A Report for the Winston Churchill Memorial Trust of Australia

To develop a systemic approach to juror support programs in Australia

Paul Anthony Dore
2018 Churchill Fellow
Page left intentionally blank
Indemnity

I understand that the Churchill Trust may publish this Report, either in hard copy or on the internet or both, and consent to such publication.

I indemnify the Churchill Trust against any loss, costs or damages it may suffer arising out of any claim or proceedings made against the Trust in respect of or arising out of the publication of any Report Submitted to the Trust and which the Trust places on a website for access over the internet.

I also warrant that my Final Report is original and does not infringe the copyright of any person, or contain anything which is, or the incorporation of which into the Final Report is, actionable for defamation, a breach of any privacy law or obligation, breach of confidence, contempt of court, passing-off or contravention of any other private right or of any law.

Paul Anthony Dore
18 June 2019

Paul Dore
Juries Commissioner
Court Services Victoria
Ground Floor, 250 William Street
Melbourne Victoria 3000
paul.dore@juries.vic.gov.au (work)
pdore@bigond.net.au (home)
+61 (03) 8636 6800 (general)
+61 (03) 8636 6812 (direct)
+61 0413 018 635 (mobile)

juriesvictoria.vic.gov.au

The views expressed and the recommendations made within this report are mine as a Churchill Fellow, and do not in any way represent the views of the Supreme Court of Victoria; the County Court of Victoria; Court Services Victoria; the Attorney General of Victoria; or any other Government organisation, body or department.
Dedication

On Monday 25 February 2019, I was driving from Toronto to Ottawa through weather conditions ranging from sunny, cold and high winds, to periods of blinding snow. It was a journey of less than five hours, but long enough to remind me that my move from Montréal to Melbourne a quarter century ago was a good idea.

My iTunes catalogue was synched to the rental car’s sound system, with one of my 90+ Bruce Springsteen and the E Street Band concert recordings getting a good workout. I can’t remember if it was the Roxy Theatre (West Hollywood) or Capital Theatre (Passaic, NJ) show, but it was definitely a gig from the 1978 Darkness on the Edge of Town tour.

I had just spent the weekend with a lifelong friend and I was enjoying the ‘blast from my past’ that the visit, the driving conditions and the music were providing. Then my phone rang.

My wife, Rosemary, was calling to tell me Phil Cummins had passed away.

I first met Justice Cummins when I took up the role of Chief Operating Officer at the Supreme Court of Victoria in January 2007. A high-profile trial a year later left me to forever appreciate his deep and unwavering concern for, and respect of, victims and jurors, who but for unfortunate fate and random selection respectively, find themselves in life changing, emotionally charged court proceedings.

I had the pleasure of working with Justice Cummins after his judicial retirement in 2009, in the subsequent positions he held. In particular, we crossed paths in his capacity as Chair of the Victoria Law Reform Commission (VLRC), as part of a major VLRC reference on Jury Empanelment and then regularly, as an educator to senior secondary students in the Victoria Law Foundation (VLF) regional Law Talks Program.

It was this latter connection, the VLF Law Talks, where Justice Cummins became Phil, a friend. As one member of our Law Talks family noted: I cannot put in words how much I will miss his friendship, humour and his uncanny ability to navigate around Victoria by wineries!

Philip Cummins was, and remains, my professional and personal Churchill Fellowship Reference. With Rosemary’s news, I made a silent promise to redouble my efforts and energy to the Fellowship travels. And then I cranked up the music…

This report is dedicated to the memory of the Honourable Philip Damien Cummins AM.
Acknowledgements

The Winston Churchill Memorial Trust gave me this amazing opportunity to explore and discover, and for that, I will be forever grateful. I thank its CEO, Mr Adam Davey and its Board, for taking a chance on my project and on me. Equally, my thanks to Meg Gilmartin at the Trust for her support and encouragement before, during and after my travels.

I thank also the Hon. Justice Anne Ferguson, Chief Justice of Victoria, for being my Project Reference. Chief Justice Ferguson, in her referee comments, wrote: We do not yet understand the full impact on jurors of performing their important role. We have not stood in their shoes. Thank you, Anne, for seeing the importance of this project; I think we may be a little closer to those shoes.

A small leadership team drives the work of Juries Victoria, and I warmly thank its members past and present (Bree, Cassandra, Laurie and Melanie) for their support, professionalism and friendship. I also acknowledge the dedicated and passionate staff at Juries Victoria, and judges’ staff as well, for their good work with jurors and juries.

Three key contacts from this project must be acknowledged, each to whom I owe a tremendous debt of gratitude and appreciation. Mark Farrant: your story as a juror in Ontario and your public advocacy across Canada since, stoked the fire and sparked this Fellowship project. It was great to spend some time with you in Ottawa, and I wish you well in your recovery and further advocacy.

Mr Paul Winslow: the effort you made in the planning stages of this project cannot be overstated. The UK leg of my travels was the highlight, with an itinerary planned to the minute and bursting with opportunity. As civil servants go, you make a fantastic travel agent! If ever I can return the favour, please do not hesitate to call.
To Mr Justice Geoffrey R.J. Gaul of the Supreme Court of British Columbia: your networks were invaluable and you got my journey off to a perfect start (except for the snow, *Your Honour*, could you please do something about the snow?). Who would’ve known that night back in 1981 (while we shared a few beers at *The Manoir*, just one day past my 18th birthday and only one day shy of yours) that we would come together under these circumstances? Geoff, it was great to see you and Deb again and to meet 2/3 of your beautiful children. And to all those reading this: 18 being the legal drinking age in Quebec, I can assure you this was the last time His Honour was on the wrong side of the law.

Finally, to my wife Rosemary: you encouraged me to apply for this Fellowship and you supported me unconditionally along the journey. When my confidence wavered, you kept the faith; when my fears set in, you encouraged me; when my ego soared, you grounded me; and when milestones needed to be celebrated, you were by my side with a glass of *Pol Roger*. Sir Winston would’ve approved. Thanks, hon, I love you!
Key Words

juror
jury
juror support
jury management
juror expectations
juror experience
Table of Contents

Executive Summary ............................................................................................................................................. 2
Context ............................................................................................................................................................... 4
    Juries Commissioner ...................................................................................................................................... 4
    The Juries Act 2000 (Vic) ............................................................................................................................ 4
    The citizen journey ........................................................................................................................................ 5
    Juror support program ................................................................................................................................. 6
Introduction ....................................................................................................................................................... 8
Itinerary .............................................................................................................................................................. 10
Findings .............................................................................................................................................................. 13
    Canada ............................................................................................................................................................ 13
    United States ................................................................................................................................................ 18
    United Kingdom .......................................................................................................................................... 20
Discussion ........................................................................................................................................................ 26
    Governance .................................................................................................................................................. 26
    Research ..................................................................................................................................................... 28
    Communication .......................................................................................................................................... 29
    Capability ................................................................................................................................................... 30
Conclusions ...................................................................................................................................................... 31
Recommendations and Dissemination Plan ...................................................................................................... 32
    Recommendations ....................................................................................................................................... 32
    Dissemination Plan ..................................................................................................................................... 33
Note for Jurors and Fellows .............................................................................................................................. 34
    Jurors ............................................................................................................................................................ 34
    Fellows .......................................................................................................................................................... 34
Glossary of Terms ............................................................................................................................................ 36
Executive Summary

Juries hold an important place in the Australian court system. Members of the community, not our judges, lawyers or experts, take on the weighty work of deciding the facts in a case and determining the guilt or otherwise of fellow citizens. In many instances, jurors and prospective jurors alike will have little appreciation of our legal system and court procedures. We suspect many would be unaware of a court’s expectation of them, including being exposed to the graphic nature of some offending and other unfortunate circumstances, and the effect on victims and the accused about whom they may have to stand in judgment.

While there has been much research in the area, we do not yet understand the full impact on jurors of performing their important role. However, we do know that for most people who travel the full juror journey, from being randomly selected for service to delivering a verdict in a trial, the experience is interesting, satisfying and rewarding. We know for others, there may be a lingering or even lasting impact, sometimes adverse and debilitating, and it is important that we do the very best we can to support them.

In Victoria, the Juries Commissioner is best placed to understand the issues; to establish the juror support structures; and to lead a response to improve the support offered to jurors.
Through immersion, observation and interviews, this Churchill Fellowship project explored the impact of jury service on citizens and the role courts play in supporting jurors. My findings can be grouped into three broad themes, each associated with a specific country:

➢ Emotional (Canada): The discovery of how little the issue of juror support was known, but society’s emerging attitudes and knowledge of mental health issues allowed for the door to be opened on the conversation.
➢ Practical (United States): The established communities of practice, advisory groups, and the challenges of delivering services across a multijurisdictional system.
➢ Theoretical (United Kingdom): The energy and exploration devoted to understanding the juror experience.

As I made my way east within North America and then even more eastward across the Atlantic, my working definition of ‘juror support’ grew from the examples of formal psychological support programs, to the metaphorical juror lens through which courts could be viewed. That is, I discovered, there are multiple and varied opportunities along the juror journey for the courts to provide support.

I came to the realisation that my Project Aim – to develop a systemic approach to juror support programs in Australia – was, while not entirely impossible, naively ambitious.

To that end, the recommendations made in this Report are two tiered. First, I propose a series of interdependent recommendations to be piloted in Victoria and then, assuming the new model of juror support is implemented and accepted, I recommend a planned approach to socialising and rolling out a similar response to other Australian jurisdictions.
Context

Juries Commissioner


At the second reading of the Juries Bill in December 1999, the Attorney-General proposed a new role, that of Juries Commissioner, which would be responsible for administering this new Act. This new role would replace the existing Deputy Sheriff\(^1\) of the Supreme Court of Victoria (SCV). The Attorney-General argued: ‘[this would] result in a number of improvements to jury administration, including a more uniform approach across the state, and improved services for jurors and courts and the country courts.’\(^2\)

The Opposition in Parliament supported this proposed change, stating ‘a Juries Commissioner [will be] responsible for the overall administration of the jury process. This will allow a more homogenous approach to the administration of juries state-wide and will provide greater control and a better standard of service for participants.’\(^3\)

I’ve worked in the Victorian Public Service since emigrating from Montréal in 1994, first in Victoria’s Youth Justice System and for the last twelve years with Victorian Courts. I took up the role of Juries Commissioner in March 2012 and from the beginning, my work has been underpinned by a desire to provide an exceptional service to courts, while remaining demonstrably and unapologetically citizen-centric.

I hope the recommendations within this report will continue that work.

The Juries Act 2000 (Vic)

The Juries Act 2000 (Vic) took effect 1 January 2000 and since then, Victoria has been and remains unique within Australia, with a discrete statutory role (Juries Commissioner) to provide for the operation and administration of a system of trial by jury. In other states and territories in Australia, the responsibility lies within the function of Sheriff.

In Victoria, the Juries Commissioner has oversight and fulfilment of the state’s role in providing citizens for jury service in the superior courts. To this end, the Juries Commissioner heads up Juries Victoria and ensures a sufficient number of Victorian citizens,  

---

\(^1\) Until 1993, the administration of juries was a specific responsibility of the Victorian Sheriff. In 1993, this became the responsibility of a separate branch of operations managed by the Deputy Sheriff Juries. The Victorian Sheriff’s Office no longer sits within the SCV but is part of the enforcement functions of the Department of Justice and Community Safety.

\(^2\) Legislative Assembly, Fifty-fourth Parliament, First Session, 16 December 1999, Hansard

\(^3\) Hon H P Olexander, Legislative Council, Fifty-fourth Parliament, First Session, 5 April 2000, Hansard
broadly representative of the community, are available to serve as jurors in Supreme and County Court trials. There are 14 Jury Districts across Victoria. Melbourne is the largest by far, with 13 other regional locations of varying size and capacity.

While civil jury trials are still available to parties, most jury trials are in the criminal jurisdiction and most are heard before a judge of the County Court of Victoria.

The *Juries Act 2000 (Vic)* deals with compensation for injury during jury service and states: ‘If a person suffers personal injury arising out of or in the course of jury service, compensation is to be paid’. This extends to anyone attending for jury service, whether empanelled on a jury or not.

**The citizen journey**

In any given year in Victoria:

- Approximately 200,000 people are randomly selected from the Victorian Electoral Roll and receive a Notice of Selection for jury service. This Notice includes a questionnaire, which asks citizens for information about their individual circumstances to inform our assessment of their eligibility as a prospective juror. At this stage, citizens are given the opportunity to apply to be excused from jury service, or to defer their jury service, for good reason.

- From those assessed as being eligible, not disqualified and without good reason to be excused, approximately 50,000 people are summoned for jury service. At this stage, citizens are again given an opportunity to apply to be excused or to defer their jury service to a more convenient time.

- Approximately 25,000 people are required and attend courts across the state as summoned. In a group called a ‘jury pool’, they sit through an orientation and we reinforce information previously given regarding our expectation of their availability, reminding them of their opportunity to apply to be excused or deferred.

- Then in groups of 25-40 people (called ‘jury panels’), they go into courtrooms for the empanelment process. This occurs for each of the approximately 600 jury trials each year, of which less than 100 would be civil trials with juries of six people. As such, about 6,600 Victorian citizens serve as jurors each year.

---

4 *Juries Act 2000 (Vic)*, s.55

5 *Juries Act 2000 (Vic)*, schedules 1 & 2 set out those persons who are disqualified from serving as jurors (almost exclusively due to past or current involvement with Courts as a defendant) and ineligible to serve as jurors (almost exclusively due to occupation).

6 *Juries Act 2000 (Vic)*, s.8 – Juries Commissioner may excuse for good reason
Most people find jury service rewarding and most leave with a sense of achievement. However others find the experience less rewarding and we tell them this is understandable.

We accept jury service represents a significant disruption to a person’s routine. Jurors are away from their work or home environment, sometimes for weeks or even months. They listen to and digest evidence, often detailing the most horrific of human behaviour. They discuss these details with eleven strangers in foreign surroundings and we ask them to reach a verdict, the impact of which will resonate with the accused, the victim or victims, witnesses and many other members of our community for years to come, or forever.

This is something most people will never experience and for some who do, we understand it may take some time – and support – to process that experience.

**Juror support program**

Victoria has had a Juror Support Program (JSP) since at least 2004. For the first many years of this program, the default approach was telephone counselling, but face-to-face sessions were offered as deemed necessary by the counsellors. Our service provider was a small, two-person operation, but very professional, competent and always available. The only issue was they were Melbourne-based, which limited the opportunity for in-person counselling for regional jurors.

In late 2015, we negotiated an agreement with the provider of Court Services Victoria’s Employee Assistance Program (EAP), whereby the same level of, and access to, counselling offered to employees became available to citizens participating in jury service.

This current provider leverages a network of counselling services across the state, offering counselling and coaching support by qualified and registered psychologists and social workers. There is a telephone number, operating 24/7, that jurors call to book an appointment. If a juror indicates an immediate need for support, or the call centre attendant suspects there is a need for immediate attention, a telephone counselling session is arranged as soon as possible.

Under normal circumstances, jurors use this phone number to book a counselling session, which can be arranged to take place in-person, via telephone, or through a video connection, according to the juror’s preference.
Our approach is as follows:

➢ The JSP is free of charge for jurors and they contact the service provider directly, not through the courts or Juries Victoria.

➢ There are no restrictions as to why a juror would access the JSP. It could be to seek support after hearing evidence in a trial, to work through the personality clashes that might have arisen with other jurors, or just to talk about their experience without breaching jury confidentiality.

➢ The program can be accessed by anybody who attends for jury service, whether selected on a trial or not. Our experience is that the arraignment process has the potential to harm one person as much as a two week trial may affect another.

➢ The counsellor has the discretion to schedule as many sessions as he or she deems necessary for individual citizens, but we have an arrangement whereby a Senior Clinical Manager will inform the Juries Commissioner should an individual need more than four sessions. This is merely for budgeting and accounting purposes.

➢ At no stage is the Juries Commissioner given the personal details of those jurors using the JSP.
Introduction

‘A civilisation has decided, and very justly decided, that determining the
guilt or innocence of men is a thing too important to be trusted to trained
men. It wishes for light upon that awful matter, it asks men who know no
more law than I know, but who can feel the things that I felt in the jury
box.’

When it wants a library catalogued, or the solar system discovered, or
any trifle of that kind, it uses up its specialists.’

But when it wishes anything done which is really serious, it collects
twelve of the ordinary men standing around.’

Juries bring the values, standards and expectations of our community into the court room,
contributing in a significant way to the administration of justice in Victoria.

Given the critical role they play in our system of justice, jurors must understand why they are
at a court and what they will be tasked to do. While covered by judicial directions in
individual trials, there is a systemic role for jury administrators in preparing and supporting
citizens throughout their journey.

The Churchill Trust gave me the opportunity to explore the centrality of the jury system,
noting that it exposes many citizens to the justice system for the first and only time. My
travels and conversations over six weeks and three countries allowed me to leverage the
experiences of others from similar court systems, especially those who have recently
reviewed or are currently reviewing their engagement with, and the expectations of, their
respective communities.

Through this project, I attempted to get an understanding of the impact of jury service on
citizens and equally, to discover the role courts have in minimising that impact. I met with
key actors in the justice system: judges and court administrators, legislators and policy
advisors, academics, and jurors. Through immersion, observation and interviews, I studied a
court’s relationship with citizens as jurors and a jury administrator’s role in supporting jurors.

Australian jurisdictions are in a similar state to one another with respect to juror support, in
that all have an existing program of some degree available to jurors (Victoria since 2004). As
well, all Australian jurisdictions employ similar communication channels to engage more
broadly with jurors, being a combination of face-to-face induction, orientation DVDs,
information on websites and pamphlets on site.

---

7 G.K. Chesterton, Tremendous Trifles (1909)
Some jurisdictions have recently adopted existing or emerging technologies to engage with citizens, and introduced modern jury management systems with online public portals designed with the end-user front of mind. These new portals, coupled with existing websites, help jury managers communicate to jurors the availability of support programs and other important information.

However, no single jurisdiction in Australia is reviewing its relationship with citizens as jurors in a manner that underpins this project.

I am confident this Report’s findings and recommendations will generate discussion within Victoria and provoke a measured review to its engagement with citizens as jurors. I am equally hopeful that the project findings will inform debate, expectations and standards across Australia.
<table>
<thead>
<tr>
<th>Itinerary</th>
<th>Key Contact</th>
</tr>
</thead>
</table>
| 11 – 14 February 2019 | Victoria, British Columbia  
Ms Erin Turner  
Senior Business & Policy Analyst, Court Services Branch, HQ  
Ministry of Attorney General, British Columbia  
Sergeant Andrew Kain  
British Columbia Sheriff Service  
Mr Justice Geoffrey Gaul  
Supreme Court of British Columbia  
The Honourable David Eby QC  
Attorney-General, British Columbia  
Ms Lynda Cavanaugh  
Assistant Deputy Minister  
Ministry of Attorney General, British Columbia  |
|                    | Vancouver, British Columbia  
Madame Justice Catherine Wedge  
Supreme Court of British Columbia  |
|                    | Kamloops, British Columbia  
Mr Justice Leonard Marchant  
Supreme Court of British Columbia  |
| 19 -28 February 2019 | Ottawa, Ontario  
The Honourable Alistair MacGregor MP  
New Democratic Party  
The Canadian House of Commons  
Question Period  
The Honourable Michael Cooper MP  
Conservative Party  
The Honourable Anthony Housefather MP  
Liberal Party  
Standing Committee on Justice & Human Rights  
Meeting #134  
Mr Mark Farrant  
Former juror  |
|                    | Toronto, Ontario  
Ms Jill Hughes  
Director, Program Management Branch  
Court Services Division  
Ministry of Attorney General, Ontario  |
| 1 March 2019       | Whitehorse, Yukon  
Mr Andrew Hyde  
Sheriff, Court Services Sheriff’s Office  
Yukon  |
<table>
<thead>
<tr>
<th>Date</th>
<th>Key Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 March 2019</td>
<td>Edmonton, Alberta Mr Todd Nahirnik Executive Director, Court of Queen’s Bench Administration Justice &amp; Solicitor General, Alberta</td>
</tr>
<tr>
<td>Date</td>
<td>Key Contact</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 18 -19 March 2019 | Glasgow, Scotland
Sheriff Principal Craig Turnbull
Glasgow Sheriff Court
Sheriff Martin Jones QC
Glasgow Sheriff Court
Sheriff Daniel Scullion
Glasgow Sheriff Court
Ms Nicola Boyle
Glasgow High Court Manager
Scottish Courts & Tribunals
Ms Andrea Dyer
Head of Solemn and Cashiers
Glasgow Sheriff & Justice of the Peace Court
Lord Matthews
Senator of the College of Justice

Edinburgh, Scotland
Mr Tim Barraclough
Executive Director, Judicial Office for Scotland
Scottish Courts & Tribunals
Mr Robert Gordon
Head of Operations, Delivery Business Unit
Scottish Courts & Tribunals
Ms Elaine Walker
Deputy Head of Operations, Delivery Business Unit
Scottish Courts & Tribunals
Ms Gill Moreton
Lead Clinician for External Contracts
Rivers Centre for Traumatic Stress

21 March 2019 | Key Contact                                                                 |
|---------------|-----------------------------------------------------------------------------|
| Cardiff, Wales | Ms Tania Pendlington
Operations Manager
Cardiff Crown Court
Ms Catherine Rees
Jury Manager
Cardiff Crown Court
His Honour Judge Fitton QC
Circuit Court Judge, Wales

22 March 2019 | Key Contact                                                                 |
|---------------|-----------------------------------------------------------------------------|
| London, England | Mr Paul Winslow
Customer Innovation Manager, Customer Directorate
HM Courts and Tribunals Service |
Findings

Canada

In 2014, Mr Mark Farrant was one of twelve ordinary citizens of Ontario who served as a juror in the first degree murder trial of Farshad Badakhshan, who was convicted of murdering his 23-year-old girlfriend, Carina Petrache. Badakhshan stabbed his student girlfriend multiple times and set fire to their house. He was badly burned and while Ms Petrache escaped from the burning house, she died on the way to the hospital.

By all accounts, Mr Farrant took his civic responsibility as seriously as was expected of him, and to this day he expresses pride, satisfaction and accomplishment resulting from his jury service. In fact, when asked whether he would serve on a jury again if selected, his answer is an emphatic ‘yes’. Notwithstanding this admirable sense of civic purpose, today and since serving as juror in 2014, Mark is a different person. He suffers from Post-Traumatic Stress Disorder (PTSD) and at the time of writing this Report, he remains a patient committed to his recovery.

During the four month Badakhshan trial, Mark became increasingly aware of changes in his behaviour: restlessness and increased agitation, disrupted sleep and a sense of being unnecessarily on edge. While he was able to justify these behaviours in his own mind during the trial, it was only after the trial, when these feelings both persisted and intensified, that Mark’s life began to spin out of control.

Not only was he revisiting in his head the images from the trial, those images were becoming part of his day-to-day life. He repeated to me a story he had often since told others of one such occasion. It was a Saturday morning, much like many Saturday mornings before. He was preparing to do what he had always loved doing; taking his daughter for a walk to the park for some fresh air and play. On this particular morning, as they stepped out the front door of their suburban home, his daughter asked him, ‘Daddy, why do you need a knife?’ Without being aware, Mark, in his preparations for the father-daughter outing that included gathering his phone, a scarf and house keys, had stopped at the kitchen; opened the cutlery drawer; and slipped a knife down the back of his jeans.

Mark found himself becoming increasingly detached from his family, friends and coworkers, and he knew he needed help. He looked first to the court, on the reasonable assumption that it would have systems in place to respond to jurors in similar circumstances.

What Mark learned was Ontario and most Canadian provinces and territories at that time, offered little or no post-trial support to jurors. Those jurisdictions that did offer counselling, did so only with a judge’s order and often with conditions attached (eg British Columbia, where six or more jurors had to request counselling).
To his credit, Mark sought, fought for and found support to address his personal wellbeing. Equally commendable, he devoted as much energy or more to the welfare of future Canadian citizens selected for jury service.

In 2017, Mark reached out to and rallied former jurors from other high profile and particularly nasty trials. He and eleven of these former jurors wrote what he called the ‘12 Angry Letters’, which were presented to the then Federal Attorney General.

Mark’s political agitation eventually found its way to Parliament Hill. Later in 2017, the NDP Member for Victoria, British Columbia, a Vice-Chair of the Canadian House of Commons’ Standing Committee on Justice and Human Rights (JUST Committee), resolved to take Mark’s issues specifically and the issue of juror welfare more broadly, to the JUST Committee.

Mark’s advocacy was instrumental in informing the work of the JUST Committee, which unanimously agreed to study counselling and other mental health supports for jurors and make recommendations to minimise the impact of jury service on its citizens. The JUST Committee report ‘Improving support for jurors in Canada’ was tabled in Parliament in May 2018.

At the time of writing this Fellowship Report, section 649 of the Canadian Criminal Code prohibits jurors from disclosing at any time, ever, to anyone including a qualified doctor or mental health practitioner, information about what went on in the jury deliberation room or those things that led the jury to its decision. This restriction applies to jurors who serve in each of the ten provinces and three territories across the country.

The JUST Committee recommends carving out a narrow exception to section 649 to allow jurors to speak with a medical practitioner or mental health counsellor about what took place in the jury deliberation room. Bill C-407, which amends the Canadian Criminal Code to do exactly that, is (at the time of writing this Report) being debated in the Senate.

Alberta
In 2015, Alberta was the first Canadian province or territory to introduce a juror support program. The driver for change arose from a particularly ‘gruesome’ trial in Medicine Hat, which led to a review and subsequent report recommending the creation of a juror support

---

8 [https://www.ourcommons.ca/Committees/en/JUST/StudyActivity?studyActivityId=9753847](https://www.ourcommons.ca/Committees/en/JUST/StudyActivity?studyActivityId=9753847)
and assistance program. The judiciary were instrumental in developing and introducing the program.

Unlike many other jurisdictions I found with JSPs in place, Alberta offers counselling to jurors during a trial, as well as up to two months after the trial's conclusion. As is the case with other JSPs, jurors can access counselling by phone, video link up or in person, as best suits their individual needs.

Alberta's JSP is offered through a third-party provider, Mornea Shepell.

Despite its relatively early introduction of a JSP as compared to other Canadian provinces and territories, and its unique offering of support to jurors during the trial, Alberta appears to be behind other jurisdictions in Canada with respect to promoting its JSP. There is no sign of a JSP on its website. That being written, Alberta offers two very good examples of promotional pamphlets available to jurors at all its court locations.

**British Columbia**

By all accounts, the past offerings of support to jurors in British Columbia had not been overly robust. Jurors were able to get counselling post-trial, but only in the circumstances where half the jurors (at least six) requested counselling. As well, the counselling session was in a group setting.

However recently, British Columbia courts have made available counselling for jurors post trial, with no requirement around what 'kind' of trial the jurors experienced. The principle is that whatever the exposure that left a juror affected by their jury work, that is affecting their lives after they have served, those jurors will be able to access the program. The political driver to review its JSP, and the policy decision to introduce a more robust program, was as a direct result of Mark Farrant's *12 Angry Letters* advocacy.

The judiciary and Sheriff's people were consulted as to how best to shape and deliver this new program, and policy-makers undertook a thorough analysis of what they thought the need might be in terms of jurors accessing the program.
The program was implemented in January 2019 with what was described as a ‘soft launch’ announced in 2018. The JSP is basically an extension of the Department’s EAP and because of this, the Attorney-General’s Department were able to roll it out much faster and more efficiently than would otherwise have been the case. This new program is offered to individuals on a needs basis; by phone, video or in person.

The program was socialised across the three main groups (judiciary, Sheriff’s Office and jurors) with the use of pamphlets at court locations and clear messages on the website. There was a perceived risk of jurors just not knowing the program existed and to that end, the Department took great steps in their messaging, especially online, to give the outward impression that a JSP was obvious and routine.

British Columbia also dedicates a portion of its online juror support message to ‘Juror Self-care’, providing advice to jurors on how to recognise stress responses (physical, mental or emotional) and suggestions for reducing or removing those stress responses.
Ontario

In 2017 and like British Columbia, Ontario introduced its JSP as a result of Mark Farrant’s advocacy. And similarly, the program initially offers up to four sessions in whatever manner (phone, video conference or in-person) the juror wishes. Prior to the introduction of this program, counselling would only be offered to jurors at the discretion of the trial judge and if so ordered by the judge. This rarely occurred, but a notable exception was for the jurors in the notorious trial of Paul Bernardo, a trial that gripped the collective conscience and broke the collective hearts of Canadians in the early to mid-1990s.

Justice Patrick Lesage was the trial judge in the Bernardo matter, and he was later appointed Chief Justice of Ontario. Justice Lesage ordered counselling for the jurors in the Bernardo trial for the first time in his 29 years as a trial judge, and in fact, sought counselling himself following that trial. In an interview with the Canadian Broadcasting Corporation in 2016, 13 years after retiring from the Bench and just over 21 years after the jury convicted Bernardo of two first-degree murders and two aggravated sexual assaults, Lesage regrets not raising the issue of juror support while he was Chief Justice.

“I had already done the Bernardo trial at that point, so people probably thought, 'Well he should know, he should do something.' In hindsight, I think maybe I should have. In hindsight, I'm sorry I didn't.”

Ontario, like Alberta, offers its JSP through the third-party provider, Morneau Shepell.

Yukon

Yukon, the fourth and smallest of the Canadian court jurisdictions consulted, has a population of less than 40,000 people and subsequently, not a great number of jury trials. Nonetheless, its journey to implementing a JSP mirrors those provinces mentioned above.

As with British Columbia, Yukon’s Court Services entered into a partnership with its existing Government Employee and Family Assistance Program to offer counselling to jurors post-trial. Jurors in Yukon can access up to four free sessions, in the manner that best suits their individual needs and circumstances (phone, in person or by video link). As with programs in other jurisdictions, the counselling services are strictly confidential.

Like British Columbia, Yukon incorporates a message of ‘self-care’ for jurors in its promotion of its JSP, by normalising the experience, providing useful examples of possible reactions and helpful suggestions of what people can do to minimise the emotional and physical consequences of their jury service. However, like Alberta, Yukon’s communication channels appear to be limited to very good pamphlets, but no online presence of a JSP.

---

United States

Given the size and complexity of the American justice system, operating two court jurisdictions (Federal Circuit Courts and State Courts) across 50 states, my engagement with and exploration of JSPs was always going to be limited to a high level consultation. To this end, I spent one day with two senior advisors at the Administration Office of the United States Courts (Federal) and another day with two senior advisors at the National Center for State Courts.

Washington DC

At the Federal level, there is a Judicial Conference (the Conference) that meets twice a year. The Chief Justice of the United States chairs it and its members are representative of each judicial circuit. The Conference is made up of and operates through a number of committees, each tasked with looking at and advising on various aspects of court policy, procedure and operations (eg: built environment, IT, access, jury management, security).

The Conference has long recognised the burden of jury service on US citizens and has made attempts to address the issues arising from jury service through its committee structure. Examples of past review and advice include in the areas of juror utilisation and the use of emerging technologies to engage with citizens as prospective jurors.

Juror utilisation is a policy measure introduced approximately 35 years ago and is underpinned by a universally accepted notion that no one wants to waste citizens’ time or taxpayers’ money. Federal Courts aim for a 70% utilisation rate, which is simply the ratio of those people ‘used in court’ (empanelled, challenged or excused) to the number of people who attend for jury service as summoned.

The US Federal Courts have adopted existing and emerging technologies to improve the juror experience. It recently introduced to all districts an online jury management system (JMS), which automates the process of creating jury pools and reduces the need for individual citizens to attend local courts for this purpose. US Federal Courts also introduced a web-based eJuror system that enables citizens to reply to juror questionnaires and get updates on their status online. This eJuror system incorporates the use of interactive voice response (IVR) systems and kiosks at many court locations.

Both these initiatives aim to improve the juror experience and reduce the historical frustration of jury service, which included the seemingly perennial issues of paper-based hoops to jump through and unnecessary waiting.

In terms of JSPs, approximately twelve years ago the Administration Office partnered with the occupational psychologist services providing the EAP to federal employees, to allow the same access to counselling for jurors. This program is deemed an extension of the juror’s
term and is administered by the US Department of Health and Human Services. It provides both a critical incident stress debriefing service to jurors post-trial and up to six individual, confidential counselling sessions per year.

One other initiative of note, not necessarily in the area of juror support but certainly in the area of juror education, is an orientation video from the 9th Circuit Court (Northern District of California). Along with the suite of information given to prospective jurors, the Court includes a six-minute video entitled ‘Understanding the Effects of Unconscious Bias.’

**Williamsburg VA**
The National Center for State Courts (NCSC) was established in 1971 at the urging of then Chief Justice Warren Burger, who saw the need for a central resource for all courts. The NCSC first set up its operations in Washington DC, but in 1978 moved to its current location in Williamsburg, Virginia. Its mission is to ‘improve the administration of justice through leadership and service to state courts, and courts around the world.’

As with my consultations with advisors from the Administration Office, my conversations with those at the NCSC were necessarily high level. At best, they could only direct me places where good work was being done to improve the juror experience more broadly, and provide support programs specifically.

Most state courts do not have an explicit JSP policy in place or resources allocated, but some local trial courts do make an effort to respond on an ad hoc basis. Nonetheless, there are examples of good intentions and good work with respect to improving the juror experience.

In Ohio, the Ohio Jury Management Association has been operating since 1998. Membership includes judges, juries commissioners, court administrators and bailiffs. Its mission is to enhance justice through excellent jury management. Likewise, California has its Jury Education and Management Forum, which aims to improve jury operations through networking with, and providing support to, jury administrators.
Travis County (Texas) has introduced its I-Jury system, allowing prospective jurors to manage their juror journey online and get real-time updates of their status and requirement to attend, while Utah has also introduced its eJuror online questionnaire.

In the Commonwealth of Massachusetts, a Jury Management Advisory Committee (JMAC) has been in place for many years. It is a standing committee of the Supreme Judicial Court, with six judicial members who serve on three-year terms. JMAC has an advisory role to the Chief Justice in his or her supervision of the Office of the Jury Commissioner. JMAC turns a lens on the Court through the eyes of jurors, and encourages improved cooperation and communication between the judiciary and jury administrators.

United Kingdom

As noted earlier in this Report, the two weeks I spent in the United Kingdom (UK) was a series of workshops, consultations and interviews with key actors in the justice system, coupled with back-of-house and in-court observations of the juror experience.

In-court observations

In London, Leeds and Glasgow, I was impressed by the care, effort and time given by judges to jurors to help make sense of the proceedings. In Glasgow, after the Sheriff had overseen the swearing in of a jury, he took 15-20 minutes to explain how the court proceedings would unfold over the ensuing five to six-days. That is, in plain English but not in a patronising manner, the Sheriff identified all the key people in the courtroom; he explained the procedure as to who will say what and when; and he put the jurors’ collective mind at ease with respect to their role, and the time commitment and expectations the Court had of them.

At Leeds Court, a jury had just delivered its verdict, a majority (11-1) verdict in a trial where the defendant had not been in court (he was being detained in a psychiatric facility). The jury had, prior to starting its deliberations, asked the judge through its foreperson why the case had taken so long to come to trial. The alleged offending had occurred in March 2016 and the trial was only now, three years later, coming to an end. After the foreperson announced the verdict, the judge took about 15 minutes to describe the defendant's journey through the criminal justice system, which included a number of times where psychiatric assessments
had been ordered and a number of other times where the trial either had been suspended or deferred.

At two points along that description of this defendant’s history, the judge smiled and suggested the court could’ve done better in its management of the trial, perhaps been a bit more efficient. When he was finished, he asked the jury if that had answered the question and if they were satisfied with the answer. To a person, they nodded and smiled in thanks.

England and Wales

*Her Majesty’s Courts and Tribunals Service (HMCTS)* is responsible for the operation of courts and tribunals in England and Wales. The *Jury Central Summoning Bureau*, established 20 years ago in London, recently moved its operations to Bradford in Northern England. The Bureau is responsible for the summoning of all jurors across England and Wales, replacing a system whereby each individual court location had a stand-alone process for this function.

Currently, jurors are encouraged to seek out free counselling through their GP or to free-call the Samaritans, a registered charity providing emotional support across the UK and Ireland for those in emotional distress or contemplating suicide. While this organisation no doubt does very good work, its brand is very much associated with its helpline for people at risk of suicide. It has been shown not to resonate with jurors as a place to go for the psychological support they require arising from their jury service.

There has been and continues to be a great deal of energy and exploration within HMCTS devoted to understanding the juror experience, especially in the area of JSPs. HMCTS framed the question, *‘What more could be done to support jurors during and after a trial?’* as a whole-of-system project, and then set out in a formal and structured way to answer this question. Judges, jury administrators and policy advisors approached the task with honesty, good faith and forthright self-reflection.

The HMCTS project looked through the lens of the cycle of jury service at how to improve the juror experience. That is, to explore the overlap or interconnectedness of:

1. Receiving a summons;
2. Attending on the first day;
3. Waiting in the juror assembly area;
4. Empanelling and swearing in;
5. Participating in the trial;
6. Deliberating;
7. Giving a verdict; and,
8. Receiving post-trial information…

… with the broad influences of:

- Care and Capability: Assess individual circumstances and the needs of jurors before, during and after a trial;
- Jurors with Disabilities: Consider reasonable adjustments to improve the opportunity for some jurors to fully participate in jury service;
- Juror Information: Improved communications, both in paper and online, to help prepare jurors for service;
- Model Rooms: Improve juror waiting areas and provide comfortable settings for those participating in trials;
- Facilities: Identify opportunities to improve amenities and raise standards across the court system; and,
- Measuring the Juror Experience: Establish appropriate performance measures so as to understand what is important to jurors.

The project team took a two-pronged approach to its research: a series of visits to courts across the country and consultations with a number of judges and jury staff, coupled with a User Experience (UX) methodology and the use of juror insight labs. While still in its embryonic stages, this Juror Care and Capability Work Stream, part of a wider Enterprise Framework Project being run through the HMCTS’ Customer Directorate, has delivered some very useful insights.

Judges and jury staff said jurors rarely reported to them they were feeling distressed, but that this should not be interpreted as there being no issue. Both groups felt that the increasing use of digital evidence, CCTV footage for example, is likely to be affecting jurors. Despite this low rate of reporting distress, the anecdotal evidence suggests a number of areas where the juror experience could be improved, which will be discussed later in this Report.
There has been for quite some time a Jury Action Group (JAG). This is a group of jury managers and Crown Courts’ officers from across England and Wales who meet quarterly. Members of JAG network with colleagues and other groups from HMCTS Courts, including but not limited to IT experts and HMCTS Customer Directorate. JAG’s aim is to work with HMCTS HQ to review and make suggestions to improve the juror experience, as well as to share information and promote best practice across all aspects of jury management operations.

I was impressed by HMCTS’ approach to people with disabilities or other personal circumstances that might make it difficult to fulfil jury service. At the first point of being selected for jury service and receiving a summons, citizens are encouraged to declare a personal circumstance or disability (e.g., hearing difficulties, mobility issues). At that point, an officer from the Jury Central Summoning Bureau will call the citizen to discuss options. The officer will record details of the personal circumstances in the ‘reasonable adjustment’ database called OPTICS. This information is then ‘pushed’ to a local court officer by way of a queuing system. Over the couple of days I spent at the Bureau and the court at Leeds, I saw this in action.

In one instance, a juror in a wheelchair had been serving on a jury for the previous seven days. I was shown his ‘history’ in the OPTICS system. Upon advising he had mobility issues at summons stage, a court officer contacted him a few weeks out from his summons date and talked him through his options. They agreed he would come into the court prior to his summons day to assess the layout of the court and access options. It was decided, once empanelled on a jury, he would enter the building at a different spot than the other eleven jurors, whereby he was met by an officer and brought through the ‘back-of-house’ area to the deliberating room to meet the other eleven jurors. This procedure was done with the upmost care for the person’s dignity and to the satisfaction of all, the judge and counsel, that it posed no risks to the smooth running of the trial.

Finally, HMCTS is looking at developing the capability of its jury staff by providing access to a workshop called Mental Health Awareness and Disability Confidence. This program is designed to:
➢ raise awareness within HMCTS of disability and mental health within the community and at work;
➢ build confidence to deal with issues of mental health and disability;
➢ provide information about support networks available; and,
➢ give staff an opportunity to discuss their professional experiences and areas of best practice

Scotland

The Scottish Courts and Tribunals Service (SCTS) is responsible for the administration and operation of the courts and tribunals of Scotland. I visited two of the courts where jury trials are heard, the Sheriff Court and the High Court. Civil jury trials are also heard in the Court of Session and the All Scotland Sheriff Personal Injury Court.

Like most court jurisdictions I visited, Scotland’s approach to juror support is very much underpinned by the belief that most jurors find their experience to be interesting, rewarding and satisfying, but some may be affected psychologically as a result of their jury role.

The SCTS adopts a third-party provider model for its JSP, being the Rivers Centre for Traumatic Stress. Founded in 1997, the Rivers Centre is Scotland’s leading National Health Service (NHS) provider for adult traumatic stress services. The process by which a juror may access the service relies almost exclusively on the proactive intervention of a judge, a sheriff or SCTS staff. That is, if at the conclusion of a trial someone becomes aware of a juror being distressed or otherwise affected by their experience, they may decide counselling should be offered. At this point, the juror or jurors will be given the details of the support services offered through the Rivers Centre.

The Rivers Centre aims to have an initial assessment appointment with the juror within ten business days, and if treatment is required, further sessions will be arranged (up to a total of four sessions, including the initial assessment).
SCTS, like its colleagues to the south, are exploring the juror experience more broadly through its ‘Enabling Jury Service’ project.10 The Hon. Lord Matthews, with whom I had the pleasure and honour to meet, leads and chairs a working group made up of representatives from the High Court, the Sheriff Court, the Lord President’s Private Office and two SCTS HQ policy teams. The working group’s call to action arose from one particular event, where a woman who was blind, despite declaring her disability to court staff, was asked to attend for jury service, only to be told at the court that no reasonable adjustments could be made to enable her to serve as a juror.

The working group proceeded with its consultations, review and recommendations with the understanding the key requirements for fulfilling the role of a juror are to:

- access the court building;
- sit and concentrate for periods of time;
- absorb the evidence presented;
- understand, comprehend and evaluate the evidence;
- discuss the evidence with fellow jurors;
- return a true verdict; and,
- maintain the secrecy of deliberations within the jury room.

While the working group initially limited its scope to prospective jurors with mobility issues and hearing and sight impairments, it intends to broaden its scope to include people with learning and mental health issues, and those for whom English is not their first language.

Most encouraging and impressive, the working group’s approach to its review has not been limited by current legislation. That is, if it finds and recommends an improvement that is currently limited by legislation, it is open to recommending that legislation be changed to accommodate the improvement.

---

Discussion

The concept of ‘juror support’ is intricate and complex. You can do one good thing, like introduce a JSP, but you can do a lot of other things around the edges of the juror experience that will contribute to a more positive, purposeful experience.

One of several things I discovered along my journey is just how little the issue of juror support was known. It was a conversation waiting to happen, in Canada especially, but in pockets of other jurisdictions as well. It might be argued that society’s attitudes, knowledge and understanding of mental health issues more broadly, such as in our schools and workplaces, opened the door to this conversation.

The politicians I spoke with in Canada certainly saw this issue of juror support as an extension of the conversation society has had concerning what our soldiers have gone through, as well as our first responders. They believed society is developing a better understanding of PTSD and other mental health issues, and more importantly, how to reduce the likelihood of being affected and treatment for those suffering.

For jurors, this must be tackled in a professional and early way, as they provide such an important service to our community and our justice system. We need to take stock of exactly what jurors are going through, and it’s incumbent upon us to look after them for the service they do, because they are doing it on behalf of the State.

Over the six weeks of my Fellowship travels and consultations, my definition of ‘juror support’ expanded and took shape, becoming more robust and systemic. This definition became more than, dare I say, ‘just’ a post-trial, formal psychological support program.

The concept of a ‘support program’ actually became a ‘program of support’, whereby all the individual points along a citizen’s juror journey could be seen as opportunities to provide support.

The findings within this Report provide a number of good and tested opportunities to build upon the existing JSPs in Victoria and elsewhere in Australia. As a means to leverage those opportunities, it’s best to look at these findings through a number of lenses: governance, research, communications and capability.

These will form the four pillars on which an improved JSP can be built.

Governance

In all jurisdictions visited, there was no one person or group with overall responsibility for juror welfare. Jury managers or commissioners were well placed to understand the issues
and advocate for effective juror support systems, but they were only one part of the wider system contributing to the overall juror experience.

There were some good examples of advisory groups being used to support the work of jury managers. Some were long-established with a general focus on juries, as found in England and Wales and some US jurisdictions. Others were set up for a specific period of time to address a specific issue. Examples of this include the JUST Committee in Canada, which dedicated resources to exploring counselling and other mental health supports, or Lord Matthews’ work in Scotland, which is looking at enabling jury service for citizens with hearing or sight impairments.

The ‘advisory group’ model is worth exploring in Victoria. In fact, my predecessor as Juries Commissioner, a 2011 Churchill Fellow and former colleague, proposed the establishment of a Victorian Jury Innovation Advisory Committee.¹¹ Mr Monteleone’s Fellowship project explored, more broadly, the methods for improving the efficiency, effectiveness and integrity of the Victorian jury system. While the majority of Rudy’s recommendations were either fully or partially¹² implemented, this Committee was never established, but the proposal could be revisited.

The establishment of an advisory group, with explicate terms of reference and an agreed purpose underpinned by maximising opportunities to support jurors, may in fact fulfil the aims of Mr Monteleone’s recommendation while addressing the broader aims of my Fellowship.


¹² Examples of ‘partially implemented’ include recommendations 4 and 5, empanelling exclusively by number and removing peremptory challenges completely. The VLRC reference in my dedication to Cummins J looked at both these issues, recommending that indeed panel numbers should be used exclusively and peremptory challenges should be reduced from six to three, rather than done away with entirely. The Juries Act 2000 (Vic) was subsequently amended to make panel numbers the default position in court and the number of peremptory challenges available to the accused was reduced to 3.
Research

Victoria’s existing JSP model has been in place since January 2016. In that time, the take-up amongst jurors has been relatively low, as set out in Table 1.

Table 1: Jurors and Mode of Access

<table>
<thead>
<tr>
<th>Year</th>
<th>In Person</th>
<th>Phone</th>
<th>Internet</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>9</td>
<td>8</td>
<td>0</td>
<td>17</td>
</tr>
<tr>
<td>2017</td>
<td>5</td>
<td>3</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2018(^1)</td>
<td>11</td>
<td>19</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>2019</td>
<td>7</td>
<td>8</td>
<td>0</td>
<td>15</td>
</tr>
<tr>
<td>TOTAL</td>
<td>32</td>
<td>38</td>
<td>0</td>
<td>70</td>
</tr>
</tbody>
</table>

All the issues presented to counsellors in the 70 instances over the past 3½ years related to, or were triggered by, court cases. That is, despite promoting the JSP as being available to anyone who attends for jury service, all people who have accessed the JSP to date had been empanelled on a jury.

Further, their reasons for seeking support were related to the trial itself, not specifically any other factors arising from their jury service, such as disruption to routine or issues with group dynamics within the deliberation room.

While we have approximately 6,600 people a year who serve on juries, this relatively small sample of jurors who have accessed the JSP does provide some valuable information. The broad categories of presenting issues were: work trauma (trauma related to the trial); personal trauma; personal stress; and anxiety. The average number of hours devoted to counselling an individual juror was just under two hours (one hour and 50 minutes).

This limited data supports the findings of formal research, much of which has been undertaken by Professor Cheryl Thomas QC (Hon). Professor Thomas found while some jurors may suffer debilitating responses such as PTSD or other problems, they were in the minority. In fact, Professor Thomas’ research with jurors from England and Wales found around 80% of jurors reported their experience as being interesting, informative and positive. Like Mark Farrant and other former jurors in Canada who appeared before the JUST

\(^{13}\) The one outlier in the Victorian 2018 data is both curious and promising. Three days into a two-week trial in regional Victoria, a judge asked me to provide counselling to a jury. The jury had asked access to the JSP. The judge decided to finish court proceedings at 1:00pm on Friday and asked me to have a counsellor available for a group session. This was described by our JSP provider as a ‘Critical Incident Response’. The judge then agreed to have the counsellor present at the courthouse the next Monday and Tuesday for 1:1 counselling, should individual jurors wish to access this.
Committee, an overwhelming majority of the jurors in Professor Thomas’ study indicated that, if selected again, they would happily do jury service.

Professor Thomas cautioned against overstating the issue of trauma and other adverse effects of jury service, suggesting these proactive attempts to support the minority may be at the expense of the majority. This note of caution was echoed during my consultations in Edinburgh, where it was agreed that we had to strike a balance between responding to potential psychological trauma or distress felt by some jurors, while not setting the expectation amongst all jurors that their service will leave them hurt or traumatised.

Finally, Professor Thomas shared other aspects of her research findings, specifically the positive impact good and timely communications with jurors can have on their understanding of the role and who they are allowed to speak with about their experience. Simply put, information about JSPs and who jurors could talk to that was given at the end of a juror’s service is far more likely to register and be retained than information received in the post prior to attending, or information given on the first day of jury service.

**Communication**

It should come as no surprise that ‘communication’ – good, timely and purposeful communication – will often make the difference between a positive and negative experience for jurors. This became increasingly evident in each of the jurisdictions I visited, whereby the more seamless and consistent the messaging across the court network and along the juror journey was, the better prepared jurors were for their jury service.

Courts are adopting, in some places simultaneously, plain English written material with user-friendly web messages to great effect. In terms of ‘plain English’, I liked the simplicity of message of Yukon’s JSP pamphlet: *Dealing with common reactions to an uncommon experience*. Wales too have recently introduced a new juror information pamphlet, in both official languages. This brochure sets out the rules jurors must follow while serving and why, as well as how to access support after the trial.

As noted earlier and throughout this Report: but for having a summons to attend for jury service, most if not all jurors would have no reason to be in a courtroom. Written another way: unlike judges, lawyers and court staff, jurors haven’t been exposed to court proceedings, nor have they been trained in court policies and procedures.

EAPs are by their nature ‘work-based’ and as such, assume a certain level of choice (an employee chose to work in the organisation) and training in the role. To that end, there is a level of expectation and understanding between the employee and the employer about task, role, processes, behaviours and outcomes.
Citizens and their engagement with the task and role as jurors do not start at the same point of understanding and expectation, and therefore a successful JSP relies on the many opportunities we have along their individual journeys to inform, advise and support.

**Capability**

The fourth pillar of an improved JSP is to maximise capability across all areas of the court system with respect to the juror experience. In the 2013 Victorian Juror Satisfaction Survey, jurors responded overwhelmingly that they were impressed by, and thankful for, the attention they received from Juries Officers and court staff alike. Anecdotally, that response has been similar for the years since.

Both the Supreme and County Courts of Victoria have adopted the *International Framework for Court Excellence (IFCE).* The IFCE assists courts in measuring performance across seven key areas, one of which is *User Satisfaction.*

In order to maximise juror satisfaction, which would include minimising the impact of jury service, we need to develop, or otherwise increase and sustain, staff and judicial capability. This would require a root and branch review of the juror experience and the creation of a *Capability Framework* that is underpinned by juror experience.

---

14 [http://www.courtxcellence.com](http://www.courtxcellence.com)
Conclusions
This Churchill Fellowship research project was, by design and throughout, an experiential journey. It was never intended to be an academic exercise. In this Report, I have intentionally kept my findings at a high level of jurisdictional experience and avoided attributing direct quotes to any one judge, politician, policy advisor or jury manager.

‘I want to thank you for all you have done in the case and your service to the court. I said this to my last jury, but every jury I have I think is better than every one I’ve had before, and I say the same to you. I’m just amazed how we can bring together twelve members of the community who can go about their work in the way each and every one of you have done so’.

The court and I are very conscious of the fact that we ask an enormous amount of jurors. There’s no doubt about that. It’s a lot of work. We take you away from your own lives, from your families, from your work and from your recreation and ask you really to devote yourselves to the close detail of cases we do. It’s a very onerous responsibility that’s cast on the shoulders of each of you’.

It's a painful responsibility and I don't think there's any doubt about that in peace time, it's the most onerous responsibility this country can place on the shoulders of its individuals.15

Jurors contribute in an extraordinary and fundamental way to the delivery of justice in Victoria. Juries are the voice of the community’s conscience, independent of both the judiciary and the government. A jury represents the community from which it is drawn, a cross-section of citizens, each with their own experiences and opinions, standards and expectations.

The aim of my Fellowship was: to develop a systemic approach to juror support programs in Australia. I discovered this will require taking a first step towards an all-encompassing ‘program of support’ in Victoria, and that first step must be taken in the shoes of jurors.

15 https://www.supremecourt.vic.gov.au/podcast – Justice Stephen Kaye, as he was discharging and thanking a jury after it had found a woman guilty of murder and her co-accused guilty of attempted murder.
Recommendations and Dissemination Plan

In the context of discovering just how ambitious the aim of this project turned out to be, I recommend a two-staged response to developing a systemic approach to juror support programs in Australia.

Recommendations

Stage 1 – Victoria

1. Establish a Juror Experience Review Committee (the Committee), with membership to include, but not be limited to:
   a. Two judges, preferably one from each of the Supreme and County Courts of Victoria;
   b. The Juries Commissioner;
   c. The Director of Public Prosecutions (Victoria) or delegate;
   d. The President of the Victorian Bar or delegate;
   e. Chief Executive Officer, Judicial College of Victoria or delegate;
   f. A Senior Policy Advisor as nominated by the Attorney General;
   g. A local Academic with expertise in group dynamics in general or juries/jurors specifically;
   h. A Senior Clinical Psychologist as nominated by our current JSP provider;
   i. A User Experience expert;
   j. Two former jurors; and,
   k. Project and secretariat support from Court Services Victoria.

2. Confirm a working definition of ‘juror support’, which is all encompassing of the juror experience, and settle the Committee’s Terms of Reference, which will be underpinned by this definition.

3. On the assumption the Committee operates for a fixed term for a specific purpose, establish an ongoing Jury Advisory Group (JAG) to inform strategic planning and future innovation within Juries Victoria.

4. Partner with an Australian university, perhaps by way of an Australian Research Council (ARC) grant, to undertake a comprehensive study of juror experience in Victoria.

5. Informed by research and underpinned by user experience, develop a Citizen Engagement and Communications Strategy.

6. Develop a Juror Experience Capability Framework and implement a suite of training and development programs, which will be role-specific and all-encompassing of the juror experience.
Stage 2 – Australia

7. Create a standing sub-committee of the existing Australasian Court Administrators Group (ACAG) to model, in parallel, the emerging lessons learned and continuing work arising from the Victorian experience.

8. Explore further opportunities to replicate Recommendations 2-6 above in the Australian context.

Dissemination Plan

I will share this Report with:

- The Chief Justice and the Chief Judge; the Office of the Attorney-General (Victoria); the Chief Executive Officer, Court Services Victoria; and the Secretary to the Department of Justice and Community Safety (Victoria);
- The Chair of the Council of Chief Justices Australia and New Zealand;
- The Chair of the Australasian Court Administrators Group;
- The Chief Executive Officer, Judicial College of Victoria; and
- Australian academics who are known for their interest in, and research on, juries and the juror experience.

This Report will be:

- published on the Juries Victoria website;
- made available to the Media and Communications Teams at Court Services Victoria, the Supreme Court of Victoria and the County Court of Victoria; and,
- submitted to the Jur-E Bulletin, a weekly newsletter published by the NCSC.

I will also share this Report on Facebook and LinkedIn.

At the time of submitting this Report to the Winston Churchill Memorial Trust of Australia, I am confirmed to present its findings and recommendations at:

- The Jury Research and Management Conference in Canberra, 8 November 2019.
Note for Jurors and Fellows

Jurors
This Fellowship experience was interesting, challenging and rewarding. I understand the same can be said of most juror experiences.

Like a juror, I was away from my family and friends, my work and my routine, for several weeks. Upon my return to each, I struggled. Especially with my return to work, where I had to introduce myself to new staff, reintroduce myself to existing colleagues, and reconnect with the work role.

I now have an appreciation of what we ask of you, a deeper respect for the sacrifice you make, and an empathy that will underpin the implementation of recommendations from this Report.

Fellows
This Report represents the end of Act 1. It has been a good tale so far.

I have two lessons to share, which may be viewed as opposite sides of the same coin. First, don’t underestimate the value of planning. I learned that the measure and value of each individual consultation is directly and positively correlated to the reconnaissance efforts I made, and the early engagement of those I planned to visit.

Secondly, be prepared for disruption. Within 24 hours of arriving in Canada, Victoria had its ‘1 in 50 years snow storm’, keeping most office workers and all jurors home for a couple of days.
Meanwhile in Ottawa, the Prime Minister was answering questions about what became known as The CNC Lavalin Affair. This meant the three Federal Members of Parliament I had arranged to meet, members of the JUST Committee had to switch their focus and reschedule our appointments, sometimes more than once.

In the end, everything worked out. My appointments and consultations in Victoria were all met, thanks to the creative driving skills of my friend and host. In Ottawa, I was an MP’s guest at Parliament’s Question Period; I attended the JUST Committee meeting, which was fascinating; and I met with all three MPs individually as I had hoped and planned. We all just needed to be flexible.

With this Report submitted and its recommendations ready for dissemination, the curtain rises on Act 2.

Near Revelstoke, British Columbia

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACAG</td>
<td>Australasian Court Administrators Group</td>
</tr>
<tr>
<td>ARC</td>
<td>Australian Research Council</td>
</tr>
<tr>
<td>EAP</td>
<td>Employee Assistance Program</td>
</tr>
<tr>
<td>HMCTS</td>
<td>Her Majesty's Court and Tribunals Service</td>
</tr>
<tr>
<td>IFCE</td>
<td>International Framework for Court Excellence</td>
</tr>
<tr>
<td>JAG</td>
<td>Jury Action Group</td>
</tr>
<tr>
<td>JMAC</td>
<td>Jury Management Advisory Committee</td>
</tr>
<tr>
<td>JSP</td>
<td>Juror Support Program</td>
</tr>
<tr>
<td>JUST</td>
<td>The Canadian House of Commons’ Standing Committee on Justice and Human Rights</td>
</tr>
<tr>
<td>NCSC</td>
<td>National Center for State Courts</td>
</tr>
<tr>
<td>NDP</td>
<td>New Democratic Party</td>
</tr>
<tr>
<td>NHS</td>
<td>National Health Service</td>
</tr>
<tr>
<td>PTSD</td>
<td>Post Traumatic Stress Disorder</td>
</tr>
<tr>
<td>SCTS</td>
<td>Scottish Courts and Tribunals Service</td>
</tr>
<tr>
<td>UX</td>
<td>User Experience</td>
</tr>
<tr>
<td>VLF</td>
<td>Victoria Law Foundation</td>
</tr>
<tr>
<td>VLRC</td>
<td>Victorian Law Reform Commission</td>
</tr>
</tbody>
</table>