addressed explicitly by x-ray machines and more security staff, yet the issues of safety and security in their wider physical and psychological sense requires further research and understanding. Security may also be implied by design that affords passive surveillance and multiple secure entry/exit points.

Juror comfort is fostered by improved seating, which is individualised in the courtroom and includes ergonomic chairs in the jury deliberation room (Ingham & Spencer 1997). Kitchen facilities further enhance juror comfort. New or refurbished court buildings include a microwave, instant boiling water and filtered water, and have facilities which are integrated into the joinery. Newly-built courts generally include a greater number of bathrooms and wheelchair accessible bathrooms. Jury boxes and deliberations rooms are an adequate size, considering the number of participants and the length of time spent in a confined space (Bechtel 1977; Rock 1991).

Procedural aspects of the trial are enhanced by providing break-out spaces for jurors, such as separate indoor rooms and, where possible, outdoor spaces for jurors to spend time away from their fellow jurors during deliberations (Ulrich et al. 1991; Ulrich 1993). Purpose-built and refurbished courts provide sufficient writing spaces and amenities for communal deliberation (e.g. white boards, pin boards) and for individual note-taking when court is in session, such as individual seats with side-pivot desks and document holders in front of the seat. New court buildings ensure adequate auditory quality within the courtroom so that all participants are clearly audible, and improved sight lines within the courtroom so that all participants are visible to jurors.

Finally, new purpose-built and recently refurbished court buildings provide visual interest in the architectural joinery and detailing throughout the building, by revealing and enhancing existing heritage features, and paintings and artwork displayed within the building. These court buildings also show sensitivity to cultural differences and the needs of particular user groups.

Assessment of the court facilities and amenities

Each site visit to the courts that were assessed was documented photographically and by means of an objective facilities rating checklist developed by the researchers to include features which the foregoing literature review indicated were likely to influence jury satisfaction (Appendix B).

The checklist itemised aspects of the architecture, built environment and amenities that have previously been documented (Saarinen 1976; Zimring 1982) to influence psychological wellbeing and stress (New South Wales Health 2005). These features included access to natural light (Beauchemin & Hays 1996; Heschong 1999; Lam 1977), quality of ventilation and air (Braeger, Paliaga & de Dear 2004); the quality, accessibility and quantity of amenities and facilities (Reffat & Harkness 2001) (e.g. the cleanliness, privacy and number of bathrooms, extent of kitchen facilities, quality of finishes on tapware, fittings). Furthermore, the ability for the jury to control their environment was considered, e.g. control over the air conditioning, temperature, level of both natural and artificial light (Ingham & Spencer 1997; Zimring, Weitzer & Knight 1982), and of views both in and outside the jury rooms (Han 2003; Herzog & Kropscot 2004).

The areas of the court buildings that were rated by the researchers included the jury assembly room (15 features), the courtroom (11 features) and the jury deliberation room (16 items). In each room, features such as accessibility to jurors, the availability of space, the access to natural light and quality of natural light available, the ventilation, air conditioning, acoustics, comfort of seating and visual interest were assessed. The researchers noted their observations on the checklist for each item, using a five-point Likert scale that ranged from 'not provided/no agreement' to 'best practice/complete agreement'. Where there were disagreements about the rating, these items were discussed by the research team members and a consensus rating was reached and recorded.

Table 11 provides a summary of the ratings provided by researchers of the facilities in the 10 courts visited. These analyses revealed that the quality of the working environment afforded to jurors across New South Wales, Victoria and South Australia varies considerably.

Juror perceptions of court buildings

To gather information about juror perceptions of the different court buildings in which they served their period of jury duty, questions about juror's subjective impressions of the court facilities and environment were included in the surveys administered to empanelled and non-empanelled jurors in the three target states. (More extensive details about the surveys are presented in section 'Survey results'.)

First, a series of questions sought information about juror impressions of the assembly room and waiting room in which jurors spend time before they are assigned to a courtroom for empanelment. Specific information was gathered by means of individual items regarding the comfort of the waiting room, the availability of natural light in that area, its privacy, the provision of facilities for jurors to work while waiting, and access to private toilet facilities. Jurors indicated the extent to which they were satisfied with each of these amenities using a five-point Likert scale with endpoints 'very satisfied' and 'not at all satisfied'. All jurors who reported for jury duty were invited to complete this series of questions, i.e. both empanelled and non-empanelled jurors.

Next, information was gathered from empanelled jurors who were assigned to serve on a particular trial regarding their satisfaction with the courtroom and jury room facilities in which they performed these duties. Individual questions pertinent to the courtroom and jury room facilities were similarly rated on a Likert scale. Two questions inquired about the degree of satisfaction among jurors with courtroom, i.e. its general comfort and the availability of water for jurors to drink during court sessions. Two questions sought information about the jury room, namely its comfort and the availability of natural light in the jury room. Finally, two questions sought information about the availability of self-catering facilities and the quality of the food and beverages provided for jurors during their period of empanelment.

In addition, all jurors reported their overall satisfaction with the experience of jury service. Scores obtained from responses to this question providing jurors' subjective ratings of different court buildings were compared to determine which facilities and environments produced the most satisfied jurors. These scores were also compared with the objective ratings of the facilities generated by the researchers and architects, to assess the degree of correspondence between the lay jurors and the experts regarding the facilities and the extent to which the comfort of the facilities contributes to overall satisfaction with the jury experience.

Because a smaller number of participants in the jury pool were empanelled, relatively small sample sizes were obtained from some of the courts where only a few juries were empanelled during the period that data collection was under way. Thus, not all jury rooms and buildings

could be assessed reliably. For example, the King Street Supreme Court (NSW) and Bendigo Court Complex (Vic) are both landmark heritage buildings, and both are gradually being refurbished to meet the demands of technological advances and to provide equity of access for all participants of the court. Anecdotally, court officers and jury administrators noted that jurors tend to enjoy their experience at the heritage King Street Court in Sydney, New South Wales, as its atmosphere conveys the feeling that jurors are part of something important. This sentiment may be attributed to participation in the significant decisions and procedures of the Supreme Court, the sentiment may also derive in part from the civic importance of the building itself and the high quality of the finishes throughout the building. Unfortunately, the number of juror respondents from these two courts did not allow for meaningful comparisons to be made assessing differences in juror satisfaction across these courts. The number of completed survey responses gathered during the period of data collection in this study was too low to tease apart these issues and report meaningful and reliable results specific to the King Street Court and Bendigo Court Complex facilities.

The buildings from which a sufficiently large sample of responses was obtained for reliable analyses were:

- purpose-built heritage building – King Street and Darlinghurst Court, Sydney, New South Wales. Note that survey responses from jurors who completed their service in the King Street and Darlinghurst Court buildings were combined to provide ratings of heritage purpose-built court buildings, as juror perceptions of these courts buildings were similar.
- adaptively reused buildings – Sir Samuel Way Building, Adelaide, South Australia and the Downing Centre, Sydney, New South Wales
- new purpose-built courts – Melbourne County Court, Melbourne and the Geelong Court and Ballarat Court in regional Victoria. Note that survey responses from jurors who completed their service in the Geelong and Ballarat buildings were combined to provide ratings of regional new purpose-built court buildings, as juror perceptions of these courts buildings were markedly similar.

Juror satisfaction with jury assembly rooms

Generally, Victorian jurors attending the new purpose-built Geelong and Ballarat courts were the most satisfied with the quality of the jury waiting room facilities: about three-quarters of jurors were satisfied with the comfort (74%) and amount of natural light in the waiting area (73%), while about two-thirds were satisfied with the privacy of the waiting area and the facilities available to work while they were waiting (67% and 60% respectively). Jurors attending the new Melbourne County Court were somewhat less satisfied with the comfort of the waiting room facilities (63%) than jurors from Geelong and Ballarat, although they were the most satisfied with the availability of private toilet facilities (85%). Jurors from the adaptively reused Downing Centre and the purpose-built heritage Darlinghurst and King Street courts in New South Wales were generally the least satisfied with the quality and comfort of the assembly and waiting room facilities, with as little as 17 percent of the King Street and Darlinghurst jurors reporting satisfaction with the comfort of the jury waiting room.

Table 11: Court rating scale – New South Wales

Criteria	Rating				
	1	2	3	4	5
Jury deliberation room					
Accessibility	+		■		○
Space		■		+	○
Natural light (access and quality)		■		+	○
Artificial light (quality and ability to control levels)			■	+	○
Natural ventilation (access and quality)		+	■		○
Air conditioning (quality and ability to control levels)			■	+	○
Design features to minimise unwanted noise		■	+		○
Provide secure storage for personal belongings	+			■	○
Seating comfortable for long periods of time			+	■	○
Privacy from outside					○
Provide deliberation materials			■	+	○
Provide kitchen facilities			■	+	○
Views outside		■	+		○
Direct access to outdoor space (garden or balcony)		+	■		○
Provide adequate number of clean amenities		■		+	○
Visually interesting		■		+	○
Jury assembly room					
Accessibility	+			■	○
Space		+	■		○
Natural light	■			+	○
Artificial light		■	+		○
Natural ventilation		■		+	○
Air conditioning			■	+	○
Design features to minimise unwanted noise		■	+		○
Provide storage for personal belongings	+	■		○	
Seating comfortable for long periods of time		+		■	○
Privacy from outside				+	○
Visually interesting		■	+		○
Provide entertainment/workspace			○	+	■
Provide kitchen facilities			■	+	○
Provide adequate number of clean amenities		+	■		○
Provide break-out space		■			○
Courtroom					
Accessibility	+	■			○
Space		■			○
Natural light		■			○
Artificial light		■		+	○
Natural ventilation		■	○		+
Air conditioning			■	+	○
All participants/evidence/visual aids are visible and audible to jury			■	+	○
Seating comfortable for long periods, note-taking easy			■	+	○
Provide direct access to jury room	■			+	○
Visually interesting			■		○
Views outside	■	+		○	

Jury facilities – NSW

- +
 -
 -
- Darlinghurst Courthouse
Downing Centre
King Street Courts

Rating scale

- 1 = Virtually no agreement, not provided at all
- 2 = Hardly any agreement, or provided but poor quality and not consistent
- 3 = Some agreement, provided, adequate
- 4 = Strong agreement, provided, good quality
- 5 = Complete agreement, best practice

Table 11: Court rating scale – Victoria

Criteria	Rating				
	1	2	3	4	5
Jury deliberation room					
Accessibility		○		+	■ □
Space		○		+	■ □
Natural light (access and quality)			○	+	■ □
Artificial light (quality and ability to control levels)		○		+	■ □
Natural ventilation (access and quality)	□ + ■		○		
Air conditioning (quality and ability to control levels)		○		□ + ■	
Design features to minimise unwanted noise	○			+	■ □
Provide secure storage for personal belongings	○			□ + ■	+
Seating comfortable for long periods of time	○			□ + ■	
Privacy from outside			○	□ + ■	+
Provide deliberation materials		○		+	■ □
Provide kitchen facilities		○			■ + □
Views outside				○	+
Direct access to outdoor space (garden or balcony)	+	■ □ ○			
Provide adequate number of clean amenities		○		+	■ □
Visually interesting				+	□ ■ ○
Jury assembly room					
Accessibility		○		+	■ □
Space				+	■ □ ○
Natural light				○	+
Artificial light			○	+	■ □
Natural ventilation	+	■	○		□
Air conditioning			○	+	■ □
Design features to minimise unwanted noise		○		+	■ □
Provide storage for personal belongings	○				■ + □
Seating comfortable for long periods of time		○		+	■ □
Privacy from outside				○	■ + □
Visually interesting				+	○ ■ □
Provide entertainment/workspace		○			■ + □
Provide kitchen facilities	○				■ □ +
Provide adequate number of clean amenities		○			+
Provide break-out space					■ + ○ □
Courtroom					
Accessibility		○		+	■ □
Space			+		■ □ ○
Natural light			+		■ □ ○
Artificial light			+	○	■ □
Natural ventilation	+	■ □		○	
Air conditioning			○	+	■ □
All participants/evidence/visual aids are visible and audible to jury			○	+	■ □
Seating comfortable for long periods, note taking easy		○		+	■ □
Provide direct access to jury room			○		+

Jury facilities – Victoria

- Melbourne County Court
- +
- Geelong Law Courts
- Bendigo
- Ballarat

Rating scale

- 1 = Virtually no agreement, not provided at all
- 2 = Hardly any agreement, or provided but poor quality and not consistent
- 3 = Some agreement, provided, adequate
- 4 = Strong agreement, provided, good quality
- 5 = Complete agreement, best practice

Table 11: Court rating scale – South Australia

Criteria	Rating				
	1	2	3	4	5
Jury deliberation room					
Accessibility		+	■		○
Space		+	■	○	
Natural light (access and quality)			+	■	○
Artificial light (quality and ability to control levels)		+		■	○
Natural ventilation (access and quality)	○	■	+		
Air conditioning (quality and ability to control levels)			+	■	○
Design features to minimise unwanted noise		+	○	■	
Provide secure storage for personal belongings	+	○		■	
Seating comfortable for long periods of time		+		■	○
Privacy from outside	+		■	○	
Provide deliberation materials		+		■	○
Provide kitchen facilities		+		○	■
Views outside		+	■		○
Direct access to outdoor space (garden or balcony)		■	+		○
Provide adequate number of clean amenities		+		■	○
Visually interesting		+	■		○
Jury assembly room					
Accessibility		+		■	○
Space		+	○	■	
Natural light			+	■	○
Artificial light		+		■	
Natural ventilation	■	○			
Air conditioning		+		■	○
Design features to minimise unwanted noise			+	■	○
Provide storage for personal belongings	+	○	■		
Seating comfortable for long periods of time	+		■	○	
Privacy from outside			+	■	○
Visually interesting		+	■		○
Provide entertainment/workspace	+	○			■
Provide kitchen facilities		+	■	○	
Provide adequate number of clean amenities			+	■	○
Provide break-out space		+		■	○
Courtroom					
Accessibility	+		■		○
Space				○	+
Natural light				■	+
Artificial light		+		■	○
Natural ventilation	■	○			
Air conditioning	+			■	○
All participants/evidence/visual aids are visible and audible to jury			+		○
Seating comfortable for long periods, note taking easy	+			○	■
Provide direct access to jury room				+	■
Visually interesting			+	○	■
Views outside	+			■	○

Jury facilities – South Australia

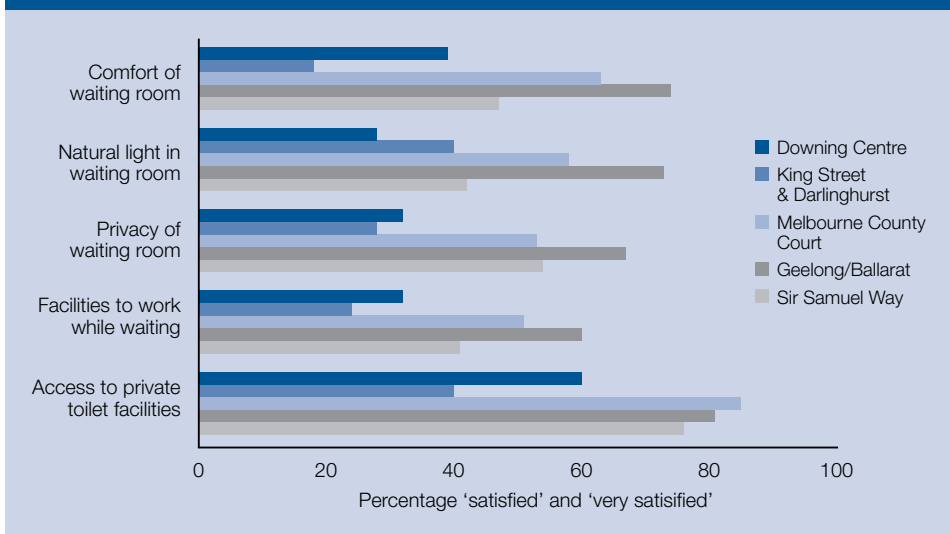
- + Old Port Augusta
- Sir Samuel Way Building
- New Port Augusta

Rating scale

- 1 = Virtually no agreement, not provided at all
- 2 = Hardly any agreement, or provided but poor quality and not consistent
- 3 = Some agreement, provided, adequate
- 4 = Strong agreement, provided, good quality
- 5 = Complete agreement, best practice

Jurors attending the new purpose-built Melbourne County, Geelong and Ballarat Courts expressed significantly more satisfaction with the quality and comfort of the courts' assembly and waiting room facilities, compared with jurors attending the adaptively reused Sir Samuel Way Building and Downing Centre, and the heritage purpose-built King Street and Darlinghurst courts [$F(4, 1134)=58.39$, $p<0.05$; $\eta^2=0.17$]. Differences in the degree of juror satisfaction between the Sir Samuel Way Building, Downing Centre and Darlinghurst Court were statistically significant (see Figure 2). Differences in the levels of juror satisfaction between the three Victorian courts were not statistically significant.

Figure 2: Juror satisfaction with the jury assembly room by court building (percentage)



Satisfaction with the courtroom and jury room facilities

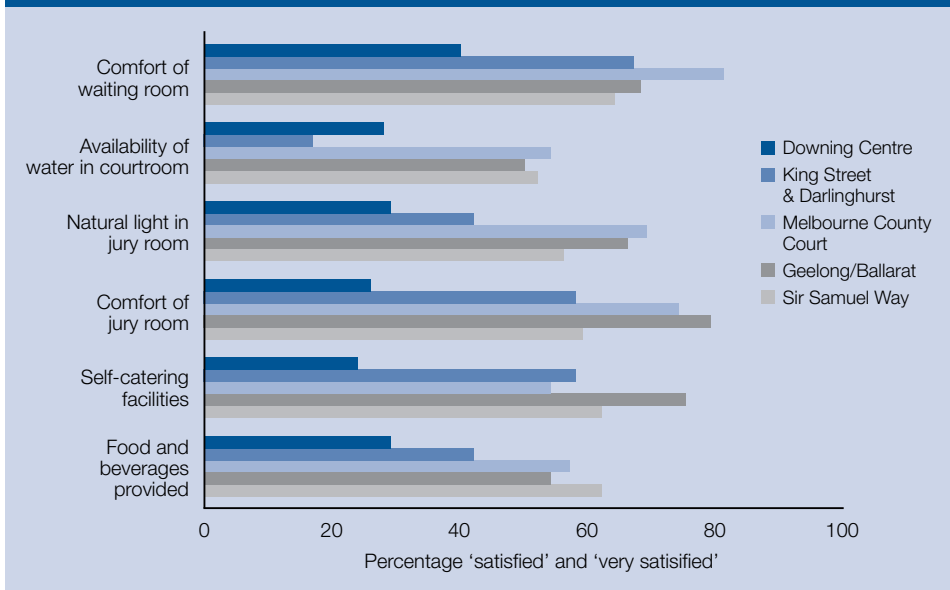
Empanelled jurors expressed their views on the comfort of both the courtroom and the jury room (Figure 3). On both items, Victorian jurors attending the new purpose-built buildings reported the most satisfaction with the courtroom and jury room facilities, while New South Wales jurors attending the adaptively reused Downing Centre and the heritage King Street and Darlinghurst courts were the least satisfied. Overall, jurors from the new purpose-built Geelong and Ballarat courts, and the adaptively reused Sir Samuel Way Building were most satisfied with the availability of water for jurors in the courtroom (50% and 52% respectively).

Consistent with the high ratings from the objective scores gathered during the observational analysis by experts, jurors attending the Geelong and Ballarat courts were the most satisfied with the availability and quality of self-catering facilities (75%). Jurors from the Sir Samuel Way Building and the Melbourne County Court expressed the greatest degree of satisfaction with physical comforts in the form of the food and drink provided (62% and 57% respectively),

jurors from the Sir Samuel Way Building and the Geelong/Ballarat courts were most satisfied with the opportunity to self-cater (62% and 75% respectively), while Downing Centre jurors expressed the least satisfaction with the catering provided and self-catering facilities (29% and 25% respectively).

Jurors attending the new-purpose built Victorian courts and the adaptively reused Sir Samuel Way Building in South Australia expressed significantly more satisfaction with the quality and comfort of the courtroom [$F(4,431)=10.66$, $p<0.05$; eta squared=0.09], jury room [$F(4,438)=24.03$, $p<0.05$; eta squared=0.15] and catering facilities [$F(4,433)=13.58$, $p<0.05$; eta squared=0.08], compared with jurors from the Downing Centre and Darlinghurst courts. However, New South Wales jurors attending the heritage purpose-built King Street and Darlinghurst courts were not significantly less satisfied with the courtroom and jury room facilities than were jurors attending the adaptively reused Downing Centre.

Figure 3: Empanelled jurors' satisfaction with courtroom and jury room facilities, by court building (percentage)



These results reflect concordance between lay jurors' subjective ratings of the facilities and the objective ratings derived from experts' observational analyses of the same facilities. Both sets of measures, independently gathered, confirmed that the new purpose-built court buildings in Victoria and the adaptively reused Sir Samuel Way Building in South Australia received the highest ratings for the comfort and quality of jury facilities, while the Downing Centre, King Street and Darlinghurst courts in New South Wales received the lowest ratings for its jury facilities and amenities.

Satisfaction with overall jury experience

Jurors attending the new purpose-built Melbourne County Court, Geelong and Ballarat courts were the most satisfied with their overall experience of jury service (67% and 64% respectively), compared with jurors from the adaptively reused Sir Samuel Way Building in South Australia (56%) and the Downing Centre (46%) in New South Wales. Jurors attending the purpose-built heritage King Street and Darlinghurst courts expressed significantly lower levels of satisfaction with their overall jury experience (30%) compared with jurors attending the four other courts included in this analysis [$F(4, 1090)=30.35$, $p<0.05$; $\eta^2=0.10$]. The results showed that, although subjective ratings of juror satisfaction regarding the quality of the physical environment reflected the same pattern as the objective was derived from the objective ratings by experts who conducted the observational analysis, jurors' perceptions of these facilities were not significantly associated with their overall satisfaction with their jury experience.

Interstate comparisons between courts

To further examine the influence of building type on jury satisfaction with the jury experience, and the extent to which lay jurors are sensitive to subtle variations in facilities provided within the same style of court building, an interesting interstate comparison was conducted between the Sir Samuel Way Building in Adelaide, South Australia and the Downing Centre in Sydney, New South Wales. Both are metropolitan District Courts housed in buildings refitted in the 1980s from department stores into courthouses. Results indicated that jurors attending the Sir Samuel Way Building were significantly more satisfied with the comfort and quality of the waiting room facilities [$F(1, 473)=12.87$, $p<0.01$, $\eta^2=0.02$], and the comfort of the courtroom and jury room facilities [$F(1, 168)=10.83$, $p<0.01$, $\eta^2=0.05$] and [$F(1, 173)=27.37$, $p<0.01$, $\eta^2=0.13$] respectively] compared with jurors attending the Downing Centre. Jurors attending the Sir Samuel Way Building also expressed greater satisfaction with the food and drink provided [$F(1, 170)=14.20$, $p<0.01$, $\eta^2=0.08$] and the self-catering facilities [$F(1, 171)=28.36$, $p<0.01$, $\eta^2=0.14$], compared with Downing Centre jurors. These results derived from the subjective ratings of the lay jurors are consistent with the observational analyses and ratings provided by the experts, as expert ratings of the facilities at the Sir Samuel Way Building were higher on most dimensions than those for the Downing Centre.

However, these differences with respect to satisfaction with the jury facilities and amenities did not produce a significant difference in jurors' overall satisfaction with their jury experience at these courts. In other words, jurors attending the Sir Samuel Way Building did not express significantly greater satisfaction with their overall experience, compared with jurors attending the Downing Centre.

Conclusions and recommendations

In all states, over the past thirty years there have been significant improvements to the facilities provided for jurors. These are manifested both in the refurbishment of existing court facilities (e.g. The King Street Courts and the Bendigo Courthouse) and in the construction of new court buildings (e.g. Port Augusta Court and Ballarat Court). The facilities available to jurors varied greatly within each state, and the quality and amenity were not significantly correlated with the age of the building or the date of its refurbishment.

The results of the juror surveys suggest that the comfort and quality of the physical environment may have important implications for juror satisfaction. Although jurors distinguish between satisfaction with physical facilities and their overall satisfaction with the jury experience, the lowest ratings of overall satisfaction were produced by jurors who also rated the physical amenities and facilities as least satisfactory.

The researchers acknowledge that some of the facilities visited were built or refurbished 30 to 50 years ago, during times when standards for both amenity and accessibility were considerably less stringent than they are today. It is not surprising that buildings that were once adequate and accommodating do not meet today's standards of best practice. Notably, a limited number of courtrooms in each state were visited and the purpose of the site visits conducted was primarily to assess the jury assembly rooms and jury deliberation rooms. Therefore, these observations are not representative of all court buildings in New South Wales, Victoria and South Australia. In the future, to provide a more accurate understanding of the broad spectrum of juror facilities within and across the states, a more comprehensive selection of facilities should be studied and a wider range of court buildings visited.

Facilities that conformed to best practice in these areas were awarded high scores on all the above dimensions. Best practice juror facilities are evident in a high-quality finish of the overall environment, high quality and adequate size of facilities provided, facilities which are highly accessible to all jurors, and where jurors exert a high level of control over their environmental conditions.

Survey results

Using a quasi-experimental design, a survey was conducted in New South Wales, Victoria and South Australia to investigate community and juror perceptions about jury service. The purpose of examining the perceptions and knowledge of potential jurors and jurors regarding jury duty was to identify any barriers to jury participation and factors that contribute to jury satisfaction, which might support recommendations to increase juror participation and satisfaction and recommendations for education about jury service.

One version of the survey questionnaire was completed by jury-eligible citizens in the community who had never attended jury service or had avoided it. The purpose of surveying this group was to uncover information about factors that may discourage or deter jurors from service and the extent to which myths and misconceptions about jury duty inhibit citizens from fulfilling their role as jurors. Questions for these non-jurors addressed communications with jurors prior to attendance at court, the perceived fairness of jury procedures, participants' level of confidence in aspects of the jury trial system, how keen they were to serve as a juror and their level of support for current exemption categories. The survey also asked participants to agree or disagree with a number of attitudinal statements. The majority of survey responses were recorded on a five-point Likert scale, ranging from one (not at all confident/strongly disagree) to five (very confident/strongly agree), with a 'neither agree nor disagree' option at the midpoint of the scale. This questionnaire examined the perceptions and knowledge of potential jurors regarding jury duty and aimed to identify any barrier to jury participation and educational needs regarding jury service. In all, there were 69 questions (Appendix C). Completing the survey took approximately 10 minutes.

A second version of the questionnaire was administered to citizens who attended court on jury duty but were never empanelled to serve on a trial (non-empanelled jurors). This survey included all of the questions addressed to the non-jurors, plus additional questions regarding the jury orientation processes, the quality of court facilities and amenities in the jury assembly room, the terms and conditions of jury service and the perceived fairness of jury procedures. The survey questions probed jurors' level of satisfaction with the physical environment, their treatment by jury administration staff, juror remuneration, procedures to obtain exemptions and deferrals, their confidence in the criminal justice system, and previous experience with the courts. In all, there were 74 questions on this survey. The pen-and-paper questionnaire was administered when jurors completed their jury duty and took 10–15 minutes to complete (Appendix D).

The third version of the survey was administered to jurors who served on a trial (empanelled jurors), regardless whether the trial ended with a hung jury, a mistrial, or a verdict. The empanelled jurors responded to the same questions as the non-jurors and non-empanelled jurors and in addition, questions specific to the empanelment and trial process. Empanelled jurors were asked about their knowledge of juror support services, their understanding of the trial process, and their satisfaction with information provided about how to deliberate and ask questions. The questions posed to empanelled and non-empanelled jurors assessed how the management of prospective and empanelled jurors influences their level of

satisfaction, and aimed to identify optimal jury management procedures as well as sources of juror stress and dissatisfaction. In all, there were 126 questions on the post-service jury survey. The pen-and-paper questionnaire was administered when jurors completed their jury duty and took 15–20 minutes to complete (Appendix E).

This research design permitted a comparison of responses between states to a core set of questions from the three groups of participants (non-jurors, non-empanelled jurors and empanelled jurors) who were distinguished by the nature and extent of their experience with the jury management system. These categories of jurors were assessed separately to investigate whether the experience of being empanelled and serving on a jury differentially influences juror satisfaction and perceptions of the criminal justice system. In addition, this approach permitted comparisons between non-empanelled jurors and empanelled jurors within each state based on responses to questions specific to the jury experience. Responses to the survey questions from these three groups allowed us to evaluate the relationship between juror management practices and juror satisfaction in each state.

Response rates

Approximately 7,500 community participants opened an email invitation to participate in the survey. A total of 830 (11%) chose not to proceed past the consent form, leaving a sample of 6,670 participants. Total attrition from the 6,670 participants was 29 percent; four percent withdrew voluntarily before completion, and the remaining 25 percent did not meet eligibility criteria for the survey (Australian citizens, over 18 years of age, no previous jury experience, or past involvement in a criminal case). In sum, the response rate for the community survey was 85 percent.

Completed surveys were received from jurors on 18 New South Wales juries, with an approximate response rate of 72 percent (assuming each jury consisted of 12 persons at the completion of trial). The response rate in Victoria was similar, with 71 percent of jurors on 37 juries returning a completed survey. South Australia achieved a slightly higher response rate, with 81 percent of 16 juries completing the survey.

Precise computation of response rates for the non-empanelled jurors is infeasible, as the jury administration staff did not record the number of questionnaires distributed in the jury assembly rooms. Of the 605 surveys issued to courts in New South Wales, 53 percent were returned. Victorian courts returned 63 percent of the 750 surveys distributed in that state, and 73 percent of the 350 surveys provided to South Australian courts were completed. These figures are conservative and underestimate true response rates, as they do not take into account questionnaires that were not distributed by the administrative staff within the data collection period.

Participants

Details about the participants' demographic characteristics are presented in Table 12.

A sample of community participants was canvassed by a market research company in all three states in December, 2006, and invited to complete the survey questionnaire online. Overall, a total of 4,765 responses were obtained, with 33 percent in New South Wales, 32 percent in Victoria and 35 percent in South Australia. Most of the respondents were drawn from metropolitan areas (70%). More participants were female (59%) than male (41%). The ages of participants were evenly distributed across the age groups, with approximately 20 percent in each group, and ranged in age from 18 to over 65 years.

Empanelled and non-empanelled jurors were surveyed in District Courts, County Courts and Supreme Courts in both metropolitan and regional areas. The surveys were administered by court staff between March and May 2007. Jurors received a letter explaining the project aims, a letter from the Attorney-General of the juror's state granting permission to conduct the study, a letter from the Chief Justice of the juror's state encouraging participation, a consent form, and the survey (copies of these documents are marked Appendices D to K). Jurors returned their signed consent forms and completed surveys to separate boxes to ensure anonymity of responses.

A total of 1,048 non-empanelled jurors (30% in NSW, 45% in Vic and 24% in SA) and 628 empanelled jurors (25% in NSW, 50% in Vic and 25% in SA) completed the survey at the conclusion of their jury service. The majority of non-empanelled and empanelled jurors served in metropolitan courts. There tended to be more female respondents than male respondents, with the ages of participants ranging from 18 to over 60 years. Less than one percent of empanelled jurors self-identified as of Aboriginal or Torres Strait Islander descent. Three percent of empanelled jurors came from a non-English language background. Non-empanelled and empanelled jurors were most likely to describe their occupational duties as 'professional' (34%) and 'administrative or clerical' (15%), and to report that their highest educational qualification was 'high school' (36%) or 'university degree' (26%).

Table 12: Participant characteristics for jury-eligible citizens, non-empanelled and empanelled jurors

	Jury-eligible citizens		Non-empanelled jurors		Empanelled jurors	
	Percent	Number	Percent	Number	Percent	Number
State						
NSW	32.9	1,567	30.3	318	24.8	156
Vic	31.9	1,518	45.4	476	50.5	317
SA	35.2	1,680	24.2	254	24.7	155
Metropolitan/regional						
Metropolitan	69.5	3,313	65.9	691	70.4	442
Regional	29.8	1,421	34.1	357	29.5	185
Level of court						
District/County Court	–	–	86.5	906	84.2	529
Supreme Court	–	–	13.5	142	15.6	98
Gender						
Male	40.9	1,948	29.3	307	33.0	207
Female	59.1	2,817	35.9	376	35.7	224
Unknown	–	–	34.8	365	31.4	197
Age group (in years)						
18–29	20.6	979	13.9	146	18.6	117
30–39	23.5	1,120	15.6	163	15.9	100
40–49	22.3	1,062	22.5	236	26.4	166
50–59	18.9	900	21.8	228	21.0	132
60+	14.7	704	14.2	149	12.8	80
Ethnic background						
ATSI descent	0.9	42	0.9	9	0.5	3
Non-English language background	12.8	612	0.9	9	3.0	19
Highest educational qualification						
Less than high school	4.0	191	3.5	37	3.0	19
High school	33.4	1,590	30.1	315	36.0	226
Trade certificate or equivalent	14.9	711	15.6	164	14.5	91
Diploma or equivalent	19.3	918	13.7	144	15.0	94
University degree	28.4	1,355	25.4	266	26.1	164
Occupation						
Professional	26.5	1,261	34.0	356	34.7	218
Administrative or clerical worker	18.3	874	13.5	76	15.0	94
Retiree or pensioner	11.6	555	9.1	95	5.9	37
Tradesperson	4.1	195	7.3	76	10.7	67
Labourer or related worker	3.1	147	7.6	80	6.7	42
Home duties	9.7	462	5.3	56	6.2	39
Self-employed	7.6	360	4.7	49	5.7	36
Casual employee	4.6	221	4.1	43	6.1	38
Student	4.3	204	1.5	16	1.4	9
Unemployed	1.8	87	1.0	11	1.6	10
Total (6,441)		4,765		1,048		628

Community perceptions of jury service

Results of the community survey demonstrated that the community holds generally positive views about jury service and expressed a willingness to participate. However, some barriers to participation were identified that make some citizens reluctant to serve as jurors.

Two out of three people who have never served on a jury would like to serve on one, and a majority of these reported their interest in participation as ‘keen’ or ‘very keen’ (Table 13). On the other hand, about one in five (19%) of those who have never served indicated that they would avoid jury duty for personal reasons, while 14 percent cited financial reasons for avoiding this responsibility. Those who have never had contact with criminal courts were the least likely to want to serve (61%), while those who have participated in court processes as victims (74%), witnesses (75%) or observers (75%) showed higher levels of interest. Persons with no court experience were significantly less likely to be keen on serving on a jury, compared with people who had previous experience with the courts ($t(2,4763)=9.98$, $p<0.05$; $\eta^2=0.02$). An interesting finding was that the most enthusiastic group appeared to be former defendants (53%), although this group was also the most likely to cite financial or personal constraints on participation.

Table 13: Community interest in jury service, by type of court experience (percentage ‘agree’ and ‘strongly agree’)

Willingness to serve	Victim	Defendant	Witness	Observer	Worked in court	No experience	All jury-eligible citizens
Would like to serve on jury	74	71	75	75	72	61	65
Keen or very keen to take part	49	53	48	48	50	37	41
Would avoid duty due to financial reasons	11	17	11	10	11	15	14
Would avoid duty due to personal reasons	15	22	18	16	17	21	19
<i>Number of respondents (jury-eligible persons)</i>	285	129	334	664	176	3,177	4,765

When it came to responding to the actual demand for jury duty rather than a hypothetical interest, the picture was equally mixed. Forty percent of community participants who had previously been summoned for jury duty reported claiming an exemption or seeking deferral, while 13 percent notified the relevant jury management official that they were ineligible or

disqualified (Table 14). Work commitments and care of dependents were the two most frequently reported reasons for avoiding immediate service. Note that due to the survey's deliberate exclusion of participants who had previously served as jurors, the sample may overrepresent participants who have avoided jury duty. Nevertheless, these results indicated the difficulties these citizens faced in attending court for jury duty.

Table 14: Jury-eligible citizens' reasons for avoiding jury duty, by state (percentage affirmative)

Reason for avoiding jury duty	NSW	Vic	SA	All states
Ineligible or disqualified	12	15	15	13
Claimed exemption or deferral	38	43	45	40
Ignored summons	1	0	2	1
Reasons claimed for exemption or deferral ^a				
<i>Care of dependants</i>	27	19	16	23
<i>Work commitments</i>	30	31	34	31
<i>Study</i>	5	6	5	5
<i>Holiday plans</i>	5	5	0	4
<i>Loss of income</i>	6	6	7	6
<i>Health</i>	14	11	11	12
<i>Conscientious objection</i>	0	2	0	1
<i>Other</i>	22	27	41	26
<i>Number of respondents</i>	702	622	98	1,422

a: Although participants could endorse multiple reasons for an exemption or deferral, only 2 percent of respondents gave multiple reasons for their application for exemption or deferral

Although approximately one-third of the citizens surveyed had received written notices from the courts in their jurisdiction, this contact with the courts did not necessarily leave them better informed about options to defer jury service. To determine whether lack of information about deferral options is a potential barrier to jury participation, citizens were asked a direct question ('Can you postpone jury duty?') to discern the accuracy of their perceptions regarding this available procedure. Results revealed that most citizens in Victoria and South Australia are unaware that they may defer jury duty on grounds of personal or work difficulties (Table 15); only 24 percent of Victorians answered correctly and 19 percent of South Australians. In New South Wales, where postponement of jury service is not an option, only eight percent of community members answered correctly. Most telling is the finding that 76 percent of respondents in all states answered 'I don't know' to this question.

Table 15: Jury-eligible citizens' knowledge of options to postpone jury service, by state (percentage)

Can you postpone jury duty?	NSW	Vic	SA	All states
Yes	15	24	19	20
No	8	4	2	5
Don't know	77	72	79	76
<i>Number of respondents</i>	<i>1,567</i>	<i>1,680</i>	<i>1,518</i>	<i>4,765</i>

Most citizens believed that the average length of jury duty was three to five days (Table 16). In South Australia, a juror remains on jury duty for one month, reflected in the somewhat longer time expectations among South Australian respondents; although only 15 percent of the South Australian community sample correctly identified one month as the duration of jury service in that state.

Table 16: Jury-eligible citizens' perceptions of the duration of jury duty, by state (percentage)

Duration of jury duty	NSW	Vic	SA	All states
Less than one day	5	5	2	4
1–2 days	28	28	13	23
3–5 days	43	50	35	43
2 weeks	17	12	24	17
3 weeks	4	3	7	5
1 month	3	2	15	6
More than 1 month	1	1	4	2
<i>Number of respondents</i>	<i>1,567</i>	<i>1,680</i>	<i>1,518</i>	<i>4,765</i>

Preparing for jury duty

As was noted in section 'Assessment of jury facilities', potential jurors experience their first contact with the jury administration system through a questionnaire or summons received in the mail. This is accompanied by information regarding their future role and the criteria for eligibility, exemptions and deferrals. Overall, citizens expressed a high degree of satisfaction with these pre-service communications. More than three out of four potential jurors were 'satisfied' or 'very satisfied' with the amount of notice given (70%), the information provided with the notice (74%) and the helpfulness of jury office staff in answering preliminary enquiries (77%) (Table 17). When the day for jury duty arrived, satisfaction levels were even higher, with approximately 85 percent satisfied or very satisfied with the way they were treated on arrival and the information they were given about the role of jurors (Table 17).

Table 17: Juror satisfaction with orientation (percentage 'satisfied' and 'very satisfied')

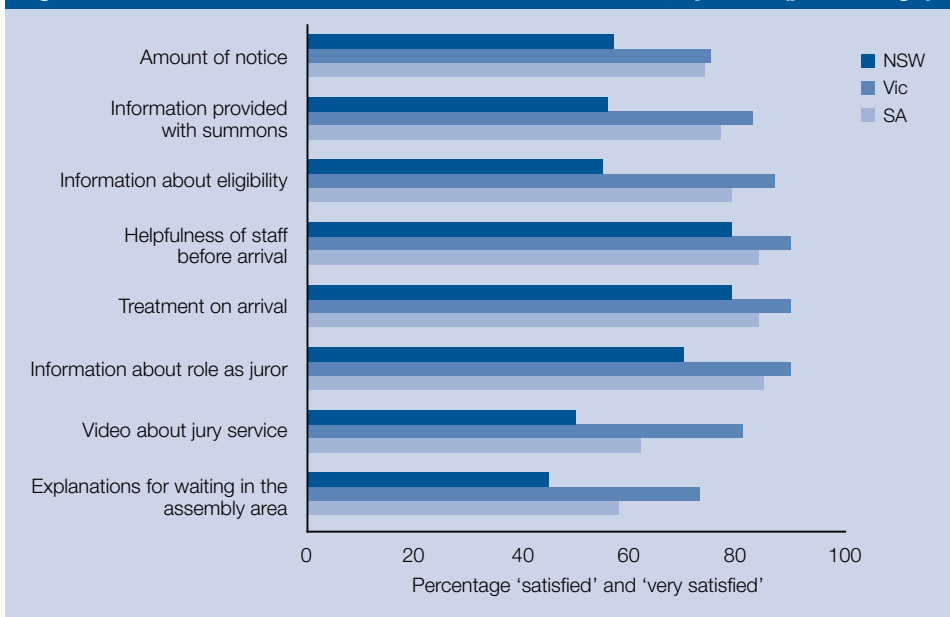
Information about jury service	Non-empanelled jurors	Empanelled jurors	All jurors
Amount of notice	72	66	70
Information provided with the summons	75	74	74
Information about eligibility	77	77	76
Helpfulness of staff before arrival	76	79	77
Treatment on arrival	86	85	85
Information about role as juror	84	83	84
Video about jury service	69	66	68
Explanations for waiting in the assembly area	62	60	61
<i>Number of respondents</i>	<i>1,016</i>	<i>617</i>	<i>1,633</i>

Empanelled and non-empanelled jurors were equally satisfied with most of the information and orientation provided, although on average, empanelled jurors were slightly less satisfied with the orientation information about jury service. This finding suggested that empanelled jurors would appreciate more extensive explanations about what is expected of them as jurors and their role following empanelment.

Comparisons of satisfaction levels among the three states revealed that jurors in Victoria and South Australia were more satisfied than jurors in New South Wales with the information provided in advance of jury service and with the orientation (Figure 3).

Jurors in New South Wales were significantly less satisfied than jurors in Victoria or South Australia with the amount of notice before they were required at court [$F(2,1648)=34.43$, $p<0.01$; eta squared=0.04], the information provided with the summons [$F(2,1634)=69.00$, $p<0.01$; eta squared=0.08], the information about eligibility for jury duty [$F(2,1628)=91.70$, $p<0.01$; eta squared=0.10] and the information they received about their role as a juror [$F(2,1625)=47.70$, $p<0.01$; eta squared=0.06]. Satisfaction with the orientation videotape ranged from 52 percent in New South Wales to 82 percent in Victoria, and satisfaction with explanations for why jurors had to wait in the assembly room ranged from 47 percent in New South Wales to 74 per cent in Victoria (Figure 4). These results demonstrated that jurors in New South Wales and South Australia were significantly less satisfied with the orientation video [$F(2,1621)=118.81$, $p<0.01$; eta squared=0.13] and the explanations for delays in the assembly room [$F(2,1620)=55.12$, $p<0.01$; eta squared=0.06], than were Victorian jurors.

Figure 4: Satisfaction with information and orientation, by state (percentage)



Overall, these results revealed that the information and orientation processes provided to potential jurors were acceptable to them, although jurors in New South Wales were less satisfied than jurors in Vic and South Australia. However, the human contact with jury office staff was particularly appreciated by jurors in all states. Jurors were particularly satisfied with the helpfulness of jury staff before arrival (77%) and the way they were treated by jury staff on arrival (85%).

The jury environment

The physical environment which jurors experience was a substantial contributor to comfort and general satisfaction with the experience of jury service. The expert evaluation of the different types of court buildings and court locations revealed that the quality of court facilities varied considerably, both within and between states. The survey questionnaires completed by empanelled and non-empanelled jurors included questions that captured their evaluations of specific features and amenities of the work environment.

If the orientation process was generally popular with potential jurors, the same cannot be said for their assessment of the physical features of their work environment (Table 18). Barely more than one-half of jurors in the empanelled and non-empanelled groups found the jury assembly room comfortable (51%), and a similar number were satisfied with the presence of available natural light (54%). Less than one-half of empanelled jurors considered the jury

assembly room sufficiently private (49%), while non-empanelled jurors, who probably spend more time waiting, were slightly more satisfied with this aspect of the jury assembly room (52%). Less than one-half of the jurors surveyed were satisfied with the opportunities provided for them to work while waiting (42%); an issue particularly relevant to those in responsible jobs. Non-empanelled jurors tended to be more critical of the quality of food and drink, and self-catering facilities provided which, for most of them, were fairly minimal.

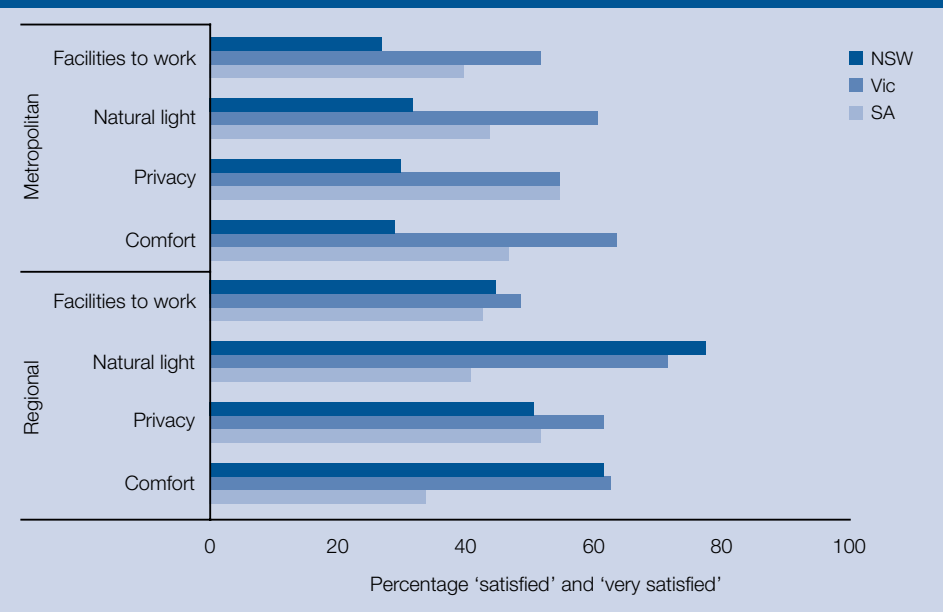
Table 18: Juror satisfaction with the physical environment (percentage 'satisfied' and 'very satisfied')

Physical work environment	Non-empanelled jurors	Empanelled jurors	All jurors
Comfort of waiting area	48	56	51
Natural light in waiting area	54	54	54
Privacy of waiting area	52	49	51
Facilities to work while waiting	41	45	42
Facilities to self-cater	42	55	47
Food and beverages provided	35	55	45
Opportunity to exercise at lunchtime	41	58	47
Access to private toilet facilities for jurors	65	82	72
<i>Number of respondents</i>	<i>1,010</i>	<i>610</i>	<i>1,620</i>

A general comparison of metropolitan court buildings with those in regional areas, demonstrated that in Victoria, there was very little difference in satisfaction ratings from persons serving in the Victorian metropolitan courts versus those serving in regional centres; about two-thirds of jurors found the jury assembly room comfortable (Figure 5). In New South Wales, regional courts appeared more satisfactory to jurors than those in Sydney, whereas in South Australia the metropolitan court was rated more highly than courts in regional areas. In both cases it must be noted that the sample sizes outside the capital cities was smaller, and larger samples may produce different results. Nevertheless, the magnitude of the observed differences suggested that it was the quality of the buildings rather than the quality of the processes which contributed most to juror satisfaction with the physical environment. This question was tested more precisely by examining juror responses to specific buildings.

As shown in Table 19, Victorian jurors attending both the Melbourne County Court and other courts in Victoria were the most satisfied with the comfort of the jury assembly room (64% and 63% respectively). Jurors attending the Downing Centre in New South Wales expressed considerably lower levels of satisfaction with the comfort of the jury assembly room (39%), and the satisfaction ratings of jurors attending the Sir Samuel Way Building in South Australia was almost one-half (47%).

Figure 5: Juror satisfaction with the jury assembly area, by state and location (percentage)



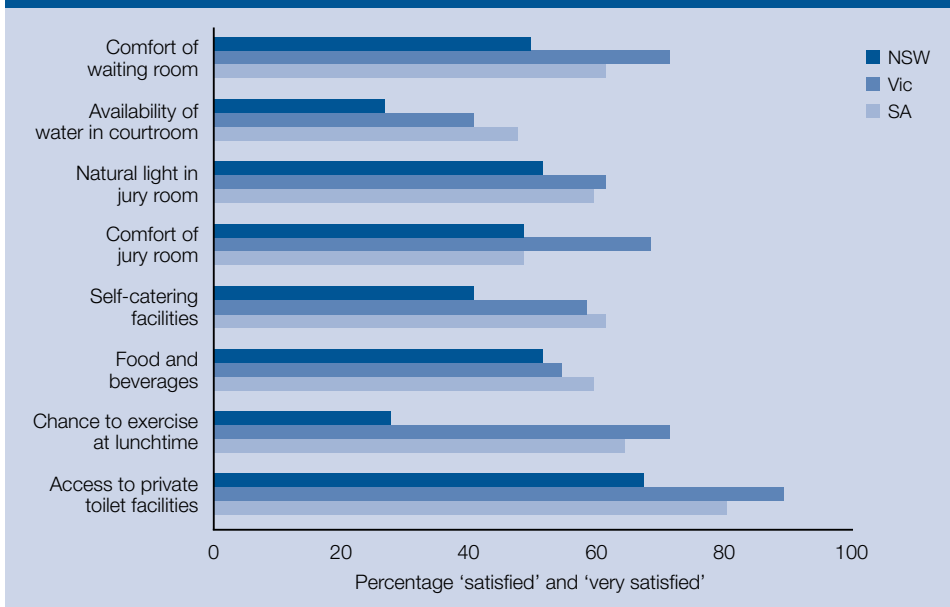
The Melbourne County Court building was particularly popular with jurors, with 81 percent rating the courtrooms as comfortable, compared with 62 percent attending other Victorian courts (Table 19). Seventy-three percent of jurors attending the Melbourne County Court found the jury rooms comfortable, compared with 49 percent attending other Victorian courts. The jury rooms which appeared to be least popular with jurors were those in Sydney’s Downing Centre. Only 26 percent of jurors were satisfied with the comfort of the jury room facilities at that court. This was more than one-half of the level of satisfaction reported by jurors attending the Sir Samuel Way Building in Adelaide. Interestingly, although both of these court buildings were department stores refurbished as courts at about the same time, the degree of comfort experienced by jurors was not comparable.

Table 19: Juror satisfaction with the built environment, by court building (percentage ‘satisfied’ and ‘very satisfied’)

Physical environment	Downing Centre	Other NSW	Melbourne County Court	Other Vic	Sir Samuel Way Building	Other SA	All courts
Comfort of courtroom	40	56	81	62	64	51	64
Natural light in jury room	29	49	63	49	56	74	53
Comfort of jury room	26	50	73	65	59	60	60
Access to private toilet facilities for jurors	53	77	91	88	83	74	82
<i>Number of respondents</i>	55	94	154	155	119	35	612

The quality and comfort of the courtroom and jury room is especially important for empanelled jurors as they spend the majority of their time in either the jury box, or the jury room where they deliberate and wait while legal argument is conducted in their absence. Figure 6 displays empanelled jurors' perceptions of and satisfaction with the courtroom and jury room facilities, in each state. Victorian jurors reported the most satisfaction with the comfort of the courtroom (72%) and jury room (69%), while New South Wales jurors expressed the least satisfaction with these facilities (50% and 49% respectively). South Australian jurors were the most satisfied with the availability of water for jurors in the courtroom (48%), facilities offering an opportunity to self-cater (the ability to store and heat their own food) (60%). Overall, the majority of empanelled jurors in each state expressed satisfaction with the access to private toilet facilities. Jurors in New South Wales were considerably less satisfied with the chance to exercise at lunchtime, compared with jurors in Victoria and South Australia.

Figure 6: Satisfaction with the jury environment and facilities, by state (percentage)



Understanding the trial

At the beginning of trial, jurors may be unsure about what they are expected to do and what they can and cannot do. Judges have the job of providing new juries with this information. In the opinions of jurors, the judges perform this task very competently (Table 20). About three-quarters of jurors agreed that the jury as a group understood the instructions given

to them by the judge, while less than 20 percent felt that they needed more information about the role of the foreperson. Only a small percentage of jurors reported feeling confused about what they were allowed to discuss with other jurors serving on the case or with people not involved in the case. Furthermore, only a small percentage of jurors were confused about what it meant 'to draw inferences from evidence'.

The results indicated the methods utilised by judges in South Australia were effective, as fewer jurors in South Australia reported feeling confused about their role, compared with jurors in New South Wales and Victoria. The South Australian practice of suggesting that jurors delay in selecting a foreperson was appreciated by jurors, as significantly fewer jurors in South Australia felt that they were 'required to choose the foreperson too soon', compared with jurors from New South Wales and Victoria [$F(2,584)=16.41$, $p<0.05$; $\eta^2=0.05$]. One area where jurors in all states indicated they would value more guidance is in how they should deliberate, with approximately one-fifth of all jurors agreeing with this statement.

Table 20: Information about the duties of jurors, by state (percentage 'agree' and 'strongly agree')

Jury role directions from judge	NSW	Vic	SA	All states
Asked to choose the foreperson too soon	27	18	7	27
Required more information on choosing a foreperson	20	16	12	20
Required more information on the foreperson's role	23	19	11	23
Required more information on how to deliberate	28	23	19	28
Confused about what we could discuss with non-jurors	17	16	10	17
Confused about what we could discuss with each other	17	18	12	17
Confused about drawing inferences from evidence	24	19	13	24
The jury understood the judge's instructions	75	73	72	75
<i>Number of respondents</i>	<i>134</i>	<i>304</i>	<i>146</i>	<i>584</i>

Jurors were moderately satisfied with the amount time provided to settle in before the trial gets underway (59%), and more satisfied with the information given about opportunities to be excused, to defer service and to make an affirmation rather than an oath (74% in NSW, 86% in Vic and 83% in SA) (Figure 7). In both Victoria and South Australia, two-thirds of jurors were satisfied with the explanation provided as to why proceedings were interrupted from time to time (62% and 62% respectively), while this satisfaction level was considerably lower in New South Wales (52%).

Jurors obtain information in a variety of forms and media to assist them in following the proceedings at trial (Figure 8). The majority of jurors reported seeing charts or visual aids (74%) during the trial, and reported receiving copies of the exhibits in the jury room (83%). Most jurors agreed that complex legal terminology was adequately explained by judges

(85%), while the vast majority of jurors served on a jury with members who took notes (93%). A substantial number of the jurors surveyed reported submitting questions to clarify their understanding of the evidence. New South Wales jurors seemed to lead the way on this: 22 percent of New South Wales jurors reported that their jury submitted questions to be put to witnesses (compared with 8% in South Australia), and 57 percent of New South Wales jurors served on juries that submitted questions for the judge (compared with about 40% in the other two states). About one-half of the jurors in Victoria (53%) and New South Wales (59%) reported that they obtained transcripts of the trial evidence, compared with one-third in South Australia (36%). Conversely, just over one-half of the jurors in South Australia (54%) and New South Wales (56%) reported getting written directions to assist them in reaching a verdict, compared with 29 percent of participants in Victoria. These results reflect what appear to be differences between states in the conventions regarding the sources of assistance offered to jurors to understand the evidence presented at trial.

Figure 7: Juror satisfaction with judge's procedural guidance, by state (percentage)

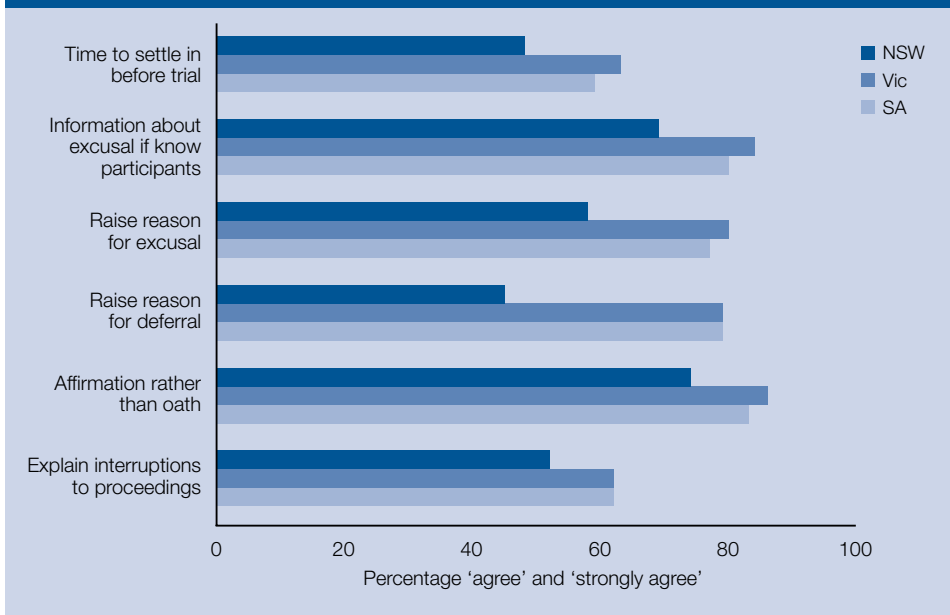
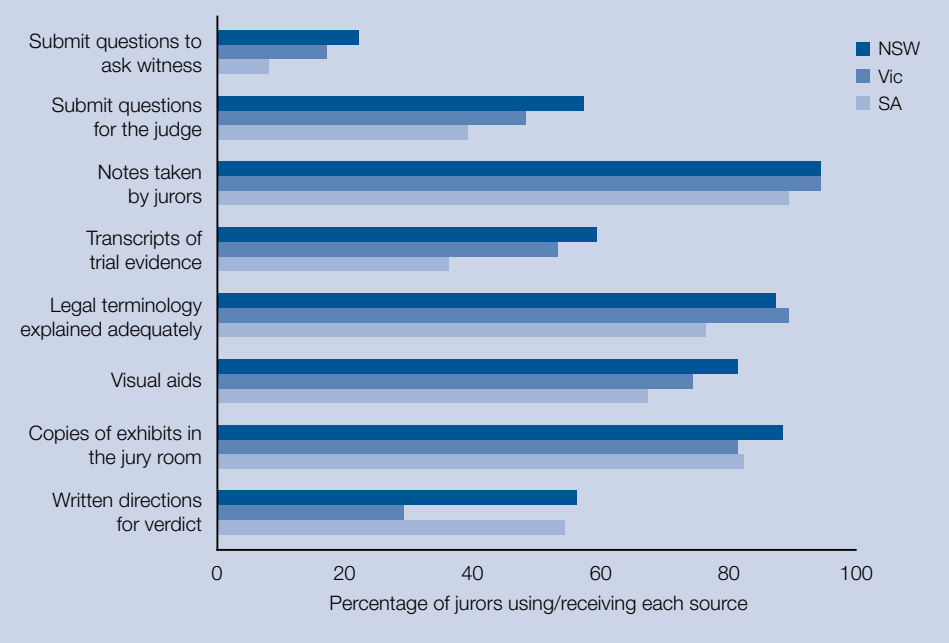


Figure 8: Sources of assistance in understanding the evidence, by state (percentage using/receiving each source)



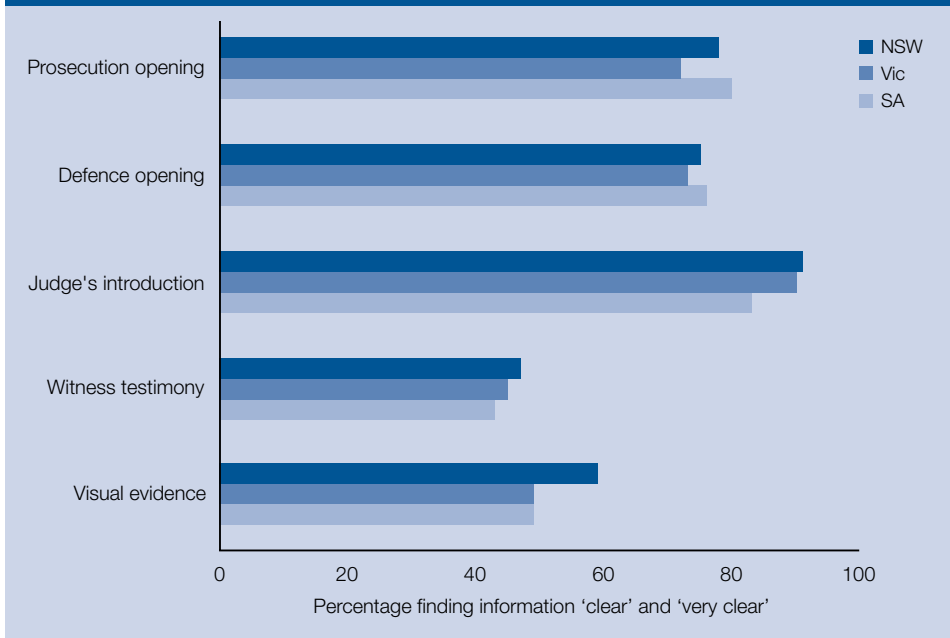
Differences emerged by court (Table 21), reflecting that District or County Court judges were more likely to receive jury questions, and slightly more likely to afford jurors the option of submitting questions, through the judge, intended for witnesses. Supreme Court trials were more likely to include visual aids, charts and written directions for jurors to use in reaching a verdict.

Table 21: Sources of assistance in understanding the evidence, by court (percentage using/receiving each source)

Source of information or record	District Court	Supreme Court	All courts
Submitted questions to ask witnesses	15	22	16
Submitted questions for the judge	48	37	46
Took notes	92	99	93
Received transcripts of trial evidence	50	52	50
Legal terminology was explained adequately	84	92	85
Received visual aids	70	97	74
Received copies of exhibits in the jury room	80	96	83
Received written directions to use in reaching a verdict	39	52	41
<i>Number of respondents</i>	494	90	584

Jurors made strong distinctions between the clarity of information received from different participants in the trial process (Figure 9). In general, jurors found the information provided by judges especially clear, with the prosecution and defence lawyers' opening addresses falling slightly behind in perceptions of clarity. By comparison, jurors tended to perceive the witness testimony and visual evidence as fairly unclear.

Figure 9: Perceived clarity of information provided during trial, by state (percentage)



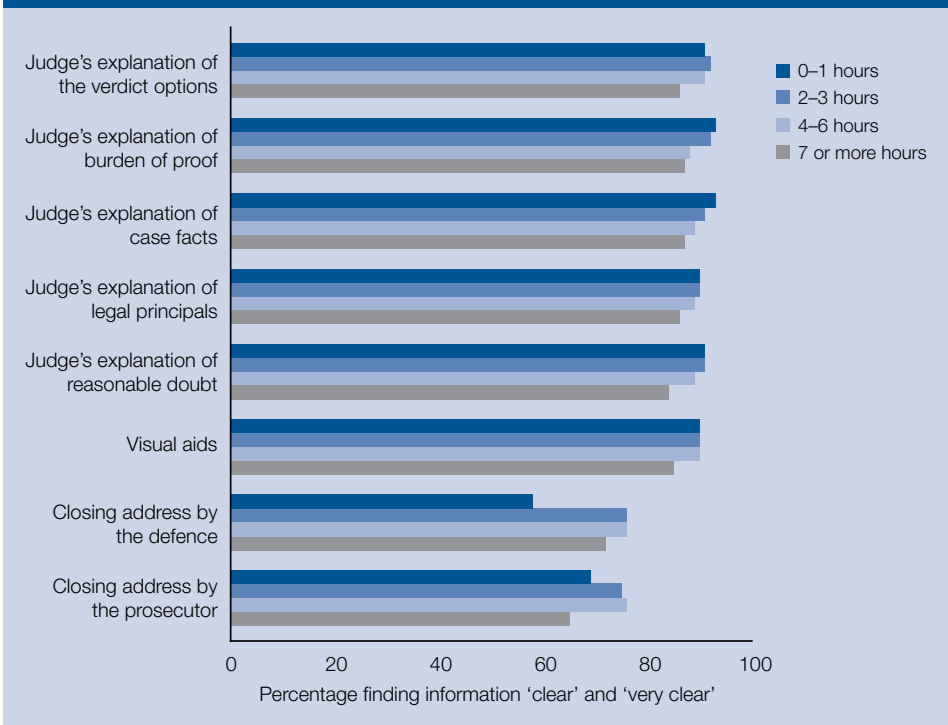
A strong majority of participants serving on juries who deliberated, regarded information provided by the trial judge as extremely clear (Table 22). South Australian jurors also gave the prosecution and defence lawyers' closing addresses high ratings for clarity (83% and 82% respectively), whereas Victorian jurors were more critical of the lawyers (both 66%).

Table 22: Perceived clarity of information during trial, by state (percentage 'clear' and 'very clear')

Clarity of information	NSW	Vic	SA	All states
Judge's explanation of the verdict options	92	87	91	89
Judge's explanation of issues for the jury	90	88	90	89
Judge's explanation of burden of proof	92	90	87	90
Judge's explanation of case facts	89	88	90	89
Judge's explanation of legal principals	90	86	89	88
Judge's explanation of reasonable doubt	87	89	90	89
Closing address by the defence	68	66	82	71
Closing address by the prosecutor	73	66	83	72
<i>Number of respondents</i>	<i>101</i>	<i>235</i>	<i>124</i>	<i>460</i>

Overall, these results revealed that the court professionals were rated highly for imparting information in an accessible manner, whereas the other information provided in the course of the trial by participants such as witnesses was rated by a majority of jurors as considerably less clear. These findings suggest that jurors may place considerable reliance on the interpretation of evidence provided both by the judge and counsel.

Figure 10: Perceived clarity of information, by length of deliberation (percentage)



The perceived clarity of trial information may have important consequences for the length of deliberations (Figure 10). The longer jurors deliberated, the less clarity they reported regarding the information presented at trial. This difference was most pronounced between jurors who deliberated for one hour or less, and jurors who deliberated for more than seven hours. Perceptions of the clarity of prosecution versus defence counsel closing addresses varied with the length of deliberation time. The closing address for the defence was perceived as substantially less clear in cases where jury deliberations were concluded in under one hour. By contrast, the closing address for the prosecution was perceived as least clear when deliberations lasted seven hours or more.

Working conditions

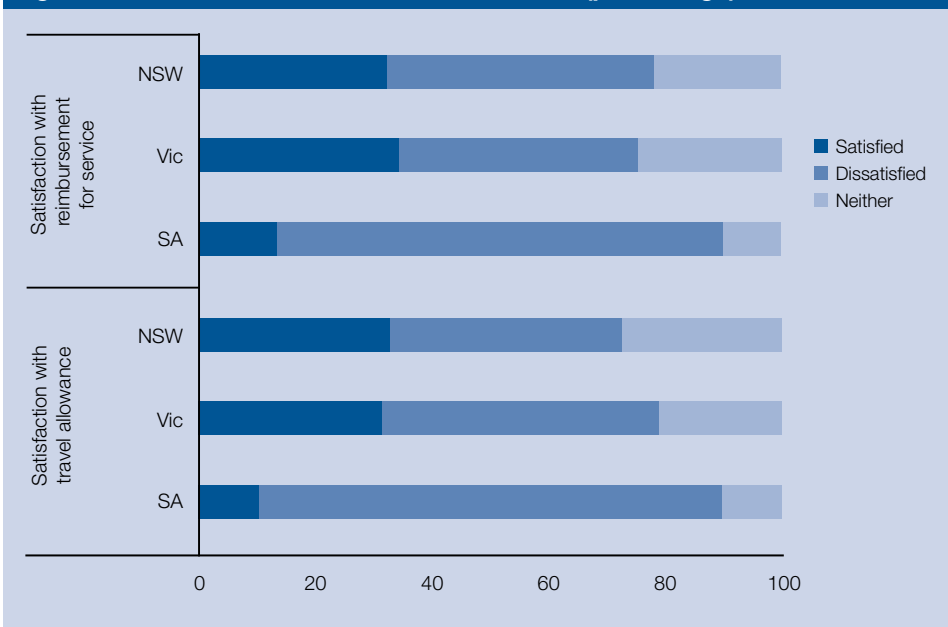
Jury duty is a considerable imposition on jurors, taking them away from their normal lives for days, weeks and sometimes months. Of particular concern to jurors is the financial cost of jury duty. One of the strongest messages to emerge from the stakeholder interviews was the inadequacy of juror remuneration. Consistent with the perception of the stakeholders, the area where juror dissatisfaction was most evident was in the ratings regarding financial compensation received for their contribution to the justice process.

Less than one-quarter (24%) of jurors were satisfied with their remuneration while only 18 percent were satisfied with their travel allowances (Figure 11). New South Wales performed best in this area, with between about one-fifth and one-quarter of jurors satisfied with both pay and travel allowances (22% and 24% respectively), South Australian jurors expressed the least satisfaction with remuneration (12% satisfied) and travel allowances (9% satisfied) and Victorian jurors were between these figures (32% satisfied with remuneration and 18% satisfied with travel allowances). Sixty-four percent of jurors agreed that 'jurors need more compensation for their expenses'.

With regard to support other than financial provided to jurors, one-half of jurors surveyed were satisfied with the advice they received about counselling and juror support services (48%), while a smaller percentage were satisfied with the court's willingness to make accommodations for jurors' individual needs (27%).

Approximately one-half of the jurors surveyed in each state were paid by their employers while on jury duty, although 12 percent of jurors reported that service on a jury placed their job at risk (Figure 11). Although more jurors in South Australia were paid by their employer compared with the other states, slightly more jurors in South Australia felt that jury duty placed their employment at risk. This result may be attributable to the longer period of jury service in South Australia than in New South Wales and Victoria. The low proportion of Victorian jurors who reported risk to their employment (9%) may be a consequence of the 'one day/one trial' jury management system in effect in Melbourne, or the way in which deferrals are managed throughout Victoria.

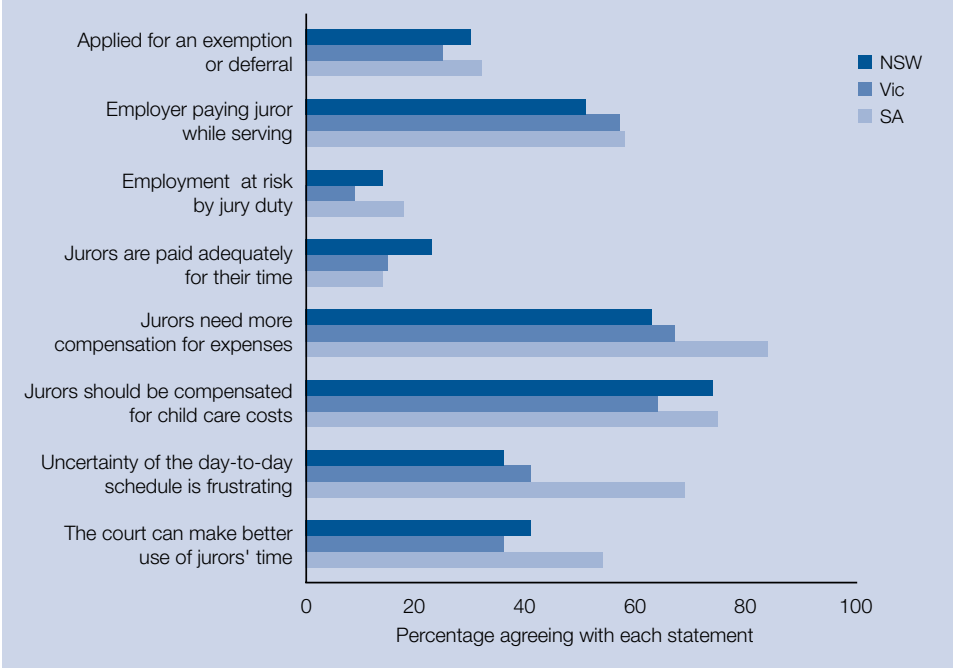
Figure 11: Juror satisfaction with remuneration (percentage)



Juror dissatisfaction with remuneration was reflected further in jurors' agreement with a range of statements about their working conditions (Figure 12). Only 19 percent of the jurors surveyed agreed that 'jurors are paid adequately for their time', while 64 percent (and 84% in South Australia) agreed that 'jurors need more compensation for their expenses'. Furthermore, 69 percent of jurors believed that 'jurors should be compensated for child care costs'.

Time management by the courts was a concern expressed by about half the jury pool, with 42 percent agreeing that 'the court can make better use of the jurors' time', and 55 percent finding the 'uncertainty of day-to-day scheduling' 'frustrating' (Figure 11). This frustration was highest in South Australia, where jurors may be on call for one month and potentially serve on several trials: 69 percent of these jury pool members reported finding the uncertainty of the schedule frustrating.

Figure 12: Time and monetary constraints reported by jurors, by state (percentage)



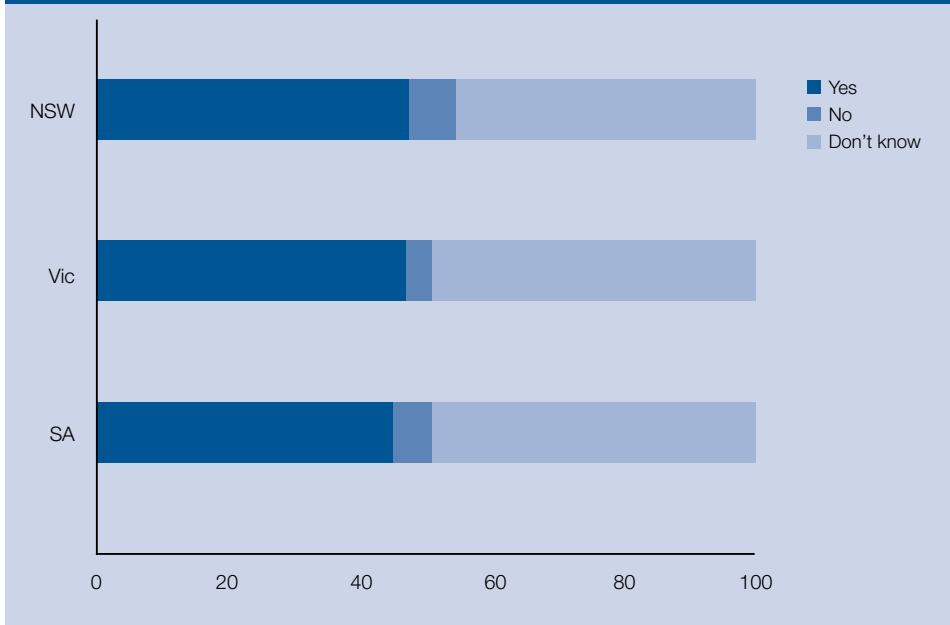
The majority of empanelled and non-empanelled jurors who described their occupational duties as ‘professional’ and ‘administrative or clerical’ were paid by their employers while on jury duty. This was not the case for casual workers (26%) and self-employed jurors (8%) (see Table 23). Casual workers were most likely to report that their employment was at risk as a consequence of participation in jury service (30%). Professionals, tradespeople/labourers and self-employed workers were somewhat less likely to believe their employment was at risk (14–17%). More professionals and self-employed jurors applied for an exemption or deferral: 20 percent and 12 percent respectively on grounds of their work commitments. The majority of jurors (64%) agreed that jurors need more compensation for expenses incurred by jury service, although the percentage of self-employed and casual workers who endorsed this view was higher (75% and 74% respectively). Interestingly, professionals were the least likely to perceive juror remuneration as adequate (16%), while one-quarter of self-employed jurors agreed with this statement. These results suggest that financial obligations and the pressure of work commitments pose a significant barrier to participation in jury service.

Table 23: Time and monetary constraints reported by jurors, by occupation (percentage agreement)

Time and money constraints	Occupation						
	Professional	Trade/Labourer	Admin/Clerical	Self-Employed	Casual Worker	Other	All Groups
Employer paying juror	73	55	7	8	26	2	52
Job at risk with jury duty	14	16	8	17	30	2	13
Asked for exemption or deferral	36	17	30	32	27	18	28
Exemption or deferral requested due to work commitments	20	6	14	12	8	2	13
Payment adequate	20	20	21	26	22	33	30
Travel costs covered	13	14	22	15	13	24	17
Jurors need more compensation for expenses	63	72	62	75	74	60	64
Jurors are paid adequately for their time	16	21	19	25	21	21	19
<i>Number of respondents</i>	<i>548</i>	<i>247</i>	<i>225</i>	<i>80</i>	<i>76</i>	<i>249</i>	<i>1,425</i>

Although all three of the states studied had in place jury counselling services to attend to distressed jurors, information about the availability of this service was not well disseminated (Figure 13). Approximately one-half of the empanelled jurors reported that they were unaware that these support services existed (48%). Slightly more jurors from Victoria reported knowing about the availability of juror support services (47%) than jurors from New South Wales (45%) and South Australia (45%). Approximately one-fifth of jurors from New South Wales and Victoria (22% and 21% respectively) reported using these support services, although only nine percent of jurors from South Australia reported using juror support services. Overall, jurors were only moderately satisfied with the advice they received about the availability of jury support services (48%).

Figure 13: Jurors' knowledge about the availability of support services (percentage)



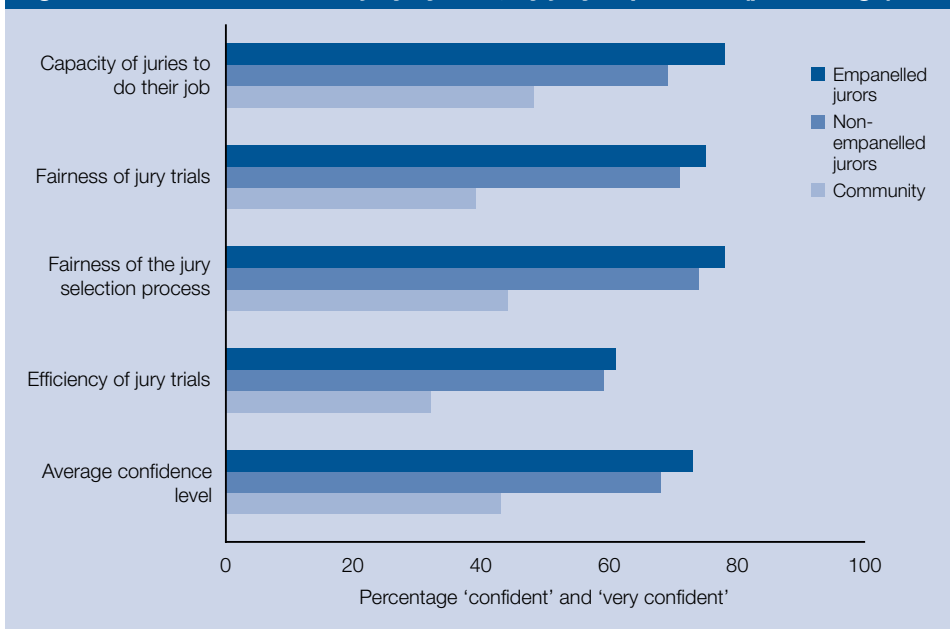
The effect of jury experience

Members of the jury pool generally expressed significantly more confidence in juries and the criminal justice system than did jury-eligible members of the community who did not report for jury duty (Figure 14). Similarly, citizens who attended court for jury duty, irrespective of whether they were empanelled to serve on a trial, perceived jury trials as more significantly more efficient (60% vs 32%), and more fair (73% vs 39%) than did other members of the community ($[F(2,6278)=181.45, p<0.01, \eta^2=0.05]$ and $[F(2,6267)=301.66, p<0.01, \eta^2=0.08]$ respectively). They were also more likely to view the jury selection process as more fair (76% vs 44%) $[F(2,6233)=285.05, p<0.01, \eta^2=0.07]$. Jurors who actually served on a jury expressed higher levels of confidence (73%) in the capacity of juries to do their job than did other members of the jury pool (68%) or members of the public (43%) $[F(2,6208)=184.94, p<0.01, \eta^2=0.05]$.

The results revealed a strong positive correlation between overall satisfaction with the experience of jury service and confidence in the jury system $[r=0.39, N=1,252, p<0.01]$: the more jurors were satisfied with their experience, the more confidence they expressed. Conversely, dissatisfaction with the process tended to undermine their confidence in the system. Although this correlation persisted across all measured components of juror

satisfaction, some appeared to have a greater impact than others. For example, dissatisfaction with remuneration and travel allowances was a significant contributor to satisfaction with the overall experience ($[r=0.37, n=1,519, p<0.01]$ and $[r=0.26, n=1,504, p<0.01]$ respectively), but was less strongly correlated with confidence in the system ($[r=0.16, n=1,258, p<0.1]$ and $[r=0.10, n=1,246, p<0.01]$ respectively). Comfort of jury facilities, on the other hand, was positively correlated both with satisfaction with the jury experience (waiting room $[r=0.36, n=1,551, p<0.01]$, courtroom $[r=0.28, n=593, p<0.01]$ and jury room $[r=0.36, n=594, p<0.01]$) and overall confidence in the criminal justice system ($[r=0.26, n=1,285, p<0.01]$, $[r=0.29, n=534, p<0.01]$ and $[r=0.32, n=530, p<0.01]$ respectively). What these findings suggest is that improvements in the quality of the experience of jury duty may have a significant effect on the attitudes of jurors to the criminal justice system in general.

Figure 14: Confidence in the jury system, by jury experience (percentage)

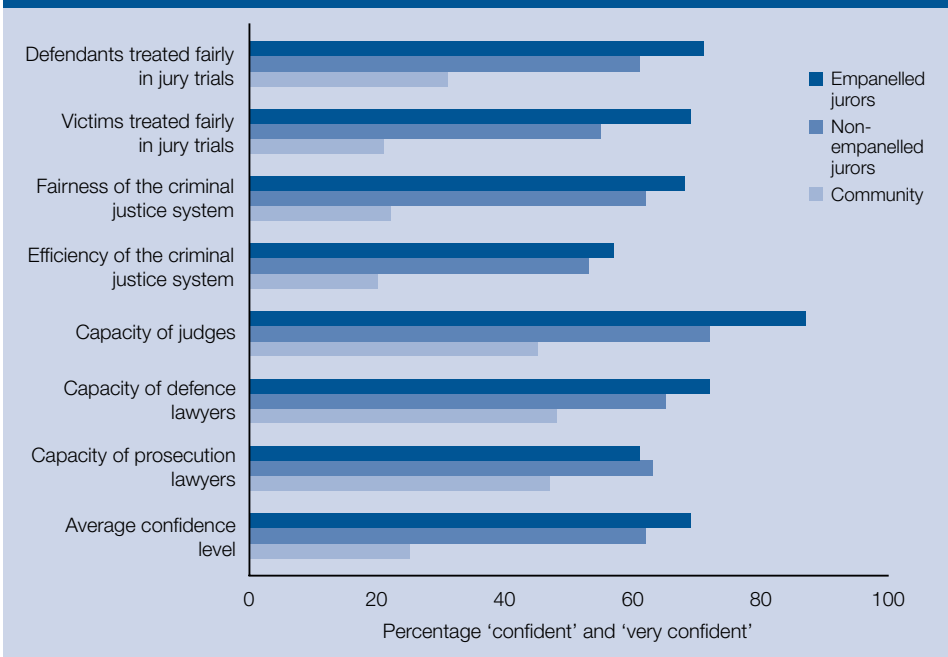


Differences between jurors and members of the public regarding overall confidence in the criminal justice system were pronounced (Figure 15). Ratings by members of the jury pool of the justice system as efficient and fair ($[F(2,6257)=419.62, p<0.01, \text{eta squared}=0.1]$ and $[F(2,6248)=600.26, p<0.01; \text{eta squared}=0.15]$ respectively), and of its treatment of victims as fair significantly exceeded those by citizens with no experience of jury duty ($[F(2,6216)=560.01, p<0.01; \text{eta squared}=0.14]$). Furthermore, jurors on duty were significantly more likely than members of the public to believe that defendants were treated fairly ($[F(2,6217)=317.38, p<0.01; \text{eta squared}=0.08]$) and to express confidence in the capacity of judges to perform their duties ($[F(2,6222)=415.51, p<0.01, \text{eta squared}=0.11]$). There was very

little difference in the confidence in the ability of prosecutors and defence lawyers between jury pool members and citizens with no jury experience. Overall, jurors and jury-eligible citizens were moderately confident in the abilities of prosecution (50%) and defence lawyers (52%).

Particularly interesting was the apparent effect of jury service on juror confidence in judges, defence lawyers and prosecutors. A comparison of empanelled and non-empanelled juror ratings revealed higher levels of confidence in judges and defence lawyers among jurors with more in-depth exposure to judges and defence barristers, while confidence in the prosecution was not affected by more extensive experience on a jury. This difference may be interpreted as a consequence of the learning that takes place with the exposure to judges and defence barristers through the experience of jury service, although other explanations cannot be ruled out. For instance, jurors who express anti-prosecution sentiments may be disproportionately excluded. Whatever the explanation, a similar pattern emerged regarding confidence in the fairness of treatment for victims and defendants; that is, empanelled jurors expressed greater confidence in their treatment than did non-empanelled jurors and members of the general public.

Figure 15: Confidence in the criminal justice system, by jury experience (percentage)



The results of this study indicated that most citizens support the jury system, although citizens who attended jury duty were significantly more enthusiastic about the role of juries, and their capacity to keep judges and the justice system accountable (Table 24).

Interestingly, jurors (both empanelled and non-empanelled) were more likely to believe that juries were less representative of the community than were jury-eligible citizens who had never completed jury service (22% vs 14%). One possible explanation is that jury pool members developed greater insight into the options for exemption and excusal than citizens less well-informed about jury service.

Table 24: Perceptions of jury duty, by jury experience (percentage agreeing or disagreeing)

Attitudes to jury service	Empanelled jurors	Non-empanelled jurors	Jury-eligible citizens	All groups
Percentage who 'agree' or 'strongly agree'				
Jury service is an important civic duty	85	84	72	72
Juries help to keep the judges in touch with community thinking	64	67	44	47
Juries help to ensure that the justice system is accountable to all citizens	75	73	55	57
Jury service is educational	81	74	59	63
People from all walks of life should participate in the administration of justice	80	79	71	70
Serving on a jury is interesting	81	72	57	61
Percentage who 'disagree' or 'strongly disagree'				
Juries in my state are not representative of the community	59	53	32	36
Most jurors are not fair and impartial	70	60	42	46
Courts overestimate people's knowledge of the criminal justice process	29	25	12	10
Jurors are paid adequately for their time	64	56	48	51
Average level, support for juries	69	64	40	51
<i>Number of respondents</i>	<i>588</i>	<i>881</i>	<i>4,765</i>	<i>6,234</i>

Furthermore, jurors were less likely than community members to believe that courts overestimate people's knowledge of the criminal justice process, suggesting increased faith in the capacity of ordinary citizens to make difficult decisions following their exposure to the jury process. Empanelled jurors were more likely than both non-empanelled jurors and community participants to agree that jury service is educational and interesting. These results are consistent with the view that jury service provides a form of training in citizenship.

Community members were slightly less likely than jurors to regard remuneration for jury duty as adequate, with only 13 percent vs 19 percent agreeing that jurors are paid adequately for their time. This result suggests that financial disincentives to avoid jury duty are strong.

Jurors and community participants were divided on questions as who should be allowed exemptions from jury duty (Figure 16). There was a general consensus amongst one-half of the jurors and community members that exemption from jury duty should be granted to people who live more than 50 km from the courthouse, and people with responsibility for children under the age of 12 years. Jurors were slightly more likely to believe that people with holiday plans (60%) and financial hardships (41%) should be exempt from jury duty, compared with community members (48% and 40% respectively). Conversely, both jurors and community members were less supportive of exemptions for people with important jobs (28%), study commitments (39%), or for people with responsibility for children aged 12–18 years (21%). Most people indicated a preference for a jury trial over a trial by judge alone, irrespective of whether they were in the role of the victim or the defendant (Figure 17). This preference was slightly stronger among jurors than members of the general community, indicating either the positive influence of the jury experience or the filtering out from jury duty of those who are less enthusiastic about the capacity of juries.

Figure 16: Attitudes to eligibility for exemption from jury service, by jury experience (percentage)

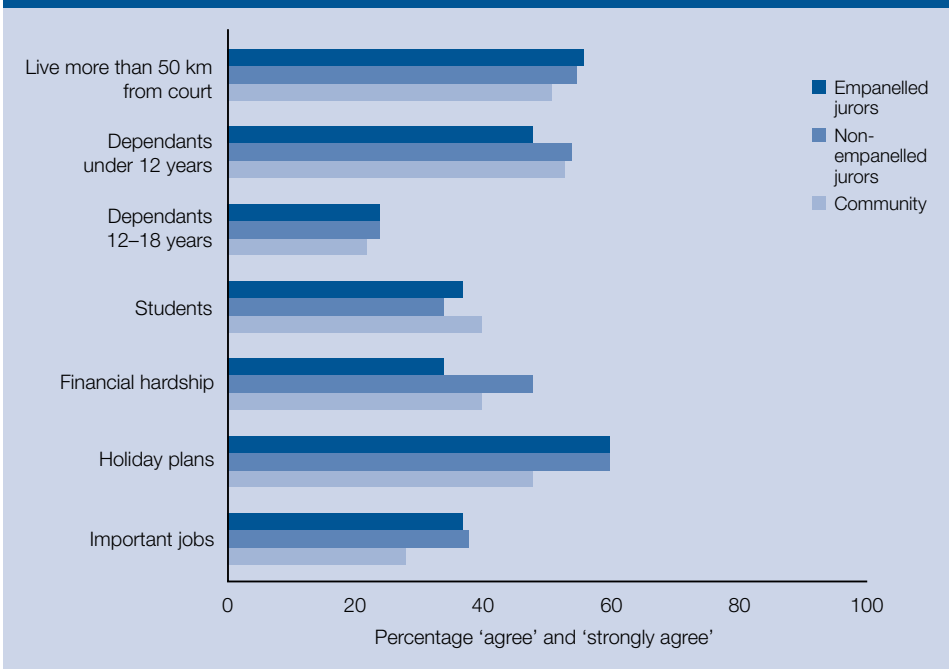
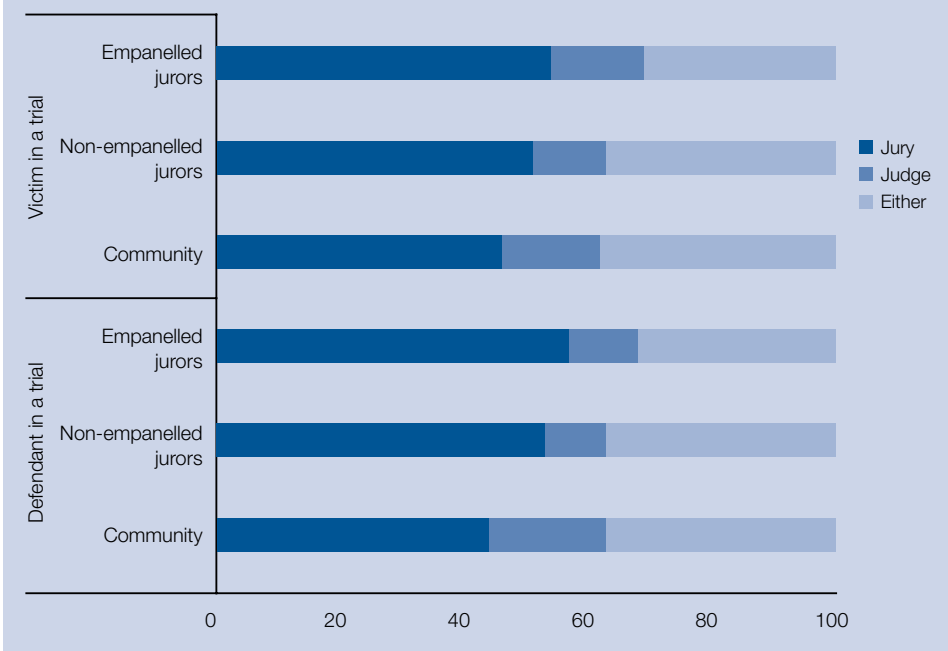


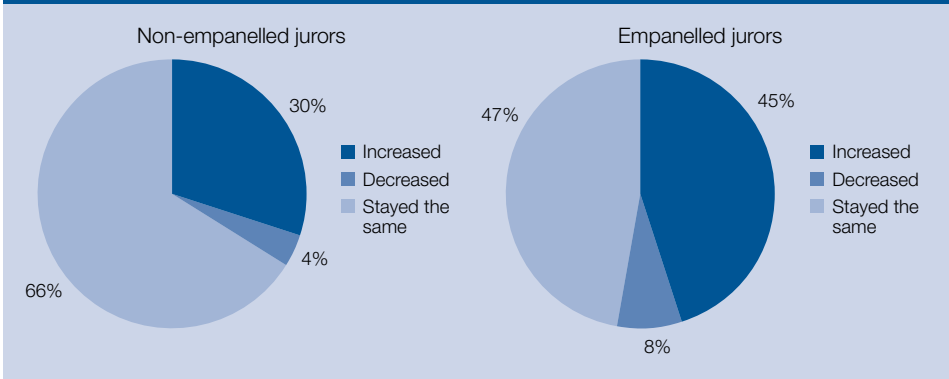
Figure 17: Preference for trial by jury or judge if a victim or defendant (percentage)



Empanelled and non-empanelled jurors were asked whether their confidence in the criminal justice system increased, decreased or remained the same following jury duty (Figure 18). Persons who served on a jury were significantly more likely to report an increase in their confidence in the criminal justice system following their service than were non-empanelled jurors (45% vs 30%) (chi-square=58.94, df=2; $p < 0.01$). Less than 10 percent of all jurors reported a decrease in their confidence in the criminal justice system following their jury experience.

Evidence suggesting that the jury experience has a positive impact on confidence on the criminal justice system came from a comparison of responses from jurors who were discharged before deliberation with those from jurors who had the 'full jury experience'. Much of the supposed educational value in the jury experience is purported to derive from the interaction among jurors during the deliberation process. Of those jurors who were discharged before deliberation, 39 percent reported an increase in their confidence in the criminal justice system, whereas 47 percent of those who deliberated reported such an increase. Another important finding to emerge was that there was only a slight difference between juries that reached a verdict and those that hung in terms of increased confidence in the criminal justice system (40% and 49% respectively).

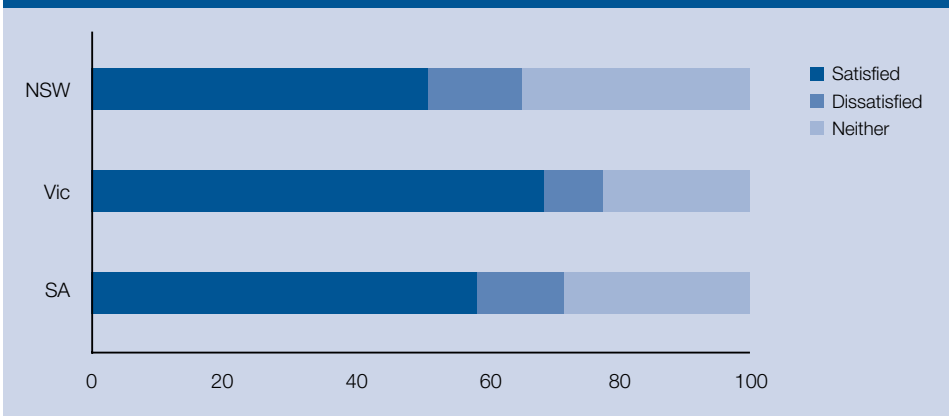
Figure 18: Reported change in confidence in the criminal justice system following jury service (percentage)



One source of dissatisfaction appears to be the disappointment at not being selected to serve on a jury. Persons who served on juries that reached the deliberation stage were most satisfied with the overall jury experience (69%), those who were not selected were least satisfied (51%) and those who served on juries but did not reach the deliberation stage reported intermediate levels of satisfaction with the overall jury experience (61%).

Overall, jurors expressed moderate levels of satisfaction with the experience of jury duty, with 58 percent satisfied or very satisfied, and 25 percent neither satisfied nor dissatisfied. Only 11 percent of the jurors expressed dissatisfaction with the experience. This was a positive outcome, in light of the intrusive and onerous nature of jury service. Victorian jurors were significantly more satisfied with their overall experience of jury service (68%), compared with South Australian jurors (54%) and New South Wales jurors (46%) [$F(1,1564)=71.31$; $p<0.01$, $\eta^2=0.04$], as is shown in Figure 19.

Figure 19: Juror satisfaction with the overall experience of jury service (percentage)



Conclusions

Survey responses gathered across three states, from a total of 6,441 participants with different degrees of exposure to the criminal justice system, provided a rich dataset to assess the veracity of anecdotal information previously available about jury satisfaction.

Support for jury system

Results of the community survey demonstrated that the jury-eligible citizens held generally positive views about jury service and expressed a willingness to participate as jurors. In general, these results revealed that persons who had more direct contact and experience with court were more eager to serve as jurors, and expressed more support for the jury system and more confidence in the criminal justice system as a whole than those with less contact with the courts. Citizens most likely to avoid jury duty were those with the least experience and past contact with the courts, and with less accurate information and knowledge of the jury system. Overall, as in the case of the stakeholders, citizens expressed strong support for jury trials over trial by a judge alone in criminal cases, irrespective of whether the question was answered from the perspective of a victim or a defendant.

Barriers to jury service

The survey results identified some barriers to jury service in the form of lack of accurate information. For example, many persons were unaware of the option to postpone jury duty, and few understood what a 'one-day/one trial' system was or whether this was available in their state. Citizens were also vague and poorly informed about the average length of jury duty, even in communities in which the duration of jury duty is lengthiest, i.e. one month in South Australia.

Satisfaction with the physical environment

Overall, only about one-half to two-thirds of the jurors surveyed were satisfied with the comfort and privacy of the jury assembly areas, the comfort of the courtrooms and jury rooms, and the provision of creature comforts (e.g. the facilities available for working while waiting, food and beverages provided, the availability of self-catering facilities). Large discrepancies emerged in satisfaction with facilities among jurors in the three states: satisfaction was significantly higher in Victoria regarding the comfort of the assembly room, jury room and courtroom. New South Wales jurors consistently expressed the least satisfaction with these facilities, and South Australian jurors fall in between. The jury assembly rooms in New South Wales is one aspect of the jury environment where improvements to comfort and privacy are likely to be welcomed by jurors, as these received substantially lower satisfaction ratings. However, South Australian jurors were most satisfied with the self-catering facilities, and the quality of the food and beverages provided.

Notably, some of the observed differences may be attributable to the general conditions in metropolitan and regional court buildings, or the physical age and condition of particular buildings, rather than strategies of jury management per se.

Clarity of information and procedures

The results showed that jurors were very satisfied with the support provided by jury administration staff, and in general with communications provided by the courts. Overall, citizens expressed a high degree of satisfaction with the pre-service communications, such as the information provided with the summons and the helpfulness of staff in advance of jury service. Citizens tended to report slightly lower levels of satisfaction with the amount of notice before arrival at court and the orientation videos. There was some room for improvement in the communications issued to potential jurors in advance of service and during the orientation period. Comparisons of satisfaction levels among the three states revealed that jurors in Victoria and South Australia were generally more satisfied than jurors in New South Wales with the information provided in advance of jury service, and with the information received during orientation. However, jurors in New South Wales and South Australia were significantly less satisfied with the orientation video, compared with jurors in Victoria, suggesting room for improvement with this medium of communication.

Jurors obtain information in a variety of forms to assist them in following trial proceedings. The majority of jurors reported the use of charts or visual aids during the trial, and received copies of the exhibits in the jury room. Most jurors agreed that complex legal terminology was explained adequately by judges, while the vast majority of jurors served on a jury with members who took notes. However, jurors made strong distinctions between the clarity of information received from different participants in the trial process. In general, jurors found the information provided by judges especially clear, with the prosecution and defence lawyers' opening and closing addresses falling slightly behind in perceptions of clarity. By comparison, jurors tended to perceive the witness testimony and visual evidence as fairly unclear (less than one-half of the jurors reported the witness evidence as clear).

Juror frustration with facilities and the trial process may be exacerbated by prolonged periods of waiting, interruptions in proceedings, and perceptions about the inefficient use of their time. There was substantial variation in juror satisfaction with explanations for prolonged waiting in the assembly area and interruptions to court proceedings, with between one-half and three-quarters of jurors reporting satisfaction with these explanations. More than one-half of the jurors found the 'uncertainty of the day-to-day schedule frustrating', with 42 percent agreeing that the 'court can make better use of jurors' time'.

Working conditions

Of particular concern to jurors was the financial burden of jury duty. Overall, less than one-quarter of jurors were satisfied with their remuneration and with their travel allowances. Furthermore, a substantial number of jury-eligible citizens identified financial, work and child care responsibilities as barriers to jury participation, and a substantial percentage reported avoiding jury service due to financial hardship. The majority of jurors believed that 'jurors need more compensation for their expenses' and that 'jurors should be compensated for child care costs', while less than one-fifth of jurors and community members agreed that 'jurors are paid adequately for their time'.

Dissatisfaction with remuneration may be a significant barrier to participation in jury service, and thus the representativeness of juries. Overall, 12 percent of jurors felt that serving on a jury placed their job at risk; this was particularly pronounced amongst jurors who self-identified their occupation as casual workers, with more than one-quarter feeling that their job was at risk due to jury service.

Jurors expressed further dissatisfaction with the advice regarding juror support services. Overall, empanelled jurors were only moderately satisfied with the advice they received about the availability of jury support services. Approximately one-half of jurors were not aware that jury support services were available, although one-fifth of those were aware of their availability used these services.

Perceptions of and confidence in the jury system

Overall, more than one-half of jurors expressed satisfaction with the experience of jury duty, with only 10 percent expressing dissatisfaction with the experience. This was a positive outcome, in light of the intrusive and onerous nature of jury service. Levels of satisfaction were significantly higher in Victoria, followed by South Australia and then New South Wales.

Contact and experience with the court system increased citizens' confidence in the criminal justice system, and their willingness to serve on a jury. The survey results demonstrated that confidence was significantly higher among those more familiar with the jury system and among citizens who attended jury service, whether empanelled or not, compared with community members who have never served. Jury-eligible citizens who expressed some degree of experience with the criminal justice system were more enthusiastic and willing to participate in jury service. Furthermore, non-empanelled and empanelled jurors reported significantly higher levels of satisfaction with and confidence in the criminal justice system, compared with jury-eligible citizens who had never reported for jury service. Involvement in the jury process increased perceptions of the fairness of the criminal justice and jury system, and confidence in the capacity of juries and judges to perform their tasks. This finding is consistent with those in earlier US (Kritzer & Voelker 1998) and UK (Matthews, Hancock & Briggs 2004) studies showing that recent court experience produced an improvement in confidence in the courts.

Conclusions and recommendations

The purpose of the foregoing research was to examine practices, policies and procedures that affect juror satisfaction. To accomplish these objectives, the study incorporated four specific aims:

1. The first aim of this research was to summarise policies and legislation in New South Wales, Victoria and South Australia regarding the management of jurors. The laws, policies and procedures applicable to jurors in these states were methodically documented, contrasted and compared and the results reported in section 'Legislative analysis'. This analysis revealed numerous similarities between the states and some outmoded regulations, but also marked variation in the manner in which jurors were managed and used. For instance, the legislation in all three states included extensive lists of persons excluded from jury service and detailed grounds for excusal. Stark differences emerged in schemes to remunerate jurors and the average duration of jury duty. Based on this analysis, questions for stakeholders, citizens and jurors were formulated, e.g. regarding their views on exemptions, excusal procedures, and their knowledge of jury remuneration and average length of jury duty.
2. A second aim of the research was to evaluate the relationship between juror management policies and effectiveness and sources of juror satisfaction and dissatisfaction in each state. This involved three qualitative components: interviews, communications analyses and facilities assessments.
 - a. First, we undertook a systematic assessment of all preliminary communications between courts and potential jurors, compared and contrasted the contents and comprehensibility of the documents distributed to potential jurors in the three states. The results of this analysis were reported in section 'Communications with prospective jurors'. This assessment provided a clear picture of the nature and extent of information transmitted to citizens and jurors prior to empanelment to prepare them to serve as jurors and to undertake the task of rendering a verdict in a criminal case. This analysis illuminated some distinct gaps in the coverage of crucial topics in some states that might lead to subsequent dissatisfaction in jurors. For example, information about the history of jury trials, the role of juries in democracy, where to find the jury assembly room, introduction to the courtroom, or explanations of 'beyond reasonable doubt' and the presumption of innocence. Based on this analysis, certain questions on the coverage and clarity of this information were included in the surveys distributed to citizens and jurors, e.g. regarding the summons, adequacy of notice of jury duty, helpfulness of the orientation videotape, etc.
 - b. Next, 53 key players or stakeholders with experience of the jury system were interviewed (Supreme Court judges, District Court judges, Crown Prosecutors, defence barristers and jury administrators) to ascertain what practices were working well and those working less well. In addition, strategies that could be implemented to improve the jurors' experiences were explored. The stakeholder views were collated and analysed, and reported in section 'Interviews with stakeholders'.

These interviews provided insight into the manner in which the relevant legislation in each state was implemented. For example, although provisions existed to impose penalties on citizens who ignore a jury summons, the states varied considerably in their willingness to use these provisions. The interviewees emphasised the extent to which current levels of jury remuneration might substantially undercut the goal of securing a jury representative of the community, and the need to broaden community participation in jury duty to include sectors of the community who were currently ineligible or excused. Almost all stakeholders were aware of juror frustration occasioned by delays in proceedings before and after jury empanelment. Analysis of stakeholders' perceptions and experiences of the efficacy of jury policies in the three states identified additional issues to include in the surveys for citizens and jurors, e.g. regarding their satisfaction with the levels of remuneration and communications from the courts, the extent to which they sought to avoid jury duty and, if they served, whether they experienced periods of waiting without explanation.

- c. Finally, site visits were conducted of the court facilities and assessed a range of court buildings to document and compare the working environment of jurors in each state. A range of building types were chosen for analysis, including recent purpose-built courthouses, newly-refurbished heritage landmarks and ageing refurbishments of heritage buildings. All site visits in the field were conducted by three members of the research team including an architect. Both District or County Courts and Supreme Courts were inspected in metropolitan and regional areas. The focus of the site visits was the jury facilities, to examine all areas that a juror would experience in the court building in the sequence in which they were typically encountered, particularly the jury assembly room, the courtroom and the jury deliberation room. Each visit was documented photographically and by means of an objective facilities rating checklist which assessed the extent to which the jury facilities were comfortable. Subsequently, jurors on duty who used these sites provided subjective ratings of their satisfaction with the court facilities. By comparing the expert evaluations of the court facilities and the subjective perceptions gathered from jurors, insight was gained into the extent to which certain elements of the built environment influence juror satisfaction, which elements are more influential than others, and which facilities were most comfortable. Based on the observations and comparisons, and the concurrence between the assessments of the facilities by the experts and the jurors, a comprehensive set of guidelines was developed for best practices in accommodating jurors.
3. A third aim of the study was to examine the perceptions and knowledge of prospective and empanelled jurors regarding jury duty to identify any barrier to jury participation and educational needs. This aim was accomplished by surveying jury-eligible community members, empanelled jurors and non-empanelled jurors. Survey responses gathered across the three states from a total of 6,298 participants who had varying degrees of exposure to the criminal justice system provided a rich dataset to assess the veracity

of anecdotal information previously available about jury satisfaction. These responses allowed identification of gaps in their knowledge of the jury system. The survey data provided insight into the knowledge of the general public about jury duty and the influence of the experience of empanelment on a jury on citizens' perceptions and knowledge. The survey explored jury satisfaction with and confidence in various aspects of jury service, between and within states. In addition, comparison of satisfaction and confidence were made between empanelled and non-empanelled jurors, and between jurors whose deliberations ended in a verdict and those whose deliberations ended with a mistrial or hung jury. Analysis of these responses permitted us to specify aspects of jury service with which jurors were most dissatisfied and those aspects of jury service about which jurors had more positive experiences. The survey findings were reported in section 'Survey results'. From these analyses, recommendations to minimise barriers to jury participation and satisfaction and recommendations to enhance education and preparation for jury duty were formulated.

4. A final aim of this study was to identify policy implications flowing from the findings to develop optimal procedures for managing jurors in Australia. A number of areas for improvements were identified, although some recommendations were more pertinent to certain states than to others. The final recommendations derived from all phases of this study are noted below. Some recommendations are relatively simple and inexpensive to implement, such as providing glasses of water to jurors while they are empanelled in court. Implementation of other recommendations to improve the incidents and conditions of jury service are more complex, such as amending legislation to augment the categories of citizens eligible for jury duty, or are more costly, such as increasing juror remuneration and upgrading jury facilities to provide a working environment more conducive to the dignity and solemnity of the task performed.

The major findings to emerge from this study are summarised next, drawing on all phases of the project.

Summary of major findings

Support for jury system as an integral component of criminal justice in Australia

Overall, the study revealed broad-based support for the jury system as an integral feature of the Australian criminal justice system. Data gathered from citizens, key stakeholders and jurors converged to accentuate this point. One of the questions posed to all 6,350 of these respondents sought information about their own preference for a judge or a jury trial, and framed the question from two different perspectives to ensure that differences in the strength of the jury system were considered from the standpoints of both a victim and a defendant. The consensus across all groups of participants was resoundingly in favour of trial by jury in

a criminal case. Citizens with more extensive experience and contact with the legal system were generally more supportive of the jury system. Despite persistently negative media coverage of juries, and acknowledgement of various difficulties experienced by jurors in operating in an unfamiliar role and a sometimes inhospitable environment, support for the jury system was robust. This support was further reflected in a series of questions that sought all participants' views of the capacity of juries to perform their duties, and of their confidence on the jury system. The results indicate a very high degree of trust and confidence in juries from all sectors. One of the judges interviewed stated:

... The radio commentators and politicians should keep their hands off the jury system. It's a very, very important way to ensure that the rights of all citizens are properly protected. The rule of the law and trial by jury is integral and they should just stop trying to do anything about it. Improve it, stop trying to get rid of it. It's too important and I'm very much opposed to doing away with it. Any further inroads into trial by jury, particularly for the reasons because of cost. If that's what it costs, that's what it costs. But you know, the community at large should be very frightened by any prospect of further inroads into the concept of trial by jury. It's a really vital part of the administration of justice, and in my experience over eleven years on the bench, on the whole, they get it right... I've got all confidence that the system works well. If people would just stop playing around with it and properly resource it. (NSW judge 6)

High regard for dedicated jury staff

There was consensus by the key stakeholders and the jurors that the jury administrators and their support staff were generally helpful and well respected. The juror ratings revealed that they were satisfied by the human interaction with these personnel. Jurors' satisfaction with the helpfulness of jury office staff in answering preliminary enquiries, their treatment by court staff and the information provided about the role of jurors was very high (84%). Sources of jurors' frustration experienced were not the interactions with personnel but with other systemic components of the jury experience.

Responses of some stakeholders reflected the need for more training and education about the operations of the jury management system. Educational seminars should be conducted by the courts to acquaint judges, prosecutors and defence barristers with all aspects of the jury management system.

Barriers to jury service

The study revealed that there are some barriers to jury service or difficulties that citizens may experience as a result of serving on juries. For example, the jury-eligible citizens in the community held generally positive views about jury service and expressed keenness and willingness to participate as jurors. However, their enthusiasm was coincident with the presence of barriers to participation.

1. Lack of information about jury service

Overall, citizens expressed a high degree of satisfaction with pre-service communications and the amount of notice provided of upcoming jury duty. As noted above, more information should be included in preliminary communications to jurors about fundamental issues such as how to seek excusal, grounds for excusal, the expected length of jury service and options for postponing jury duty if the requested time period in the summons is inconvenient. As predicted from the communications analysis in section ‘Communications with prospective jurors’, comparisons of satisfaction levels among the three states revealed that jurors in Victoria and South Australia were generally more satisfied than jurors in New South Wales with the information provided in advance of jury service.

One barrier identified in the study was a lack of accurate information among non-jurors about the terms and conditions of jury duty. Some fundamental examples that appeared likely to influence citizens’ decisions about participation were: many citizens were unaware whether or not they were able to postpone jury duty in their state; few citizens or stakeholders understood what a ‘one day/one trial’ system was or whether a ‘one day/one trial’ option was available in their state; and most citizens were uninformed about the average length of jury duty, even in communities in which the duration of jury service is relatively lengthy, i.e. a one-month commitment in South Australia.

2. Low representativeness of the wider community

Jury verdicts that are perceived as representative are more likely to be acceptable to the public. In 1993, the High Court emphasised that an essential feature or requirement of juries was that they be representative of the wider community (*Cheatle v The Queen* (1993) 177 CLR 541, 549, 560–561).

A second barrier to jury participation is the operation of various legislative and procedural mechanisms that tend to make juries unrepresentative of their communities. The legislative review disclosed a series of potential exemptions from jury duty in the form of ineligibilities and grounds for excusal. In some cases, the exemptions were somewhat outdated, e.g. regarding certain professional categories, and in other cases appeared overly broad.

Interviews with stakeholders revealed further concerns about the representativeness of juries. Many stakeholders indicated that juries seem to be representative of the broader community in terms of age and gender, and this was generally reflected in the survey results. For example, there were only slightly more female jurors (51%), than male jurors (49%) in this sample. There was also a generally even spread of jurors across ages, although the largest percentage of empanelled jurors was aged 40–49 years (27%).

Several stakeholders were concerned that juries are not representative on other dimensions such as education and occupation. Contrary to common perceptions, juries in this study were not composed primarily of retirees/pensioners (6%), people with home duties (6%), casual employees (6%), students (2%) and the unemployed (2%). The largest percentage of jurors identified themselves as 'professionals' (35%). More than one-half of the sample had achieved post-high school certification or training; 26% of jurors reported that they had a university degree.

The stakeholders also expressed concern that juries lack ethnic diversity. Although ethnic diversity was not directly measured in the survey, participants were asked whether they identified as Aboriginal or Torres Strait Islander and whether they came from a non-English speaking background. Despite recognition of the fact that Indigenous Australians are overrepresented as defendants in criminal trials (Snowball & Weatherburn 2006), all jurisdictions revealed a very low participation rate of Aboriginal or Torres Strait Islander persons in the jury pool and consequently on jury panels. Only three empanelled jurors (less than 1%) self-identified as of Aboriginal or Torres Strait Islander descent. Stakeholders pointed out that in some cases, the low participation rate is affected by legislative criteria, such as exclusion of persons with convictions from the jury roll or the omission of many eligible Indigenous Australians from the voter registration lists used to generate lists of eligible jurors to summons. Finally, social constraints were identified as an additional reason contributing to the notable attrition of Indigenous Australians in juries, i.e. instances where Indigenous Australians sought to be excused from the selection process in relation to an Indigenous defendant because of the negative consequences of participation for the juror in their community following jury duty, but were willing to serve on a jury with a non-Indigenous defendant. The net effect of these factors is that Indigenous jurors are rare. Furthermore, only 19 jurors (3%) self-identified as from a non-English language background. This outcome was a cause of concern to many stakeholders who observed that the exclusion of this sector of the community resulted in juries that were inadequately representative of the community.

3. Financial burden on jurors

A number of different results in the study indicated that the impact of financial constraints on jury representativeness may have been underestimated. One of the strongest messages to emerge from this study, from jurors and stakeholders, was the inadequacy of juror remuneration. Overall, less than one-quarter (23%) of jurors polled were satisfied with their remuneration, and the percentage of jurors satisfied with the travel allowances they received was even lower (17%). Sixty-four percent of jurors overall, but a substantially higher proportion in South Australia (85%), agreed that 'jurors need more compensation for their expenses'. People who attend jury service were more likely to endorse the view that jurors are not paid adequately (67%) compared with community members (48%). There was near unanimity amongst the key stakeholders that the amounts paid to jurors to compensate them for their time and their expenses were deficient.

In addition, the results of the study confirmed anecdotal reports from jury managers that financial hardship is the reason most frequently proffered by potential jurors who opt out of jury service. The way in which financial pressures incidental to jury duty lead to this outcome varies. In some instances, the cost of hiring someone to mind children or other dependents is prohibitive. Although in South Australia this out-of-pocket expense is included in the maximum of \$100 a day for financial losses incurred (\$125 from 1 July 2007), this cost is not covered by the other state remuneration schemes to compensate jurors for the costs of attending jury duty. A substantial proportion of potential jurors indicated that consideration of these costs motivated them to seek excusal from jury duty (14%). Further examination of the data revealed that despite legislative models which presume jurors are paid by their employers, only about one-half of contemporary jurors fit that model, i.e. 52 percent of jurors were being paid by their employer while on jury service and a sizeable proportion (11%) reported that their employment would be placed at risk if they attended jury duty. The risks were particularly acute among citizens employed less than full time or as casual workers and citizens who were self-employed, reflected in the higher percentage of casual (27%) and self-employed (14%) workers who reported that their employment was rendered precarious by participation in jury service. These findings, in conjunction with the acknowledged low rate of remuneration for jury service in comparison with average wages, made it apparent that the option of jury service is not attractive to many eligible jurors and simply not financially feasible for many other eligible jurors. This is despite statutory regulations requiring make-up pay in Victoria, and the somewhat higher jury fees in South Australia. One-third of jurors in New South Wales (36%), one-half in Victoria (49%) and two-thirds of jurors in South Australia (66%) were dissatisfied with the amount of remuneration they received. Conversely, only 14 percent of jurors in South Australia were satisfied with the amount of remuneration they received, compared with 26 percent in New South Wales and 22 percent in Victoria.

Notably, from 1995 to 30 June 2007, jury allowances in New South Wales had been increased 26 percent by the consumer price index, yet the 1995 maximum allowance represented only 66 percent of average weekly earnings. At 30 June 2007, the maximum allowance in New South Wales represented 51 percent of average weekly earnings. Problems are similar with respect to travel allowances, which do not take into account increases in the cost of petrol, and bus and rail fares (ABS 2007).

Self-employed citizens and citizens in high-income brackets lose too much income by attending jury duty, so they seek excusal. In sum, a variety of factors converged to provide an overview of jury duty as financially onerous to many citizens.

Barriers to juror satisfaction

A major outcome of this research was that, despite their satisfaction with the helpfulness and friendliness of jury staff, citizens who undertook to perform their civic duty were not rewarded with respect, reverence and comfortable amenities in exchange for making this commitment. Even the jury management systems that operated the best, and that

incorporated many examples of best practices, nonetheless revealed some deficits in their communications with jurors, the uneven provision of facilities for jurors, inadequate remuneration levels and inefficiencies in juror time management. Some states scored poorly on all of these dimensions. Overall, the experience for many jurors was less than desirable in a number of respects.

1. Communication and orientation

First, regarding communications with jurors before and during jury service, an unexpected finding was the extent which the key stakeholders (judges, prosecutors and barristers) are removed from this process and know relatively little about it, except incidentally. Next, there was some evidence that communications to potential jurors vary considerably in their content, appearances, comprehensibility and ease of use. The length and variability in content was documented thoroughly in section 'Communications with prospective jurors', and recommendations were made on ways to increase the user-friendliness of these communications to eliminate confusion and to make them more practical. Consistent with the communication analysis, Victorian jurors were significantly more satisfied with the orientation video, compared with jurors from New South Wales and South Australia.

Potential jurors experience their first contact with the jury administration system through a questionnaire (or notice of inclusion) or summons received in the mail. This is accompanied by information regarding their future role and the criteria for eligibility, exemptions and deferrals. Communications that jurors in New South Wales receive is particularly poor, as noted by one of the stakeholders:

The whole summons is terrible. I only know this because my father was summonsed to serve on a jury and he showed me the jury summons. And, the very first thing that the summons tells you is how to get out of jury service. It doesn't begin with 'you have been selected', it says, 'if you want to get out of this...' It's quite remarkable, but it's not because I'm a judge that I know of this, it's just because I happened to see my father's summons. It's terribly badly designed. He's pretty clever and yet he couldn't even work out that you shouldn't turn up unless you ring first. He just assumed that because it said 'you're summonsed' at 8.30 on a particular day, that you should turn up. So, he and a number of people turned up on that day only to be told, 'oh no, you should have rung first'. So, the form's obviously really badly designed. (NSW judge 1)

This stakeholder's experience is not isolated. In the case *R v Brown* [2004] NSWCCA 324, a juror who appeared for service on the wrong day was mistakenly empanelled. The error was discovered during the trial; however, both parties elected to continue the trial with that juror. An appeal against conviction was later upheld as the trial failed to abide by the standards set by the *Jury Act*.

Overall, opportunities to engage with jurors on duty and to actively involve them are missed. Instead, the courts persist in treating jurors rather distantly, formally and force them into a passive role; rarely provide opportunities for them to communicate regarding issues to do with their duties; and fail to seek their feedback following the conclusion of jury duty. The communications that jurors receive until they are discharged are often overly formal and unidirectional (court to juror). At times, following stressful trials, jurors in Victoria are debriefed. After jury duty, South Australian jurors are invited to provide feedback on a written questionnaire distributed by mail.

2. Management of jurors' time at court

A second area where far more can be done to enhance jury satisfaction is to use their time more efficiently at all stages of the jury experience, to avoid frustrating jurors by making them 'hurry up and wait'. Stakeholders uniformly acknowledged that this was one area where room for improvement existed, although there was no clear consensus on how to achieve change. All jury managers are concerned about the percentage of jurors not selected on orientation day, although motivation to reduce these numbers may be affected more by existing legislation as to whether jurors are paid for this time than consideration of the inconvenience to jurors. No uniform benchmarks, such as are common in the US for the efficient use of the jury pool, have been implemented. At least some juror frustration with waiting in the assembly room can be alleviated by simply providing more explanations as to why jurors must wait. The time in the assembly room can be more effectively used, e.g. by having a different judge each day visit the jury assembly room, meet with jurors, discuss their role, answer their questions and help inculcate a sense that jurors are a valuable, engaged component of the criminal justice system. During this period before empanelment, more information should be conveyed to jurors about their duties. At a minimum, the waiting facilities should be better equipped to allow jurors to work productively and to pass the time more pleasantly, e.g. by creating visually interesting and comfortable spaces, with break-out areas and outdoor views. Unquestionably, more efficient use of jurors' time increases juror satisfaction, save court costs and increase the willingness of citizens to serve as jurors. New South Wales and Victoria appear to be moving towards a 'one day/one trial' system to minimise inconveniences of time.

3. Personal impact of the court proceedings

Stakeholders indicated that in some courts, the process of empanelment can be more embarrassing to jurors than in others. To increase respect for juror privacy, various measures were suggested. This is important, as jurors who have a negative experience from their participation will be less satisfied and less inclined to serve. Procedures to disclose reasons for seeking excusal in practice (e.g. by note to a judge, instead of open court), were reviewed as one example of a means to increase jury satisfaction with this process.

As one stakeholder commented: 'I think they need to be made comfortable and confident that the system of which they're an integral part is... is working as if they're an integral part' (SA judge 6).

Although all three states studied had in place jury counselling services to attend to distressed jurors, information about the availability of this service was not well disseminated. As many as 49 percent of jurors reported that they were unaware of these services. In New South Wales, the proportion of jurors unaware of this service has more than doubled (59% in the current study vs 22% in 2002) since the New South Wales Sheriff's Office conducted an evaluation of the juror support program (Age Communications Pty Ltd 2003). Approximately one-fifth of jurors who were aware of the services used them. More jurors in New South Wales reported accessing the service in the current study than in 2002 (23% vs 1%). Overall, jurors in all states were only moderately satisfied with the advice they received about the availability of jury support services (53%).

4. Enhance jury facilities and amenities in the built environment

A major finding is that the facilities in which jurors are required to serve may not always provide a suitable working environment for listening, waiting and deliberation. The survey of jurors confirmed that the built environment, physical amenities and facilities which jurors experience contribute substantially to their comfort and general satisfaction with the experience of jury service. However, it is not uncommon for jurors to be accommodated in cramped rooms with inadequate space and lack of personal privacy, without any means to control the temperature, airflow or lighting in their environment. The quality of the food provided is variable, and self-catering facilities and accommodation for jurors with special dietary needs are rare.

Some of the court facilities have poor acoustics and inadequate sightlines for witnesses. The jury box rarely offers jurors room to take notes, while counsel and judges are seated at desks. When visual aids are projected, the screen is not always at a comfortable distance for all jurors.

To some degree, the comfort of and satisfaction with the built environment was influenced by the style of the court buildings in use. Certain court buildings date from the 19th century, while others are refurbished department stores and others are purpose-built, with areas designed specifically for jurors. Expert evaluations of the different court buildings in which jurors serve revealed extensive differences in the quality of the court facilities within and between states. Consistent with these independent, objective analyses of the court spaces, jurors rated the facilities at the new purpose-built courthouse as significantly more comfortable and satisfactory than purpose-built heritage courthouses; adaptively reused buildings received intermediate ratings. Overall, only about one-half to two-thirds of the jurors surveyed were satisfied with the comfort and privacy of the jury assembly areas, the comfort of the courtrooms, and of the jury rooms. Large discrepancies emerged in

satisfaction with facilities among jurors in the three states; satisfaction was significantly higher in Victoria regarding the comfort of the assembly room, jury room and courtroom. New South Wales jurors consistently expressed the least satisfaction with their facilities. South Australian jurors were most satisfied with the 'creature comforts' provided such as self-catering facilities, and the quality of the food and beverages.

5. Ensure adequate funding is provided

The interviews with stakeholders highlighted ongoing tensions in the management of the jury systems in attaining competing goals of efficiency and fairness in the administration of justice. To achieve efficiency in the form of cost-effectiveness, for example, jury administrators strive to constrain their budgets within the applicable legislative parameters. Inadequate funding for the jury system may result in facilities being less than adequate, which can result in citizens being disinclined or unable to participate in jury duty. Increasing funding may have the desirable effect of increasing the willingness of citizens to serve on juries, thus increasing representativeness and the viability of the system. As one key stakeholder, a judge in Victoria commented: 'I say jury trials are terribly inefficient, but so is democracy' (Vic judge 5). Although greater educational outreach regarding the importance of jury service is needed to counteract misinformation and myths about jury duty, the more pressing need demonstrated by the results of the foregoing study is to enhance the democratisation of the jury by increasing the attractiveness of jury service to match the high esteem in which citizens hold the institution.

6. Enhance jury aids to understand the evidence

Previous research suggested that juror comprehension of the trial evidence and familiarity with jury trial procedures was linked to juror satisfaction (Deborah Wilson Consulting Services 2000; Schaulder 2006). This finding has important implications for jury management and the presentation of witness testimony and exhibits.

Jurors obtain information in a variety of forms to assist them in following trial proceedings. Jurors made strong distinctions between the clarity of information received from different participants in the trial process. In general, jurors found the information and explanations provided by judges to be especially clear, with the prosecution and defence lawyers' opening and closing addresses falling slightly behind in perceptions of clarity. Although the majority of jurors reported the use of charts or visual aids during the trial, and that they received copies of exhibits in the jury room, jurors tended to have some difficulty with witness testimony and visual evidence (only 47% of jurors reported the witness evidence to be clear). Less than one-half of the empanelled jurors received transcripts of trial evidence or written directions from the judge to assist them in reaching a verdict, or the opportunity to submit questions for the judge. These results suggest that jurors are not necessarily given all the aids they need to perform optimally.

Perceptions of and confidence in the jury system

In general, the results revealed that persons with more direct contact and experience with court, even if as a defendant, were more eager to serve as jurors and expressed more support for the jury system and more confidence in the criminal justice system. Citizens most likely to avoid jury duty were those with the least experience and past contact with the courts, and with less accurate information and knowledge of the jury system.

More than 80 percent of stakeholders expressed confidence in the jury system and in the capacity of jurors to perform their task:

Look I'm a believer in the jury trial system and I... and I can't and have never envisaged a better system. I would just like to see a bit of tinkering like things that I've already suggested. I would like to see jurors be better instructed; I'd like to see jurors have a better understanding of the responsibilities; I'd like to see jurors have more time to digest all that information; I'd like to see them being paid properly so that they're not distracted by other issues that have nothing to do with the trial; I think that for the time that they are sitting in judgement, they should be treated like royalty basically because their job is very hard and it should be made as easy as possible in... whatever that costs. It is better to get a... a verdict right or as right as you can get it, than have an appeals process that is just going to cause all sorts of other expense and all sorts of other trauma for all parties involved. So I think that's what I'd like to see improved. But otherwise, I mean I think that our system even with its faults or whatever faults it does have is much better than any other system that I've read about or come into contact with. (NSW lawyer 4)

However, confidence in the community was less enthusiastic, with only about one-half of the community members surveyed expressing confidence in the capacity of juries to perform their duties. These results demonstrated that confidence was significantly higher among those more familiar with the jury system and among citizens who attended jury service, whether empanelled or not, compared with community members who have never served. Involvement in the jury process increased perceptions of the fairness of the criminal justice system and confidence in the capacity of juries and judges to perform their tasks. On some measures, jury confidence exceeded that of stakeholders. For example, confidence in the capacity of judges increased from a very low level of 45 percent in the community to 87 percent amongst empanelled jurors, exceeding that of stakeholders (73%).

Overall, jurors expressed moderate levels of satisfaction with the experience of jury duty, with 58 percent satisfied or very satisfied, and 26 percent neither satisfied nor dissatisfied. Only 11 percent expressed dissatisfaction with the experience. This was a positive outcome, in light of the onerous nature of jury service. Levels of satisfaction were significantly higher in Victoria, followed by South Australia and then New South Wales.

The current study revealed a strong positive correlation between overall satisfaction with the experience of jury service and confidence in the jury system: the more jurors were satisfied with their experience, the more confidence they expressed. Conversely, dissatisfaction with the process tended to undermine jury confidence in the system. For example, dissatisfaction with remuneration and travel allowances appeared to be associated with dissatisfaction with the overall jury experience, although it was less strongly related to overall confidence in the criminal justice system. On the other hand, comfort of jury facilities was positively associated with both overall satisfaction and confidence. These findings suggest that improvements to the quality of the jury experience may positively influence juror perceptions of the criminal justice system more generally.

Limitations of the study

Certain caveats are important in interpreting these findings. Despite the multidisciplinary and multi-jurisdictional strength of the project and the collection of data from in excess of 6,350 participants, this research has several limitations.

First, some methodological limitations must be noted. As noted earlier, the conduct of jury research in Australia is limited by legislation, which makes it an offence to solicit information from a juror. Although exceptions are allowed for research if authorised by the Attorney-General, and such an exception was made in this case, the researchers were nonetheless forbidden from contacting any individual juror directly. Thus, there was no opportunity in this study to interview jurors and ask them questions about their experiences or to delve into the factors that they found satisfying and those that left them dissatisfied. The quality of the information gathered is of necessity, affected by the format of the questioning process. Enquiries conducted by means of open-ended questions, such as can be posed in interviews to jurors, have certain advantages, particularly to obtain a more accurate but a less complete picture of factors affecting jury satisfaction. By comparison, closed-ended questions, which were used in this research, are useful in obtaining a broad picture that covers a specified range of issues, but are more susceptible to more errors than open-ended questions. Notably, the same restriction did not apply to the interviews of the stakeholders who answered mostly open-ended questions, which are suited to the exploratory nature of those interviews.

Second, this was a cross-sectional study, and while the results demonstrate some significant associations between the presence or absence of certain features and higher or lower levels of jury satisfaction, limited inferences can be drawn about causal relationships between these features. Additional study applying alternative methods, such as longitudinal studies or in-depth case studies, can provide fuller information about these links. While greater familiarity with jury service may result in higher levels of satisfaction, it is also likely that those who are less enthusiastic are more likely to avoid jury duty.

Furthermore, even if jurors rated information or instructions as 'clear', it does not mean they fully understood them. The study measured satisfaction, it did not provide an objective comparison of what the judge or jury office intended and what individual jurors understood. Even in cases in which jurors rated the clarity of the information provided before trial, and where the relevant official documents had been assessed and analysed for their clarity and readability, there is no certainty that jurors who responded to those questions had in mind precisely the same documents as those analysed, as there was no control over precisely which documents jurors reviewed or did not review before and during jury duty, or whether jurors attended to the videotapes.

Third, there are limitations that derive from the sampling methods used in this study. For example, the views reported by the 53 stakeholders who were interviewed cannot be generalised to all judges, lawyers or jury administrators in those three states. Although representative members of different sectors of the stakeholder groups were nominated and interviewed, the purpose of the interviews was to gain further insight into jury practices observed by those who deal regularly with jurors, and not to portray their views as indicative of any degree of consensus among those the stakeholder groups from which they were drawn.

Notably, the sample of 4,765 eligible jurors from the community deliberately excluded persons with past experience of jury duty. By screening out citizens with this experience, the research may have over-sampled individuals who held more negative views of jury duty and who had successfully avoided jury duty in the past. Thus, care needs to be taken to avoid the inference that the responses from this community sample are representative of the views of and generalisable to all citizens in the community who are eligible to vote.

With regard to the sample of empanelled jurors, the response rate cannot be reported, as no data are available on the number of exiting jurors who declined to participate in the study. Participation in the study was voluntary, to comply with the Human Subjects Ethics Procedures. Thus, exiting jurors who chose not to participate could not be compelled to respond. Some jurors whose deliberations ended left the court without completing our survey questionnaire. A reasonable hypothesis is that jurors who declined to participate may have been more distressed and dissatisfied than those who consented to remain at court another 15–20 minutes to complete the survey. Other potential responses may have been lost if jury administrators were not on hand to distribute the envelopes of survey materials at the conclusion of each juror's term of service. Since the results gathered from empanelled jurors do not accurately reflect the views of all jurors who served on trials during the study period, the outcomes reported may be more positive than those obtained with a 100 percent response rate.

Finally, to keep the length of the survey questionnaire reasonably short so as to maximise the response rate among willing participants, only a limited set of questions was included. These questions were framed in sufficiently general terms to ensure that they were answerable by jurors in multiple jurisdictions in District Courts, County Courts and Supreme

Courts in a wide variety of settings. Of necessity, this limited the scope of the questions that could be posed, for example, regarding aspects of the built environment and facilities available to jurors, to more general features. For example, anecdotally, jury administrators anticipated that jurors who used one specific deliberation room attached to a small balcony (providing some break-out space and room for smokers) would be more satisfied and comfortable than jurors using a similar deliberation room in the same court that lacked a balcony. However, the balcony was very cramped, lacked any view or outlook, and was situated above noisy traffic. Although an enquiry about the extent to which this feature would be rated by jurors as a positive or a negative attribute was of interest, because an architectural feature such as a balcony attached to a deliberation room was unique in the courthouses visited, no question about this architectural attribute was included in the survey. As noted above, assuming permission to interview jurors about their experiences can be obtained, more comprehensive information may be gathered by interviewing individuals or groups of jurors who served in specific buildings containing known features, or who used particular deliberation rooms.

Directions for future research

Several suggested directions for future research emerge from this study. Some are intended to address larger, system-wide issues and others more specific features or aspects of jury service.

First, given the consensus from stakeholders and jurors that more efficient use can be made of juror time, additional study is recommended of ways that courts use jurors, manage their time, and the associated costs and implications for justice. For instance, more systematic investigation, driven by data on the numbers of jurors called to court versus empanelled jurors may illuminate the percentage of unused jurors. Whether a 30 per cent ratio of unused jurors – a common benchmark applied in US federal courts (Litras & Golmant 2005) – is an acceptable ratio in Australian courts, needs to be examined, as adjustments to modify this ratio can effectively reduce juror non-use and waiting time, and hence jury satisfaction.

Similarly, implementation of a 'one day/one trial' system has revealed some strengths in meeting concerns of increasing citizen participation in jury panels without unduly burdening jurors who attend unless they are empanelled on the first day they attend jury duty (Kasunic 1983; Munstermann 1996). To some degree, certain measures towards adoption of this procedure have been implemented in New South Wales and in Victoria. Perhaps a limited trial of this system will be helpful. Obviously, the enduring commitment for a period as extensive as one month, as in the jury duty system in South Australia, screens out many others interested and eligible citizens, so representativeness may be lost to maximise other efficiencies in that state, such as the benefit of conducting only one jury orientation session each month. By comparison, states applying a 'one day/one trial' approach might have to conduct as many as five separate orientation sessions for fresh groups of attending jurors

each week. This comparison highlights the need to be mindful that emphasis on reducing financial costs and gaining efficiencies for jury personnel at the operational level must be balanced against the goals and values of increasing both the participation rate in the jury system by more citizens and the representativeness of juries who serve. Further study is needed to compare the satisfaction rates and representativeness of juries in South Australia, where longer periods of service are typical of fewer citizens, with those of juries constituted using a 'one day/one trial' system or close analogue that permit many more citizens to participate in the jury system for shorter periods of time.

Although all jurisdictions have provisions protecting jurors' employment, there was a perception amongst some jurors that their continued employment is placed at risk if they attend jury duty. Research should be conducted to determine the best way to manage this real or perceived risk; for example, by increased education and/or sanctions against noncompliant employers.

South Australia has also developed a different approach to issues of efficiency and fairness accomplished by use of the juries by highlighting the value of developing experienced jurors, i.e. jurors who serve on more than one trial during their term of jury duty. Notably, approximately one-half of the South Australian jurors were satisfied with their experience of jury duty (54%), indicating room for improvement. Few states in Australia employ systems that permit jurors to serve on multiple trials. Little is known about the influence of repeated trial participation and jury decision-making on jurors. For example, if anecdotal reports are accurate that jurors become more sceptical of defendants after serving on more trials, this procedure may have an unanticipated impact on the conviction rate of defendants in South Australia whose trials commence in the latter half of the month.

Another avenue of research that may be profitable is the examination of the use of multimedia to assist jurors, since relatively few individuals have a learning preference for the delivery of information via verbal means only (Felder & Soloman 1997; Felder & Spurlin 2005). The orality of the majority of court procedures is at odds with the way in which most people prefer to receive information. These principles apply to communications with potential jurors and jurors about jury duty as much as to the presentation of information to jurors during a trial (Mayer 2001; Mayer & Massa 2003).

In light of the major finding that it is the presentation of the evidence that jurors regard as the least clear aspect of their court experience, more extensive research is warranted on ways to streamline the presentation of evidence to reduce jury confusion and facilitate their decision-making task. For example, rather than schedule witnesses in an order convenient to the witness, such as taking experts 'out of order' to minimise their waiting time, more attention should be paid to the sequence in which information is presented to jurors. Often, trial testimony is fragmented and protracted (Eames 2007), making the task of jurors unduly complicated.

In this study, no in-depth examination was possible of the influence of different offences (e.g. violent crimes vs property crimes) or the influence of confrontational or gruesome evidence on jury satisfaction as this would require analysis of specific cases tried. The results of this study revealed that jurors make relatively infrequent use of the juror support services that make counsellors available to jurors. Those services are clearly necessary for critical situations, and are accessed by a small minority of jurors on a regular basis. However, the low usage of jury counsellors does not imply that jurors do not experience distress in response to evidence of certain crimes or events. To date, much information on this topic is anecdotal and experimental (Bright & Goodman-Delahunty 2006). Future studies should assess the responses of jurors to specific case types and to gruesome and confrontational evidence, and explore effective ways to manage this evidence and these cases to minimise any detrimental impact on jurors.

A few questions included in this study sought information from jurors about their responses to guidance provided about the procedures to follow in deliberating to a verdict. Although deliberation procedures were not the focus of this particular study, the responses gathered indicated that this is a fertile area for future research. In other words, jurors generally expressed a preference for more preparation for deliberation that was provided, both in the form of more time to choose a foreperson to effectively lead the deliberation process (16%), more information about the role of the foreperson (18%) and in the form of additional guidance on deliberation (22%), the application of decision rules (Knox 2005), and strategies to resolve conflicts if they arise during deliberations (Ogloff, Clough & Goodman-Delahunty 2007). Further research should examine tools which may assist jurors to streamline their deliberations and reduce the stress that can be induced by this aspect of jury service.

By implementing a system of obtaining regular feedback and evaluations of the jury experience from jurors, researchers will be able to better assess the causal relationship between the presence or absence of an element and jurors' expressed satisfaction, to monitor the impact of specific changes in the environment and the procedures.

Overall, the findings revealed a high degree of confidence in the jury system expressed by both by citizens who participated as jurors and those who did not. With respect to the citizens who did not serve as jurors, this finding is indicative of a high level of political trust and thus tends to endorse the theory proposed by Bean (2006) that citizens who are high in political trust may avoid active participation in civic activities. To test this theory as it applies to jury participation, further research is needed on the extent to which persons who are high or low in political (as opposed to interpersonal and social) trust in others choose not to participate in jury service. Results of research along these lines will be instrumental in determining the extent to which confidence in the jury and the criminal justice system is influenced by civic participation versus individual predispositions reflecting social and interpersonal trust versus trust in political authorities.

Conclusion

Jury service is an important but onerous civic responsibility. For the period of jury service, the court is a juror's workplace. However, it is a workplace over which jurors can exert very little control, and about which they are rarely consulted. It is therefore incumbent on governments and jury administrators to ensure that every measure is taken to assist jurors to perform this essential task as efficiently and comfortably as possible. Broadly, these results indicated that confidence in the courts and the jury system can be enhanced by increasing participation in jury service. Improving juror satisfaction is a matter with implications beyond the comfort of individual jurors; it accords juries due respect and dignity, demonstrates recognition for the important role that jurors perform in the criminal justice system, and may also contribute to improved confidence in the criminal justice system.

Recommendations on ways to improve the experience of persons summoned to serve as jurors in Australia are noted below.

Recommendations

The research findings illuminated aspects of the jury system that are working well and aspects of the jury system that can be improved. In some cases, the potential for improvement was most starkly illustrated by the extent of differences between states. For example, on many dimensions of the jury experience, Victoria and South Australia were rated by experts, citizens and jurors as more satisfactory than New South Wales. In the following section, recommendations are general, without reference to any specific state. Accordingly, a state that has rated very well on this dimension may already be incorporating the best practice standard on this issue and have little room for improvement, whereas the other states may have revealed some deficits in this regard. More specific recommendations tailored to the three states can be inferred from the attached frequencies (in Appendices P to R) of responses from jurors and citizens to the full set of survey questions, presented by state.

Community education

- The survey questions that explored the knowledge of citizens and jurors about some fundamental aspects of jury service showed that many people did not know they could defer jury duty until a more convenient time. Moreover, many persons were unaware of the average length of jury duty. Even stakeholders were poorly informed about jury management practices. These findings demonstrated a gap in knowledge in the potential jury pool. Citizens who erroneously believe jury duty is longer or shorter than it is in reality may avoid jury duty or be less satisfied. Thus, it is recommended that courts develop and provide more extensive outreach and community-based education programs to reduce barriers to jury participation and to provide accurate information about the length and timing of jury duty.

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- Because few citizens are aware of the option to defer jury duty in response to a jury summons, potential jurors expend efforts in seeking excusal. This response strategy diminishes the participation rate in jury service of otherwise eligible and interested jurors. Accordingly, it is recommended that jury administrators adopt strategies that allow more flexibility in approving deferral of jury service as this practice will increase jury representativeness and participation.

Jury representativeness

- Comparisons of interest and satisfaction level of citizens, non-empanelled jurors and empanelled jurors revealed that more direct experience with the courts and more extensive exposure to the jury system increased jurors satisfaction with jury service and juror confidence in the jury system. Accordingly, policies and practices that encourage wider community participation in jury duty will generate increased contact with and knowledge about the jury system. These factors, in turn, will reduce misconceptions that prevent citizens from participating as jurors and increase public confidence in the criminal justice system and support for juries.
- Together, the legislative review, stakeholder comments and citizen's survey responses placed in issue the nature and scope of many of the exemptions and excusals offered to potential jurors. There was consensus that the grounds for avoiding jury duty were overly broad and should be narrowed. By narrowing the potential grounds for excusal and the practice of granting excuses, more citizens are likely to participate in jury service, and be happy and willing to do so. All sectors felt that exemptions on the basis of certain occupational categories were unwarranted. Accordingly, it is recommended that the states critically examine the categories of exemptions and excusal with a view to making amendments designed to reduce the occupational exemptions and increase participation by members of all professions and occupations.
- The findings revealed an exceptionally low participation rate in the jury pool by Aboriginal or Torres Strait Islander persons. The states should engage in efforts to critically examine barriers to Indigenous participation at all stages of the jury administrative process, e.g. registration on the electoral roll, responsiveness to the jury summons, applications for excusal and exemption, financial disincentives, with a view to decreasing the barriers to participation in jury service by Indigenous Australians. By increasing the participation rate of this sector of the community, the perceptions of justice can be enhanced. The need for this action is particularly acute in areas where many defendants are Aboriginal or Torres Strait Islander persons, such as certain rural areas.

Remuneration

- A major finding to emerge in this study was widespread dissatisfaction with current jury remuneration for attendance, transport allowances, food allowances and the lack of financial support for childcare costs incurred by attending jury duty. By reducing the potential financial burden of jury duty, jury managers can decrease the likelihood that citizens will avoid jury duty. We recommend that alternative models of jury remuneration be investigated, so that juror remuneration can be increased to provide a basic daily allowance in conformity with either average weekly earnings, or earnings reflective of jurors' individual circumstances. In addition, jury remuneration should be indexed to adjust for inflation rates.
- Similarly, we recommend that juror allowances for transportation be increased and that other reasonable out-of-pocket costs of attending jury duty, such as childcare expenses, be reimbursed.
- In light of some jurors' perceptions that their continued employment is placed at risk if they attend jury duty, legislation is needed to protect jurors' jobs and income during jury duty.

Pre-orientation information

- Although on the whole, the findings in this study revealed that written document communications issued by courts to potential jurors required a reading level that facilitated comprehension, some of the instructions were confusing and the content was not as clear or complete as it could be. More information could be provided in advance regarding options to defer jury service and regarding the average length of jury duty. Using the checklist developed in this project of content areas to address with potential jurors, states should critically review the information provided to jurors in advance of jury duty to ensure that the jury summons and other documents are clear, informative and that compliance is easy.
- In addition to communicating to potential jurors more basic information about opportunities to seek deferral of jury duty and about the fundamental terms and conditions of jury service, the states should endeavour to disseminate this information more widely within the community, e.g. via educational outreach programs within the schools to other outlets, such as the court websites.
- The study showed that many citizens are ignorant of the duties of jurors, and that once jurors are empanelled, all the information that they need is transmitted in a short time, not necessarily in the best sequence or manner for them to absorb the information. Accordingly, recommendations are made that states provide potential jurors with more extensive information in advance of their attendance at court regarding the role, responsibilities, and terms and conditions of the position, such as the expected duration of jury duty and jury remuneration.

Jury management

- Jurors who are summoned to court may not be empanelled or attend a potential panel for several days after their term of service commences. Jury summoning procedures should be streamlined to minimise the amount of time that non-empanelled jurors are kept waiting at court. For example, if jurors are summoned as needed, and on any given day are called to court only if needed that day, much juror frustration can be alleviated. This amendment to procedures may also produce a more equitable system of juror remuneration. For example, under certain statutory schemes, such as in New South Wales, jurors who attend court for less than four hours are not compensated and are not entitled to travel reimbursement. A more satisfactory scheme would call jurors as needed and remunerate them for time spent on jury duty and out-of-pocket costs incurred even if they are dismissed after four hours.
- The findings indicated that the community was generally supportive of the jury system and that many individuals were keen and willing to participate in jury duty. To foster an atmosphere of cooperation among interested and willing potential jurors, sanctions for noncompliance should be avoided. Almost all stakeholders warned that jurors who experience negative sanctions will be too unmotivated to serve impartially and enthusiastically. However, useful information can be gained from potential jurors who fail to comply with a jury summons. Accordingly, it is recommended that representatives of the jury management office should personally contact citizens who do not respond to the jury summons to seek an explanation and to offer the citizen an opportunity to serve on a jury at a later date. The information should also be used to monitor barriers to participation.
- The analysis of orientation information provided to jurors once they attend court for jury duty revealed some unevenness in the coverage of topics, and variability in the form of delivery. Accordingly, states should ensure that the information provided to jurors is multimodal, interesting, informative, accessible and easy to understand. The checklist of topics compiled in this study should be consulted to ensure that the orientation information coverage is more comprehensive. States should regularly update the orientation videotapes and brochures to ensure that they are interesting and engaging, while informing jurors about their role and the part they play in the criminal justice system. Where possible, the videotapes should be tailored to location and type of court.
- The researchers noted that many judges forgo opportunities to communicate directly with jurors about matters that can enhance the jurors' experience. For example, more communication between judges and jurors during the orientation period is encouraged. In some courts, judges personally attend the orientation session for jurors and use this opportunity to answer questions, to establish rapport and to build juror confidence in their capacity to perform their duties. Judges may also want to provide more general information to jurors in advance of empanelment on a trial, as jurors are receptive to the information at this stage. For example, more extensive and detailed information about the trial proceedings, burden of proof and jurors' role can be provided before jurors are empanelled.

Jury environment

- Overall, jurors were not satisfied with the facilities and incidents of jury duty. Inspection of assembly rooms, courtrooms and deliberation rooms revealed that many aspects of the built environment could be enhanced. The concurrence between expert and jurors ratings of the facilities indicated that jurors were sensitive to the physical features of their working environment. Accordingly, courts should ensure that jury facilities such as the jury assembly room, courtroom and jury deliberation room are comfortable, inviting and upgraded in accordance with best architectural practices. A facilities checklist and guide outlining best practices to implement as well as features to avoid was developed in the course of this study as a tool for the use of court administrators.
- Jury satisfaction can be enhanced by upgrading the quality of food and beverages provided to jurors, and ensuring that jurors have access to water in the courtroom.
- To cater for jurors' dietary preferences and requirements, and to relieve the frustration incurred when jurors are persistently given take-out meals without adaptation for individual preferences, courts should provide self-catering facilities such as microwave ovens, refrigerators and kitchen areas for use by empanelled and non-empanelled jurors.
- Figure 20 demonstrates examples of best practices in jury environments.

Trial management

- A major source of frustration to jurors is the time spent waiting before and after empanelment. Courts should consider adopting procedures designed to use juror time more effectively. For example, if counsel are required to present their legal arguments about evidentiary matters to the trial judge prior to the calling of a panel, frustrating delays for jurors before the trial commences can be alleviated.
- Stakeholder interviews revealed a variety of practices regarding presentation of juror requests for excusal after the empanelment process commences for a particular trial. Jurors are often reluctant to come forward and seek excusal because the process is intimidating and they are not sure about the grounds for excusal. Accordingly, judges should provide jurors with additional time to apply for excusal after the list of witnesses and charges in a case are presented, and before the jury panel is finally established.
- Although jurors have numerous opportunities to apply for excusal, reasons warranting excusal may become clear to jurors only after the empanelment process for a particular trial commences. Jurors are reluctant to seek excusal in open court because this procedure is intimidating and formal. Judges can avoid the embarrassment or humiliation of individual jurors by allowing them to submit private notes to the trial judge specifying their reasons for seeking excusal. Jury administrators can inform jurors of this option during the orientation period so that jurors have an opportunity to prepare notes, if required.

Figure 20: Best practices regarding jury facilities

	Examples that conform to best practice	Examples that do not conform to best practice
Equal access	 <p>Disabled access integrated into courtroom joinery</p>  <p>Space in jury box allows a wheelchair seat at the same height</p>	 <p>Main entry with stair access only</p>  <p>No disabled access to the jury box</p>
Integrated variable temperature air conditioning	 <p>Air conditioning unit integrated into joinery or the built fabric</p>  <p>User-controlled temperature and fan within jury room</p>	 <p>Window-mounted air conditioning unit impinges on natural light source</p>  <p>Air conditioning not user-controlled</p>
User-controlled natural ventilation	 <p>Internal blinds that vary the amount of natural light and views are controlled by jurors</p>  <p>Heritage buildings are more likely to have openable windows</p>	 <p>Windows not openable by jurors</p>  <p>Windowless jury room; only artificial light</p>
Sense of space beyond	 <p>Window frames with frosted glass backlit with artificial light</p>  <p>Artificial light behind the opaque window makes the room less claustrophobic</p>	 <p>Windowless jury rooms feel smaller than those of the same size with windows</p>  <p>Many courtrooms in all states lack access to natural light</p>

Figure 20: continued

	Examples that conform to best practice	Examples that do not conform to best practice
<p>Views outside (Preferably of nature)</p>	 <p>Small rooms feel more spacious with far-reaching views to the landscape beyond</p>	 <p>Windows high above street level maintain anonymity in the jury room. Blinds are controlled by the jury</p>  <p>Many jury spaces lack views to exterior environment</p>  <p>The lack of views to the outside is acute in small jury rooms</p>
<p>Improved seating (Ergonomic, individualised, incorporated writing facilities)</p>	 <p>Upgraded jury facilities have comfortable ergonomic chairs</p>  <p>Comfortable ergonomic seating with adequate writing tables</p>	 <p>Heritage buildings lack comfortable seating</p>  <p>Seats become uncomfortable after long periods of time</p>
<p>Break-out spaces (Lounge chairs, separate spaces to reflect indoors and outdoors)</p>	 <p>Break-out spaces increase the amenity of jury deliberation rooms</p>  <p>Comfortable lounge seating provides an alternative to the intensity of the jury table</p>	 <p>Space only for seating around the deliberation table</p>  <p>Lack of a break-out area can increase the intensity of deliberation</p>
<p>Facilities for communal deliberation (Whiteboards, pin boards, monitors)</p>	 <p>Monitors in the jury room to review electronic evidence</p>  <p>A variety of media (butcher paper, whiteboard) is provided</p>	 <p>Small whiteboards do not allow much writing. This example doubles as a pinboard.</p>  <p>Chalkboard is messy</p>

Figure 20: continued

	Examples that conform to best practice	Examples that do not conform to best practice
Adequate space for the occupants	 <p>Tall ceiling heights make the space appear larger and less oppressive</p>	 <p>An adjacent space makes the jury room appear larger than it is</p>  <p>Some spaces feel cramped when occupied</p>  <p>Too many pieces of furniture create clutter and confine the spaces</p>
Kitchen facilities (Microwave, fridge, instant boiling water, integrated into joinery)	 <p>Amenities accommodate lunch, tea and coffee</p>  <p>High-quality finishes withstand high-volume use</p>	 <p>Outdated and inadequate facilities</p>  <p>No microwave or fridge, and poor quality finishes</p>
Bathroom amenities (Quality, number per occupants, disabled access)	 <p>Amenities accommodate wheelchair access</p>  <p>High-quality finishes withstand high-volume use</p>	 <p>Amenities fitted into small space without acoustic separation from jury room</p>  <p>Outdated and inadequate amenities</p>
Secure storage for personal belongings	 <p>High-quality finishes and lockers integrated into building fabric</p>  <p>Larger lockers to fit coats, ample storage space for bags. High-quality timber finish.</p>	 <p>No individualised storage space</p>  <p>No storage space provided</p>

Figure 20: continued











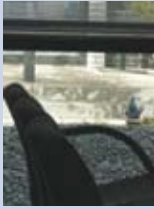


	Examples that conform to best practice	Examples that do not conform to best practice
Direct access from courtroom to jury deliberation room	 <p>Jury room leads directly off the courtroom</p>	 <p>Direct access ideal, with adequate soundproofing</p>  <p>Jurors take a long time to walk from the courtroom to jury room</p>  <p>Jurors are required to walk outside past the defendant</p>
Facilities in the jury assembly room	 <p>Lounge seating with TV, powerpoint access and tables for jurors to work</p>  <p>Computer access and carrels allow jurors to work</p>	 <p>Some rural courts lack funding to provide entertainment in the assembly room</p>  <p>No entertainment provided, but boredom may be relieved by interesting surroundings</p>
Adequate sound proofing (Between jury room, courtroom and bathrooms)	 <p>Change in level provides acoustic privacy to amenities</p>  <p>Air locks and solid core doors provide acoustic division between amenities and jury room</p>	 <p>Toilet and toilet doors too close to jury table</p>  <p>Jurors' laughter audible from the jury room in the courtroom</p>
Sensitivity to cultural differences and user-group needs	 <p>An external pavilion allows Aboriginal users to gather outside; potential for outdoor sittings</p>  <p>Visual interest provided at level of a child's sightline in Children's Court</p>	 <p>Heritage facades appear intimidating</p>  <p>Even smaller scale heritage courthouses can appear intimidating</p>

Figure 20: continued








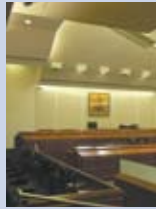





	Examples that conform to best practice	Examples that do not conform to best practice
<p>Visual interest (Paintings, heritage interpretation, sophisticated architectural details)</p>	 <p>Artwork incorporated into the building fabric narrates the story of the surrounding landscape</p> <p>Heritage paintwork and plasterwork restored</p>	 <p>Minimal visual interest in prints of colonial artwork</p> <p>Assembly room lacks visual interest</p>
<p>High acoustic quality within courtroom</p>	 <p>Sophisticated electronic evidence requires a high-quality acoustic system</p> <p>Acoustic quality addressed during heritage conservation works</p>	 <p>Heritage courtrooms that have not been upgraded or microphoned have acoustic problems</p> <p>Even in some of the contemporary courts it is difficult to hear all participants</p>
<p>Sightlines within the courtroom ensure that all participants are visible</p>	 <p>Sophisticated electronic evidence requires clear visual sightlines</p> <p>Adaptively-used courts in heritage buildings with improved visual sightlines</p>	 <p>Heritage courtrooms that have not been upgraded have visibility problems</p> <p>The layout of Victorian courtrooms is not conducive to clear sightlines</p>
<p>Direct access to outdoor spaces (Garden, balcony)</p>	 <p>Direct access to private jury balcony from jury deliberation room</p> <p>Direct access to private garden from jury deliberation room</p>	 <p>No direct access to any outdoor or indoor space</p> <p>Jurors must ask permission for a break outdoors</p>

Figure 20: continued

	Examples that conform to best practice	Examples that do not conform to best practice
Access to natural light within the courtroom	 <p>Natural light in large shafts make artificial lighting subsidiary</p>	 <p>Even small openings make a difference to the perception of circadian rhythms</p>
		 <p>Courtrooms that lack natural light benefit from high ceilings to enlarge the space</p>
		 <p>Clever use of artificial lighting can relieve the oppression of a room without natural light</p>
Access to views within the courtroom	 <p>Views beyond the jury box provide relief from the intensity of the courtroom</p>	 <p>Two large windows flanking judge's bench allow views beyond to the trees in courtyard adjacent</p>
		 <p>Small rays of natural light appear above canopy, but do not allow views beyond courtroom</p>
		 <p>Intricate architectural detailing and interest can relieve the oppression of a room without views</p>

Photography credits: PTW Architects, Professor Graham Brawn, Christopher Shain and Scott Wojan (King Street)

- Being challenged during the empanelment procedure is intimidating for jurors and frustrating if they have reorganised their schedules and made substantial efforts to attend jury duty. One recommendation to improve the utility of peremptory challenges is to provide the parties with more information about prospective jurors – such as name, suburb of residence and occupation – rather than number alone. In addition, the humiliation or embarrassment of jurors who are challenged can be minimised by reading out in court a joint list compiled by both parties of the numbers of the individual jurors challenged, rather than requiring individual jurors to parade before the parties while individual challenges to that juror are announced in open court.
- Many stakeholders commented that jurors require more time to settle after empanelment and before the trial commences, although the amount of time recommended for this process varied. Courts should allow empanelled jurors sufficient time to settle before the trial commences so jurors can organise their personal affairs, absorb the orientation information, and adjust to the new task and environment.

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- Similarly, many jurors responded that they preferred more time after empanelment to become better acquainted with their fellow jurors before being tasked with the selection of the jury foreperson. Perhaps a jury spokesperson can be designated early on, if necessary.
 - The jurors surveyed indicated a preference to be kept better informed about reasons for delays and interruptions in the trial proceedings. By providing jurors with explanations for delays and interruptions, a more respectful relationship with jurors will be fostered and jurors will be less frustrated.
 - As jurors indicated that the information that was least clear was the testimony presented by witnesses, efforts should be made to present this evidence in a less fragmented fashion and to facilitate juror understanding of the significance of the testimonial evidence to the charges. Exhibits and witness testimony presented in a clear and coherent manner may reduce deliberation time and increase jury satisfaction. Where possible, provide jurors with transcripts and copies of the trial exhibits to refer to during deliberations.
 - Encourage more active participation of jurors in trial by allowing jurors to submit questions to the trial judge about matters that are confusing or questions they may wish to have witnesses address.

Following service

- Typically, at the end of jury service, jurors are released once a verdict is returned. In rare cases, some judges debrief jurors. One way to provide more closure to the experience of jury duty is to establish more systematic communications with jurors at the conclusion of their jury duty, for example, by establishing more regular procedures for judges to debrief jurors and thank them for their contribution, by informing jurors of the date of the sentencing hearing in cases where the jury convicted the defendant and by seeking juror feedback about the jury experience.
- Enquiries made in the course of the study revealed that all states were interested in obtaining juror feedback about their experiences, but not all had incorporated a systematic approach to evaluation, except South Australia, where all exiting jurors are surveyed, and quarterly reports of jury responses are prepared and circulated so that assessment and amendment is an ongoing process. We recommend that jury administrators conduct regular evaluations of the experience of jury duty to ensure that issues affecting juror participation, performance and satisfaction are continually monitored and addressed.

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In 2005, the Criminology Research Council commissioned a study into the practices, policies and procedures that affect juror satisfaction in New South Wales, Victoria and South Australia. This definitive study encompassed the management of jurors, sources and levels of juror satisfaction, jurors' perceptions and knowledge of the jury system, and policy implications for developing optimal procedures for juror management.

The report highlights a range of issues regarding the jury system and processes, from community perceptions and juror information through to management of jurors during and after trials. Barriers to jury service, such as lack of accurate information about and confidence in the jury system, affect participation rates. Satisfaction of jurors was dependent on personal comfort within the physical environment, wellbeing, clarity about the information presented and jury procedures, remuneration and job protection.

Recommendations for improving policies and procedures include further research on protecting jurors' employment, improving delivery of clear evidence, assessing the psychological impact of cases on jurors, tools to streamline deliberations and the level of jurors' political trust and confidence in the jury system. Policies could be developed further to address community-based education programs that encourage wider community participation in jury duty, improve jury representativeness and remuneration, increase orientation information and improve communication to jurors.