



The Australasian Institute of  
Judicial Administration Incorporated

# Working With Juries Seminar

---

Summary of Proceedings

15 June 2007, Melbourne

## Contents

SUMMARY OF PROCEEDINGS.....	3
BACKGROUND.....	4
PARTICIPATION .....	4
WORKSHOP PROCEEDINGS.....	5
Session One: Presentation – Enhancing communication with Australian and New Zealand juries: A survey of judges .....	5
Session Two: Issues before trial.....	8
Session Three: Beginning the trial.....	9
Session Four: During Trial.....	10
Session Five: Deliberation .....	11
Session Six: Verdict and After .....	13
IDENTIFICATION OF COMMON THEMES AND FUTURE ACTION.....	15
APPENDIX.....	17
QUESTIONNAIRE RESPONSES .....	17

## SUMMARY OF PROCEEDINGS

On the 15 June 2007 the AIJA held a seminar on Working with Juries at the Melbourne Business School. The invitation only Seminar was attended by some 33 delegates, consisting of judges from the County and District Court, Supreme Court and Court of Appeal levels, as well as Sheriffs and Jury Commissioners from most states of Australia. Three delegates also attended from New Zealand. The seminar was very successful in providing all concerned with the opportunity to discuss the findings of the AIJA study by Professor Ogloff, Dr Clough and Associate Professor Goodman-Delahunty 'Enhancing communication with Australian and New Zealand juries: A survey of judges' and to enable different jurisdictions throughout Australia and New Zealand to 'show and tell' the various approaches to issues relating to jury trial management in civil and criminal trials. Finally, the seminar assisted to identify the challenges of working with juries faced by all jurisdictions and how they might best be tackled.

The Seminar program was based on information provided to the AIJA by Australian and New Zealand Courts on a broad range of jury trial management issues including:

- Issues arising before trial such as the general information provided to jury panels; witness lists for jury pool and jury panel; information for the accused regarding jurors; excusing jurors for service; and giving jurors settling breaks.
- Issues arising at the beginning of the trial including selecting the foreperson and informing the jury about the role of the foreperson; opening remarks to the jury by the judge; jurors taking notes and asking questions; and informing jurors about confidentiality.
- Issues that arise during the trial including the managing of breaks for jurors; providing jurors with transcript and directions from judges; the use that is made of jury aids such as chronologies, charts and summaries and how these matters are vetted and controlled; the protection of juries and ensuring no improper communication; dealing with questions from jurors; and the issue of reserve jurors such as when are they used and what is their role before and during deliberation.
- Issues arising during jury deliberation including the separation of jurors after deliberation has commenced; length of deliberations; dealing with jury questions during deliberations; segregation of jurors overnight and comments made if any when a jury is having trouble reaching a verdict.
- Issues associated with verdict and after the verdict is received, such as methods of taking the verdict; debriefing for jurors; informing jurors of the sentence; and arrangements for jurors after they leave Court.

The Seminar highlighted that there is a huge diversity of approach to common issues faced by Courts in jury trial management. Many attendees were encouraged by the experiences of other Courts who had successfully explored different trial management techniques and particularly the use of new technology. After a day of in-depth discussion Courts were asked to go away from the Seminar and think about five or six things that could be done better in their Court.

It was clear that continuing education in relation to juries within each jurisdiction should occur and initiatives such as a webpage clearinghouse could be explored to enable an exchange of information on jury practice.

## BACKGROUND

Jury trial management issues are a perennial concern for Judges, Court staff and Sheriffs or Jury Commissioners. The AIJA Education Committee decided therefore that an invitation only seminar should be organised to bring Judges and Sheriffs or Jury Commissioners together to “Show and Tell” the “nuts and bolts” issues arising at criminal and civil trials such as jury empanelment, challenges, provision of information to juries, and transcript. It was intended that by providing Judges and Sheriffs or Jury Commissioners from different jurisdictions with the opportunity to share such ideas and discuss differences in legislation would help develop some ideas of best practice around jury trial management.

A small Steering Committee was formed consisting of Dr Andrew Cannon AM (Magistrates Court of South Australia and Chairperson of the AIJA Education Committee), Justice Christine Wheeler (Court of Appeal, Supreme Court of Western Australia), Chief Justice Peter Underwood AO (Supreme Court of Tasmania), Justice Ron Young (High Court of New Zealand) and Judge Tom Wodak (County Court of Victoria).

## PARTICIPATION

Invitations were sent to the Chief Justices and Chief Judges of Courts of all Australian States and Territories and New Zealand, asking each Court to nominate judges to attend the Seminar. Invitations were also sent to all Jury Commissioners and Sheriffs in each State and Territories and New Zealand. The Judicial College of Victoria and the Law Reform Commission of New South Wales were also invited to participate. Most jurisdictions were represented at the Seminar. A written questionnaire developed by the Steering Committee regarding jury trial issues was provided to all Australian and New Zealand courts, with written responses to the questionnaire received from all jurisdictions, and most Courts within each jurisdiction. Courts from some States provided joint responses to the questionnaire where the practice was generally the same between the Courts. The responses received by the AIJA were tabulated and distributed to Seminar delegates prior to the Seminar. The table is appended to this report.

## WORKSHOP PROCEEDINGS

### **Session One: Presentation – Enhancing communication with Australian and New Zealand juries: A survey of judges**

*Dr Jonathan Clough, Monash University, Victoria*

Dr Jonathon Clough from the Faculty of Law at Monash University, Victoria presented Seminar delegates with an update on the AIJA jury communication research project that he has been working on with Professor James Ogloff, Dr Clough, Associate Professor Jane Goodman-Delahunty, and Professor Warren Young. Dr Clough reported that the first stage of the project which involved a survey of Victoria judges was very successful with many judges responding. Stage Two of the project is aimed at learning more deeply about what judges are doing by conducting in depth interviews with County Court and Supreme Court judges. Under Stage Two, 26 one-hour long interviews with judges in Victoria have been conducted. These interviews cover communication issues from induction through to deliberation.

Dr Clough noted that the AIJA study seeks to take account of the reality of life in the courtroom. His study has shown that there are numerous impediments to change and polarized views on every topic. Dr Clough discussed a number of the practical issues that the judges have raised in the interviews. This session was interactive with Dr Clough presenting findings from the AIJA study and Judge Tom Wodak of the County Court of Victoria providing his comments on the issues raised by Dr Clough followed by further comment from the Seminar attendees. Further, Dr Clough reported that he has also been involved with a research project by the Criminal Research Council on juror satisfaction which is due to be released later in the year.

Dr Clough raised a number of issues in relation to jury trial management:

#### **Transcript**

Firstly, Dr Clough discussed the issue of giving of transcript to jurors. He reported that in New Zealand the rate of giving transcript to jurors is very high. Whereas in Australia it is relatively rare to give access to transcript and the reading back transcript to jurors is preferred. The main reasons against giving jurors transcript is said to be the oral nature of the trial process, the danger of the transcript being given disproportionate weight by jurors, and the logistical difficulties of getting and editing the transcript where required. The main reasons for giving transcript are that jurors as finders of fact should be entitled to an accurate record of what is said; it may reduce the need for lengthy summaries of evidence; and technology has addressed many of the logistical difficulties.

Judge Wodak provided comment on this issue stating that reading back the transcript to jurors is the most common practice in Victoria, with some judges allowing jurors to have transcript if they request it. In the County Court transcript is recorded digitally and remotely produced. Tipstaves operate the VCR and record evidence by visual and audio means, so it is easy to enable the jury to watch and hear the evidence again. This process is done in the courtroom

and the only drawback is that it is hard to cue up the video to the right place in the tape, but the practice seems to work. The cameras in the County Court of Victoria are permanent and the cameras exist mainly to back up the transcript. Inadmissible sections are taken out. Judge Wodak noted that digital systems work better.

A New Zealand judge reported that the giving of transcript to jurors in New Zealand is very high although 7-8 years ago this was not the case. Professor Warren Young's research prompted judges to use it. Although rare, it was reported that in the New Zealand District Court some judges do not use it. Generally the practice has led to a significant reduction in jury questions and reduction in length of charges to the jury. There is no statutory authority for the practice however this is not thought to be necessary. In New Zealand rulings are on a separate transcript to the transcript for the evidence, thus the transcript of evidence can be given quite easily to jurors. With video recordings the objections are that juries are to rely on their memory. It was thought that transcript eliminates questions from the jury and may save time in deliberation. In short trials juries are only given transcript at the point of retirement, but during longer trials the jurors receive it in the jury room.

Participants from Queensland reported that Queensland has pre-recorded evidence for children and new court room technology means it is possible to have the evidence on DVD.

A New Zealand judge commented on the oral nature of the trial process, stating his concerns that there is too much emphasis on assessment on credibility or reliability on the oral evidence. He also raised concerns that the jury process is changing in ways that can not be predicted, such as by giving jurors transcript, and that we don't know what the unintended consequences might be.

### **Length of jury charges**

Dr Clough stated that the average length of how long it takes to charge a jury varies in each state, highlighting that there are also polarized views as to what is required in the summary of evidence. Judge Wodak noted that some judges do not summarise the evidence entirely. It was reported that in New Zealand transcript has been effective in reducing the summary, but it has always been shorter. Further, in New Zealand, the summary is very brief - usually 2 pages or 4-5 minutes. Judges from Victoria noted that this matter depends very much in Victoria and New South Wales on what the Court of Appeal is going to say. A Court of Appeal justice from Western Australia noted that if you do have transcript then it is a justification for a shorter summary.

The Jury Commissioner of Victoria said that he has received favourable feedback from the jury on the judges' charge to the jury and on visual aids used. Some judges in the Supreme Court of Victoria record the charge and juries have responded very positively to that.

### **Written assistance**

Regarding jury comprehension it was highlighted in Dr Clough's study that the judges view was that jurors have a great deal of difficulty of understanding the law. Dr Clough reported

that research has revealed that this is not necessarily the perception of juries themselves but whether jurors actually understand the charge is not known.

### **Impediments to new communication techniques**

Dr Clough stated that his study showed that some judges think new communication techniques are unnecessary. Judges are worried about getting it wrong and the perceived hostility of appellate courts. Time pressure and trial management has an impact on the way in which charges are written and front end management of a trial is important. Technical illiteracy is another impediment which makes it harder for some judges to adopt new techniques.

Judge Wodak commented that there is an innate conservatism of not wanting to try something new for fear of how it might be seen, yet some judges are quite innovative. Judge Wodak noted that it is easier for judges to try new things in longer trials.

A judge from the Supreme Court of Victoria stated that defence counsel need to stick to what they say at trial because currently there are no consequences if defence counsel state that they do not object to a particular method used by the trial judge and then go on to use it as a ground for an appeal.

The following comments were also made:

- Trial judges need a more supportive environment to try new things.
- The law is becoming more complicated and more prescriptive, presence of appellate bar scrutinising the transcript.

A judge from the District Court of Western Australia uses PowerPoint presentations to juries, stating that this cuts down time preparing the charge.

The delegate from New Zealand noted that if you don't give jurors the law, they will get it for themselves. There have been a couple of cases in New Zealand where juries had sourced material themselves.

The representative from the Court of Appeal of Western Australia stated that written material can back up the oral direction. It was further noted that the Victorian Court of Appeal approved in *R v Meyer* [2007] VSCA 115 the practice of judges giving a copy of the directions that he or she proposes to give to the jury to Counsel and seeking Counsel's submissions. Other judges present at the Seminar confirmed that they currently do this, in addition to sometimes providing a handout to jury.

Dr Clough raised the issue of learning about communication practices, that is, how do judges learn how to communicate with juries? He noted that Charge books, available in New Zealand, New South Wales, Western Australia, Victoria, and Queensland are good resources which provide a good starting point. It was noted that continuing education for judges is very important.

## Session Two: Issues before trial

*Facilitator – Justice Christine Wheeler, Court of Appeal, Supreme Court of Western Australia*

Issues for discussion included:

- Information for jury panel
- Witness lists for jury pool; information for accused regarding jurors
- Witness lists for jury panel
- Excusing jurors for service
- Giving juror's settling breaks.

The session commenced with a presentation of the Victorian 'We the Jury' DVD, which is shown to all people attending for jury duty in Victoria.

Justice Wheeler noted that the Victorian DVD highlighted some differences between jurisdictions and commenced by asking participants whether their jurisdiction arraigns the accused orally or by pleading to a written indictment. South Australian representatives noted that South Australia uses a written indictment on guilty plea. Arraignment however is not always in the presence of the jury panel. In Tasmania the accused is arraigned before the jury panel is empanelled and then the jury is informed what the case is about.

In discussing the information provided to the jury panel in brochures, induction programs, and DVD's, feedback has been sought from jurors in some jurisdictions about what works. In South Australia there is a regular jury survey which shows varied responses as to the usefulness of the material provided to jurors. Nevertheless it was felt by Seminar delegates that the information seems to alleviate the number of questions received from the jury panel. New Zealand delegates reported that research showed that many jurors, by the time they were selected, did not know the charges, what was going to happen, and were more concerned about parking.

The Victorian Jury Commissioner noted that Victoria has a three part induction, including the DVD 'We the Jury'. The aim is to familiarise potential jurors with what to expect, there is a verbal presentation on other issues such as parking and administrative processes, and a jurors handbook. It was originally thought to send out juror handbook to jurors beforehand however feedback was that they wouldn't read it before coming to court and it was preferable to receive it on the day. The feedback that has been received by the Juries Commissioner's Office is that the amount of information is adequate.

A District Court Judge from Western Australia noted that in Victoria jurors walk back and forward in front of dock. The Victorian Juries Commissioner confirmed that jurors do not like this practice.

The Seminar delegates discussed the juror challenges procedure. In most states, generally counsel performs the challenge, not the personal challenge by the accused which occurs in Victoria. The following challenge practices were noted:

- Western Australia – the right of challenge can occur up until the time of being sworn.
- Queensland – have the long walk before the dock.
- New Zealand – the long walk before the dock would not be considered acceptable.
- Tas - everyone goes in the box, then the defence are asked who they wish to excuse.
- Queensland – excuses are handled administratively by the sheriff before going into court.
- Victoria - there are numerous other chances to seek being excused, but people have a final chance to seek to be excused before the trial judge.

### **Session Three: Beginning the trial**

*Facilitator – Judge Tom Wodak, County Court of Victoria*

Issues for discussion included:

- Selecting the foreperson and informing the jury about the role of the foreperson
- Opening remarks to the jury
- Taking notes and asking questions
- What are jurors told regarding confidentiality?

Judge Wodak commenced by discussing the selection of the foreperson asking whether it should always be done at the start of the trial. A delegate from the Supreme Court of Tasmania observed that you have a shorter deliberation time if you get the right foreperson. He suggested that a jury foreperson should be selected once the trial is well underway. There were other states such as Victoria and South Australia which also did this occasionally. Some states, such as Western Australia, leave the timing of the selection of the jury foreperson up to the jury to decide when they want to do it. The issue of jury foreperson selection is also related to the question of empanelling reserve jurors; a practice which is not done in all jurisdictions. In some cases, where there are reserve jurors the foreperson will be immune from being balloted off.

Regarding opening remarks to the jury the Seminar delegates discussed the things that a judge must tell the jury, including the burden of proof, role of judge, elements of offence, housekeeping. Some judges don't explain to the jury the elements of offence. Judge Wodak noted that in the County Court of Victoria, under the *Crimes (Criminal Trials) Act 1999* (Victoria), the issues must be outlined to the jury by the Crown and the Defence responds to the Crown opening.

A judge from the Supreme Court of Western Australia noted that he limits his opening comments to housekeeping. A delegate from New Zealand commented that research shows that when jurors are first seated their concentration powers are not high. One judge also commented that jurors are often overawed and things are a blur; it isn't until the trial is underway for 2-3 days that they started concentrating. However there was a feeling among delegates that settling breaks might prolong things too much. It was noted that in Victoria empanelling might take a day in a longer trial.

A Victorian Supreme Court judge reported that he gives a 5 minute “don’t panic” speech advising jurors not to panic - that everyone is in the same boat and not to worry. Queensland reported that they have conducted a survey in which a number of jurors said were overawed at the beginning of the trial.

Most judges reported that they inform jurors that they may take notes and ask questions. Some reported that they give jurors a notepad and pen, but leave it up to the jury if they want to take notes. What jurors are told about taking notes depends in some Courts whether they are to be given transcript. As to questions, a judge from the District Court of Western Australia reported that she tells jurors that they can give the question to her, and once a question has been received it is disclosed to counsel and read into transcript. Some Seminar delegates raised concerns about the asking of questions by the jury at all because it conflicts with the adversarial system and the role of the jury to be the finders of fact. One judge reported that he tells jurors that they can ask questions but it is up to the judge to decide what is relevant.

With respect to telling the jurors about confidentiality some judges reported that they tell jurors not to discuss the evidence. Representatives from Tasmania reported that they make jurors take an oath at lunchtime and an affirmation every time they separate. A Victorian judge stated that jurors are reminded they are bound by their oath but he does not swear them in and out each time they have a break.

Warning jurors about not accessing the internet occurred in some states with some judges stating that they “read jurors the Riot Act” about the internet and that they must not discuss the case unless all twelve are there. However some Judges thought it provided more problems to warn jurors not to use the internet because it prompts them to do exactly that. The delegates discussed generally that the internet is a real problem, and in some states such as New South Wales it is now an offence for jurors to research the internet. It was thought by some delegates that the problem of jurors researching the internet may arise from a feeling they are not getting enough information and they want to look elsewhere.

## **Session Four: During Trial**

*Facilitator – Chief Justice Peter Underwood, Supreme Court of Tasmania*

Issues for discussion included:

- Managing breaks for jurors
- Providing jurors with transcript and directions from judges
- Jury aids – charts summaries etc – what use is made of these and how are they controlled or vetted
- Protection of juries – ensuring no improper communication
- Questions from jurors – are they permitted and what are they entitled to ask?
- Reserve jurors – when are they used and what is their role before and during deliberation?

With regards to breaks Courts reported that they have different sitting times, and that while it might be attractive in some respects to sit for longer periods of time, there are matters to see to outside the Courtroom and issues of getting transcript. Some judges reported that they start Court at 9 am or 9.30 am to get through things early, and in some jurisdictions it is practice to have a day, or half a day, off in long trials to allow jurors to go into work once a week. A judge from Tasmania reported that he had a trial where he sat only in the mornings of a 5 week trial so people could go to work.

Delegates discussed the fact that jurors resent not being let out during lunch and where there are too many breaks for legal issues, noting that jurors are deeply suspicious of breaks for adjournments on legal argument. Some judges reported that one way to combat this was to generally involve jurors more.

The issue of aids for the jury was also discussed by Seminar delegates, with many reporting that they allowed jury aids from Counsel where the parties had consented including: jury books in accounting trials; computer generated view of the crime scene; handbooks on the burden of proof; agreed sequence of events; and chronology of events. A note of caution was raised however where the jury aid is used by the jury as evidence, even where it is not part of the evidence. Even when the jury are told it the aid is not part of the evidence it highlights and uses material that is not part of the evidence. Some judges were nervous about that.

Most states had varied practice in relation to reserve jurors with some jury boxes only having seating for twelve people, and the reserve juror is required to sit in the media box. One delegate suggested that the use of jurors may be overdone and courts should be conscious of wasting peoples' time.

## **Session Five: Deliberation**

*Facilitator – Justice Ron Young, High Court of New Zealand*

Issues for discussion included:

- Separation of jurors after deliberation has commenced
- Length of deliberations
- Jury questions during deliberations
- Segregation of jurors overnight
- What do judges say, if anything, to help a jury when they are having trouble reaching a verdict?

All jurisdictions reported that they allow separation of the jury overnight, with New Zealand and Western Australia in a minority by not allowing juries to go home at night based on the traditional rationale that they won't be influenced if they are kept together at a hotel. It was generally the exception however that juries would be kept together, with one delegate reporting that he had never sequestered a jury, with no problems resulting from that. It was not common for juries to be permitted to sit into the night with some judges feeling that to do so would put undue pressure on the jury to arrive at a verdict. Some judges stated that they

felt keeping juries deliberating into the evening may shorten deliberation time because people feel pressure. Some Seminar delegates felt that it was necessary to consult with the jury themselves to ascertain whether they were comfortable deliberating for longer.

With regards to jurors who are smokers one Victorian judge reported that he swears in two jury keepers so they can take smokers out and for those who want to go for a walk. In Western Australia, a judge reported that she does not swear a jury or keeper out or in; a call is simply made to the Associate and Judge to ask whether can go for a cigarette break.

The Victorian Juries Commissioner said that the feedback from jurors about being locked up is not negative. In Victoria, less than one percent of cases get sequestered during deliberation in the County Court. The Supreme Court sequesters more juries but the feedback is that this was okay.

With regards to the length of deliberations two issues arise regarding the overall length of deliberations and majority verdicts. The representatives from various jurisdictions discussed the giving of a *Black* direction.<sup>1</sup> Some judges tell jurors before deliberations that if they can not agree then a majority verdict may be possible; with other judges not telling jurors until the event occurs that they are not able to agree. The length of time that a judge would wait to tell the jury about majority verdicts varied between two and four hours, but the length or complexity of the trial is a factor in determining how long to allow jurors to deliberate if they can not reach agreement. In New Zealand majority verdicts do not exist. Judges indicated generally that they only give the *Black* direction where the jury have indicted they can not agree, but it is not something that is followed slavishly. One judge suggested that if the jury is deadlocked you can ask if there is anything you can help them with by asking them for a written note.

Seminar delegates discussed the mode of communicating with a jury and showed that practices varied from jurisdiction to jurisdiction whether communication was oral or in writing. Communication with juries in New Zealand is generally in writing, with no discussion with the foreperson directly. New Zealand delegates reported that the most common process in that country was to have the question provided in writing. The question then goes to counsel and is edited if it contained impermissible material; then the jury is brought in and the question is answered.

If the judge does not understand the question in Queensland the judge will bring the jury into Court and usually the foreperson speaks. In Western Australia it was reported that one technique is for the judge to answer the question and then ask the jury if the question has been answered. In Tasmania it is the practice to take questions orally not in writing, while warning the jury to not reveal their deliberations, have them to ask the question and then the judge answers it.

The Seminar delegates noted the Victorian decision *R v Black* [2007] VSCA 61 where the Court of Appeal of Victoria applied the decision in *R v Gorman* [1987] 2 All ER 435 that a

---

<sup>1</sup> *R v Black* (1993) 179 CLR 44.

judge must disclose the content of notes from the jury to counsel and a judge should state in open court the nature and content of the communication which he has received from the jury and, if he considers it helpful to do so, seek the assistance of counsel. This is normally done before the jury is asked to return to court, and then, when the jury returns, the judge can deal with the question. The exception to this rule is if the communication from the jury contains information which the jury need not and should not have imparted, such as details of voting figures. Then the judge should not disclose that part of the information that the jury ought not to have revealed.

In terms of aids that the jury may ask for such as bibles, dictionaries, magnifying glasses, Seminar delegates felt that it is important to ask the jury why they want something, and there is a concern where jurors are doing their own investigations.

Strategies for dealing with intimidation by other jury members varied from discharging the jury to giving them a direction to respect the views of others. It was felt by some judges that there is no need to discharge before deliberation has started, however after that time it may be necessary because the jury may have lost the ability to deliberate properly. The judge would need to consider whether to discharge just the juror or the entire jury, but it was generally agreed that the judge should not inquire about what the voting is in order to inform a decision whether to discharge.

Sometimes a juror may have a physical or aural disability and it may be necessary to discharge that juror. A Court of Appeal judge commented that many of these things occur outside of the trial and a record should be kept of all these things such as a trial benchbook record, in case that information is needed on appeal.

## **Session Six: Verdict and After**

*Facilitator – Professor Greg Reinhardt, Executive Director, AIJA*

Issues for discussion included:

- Taking the verdict – is it ever done in writing?
- Debriefing for jurors
- Telling jurors of the sentence
- Arrangements for jurors after they leave Court.

Taking the verdict was done orally in most states, in comparison to the United States where the jury hands up a note with the verdicts written down. An example of a situation in Victoria was given where the jury foreperson gave the wrong verdict and the judge was required to recall the verdict and receive the proper verdict. One delegate from Western Australia emphasised the importance of establishing prior with the jury the method by which you are going to take the verdict. The verdict needs to be publicly announced for the interests of the verdict, however a representative from New Zealand suggested telling the jury to write down the verdict, especially where there are multiple counts, so that the foreperson can read it out and not get confused. This was especially relevant where there are lesser charges.

In Western Australia the practice is to make the whole jury stand to give the verdict. It was reported at the Seminar that there was a case in Victoria where it became evident that the jury had been confused about their role. As the jury had not yet separated the judge was able to bring the jury back into the Court even though they had been discharged. The main concern therefore in taking the verdict seemed to be where the jury is confused in giving their verdict. Seminar delegates concluded that it might be appropriate, especially in cases where there are multiple counts, to allow the verdict in writing.

### **Juror debriefing**

A delegate from Western Australia suggested that judges need to consider giving jurors more information about the nature of the trial. In Victoria clinical counselling is available however an administrative debrief is also conducted by the Juries Commissioner for selected trials. Jurors are told that deliberations can not be discussed, and the Juries Commissioner has found that jurors are generally forthcoming with their views about their experiences. Approximately one percent of jurors take up the offer of professional counselling. It was noted that judges could debrief jurors themselves with some judges already doing so. The practice of discharging jurors after verdict varies from judge to judge, however it was felt that it was customary to thank the jury and congratulate them on their job. It was reported that a Victorian Supreme Court judge personally debriefs the jury and has a sheet on what the jury can and can't talk about with the judge in the debriefing session, which he videos, so there can be no query about it.

With regards to telling jurors about the sentence after they had given their verdict and been discharged, practice again varied from State to State. In Western Australia jurors it was the practice that jurors would stay to hear the sentence, however, now the Sheriff's officer usually takes them out of the court. In Victoria there is usually a long wait for the sentence to be handed down so jurors are told how to access the sentence information.

The Seminar delegates discussed the approaches taken when someone doesn't come to court in response to summons. A judge from Western Australia reported that she fines jurors \$200. Another Western Australian judge deals with excuses on the papers because in small country areas people can be called 3-4 times a year, and they get fed up if they have to appear in court every time. In Victoria the Juries Commissioner contacts people directly by phone and rarely issue fines.

## IDENTIFICATION OF COMMON THEMES AND FUTURE ACTION

*Facilitator – Professor Greg Reinhardt*

The Working with Juries Seminar concluded with delegates discussing the use of decision trees as a useful aid to juries. The use of them has always been supported in New Zealand. A judge from the Supreme Court of Western Australia reported that he had used decision trees.

Factors that were raised as requiring more thought were ensuring that even represented accused were given information about the trial because it can not be assumed that they understand what is going on. The necessity of reserve jurors was also raised as an issue requiring further consideration.

Professor Reinhardt, in summarising, suggested a number of initiatives to improve practice in relation to working with juries including constructing a clearinghouse webpage housed on the AIJA website. Such a webpage might also include current developments in appellate practice and enable an exchange of information on jury practice.

Continuing judicial education within each jurisdiction in relation to juries was an important priority. Judges are open to trying new methods of communicating with juries however a supportive environment is required to try new techniques. Research and anecdotal evidence shows that jurors are also open to new communication techniques and welcome any additional assistance given by judges and Counsel to understand the information presented to them. Problems have been shown to arise where jurors feel they are not given sufficient information such as researching matters themselves on the internet outside the Courtroom.

Professor Reinhardt concluded the session by asking seminar delegates to go away and think about five or six things that could be done better in their jurisdiction. It is intended that seminar attendees will report back to the AIJA about those matters.

## APPENDIX

# APPENDIX

## QUESTIONNAIRE RESPONSES

NOTES – The responses provided by the various Courts to a certain extent will reflect the practice of a particular judge or judges and not necessarily reflect the practice of all judges of the Court they represent.

### Issues Arising Before Trial

#### 1. What information is provided to the jury panel?

Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b></p> <p>All prospective jurors are sent an information pamphlet with their jury summons. This provides basic information on the role of a juror, the process by which jurors are chosen, the hours of jury service, suitable clothing, remuneration, car parking, childcare and the like.</p> <p>On the first morning of jury service, prospective jurors are shown a short information video explaining what happens at Court. The video begins by explaining the requirement for jurors to have a good understanding of English, and advises jurors to tell court staff immediately if they have a problem with English (this advice is given in six languages). The video then briefly shows the whole trial procedure from start to finish – entrance of the Judge, pleading, jury selection, Crown and Defence openings, calling of witnesses, closing addresses, summing up, deliberation and verdict. The video emphasises the juror selection process, giving details on what jurors should do if their name is called, the right of counsel to challenge and the choice between taking the oath or taking the affirmation. It also focuses on the role of the juror throughout the trial as a “judge of the facts”, while explaining that the Judge will rule on, and explain where necessary, any relevant law. The “three rules” of jury service are clearly stated, being:</p> <ul style="list-style-type: none"><li>• Don’t talk about the trial with, or in hearing of, anybody other than your fellow jurors;</li><li>• Don’t talk to anyone involved in the trial about anything;</li><li>• Don’t try to gather your own evidence.</li></ul> <p>The video explains that once deliberations start, the jurors may not have contact with anyone else, and that the verdict must be unanimous. Practicalities such as the jury room, and rules about cellphones and smoking, are also mentioned.</p> <p>Once the video has been shown, a Registry staff member gives some further information. Prospective jurors are told the length of time each trial that they might be called for is likely to take. They are told who will be the Judge, Registrar and Crier in each courtroom, and are encouraged to approach the Crier if they have any problems or concerns. Sitting times and adjournments are explained, as is the jury room and its facilities. The challenge procedure, and what a prospective juror should do if they know the accused or a witness, is also reiterated. The staff member explains</p>

1. What information is provided to the jury panel?	
Jurisdiction	Information provided
	<p>that, at times, the Judge may ask the jury to retire if s/he wishes to speak to counsel in chambers. Court staff will also mention the possibility of free counselling for jurors, if they should find the experience traumatic or upsetting.</p> <p><b>District Court</b> Prospective jurors are sent a pamphlet with their jury summons. As can be seen the information is quite comprehensive. Upon arrival at Court at the beginning of a jury week, prospective jurors are shown a video. A copy will be available at the seminar (both video and DVD).</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b> All jurors receive an information sheet with their summons in the mail and view a video produced by Brian Martin the former Chief Justice of the Supreme Court of the Northern Territory. The information sheet provides answers to frequently asked questions of persons summonsed for jury service, such as;</p> <ul style="list-style-type: none"> <li>• Persons not qualified or exempt and what happens if they have been excused;</li> <li>• How an application can be made to the Court;</li> <li>• Where the jurors report;</li> <li>• Hours of Court sitting;</li> <li>• The period of jury service;</li> <li>• Payment for attendance;</li> <li>• Meals and allowances;</li> <li>• Standard of dress;</li> <li>• Parking facilities;</li> <li>• Counselling; and</li> <li>• Where sentencing remarks can be found.</li> </ul> <p>Upon answering the summons and arrival at the Supreme Court the Sheriff also addresses the jury panel with a speech that includes the following points;</p> <ul style="list-style-type: none"> <li>• Introduction of personnel;</li> <li>• Thank jurors for their attendance and fulfilling their community service;</li> <li>• Advise of a video induction from former Chief Justice of the Supreme Court to be shown</li> <li>• Inform the panel, the name of the accused, presiding Judge, Counsel and charge/s</li> <li>• the 1800 free call number, the purpose and importance;</li> <li>• how the witness list is read in court and why;</li> <li>• being sworn on oath and affirmation;</li> <li>• mobile phones; and</li> <li>• what happens if they are selected</li> </ul> <p>The jury video has been produced to explain the Jury system and selection process to potential jurors in the Supreme Court of the Northern Territory. The speaker thanks jurors for their attendance and goes on to discuss the following points;</p> <ul style="list-style-type: none"> <li>• failure to attend in answer to summons;</li> <li>• exemption and how application can be made to be excused;</li> </ul>

1. What information is provided to the jury panel?	
Jurisdiction	Information provided
	<ul style="list-style-type: none"> <li>• in court process;</li> <li>• employment and jurors rights;</li> <li>• the selection process</li> <li>• mobile phones</li> <li>• selected jurors to receive further advise from the trial Judge</li> <li>• sitting hours, meal arrangements and other matters.</li> </ul>
<b>Western Australia</b>	<p><b>Sheriff</b> When potential jurors attend on the first day of their jury duty they are provided with information by the Jury Supervisor which covers mainly administrative or 'housekeeping matters', e.g. payment of fees, reimbursement of fares and income, meals arrangements, late finish arrangements, evacuation procedures, anticipated number of trials listed for the week and their duration. Potential jurors are also shown a DVD presentation which covers the trial process.</p> <p><b>Supreme Court</b> Prior to jury selection the jury panel is shown a DVD which outlines the process of jury selection and gives some basic information about the trial process. A pamphlet is also made available.</p>
<b>South Australia</b>	<p><b>Sheriff</b> Jurors are summoned for a month and may be presented for selection to multiple trials during the month. At induction jurors are given an address by the Sheriff explaining the administrative process of jury service, how they have been selected, their roles, the role of court officers and other persons associated with the trial and various other administrative information concerning how they will be paid and how their attendance is managed during the month. A video taped address by a judge is also played for jurors explaining the court process from a legal perspective and the role of persons involved in the trial. Jurors attend for approximately 3 hours for their induction. (9:30 am – 12:30 pm)</p> <p>Jurors are randomly sorted in to 5 sections of between 25-30 persons at the beginning of each month. At induction jurors are sworn in, advised of their jury section number and provided an information brochure.</p> <p>Based on trials listed to commence each day, jurors are provided daily instructions via a 1800 recorded message, SMS messaging or advice in the morning newspaper advising what sections must attend for jury selection for that particular day. Jurors already empanelled on a trial must follow the direction of the judge for the period of that trial. Jurors are given an indication of the approximate length of each trial that they are to be presented for empanelment.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> Jurors are provided with a brochure "Supreme Court of Tasmania – Jury Duty" which contains:</p> <ul style="list-style-type: none"> <li>○ A foreword by the Chief Justice</li> <li>○ Answers to frequently asked questions such as: <ul style="list-style-type: none"> <li>▪ Do I have to do jury service?</li> <li>▪ Does work have to release me?</li> <li>▪ Where can I park my car?</li> </ul> </li> </ul> <p>New jury panels are given an introductory oral presentation by the Deputy Sheriff, which outlines points such as:</p>

1. What information is provided to the jury panel?	
Jurisdiction	Information provided
	<ul style="list-style-type: none"> <li>○ The responsibilities of the jury panel.</li> <li>○ The procedure of empanelment.</li> <li>○ Mobile phones, car parking, etc.</li> <li>○ Payment schemes for Jurors.</li> <li>○ Contact information.</li> </ul>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> Jury summonses are issued by post. With the summons the following information is provided:</p> <ul style="list-style-type: none"> <li>▪ Document: Eligibility for jury service</li> <li>▪ Document: Information for jurors – information about acknowledgement of summons and applying to be excused or exempt</li> <li>▪ Document: Additional information – information about attendance, parking, hours jurors will be required, dress, meals etc.</li> <li>▪ Statutory declaration</li> <li>▪ Pamphlet about jury service</li> </ul>
<b>Victoria</b>	<p><b>Juries Commissioner’s Office</b> General information is provided to the <b>jury pool</b> prior to panels being formed. The primary objective at this point is to lower anxiety levels of prospective jurors by providing information about the court environment, and providing an overview of what their role will be. Information such as, the number of trials requiring jurors and the processes (balloting) used to provide the courts with jurors is routinely provided to all attendees.</p> <p style="padding-left: 40px;">The information is conveyed in three forms of communication:</p> <ul style="list-style-type: none"> <li>i) Verbal – short presentation by the jury pool supervisor;</li> <li>ii) Visual – screening a short orientation film “We The Jury”; and,</li> <li>iii) Written – Juror Handbook</li> </ul> <p>Information that is provided to the <b>panel</b> is done so in accordance with s 32 of the Juries Act 2000.</p> <p><b>County Court</b> Ordinarily the court will refer to places of relevance and the names of any other relevant persons (“not defence witnesses”) and /or places eg. Police officers, geographical locations etc.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> Prospective jurors are shown a video in the jury assembly room which provides information about the conduct of a criminal trial and the role of the jury. The Department of the Attorney General has recently produced a leaflet, which is distributed to prospective jurors and which contains much of the same information as is shown in the video.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> Prospective jurors are first sent a ‘Notice to Prospective Juror’ detailing the sittings of the court for which they are required, the period of time, and information on how to complete the ‘Questionnaire to Prospective Juror’ which accompanies the Notice. A second ballot from the prospective jurors list then comprises a panel. All jurors on the panel receive a ‘Summons to a Juror’ advising when and where to attend. A ‘Juror Allowance Form’ gives information about fares and payment. The jurors must</p>

1. What information is provided to the jury panel?	
Jurisdiction	Information provided
	<p>complete and hand in the form on their first day's attendance. A 'Juror's Handbook' is also enclosed with the summons. The handbook contains necessary information about what the jurors may expect and court processes.</p> <p>On their first day's attendance jurors are given an orientation session which includes a visit to a criminal court where they become familiar with the layout of the court and how the jurors fit in with the court process, a talk by a bailiff which details the bailiff's requirements in respect to jury movements and court procedures, a talk by a deputy sheriff about the administration of juries, ie. excusals, non-attendance and payments. The jurors also view the 'Juror Information Video' which shows the empanelling and trial process.</p>

2. (i) Is a written list of prosecution witnesses given to the prospective jurors before they come into court? (ii) What information is an accused given about prospective jurors, eg. are prospective jurors simply given a number? Is their name given? Their name and address? Their occupation?	
Jurisdiction	Information provided
<b>New Zealand</b>	<p><b>Supreme Court</b></p> <p>(i) In most trials the Judge invites counsel for the Crown and if desired counsel for the accused immediately prior to jury selection to read to the jury panel in open Court a list of the names, addresses and occupations of the witnesses who may be called by them to give evidence.</p> <p>In longer trials after 12 jurors are selected but before they are sworn in and before they are put in charge, jurors are provided with a list of witnesses to be called by the prosecution and if desired by the defence. They retire to the jury room to consider the list and identify any potential conflicts.</p> <p>(ii) An accused and/or counsel for an accused is given the jury list. The jury list contains the same information as on the electoral role from which the pool of jurors is selected, i.e. full name, address and occupation.</p> <p><b>District Court</b></p> <p>A written list of prosecution witnesses is not given to prospective jurors before they come into Court. The accused, through his/her counsel is given a copy of the jury list which includes prospective juror's names, addresses and occupations. There is a general practice in New Zealand that a jury list can be shown to an accused but not retained. There are obvious reasons for this relating to juror security.</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b></p> <p>(i) No. The names of witnesses are read out by the Prosecutor in court, immediately before the empanelling of the jury.</p> <p>(ii) The accused counsel is provided with a juror list that has the juror's ballot number, full name and occupation.</p>

2. (i) Is a written list of prosecution witnesses given to the prospective jurors before they come into court?  
(ii) What information is an accused given about prospective jurors, eg. are prospective jurors simply given a number? Is their name given? Their name and address? Their occupation?

Jurisdiction	Information provided
Western Australia	<p><b>Sheriff</b>  (i) No, however a list of prosecution witnesses is read to the panel in court before any jurors are empanelled.  (ii) Section 30 of the <i>Juries Act 1957</i>(the Act), requires the summoning officer to make available for inspection by the parties in all criminal trials, a copy of the panel or pool of jurors for 4 clear days at least before the day appointed for the attendance of the jurors. This copy lists the potential jurors’ names, addresses and occupations as notified to the Western Australian Electoral Commission. Rather than attending the office of the summoning officer to inspect the panel or the pool, Supreme Court Practice Direction 4/1997 provides for a legal practitioner, representing a party in a criminal trial, to obtain a copy of the panel or pool. Under Section 43A of the Act however, a trial judge may vary access to the panel of jurors.</p> <p><b>Supreme Court</b>  (i) No.  (ii) The <i>Juries Act 1957</i> (Western Australia) requires that the jury panel be available for inspection by counsel and the accused 4 days prior to the trial. If the accused's counsel has signed an undertaking to keep the panel confidential he or she may receive a copy of the panel of the jurors which contains the juror's number, name, address and occupation from the electoral roll. The list is generally provided to the accused's counsel immediately prior to the selection of the jury and it must be returned immediately after the empanelment of the jury.</p>
South Australia	<p><b>Sheriff</b>  (i) No.  (ii) A list of juror names is provided to counsel for jury selection only. During jury selection only the juror number is read and disclosed in court. The jurors name, ID number, occupation and suburb is provided to counsel for jury selection only. This information is collected from counsel immediately after jury selection.</p>
Tasmania	<p><b>Supreme Court</b>  (i) No  (ii) The accused, or more usually counsel for the accused, is given a copy of the jury list prepared by court staff. This list contains the full name, residential address and occupation of each member of the jury panel. When the accused is unrepresented, the jury list is retrieved from the accused after the empanelment of the jury.</p>
Australian Capital Territory	<p><b>Sheriff</b>  No. Shortly before the trial commences, the DPP and counsel for the accused are given a list of prospective jurors. The list contains juror number, full name and occupation.</p>
Victoria	<p><b>Juries Commissioner’s Office</b>  (i) Witness lists are not routinely provided to jury panels/prospective jurors. Witness lists are provided to prospective jurors on the discretion of the trial judge, generally in those trials where a significant number of witnesses are to be called. In such circumstances lists are provided to prospective jurors either as they enter the court or, once they have taken their seat in court.</p>

2. (i) Is a written list of prosecution witnesses given to the prospective jurors before they come into court?  
(ii) What information is an accused given about prospective jurors, eg. are prospective jurors simply given a number? Is their name given? Their name and address? Their occupation?

Jurisdiction	Information provided
	<p>(ii) In Victoria, the accused is given information in accordance with section 36 of the Juries Act 2000. The discretion as to whether an accused is provided with either the name or number of a prospective juror rests with the respective trial judge (s 31 of the Juries Act 2000). However, empanelment “by number” is increasingly becoming routine, particularly within the Supreme Court.</p> <p><b>Supreme Court</b>  Justice Teague always provides prospective jurors with a written list of prosecution witnesses once they have taken their seats in Court. This written list of names takes the form of a table which includes the witnesses names and suburbs of residence. His Honour does not read these names out to the panel in open court but instead provides them with the opportunity to read the names after the lists have been handed out and before continuing with the empanelment process.  Prospective jurors in Justice Teague’s courtroom are only announced to the accused by way of a number and their occupation. This practice proved particularly useful in a recent trial during which a primary witness was killed in the middle of the trial. Having been empanelled by number only, the jurors in that trial did not feel that their safety had been compromised in any way.</p>
New South Wales	<p><b>Supreme Court</b>  Jurors are anonymised by being given numbers. No information is given to the accused concerning the identity (or employment status) of members of the jury panel. When the jury panel is in court, after the accused is arraigned but before the process of empanelling commences, the judge calls upon the Crown Prosecutor to read out the names of all of the prosecution witnesses. The judge explains to the panel that this is done so that if any member of the panel knows one of the witnesses, or has some knowledge of the events giving rise to the charge, he or she should bring that matter to the judge’s attention so that consideration can be given to excusing the person from service at the trial.</p>
Queensland	<p><b>District Court and Sheriff</b>  (i) No  (ii) Legal representatives can obtain a ‘Jury List’ no earlier than 4.00pm the day prior to the commencement of a trial. The list contains only those jurors that will be called the day of the trial and contains only each jurors’ panel number, full name, locality [ie. suburb/town], and occupation. If the defendant is self represented a list will be handed to him in the court room by the Judge’s associate who will recover the list immediately after the empanelling process.</p>

3. Have all trial Judges seen the information provided to the jury panel?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> All trial Judges have seen the information provided to the jury panel.</p> <p><b>District Court</b> Trial Judges will not have seen information provided to the jury panel unless specifically asked for by a Judge in a specific case.</p>
Northern Territory	<p><b>Supreme Court</b> Yes</p>
Western Australia	<p><b>Supreme Court</b> It is doubtful that all trial Judges have seen the DVD screened to the jury panel.</p> <p><b>District Court</b> We have had many new appointments to the District Court in the past 12 months, and the newer Judges may not yet have seen the information. We had a seminar for Judges about two years ago when we all looked at written information and saw the film shown to the jury panel.</p>
South Australia	<p><b>Sheriff</b> The Chief Justice and Chief Judge approve any information provided to prospective jurors by the Sheriff.</p>
Tasmania	<p><b>Supreme Court</b> Yes</p>
Australian Capital Territory	<p><b>Sheriff</b> Yes</p>
Victoria	<p><b>Juries Commissioner's Office</b> Judges from the Supreme and County Courts have all had an opportunity to view information that is provided to the jury pool. Copies of the Juror Handbook and the jury orientation film "We The Jury" have been provide to all judges.</p>
New South Wales	<p><b>Supreme Court</b> Not all judges have seen the video that is shown to the prospective jurors. The pamphlet produced by the Department of the Attorney General has been circulated to judges.</p>
Queensland	<p><b>District Court and Sheriff</b> Yes</p>

4. In what format is the information provided to the jury panel?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> Jurors shown a short information video and at the end of this time, prospective jurors are also given a booklet which outlines some of the core information, which they can keep with them.</p> <p><b>District Court</b> The information, as set out in paragraph 1, is given by both pamphlet and video.</p>

4. In what format is the information provided to the jury panel?	
Jurisdiction	Information provided
Northern Territory	Supreme Court Visual (DVD), written and oral. As discussed in point 1.
Western Australia	Sheriff (see question 1 above) Orally or written information and Potential jurors are also shown a DVD presentation which covers the trial process  Supreme Court DVD, oral and written.
South Australia	Sheriff Jurors are given both verbal and written (handbook) information at induction as well as general information by way of a booklet with their Jury Summons.
Tasmania	Supreme Court See question one.
Australian Capital Territory	Sheriff On the first day the panel attends they are shown a jury video. Additional information is provided by the jury officer and Sheriff's Officer. These officers also answer any questions a prospective juror may have.
Victoria	County Court Once in court generally relevant information is provided orally, however, witness lists are sometimes in written form.
New South Wales	Supreme Court It is the practice for judges to address opening remarks to the jury immediately after the jury is empanelled. The Criminal Trial Court's Bench Book contains a draft outline. It will be noted that this includes information concerning offences under the Jury Act, involving the conduct of internet or other inquiries relating to the subject matter of the trial by jurors.
Queensland	District Court and Sheriff See answer above.

5. Are names of potential witnesses disclosed to the jury panel? If so, how does this happen and what are they told about the reason?	
Jurisdiction	Information provided
New Zealand	Supreme Court Other than 2(i) above, no.  District Court Names of potential witnesses are disclosed to the jurors balloted for in a particular trial but not to the jury panel as a whole. This is generally done after the accused has been arraigned and is usually done at the request of the Judge by the Crown Prosecutor
Northern Territory	Supreme Court Yes, the prosecutor reads aloud, in court, the names of all witnesses who may be called during the trial.

5. Are names of potential witnesses disclosed to the jury panel? If so, how does this happen and what are they told about the reason?	
Jurisdiction	Information provided
Western Australia	<p><b>Supreme Court</b> It is standard practice for the Judge to invite the prosecutor to read the names of the State's witnesses to the jury panel prior to the selection of the jury. After the prosecutor has read out the names of the State's witnesses, most Judges invite the accused counsel to add to that list. The jury panel are told by the Judge that if they feel that because of their acquaintance with any one of those witnesses they will be unable to be true to their juror's oath or affirmation to bring in a verdict according to the evidence then they should make that known to the Judge when their number is called.</p> <p><b>District Court</b> At the start of each trial before the jury is empanelled, Judges call on the State Prosecutor to turn and read the names of the witnesses to the jury panel. The Judge advises the jury panel to "listen to these names. If you find that you are personally acquainted with any witness, please let me know that if you are called to sit on this jury". Defence counsel is also simply asked "Do you wish to disclose any witnesses names?" and they are allowed to do the same. The jury panel is not told the reason for this.</p>
South Australia	<p><b>District Court</b> Prior to the empanelment of the jury the trial judge informs the pool of jurors from which the jury is to be selected that in order to ensure that the trial proceeds in a fair and impartial manner it is essential that jurors not know the judge, counsel, the accused or any witness to be called in the matter. The prosecutor then reads out the names of the witnesses who are likely to be called by the prosecution. Some trial judges also ask defence counsel if there are any names they wish to have read out.</p>
Tasmania	<p><b>Supreme Court</b> Yes. This is done after challenges and stand-asides, but prior to the 12 jurors selected being sworn. The judge explains to the 12 selected jurors and several back-up jurors, the importance of them being impartial, and then requests the prosecutor to tell them a little about the matter for trial and give them the names of the principal witnesses. After this has been done, the judge asks any juror who considers that he or she cannot bring an impartial mind to bear on the matter for trial to so indicate. When a juror does so, the judge cautiously tests the reason for the juror's concern before deciding whether to excuse the juror.</p>
Australian Capital Territory	<p><b>Sheriff</b> Yes. Depends on judge, either judge reads list of witnesses or asks, associate or prosecutor to read the list. Jurors are asked to indicate if they know any of the witnesses so it can be ascertained if there is a conflict that would prevent them from returning a fair verdict.</p>
Victoria	<p>See answer to question 2 and 5.</p> <p><b>Juries Commissioner's Office</b> Witness names/lists are provided to the panel in either written form and then read out by the trial judge or, are simply read out by the trial judge. The number of witnesses to be called primarily dictates which of the two options is adopted.</p>

5. Are names of potential witnesses disclosed to the jury panel? If so, how does this happen and what are they told about the reason?	
Jurisdiction	Information provided
New South Wales	--
Queensland	<p><b>District Court and Sheriff</b></p> <p>Yes. After the jury is empanelled, and before the remainder of the panel is excused from that court, the Judge invites the Prosecutor to announce those who might be called by the Prosecutor to give evidence in the trial. The Prosecutor announces the names and occupations and (sometimes) the address of all potential witnesses. For what the Judge tells the jurors about this, see the Queensland Supreme and District Courts' Benchbook.</p>

6. (i) What information is given to the accused about the trial process? In what format is the information given? (ii) Is different information given, depending on whether the accused is represented or unrepresented? (iii) Is the information for the accused given all at once, or in stages during the course of the trial? (iv) If the accused is represented, is there any check at any stage, and if so which, to see that he or she has some idea of what is being done on his or her behalf?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b></p> <p>(i) If an accused person is represented by counsel, no particular information is given to an accused.</p> <p>(ii) If an accused is unrepresented, s 364 of the Crimes Act requires that certain information be given to an accused person.</p> <p>(iv) If an accused is represented, no check is made during the trial process as to whether or not he has "some idea of what has been done on his or her behalf".</p> <p><b>District Court</b></p> <p>If an accused is represented by counsel no information is given to him/her by the Court about the trial process. If the accused is unrepresented then there is a requirement under s 364 Crimes Act 1961 that an information sheet be provided to the accused. If the accused is unrepresented then the Judge, during the course of the trial, should re-state certain information at critical stages. If the accused is represented no check is undertaken by the Judge to see whether the accused has any idea of what has been done on his/her behalf. It might occur in a very rare case if circumstances justifying such a course of action became apparent to the trial Judge.</p>
Northern Territory	<p><b>Supreme Court</b></p> <p>The Court does not provide information to the accused about the trial process, unless the accused is self-represented. In the event that the accused is self-represented, a series of case management hearings occur in which the Trial Judge provides information tailored for the particular circumstances of the accused and the case against the accused. In the case of some judges that information is reduced to writing and the document provided to the accused. The information is largely given at the one time and then repeated at different stages of the trial in order to refresh the memory of the</p>

6. (i) What information is given to the accused about the trial process? In what format is the information given?  
(ii) Is different information given, depending on whether the accused is represented or unrepresented?  
(iii) Is the information for the accused given all at once, or in stages during the course of the trial?  
(iv) If the accused is represented, is there any check at any stage, and if so which, to see that he or she has some idea of what is being done on his or her behalf?

Jurisdiction	Information provided
	accused as to the advice he or she has been given. Unless something occurs to alert the Trial Judge to a problem there is no 'check' to ensure that a represented accused is aware of what is being done on his or her behalf.
<b>Western Australia</b>	<p><b>Supreme Court</b></p> <p>(i) Where an accused is represented it is unlikely that the trial Judge would provide the accused with any information about the trial process. An accused must be told of his or her right to challenge potential jurors.</p> <p>(ii) &amp; (iii) If an accused is unrepresented then the trial Judge would explain the trial process to the accused. This would usually be done orally. An overview would be given at the commencement of the trial and further information given at stages during the course of the trial.</p> <p>(iv) No.</p> <p><b>District Court</b></p> <p>None of the Judges of my Court provide information to the accused about the trial process unless the accused is unrepresented. Virtually every person appearing for trial in the District Court is represented by counsel, and Judges assume the process has been explained by defence counsel. If the accused is unrepresented, the trial Judge would tell the accused about jury empanelment and the right to challenge jurors and when to challenge. The accused would also be told about the trial length, sitting hours and asking for an order for witnesses out of court. The accused would also be told about the process of the trial and the procedure for cross examination of prosecution witnesses – keep questions relevant, short, not to make statements, hearsay etc. The Judge will also inquire whether the accused has adequate facilities in the dock such as a table for papers.</p> <p>The accused is also warned about the need to have his/her surety present at the end of the day if s/he seeks overnight bail during the trial.</p> <p>The accused is advised that at the end of the prosecution case s/he will be asked whether he wishes to give evidence or call any witnesses and that if s/he wishes to do so s/he will have to give evidence before calling other witnesses.</p> <p>Finally the unrepresented accused must be advised of his/her right to address the jury in closing after the evidence finishes and after the Prosecutor has addressed the jury. That right is explained as a comment on the evidence but it is stressed that the closing address is not evidence.</p> <p>This information would be repeated at the appropriate time as the trial proceeded.</p> <p>Where an accused is represented, there is no check at any stage to see that he or she has some idea of what is being done on his or her behalf.</p>
<b>South Australia</b>	<p><b>District Court</b></p> <p>In the case of an accused person represented by counsel the trial judge does not provide the accused with any information about the trial process. It is assumed that</p>

6. (i) What information is given to the accused about the trial process? In what format is the information given?  
(ii) Is different information given, depending on whether the accused is represented or unrepresented?  
(iii) Is the information for the accused given all at once, or in stages during the course of the trial?  
(iv) If the accused is represented, is there any check at any stage, and if so which, to see that he or she has some idea of what is being done on his or her behalf?

Jurisdiction	Information provided
	the provision of such information is not required. In the case of an unrepresented accused the practice varies from judge to judge. Some judges will give the accused an overview of the trial process at the beginning of the trial, some will provide the accused with relevant information in stages and others might do both.
Tasmania	<p><b>Supreme Court</b>  No information is provided to a represented accused and it would be most unusual to check whether a represented accused understood what was being done on his or her behalf.  The judge orally informs an unrepresented accused of all relevant matters. Details of some matters, for example, the elections open to the accused at the conclusion of the prosecution case, may also be provided in writing.</p>
Australian Capital Territory	<p><b>Sheriff</b>  Counsel for the accused is responsible for informing the accused about the trial process. If an accused is unrepresented, the judge would as far as possible, assist the accused with procedure.</p>
Victoria	<p><b>County Court</b>  (i) If represented no information is provided to accused about the trial process as this is the role of counsel representing the accused. However, if the accused is unrepresented a brief overview of the trial process is provided. The accused will also be in a position to listen to the judges opening remarks to the newly selected jury. See also, answer to question 23. The information is provided orally if required.  (ii) No. If unrepresented – the accused will hear instructions to jury – as per q 8. There may be other matters that will be dealt with by the judge and the accused in the absence of the jury if eg. Needs to get exhibits or may need to issue subpoena  (iii) Overview of process is given and then on-going reminders during the trial depending on the issues that may arise during the course of the trial.  (iv) Generally no, unless the accused sounds uncertain when entering a plea of guilty or not guilty counsel may then be asked to assist. Further assistance may be provided where counsel for the accused may not be competently representing the accused.</p> <p><b>Supreme Court</b>  Where the accused is represented no information is delivered by Justice Teague for the benefit of the accused. Only once (Peter Knight) has an accused not been represented. There, very extensive information was provided.</p>
New South Wales	<p><b>Supreme Court</b>  A suggested direction to be given by the judge to an unrepresented accused before the jury is empanelled is contained in the Criminal Trials Bench Book.</p>
Queensland	<p><b>District Court and Sheriff</b>  For all defendants: see Queensland Supreme and District Courts' Benchbook.  Otherwise if the defendant has legal representation – None.</p>

<p>6. (i) What information is given to the accused about the trial process? In what format is the information given?  (ii) Is different information given, depending on whether the accused is represented or unrepresented?  (iii) Is the information for the accused given all at once, or in stages during the course of the trial?  (iv) If the accused is represented, is there any check at any stage, and if so which, to see that he or she has some idea of what is being done on his or her behalf?</p>	
Jurisdiction	Information provided
	If the defendant does not have legal representation, the Judge further advises the defendant in accordance with the Queensland Supreme and District Courts' Benchbook.

<p>7. (i) How is the jury panel sworn - individually, or collectively?  (ii) Are they asked whether they want to take an oath or make an affirmation?  (iii) Are they asked to repeat words, or assent to words, or to read from a card?</p>	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b>  The jury panel is sworn in as follows;</p> <p>(a) Immediately before the juror takes their place in the jury box they are asked whether they wish to swear (and if so are given a bible) or affirm by way of oath.</p> <p>(b) When all 12 jurors are selected the Court Registrar recites the oath/affirmation and the jurors' names are individually called and each are required to signal their acceptance of the taking of the oath or affirmation by saying "I do".</p> <p><b>District Court</b>  The jury panel is sworn, by oath or affirmation, individually. They are simply asked to undertake an oath or affirmation by assent to words.</p>
Northern Territory	<p><b>Supreme Court</b>  Individually.  They are asked whether they want to make oath or affirmation.  They are asked to assent to words.</p>
Western Australia	<p><b>Sheriff</b>  Potential jurors are advised that they may make either an oath or affirmation. Jurors are then sworn individually during the empanelment process by reading either the oath or affirmation from a card.</p> <p><b>Supreme Court</b>  (i) Individually.  (ii) The practice is not uniform. At some point they are usually told that they may make take an oath or an affirmation. At least one Judge explains the difference to the jury and advises that it is a matter for the individual juror's judgment as to which to take.  (iii) Jurors are usually asked to read from a card. However, the <i>Criminal Procedure Act 2004</i> (Western Australia), s 102 contemplates a juror being asked to repeat words.</p>

<p>7. (i) How is the jury panel sworn - individually, or collectively?  (ii) Are they asked whether they want to take an oath or make an affirmation?  (iii) Are they asked to repeat words, or assent to words, or to read from a card?</p>	
Jurisdiction	Information provided
	<p>This method is employed where a juror is illiterate, has left their reading glasses at home or for any other reason cannot read the card.</p> <p><b>District Court</b>  In my Court each juror's number is called. They are told to stand, take the Bible in their right hand and read aloud the oath from the card, or, if the juror wishes to take the affirmation, they are told to reverse the card. Jurors are also allowed to take the oath on a book other than the Bible, such as the Koran, and copies of other holy books are kept in the courthouse.</p>
South Australia	<p><b>Sheriff</b></p> <p>(i) Jurors are on call for 1 month. One induction is provided to the entire jury pool for the month and each juror is sworn in individually during the induction process by the Sheriff.</p> <p>(ii) Jurors are given the option to take an Oath or affirmation.</p> <p>(iii) Sheriff - Jurors repeat the Oath or affirmation.</p>
Tasmania	<p><b>Supreme Court</b></p> <p>The jurors are told they are required to either take an oath or make an affirmation. They are sworn collectively insofar as all those who wish to make an oath stand and do so and all those who wish to make an affirmation stand and do so.</p> <p>The court attendant reads the oath or affirmation from a card. The jurors are required to assent to the contents of the oath or affirmation by repeating the words "I swear" or "I affirm".</p>
Australian Capital Territory	<p><b>Sheriff</b></p> <p>Panel is sworn individually. As each juror is sworn they are asked whether they wish to make an oath or affirmation. They are asked to read from a card.</p>
Victoria	<p><b>Juries Commissioner's Office</b></p> <p>(i) The jury panel is not collectively sworn. Each individual juror is sworn or affirmed once the selection process has been completed.</p> <p>(ii) Jurors are given the option of taking an oath or making an affirmation.</p> <p>(iii) Jurors are asked to assent to the words of the oath or the affirmation by responding to the oath or affirmation that is read out by the Associate.</p> <p>“ Members of the jury, you must now take an oath, or make an affirmation, that you will properly fulfil your duty as jurors. An oath is taken on the Bible. An affirmation is not. Both are equally binding. You are free to choose one or the other. Those wishing to make an oath please stand and take up the Bible in the right hand.”</p> <p>The Associate then proceeds to administer the oath in the following form, as set out in schedule 3 of the Juries Act 2000 (see s. 42):</p> <p>“ You and each of you swear by Almighty God that you will faithfully and impartially try the issues between the Crown and [name of accused]... in relation to all charges brought against [name of accused] in this trial and give a true verdict according to the evidence.”</p> <p>The Jurors are asked to repeat, one by one:</p> <p>“ I swear by almighty God to do so.”</p> <p>Any juror wishing to make an affirmation in lieu of the oath will repeat after the</p>

7. (i) How is the jury panel sworn - individually, or collectively? (ii) Are they asked whether they want to take an oath or make an affirmation? (iii) Are they asked to repeat words, or assent to words, or to read from a card?	
Jurisdiction	Information provided
	Associate the following form: <p style="padding-left: 40px;">“I do solemnly, sincerely, and truly declare and affirm that I will faithfully and impartially try the issues between the Crown and [name of accused] in relation to the charges brought against [name of the accused] and give a true verdict according to the evidence.</p> <p>Where more than one juror wishes to affirm rather than have the jurors repeat the above, the words “You and each of “ are inserted at the beginning and then each juror is asked to repeat:  <p style="padding-left: 40px;">“ I do so declare and affirm.”</p> </p>
New South Wales	<b>Supreme Court</b> <p>The practice of swearing the jury panel varies. Some judges swear jurors individually. It is more common for the jury to sworn collectively. Jurors are asked whether they wish to take an oath or make an affirmation. They are asked to repeat the words “so help me God” or “I do”, as the case may be, they are not given a card with the words of the oath or the response.</p>
Queensland	<b>District Court and Sheriff</b> <p>(i) Individually. See Queensland Supreme and District Courts’ Benchbook.  (ii) Yes. This is part of the orientation process, and jurors are asked to inform the bailiff if they wish to anything other than an oath. This includes affirmation or some other religious oath or affirmation. See Queensland Supreme and District Courts’ Benchbook.  (iii) All three. This varies between court jurisdictions and Judges. The <i>Oaths Act 1867</i> requires a person who wishes to affirm instead of being sworn “to make his or her solemn affirmation in the words... ‘I A.B. do solemnly sincerely and truly affirm and declare etc’...”</p>

8. In jurisdictions where jurors read the oath from a card, what, if anything, happens when (as is often the case) the reading reveals that the juror either is illiterate or has limited English?	
Jurisdiction	Information provided
New Zealand	<b>District Court</b> <p>Because there is no reading of an oath from a card little is done to ascertain whether a particular juror is illiterate in English or has a limited command of English. However, the jury information pamphlet stresses the importance of a good command of English. In Manukau (South Auckland) where there is a high proportion of new immigrants, some request is made of the jury panel, or the balloted jurors, to advise if they have difficulty with language.</p>
Northern Territory	N/A
Western Australia	<b>Supreme Court</b> <p>This is left to the discretion of the trial Judge. It would be usual for the trial Judge to make an enquiry as to the ability of the juror to understand spoken English. In a case which did not involve any written material there would be no problem in a juror who was unable to read English from serving on the jury. The opposite would be the case if the juror was unable to understand spoken English or the juror could not</p>

8. In jurisdictions where jurors read the oath from a card, what, if anything, happens when (as is often the case) the reading reveals that the juror either is illiterate or has limited English?	
Jurisdiction	Information provided
	<p>understand written English and the case involved written evidence. In some cases a feigned inability to read the oath or affirmation is simply an attempt by the juror to avoid jury service. Even where this is suspected, it is best to excuse a juror who is so determined not to be selected on the jury.</p> <p><b>District Court</b> In that case, the Judge intervenes and directs the court usher to read the oath or affirmation to the juror, and to have it repeated after him/her.</p>
<b>South Australia</b>	<p><b>Sheriff</b> Jurors are ineligible if they have insufficient command of the English language to enable them to properly carry out the duties of a juror so in those cases the juror is excused.</p>
<b>Tasmania</b>	Not applicable
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> Prospective jurors can ask to be excused if they are illiterate or have limited English.</p>
<b>Victoria</b>	<p><b>Juries Commissioner's Office</b> Not applicable in Victoria, because they are already vetted at pre-selection stage. However, when responding to oath and affirmation it may become evident that jurors are either illiterate or have limited English and may therefore be ineligible be jurors.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> Under the Jury Act 1977 (New South Wales) a person who is unable to read or understand English is ineligible to serve as a juror. There is no mechanism for determining whether prospective jurors are unable to read or understand English. In light of the decision of the Court of Criminal Appeal in <i>Petroulias v R</i> [2007] NSWCCA 134 (dealing with the consequences of empanelling a person disqualified from serving as a juror) this is a matter of some significance.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> Never happens.</p>

9. (i) What is the procedure for jurors who want to be excused from service? (ii) Is there a court-wide policy, or is it left up to individual discretion? (iii) Do Judges collectively set guidelines/discuss how the discretion should be exercised?	
Jurisdiction	Information provided
<b>New Zealand</b>	<p><b>Supreme Court</b> Jurors, if they seek to be excused, are encouraged to write to the Criminal Case Flow Manager well prior to the commencement of the trial. If a prospective juror wants to be excused on the morning they are called to jury service, but before Court commences they see the Criminal Case Flow Manager in charge of the jury procedure. Discretion is generally exercised in favour of the person in cases of genuine sickness, family emergency, etc. If a person is balloted as a juror he or she may still ask the Judge to excuse him or her from service. Neither the Criminal Manager nor the Judges have guidelines.</p>

9. (i) What is the procedure for jurors who want to be excused from service?  
(ii) Is there a court-wide policy, or is it left up to individual discretion?  
(iii) Do Judges collectively set guidelines/discuss how the discretion should be exercised?

Jurisdiction	Information provided
	<p><b>District Court</b>  The procedure for excusing jurors is two-fold. Firstly, a juror can be excused by the Registrar who considers information set out by the prospective juror in a response form sent out with jury summons and pamphlet. The trial Judge has a discretion to stand aside or excuse. This is done on an individual basis and following reasons given by the particular juror. This would often happen after the accused has been arraigned and the Judge has addressed preliminary remarks for the jury. As individual jurors are called to come forward to the jury box they would ask to speak to the Judge if any particular difficulty has emerged.</p>
<p><b>Northern Territory</b></p>	<p><b>Supreme Court</b>  Jurors may apply to be excused for sufficient cause. Approval for release from jury duty is, however, granted sparingly by the Court, generally in the case of ill health and matters of special urgency or importance. The juror may be excused from jury service if he or she has served as a juror within the preceding 3 years. Jurors have the right to seek to be excused at any time up to being empanelled as a juror. They have the opportunity to seek to be excused by the way of statutory declaration, by oral application at the time of the general induction and then before the Judge in court immediately before being empanelled.  Depending on the circumstances, the juror may be excused for a specified period of time or, as a condition of being excused, it may be ordered that the juror's name be included amongst the names of jurors to be summoned for jury service at a subsequent time.  The discretion to excuse a juror is left with the judicial officer concerned. The Sheriff's Officers are guided by a general policy. Judges are left to exercise their discretion in a judicial manner.  There are no collective guidelines. Normal principles for the exercise of discretion apply.</p>
<p><b>Western Australia</b></p>	<p><b>Sheriff</b>  Summons are issued some four to five weeks before the return date. During this period potential jurors may be excused by the summoning officer after consideration of an application by the juror. To facilitate the application for excusal a statutory declaration is printed on the back of the summons. This excusal process can continue up until the juror is sworn, after which, the trial judge is the only approval authority. Part II of the Act, Second Schedule specifies those persons who may be excused as of right from serving as jurors if they claim to be excused by virtue of that fact. People summoned may also apply to be excused under the Third Schedule of the Act. Approval of any application under the Third schedule is up to the discretion of the summoning officer or the court. In any event some form of documentary evidence is required to assist in the decision making process.</p> <p><b>Supreme Court</b>  After a juror is served with a summons they may apply to be excused by the Sheriff. If the application is unsuccessful or if the reason for excusal does not arise until just before the jury is empanelled, a juror may seek excusal from the trial Judge. The process is that when their number is called they stand beside the jury box and speak directly to the trial Judge in the presence of the accused and counsel. They give their</p>

9. (i) What is the procedure for jurors who want to be excused from service?  
(ii) Is there a court-wide policy, or is it left up to individual discretion?  
(iii) Do Judges collectively set guidelines/discuss how the discretion should be exercised?

Jurisdiction	Information provided
	<p>reason for wishing to be excused. The Judge may seek counsels' views. The Judge then makes a decision as to whether the juror should be excused or not. The Judges have not collectively set any guidelines or discussed how the discretion to excuse jurors should be exercised.</p> <p>The <i>Juries Act 1957</i> (Western Australia) contains a schedule which lists the grounds on which a person summoned to attend as a juror may be excused by the summoning officer or the court. The grounds are illness, undue hardship, circumstances of sufficient weight, importance or urgency and recent jury service.</p> <p><b>District Court</b></p> <p>Prior to the jury panel attending in the court room jurors have had the opportunity to be excused for service by the Sheriff. Once in the courtroom any person called to sit on a jury can speak to the Judge and seek to be excused from service. Reasons vary from being personally acquainted with witnesses, or being acquainted with the accused, or having employment which will make it extremely difficult for the juror to serve for the duration of the trial, or having a holiday planned with airline tickets booked that would be interrupted by sitting as a juror in the trial. Our Judges have never collectively sat any guidelines, nor do we have a court wide policy. We sit in many remote locations where a rather robust approach has to be taken because of the low population base from which the jury necessarily has to be chosen. The Judge generally would "stand aside" anyone seeking to be excused for a legitimate reason. If by the end of the empanelment that person is needed, the Judge would require that person to be sworn as a juror.</p>
<p><b>South Australia</b></p>	<p><b>Sheriff</b></p> <p>Jurors applying to be excused or deferred must apply in writing. Both the Sheriff and a Judge have the power to excuse a prospective juror on grounds specified in the <i>Juries Act</i>. Generally the Sheriff determines applications made by jurors who are not empanelled on a trial. Once empanelled on a trial, the trial judge must hear any application from a juror to be excused from that trial. No set guidelines exist as each application is dealt with in accordance with the statute.</p>
<p><b>Tasmania</b></p>	<p><b>Supreme Court</b></p> <p>Prior to the empanelling process, this is almost invariably dealt with by the Sheriff according to the provisions of the <i>Juries Act 2003</i> (Tas).</p> <p>If during the empanelling process a juror applies to be excused, that application is dealt with by the judge in accordance with his or her discretion, subject to the provisions of the <i>Juries Act</i>. Guidelines have not been set for dealing with these applications, but the judges have discussed how they should be dealt with</p>

<p>9. (i) What is the procedure for jurors who want to be excused from service?  (ii) Is there a court-wide policy, or is it left up to individual discretion?  (iii) Do Judges collectively set guidelines/discuss how the discretion should be exercised?</p>	
Jurisdiction	Information provided
Australian Capital Territory	<p><b>Sheriff</b>  The Sheriff exercises discretion to excuse or defer jurors as applications to be excused are received. Claims for exemption for work related reasons are generally referred to a judge on the trial day. Applications to be excused on the morning of the trial are referred to the trial judge in chambers. Each judge uses his discretion to excuse jurors. There are no set guidelines.</p>
Victoria	<p><b>Juries Commissioner's Office</b>  (i) Table 1, provides a comprehensive outline of how prospective jurors may make application to be excused, or have their jury service postponed (Contained in additional material provided in relation to Victoria).  (ii) The pre-court excuse, postponement process is managed by the Office of the Juries Commissioner and as such, applications for excuse and/or postponements are considered with reference to the following principles:</p> <ul style="list-style-type: none"> <li>• Minimise the inconvenience caused to prospective jurors by deferring jury service to a time that is mutually convenient;</li> <li>• Wherever possible not call jury panels prematurely or unnecessarily;</li> <li>• Excuse, or discharge prospective jurors as efficiently and as courteously as possible;</li> <li>• Ensure that every effort is made to make the jury experience as rewarding as possible;</li> <li>• Proactively promote the importance of jury service as a civic duty;</li> <li>• Provide support services for jurors such as counselling and debriefing.</li> </ul> <p><b>County Court</b>  (iii) There are no formal or informal guidelines and judges do not collectively set guidelines on how discretion should be exercised.</p> <p><b>Supreme Court</b>  (i) For any juror wishing to be excused from service, Justice Teague provides him or her with the opportunity of making an application to be excused.  (iii) Only through discussions in meetings of Criminal Division judges.</p>
New South Wales	<p><b>Supreme Court</b>  Prospective jurors may apply to the Sheriff to be excused from jury service. Schedule 3 of the Jury Act provides a list of persons who have a right to claim exemption. These include:</p> <ul style="list-style-type: none"> <li>• persons who are at least 70 years old,</li> <li>• pregnant women;</li> <li>• persons who have the care, custody and control of children under the age of 18 years;</li> <li>• persons with the fulltime care of the sick, infirm or disabled;</li> <li>• persons residing more than 56 kilometres from the place at which the person would be required to serve as a juror.</li> </ul> <p>Persons applying to be excused from jury service do so by setting out the grounds of their application in a statutory declaration. In borderline cases the Sheriff refers the</p>

9. (i) What is the procedure for jurors who want to be excused from service? (ii) Is there a court-wide policy, or is it left up to individual discretion? (iii) Do Judges collectively set guidelines/discuss how the discretion should be exercised?	
Jurisdiction	Information provided
	application to the trial judge, who may deal with it in chambers on the material in the statutory declaration or in open court. In the latter instance it is common for the judge to question the person without requiring him or her to be sworn. There is no “court-wide policy” concerning the circumstances in which a person who is eligible to serve as a juror may be excused from jury service.
Queensland	<b>District Court and Sheriff</b> (i) Jurors may be excused at anytime during the selection process from the time they receive their Notice to Prospective Juror, through the Summoning process and anytime they attend court. Prior to their attendance all excusals are to be in writing and lodged with the court they are required to attend. On the day of their attendance oral applications can be made. (ii) There is no court wide policy, but the Jury Act 1995 sets out criteria that can be used in determining applications for excusal. There is a discretion for the sheriff and the Judge to excuse jurors. (iii) No.

10. Are any particular steps taken in country towns to attempt to obtain an unbiased jury?	
Jurisdiction	Information provided
New Zealand	<b>Supreme Court</b> There is no differentiation in New Zealand between a jury trial in a main metropolitan centre and in a smaller provincial centre. Jurors are chosen from within a radius of 30 kilometres from a central point in the city in which the trial is to take place, from those on the current electoral role.  <b>District Court</b> In smaller “country towns” attempts to avoid an unbiased jury are treated in exactly the same way as in the major centres. The Judge would address preliminary remarks to the jury advising them of the importance that the jury be unbiased and outlining the essential nature of the charges, the parties involved and inviting any individual juror to ask to speak to the Judge should there be a difficulty. In an extreme case, of course, an individual accused, or indeed the Crown, can apply for a change of venue elsewhere within New Zealand.
Northern Territory	N/A
Western Australia	<b>Sheriff</b> Any attempt to structure a jury in any material way would compromise the integrity of the justice system so there are no steps taken to empanel a jury of people with particular persuasions.  <b>Supreme Court</b> No, it is left to the parties to consider these issues. If a party thinks that it will not be possible to obtain an unbiased jury in the town in which the trial is to take place they may apply to have the trial transferred to another location.

10. Are any particular steps taken in country towns to attempt to obtain an unbiased jury?	
Jurisdiction	Information provided
	<p><b>District Court</b> The same procedures are followed in country towns as in Perth. Local police officers and local doctors are often witnesses who are known to potential jurors in country towns. That usually creates no difficulty. If a juror indicates he/she is personally acquainted with any witness, that prospective juror is questioned by the Judge as to whether their acquaintance with that person would interfere with their duty to bring in a true verdict on the evidence and to objectively judge the evidence in the case. This is a matter of degree and the Judge needs to consider how well acquainted the jury member is with the particular witness, as well as how important the witness is in the prosecution case, and whether that witness's evidence is challenged by the defence. All of those factors are taken into account in order to obtain, as far as possible, an unbiased jury.</p>
South Australia	<p><b>Sheriff</b> No additional steps are taken.</p>
Tasmania	<p><b>Supreme Court</b> No</p>
Australian Capital Territory	Not applicable
Victoria	<p><b>County Court</b> Generally no, however, prospective jurors may be more readily identified and or excluded by calling upon the assistance of local solicitors who may be aware of prospective jurors personalities or proclivities relative to the case.</p> <p><b>Supreme Court</b> Where appropriate.</p>
New South Wales	<p><b>Supreme Court</b> No particular steps are taken in country towns with respect to the make-up of the jury panel. It is considered that the requirement of the Jury Act, that the names of the witnesses be announced in the presence of the jury panel prior to empanelling, addresses any concern that persons with personal knowledge of the accused, or the circumstances giving rise to the offence, may be empanelled.</p>
Queensland	<p><b>District Court and Sheriff</b> No.</p>

11. Do jurors get a "settling break" - if so, how long?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> Some Judges, especially in long trials, at the beginning of the trial when the foreperson is chosen give jurors a chance to make telephone contact with family/employers to advise them that they have been chosen to sit on a jury. No particular time is allocated, however 30-45 minutes is typically involved.</p> <p><b>District Court</b> Jurors do not in New Zealand get a settling break. It might occur in a very long trial</p>

11. Do jurors get a "settling break" - if so, how long?	
Jurisdiction	Information provided
	where the Judge decides to give the jury a little time at the beginning to settle and make any preliminary arrangements they might need.
Northern Territory	Until recently there has been no 'settling break'. However in some cases judges are now permitting such a break to occur. It is a matter for the discretion of the individual judge.
Western Australia	<p><b>Sheriff</b> Generally a trial will adjourn for morning tea at about 1130 each day; the timing and duration of the break is determined by the trial judge. During this time the jury will retire to the jury room for morning tea. Some judges will also adjourn for a short time in the afternoon.</p> <p><b>Supreme Court</b> There is no uniform practice. Some Judges use the selection of a foreperson to provide a settling break for the jury. If this is done the jury are told to advise the Sheriff's officer when they are ready to continue the trial. Other Judges use an early adjournment for morning tea as a settling break.</p> <p><b>District Court</b> Unless the parties raise issues of law to be determined before the case is opened to the jury, Judges generally do not take a "settling in" break.</p>
South Australia	<p><b>District Court</b> The practice varies from judge to judge. If the jury are given a settling break it is usually in the order of about 15 minutes.</p>
Tasmania	<p><b>Supreme Court</b> Judges commonly give jurors a settling break of about 15 minutes.</p>
Australian Capital Territory	<p><b>Sheriff</b> No</p>
Victoria	<p><b>County Court</b> Generally, no, however a 10-minute break would be considered a good idea.</p> <p><b>Supreme Court</b> Justice Teague always provides juries with a settling break after being empanelled.</p>
New South Wales	<p><b>Supreme Court</b> The practice varies between judges about whether a "settling-in break" is given after the jury is empanelled. In the Supreme Court it is becoming more common to do so. There is no fixed length of time for the break and, much depends upon the time at which the process of empanelling the jury is complete. Frequently it will be convenient to take an early morning tea to give the jury some settling in time.</p>
Queensland	<p><b>District Court and Sheriff</b> Not generally, but empanelling usually finishes around the morning break and the court will adjourn.</p>

## Beginning the Trial

12. What, if anything, is said to the jury about the role of the foreman?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> A foreman in New Zealand is chosen at the beginning of the trial and traditionally Judges briefly describe to jurors prior to selection the function to be performed by the foreman, typically, being a spokesperson for the jury, the chair of jury discussions and the responsibility for delivery the verdict(s). (“Foreman” is the word used in the Juries Act, most Judges adapt the word to ensure gender neutrality.)</p> <p><b>District Court</b> What is said about the role of the foreman varies throughout the country from Judge to Judge. Of recent times there has been a movement to provide information along the lines that the foreman chairs the jury’s discussions, announces the jury’s verdicts, provides the line of communication with the Court and should be someone who has an ability to ensure that everyone on the jury has their say on the issues that they will need to discuss during the trial.</p>
Northern Territory	<p><b>Supreme Court</b> The jury is told that a foreman can be selected at any time during the course of the trial. The foreman can change from time to time at the behest of the panel. The jury is told that the role of the foreman is ultimately to announce the verdict and that in the meantime the foreman is a person who may wish to ensure that everyone on the panel has an opportunity to be heard. They are also told that the foreman is the usually person through whom they will communicate with the Judge, although individual jurors may also communicate with the Judge if desired.</p>
Western Australia	<p><b>Sheriff</b> The jury officer advises the jury:</p> <ul style="list-style-type: none"> <li>• where the foreman sits in the jury box;</li> <li>• that the foreman is the speaker for the jury and as such, conveys any communication to the court on behalf of the jury;</li> <li>• that the foreman delivers the verdict at the end of the trail; and</li> <li>• that if the foreman is addressed or needs to address the court he/she should stand and wait to be acknowledged before speaking.</li> </ul> <p><b>Supreme Court</b> This is left to the discretion of the Judge. Some Judges tell the jury that the foreperson is the person who will speak for the jury when it is necessary to do so during the trial. At the end of the trial the foreperson will announce the verdict of the jury. However, the foreperson has no special authority in the jury room and all jurors have an equal voice in jury deliberations. If the jury decide to have a chairperson to organise its discussions and deliberations that person can be the foreperson or it can be any one of the jurors. Additionally some Judges tell the jury, if there are more than 12 of them, that if at the end of the trial there are more than 12 jurors a ballot will take place to determine which 11 of the jurors together with the foreperson will retire to consider the jury's verdict. They are told that the foreperson, because he or she must be present when</p>

12. What, if anything, is said to the jury about the role of the foreman?	
Jurisdiction	Information provided
	<p>the jury deliver its verdict, will not be part of the ballot.</p> <p><b>District Court</b></p> <p>At the start of the trial, I instruct the jury that they will eventually have to choose a forewoman or foreman. I tell them that the forewoman or foreman will sit in the first seat in the jury box by the microphone and will announce their verdict(s) at the end of the trial. I tell them not to choose that person until they have become better acquainted with each other. Depending on the length of the trial, I give them a time when I would like them to choose. Usually, it is the second day of a two or three day trial. I mention to the jury that the foreman or forewoman would generally be the person who serves as the chairperson in any discussions in the jury room, and therefore they might consider choosing someone who had some experience in chairing meetings. But they are not limited to that choice and it is a matter entirely for them.</p> <p>Other judges on my court adopt a different procedure. Some judges let the jury choose their foreman/forewoman early in the trial. One of our senior judges tells the jury what the role is – to deliver the verdict and during the trial to be the jury’s channel of communication with the judge. That judge emphasises that each jury member has an equal right to have their say in the jury room and no one’s voice carries any more weight; they should listen to the views expressed by other jurors. That judge emphasises to the jury that it is up to them how they organise themselves in the jury room.</p>
<b>South Australia</b>	<p><b>Sheriff</b></p> <p>Verbal and written instructions are provided to jurors. Jurors are advised that at any time after jury selection, jurors must appoint a foreperson to act as a chairperson for discussions in the jury room and as a spokesperson within the courtroom</p>
<b>Tasmania</b>	<p><b>Supreme Court</b></p> <p>At the outset of the trial, the judge usually asks the jurors to select a foreperson and explains that the foreperson is the spokesperson for the jury and will be called upon to deliver the jury's verdict. On occasions comments are made to the effect that it is worth bearing in mind that the foreperson may, if the jurors so desire, chair their deliberations, and the jurors may favour electing a person who has experience in that regard.</p>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b></p> <p>Panel is told that foreman will be jury’s spokesperson.</p>
<b>Victoria</b>	<p><b>Juries Commissioner’s Office</b></p> <p>Information regarding the role of the foreman is provided as part of the jury pool <b>orientation</b> by referring prospective jurors to the Juror Handbook (see the following excerpt) and, We The Jury (short orientation film).</p> <p><b>Choosing a foreman/forewoman</b></p> <p>Before the trial begins, the jurors choose someone to be the jury foreman/forewoman. Any juror can be chosen. The foreman/forewoman’s role is to:</p> <ul style="list-style-type: none"> <li>• speak or ask questions on behalf of the jury during the trial,</li> <li>• chair jury discussions and make sure that each juror has an opportunity to express his or her point of view,</li> <li>• keep the deliberations focussed on the evidence and the law,</li> </ul>

12. What, if anything, is said to the jury about the role of the foreman?	
Jurisdiction	Information provided
	<ul style="list-style-type: none"> <li>• arrange with the tipstaff to take a break if any juror requests one,</li> <li>• ask the court to deal with any question raised by any juror,</li> <li>• ask the court to adjourn if the jury wishes to finish its deliberations for the day,</li> <li>• give the jury's verdict at the end of the trial.</li> </ul> <p>The opinion of the foreman/forewoman has no greater weight than that of any other juror. If for any reason a foreman/forewoman is not able or willing to continue in the role, the jury can choose someone else to take his or her place after telling the judge of the situation.</p> <p><b>Judge's instructions</b> The judge will give the jury full instructions about its role and duties before and during the trial. The judge's instructions must be followed.(Juror Handbook, pp17-18)</p> <p><b>In court</b>, trial judges provide an overview of what the role of the foreperson is. In both instances emphasis is placed on stressing that the role of the foreperson is simply that of spokesperson for and on behalf of the jury, the foreperson is of no greater or lesser importance than other jurors, and that the foreperson will have the responsibility to deliver the jury's verdict.</p>
New South Wales	<p><b>Supreme Court</b> The information given to the jury about the role of the foreperson is generally consistent with that contained in the draft opening remarks. It remains common for the jury to be informed that the foreperson should be selected at the first adjournment of the proceedings. This practice may be undergoing some change. My own practice is to emphasise that the foreperson does not have any special role in the jury's deliberations. I tell the jury that they may wish to take some time in selecting their foreperson, since they may find it helpful for him or her to chair their discussions when they retire. It may take a little time to work out who has appropriate skills in this respect.</p>
Queensland	<p><b>District Court and Sheriff</b> The Higher Courts in Queensland use the term 'Speaker'. As to what the Judge tells the jury about the Speaker, see Queensland Supreme and District Courts' Benchbook. Further, during the course of the trial, usually during the first break, jurors are handed a booklet entitled 'Guide to Jury Deliberations'. This booklet contains suggestions on how deliberations may be organised, considering the evidence and reaching a verdict. It also describes the role of the Speaker.</p>

13. Is the foreman chosen at the beginning of the trial, or some other time?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> A foreman in New Zealand is chosen at the beginning of the trial.</p> <p><b>District Court</b> The foreman is chosen at the beginning of the trial</p>
Northern Territory	<p><b>Supreme Court</b> See above.</p>

13. Is the foreman chosen at the beginning of the trial, or some other time?	
Jurisdiction	Information provided
Western Australia	<p><b>Sheriff</b> Generally, the foreman is chosen in the jury room after the jury has been empanelled and before any opening remarks by the prosecution. However, there are occasions when the foreman is not chosen until the court adjourns for morning tea at about 1130.</p> <p><b>Supreme Court</b> The practice is not uniform. The foreperson is either chosen before the prosecutor makes their opening address or during the first scheduled break during the trial.</p>
South Australia	<p><b>District Court</b> After the jury is empanelled the trial judge may suggest to the jury delaying the selection of a foreperson until later in the trial, after they have had an opportunity to get to know each other, but in the meantime select someone to act as their spokesperson within the courtroom for the purpose of communicating any request to the judge.</p> <p><b>Sheriff</b> It is suggested to jurors that they delay the appointment of a foreperson until the trial has been running for a couple of days, but to ensure that a foreperson is elected prior to the final stages of the trial. Instructions are provided to ensure the foreperson is aware of their obligations once elected.</p>
Tasmania	<p><b>Supreme Court</b> Usually the jurors are requested to elect a foreperson on the first occasion that they are together in the jury room after being sworn.</p>
Australian Capital Territory	<p><b>Sheriff</b> Foreman is chosen at the first adjournment which is usually the morning tea adjournment.</p>
Victoria	<p><b>Juries Commissioner's Office</b> In shorter trials, the foreman is generally chosen soon after the jury has been empanelled. However, it is now becoming common practice for the foreman to be chosen several days into a trial particularly where trials are estimated to run for more than 4 weeks.</p> <p><b>Supreme Court</b> Justice Teague does not require juries to select a foreperson during the settling break. His practice is to explain to the jury that the person whom they might be inclined to select initially as foreperson may not be the ideal choice.</p>
New South Wales	--
Queensland	<p><b>District Court and Sheriff</b> The Judge will direct the jury to select their Speaker at the first opportune time, and this will usually be their first break.</p>

14. What opening remarks are made to the jury about the course of the trial?	
Jurisdiction	Information provided
<b>New Zealand</b>	<p><b>Supreme Court</b></p> <p>Most Judges in New Zealand make opening remarks to the jury. The topics that might be addressed by a Judge to a jury at the beginning of the trial are:</p> <ol style="list-style-type: none"> <li>(1) Introduction of counsel and court staff by name and function.</li> <li>(2) The hours of sittings, adjournments and delays.</li> <li>(3) The need to keep an open mind until the entire case has been heard.</li> <li>(4) Distribution of a seating plan especially in multiple accused trials.</li> <li>(5) An explanation regarding the transcript of evidence. The Judge may tell the jury they will get a copy of the transcript and give directions on how it might be used or tell the jury they will not be given the transcript, and that they may have portions of the transcript read after retirement should they request it.</li> <li>(6) Advice about pre-trial publicity, publicity during a trial or other knowledge of the case especially if the trial is to be televised in part or in whole. This may include a sympathy/prejudice warning.</li> <li>(7) Advice that if the evidence is confusing or unclear or cannot be heard or any other concerns of the jury then the Judge should be advised by the jury immediately.</li> <li>(8) Advice that jury members are not to undertake their own enquiries or experiments and not to make internet searches of anything to do with the facts of the case or the law relating to the case.</li> <li>(9) Confidentiality. Jurors are told not to discuss the case with anyone except fellow jury members including family, friends, court staff and others. Jurors should not discuss the case amongst themselves unless all 12 are present. Jurors are to tell a member of the court staff if anyone attempts to speak to them about the case.</li> <li>(10) A description of the course of the trial.</li> <li>(11) Warnings where there may be special procedures for giving evidence, for example, the use of screens or close circuit television for vulnerable witnesses.</li> <li>(12) The procedure as to oaths for any children under 12.</li> <li>(13) The use of an interpreter, if required.</li> <li>(14) Use of cellphones.</li> <li>(15) Some Judges explain the elements of the charge and the burden and standard of proof and other legal issues of importance in the trial. Sometimes this is done by written memorandum distributed to the jury by the Judge.</li> </ol> <p><b>District Court</b></p> <p>Opening remarks vary throughout New Zealand again from Judge to Judge. The more modernistic approach is to provide the jury with a number of opening remarks. These would generally include housekeeping (hours of sitting, tea and meal breaks, coming and going from the Court building), a written memorandum setting out the essential ingredients of the charges to be considered by the jury, the use of the transcript of the evidence by the jury, the need to keep an open mind and not discuss the case outside the jury.</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b></p> <p>The jury is informed about the role of the foreman, the role of any reserve jurors, the sitting hours of the court, and the facilities available to them. They are warned not to discuss the case with anyone outside of the court and to avoid public areas of the</p>

14. What opening remarks are made to the jury about the course of the trial?	
Jurisdiction	Information provided
	<p>court where they might inadvertently overhear witnesses or others. They are told of the role of the jury, the Judge, each counsel and the jury guards. They are advised of the division between decisions of law and of fact. They are invited to report any incident that may affect their impartiality. They are advised of the presumption of innocence, the burden of proof and the standard of proof. They are told of the availability of transcripts and they are told of the provisions of the Juries Act relating to confidentiality and which apply to them. They are informed that they should direct any questions to the Judge. Other observations may be made depending on the nature of the case.</p>
Western Australia	<p><b>Sheriff</b>  When they escort a jury panel into court, jury officers will describe the layout of the court, the roles of the various participants in the process and certain procedures such as challenging, seating arrangements in the jury box and adjournments in the jury room. Judges will generally address the jury at the beginning of the trial and provide an overview of the trial process and outline the roles of counsel and jury officers and what is expected of jurors.</p> <p><b>Supreme Court</b>  The practice is not uniform. Judges' opening remarks usually include most or all of the following matters:</p> <ul style="list-style-type: none"> <li>• introduction of counsel and who they represent;</li> <li>• the length of the trial, hours of sitting, and when breaks will occur;</li> <li>• the role of the Judge and the role of the jury;</li> <li>• the presumption of innocence;</li> <li>• the burden of proof;</li> <li>• the standard of proof;</li> <li>• the elements in the indictment that have to be proven beyond reasonable doubt;</li> <li>• a general outline of the likely sequence of events in the trial leading up to the verdict;</li> <li>• the requirement for a unanimous verdict.</li> </ul> <p><b>District Court</b>  Opening remarks are pretty standard in any trial, and cover such things as the charges the jury is dealing with, the burden of proof, the presumption of innocence, and the standard of proof. I also invite jury members to ask for paper and pen if they wish to take notes. I indicate that if they need a comfort break or if they are becoming drowsy, particularly in the afternoon, to let me know and we can take a short break. I emphasise that they are the judges of the issues of fact and the importance of them seeing and hearing and judging all the evidence. I often comment to them that it would be a breach of their duty if they were to do any investigation of the case on the internet.  On some occasions I indicate that if they have any questions, they should write them down on a piece of paper and provide them to me, and if they are appropriate questions, they could be asked of witnesses. Other judges of my court do not follow this practice. Some judges believe that to allow the jury to ask questions detracts from their role as assessors of the evidence before them.</p>

14. What opening remarks are made to the jury about the course of the trial?	
Jurisdiction	Information provided
	<p>The jury is told that although there will be a transcript of proceedings, they will not have the transcript but that they can have access to the transcript through the judge if they want to be refreshed about what was said or whether something was said in case of a dispute among them during deliberations.</p> <p>When the evidence includes a pre-recording of the evidence of a child in a child sex case, they are told that they will not have the video with them later when they are deliberating. They will only see and hear the child's evidence once when the pre-recording is played in court. In a child sex case I always emphasise the primacy of the child's evidence and the importance of the jury focussing on that evidence at the time when it is given.</p> <p>Judges also outline for the jury the mechanics of the day - when we can expect to take breaks, the length of the luncheon adjournment and the length of the trial itself.</p>
South Australia	<p><b>District Court</b></p> <p>At the commencement of each monthly sitting a video is played to the jury pool in which a judge of the Supreme Court explains the criminal justice system and the trial process. The video includes an explanation of the various stages of a criminal trial, the roles of judge, jury and counsel, the presumption of innocence and the burden of proof, the process and purpose of examination in chief and cross-examination, the accused person's right to silence, the functions of counsel's addresses and the trial judge's summing up, the importance of jury and impartiality and the need to ignore any media publicity associated with the case and the importance of confidentiality of jury discussions and deliberations.</p> <p>Most trial judges at the commencement of a trial will inform the jury about the likely length of the trial and when the morning, luncheon and afternoon breaks will be taken. The jury are usually reminded of the importance of keeping jury discussions confidential, the need to elect a foreperson, the burden of proof and the importance of keeping an open mind about the case until they retire to consider their verdicts.</p>
Tasmania	<p><b>Supreme Court</b></p> <p>There is no standard practice. What is said depends upon the matter for trial and may be a little as detailing the anticipated course of the hearing.</p>
Australian Capital Territory	<p><b>Sheriff</b></p> <p>Judge's opening remarks cover – the right to trial by jury; different functions of judge and jury; presumption of innocence, summing up and questions of law. The trial process is also explained. The judge talks about opening addresses; calling witnesses; examination in chief; cross-examination and exhibits.</p>
Victoria	<p><b>County Court</b></p> <p>Most judges have personalised introductory statements which are read out to the jury.</p> <p><b>Supreme Court</b></p> <p>It is Justice Teague's practice to provide the jury with ample information about the course of the trial, their role within that trial and other issues relating to asking questions, taking notes and confidentiality considerations.</p>
New South Wales	<p><b>Supreme Court</b></p> <p>See suggested opening remarks to the jury</p>
Queensland	<p><b>District Court and Sheriff</b></p> <p>See Queensland Supreme and District Courts' Benchbook.</p>

15. What are juries told about taking notes - asking questions - communication with the Judge during the trial?	
Jurisdiction	Information provided
New Zealand	<p><b>District Court</b></p> <p>Juries are often told they can take notes but it is generally suggested they should ensure they concentrate on the witnesses. They generally are only told that any communication with the Judge should be by note through the foreman. Note sheets are usually left in the jury room.</p>
Northern Territory	<p><b>Supreme Court</b></p> <p>See above.</p>
Western Australia	<p><b>Sheriff</b></p> <p>Some judges require jurors in their court to have pens and paper to allow them to take notes on every occasion while other judges will consider authorising note taking only after the application of one of the counsel or following a request from the jury. Jurors are told that any questions about the evidence must be in writing, in a sealed envelope and addressed to the judge. Any other urgent issues, such as the need for a break, are directed through the foreman to the judge.</p> <p><b>Supreme Court</b></p> <p>The practice is not uniform. Some Judges tell the jury that they are free to take notes but they should not allow their note taking to divert their attention from the important task of listening to and observing the witnesses. Some Judges advise juries that they may ask questions in writing which are given to the Sherriff's officer who then passes them to the Judge and the Judge will answer the questions as soon as possible in open court.</p>
South Australia	<p><b>District Court</b></p> <p>Most trial judges inform the jury that they are free to take notes of the evidence, the addresses of counsel and the summing up. However, jurors usually are also told that they should not attempt to take notes of everything that is said because the very task of taking notes tends to distract from the ability to listen and absorb the evidence and to assess the reliability of the various witnesses.</p> <p>A sheet entitled "Notes for Guidance of Jurors" is kept in each jury room. The notes explain matters relevant to jury service including the mode of asking questions before and after retirement.</p> <ul style="list-style-type: none"> <li>• The jury are informed that should any juror desire, before the jury retires to consider its verdict, to ask the trial judge any question relating to the trial, or to have any portion of the evidence read over, or to look at any exhibit. This request should be communicated to the Trial Judge either in writing passed to the Judge by the Sheriff's Officer or by the juror coming to his or her feet in the jury box to attract the attention of the judge. Some judges give oral directions to this effect after the jury has been empanelled.</li> <li>• The notes further explain that when, having retired to consider its verdict, the jury wishes to ask the trial judge a question, or wishes to hear evidence read over, or wishes to have a further direction of law, the request should be reduced to writing, and a signal given to the Sheriff's Officer by knocking on the door of the jury room, so that the writing may be passed to the Sheriff's Officer who will in turn pass it on to the Trial Judge. In addition to the notes most judges explain this procedure to the jury towards the end of their summing up.</li> </ul>

15. What are juries told about taking notes - asking questions - communication with the Judge during the trial?	
Jurisdiction	Information provided
	<p><b>Sheriff</b> Jurors are advised that they are able to take notes and are provided with materials to enable them to take written notes. Jurors are provided with written material in their induction information, which explains the method of asking questions before retirement and after retirement. Written instructions are also provided in the jury rooms.</p>
Tasmania	<p><b>Supreme Court</b> Jurors are provided with note pads and pencils. There is no standard practice in relation to telling the jury about asking questions and communicating with the judge.</p>
Australian Capital Territory	<p><b>Sheriff</b> Jurors are able to take notes. Judge tells jurors that if they have any query about the evidence or procedure during the trial, they should direct such a query to him and him alone. Jurors are told that Sheriff's Officers who are there to attend to their general needs, not to answer questions about the trial itself. Judge tells jurors that questions should be communicated through the foreman.</p>
Victoria	<p><b>Juries Commissioner's Office</b> Information regarding note taking and asking questions is provided as part of the "jury pool" orientation. Prospective jurors are referred to the Juror Handbook, (see the following excerpt) and, are provided with the opportunity to view "We The Jury" (short orientation film). Trial Judges also refer to the opportunity to take notes, but emphasise that it is the jurors choice as to whether they wish to take notes.</p> <p><b>Note taking</b> Note taking will usually be allowed and you will be provided with writing materials. It is important, however, to concentrate on listening to the evidence. Do not rely on notes taken by another juror - these may conflict with your memory of the evidence or may not be an accurate summary.(Juror Handbook p19)</p> <p><b>County Court</b> Instructions are provided to jury about the ability to take notes and to observe witness as well as how questions will be taken and addressed.</p>
New South Wales	<p><b>Supreme Court</b> The instructions given to the jury concerning note taking, asking questions and communication with the judge during the trial are set out in the opening remarks.</p>
Queensland	<p><b>District Court and Sheriff</b> See Queensland Supreme and District Courts' Benchbook.</p>

16. What is the jury told regarding confidentiality in relation to their discussions and deliberations and the need to ensure that they do not discuss matters amongst themselves in the hearing of any other person or persons not a member of the jury?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> See question 13(9) above</p>

16. What is the jury told regarding confidentiality in relation to their discussions and deliberations and the need to ensure that they do not discuss matters amongst themselves in the hearing of any other person or persons not a member of the jury?	
<b>Jurisdiction</b>	<b>Information provided</b>
	<p><b>District Court</b> The jury are told that they should not discuss the case outside their jury whatsoever. They are told to be particularly careful about this coming and going from the Court and in the immediate Court environs and certainly not to discuss the case with friends of family during the course of the trial itself.</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b> See above.</p>
<b>Western Australia</b>	<p><b>Sheriff</b> The trial judge generally directs the jury on this issue and the jury officer will also advise the jury of the confidentiality provisions in the <i>Juries Act 1957</i>. At the first opportunity after the jury has been empanelled the jury officer will advise the jury that any discussion about the trial must be restricted to the jury room. At the lunch adjournment the jury officer will remind jurors about the need to maintain confidentiality about the trial. Jurors are also advised to avoid contact with anyone connected with the trial and immediately report approaches by anyone to the jury officer. At the end of the day when releasing the jury, the jury officer will again remind the jury about the need to maintain confidentiality. When the jury is released after returning a verdict the jury is reminded about the confidentiality provisions in the Act.</p> <p><b>Supreme Court</b> The practice is not uniform.</p> <p><b>District Court</b> The jury is warned before they are allowed to separate over the luncheon adjournment that they should not discuss the evidence with any person other than jury members. They are also warned that if anyone approaches them, they should report it to the jury officer. When they leave the court at the end of the day they are reminded again not to discuss the evidence with anyone at home and judges generally tell them why – they are the jurors who will hear all the evidence and people at home will not. The same goes for press reports – they should not think what is reported is more important than any other evidence, reporters have to be selective, jurors hear all the evidence. I emphasise that it would be a breach of their duty as a juror if they were to discuss the evidence with any one other than a jury member before the trial is over. At the end of the trial, as part of my charge to the jury, I remind them of the provisions of Western Australia’s <i>Juries Act</i> which makes it an offence for anyone to disclose "protected information". Protected information is the deliberations of the jurors in the jury room, and it is an offence to disclose those deliberations in a manner likely to come to the notice of the public or to publish those deliberations. I tell them that when they are famous in ten years and write their autobiography they cannot put in a chapter about how they swayed the jury in the jury room.</p>
<b>South Australia</b>	<p><b>District Court</b> In the video played to the jury at the commencement of each monthly sitting the importance of confidentiality of jury discussions and deliberations is emphasized.</p>

16. What is the jury told regarding confidentiality in relation to their discussions and deliberations and the need to ensure that they do not discuss matters amongst themselves in the hearing of any other person or persons not a member of the jury?	
Jurisdiction	Information provided
	<p>Most judges at the commencement of a trial will reiterate the importance of confidentiality. See answer to Q.17.</p> <p><b>Sheriff</b> Written and verbal instructions are given to jurors during the induction process prior to empanelment advising them of their obligation not to discuss the trial with anyone except for fellow jurors. Written instructions are also displayed in the jury deliberation rooms and jury pool room.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> Whenever the jury separate, the jurors swear that they "will not discuss with any person other than another member of the jury any matter relating directly or indirectly to the evidence on this trial or the deliberations". This obligation is reinforced by comments from the judge when considered appropriate.</p>
<b>Australian Capital Territory</b>	<p>Jurors are told that they may tell their family and friends that they are on a jury, but that it is vitally important that they not discuss the trial itself with them or tell them of the jury deliberations during its course.</p>
<b>Victoria</b>	<p><b>Juries Commissioner's Office</b> As part of the "jury pool" orientation, prospective jurors are advised that all conversations relating to the trial must take place within the confines of the deliberation room. Prospective jurors viewing the, "We The Jury" film and being referred to the "Juror Handbook" have this message further reinforced (see following excerpt).</p> <p><b>Don't talk about the trial</b> After the trial has finished it is still important that you do not discuss your jury service in such a way that you disclose the identity of another juror or details of the jury discussions or the particular case. A copy of the section of the Juries Act dealing with the confidentiality of jury deliberations will be given to you after you are discharged.</p> <p>Once the judge has discharged you from the trial, you have completed your role. You cannot be asked to explain how you reached your verdict. You cannot reveal anything that was discussed during your deliberations. If anyone approaches you to talk about the trial, you should report this to the Juries Commissioner. Sometimes there will be an appeal, or there may be other matters to be dealt with related to the trial you have been involved in, and it is important that justice not be compromised by a juror discussing the trial.(Juror Handbook p28)</p> <p>Trial judges routinely provide similar instructions to jurors as part of the initial instructions to empanelled jurors. The message is again reinforced upon discharge by providing discharged jurors with written instructions that are contained within their discharge material.</p> <p><b>County Court</b> As part of the opening statement to the jury the trial judge gives a strong warning regarding confidentiality and not talking to anyone about the trial. The jury is also</p>

16. What is the jury told regarding confidentiality in relation to their discussions and deliberations and the need to ensure that they do not discuss matters amongst themselves in the hearing of any other person or persons not a member of the jury?	
<b>Jurisdiction</b>	<b>Information provided</b>
	directed to report anything untoward through the tipstaff/court officer, but not to discuss any details of any reportable incident.
New South Wales	<b>Supreme Court</b> See suggested opening remarks to the jury
Queensland	<b>District Court and Sheriff</b> See Queensland Supreme and District Courts' Benchbook.

## During Trial

17. Are there standard breaks taken during the trial - what is the purpose of the breaks - is the purpose explained to the jury and/or to the accused?															
<b>Jurisdiction</b>	<b>Information provided</b>														
New Zealand	<p><b>Supreme Court</b> The standard sitting times for jury trials are:</p> <table style="margin-left: 40px;"> <tr> <td>First session</td> <td>10.00 a.m. to 11.30 a.m</td> </tr> <tr> <td>Morning tea</td> <td>11.30 a.m. to 11.45 a.m.</td> </tr> <tr> <td>Second session</td> <td>11.45 a.m. to 1.00 p.m.</td> </tr> <tr> <td>Lunch</td> <td>1.00 p.m. to 2.15 p.m.</td> </tr> <tr> <td>Third session</td> <td>2.15 p.m. to 3.30 p.m.</td> </tr> <tr> <td>Afternoon tea</td> <td>3.30 p.m. to 3.45 p.m.</td> </tr> <tr> <td>Fourth session</td> <td>3.45 p.m. to 5.00 p.m.</td> </tr> </table> <p>The purpose of such breaks is explained to the jury as a combination of stenographer need and to assist the capacity of the jury and others to absorb the evidence.</p> <p><b>District Court</b> Yes, there are standard breaks. The general hours of sitting recognised in New Zealand are from 10.00 – 11.30 am with morning tea for ¼ of an hour; resuming at 11.45 am – 1.00 pm; lunch from 1.00 pm – 2.15 pm, afternoon tea at 3.30 pm for ¼ of an hour. This is generally explained to the jury as being for the benefit of the Court stenographers but also to ensure that they, as jurors, are kept fresh because their concentration will be tested during the Court process.</p>	First session	10.00 a.m. to 11.30 a.m	Morning tea	11.30 a.m. to 11.45 a.m.	Second session	11.45 a.m. to 1.00 p.m.	Lunch	1.00 p.m. to 2.15 p.m.	Third session	2.15 p.m. to 3.30 p.m.	Afternoon tea	3.30 p.m. to 3.45 p.m.	Fourth session	3.45 p.m. to 5.00 p.m.
First session	10.00 a.m. to 11.30 a.m														
Morning tea	11.30 a.m. to 11.45 a.m.														
Second session	11.45 a.m. to 1.00 p.m.														
Lunch	1.00 p.m. to 2.15 p.m.														
Third session	2.15 p.m. to 3.30 p.m.														
Afternoon tea	3.30 p.m. to 3.45 p.m.														
Fourth session	3.45 p.m. to 5.00 p.m.														
Northern Territory	<p><b>Supreme Court</b> Yes, morning (around 11:15am) and afternoon (3:15pm) tea break, lunch between 12.30 and 2.00pm. The purpose may be mentioned in passing.</p>														
Western Australia	<p><b>Sheriff</b> While there is usually a morning tea break adjournment about 1130 each day any breaks during the trial are a matter of judicial discretion.</p> <p><b>Supreme Court</b> The practice is not uniform. It is fairly common for morning tea to be taken some time between 11 and 11.30 am for 20 – 30 minutes. Lunch is usually taken between 1 and 2.15 pm. Some Judges have an afternoon tea break. Others do not, unless it is</p>														

17. Are there standard breaks taken during the trial - what is the purpose of the breaks - is the purpose explained to the jury and/or to the accused?	
Jurisdiction	Information provided
	<p>requested by the jury. Other than to say that the breaks will be taken for refreshment it is not usual to explain the reason for them.</p> <p><b>District Court</b> Standard breaks are taken for morning tea at 11.30 am and for lunch from 1.00 pm until 2.15 pm. I also explain that if they need a comfort break or a break to enable them to concentrate fully, that that can be accommodated. Anything I say to the jury is said in the presence of the accused.</p>
<b>South Australia</b>	<p><b>District Court</b> There are standard morning, luncheon and afternoon breaks. The times when the morning and afternoon breaks are taken will vary from court to court but they are usually taken at about 11.30 pm (15 minutes) and 3.30 pm (10 minutes). The jury retire to the jury room to take the morning and after breaks. Coffee and tea making facilities are provided in the jury room as well as access to toilets. The jury usually break at 1.00 pm for lunch for a period of 75 minutes. The jury may leave the court building to have lunch. The Trial Judge usually informs the jury of these arrangements at the commencement of the trial.</p> <p><b>Sheriff</b> A morning and afternoon break is provided as well as a break for lunch. Jurors are given verbal and written advice as to the likely sitting times and breaks.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> The only standard break is a break of 15 minutes at about 11.30am for morning tea/coffee.</p>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> Standard breaks are the morning adjournment – 11:15 am to 11:30 am. Lunch adjournment – 1:00 pm to 2:15 pm. No afternoon break, court adjourns 4: 15 pm. Purpose is explained to jury and accused.</p>
<b>Victoria</b>	<p><b>County Court</b> Generally, mid-morning, mid-afternoon and thereafter on request.</p> <p><b>Supreme Court</b> In Justice Teague’s courtroom, the jury is usually given the opportunity to take both a morning and afternoon break of approximately 10 minutes. However, it is also Justice Teague’s practice to refer the matter of whether a break should be taken to the jury directly and if the jurors indicate that they do not need a break, His Honour will continue with proceedings.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> The standard breaks taken during the trial are the morning adjournment, taken at around 11.30 (20 minutes) and lunch which is taken between 1.00 and 2.00. The fact of these breaks, and their purpose, are explained to the jury in the course of the opening remarks.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> There is normally a morning and lunch break. Some Judges have an afternoon break. The purpose of other breaks is explained</p>

18. Transcript issues – are the jury to be given the trial transcript or other access to the transcript? If so, when, and with what, if any direction from the Judge?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b>  Juries in New Zealand are now typically, but not invariably, given transcripts. Sometimes the transcript is given to the jury at the end of each day and at other times at the end of the trial. During the Judge’s opening remarks to the jury and in his summing up he tells the jury; that the transcript is available so that the jury may check where they are unsure of what a witness might have said on a particular issue; the transcript is as accurate as the Judge, counsel and his/her associate can make it; the evidence is what the witness actually said and so any errors, omissions or inaccuracies in the transcript are to be resolved by the jury themselves deciding what was said; because they have the transcript they should not think they do not need to pay close attention to the evidence. The jury are told when using the transcript it is vital to check both the evidence in chief, the cross-examination and re-examination and to check whether other witnesses may have said something about the topic under enquiry. Finally, jurors are reminded that copies of the transcript, typically two or three, along with an index are a resource for all jurors and all jurors have right of access to it.</p> <p><b>District Court</b>  A transcript of the trial is generally given to juries in New Zealand now. There is no law requiring or not requiring it and it is a matter for the individual Judge’s discretion. In short trials the transcript would be given at the time the jury retired to consider their verdicts; in longer trials the transcript might be given on a daily basis, first thing each morning. A direction is given by the Judge that the transcripts should be treated as a whole, that when considering a particular piece of evidence to remember that an individual witness may discuss that piece of evidence in their evidence-in-chief, cross-examination and re-examination; and that other witnesses may also speak of the same issue. The jury generally would also be told that the transcript cannot be expected to be absolutely perfect, that it is to be used by the jury to assist them to refresh their memory and that it does not absolve them in any way from their responsibility of concentrating on the witnesses during the trial.</p>
Northern Territory	<p><b>Supreme Court</b>  No. Although this is under actual consideration by the judges.</p>
Western Australia	<p><b>Sheriff</b>  The jury is not provided with any transcript or access to the transcript.</p> <p><b>Supreme Court</b>  Prior to 2006 it was rare for juries to be provided with transcript. In 2006 some Judges, particularly in lengthy trials, commenced to give transcript to the jury.</p> <p><b>District Court</b>  Trial transcripts are not provided to the jury in Western Australia.</p>

18. Transcript issues – are the jury to be given the trial transcript or other access to the transcript? If so, when, and with what, if any direction from the Judge?	
Jurisdiction	Information provided
South Australia	<b>District Court</b> The jury are not provided with a copy of the transcript either before or after they have commenced their deliberations.
Tasmania	<b>Supreme Court</b> Extremely rarely. For example, it has been done in a complex commercial prosecution involving many documents and it has been done to counter-balance the effect of the evidence-in-chief of a child complainant being put in via a DVD or video tape. In the latter case, the jury was provided with a transcript of the balance of the child witness' evidence and the evidence of the defendant. The jury are directed that a transcript is only an aid to memory and that they should not give undue weight to the evidence of which they have a record.
Australian Capital Territory	<b>Sheriff</b> Not as a matter of course. In a long or complex trial, judge may direct that jury is to be given a transcript. Jury receives an edited transcript.
Victoria	<b>County Court</b> Generally transcript will be provided with guidance and caution about how to use it.  <b>Supreme Court</b> Justice Teague routinely makes transcript of any stage of the proceedings available to the jury at any time upon request. Whenever transcript is are given to a jury, however, Justice Teague gives them a direction to take primary note of the oral evidence that they have heard in the courtroom and to only use the transcript as a secondary source. He also ensures that they are aware that there can and will, from time to time, be errors in the transcript.
New South Wales	<b>Supreme Court</b> Section 55C of the Jury Act makes provision for a copy of all or any part of the transcript of evidence at a trial to be supplied to the jury at their request if the judge considers it appropriate and practicable to do so. It is common for judges to inform members of the jury of this provision during the course of the opening remarks. It is very common for the jury to request parts of the transcript during their retirement.
Queensland	<b>District Court and Sheriff</b> Judges rarely do. Since 2006 the Judge may direct a transcript of the evidence be provided to the jury. This is not often done and very rarely is the jury given a transcript of any audio or video tape.

<p>19. Communication between the accused and counsel: in those courts where the layout is such that it is difficult for the accused to catch counsel's eye, is there an established procedure if the accused wants to communicate with counsel, or are there breaks at particular points for that purpose?</p>	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> Prison officers, who are required to be seated beside an accused, are typically the conduit for notes between an accused and their counsel.</p> <p><b>District Court</b> The general procedure, in New Zealand as to communication between accused and counsel is by the writing of a note by the accused through the prison escort officer or by the prison escort officer gaining the attention of the accused's counsel. If it was obvious to a trial Judge that the accused wanted to communicate with his counsel the Judge would interfere.</p>
Northern Territory	<p><b>Supreme Court</b> This is not usually a problem in Territory courts. However if a problem arises the jury guard will draw the attention of counsel to the need for communication with the accused.</p>
Western Australia	<p><b>Supreme Court</b> In all Western Australia Supreme Court jury courts the dock is behind the Bar table and, therefore, it is not possible for an accused to catch counsel's eye. There is no established procedure if the accused wants to communicate with counsel. It is usually left to the accused to indicate to the orderly or the Judge that they wish to speak to counsel. The accused is often provided with note making implements and notes may be passed to counsel by the Judge's orderly, during the course of the trial and without interruption of it.</p> <p><b>District Court</b> In our courtrooms the dock is immediately adjacent to the position of defence counsel and this difficulty does not generally arise. If I ever notice the accused trying to get the attention of his or her counsel, I would point that out to counsel. No particular breaks are taken in regard to this.</p>
South Australia	<p><b>District Court</b> The layout of the courts is such that this is not usually a problem. If it is apparent to the judge that defence counsel is unaware that an accused is trying to catch his eye then he or she will bring it to counsel's attention. If the Sheriff's officer sitting next to the accused notices the problem then he or she will bring it to the attention of the trial judge.</p>
Tasmania	<p><b>Supreme Court</b> Counsel for the accused sits near the accused. If the accused has any difficulty in catching counsel's eye, the custodial officer assists. There are no standard breaks for counsel and the accused to communicate, although a break would be allowed if requested.</p>
Australian Capital Territory	<p><b>Sheriff</b> Accused sits behind counsel. There is no established procedure to facilitate communication however the instructing solicitor sits in a position that would enable him/her to observe the accused and draw counsel's attention if necessary</p>

19. Communication between the accused and counsel: in those courts where the layout is such that it is difficult for the accused to catch counsel's eye, is there an established procedure if the accused wants to communicate with counsel, or are there breaks at particular points for that purpose?	
Jurisdiction	Information provided
Victoria	<p><b>County Court</b> There is no established procedure, however if accused wishes to speak to counsel, the accused generally singles the instructing solicitor or court staff, the trial Judge will inform counsel of the need to speak to client.</p> <p><b>Supreme Court</b> In Justice Teague's courtroom, communication between an accused and his or her Counsel routinely takes place during breaks, and from time to time during evidence, on request by Counsel for the accused.</p>
New South Wales	<p><b>Supreme Court</b> No special provision is made for the accused to communicate with his or her counsel unless there is some perceived special difficulty. Ordinarily, the accused is free to write notes in the dock and these may be passed to counsel by the instructing solicitor.</p>
Queensland	<p><b>District Court and Sheriff</b> Usually the security officer advises the instructing solicitor. If counsel then wants a break to confer, this is done.</p>

20. How is the accused secured or guarded during the course of trial - is anything said to the jury about this?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> An accused is guarded during the course of the trial by prison officers. Juries are typically told that this is a convention and that no inference contrary to the accused should be taken from that fact. In some New Zealand courts private security officers rather than prison officers are used.</p> <p><b>District Court</b> In New Zealand the accused is escorted in Court by a prison officer. Frequently judges will say to the jury that no adverse inference should be drawn from this; that every accused standing trial in New Zealand is escorted in Court by a prison officer.</p>
Northern Territory	<p><b>Supreme Court</b> The accused is seated in the dock with security guard/s as ordered by the delegated officer. In some cases jurors are told that it is standard procedure. Much depends on the circumstances of the case.</p>
Western Australia	<p><b>Sheriff</b> Guards are always in the dock with the accused. It is not normal practice for the jury to be told anything about this matter. If utilised, any restraint of the accused is concealed from the jury and court.</p> <p><b>Supreme Court</b> The usual practice is for an accused to sit at a raised, open dock on their own. A</p>

20. How is the accused secured or guarded during the course of trial - is anything said to the jury about this?	
Jurisdiction	Information provided
	<p>security guard or guards sit at the entrance to the dock. Nothing is usually said to the jury about that practice. If an accused gives evidence he or she is accompanied to the witness box by a guard and the guard sits close by but, usually, not in the witness box with the accused. It is the practice of some Judges to tell the jury that it is standard practice in the court for the accused to be accompanied by a security guard and no adverse inference should be drawn against the particular accused because of that practice.</p> <p>Judges of the Court are reluctant to have other obvious security measures used in court. On occasions, on advice from custody officers, it has been necessary for these to be used. Ankle restraints made from nylon webbing can be used without the jury being aware of them. If, in extreme circumstances, it is necessary for other obvious restraints to be employed, it is common for the presiding Judge to make some remarks to ameliorate the prejudicial impact of those restraints.</p> <p><b>District Court</b></p> <p>A court guard sits in the dock with the accused during the trial, and accompanies the accused to the witness box if the accused chooses to give evidence. During my charge to the jury, when I am discussing the need for them to put aside any prejudice or sympathy that they might have, I usually refer to the presence of the guard as a matter that may originally have brought some prejudice on their part when they came into Court on the first day of trial, heard the charges read and saw the accused sitting under guard in the dock. I instruct the jury that this is normal court procedure and that they must put aside any prejudices or sympathies they might have. I tell them we do not want any verdicts based on prejudice or sympathy.</p>
South Australia	<p><b>District Court</b></p> <p>During the video presentation at the commencement of each monthly sitting the jury pool is informed that the accused is required to sit in the dock and be accompanied by a Sheriff's officer. The jury are instructed that that is a standard practice and that they should not draw any adverse inferences or assumptions against the accused by reason of that procedure.</p> <p><b>Sheriff</b></p> <p>The accused sits the dock un-secured with a Sheriff's Officer unless otherwise directed by the judge.</p>
Tasmania	<p><b>Supreme Court</b></p> <p>Nothing is said to the jury about how the accused is guarded during the course of the trial unless there is particular reason to do so. The procedure is:</p> <ul style="list-style-type: none"> <li>• When being moved from the cells to the courtroom, two custodial officers move each accused.</li> <li>• Once in court, a single accused is monitored by a single custodial officer.</li> <li>• An accused may be allocated more than one custodial officer in the courtroom if: <ul style="list-style-type: none"> <li>- the accused has a history of poor behaviour when attending court; or</li> <li>- the custodial service has reason to believe the accused will cause a disruption.</li> </ul> </li> <li>• With the consent of the presiding judge, an accused person may wear handcuffs or a like restraint whilst in the courtroom.</li> </ul>

20. How is the accused secured or guarded during the course of trial - is anything said to the jury about this?	
Jurisdiction	Information provided
	<ul style="list-style-type: none"> <li>Subject to the approval of the presiding judge, on occasions, for example a trial of multiple accused with a history of violent behaviour, additional officers from the Tactical Response Unit are present in the courtroom armed with disabling weapons such as tasers.</li> </ul>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> A Court Transport Officer sits next to the accused. The accused and escort are positioned on the floor of the court behind the bar table. If it is known that the accused may present a security risk, additional Court Transport Officers may be present. Nothing is said to the jury about this. If the accused is in custody, he/she is brought into the courtroom before the jury panel enters and taken out when the panel has left so the jury is never aware that the accused is in custody.</p>
<b>Victoria</b>	<p><b>County Court</b> The accused is managed by corrections officers during the course of the trial. Introductory remarks to the jury, normalises the location and managing of the accused, including the presence of corrections officers and that no adverse inference should be drawn.</p> <p><b>Supreme Court</b> The accused is not usually secured at all but is directed to sit in a special location called the dock, where he or she is usually flanked by two prison guards, seated around 1m away on either side of the accused.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> In the case of an accused who is being held in custody efforts are made to ensure that he or she is brought into court and removed from the court in the absence of the jury. In this way the accused's custody is not highlighted. The circumstance that an accused is in custody may be apparent from the number of Corrective Services and/or police present in the court and from the need to have a police or sheriff's officer sitting close to the witness box in the event that the accused gives evidence. There is no standard direction given to juries in these cases. Commonly, the judge will invite submissions from defence counsel and tailor any directions accordingly.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> No. The courts in Brisbane and Townsville have Corrective Services officers who attend court whether the defendant is on bail or in custody. For a person in custody 2 officers attend. In the other 30 District Court centres police officers attend. A Corrective Services officer or a police officer sits beside the dock.</p>

21. Control of the gallery: there are often cases requiring special management (eg, in Perth bikies and international drug rings need very high security, family feuds can make for very volatile factions in the gallery) - what steps are taken to deal with these matters?	
Jurisdiction	Information provided
<b>New Zealand</b>	<p><b>Supreme Court</b> Control of the gallery where identified as a potential issue is achieved;</p> <p>(1) By barriers to prevent any contact between the public, the accused and others in the body of the courtroom. This typically is a clear</p>

**21. Control of the gallery: there are often cases requiring special management (eg, in Perth bikies and international drug rings need very high security, family feuds can make for very volatile factions in the gallery) - what steps are taken to deal with these matters?**

Jurisdiction	Information provided
	<p>safety glass barrier between the trial spectators and the trial participants.</p> <p>(2) On an ad hoc basis by searching those who wish to enter the courtroom. A metal detector may be used.</p> <p>(3) In extreme cases armed police officers are permitted in Court. This is only with the express permission of the Judge.</p> <p><b>District Court</b> The gallery is generally controlled by the police officer associated with the particular case and by Court security officers. Obviously if there is a particular case where there are security concerns, then steps are taken prior to trial to ensure that the police and Court security officers are aware.</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b> It is a requirement of the general public that they place all personal belongings through an x-ray machine and walk through a metal detector. The court rooms are fitted with duress alarms in the event of an emergency. Security is adjusted to suit the circumstances of the case.</p>
<b>Western Australia</b>	<p><b>Sheriff</b> Security directorate, in consultation with judiciary, is responsible for overseeing security issues however, the perceived/known threat will generally dictate the response. Action taken in the past has included establishing a remote public gallery and concealing jury movements to and from the court, controlling/restricting access to the court and controlling/restricting access to the panel or pool of jurors under Section 43A of the Act.</p> <p><b>Supreme Court</b> This is determined on a case by case basis. In cases which have posed a significant security risk, the public gallery in the courtroom has been closed and, in its stead, a public gallery in the District Court has been used with a video link to the court where the trial is being conducted. Other steps include increasing the number of security guards, searching members of the public before they go into the public gallery and removing members of the public who prove to be unable to control their behaviour.</p> <p><b>District Court</b> We have had high security trials in Perth in our Court where a metal detector is used at the door to ensure that no weapons are brought into Court. In one case the animosities and risks were so high that we closed the courtroom and had the public meet elsewhere to view closed circuit television coverage of the trial.</p>
<b>South Australia</b>	<p><b>Sheriff</b> Each matter will be assessed based on the likely security risk. Additional Sheriff's Officers may be provided in court or assistance sought from Police. The trial judge may give further directions.</p>

21. Control of the gallery: there are often cases requiring special management (eg, in Perth bikies and international drug rings need very high security, family feuds can make for very volatile factions in the gallery) - what steps are taken to deal with these matters?	
Jurisdiction	Information provided
Tasmania	<b>Supreme Court</b> Cases requiring special management are rare and dealt with on a case by case basis. For example, when Martin Bryant was to be tried in relation to the Port Arthur massacre, a glass security screen was installed to separate the dock from the public area.
Australian Capital Territory	<b>Sheriff</b> In cases requiring special management, arrangements are usually made in advance. May be liaison between Sheriff's Officer, Court Transport Unit and police.
Victoria	<b>County Court</b> Strategies such as introducing additional subtle security, use of non-inflammatory language, judges leaving the bench when needed, court officer announcing that court video is on and recording everything in court. Secure Court Act may be invoked.  <b>Supreme Court</b> Special steps will be taken as appropriate according to the information supplied as to matters requiring extra security.
New South Wales	--
Queensland	<b>District Court and Sheriff</b> Security for a particular trial is at the discretion of the Judge. Police and Corrective Services make recommendations to security needs as does the prosecutor. In high security situations each have special squads who can be mobilised to boost security. Usually they are in plain clothes. In centres where State Government Protective Security officers are stationed a request can be made for extra officers for certain trials to assist with control of the public gallery. Further, in Brisbane, with the approval of the trial Judge, the defendant may be held in the secure (fully glassed-in) dock.

22. Jury aids - charts, summaries, transcripts, etc: is much use made of them and how are they controlled or vetted?	
Jurisdiction	Information provided
New Zealand	<b>Supreme Court</b> (a) Jury aids are commonly used by the prosecution and sometimes by the defence. (b) The material provided to juries can be divided up into a number of categories. They include: (i) Aids to witnesses to explain their evidence, typically but not always expert witnesses. This will include PowerPoint presentations, maps, charts, diagrams, photographs and computer animation. Counsel for the prosecution or defence who wish to use this material are expected to advise the Judge at the first callover of the trial after the committal hearing. Unless opposing counsel object to the use of the material generally the Judge will allow it to be used as a jury aid subject to being satisfied its use is proper and fair. (ii) Material from counsel for the jury. This is typically material from the

**22. Jury aids - charts, summaries, transcripts, etc: is much use made of them and how are they controlled or vetted?**

Jurisdiction	Information provided
	<p>prosecution, for e.g., on opening the prosecution will typically wish to give the jury a copy of the indictment, a copy of any photographs which may be produced by consent, a list of the witnesses, and a brief summary of what the prosecution has to prove with respect to each count in the indictment. This material is provided to defence counsel and the Judge prior to the trial so if any objection is taken to any of the material it can be dealt with prior to the trial commencing.</p> <p>(iii) In more complex trials jurors, the Judge, counsel and the accused are provided with screens on which all exhibits and any other photographic or documentary evidence are able to be shown.</p> <p>(iv) Some Judges use decision trees, sequential question forms and or issues tables as aids for jurors in their summing up.</p> <p><b>District Court</b>                      Jury aids are commonly used in New Zealand. It is a matter for the discretion of the individual Judge. They come before the jury in two ways: either from counsel which would require consideration by opposing counsel and final approval by the Judge; or from the Judge, generally at the time of his or her summing-up and only after distribution to counsel for comment.</p>
<p><b>Northern Territory</b></p>	<p><b>Supreme Court</b>                      A written aide memoire is provided to the jury in relation to each charge. Charts and other aids may be used but as a general proposition are not employed.</p>
<p><b>Western Australia</b></p>	<p><b>Sheriff</b>                      Location maps are often used; they are tendered as evidence and controlled as such – use of aids is generally up to judicial direction.</p> <p><b>Supreme Court</b>                      Some use is made of these aids. There is a legislative provision which empowers a Judge to order that a jury be given such aids. The control or vetting of them depends on their nature. If they contain uncontroversial factual material, such as a timeline showing the sequence of a number of telephone calls, then there is usually no problem with them. The difficulty arises when they contain factual matters which are in dispute. In such cases the trial Judge has to make a decision as to whether or not to allow the jury to use them in the jury room and if so what directions ought to be given to the jury to make it clear that the other party does not accept the factual assertions in them.</p> <p><b>District Court</b>                      Judges generally allow prosecutors or defence counsel to provide charts or summaries that reflect the evidence in the court, or to provide copies of exhibits for the use of the jury. Jury aids are encouraged so long as they reflect the sworn evidence at trial. When there are a number of charges on the indictment, generally each jury member is provided with a copy of the indictment at the start of the trial. Such jury aids are probably only used in about ten per cent of our trials.                      Judges often encourage counsel to provide jurors with booklets of documents that will frequently be referred to in evidence. Jurors generally take all of the exhibits</p>

22. Jury aids - charts, summaries, transcripts, etc: is much use made of them and how are they controlled or vetted?	
Jurisdiction	Information provided
	tendered in the course of the trial into the jury room during breaks so that they can become familiar with them.
<b>South Australia</b>	<p><b>District Court</b> Charts which assist in the comprehension of evidence are permitted; for example charts which show where various exhibits or other things referred to in the evidence were found or which provide a convenient record of complicated financial transactions which have been proved by other evidence. The judge has a discretion to allow a chart to go into the jury room. But charts which are selective of the evidence or which contain errors may be rejected. Where a chart is used the trial judge will give the jury a direction as to its permissible use. In general terms the jury is directed that the chart is not primary evidence and that the chart has been prepared to enable the jury to understand more readily the primary evidence. The jury is directed that it is for them to decide what assistance, if any, they get from the chart. If the jury decide that no weight should be attached to the primary evidence then the chart will be of no assistance to them.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> Jury aids are occasionally used and their use is controlled by the judge.</p>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> As previously stated, transcripts are not provided in all cases, and when transcript is provided, it is an edited transcript. Other aids such as charts or summaries would only be used in complex trials.</p>
<b>Victoria</b>	<p><b>County Court</b> Aids are mandated under the Crimes Criminal Trials Act, in practice rarely used, however, the practice ought to be encouraged.</p> <p><b>Supreme Court</b> Jury aids are encouraged by Justice Teague where provided by the parties. His Honour also routinely provides written jury aids such as tables, charts and summaries of relevant or key matters of evidence to the jury himself.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> It is common in trials in the Supreme Court for the Crown to prepare 12 bundles comprising the crime scene photographs, photogrammetry plan, copies of the street directory and floor plans of the subject premises etc. Frequently there is no objection to any of this material and it is distributed to the jurors at an early stage in the trial – sometimes during the Crown’s opening.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> Unless they are exhibits, these are provided to the jurors (to take into the Jury room) only with the approval of the Judge. Some Judges like them, some rarely allow them.</p>

23. Adjournments, legal argument, etc: does anyone still have lengthy adjournments for legal argument, or is everything dealt with prior to the trial?	
Jurisdiction	Information provided
<b>New Zealand</b>	<p><b>Supreme Court</b> If able to be identified all, or almost all, legal argument relating to a criminal trial are</p>

23. Adjournments, legal argument, etc: does anyone still have lengthy adjournments for legal argument, or is everything dealt with prior to the trial?	
Jurisdiction	Information provided
	<p>dealt with prior to the trial. The right of appeal from such pre-trial rulings if exercised prior to the trial has resulted, from time to time, in the disruption and delay of trials. Some evidence admissibility issues are inevitably dealt with at trial but are typically relatively minor and are dealt with immediately in the absence of the jury.</p> <p><b>District Court</b> These are relatively rare in New Zealand now because of pre-trial management processes. However, they still occur, but certainly not with the frequency and length previously.</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b> Most legal argument is dealt with pre-trial pursuant to the provisions of Section 26L of the Evidence Act (Northern Territory). There are often issues which arise in the course of a trial that require legal argument but efforts are made to avoid this with the pre-trial procedures.</p>
<b>Western Australia</b>	<p><b>Sheriff</b> Adjournments for legal argument are still a feature of our trial process.</p> <p><b>Supreme Court</b> Most legal arguments are dealt with prior to trial. Occasionally, there are legal issues which are dealt with during the course of the trial. Sometimes this is because interstate counsel are briefed and they either come from a jurisdiction which does not have pre-trial hearings or, they choose to raise issues at trial rather than travel to Western Australia for a pre-trial hearing.</p> <p><b>District Court</b> Most legal argument of any length is dealt with prior to the trial, but there can be, particularly with a no case submission, the need for a lengthy adjournment to consider the evidence and legal principle. In such a case, I try to release the jury for a number of hours rather than keep them confined in the jury room, which is a rather small room adjacent to the court.</p>
<b>South Australia</b>	<p><b>District Court</b> Section 285A of the Criminal Law Consolidation Act 1935 empowers the Court to determine voir dire questions after arraignment but before the jury is empanelled. Furthermore, the Supreme Court and District Court Rules provide that if a party seeks to raise any question relating to the admissibility of evidence or any other question of law affecting the conduct of the trial prior to the opening of the case for the prosecution or the calling of witnesses, the application should be in the form of a notice specified by the Rules and served on all other parties not less than 14 days prior to the date fixed for the hearing of the trial. The Court has power to dispense with compliance with the rules. The implementation of these procedures has reduced the amount of time spent by judges hearing legal arguments after the jury has been empanelled. However adjournments for legal argument still occur in cases where counsel have failed to comply with the rules, or where unforeseen legal arguments arise in the course of the trial.</p>

23. Adjournments, legal argument, etc: does anyone still have lengthy adjournments for legal argument, or is everything dealt with prior to the trial?	
Jurisdiction	Information provided
Tasmania	<p><b>Supreme Court</b> Every effort is made to deal with these matters prior to trial, but on occasions lengthy adjournments still occur.</p>
Australian Capital Territory	<p><b>Sheriff</b> Case management procedures are designed to ensuring that applications and legal arguments are dealt with prior to the commencement of the trial. Notwithstanding that, it is not unusual for legal argument to take place prior to or after the jury has been empanelled.</p>
Victoria	<p><b>County Court</b> Adjournments generally tend to be influenced by the appointment of new counsel and previously undisclosed legal issues. Most issues are managed pre-trial however, if issues arise during trial, such issues are addressed in the absence of the jury .</p> <p><b>Supreme Court</b> Where necessary, a lengthy adjournment of the trial may still occasionally take place, however, it is Justice Teague’s practice to keep the length of time taken up by legal argument in the absence of the jury to a minimum.</p>
New South Wales	<p><b>Supreme Court</b> Section 130 of the Criminal Procedure Act 1986 (New South Wales) confers jurisdiction on the court to make any orders for the purposes of the trial before a jury is empanelled. It is common for voir dire hearings and other issues that require substantial legal argument to be dealt with before the jury is empanelled.</p>
Queensland	<p><b>District Court and Sheriff</b> Section 590AA of the Criminal Code allows for pre-trial hearings, and every attempt is made to have all preliminary matters dealt with prior to the commencement of the trial. This reduces the time taken for legal argument during the course of a trial. Further, most children’s evidence must be pre-recorded prior to the trial (usually within 6 weeks of the presentation of the indictment).</p>

24. Protection of juries: what steps are taken to ensure there is no improper communication with jurors? Do jurors know who they should report to if an approach is made?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> Jurors are given directions by the Judge at the commencement of the trial often emphasised by counsel for the prosecution in opening about restrictions on discussions with respect to the trial. Jurors are told both in the initial jury instructions given to them and emphasised by the Judge should they have any concerns about an approach or any discussion they have had they should immediately report it to court staff.</p> <p><b>District Court</b> Juries are obviously told to avoid at all costs discussion outside their jury about the case. They are not specifically told how to deal with any improper communication.</p>

24. Protection of juries: what steps are taken to ensure there is no improper communication with jurors? Do jurors know who they should report to if an approach is made?	
Jurisdiction	Information provided
	Essentially the system is self-regulating, relying on an individual juror or the foreman to bring a particular matter to the attention of the Registrar or Judge.
<b>Northern Territory</b>	<p><b>Supreme Court</b> While the jurors are on the court premises they are looked after by jury guards/Sheriff's Officers to ensure their security, health and well being. They are warned to report any incident which may affect their impartiality. They are requested not to spend any time in the public areas of the court and to avoid anyone involved with the case. Reporting - Yes. Judge/Sheriff/Jury Administrator/Sheriff's Officer as appropriate.</p>
<b>Western Australia</b>	<p><b>Sheriff</b> Jury officers, who are assigned to each jury, are responsible for ensuring there is no improper communication with jurors when they are within the court building. Jurors are advised on a number of occasions by their jury officer that they must immediately report any approaches. The jury officer will immediately advise the court of any reported approaches. Additionally, jurors are assigned identity numbers and this assists in maintaining anonymity and therefore less likely to receive improper communication.</p> <p><b>Supreme Court</b> Jurors are accompanied by Sheriff's officers when they move around the Supreme Court. Unfortunately, the Court does not have separate movement passages for juries. During breaks jurors move to and from the court on their own.</p> <p><b>District Court</b> In my opening remarks, to the jury I indicate to them that if anyone approaches them or tries to speak to them about the trial they should let the sheriff's officer know. Jury members seem to report all manner of things to their jury officer. Even when unusual events happen, jury members still seem to know to report the issues to their jury officer.</p>
<b>South Australia</b>	<p><b>Sheriff</b> Jurors are given both verbal and written instruction to advise them of their obligation to report any approach made to them. A Sheriff's Officer escorts jurors from the building at lunch and at the end of the day. Juror information is kept in a self contained computer database in the Sheriff's Office with only relevant staff having access to the database.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> Ordinarily no special steps are taken to ensure there is no improper communication with a juror. It is assumed that jurors will comply with their oath/affirmation not to discuss with any person other than another member of the jury any matter relating directly or indirectly to the trial. It is only when there is particular reason for concern about improper approaches to jurors that they are told who they should contact should that occur.</p>

24. Protection of juries: what steps are taken to ensure there is no improper communication with jurors? Do jurors know who they should report to if an approach is made?	
Jurisdiction	Information provided
Australian Capital Territory	<p><b>Sheriff</b></p> <p>The judge warns jurors that because of the design of the building, they may encounter, the accused, prosecution and defence counsel. He tells them that these people may not speak to them outside the confines of the courtroom and that even at the expense of appearing to be rude, they should avoid speaking to any person in the precincts of the court. If a juror is approached, they should report that approach to the jury keeper.</p>
Victoria	<p><b>County Court</b></p> <p>As part of introductory remarks judge instructs jury as to the role of the tipstaff/court officer and that any improper communications etc. should be reported to the judge through him/her.</p> <p><b>Supreme Court</b></p> <p>Justice Teague makes it clear as part of the information that he provides to jurors at the beginning of every trial that they are to report to him, or to his Tipstaff, immediately upon being contacted in any inappropriate way either inside or outside of the courts.</p>
New South Wales	<p><b>Supreme Court</b></p> <p>The protection of the jury is a matter for the Sheriff. The only information given by the judge concerning communications with jurors are directions of the type set out in the opening remarks. Experience suggests that jurors will raise matters of concern by speaking with the Sheriff's officer or by sending a note to the judge.</p>
Queensland	<p><b>District Court and Sheriff</b></p> <p>(i) The bailiff is sworn to protect the Jury. There is, currently, no Queensland courthouse with jury-only circulation. The bailiff is alert to bring to the attention of the Judge any improper attempts to communicate with the Jury. See Queensland Supreme and District Courts' Benchbook.</p> <p>(ii) Yes. Jurors are told during their orientation to report improper approaches by any person to the bailiff or sheriff if empanelled on a trial or otherwise the sheriff. In certain trials, Judges reinforce this with the Jury. See Queensland Supreme and District Courts' Benchbook.</p>

25. What questions are jurors entitled to ask?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b></p> <p>Some Judges tell jurors in their opening remarks that they are entitled to ask questions of witnesses through the Judge. The jury are typically told that the Judge will decide whether or not the proposed question is a proper question to be asked, and if so he/she will ask it on their behalf. Some Judges, however, do not tell the jury they may ask questions and if a jury member indicates they wish to ask a question then the same process is followed. A jury member who wishes to ask a question is asked to put it in writing. The question is handed to the Judge, the Judge decides whether the question should be asked sometimes consulting counsel in the absence of the jury. If appropriate he/she would then ask the question of the witness.</p>

25. What questions are jurors entitled to ask?	
Jurisdiction	Information provided
	<p><b>District Court</b> Jurors are entitled to ask questions. They are generally told that the questions should be in writing through the foreperson. The general experience is that the asking of the questions by jurors is relatively rare. The note sheet earlier referred to is generally used.</p>
Northern Territory	<p><b>Supreme Court</b> The jury is directed that they should address any questions regarding their health, business or family affairs to the jury guards. All other questions are to be directed to the Judge. There is no restriction on questions that may be asked of the Judge</p>
Western Australia	<p><b>Supreme Court</b> This is left up to the discretion of the presiding Judge.</p> <p><b>District Court</b> Jurors can ask questions in my court. Those questions that are addressed to relevant issues and are proper and appropriate will be put to witnesses by counsel. All questions must be submitted in writing. Some judges discourage questions from the jury; others do not. Questions asked of the Judge have to be answered purely on the evidence that is before the Court and the jury reminded that they must determine the issues on the evidence led in trial and on that alone. I have found that jurors usually wait until witnesses are gone before asking questions about that witness's evidence. Usually the judge (after discussion with counsel in the absence of the jury) answers the question by reading them appropriate passages from the transcript of evidence.</p>
South Australia	<p><b>District Court</b> The jury is entitled to ask any questions relating to the evidence and the trial process and matters impacting on their role as jurors.</p>
Tasmania	<p><b>Supreme Court</b> Jurors rarely ask witnesses questions. The judge vets any question from a juror before the witness answers.</p>
Australian Capital Territory	<p><b>Sheriff</b> Any questions they need to.</p>
Victoria	<p><b>County Court</b> Jurors may ask any <b>relevant</b> question they like. Jurors are encouraged to ask questions if they don't understand any legal terms or court language in general.</p> <p><b>Supreme Court</b> Justice Teague does not discourage the asking of questions by the jury at appropriate time and through the foreperson. In particular, where an expert witness has finished giving evidence, Justice Teague usually asks the jury whether they would like to ask any questions to ensure their adequate understanding of the expert evidence given.</p>
New South Wales	<p>Jurors are able to ask questions of witnesses. The question is reduced to writing and, provided it is not objectionable, it is asked by the judge. Some judges inform jurors of this right, others do not.</p>

25. What questions are jurors entitled to ask?	
Jurisdiction	Information provided
Queensland	<b>District Court and Sheriff</b> The Judge advises the Jury, at the beginning of the trial, how they can do this. See what the Judge says in Queensland Supreme and District Courts' Benchbook.

26. What is the usual practice about bail during trial? What are the conditions?	
Jurisdiction	Information provided
New Zealand	<b>Supreme Court</b> Whether bail is granted during the course of the trial depends upon the seriousness of the offence alleged. For serious offending it is uncommon for bail to be granted during trial. With less serious offences bail is sometimes granted during trial. The conditions of bail will depend entirely upon the person's personal circumstances. New Zealand has a Bail Act.  <b>District Court</b> Generally an accused, if on bail prior to trial without incident would be bailed during the trial. If so conditions may be added to ensure that the accused does not leave the Court at the same time as jurors and arrives prior to jurors the following day. Curfew etc provisions may also be added.
Northern Territory	<b>Supreme Court</b> This, of course, depends upon the trial. Often bail will be continued through the course of the trial until the jury retires to consider its verdict. The conditions will often remain as they were pre-trial. If altered circumstances require different conditions then that will be addressed by the Judge.
Western Australia	<b>Supreme Court</b> Most accused who go to trial in the Supreme Court are not granted bail during the course of the trial. Even where an accused is on bail during a trial, it is not uncommon for a trial Judge to remand him or her in custody once the evidence has concluded.  <b>District Court</b> Normally all accused are given overnight bail during trial unless they have been in custody prior to trial or are sentenced prisoners, in which case they remain in custody. We have special standard bail conditions in addition to the existing bail conditions that have to be complied with for overnight bail in the course of the trial. Those conditions include – <ul style="list-style-type: none"> <li>• To remain in custody for a half hour after the jury has left;</li> <li>• To go directly to where they are living and remain indoors that night. Not to go out for a meal or stop at any shops;</li> <li>• To return directly from home to the Court the following morning so as to be in custody by 9.15 am;</li> </ul> The accused is told that the reasons for these stringent requirements is to avoid the trial being aborted which could happen if he or she were to run into a jury member. The special conditions do not prevent the accused attending at chambers of defence counsel to give instructions.

26. What is the usual practice about bail during trial? What are the conditions?	
Jurisdiction	Information provided
South Australia	<p><b>District Court</b></p> <p>The provisions of the Bail Act 1985 provide that a person charged with an offence (the applicant) should be released on bail (except in quite limited cases) unless the bail authority considers that bail is inappropriate having regard to certain factors including the gravity of the offence and the likelihood (if any) that the applicant would abscond or offend again or interfere with evidence. Under the Act bail continues up until the time of sentence unless earlier revoked by the court. Accordingly when a person has been granted bail he or she will remain on bail throughout the trial unless fresh concerns about their suitability to be on bail arise. Trial judges more often than not revoke bail when a person has been convicted of a serious offence that warrants imprisonment.</p> <p>The conditions upon which bail may be granted under the Act are wide. The applicant may be required to agree to reside at a specified address, to refrain from making contact with prosecution witnesses, to be under the supervision of a community corrections officer, to report to police, to provide a guarantor(s) and so on. No distinction is drawn between bail pending trial and bail during trial.</p>
Tasmania	<p><b>Supreme Court</b></p> <p>During the trial the conditions of an accused's bail ordinarily remain as they were before the trial. When the jury retires to consider its verdict, the accused is ordinarily held in custody until the jury delivers its verdict.</p>
Australian Capital Territory	<p><b>Sheriff</b></p> <p>If an accused is on bail, he/she would be subject to their usual bail conditions during trial. When the jury is deliberating, the accused's bail conditions would usually be to the effect that they should not leave the vicinity of the court.</p>
Victoria	<p><b>County Court</b></p> <p>A number of factors are considered such as whether the accused is already on bail. Bail <b>may</b> be granted on similar conditions prior to those set prior to trial, unless there is an unacceptable risk; bail continues until further order and usually until verdict. Bail conditions may be constricted while jury is deliberating. Eg. Accused required to attend court accompanied by legal rep. this practice replacing the old practice of locking accused up during deliberation.</p> <p><b>Supreme Court</b></p> <p>In most murder trials, the accused will be remanded in custody for the trial duration.</p>
New South Wales	<p><b>Supreme Court</b></p> <p>It is common for an accused who has been on bail pending the trial to have bail continued throughout the trial, including while the jury is considering its verdict. Usual conditions of bail include a requirement that the accused arrive at the court complex by, say, 9.15 am and report to the Sheriff's office. He or she will be required to wait at the court complex until 20 minutes after the conclusion of proceedings. Standardly, the accused is required not to leave his or her residence (save in emergencies) during adjournments. These measures are designed to avoid accidental contact between the accused and members of the jury.</p>
Queensland	<p><b>District Court and Sheriff</b></p> <p>If the defendant has been on bail up to the commencement of the trial, then bail is usually enlarged for all adjournments up until the commencement of the Judge's summing-up or verdict.</p>

27. Reserve jurors – when are they used and how many reserve jurors are there? What is their role before deliberation? What is their role after deliberations have started?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> Reserve jurors are not used in New Zealand at all. A jury can continue as of right with 11 members and can continue with 10 jurors if:</p> <ul style="list-style-type: none"> <li>(i) Both parties consent; or</li> <li>(ii) The Judge considers that because of exceptional circumstances it is in the interests of justice to do so (see s 374 Crimes Act).</li> </ul> <p><b>District Court</b> There is no system of reserve jurors in New Zealand.</p>
Northern Territory	<p><b>Supreme Court</b> Reserve jurors are used where a trial is likely to exceed four days – although the practice varies from Judge to Judge and case to case. Similarly the numbers vary. The upper limit is a total of 15 jurors. Their situation is described to them. They are advised to treat themselves as an ordinary juror until the Judge tells them otherwise. This will occur at the time that the balance of the panel retires to consider its verdict. They are excused. They play no role.</p>
Western Australia	<p><b>Sheriff</b> The term “reserve juror” was eliminated in an amendment to the Act in 2003. Section 18 of the Act now provides for between 12 and 18 jurors to be empanelled for a criminal trial, the exact number determined by the trial judge. All jurors are considered to be part of the jury. If immediately before the jury retires to consider its verdict, there are more than 12 jurors, a ballot will be conducted to select 11 of the jurors to retire with the foreperson to consider the verdict. A juror not selected under this process will be discharged from further service as a juror for that trial.</p> <p><b>Supreme Court</b> Western Australia no longer has reserve jurors. A jury comprising more than 12 but no more than 18 persons may be empanelled. This is often done. It is left up to the trial Judge as to how many jurors are to be empanelled depending upon the length and nature of the trial. Each member of the jury has the same rights, responsibilities and obligations prior to any juror being discharged. A ballot takes place immediately prior to the jury retiring to consider its verdict to determine which 11 of the jury, together with the foreperson will retire to consider the jury's verdict. The remaining jurors are then discharged and take no further role in the trial.</p> <p><b>District Court</b> Section 18 of the <i>Juries Act 1957</i> provides that "if a jury is required for a criminal trial, not less than 12 and not more than 18 jurors shall be chosen ... The actual number to be chosen shall be determined by a Judge of the Court." If immediately before the jury is asked to retire to consider its verdict, there are more than 12 jurors, a ballot shall be conducted to select 11 of the jurors to retire with the foreperson to consider</p>

**27. Reserve jurors – when are they used and how many reserve jurors are there? What is their role before deliberation? What is their role after deliberations have started?**

Jurisdiction	Information provided
	<p>the verdict. A juror not selected in the ballot shall be discharged from further service as a juror for that trial.” I usually empanel 13 jurors for a two or three day trial, 14 jurors for a one week trial, and add a juror every time I add a few days to the trial. The effect of these provisions is that we do not have “reserve” jurors as such. We have an enlarged jury which is subject to reduction to 12 when it is time to deliberate. This is a valuable change in our laws. Formerly when some jurors were properly reserve jurors they tended not to take their duties as seriously as the main body of jurors during the trial. Now the chance of any one juror remaining on the jury to deliberate is very high. That encourages all jury members to work hard throughout the trial.</p> <p>Under s 115 of the <i>Criminal Procedure Act</i> a Judge may discharge a juror from a jury if satisfied that the juror should not be required or allowed to continue in the jury, and if the discharge will leave at least 10 jurors remaining. If a juror is discharged, the verdict of the remaining 10 or more has the same effect as if the whole jury had continued to be present.</p>
<p><b>South Australia</b></p>	<p><b>Sheriff</b>            Up to 3 additional jurors may be empanelled for a criminal trial. All jurors will undertake the same function prior to deliberation. When the jury is about to retire to consider a verdict or to consider whether to return a verdict without hearing further evidence, a ballot will be held to exclude sufficient numbers to reduce the jury to 12.</p>
<p><b>Tasmania</b></p>	<p><b>Supreme Court</b>            Up to two reserve jurors are selected if the judge considers it appropriate, which is usually when the trial is likely to be long.            Once the jury commences its deliberations, the reserve jurors are ordinarily discharged.</p>
<p><b>Australian Capital Territory</b></p>	<p><b>Sheriff</b>            Reserve jurors may be used in complex trials that are expected to run for more than six weeks. A judge can direct that up to 16 jurors be empanelled, however in practice if reserve jurors are used, 14 jurors are usually empanelled. Before deliberation, they form part of the jury panel and take part in all deliberations. If immediately before the jury retires to consider its verdict there are more than 12 jurors, the names of jurors are placed in the ballot box and names are drawn until the panel is reduced to 12. The jurors whose names are selected are then excluded from the panel and take no further part in deliberations.</p>
<p><b>Victoria</b></p>	<p><b>Juries Commissioner’s Office</b>            (i) Additional jurors are generally empanelled on “long” trials (generally in trials estimated to run for longer than 4 weeks) and/or, where other factors may have some bearing on the capacity for all jurors to continue for the duration of the trial.            Up to 3 additional jurors may be empanelled on criminal trials and up to 2 additional jurors may be empanelled on civil trials. (s 23 , <i>Juries Act 2000</i>).            (ii) Juries that have additional jurors do not distinguish between who is a juror and who is an “additional” juror. Consequently, there is no distinction between any jurors’ role. That is, all jurors selected and empanelled play an active part in the trial process.            (iii) Pursuant to s 48 of the <i>Juries Act 2000</i>, additional jurors are balloted off the jury. Hence additional jurors have no formal or informal role to play in deliberations.</p>

27. Reserve jurors – when are they used and how many reserve jurors are there? What is their role before deliberation? What is their role after deliberations have started?

Jurisdiction	Information provided
New South Wales	<p><b>Supreme Court</b> We do not have provision for reserve jurors in New South Wales</p>
Queensland	<p><b>District Court and Sheriff</b> It is in the Judge’s discretion as to when reserve jurors should be empanelled, and that decision is usually based on the duration of the trial. Up to 3 reserve jurors can be empanelled. All is explained in Queensland Supreme and District Courts’ Benchbook. Reserve jurors participate as full members of the jury up until the time the jury retires to consider its verdict. If any member of the first 12 jurors selected is discharged for any reason the first reserve juror will take that persons place and so on. See Queensland Supreme and District Courts’ Benchbook. Any reserve juror who has not taken the place of one of the original 12 jurors at the time of retirement will be discharged from the panel. See Queensland Supreme and District Courts’ Benchbook.</p>

## Deliberating

28. Does anyone allow jurors to separate once they begin their deliberations?

Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> In New Zealand the essential rule is that jurors are to be kept together once they retire to consider their verdict. There are, however, obvious exceptions. For example, some jurors may be smokers and need a smoke break. There may be a retirement overnight when jurors cannot be kept together. The jury are instructed by the Judge that they should not discuss the case or their verdicts unless all 12 jurors are present.</p> <p><b>District Court</b> Jurors in New Zealand are not allowed to separate once deliberations have begun. They are to be kept together.</p>
Northern Territory	<p><b>Supreme Court</b> No.</p>
Western Australia	<p><b>Supreme Court</b> Western Australia does not permit a jury to separate after they have begun their deliberations.</p> <p><b>District Court</b> That is not normally done in our jurisdiction but some Judges have wondered why we do not do it. We now allow jury members to go home each night and weekend through the trial whereas 25 or 30 years ago - particularly in small towns - juries were often locked up for the duration of the trial. By analogy it would seem that releasing jury members to go home and have a good night's sleep and come back to continue their deliberations could make sense. However, s 111 of the <i>Criminal Procedure Act</i> provides that after a jury is sworn in relation to a charge, it must not separate until it has given its verdict, or been discharged from giving its verdict. There is a further</p>

28. Does anyone allow jurors to separate once they begin their deliberations?	
Jurisdiction	Information provided
	prohibition on any communication between a juror and a person who is not a juror, other than the Judge or the court officer, but the Judge may permit a juror to communicate when it is necessary in the interest of justice. That would involve a situation where a mother or father sitting on the jury might have to speak to someone at home about jury arrangements. Permission could be given by the Judge. Despite all of this, one night when a jury was unable to reach a verdict in a timely way and had to be taken to a hotel, I allowed the jury officer to accompany one jury member to her home where she fed her very large and vicious dog. She had explained if not fed, her dog would be likely to break its way out of her garden and pose a risk to the neighbours.
South Australia	<b>District Court</b> The court may if it thinks there are proper reasons to do so, permit the jury to separate pursuant to s55 (1) of the Juries Act 1927 (South Australia). Such permission may be granted even though the jury has retired to consider its verdict or to consider whether to return a verdict without hearing further evidence (s55 (2)). The practice varies from judge to judge. However, there is an increasing tendency to allow jurors to separate after they have commenced their deliberations so that they may spend nights at home.
Tasmania	<b>Supreme Court</b> Extremely rarely.
Australian Capital Territory	<b>Sheriff</b> Yes. If a panel is deliberating, they are allowed to go home at the end on each day.
Victoria	<b>County Court</b> Generally yes (see Separation oath below), however, circumstances of trial are taken into account.  <b>SCHEDULE 5</b> Section 50(2)  <b>SWEARING OF JURORS SEPARATING DURING DELIBERATIONS</b> You *[and each of you] swear by Almighty God that you will not discuss with any person other than another member of this jury any matter relating directly or indirectly to the evidence in this trial or the deliberations.  <b>Supreme Court</b> Justice Teague almost always allows jurors to separate, on the condition that they swear a separation oath, once they have begun their deliberations.
New South Wales	<b>Supreme Court</b> The judge has power to allow the jury to separate during the course of their retirement. This is routinely done, including in cases that have attracted widespread publicity. It is not uncommon for a jury to deliberate for several days.
Queensland	<b>District Court and Sheriff</b> Not at the moment. We expect that later this year the Jury Act will be amended to allow this to happen.

**29. What are the guidelines about length of deliberations - is it a matter of individual discretion, do Judges routinely discuss those issues with counsel?**

Jurisdiction	Information provided
<p><b>New Zealand</b></p>	<p><b>Supreme Court</b>                      Section 374(2) Crimes Act provides that a jury cannot be discharged before four hours retirement. After four hours retirement, depending upon the length of the trial the Judge may discuss with counsel whether he should enquire of the jury as to progress or whether he should give the jury what is known as a direction arising from the case of <i>R v Papadopoulos</i> [1979] 1 New ZealandLR 621. There is some concern from Judges about the <i>Papadopoulos</i> direction and caution is advised. The commentary to the New Zealand Criminal Jury Trials Bench Book says:                      The unadulterated <i>Papadopoulos</i> direction should be used with caution. The direction does not directly assist jurors to identify their problems and resolve them. So juries that are genuinely divided in their views of the evidence are likely to remain locked in disagreement. On the other hand, such a direction increases the pressure on minority jurors, and a likely outcome in cases where it is successful (that is, where it produces a result) is a compromise verdict rather than one based on the evidence. Jurors are likely to find it helpful if the Judge accompanies the <i>Papadopoulos</i> direction with a restatement of the basic issues in the case.</p> <p><b>District Court</b>                      Length of deliberation is controlled by statute and exercise of discretion. A jury in New Zealand can only be discharged after a minimum period of deliberation of four hours. Thereafter discharge of a jury is at the discretion of the individual Judge who will obviously take into account length of time of deliberation, length of trial, issues to be resolved, complexity etc.</p>
<p><b>Northern Territory</b></p>	<p><b>Supreme Court</b>                      This is a matter for the individual Judge and will vary according to the trial. In the Northern Territory a majority verdict may be delivered after six hours of deliberation but the Judge will not necessarily tell the jury that until it appears that they are not progressing in their deliberations. Judges routinely raise the issue with counsel after the jury has been retired for some time.</p>
<p><b>Western Australia</b></p>	<p><b>Sheriff</b>                      This is a matter of judicial discretion based on Section 114 of the <i>Criminal Procedure Act 2004</i>.</p> <p><b>Supreme Court</b>                      It is a matter of discretion for the Judge. A majority verdict (ie the verdict of at least 10 jurors) may be taken after 3 hours except where the charge is wilful murder or murder. The jury are not usually told of this until at least 3 hours of deliberation have elapsed. Most Judges routinely discuss such an issue with counsel once it becomes relevant.</p> <p><b>District Court</b>                      In Western Australia after three hours, the Judge can give a majority direction that the Judge will accept the verdict of any 10 of the jurors. Generally, that sort of</p>

**29. What are the guidelines about length of deliberations - is it a matter of individual discretion, do Judges routinely discuss those issues with counsel?**

Jurisdiction	Information provided
	<p>direction is not given without some discussion with counsel, and where the trial is complex or the number of charges large, a much longer time than three hours is allowed before such a majority direction is given. While this is a matter of individual judicial discretion and ultimately Judges accept what the foreman/forewoman may say about whether the jury would ever be able to reach a verdict, Judges generally encourage jurors to try to reach unanimous verdicts if they can. Some judges simply leave the jury to deliberate until they come back and indicate that they are unable to reach a unanimous verdict. (Usually that does not occur after a short deliberation but it can do.) In those circumstances the jury is directed to continue their deliberations. When they have deliberated at length and the foreman/forewoman has told the court that they are unable to reach either a unanimous or a majority verdict, the judge will usually discharge the jury.</p>
<p><b>South Australia</b></p>	<p><b>District Court</b>  Pursuant to s57 of the Juries Act after 4 hours deliberation the jury may in the case of a charge against State law (except murder or treason) return a majority verdict of either guilty or not guilty. A majority verdict means a verdict of 10 or 11 jurors if the jury consists of 12, a verdict of 10 jurors if the jury consists of 11 jurors or 9 if the jury consists of 10 jurors. In the case of a charge of murder or a charge of treason any verdict must be unanimous.  The time to be allowed for the jury to deliberate is in the discretion of the trial judge, and it may be lengthy if the jury is not fatigued or under pressure. The judge must allow the jury to deliberate in complete freedom and cannot set a time limit in which to return a verdict. However, where deliberations have been lengthy a judge may, and usually after obtaining counsel's views, inquire of the jury whether they need more time. If the jury indicate that they are hopelessly deadlocked and that that situation will not alter if further time is given the judge will discharge the jury.</p>
<p><b>Tasmania</b></p>	<p><b>Supreme Court</b>  Save for two statutory requirements, there are no guidelines. The statutory requirements are that:</p> <ul style="list-style-type: none"> <li>○ on a trial, other than one relating to treason or murder, a verdict can be taken from ten or more of the jurors after they have deliberated for at least two hours; and</li> <li>○ on a trial relating to treason or murder, the court may take a verdict of not guilty from ten or more of the jurors after they have deliberated for six hours.</li> </ul> <p>Judges do not routinely discuss the length of a jury's deliberations with counsel.</p>
<p><b>Australian Capital Territory</b></p>	<p><b>Sheriff</b>  Jury can be discharged after 6 hours of deliberation. It is a matter for a judge to decide whether to ask the jury to continue their deliberations beyond this time.</p>
<p><b>Victoria</b></p>	<p><b>County Court</b>  Jury advised that there are no time limits to deliberations. Judges do not routinely discuss these issues – only as issue arise.</p> <p><b>Supreme Court</b>  The length of jury deliberations is a matter within Justice Teague's discretion. It is only once a jury has indicated a difficulty in reaching a verdict that His Honour</p>

29. What are the guidelines about length of deliberations - is it a matter of individual discretion, do Judges routinely discuss those issues with counsel?

Jurisdiction	Information provided
	might consider discussing the matter with Counsel.
New South Wales	<p><b>Supreme Court</b>            We have provision for majority verdicts. A verdict of 11 out of 12 jurors may be returned if the jurors are unable to agree on a unanimous verdict after deliberating for a period not less than eight hours and if the court is satisfied that it is unlikely that the jury will reach a unanimous verdict after further deliberation. Directions are given in relation to state offences; inviting the jury to persevere to achieve unanimity and, where this fails, allowing the return of a majority verdict.</p>
Queensland	<p><b>District Court and Sheriff</b>            Yes</p>

30. Meals, hotels, etcetera: are jurors automatically provided with a meal after a particular time, or does the Judge have to approve it? How is it determined whether jurors need to be sent to a hotel? What are jurors told about that in advance?

Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b>            There are no standard times for meals, although these are typically provided at 1.00 p.m., for lunch and 6.00 p.m., for dinner. Judges typically approve sending juries to lunch or dinner identifying the period during which counsel may be absent from the Court. There are no rules as to when jurors need to be sent to a hotel. If the trial has been lengthy and the Judge anticipates an overnight stay then he/she may tell the Court staff prior to the summing up that they should advise the jury to bring with them an overnight bag containing toiletries and appropriate clothing for overnight and the following day.</p> <p><b>District Court</b>            Jurors are automatically provided with lunch or dinner should those mealtimes arise during deliberations. Generally these must be approved by the Judge. Jurors can be sent to a hotel overnight. This is a matter for the individual Judge and will depend on the length of the trial, issues for the jury, length of deliberation etc. There are currently proposed legislative amendments in New Zealand to allow jurors to return to their own homes if deliberating overnight. These legislative amendments have yet to be passed.</p>
Northern Territory	<p><b>Supreme Court</b>            (i) Judge's discretion, generally around 6.00pm.            (ii) Judge's discretion.            (iii) Judge's direction, generally the night before. Jurors are told that they will remain together until a verdict is reached and they should be prepared for the eventuality that deliberations may go beyond normal business hours and may involve them being together overnight.</p>
Western Australia	<p><b>Sheriff</b>            The trial judge will determine when a jury may be provided with a meal; normally this only applies to a deliberating jury. Lunches are usually provided about 1300</p>

30. Meals, hotels, etcetera: are jurors automatically provided with a meal after a particular time, or does the Judge have to approve it? How is it determined whether jurors need to be sent to a hotel? What are jurors told about that in advance?

Jurisdiction	Information provided
	<p>while there is no set time for an evening meal.            Again the trial judge will determine whether jurors need to be sent to a hotel. S 41 of the Act requires that a jury, when it is considering its verdict, is to be kept under the charge of an officer of the court in a private place and provided with such accommodation, food and drink as the judge may order. S111 of the Criminal Procedures Act 2004 also refers.            If there is the potential for an overnight stay in a hotel the trial judge will normally warn the jury the day before and ask that they be prepared with an overnight bag when they return the next day.</p> <p><b>Supreme Court</b>            Meals - Lunch is provided around 1 pm. The Judge must approve the provision of an evening meal and decide when the meal is to be offered.            Hotel - This again is left to the discretion of the Judge. However, due to practical considerations, a decision has to be made fairly early in the afternoon so that arrangements can be made for a hotel to meet the needs of the jury.            What are jurors told in advance? - This is left up to the discretion of the trial Judge. In a trial that has been lengthy and where it is easy to foresee that a hotel may be required, the jurors are given plenty of advance notice and information about the prospect of being kept in a hotel overnight. In cases which are relatively short and where long deliberations have not been foreseen, jurors can receive little information about the process until it occurs. In the vast majority of cases, jurors are at the very least told the day before of the likelihood of an overnight stay.</p> <p><b>District Court</b>            Lunch is no longer provided to juries in Perth unless they are deliberating. When sitting on circuit in smaller communities Judges often order lunch for the jury to prevent them mixing with relatives, witnesses etc.            If a jury is deliberating in Perth, it is necessary for the Judge to find out at about 5 pm whether they would like to have a meal provided. They will only have a meal provided if the Judge orders it. If their deliberations go on until 7.00 or 8.00 in the evening, Judges bring the jury in to discuss whether they want to go to a hotel and continue deliberating in the morning. In long trials, juries are told to "bring your toothbrush" on the last day of the trial so that they are prepared for an overnight stay. Bookings are made for the jury to go to a hotel. Jurors are kept well informed about these matters unless the need to go to a hotel arises unexpectedly. Fortunately that is a rare occurrence.</p>
<p><b>South Australia</b></p>	<p><b>District Court</b>            Once the jury retire to deliberate they are provided with lunch and dinner usually between 1.00 pm – 2.15 pm and 6.00 pm - 7.00 pm respectively. The arrangements are put in place by the Sheriff with the approval of the Judge.            The length of time that the jury has been deliberating, the lateness of the hour and whether it is appropriate to allow the jury to separate for the evening will determine whether they are sent to a hotel for the night.            Whether jurors are told that they may be put up in a hotel is a matter that the trial</p>

30. Meals, hotels, etcetera: are jurors automatically provided with a meal after a particular time, or does the Judge have to approve it? How is it determined whether jurors need to be sent to a hotel? What are jurors told about that in advance?

Jurisdiction	Information provided
	<p>judge will assess. Where there appears to be a real risk that the jury may deliberate overnight the judge will usually alert the jury to the possibility of being put up in a hotel so that they can attend to any personal matters and bring a change of clothes etc.</p> <p><b>Sheriff</b> Where deliberations will continue over a lunch period, then a meal is provided to the jury. Where deliberations continue beyond the normal finish time, the judge will determine at what point a meal is provided. The Sheriff will be instructed by the judge to make such arrangements. Where a jury needs to be accommodated in a hotel overnight during deliberations, the judge may give advance warning where possible to the jurors. The Sheriff will be instructed by the judge to organise such arrangements as are necessary.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> There are no automatic arrangements. These matters are dealt with by judges on a case by case basis.</p>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> Usually when a jury panel has not concluded their deliberations by 5:30 pm they are allowed go home for the night. If they are close to reaching a verdict at that time, the jury may be taken to dinner at a nearby restaurant, then return to continue their deliberations into the evening. Jurors would only rarely be sent to an hotel. That would occur if it had been a particularly long and difficult trial. If it were to occur at all, it would be likely that jurors would be told in advance that they would need to make arrangements.</p>
<b>Victoria</b>	<p><b>Juries Commissioner's Office</b> Jurors are provided with refreshments and meals automatically after a period of service; however, discretion is exercised by the Juries Commissioner when providing meals outside of the norm.</p> <p><b>County Court</b> The decision to sequester Jurors depends on circumstances of trial. When it is determined that a jury will be sequestered jurors are generally advised prior to retiring to consider their verdict.</p> <p><b>Supreme Court</b> Justice Teague will not send jurors to a hotel unless the subject matter of the trial is particularly sensitive.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> Jurors are provided with lunch. It is now so rare for a jury to be sequestered that questions of arrangements to accommodate the jury in a hotel almost never arise.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> (i) Lunch is always supplied during deliberation. If the jury is still deliberating late in the afternoon, the deputy sheriff will ask the Judge around 5.00pm to see whether he can approach the jury as to their requirements for an evening meal. (ii) That decision is for the Judge and will vary depending on the time that the jury retired and the duration of the trial and the deliberations</p>

<b>30. Meals, hotels, etcetera: are jurors automatically provided with a meal after a particular time, or does the Judge have to approve it? How is it determined whether jurors need to be sent to a hotel? What are jurors told about that in advance?</b>	
<b>Jurisdiction</b>	<b>Information provided</b>
	(iii) Jurors are warned in the documentation provided and during the orientation process that this may occur if a verdict is not reached. They might also be reminded by the bailiff.

<b>31. Jury questions during deliberations: what is the procedure - are they always read into the transcript/discussed with counsel? Is there any dialogue with the foreman, or jury as a whole if the questions seem unclear?</b>	
<b>Jurisdiction</b>	<b>Information provided</b>
<b>New Zealand</b>	<p><b>Supreme Court</b></p> <p>The Judge’s answer to the jury question is always recorded and produced as a separate document from the trial transcript. The jury question, required to be in writing, is always discussed with counsel prior to a Judge’s response. The response to the jury is always given in open court.</p> <p>Sometimes a question asked by a jury indicates that problems have arisen within the jury. The procedure suggested for resolving what is often a very difficult problem is as follows:</p> <ol style="list-style-type: none"> <li>(1) The note from the jury should be made available to counsel. It can be edited if it contains information that should not have been revealed by they jury, e.g., jury voting.</li> <li>(2) After distribution of the note the Judge should see counsel and the accused in open Court to hear submissions from counsel on the response to the note.</li> <li>(3) If the concern in the note relates to potential juror disqualification the Judge should typically question the juror unless a clear case. This is typically done in Court for chambers with counsel and the accused present.</li> <li>(4) After the interview the juror should not return to the jury room but be taken by a court officer to some other room. Counsel will be invited to make submissions on appropriate action. The Judge will then give a ruling. A full record of everything that transpired should be made.</li> <li>(5) If a decision is made to discharge the juror, the juror should not have further contact with other members of the jury.</li> </ol> <p>Unclear questions: Two approaches are adopted. Either:</p> <ol style="list-style-type: none"> <li>(1) A Judge will return to the courtroom with the jury, counsel and the accused present and tell them that their question is unclear, indicate what possible meanings it has and invite them to further retire to more closely identify in writing what their question is.</li> <li>(2) The alternative procedure is to adopt what the Judge believes to be the meaning of the question, often consultation with counsel, answer that question but advise the jury if the Judge and counsel have misunderstood what has been asked then they should further clarify the issue in writing to the Judge.</li> </ol>

31. Jury questions during deliberations: what is the procedure - are they always read into the transcript/discussed with counsel? Is there any dialogue with the foreman, or jury as a whole if the questions seem unclear?	
Jurisdiction	Information provided
	<p><b>District Court</b>            There is a fairly regimented procedure in New Zealand for the dealing of questions during deliberations. The question must be discussed with counsel for the Crown and for the accused in the presence of the accused. Once the answer has been formulated it is to be given by the Judge in Court in the presence of the accused. If the Judge requires any refinement or clarifying of the question the Judge would ask the jury for that in Court in the presence of the accused. The jury question is invariably read into the trial record.</p>
Northern Territory	<p><b>Supreme Court</b>            Yes.            This will depend upon the circumstances. Often the initial dialogue will be with the foreman and then a question will be asked by the Judge of the whole panel as to whether the discussion has resolved any issues. Often discussions will then take place with other members of the panel.</p>
Western Australia	<p><b>Sheriff</b>            Questions are normally read into the transcript and, if necessary, the foreman is questioned to clarify a question.</p> <p><b>Supreme Court</b>            There is no standard procedure. However, most Judges read the question into the transcript and discuss it with counsel, unless to do so would reveal confidential jury deliberations.            Dealing with unclear questions - There is no uniform procedure. Most Judges attempt to keep dialogue with the foreperson as short as possible. If the question is unclear, most Judges indicate why it is not clear and invite the jury to retire to the jury room to clarify the question.</p> <p><b>District Court</b>            When the Judge receives a written question from the jury, the Judge reconvenes the Court and discusses it with counsel in the absence of the jury. On that occasion, the question is read into the transcript. Where the question is unclear, I have had no hesitation to confirm with the foreman/forewoman in the presence of the whole jury whether the understanding of counsel and myself is correct. I have had oral responses from the foreman/forewoman which I have received on such occasions.            Other Judges are concerned not to involve themselves in any dialogue with the foreman/forewoman. Those Judges provide the answer the Judge and Counsel believe answers the jury's question/s. Then the only question to the jury is "Does that answer your question/s?" If the answer is "no" those Judges ask the jury to return to the jury room and write down any further questions.</p>
South Australia	<p><b>District Court</b>            Questions asked by the jury are disclosed by the Judge to counsel and read into the transcript unless the communication relates to a matter that does not impact on the evidence or the merits of the case. The note provided to the judge by the jury remains on the work file.</p>

31. Jury questions during deliberations: what is the procedure - are they always read into the transcript/discussed with counsel? Is there any dialogue with the foreman, or jury as a whole if the questions seem unclear?	
Jurisdiction	Information provided
Tasmania	<p><b>Supreme Court</b></p> <p>Jury questions are invariably recorded and counsel are given an opportunity to make submissions as to answers. If a jury question seems unclear, this is discussed with the jury.</p>
Australian Capital Territory	<p><b>Sheriff</b></p> <p>Jury keeper delivers jury questions to the judge. Judge discusses the matter with counsel, court reassembles. Dialogue is with foreman.</p>
Victoria	<p><b>County Court</b></p> <p>Ordinarily yes. Questions are submitted in writing and are included in transcript and may also be re-directed. Questions are read out to counsel except in those circumstances where the question conveys the juries thoughts specifically re verdict. See recent decision of CCA in <i>R v Black and ors</i> (2007) VSCA 61.</p> <p>Yes, dialogue is limited to clarifying the question if question can't be understood. In which instance jury directed to return to jury room and rework question.</p> <p><b>Supreme Court</b></p> <p>When the jury has a question during deliberations, it is Justice Teague's usual practice to reconvene the court, ask the foreperson to read the question(s) aloud into the transcript and then provide an answer. Justice Teague will then refer the matter for discussion with Counsel once the jury has left the courtroom. If clarification of his answer is required after discussions with Counsel, His Honour will recall the jury.</p> <p>If a question is unclear, Justice Teague will discuss the matter with the foreperson, or the jury as a whole, to clarify the question or their understanding of the desired answer to that question.</p>
New South Wales	<p><b>Supreme Court</b></p> <p>Jury questions are always discussed with counsel before the jury is brought into court for the answer to be given – save in cases in which the jury's note contains material which reveals the nature of their deliberations. All notes from the jury are marked for identification. In the event of a question that is unclear the judge is likely to raise that matter with the foreperson when the court reconvenes.</p>
Queensland	<p><b>District Court and Sheriff</b></p> <p>(i) Jurors are encouraged to write down questions, if practicable. The jury note is read in open court, and all discussion with counsel or advice to the jury is transcribed, and the note is placed with the papers. See Queensland Supreme and District Courts' Benchbook for what the Judge tells the Jury about this.</p> <p>(ii) Yes – and this of course is transcribed.</p>

**32. What arrangements are made for counsel and family members, and any other interested parties, during the course of jury deliberations (providing somewhere for them to sit or work, keeping them informed, etc)?**

Jurisdiction	Information provided
<p><b>New Zealand</b></p>	<p><b>Supreme Court</b>            There is a room provided for Crown counsel to use throughout the trial and sometimes, but not always, for counsel for the accused. Counsel tend to give their cellphone numbers to registry staff so they can be contacted as soon as the jury comes back, or if they are needed for any other reason.            Victims and their families are cared for by the Victims' Advisor, who is employed through the Ministry of Justice. There is typically a room where tea and coffee is provided, and the Victims' Advisor is present to offer support if needed. Either the Victims' Advisor or court staff will advise victims and other interested parties when the jury has returned with its verdict.</p> <p><b>District Court</b>            There are generally sufficient facilities in most New Zealand Courts for counsel, family members and interested parties during jury deliberations. The Registrar and other staff members would generally inform interested parties as to the availability of space, meal times etc.</p>
<p><b>Northern Territory</b></p>	<p><b>Supreme Court</b>            The building is kept open. The court building has facilities for people to sit and work. However, they make their own arrangements.</p>
<p><b>Western Australia</b></p>	<p><b>Sheriff</b>            When a jury is deliberating counsel usually return to their office, wait in the court room or wait in the solicitors' lounge. Family members or other interested parties may wait in the court or on seating provided outside the court room.</p> <p><b>Supreme Court</b>            Due to the age of the Supreme Court building, there is no accommodation for persons involved in the trial, other than the prosecutor and some prosecution witnesses, to wait in private during jury deliberations. Counsel are usually given the option of retiring to their chambers as long as they provide a mobile phone number to the Associate where they can be contacted and brought back to court at short notice. Most Judge's staff or security guards are aware if family members or witnesses are waiting at court for the jury's verdict and will ensure that they are given notice of the return of the jury so that they can make their way into the court prior to it reconvening.</p> <p><b>District Court</b>            Counsel, both prosecution and defence, have lounges available to them in the courthouse that have coffee and tea making facilities and television as well as desks and tablespots on which they could work, awaiting the return of the jury. No particular provisions are made for family members. Those on the side of the prosecution may well make arrangements with the prosecutor to be notified on a mobile telephone. Likewise, family members of the accused may be kept informed by defence counsel. The courthouse is locked at 5.00 pm, and special arrangements have to be made to come in and out but those are easily made for those wishing to attend the trial and to be there for the verdict.</p>

32. What arrangements are made for counsel and family members, and any other interested parties, during the course of jury deliberations (providing somewhere for them to sit or work, keeping them informed, etc)?	
Jurisdiction	Information provided
South Australia	<b>Sheriff</b> The Sheriff does not make special arrangements for interested parties unless there is a specific security risk with any party associated with the trial. All parties have equal access to the court and facilities.
Tasmania	<b>Supreme Court</b> None, save that counsel are provided with a meal whenever the jury gets a meal.
Australian Capital Territory	<b>Sheriff</b> No special arrangements are made, although there are witness rooms off the foyer where family members can sit. Otherwise, counsel, accused and family members usually remain in the foyer of the court during deliberations. The Sheriff's Office keeps parties informed
Victoria	<b>County Court</b> Counsel has rooms, and parties sit within or outside the court.  <b>Supreme Court</b> During jury deliberations, Counsel and/or family members are encouraged to provide their contact numbers to Justice Teague's Tipstaff or Associate so that they do not have to remain within the court building while waiting for a verdict.
New South Wales	--
Queensland	<b>District Court and Sheriff</b> There are no designated areas other than the court rooms, witness areas or the public areas for the parties and families to retire to. The bailiff will generally take contact details from counsel if the Judge allows them to return to chambers. Generally Judges will set 'not before' times during meal adjournments.

33. What is the jury told prior to the commencement of deliberations about the need to make appropriate arrangements domestic and otherwise for the period of deliberation?	
Jurisdiction	Information provided
New Zealand	<b>District Court</b> Generally juries would be told very little, if anything, prior to the commencement of deliberations about the need to make appropriate domestic or other arrangements. A Judge might indicate that his/her summing-up is likely to finish shortly before lunch or dinner and that meal arrangements will be in place immediately upon their retirement. If it seems obvious that a jury might retire overnight some indication might be given to the jury to come back to Court with appropriate overnight clothing, medication, toiletries etc.
Northern Territory	<b>Supreme Court</b> The members of the jury receive numerous warnings that they will have to make arrangements to enable them to stay together until deliberations are complete. They also have the capacity to send messages through the jury guards.

33. What is the jury told prior to the commencement of deliberations about the need to make appropriate arrangements domestic and otherwise for the period of deliberation?	
Jurisdiction	Information provided
Western Australia	<p><b>Sheriff</b> When the jury is warned the afternoon before deliberations commence of the need to bring an overnight bag, the jury officer will remind jurors to carefully consider what other arrangements they will need to make. Jury officers will suggest that jurors bring clothing, medications and toiletries sufficient for up to two nights. Jurors are also informed that;</p> <ul style="list-style-type: none"> <li>➤ the name of the hotel will not be revealed to them before they check in;</li> <li>➤ all mobile phones and any other electronic recording devices will remain with the jury officer;</li> <li>➤ the jury officer will personally call family and confirm that jurors have been sequestered in a hotel and provide an emergency mobile number for family to contact if necessary; and</li> <li>➤ no phone calls, television, radio or newspapers are allowed.</li> </ul> <p><b>Supreme Court</b> Most Judges rely upon the Sheriff's officers to provide such information to the jury.</p> <p><b>District Court</b> As far as I know there is no standard direction to the jury unless in a very long trial it is anticipated that they will be away from home overnight. I do my best to charge juries early in the morning so that they have the full day in which to deliberate. This is not always possible, but if counsel finish their addresses any time after 2.00 in the afternoon, I normally have the jury come back the following morning, rather than send them out late in the afternoon to deliberate. Sending a jury out at 3.30 and 4.00 pm seems to put them under domestic pressure.</p>
South Australia	<p><b>District Court</b> See answer to Q30.</p>
Tasmania	<p><b>Supreme Court</b> They are forewarned of this need as the trial draws to a close and particularly reminded of it on the day before they are likely to retire.</p>
Australian Capital Territory	<p><b>Supreme Court</b> Normally it is not necessary for jurors to make any special arrangements. If a panel is still deliberating around 5:00 pm, the judge will usually call the panel back in and give them the option of having a tea break, then continuing deliberations until 9:30 – 10:00 or going home for the evening and returning to continue deliberations in the morning. Usually the panel elects to go home.</p>
Victoria	<p><b>County Court</b> If jury is not kept together ie. Sequestered, then no mention is made of making appropriate arrangements etc.. If decision is made to sequester the jury during deliberations then, ample warning is provided well in advance.</p> <p><b>Supreme Court</b> This is left to the Tipstave.</p>
New South Wales	--

**33. What is the jury told prior to the commencement of deliberations about the need to make appropriate arrangements domestic and otherwise for the period of deliberation?**

Jurisdiction	Information provided
Queensland	<p><b>District Court and Sheriff</b>                      The Judge will discuss this with the bailiff. If there is a possibility that deliberations will go into the evening, the bailiff will speak to the jury earlier about making proper arrangements.</p>

## Verdict and After

<b>34. Taking the verdict: is this always done orally, no matter how long the indictment?</b>	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b>                      The verdict is always taken orally no matter how long the indictment. The foreperson of the jury maybe told that the appropriate course is to record the jury's verdicts beside each count in the indictment and so when the verdict is delivered on each there can be no room for error. In New Zealand indictments longer than 25-30 counts are very rare. Longer indictments are strongly discouraged by the Courts.</p> <p><b>District Court</b>                      The verdict in New Zealand is invariably taken orally no matter how long the indictment. We have heard of a case where a large number of verdicts have been given in writing.</p>
Northern Territory	<p><b>Supreme Court</b>                      Yes.</p>
Western Australia	<p><b>Sheriff</b>                      Yes</p> <p><b>Supreme Court</b>                      It is usually done orally, but if the indictment is very long it is sometimes taken in writing. There will however, always be an oral component to it so that the foreperson orally indicates that the verdict of the jury is as contained in the written document. Where the indictment is complex the Judge may provide the jury with a written document setting out the alternative verdicts.</p> <p><b>District Court</b>                      Yes, we only take oral verdicts in Western Australia no matter how long the indictment.</p>
South Australia	<p><b>District Court</b>                      Yes.</p>
Tasmania	<p><b>Supreme Court</b>                      No, it is taken in writing on rare occasions.</p>
Australian Capital Territory	<p><b>Sheriff</b>                      Yes</p>

34. Taking the verdict: is this always done orally, no matter how long the indictment?	
Jurisdiction	Information provided
Victoria	<p><b>County Court</b> Yes and directions are given as to how the verdict will be taken.</p> <p><b>Supreme Court</b> We do not have long indictments.</p>
New South Wales	<p><b>Supreme Court</b> The verdict is always taken orally regardless of the length of the indictment.</p>
Queensland	<p><b>District Court and Sheriff</b> Yes. See Queensland Supreme and District Courts' Benchbook.</p>

35. What sort of debriefing is available for jurors?	
Jurisdiction	Information provided
New Zealand	<p><b>Supreme Court</b> After the trial, a member of registry staff will go into the jury room and say a few words to the jury. The staff member will thank the jury for their service (although this is also done by the Judge), explain that the jurors don't have to serve on a jury again within the next two years if they do not wish to, and remind them again of the possibility of free counselling.</p> <p><b>District Court</b> There is counselling available for jurors in New Zealand. If jurors request counselling a referral is made. They are not told this automatically but if the circumstances of a particular case were distressing, gruesome etc, the Judge might suggest counselling. Anecdotal enquiries made with the counselling agency contracted by the Court indicates the service is used relatively rarely; about once a month was suggested. Three one-hour counselling sessions are provided.</p>
Northern Territory	<p><b>Supreme Court</b> Counselling by service provider</p>
Western Australia	<p><b>Sheriff</b> If jurors appear upset they will be invited to remain until they are up to leaving. Also, jurors are provided with a 'release form' which includes details on accessing professional counselling help if needed. Should counselling be sought, the State meets the cost.</p> <p><b>Supreme Court</b> This is left up to the Sheriff's office.</p>
South Australia	<p><b>Sheriff</b> Jurors are given written and verbal information pertaining to a counselling service if they require assistance. A referral would be provided for the juror after being interviewed by the Sheriff to ensure that this is an appropriate course of action.</p>
Tasmania	<p><b>Supreme Court</b> A free, confidential and professional counselling service is available to jurors who are distressed by the experience. Notices as to the service are posted in each jury room and elsewhere.</p>

35. What sort of debriefing is available for jurors?	
Jurisdiction	Information provided
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> Jurors are debriefed by the jury keepers. Jurors are not routinely advised about counselling options however there are some trials where it is necessary to advise jurors that counselling is available through the Department's staff counselling provider and contact details are given.</p>
<b>Victoria</b>	<p><b>Juries Commissioner's Office</b> Jurors are provided with the opportunity to avail themselves to a free counselling and or debriefing service that is provided by fully qualified psychologists. Group debriefing is also available on an as needs basis. Such debriefing may be arranged at the discretion of the Juries Commissioner after appropriate consultation with the trial judge.</p> <p><b>County Court</b> Judge thanks jury for community service and the close and full attention they have given to the trial. They are thanked on behalf of the court and the community for their efforts and for having fulfilled their civic duty.</p> <p><b>Supreme Court</b> Justice Teague prefers to engage jurors in a debrief conducted by him in the courtroom. His Honour gives Counsel the opportunity of remaining during the debrief, however, they do not usually opt to stay. Please see for an insight into the kinds of topics usually discussed with the jury by Justice Teague during such a debrief.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> Counselling services are available for jurors. Jurors are informed of this service by the Sheriff's Office and reference to it is made in the jury pamphlet.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> Bailiffs deliver a set speech to jurors on their return to their Jury room after delivering their verdict, to inform them about the Juror Support Program. Jurors are at this time are handed a brochure describing the Juror Support Program.</p>

36. Are jurors routinely told of the sentence if there is verdict of guilty?	
Jurisdiction	Information provided
<b>New Zealand</b>	<p><b>Supreme Court</b> It is standard practice to send jurors a letter advising them of the sentence, however in reality this does not always occur.</p> <p><b>District Court</b> Jurors in New Zealand are not routinely told of the sentence imposed following a guilty verdict. They are generally told that they could attend sentencing should they wish and that should they make contact with the Court that they would be advised of the sentencing outcome. The Registrar of one District Court describes this as "common enough".</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b> No, they are advised that they can access the sentence on the web address provided in their information sheet if they wish to know the sentence.</p>

<b>36. Are jurors routinely told of the sentence if there is verdict of guilty?</b>	
<b>Jurisdiction</b>	<b>Information provided</b>
<b>Western Australia</b>	<p><b>Sheriff</b> If sentencing immediately follows the delivery of the verdict the jurors are usually invited by the judge to remain in the court to observe the sentencing. If the sentencing is adjourned to a future date, jurors are advised on their release form of how to obtain sentencing details.</p> <p><b>Supreme Court</b> Most Judges advise the jurors that they may remain in the court to see what occurs after the verdict has been delivered. They are also told that they can keep in contact with the Sheriff's office and obtain advice about the sentence that is ultimately passed on the offender.</p>
<b>South Australia</b>	<p><b>Sheriff</b> Jurors are not routinely advised of the sentence imposed but can contact the Sheriff's Office if they wish to find out the sentence imposed and staff will assist where possible. In some instances Judges have requested the Sheriff to advise jurors of the sentence imposed and in one instance provided a copy of the sentencing transcript for a long trial.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> No</p>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> No, but they are advised that they are welcome to follow up with the court if they are interested in attending the sentence.</p>
<b>Victoria</b>	<p><b>County Court</b> No not routinely. However, if jurors contact the Crown, the Court or the Associate they are advised of sentence.</p> <p><b>Supreme Court</b> Justice Teague routinely informs all jurors how to go about obtaining a copy of the sentence in cases where they have delivered a guilty verdict. His Tipstaff also usually provides his court phone number to jurors so that they can call him to find out information about the sentence.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> There is no mechanism for informing jurors of the sentence. The practice varies between judges – it is common for the jury to be told that they may learn of the sentence by contacting the Registry of the Court or by consulting the Court's website, in the case of proceedings in the Supreme Court.</p>
<b>Queensland</b>	<p><b>District Court and Sheriff</b> No. Judges tell jurors they may stay to observe the sentencing process but if they choose not to, they are not notified of the result. See Queensland Supreme and District Courts' Benchbook.</p>

<p><b>37. When jurors leave the court, if late in the evening, are there any arrangements made to ensure that they have appropriate transport home, and what about court staff - are there routine arrangements for their comfort and safety when deliberations continue late?</b></p>	
<b>Jurisdiction</b>	<b>Information provided</b>
<b>New Zealand</b>	<p><b>Supreme Court</b> Yes – if it is late, arrangements are made for both jurors and court staff to take a taxi home if they wish to do so.</p> <p><b>District Court</b> When jurors leave Court late in the evening the Registrar arranges taxi transport. Taxi transport is also available for Court staff after late deliberations.</p>
<b>Northern Territory</b>	<p><b>Supreme Court</b> Jurors are escorted to their vehicles, the area is lit up and security cameras are located in the jury car park. Staff have secure car parking facilities and are provided with a meal when working back.</p>
<b>Western Australia</b>	<p><b>Sheriff</b> If it is dark when jurors are released they are offered a taxi to get them home. Jurors will also be offered a taxi if they are particularly upset. Any arrangements regarding court staff are the responsibility of District Court.</p> <p><b>Supreme Court</b> The Sheriff's office makes arrangements for the jurors to obtain taxis and a Sheriff's officer remains with the jurors until they leave the premises. The court staff are expected to make their own arrangements home but if it is in the evening they are provided with taxi vouchers. If there are security concerns then a security officer will remain with them until they leave the court. If the Sheriff's officer is particularly kind, the Judge and court staff can obtain an evening meal at the same time as the jury does. On other occasions they must make their own arrangements.</p>
<b>South Australia</b>	<p><b>Sheriff</b> If deliberations continue late, both jurors and staff are provided with a taxi to their home. Where jurors have their own transport, Sheriff's Officers have escorted jurors to their cars as necessary.</p>
<b>Tasmania</b>	<p><b>Supreme Court</b> Transport assistance, usually Cabcharge, is provided to jurors and court staff as needed.</p>
<b>Australian Capital Territory</b>	<p><b>Sheriff</b> Yes, Sheriff's Officers ensure that jurors have appropriate transport, escort them to their cars if necessary and generally ensure their needs are met.</p>
<b>Victoria</b>	<p><b>Juries Commissioner's Office</b> Appropriate transport, comfort and meal arrangements are routinely provided and made available to jurors during late sittings irrespective of whether the jury is deliberating or not.</p>
<b>New South Wales</b>	<p><b>Supreme Court</b> It is most unusual for jury deliberations to continue long after 4.00 pm in New South Wales, since provision is regularly made for the jury to separate. In cases where there are concerns about the security of jurors provision may be made for the judge to approve special arrangements, including that the jurors be sent home by taxi.</p>

37. When jurors leave the court, if late in the evening, are there any arrangements made to ensure that they have appropriate transport home, and what about court staff - are there routine arrangements for their comfort and safety when deliberations continue late?

Jurisdiction	Information provided
Queensland	<p><b>District Court and Sheriff</b></p> <p>Yes. Taxis are arranged for all jurors and court staff who do not have their own transport. There is a general procedure that this occurs after 6.00pm but may be earlier dependent on a particular juror's needs. If jurors are accommodated overnight taxis are made available anytime the following day to take them home with their overnight bags.</p>

38. Is the accused, if convicted, given any information about sentence/right of appeal, and, if so, what?

Jurisdiction	Information provided
New Zealand	<p><b>District Court</b></p> <p>The accused is not automatically given any information about appeal rights. This information would generally be given by his/her lawyer, community law centres, friends and relatives.</p>
Northern Territory	<p><b>Supreme Court</b></p> <p>Upon conviction the time for a plea in mitigation and delivery of sentence will be set. Sometimes it follows the trial immediately and other times it will be at a later date, depending upon the circumstances. The options are discussed with a self-represented accused and, if the accused is represented, with counsel. There is no set procedure in relation to discussion of a right of appeal. Such discussion would only occur if a Judge felt a need to raise it with either counsel or a self-represented accused in the special circumstances of a particular case.</p>
Western Australia	<p><b>Supreme Court</b></p> <p>The sentencing hearing usually commences immediately after the jury return with its verdict. It is not uncommon in the course of that hearing for it to be adjourned to obtain reports or to permit the Judge to consider the material he or she has received. In the course of the sentencing hearing the offender is usually told of the process that was then to occur. It would be very unusual for a represented offender to be told of his or her appeal rights. An unrepresented offender may well be given some information about appeal rights.</p> <p><b>District Court</b></p> <p>Since accused persons before the District Court are almost invariably represented by defence counsel, Judges take no part in that. It would be the responsibility of defence counsel. If the accused is unrepresented the Judge may consider providing such information.</p> <p>Arrangements are made once the verdicts are received for sentencing to take place. Submissions may be taken immediately following verdict, but often a separate hearing date is set down after reports and such can be obtained to assist in the sentencing process.</p>

<b>38. Is the accused, if convicted, given any information about sentence/right of appeal, and, if so, what?</b>	
<b>Jurisdiction</b>	<b>Information provided</b>
<b>South Australia</b>	<b>District Court</b> If an accused person is unrepresented at trial the judge will almost invariably explain the sentencing phase, the process involved and the desirability of having legal representation for the purpose of putting submissions on penalty. The judge will usually inform the convicted person of his or her appeal rights and recommend that they obtain legal advice in that regard.
<b>Tasmania</b>	<b>Supreme Court</b> <ul style="list-style-type: none"> <li>• The accused is delivered a Memorandum of Sentence that details the sentence, the full effect of any of the orders made and the consequences of breaching those orders.</li> <li>• A copy of the judge's comments on passing sentence is available to the accused in so far as they are posted on the Internet on the day the sentence is announced.</li> <li>• No information is provided on the right of appeal.</li> </ul>
<b>Australian Capital Territory</b>	<b>Supreme Court</b> Information about sentence and right of appeal is the responsibility of accused counsel
<b>Victoria</b>	<b>County Court</b> Not by Judge particularly if accused is represented. If not represented, the accused is advised to seek legal advice.  <b>Supreme Court</b> Where an accused is convicted, he or she is given information about when the sentence might be delivered, even if it is only to say that the date is not yet known.
<b>New South Wales</b>	--
<b>Queensland</b>	<b>District Court and Sheriff</b> No, not by the judge.