



A Guide For Jurors

# Welcome to Jury Service

## Introduction from the Sheriff of NSW

Jury service is an important part of the trial procedure. It ensures that the community plays its part in the justice system.

Now that you have been selected on a jury panel, you will play an active role in the administration of justice. This booklet has been written to assist you along the way. It covers practical points that you may need to be aware of and is relevant to all jurors regardless of the court complex you are attending. There may, however, be slight administrative differences experienced in different court complexes.

**The booklet may not answer all your questions and is not a substitute for instructions from the presiding judge. It is therefore important that you listen carefully and follow the judge's instructions at all times.**

Thank you for your participation.

**SHERIFF OF NSW**



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## Your responsibilities

In a criminal trial the jury decides if a person is guilty or not guilty of a crime. That is the jury's verdict. In coming to a verdict, jurors are asked to draw on their own commonsense, background and life experiences, which will vary greatly from juror to juror. This means there will be many different views, attitudes and opinions. It is vital that each juror's view is respected and each juror has as much right as others when voicing an opinion. Do not be afraid to speak up and put your thoughts forward.

An accused person has the right to a fair trial. It is therefore up to jurors to ensure that they remain alert during the trial proceedings, take notes as needed, be unbiased, open minded, fair and impartial.

All jury discussions must occur in the jury room and only when all jurors are present. Do not discuss the case with any other people. You should avoid speaking to any person in the precincts of the court. If you attend work on a day when court is not sitting be careful not to discuss any details of the trial with your workmates.

The jury's decision as to whether an accused person is guilty or not guilty must be made after considering the judge's direction about the law, the evidence presented and what jurors see and hear in the courtroom during the trial and nothing else.

Laws have been passed which make it illegal for a juror to carry out his or her own investigations during a trial. This means that you must not, during the course of the trial, use any material or research tool, such as the Internet, to access legal databases, earlier decisions of this or other courts, and/or other material of any kind which relates to any matter arising in the trial.

It is your responsibility to follow the directions of the judge at all times.

## The jury's role

In a criminal trial a jury is made up of 12 citizens who have been chosen randomly from electoral rolls. The jury's function is to hear evidence, apply the law as directed by the judge and make a decision about the facts.

The jury does not participate in the sentencing process.

## The jury representative (foreperson)

The jury will be asked to choose a representative who will deliver the verdict at the end of the trial and, if requested by the judge, answer any question the court may ask the jury. Any person on the jury can be the representative. It is entirely up to the jury members to decide how and when that person will be selected. Otherwise, the representative plays no greater or lesser part on the jury than any other juror.

## Your safety

The Sheriff is the Officer of the Supreme Court and District Court who is responsible for the welfare, care, supervision and protection of jurors, both during and after the trial in which they serve. Any juror who has any concerns should report these concerns to the court officer who is your link to the judge and the sheriff's officers. The court officer will ensure that both the judge and the sheriff are aware of any inappropriate behavior.

Jurors must not be filmed, photographed or interviewed by the press or any other person. If you are approached for any of the above reasons you must report this to the court officer or sheriff's officer as soon as possible.

Improper contact, harassment or threats to or by jurors are not tolerated and any person involved in this behavior may face criminal charges under the Jury Act 1977.

## Your privacy

The Sheriff makes every effort to protect jurors' privacy at all times. Protecting your privacy is of utmost concern to the Sheriff. Do not disclose your personal details to an unknown person. If in doubt, ask the person for identification or advise the court officer or sheriff's officer on duty.

You have been issued with a juror 'call number' which has been used so far to identify you. Now that your identity has been verified you will not need to disclose your name or any personal details to any other person. However, it is your decision on what you should tell your fellow jury members. You may wish to be known only by your given name. Sometimes, particularly in longer trials, friendships develop between jurors, this is a matter between the jurors concerned.

# 6 The trial

## What happens in a trial

In a criminal trial the Director of Public Prosecutions prosecutes a person accused of having committed a crime. The person concerned is referred to as the accused. You will be asked to decide whether the accused is guilty or not guilty.

In the District Court, the nature of the case will be serious and could concern assault, robbery, drug related matters, sexual assault or kidnapping. Supreme Court trials are restricted to the most serious matters, such as murder.

In criminal trials you will hear an opening statement from the Crown Prosecutor. The purpose of the opening statement is to provide the jury with an overview of the case. You may also hear an opening statement from the counsel for the accused.

## Length of trial

Before a trial starts, you will be advised of how long it is likely to run. Remember that this is only an estimate and it is possible for the trial to be shorter or longer than the estimated time.

## What if you know a person who is involved in the trial

After the indictment is read, the list of the names of the witnesses will be read out. If you know any person on the list, or the accused, you must bring it to the judge's attention.

You may not realise that you know a witness until after the trial has begun. If you do realise you know a witness, you must bring it to the judge's attention immediately by a note to the court officer. Do not say anything to any other juror.

## Note taking

You will be provided with a notebook which you can use to take notes about the evidence that is given. The notebook will be left behind each afternoon when you leave court and will be handed in and destroyed when the proceedings are over.

## Visiting the scene of the alleged crime

Sometimes it may be necessary for the jury to be taken to the scene of the alleged crime, with the judge and the legal representatives, to gain a better understanding of what has been discussed during the trial. These visits, generally called a “jury view”, will be pre-arranged and should be treated no differently to a normal trial day. You are not permitted to make such a scene visit without the judge and the legal representatives being present.

## Reaching a verdict

The court will give you as much time as you need to reach your verdict. Do not rush your decision.

It is important to consider all the evidence carefully. No juror should feel pressured to change his or her mind just because everyone else has reached a different conclusion or because it is taking a long time to decide.

Remember, your decision will have a significant effect on the lives of other people so that those involved in the case deserve your complete attention and your thoughtful deliberations.

## Jury decision-making

Provided you always follow the judge's instructions about the law, you are free to deliberate in any way you wish. The discussions in the jury room may be chaired by the representative, if that is the jury's wish. The jury representative should ensure that discussions are carried out in a free, unhurried and orderly way, focussing on the issues to be decided and letting each juror have a chance to participate in discussion.

When the jury is arriving at a verdict, every juror's opinion counts. It is important to respect the opinions of other jurors and value the different viewpoints that each juror brings to the case. This will help the jury to reach a fair verdict. Do not be afraid to speak up and express your views.

Take your time, review your notes and remember it is all right to change your mind when there is good reason for doing so. At the same time, try not to be overly influenced by other people's ideas and recollections. Even if someone has taken notes, this does not necessarily mean that his or her notes are more accurate than what you remember of the evidence.

If the jury requires assistance as to what any evidence was, the judge can provide such assistance by the provision of a transcript or a recording of the evidence in question. **Please do not hesitate to ask.**

You should not feel pressured because of the time it is taking to reach a verdict or because you do not agree with the other jurors.

## Getting started - discussing the evidence and the law

The deliberations of the jury are secret and there is no set procedure which jurors are bound to follow in reaching their decision. However, it is useful at the beginning to decide how you want to proceed and to decide on general guidelines.

## Getting assistance from the court

You must make sure you don't discuss anything about the case with the court officer.

If at any time a member of the jury has a question or needs clarification about anything, the jury should ask the judge for assistance.

Each member of the jury must understand the judge's instructions on the law in order to do the job properly. A jury must get assistance from the judge if any juror does not understand something in the judge's instructions, such as a legal principle or a definition.

For example, if there is any confusion about the law or some of the evidence the jury should ask:

- for further clarification, explanation or definition of a word or legal principle; and/or
- to be reminded of evidence by having the whole or part of the testimony of a witness provided.

This is done by sending a written request to the judge through the court officer.

## The verdict

You should spend time considering the evidence and the law and listening to each other's opinions.

Once the jury has decided on its verdict, the jury representative will send a note with the court officer or sheriff's officer advising the judge that a verdict has been reached (but not what the verdict is). The jurors will return to the courtroom where they will be asked if they agree on a verdict. The representative then announces the verdict.

Immediately after this, the judge will discharge the jury and you will be permitted to leave the court complex.

# 10 After the trial

## Finding out the sentence

If the jury finds a person guilty, the judge will decide what sentence should be imposed. The sentence hearing will probably not occur immediately after the verdict is given.

## Exemption from jury service

You are entitled to an exemption from jury service for three years after you have been an empanelled juror. In some circumstances a judge may direct that you receive a longer exemption - this could be for a further number of years or for life. However if you wish to remain on the jury roll, please tell the court officer or sheriff's officer before you leave the court complex.

## Support may be needed

After the trial, a court officer or sheriff's officer will give you information about the Juror Support Program. Most jurors are relieved to return to their workplace or home after their time on the jury but for a small number of jurors, this may be more challenging. There may be various reasons why jurors feel confused or upset after a criminal trial.

Read the Juror Support brochure carefully and do not hesitate to telephone if you feel you need assistance.

## Court hours

You must attend court as directed until the judge discharges you. If there is a genuine emergency you must telephone the number provided so that the judge is aware of your situation.

## What to do if unable to attend court

You will be advised by a court officer or sheriff's officer what to do in such a situation. The advice may be slightly different depending on the court you are attending. If you become ill or something happens that prevents you from attending court, you (or a responsible person) must contact the courthouse immediately.

You will be asked to substantiate your reason for not attending. Usually this will mean providing a medical certificate stating the length and nature of your illness. The judge will decide what needs to be done.

## Will I be paid for jury service?

If your employer is not paying you or you are not employed, you are entitled to be paid a jury fee. By the time you are empanelled you will have filled in a statutory declaration advising the Sheriff of your requirements.

The payment is made on a sliding scale increasing after day 5 and day 10. All jurors are paid at the same rate. The court officer or sheriff's officer will provide details of the current rate.

All jurors are paid a travel allowance.

## How will I receive payment?

Jury payments are made weekly either by cheque, sent to your residential address, or by electronic funds transfers into your nominated bank account. If you have not received a payment, or you have any questions about payment, you should advise the court officer or sheriff's officer attending to your jury panel.

As payments are processed mid-week it may appear that you are missing one or more day's payment in your first cheque or EFT payment. You will find that these days will 'catch up' in the following weeks' payment.

## Days when the court is not sitting

There may be certain days that the judge will direct you not to attend court. This could be due to a number of reasons for example, a person connected to the trial is ill or there may be legal arguments and the jury is not needed.

The judge may recommend that jurors be paid on these days. However, there is a strict policy governing payments on such days. For example, you may go to work for the day and be paid your normal wage in which case you would not be entitled to a jury fee. Each case is considered on an individual basis and it is necessary to fill in a statutory declaration requesting payment and details of your own circumstances.

## Meals and breaks

There will be a morning tea break where, in most centres, you will be provided with tea, coffee and biscuits.

Lunch is usually provided between 1pm and 2pm. If you have any dietary requirements you should advise the court officer or sheriff's officer in attendance. Jurors are usually not permitted to leave the court complex during the lunch break however the judge may sometimes give permission for jurors to leave. If you are not provided with lunch an allowance will sometimes be paid.

If you need to leave the courtroom at any time during the proceedings you should alert the court officer or sheriff's officer.

## Smoking

You are not permitted to smoke in the court complex.

## Specific requirements

You should advise the court officer or sheriff's officer if you have any special requirements. Eg: if you have specific dietary requirements.

## What to wear

Remember that you will be seated for long periods. You should wear appropriate clothing that is neat, tidy and comfortable.

## Emergency contact

In a genuine emergency a message can be left for you on the number provided for this purpose. The message will be delivered to you as soon as possible. Likewise, if you are held up or unable to attend court due to a medical emergency you should telephone the number provided and the message will be given to the judge.

## Computers

You will not be permitted to take a computer into the jury deliberation room.

## Mobile phones

You will be asked to hand your mobile phone to the court officer or sheriff's officer when you arrive at court. In an emergency you may be given permission to use your mobile during a break, for example if you need to check on a sick family member.

## Will I be prevented from going home (sequestered)?

In exceptional circumstances, the judge may direct that a jury be sequestered. On those very rare occasions, the judge will endeavour to give jurors as much warning as possible and comfortable accommodation will be provided.

# 14 Who's who in court

Some of the following people will always be in the courtroom while the trial is in progress, while others may come and go during the proceedings:

## The jury

The 12 members of the jury are seated together in the 'jury box'.

## The judge

The judge will be sitting on the bench facing the courtroom. The judge, who is addressed as Your Honour, decides on points of law and rules on the admissibility of evidence presented in the trial.

If a jury decides that an accused person is guilty, the judge will decide the penalty. The judge has full control over the court proceedings and the judge's directions must be followed.

## Judge's associate

The judge's associate is the personal assistant to the judge and will be seated in front of the judge. The associate will read out the indictment at the beginning of the trial, keep a record of the exhibits, hand up documents to the judge and take the verdict.

## Court reporter or monitor

The court reporter or monitor may be seated in front of the judge or in a booth at the back of the courtroom. The court reporter or monitor's role is to record all the oral proceedings of the trial. This is done by the use of a small typing machine or by taping the proceedings.

Some trials are recorded by remote location facilities so a court reporter or monitor will not be present in court in such a case.

## Court officer

The court officer will be the person you will have most contact with and who will direct you in and out of the courtroom.

If you have any practical day-to-day concerns you should ask the court officer who will relay your concerns or questions to the judge in writing. The court officer will pass documents back and forward between the lawyers and the judge and will also present the jury with certain items

of evidence that need to be viewed. However you must not discuss the case with the court officer and the court officer cannot discuss the case with you.

## **The Crown**

A Crown Prosecutor and/or a Director of Public Prosecutions solicitor/s will represent the Director of Public Prosecutions. They will be seated at the bar table closest to the jury.

## **The Defence**

The defence barrister and/or defence solicitor/s represent the accused. They will be seated at the bar table closest to the accused throughout the trial.

## **Witnesses**

Witnesses are usually called into court as needed and are ushered to the witness box to be sworn in or affirmed and examined and cross-examined. In some cases witnesses may give evidence by means of CCTV (closed circuit television).

## **Sheriff's officers**

Sheriff's officers may come in and out of the courtroom. Their role is to ensure the safety of all the persons in the courtroom. Sheriff's officers can be identified by their uniforms.

## **The public**

Unless the judge has determined that the court be 'closed', members of the public may come and go and sit in the 'public area', generally at the back of the courtroom. Anyone who has an interest in the case, including students, friends and families of the people involved and journalists may sit in the court. Members of the public do not participate in the trial.



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