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# Juror understanding of judicial instructions in criminal trials

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*A total of 1,225 jurors from 112 juries completed a short, structured questionnaire regarding their self-reported understanding of judicial instructions, judicial summing-up of trial evidence and other aspects of the trial process. These jurors heard District Court or Supreme Court trials held between mid-July 2007 and February 2008 in six courthouses in Sydney, Wollongong and Newcastle. The survey found that the vast majority of jurors self-report that they understand the phrase 'beyond reasonable doubt' to mean either 'sure' or 'almost sure' that the person is guilty; perceived that the judge's summing-up of the trial evidence was 'about the right length'; understood either 'everything' or 'nearly everything' that the judge said during his/her summing-up of the trial evidence; believed that 'in his/her summing-up of evidence, the judge generally used words [that were] easy to understand'; and 'understood completely' the judge's instructions on the law or 'understood most things the judge said'. The limitations of the research are discussed, particularly, that the survey relied on the jurors' self-reported understanding of judicial instructions and language, rather than objective assessments of such understanding; and that less than half the trials held during the data collection period participated in the survey.*

*Keywords:* *juror survey, juror understanding, judicial instructions, beyond reasonable doubt, judges' summing-up*

## INTRODUCTION

Understanding the meaning of instructions given by judges and judicial summing-up of trial evidence is crucial if a jury is to effectively carry out its responsibility of determining 'whether, upon the evidence presented, the prosecution has proved the guilt of the accused' (Wood 2007a, p. 1). However, there is considerable concern over whether jurors understand either judicial instructions or summing-up of trial evidence given by judges in criminal trials (e.g. Wood 2007a, 2007b). Partly as a result of this concern, the then Attorney General of NSW, the Hon. R.J. Debus, requested (on 16 February 2007) that both the NSW Law Reform Commission (NSW LRC) and the NSW Bureau of Crime Statistics and Research (BOCSAR) 'inquire into and report on directions and warnings given by a judge to a jury in a criminal trial'. More recently (30 April 2008), the current Attorney General of NSW, the Hon. J. Hatzistergos, noted that:

> juries should be given precise, consistent and straight-forward directions to ensure they have a clear understanding of the proceedings and can properly perform this very important civic duty.

Over the last few decades, substantial research has been conducted to determine whether jurors understand instructions given by judges. Most of this research has been conducted overseas, particularly in the USA. A variety of different methodologies have been used. Both actual and mock jurors have been tested. However, the consistent finding is that jurors do not comprehend standard instructions given by judges (e.g. Strawn & Buchanan 1976; Charrow & Charrow 1979; Steele & Thornburg 1988; Kramer & Koenig 1990; Reifman, Gusick & Ellsworth 1992; Semmler & Brewer 2002). Jurors have difficulty in understanding concepts such as 'circumstantial evidence', 'reasonable doubt', 'presumption of innocence' and 'intent' (Strawn & Buchanan 1976; Severance, Greene & Loftus 1984; Young, Cameron & Tinsley 1999; Young, Tinsley & Cameron 2000; Tinsley 2001).

It has been suggested that jurors' comprehension of judicial instructions can be improved by altering the format of those instructions. The improvements suggested include rewriting the instructions to minimise the length and

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complexity of sentences, using the active voice, avoiding jargon and uncommon words, avoiding double negatives and using concrete rather than abstract words (e.g. Elwork, Sales & Alfini 1977; Charrow & Charrow 1979; Steele & Thornburg 1988). Others have suggested providing jurors with a written copy of instructions during the judge's summing-up (e.g. Heuer & Penrod 1989; Kramer & Koenig 1990; Young, Cameron & Tinsley 1999), supplementing the verbal presentation of instructions with a visual representation of key concepts (Semmler & Brewer 2002), or giving the instructions at the beginning of the trial as well as at the end of the evidence (Elwork, Sales & Alfini 1977; Glassman Prager, Deckelbaum & Cutler 1989; Smith 1991; Heuer & Penrod 1994).

The overall aim of the current study was to obtain information on juror understanding of judicial instructions and other aspects of the criminal trial process in order to assist the NSW LRC in its deliberations. Discussions were held with the NSW LRC to identify the key issues and legal concepts causing concern and requiring investigation. The following issues were identified:

- Do jurors differ widely in their understanding of the concept 'beyond reasonable doubt'?
- To what extent do jurors understand the judge's summing-up of evidence?
- To what extent does the summing-up of evidence by the judge and speeches given at the end of the trial by the crown prosecutor and defence lawyer assist the jury to reach a verdict?
- To what extent do jurors understand the judge's instructions on the law?
- What factors influence juror understanding of the judge's summing-up or judicial instructions on the law?
- Would jurors prefer to receive the judge's instructions on the law at some point other than at the end of the trial?

# METHOD

## SURVEY PROCEDURE

Jurors completed a short, structured questionnaire at the end of criminal trials heard in the NSW Supreme Court (Darlinghurst and Queen's Square) and four District Court registries (Sydney Registry, South-West Sydney Registry, Newcastle Registry and Wollongong Registry).[1] The data collection period extended from mid-July 2007 to the end of February 2008.[2] This survey did not target specific offence categories, rather, the aim was to include any jury trial held at these courthouses over this period. This decision was made because previous research (Cashmore & Trimboli 2006) has shown that, if specific offences are targeted, a lengthy data collection period is required in order to obtain a sufficient sample size. The timeframe allocated to the current study did not permit targeting of trials dealing with specific offences.

All District Court and Supreme Court judges received written notification of the study prior to its commencement. Judges were informed that the study had been authorised by the former Attorney General and that it had been endorsed by both the Chief Justice of NSW and the Chief Judge of the District Court.

Bureau staff had no contact with jurors. Instead, Sheriff's Officers and Regional Managers were the intermediaries between Bureau staff and jurors. Towards the end of each trial held during the study period, the presiding judge received a reminder letter regarding the study. After the jury delivered its verdict to the court, the presiding judge informed the jury about the survey and encouraged their participation. Jurors completed the questionnaires in the jury deliberation room in the presence of Sheriff's Officers. To ensure confidentiality of their responses, an envelope was attached to each questionnaire; jurors were asked to place their completed questionnaire into this envelope and to seal it. Sheriff's Officers collected the sealed envelopes from each juror and sent them to BOCSAR in a reply-paid envelope.

## SURVEY INSTRUMENT

The questionnaire asked jurors about:

- their understanding of the phrase 'beyond reasonable doubt';
- aspects of the judge's summing-up of the trial evidence, including the juror's perception of its length, the extent to which the juror understood the summing-up, the complexity of the words used by the judge, the extent to which the summing-up helped the jury to reach a verdict;
- the extent to which the closing addresses of the crown prosecutor and the defence lawyer helped the jury to reach a verdict;
- aspects of the judge's instructions on the law, including the extent to which the juror understood them and at which point in the trial the juror would have preferred to receive them;
- whether jurors received written materials when considering their verdict, and if so, whether or not each item assisted the juror in reaching a verdict. The materials listed were: transcript of the trial evidence, transcript of the judge's summing-up of the evidence in the trial, printed instructions on the law, and chronology of events. Jurors were asked to specify any 'other' written material(s) which they received; and
- demographic characteristics of the juror, including gender, age, whether English was the juror's first language, the highest level of education attained and the juror's current employment status.

Given that the offences before the court determine, to a certain extent, the directions which judges give jurors and also, given that, in this study, specific offence categories were not targeted, it was not feasible to ask jurors to

paraphrase directions or legal concepts – these varied across trials. Therefore, jurors' comprehension of directions or legal concepts was not tested in any objective way. Instead, jurors were simply asked to give ratings on four-point Likert scales. If jurors wished to provide additional information, they were invited to contact the NSW LRC directly.

BOCSAR had only limited objective information regarding each trial – the court in which the trial was heard, the name of the judge hearing the trial, the name(s) of the defendant(s), the offence(s) with which defendants were charged, and the first and last date of the trial. No information was available regarding, for example, the content, length or language complexity of the judge's summing-up of the trial evidence; the content of the judge's instructions on the law or at which stage in the trial the judge gave jurors these instructions; whether jurors received any written materials when considering their verdict or what type of materials; or the content of the closing addresses by the crown prosecutors and the defence lawyers.

### STATISTICAL ANALYSIS

This bulletin presents descriptive statistics of jurors' self-ratings on survey questions. Juries rather than jurors were the primary sampling units in this survey. Therefore, jurors' observations were not independent of each other. The analyses had to take account of this clustering.[3] Adjusted 95 per cent confidence intervals were calculated for the main outcomes of interest. These are presented in Appendix 1.

In addition to descriptive statistics, where appropriate, chi-square analyses were conducted to test whether there were any differences in the responses given by jurors based on, for example, their socio-demographic characteristics or the offences before the court.

## RESULTS

### SAMPLE

Over the study's data collection period (16 July 2007 – 29 February 2008), 232 trials were held in the courthouses of interest. Of these, 218 (94.0%) were District Court trials; the remaining 14 (6.0%) were Supreme Court trials.[4] Table 1 shows, for each courthouse in the sample, both the total number of trials held during the data collection period and the number and proportion of these trials that participated in this survey.

As Table 1 shows, 48.3 per cent of the trials held in the selected courthouses during the data collection period participated in this survey. While all the trials held at Parramatta District Court participated in the survey, none of the trials held at Wollongong District Court was involved.[5]

Table 1 also shows that, of the 112 trials in this sample, 103 (92.0%) were District Court matters, the remaining nine trials (8.0%) were Supreme Court matters. Of the District Court trials, approximately three in five (61.2%) were heard at the Sydney Registry (or the Downing Centre); a further 33.0 per cent were heard at the South-West Sydney Registry (either Campbelltown, Parramatta or Penrith Courts).

A total of 1,225 jurors from 112 juries completed a questionnaire. Therefore, of the 1,344 jurors invited to participate in the survey, 91.2 per cent agreed to do so.[6]

Some jurors did not answer every question in the survey. However, their responses to the remaining questions are included in the analyses and, where applicable in the following tables of results, the number of jurors who did not answer the specific questions is indicated.

**Table 1: Number of trials included in sample as a proportion of all trials held**

| Courthouse | Total number of trials held (16 July 2007 – 29 February 2008) | Trials in sample | |
|---|---|---|---|
| | | Number of trials | % of total trials held |
| District Court | | | |
| Downing Centre | 134 | 63 | 47.0 |
| Campbelltown | 24 | 7 | 29.2 |
| Parramatta | 24 | 24 | 100.0 |
| Penrith | 15 | 3 | 20.0 |
| Newcastle | 8 | 6 | 75.0 |
| Wollongong | 13 | 0 | - |
| Sub-total | 218 | 103 | 47.3 |
| Supreme Court | | | |
| Sydney | 13 | 8 | 61.5 |
| Heard at another courthouse in sample | 1 | 1 | 100.0 |
| Sub-total | 14 | 9 | 64.3 |
| **Total** | **232** | **112** | **48.3** |

### CHARACTERISTICS OF SAMPLE

#### Jurors

Approximately equal proportions of men (50.8%) and women (49.2%) participated in the survey. Also, roughly equal proportions of jurors were aged between 25 and 34 years (20.8%), 35 and 44 years (21.5%), 45 and 54 years (21.4%) or between 55 and 64 years (20.3%). About one in nine (11.8%) jurors were aged

between 18 and 24 years, and only 4.3 per cent were aged 65 years or more.

English was the first language of four in five (82.6%) jurors. About one in three (32.9%) jurors surveyed had attained either a post-graduate degree (12.7%) or a bachelor degree (20.2%) as their highest level of education. For a further 45.3 per cent of jurors, their highest level of education was either secondary education (20.9%) or certificate level (24.4%).

While one in ten (10.0%) jurors surveyed were retired, 83.2 per cent were employed or self-employed.

Appendix 2 summarises the socio-demographic characteristics of the jurors who participated in this survey.

## Trials

A total of 129 defendants were involved in the 112 trials in this sample survey. The majority (99 or 88.4%) of trials involved one defendant; the remaining 13 trials involved either two or three defendants. Table 2 shows the offences with which the defendants in these trials were charged.

As Table 2 shows, the 129 defendants involved in the trials which comprised this sample were charged with a total of 400 offences. In many cases, defendants were charged with multiple counts of offences. The largest category of all offences was sexual assault (45.8%). A quarter (25.3%) of all charges in this sample were 'aggravated sexual assault'; a further 16.3 per cent were sexual offences against children. The second largest offence category was 'illicit drug offences', accounting for 11.0 per cent of all offences. One in ten (10.0%) offences involved robbery and extortion; with 8.8 per cent of all offences being 'aggravated robbery'.

Given the relatively high proportion of adult or child sexual assault offences in this sample, separate analyses were conducted comparing trials for these offences with trials for offences other than adult/child sexual offences.

## 'BEYOND REASONABLE DOUBT'

The first survey question asked jurors about their understanding of the phrase 'beyond reasonable doubt': *people tried in court are presumed to be innocent, unless and until they are proved guilty 'beyond reasonable doubt'. In your view, does the phrase 'beyond reasonable doubt' mean [pretty likely the person is guilty/ very likely the person is guilty/almost sure the person is guilty/sure the person is guilty].* Table 3 shows jurors' self-reported understanding of the phrase 'beyond reasonable doubt'.

As Table 3 shows, more than half (55.4%) of the jurors surveyed believe that the phrase 'beyond reasonable doubt' means '*sure* [that] the person is guilty'. A further 22.9 per cent believe that the phrase means 'almost sure [that] the person is guilty'. Therefore, almost four in five jurors (78.3%) understand the phrase to mean either 'sure' or 'almost sure' that the person is guilty.

Jurors' understanding of the concept 'beyond reasonable doubt' is significantly related to their understanding of the judge's instructions on the law, whether the trial dealt with adult/child sexual offences or other offences and whether English was the juror's first language. Jurors who said that they 'understood completely' the judge's instructions on the law were more likely than jurors who understood 'most things/little/nothing' of the judge's instructions (82.1% vs 74.5%), to understand 'beyond reasonable doubt' to mean 'sure' or 'almost sure' the person is guilty ($\chi^2 = 9.289$, 2df, $p = 0.010$). Equal proportions of jurors who reported that they understood 'most things' (25.2%) as those who reported that they understood little or nothing (25.5%) of the judge's instructions on the law said that they understood the concept of beyond reasonable doubt to mean 'pretty likely' or 'very likely' that the person is guilty.

There was no relationship between jurors' understanding of the concept 'beyond reasonable doubt' and whether they received written materials when considering their verdict, materials such as a transcript of the judge's summing-up of trial evidence ($\chi^2 = 1.085$, 1df, $p = 0.298$) or printed instructions on the law ($\chi^2 = 0.246$, 1df, $p = 0.620$).[7]

There was a significant relationship between the type of offences before the court and jurors' self-reported understanding of the concept beyond reasonable doubt ($\chi^2 = 10.01$, 1df, $p = 0.002$). Jurors who heard trials dealing with adult or child sexual assault offences were 1.4 times more likely than jurors hearing trials dealing with offences other than sexual assault offences (27.0% vs 18.9%) to understand the concept to mean 'pretty likely' or 'very likely' the person is guilty. Conversely, jurors who heard trials dealing with offences other than sexual offences were 1.1 times more likely to understand the concept to mean 'sure' or 'almost sure' the person is guilty (81.1% vs 73.0%).

Jurors whose first language was English were more likely than those whose first language was not English to understand 'beyond reasonable doubt' to mean 'sure' or 'almost sure' the person is guilty ($\chi^2 = 4.803$, 1df, $p = 0.028$). However, jurors' understanding of this concept is not related to other socio-demographic characteristics of the jurors, including gender ($\chi^2 = 0.021$, 1df, $p = 0.885$), age ($\chi^2 = 1.622$, 5df, $p = 0.899$), or employment status ($\chi^2 = 0.156$, 1df, $p = 0.693$).

## JUDGE'S SUMMING-UP OF EVIDENCE

Jurors were asked about various aspects of the judge's summing-up of the trial evidence. The first question dealt with the jurors' perception of the length of the summing-up. Participants were asked *in your opinion, was the judge's summing-up of the evidence in this trial [far too long/too long/about the right length/ too short].* Table 4 shows the jurors' responses.

## Table 2: Offences with which defendants were charged

| *OFFENCES (Australian Standard Offence Classification, ASOC, 1997)* | *N* | *%* |
|---|---|---|
| **Homicide and Related Offences** | | |
| • Murder | 5 | 1.3 |
| • Attempted murder | 1 | 0.3 |
| • Manslaughter | 3 | 0.8 |
| • Driving causing death | 3 | 0.8 |
| **Total** | **12** | **3.0** |
| **Acts Intended to Cause Injury** | | |
| • Aggravated assault | 24 | 6.0 |
| • Non-aggravated assault | 6 | 1.5 |
| **Total** | **30** | **7.5** |
| **Sexual Assault and Related Offences** | | |
| • Aggravated sexual assault | 101 | 25.3 |
| • Non-aggravated sexual assault (e.g. indecent assault without aggravating circumstances) | 16 | 4.0 |
| • Non-assaultive sexual offensive (e.g. voyeurism, gross indecency) | 1 | 0.3 |
| • Sexual offences against children (not part of ASOC) | 65 | 16.3 |
| **Total** | **183** | **45.8** |
| **Dangerous or Negligent Acts Endangering Persons** | | |
| • Dangerous or negligent operation of a vehicle (e.g. driving under the influence of alcohol or drugs, dangerous or negligent driving of a vehicle) | **4** | **1.0** |
| **Abduction and Related Offences** | | |
| • Abduction and kidnapping (e.g. abduction with sexual intent, abduction with intent to marry, kidnapping for ransom/gain) | **14** | **3.5** |
| **Robbery, Extortion and Related Offences** | | |
| • Aggravated robbery (e.g. stealing with violence, assault with intent to steal/rob) | 35 | 8.8 |
| • Non-aggravated robbery (e.g. unarmed robbery with no aggravating circumstances) | 3 | 0.8 |
| • Blackmail and extortion (e.g. demand money/property with menaces via indirect means such as letter) | 2 | 0.5 |
| **Total** | **40** | **10.0** |
| **Unlawful Entry with Intent/Burglary, Break & Enter** | **15** | **3.8** |
| **Theft and Related Offences** | | |
| • Motor vehicle theft and related offences (e.g. illegal use of motor vehicle, theft of motor vehicle parts or contents) | 3 | 0.8 |
| • Theft (except motor vehicles) (e.g. theft from a person excluding by force, theft of intellectual property, theft from retail premises) | 1 | 0.3 |
| • Receiving or handling proceeds of crime | 8 | 2.0 |
| **Total** | **12** | **3.0** |
| **Deception and Related Offences** | | |
| • Fraud, forgery or false financial instruments (e.g. cheque or credit card fraud, make/use/possess equipment to make false/illegal financial instrument, fraudulent trade practices, prescription drug fraud, fare evasion) | 17 | 4.3 |
| • Bribery (e.g. bribery of elected government representatives) | 1 | 0.3 |
| • Other deception offences (e.g. misrepresentation of professional status) | 1 | 0.3 |
| **Total** | **19** | **4.8** |
| **Illicit Drug Offences** | | |
| • Import or export illicit drugs | 5 | 1.3 |
| • Deal or traffic in illicit drugs (e.g. commercial quantity, non-commercial quantity, unknown quantity) | 30 | 7.5 |
| • Manufacture or cultivate illicit drugs | 1 | 0.3 |
| • Possess and/or use illicit drugs | 8 | 2.0 |
| **Total** | **44** | **11.0** |
| **Weapons and Explosives Offences** | | |
| • Prohibited weapons/explosives offences (e.g. import or export prohibited weapons/explosives, sell/possess and/or use prohibited weapons/explosives) | 4 | 1.0 |
| • Regulated weapons/explosives offences (e.g. unlawfully obtain or possess regulated weapons/explosives, misuse of regulated weapons/explosives, deal or traffic regulated weapons/explosives offences) | 7 | 1.8 |
| **Total** | **11** | **2.8** |
| **Property Damage and Environmental Pollution** (e.g. property damage by fire or explosion) | **1** | **0.3** |
| **Public Order Offences** | | |
| • Disorderly conduct (e.g. trespass, offensive behaviour, criminal intent, conspiracy) | **2** | **0.5** |
| **Offences Against Justice Procedures, Government Security and Government Operations** | | |
| • Other offences against justice procedures (e.g. subvert the course of justice, resist or hinder police officer or justice official, prison regulation offences) | **11** | **2.8** |
| **Other Offences** - Includes 'interfere with crew member while in air', 'terrorism' | **2** | **0.5** |
| **TOTAL** | **400** | **100.0** |

*Note: Table 2 is based on information provided either by staff of NSW Sheriff (for Supreme Court matters); or contained in the Case Tracking System, the records management system maintained by the NSW Attorney General's Department (for District Court matters).*

**Table 3: Jurors' understanding of 'beyond reasonable doubt'**

| | *N* | *%* |
|---|---|---|
| Pretty likely person is guilty | 119 | 10.1 |
| Very likely person is guilty | 137 | 11.6 |
| Almost sure person is guilty | 270 | 22.9 |
| Sure person is guilty | 652 | 55.4 |
| **TOTAL** | **1,178** [a] | **100.0** |

a *47 jurors did not answer this question.*

**Table 4: Jurors' responses to *in your opinion, was the judge's summing-up of the evidence in this trial…***

| | *N* | *%* |
|---|---|---|
| Far too long | 37 | 3.0 |
| Too long | 170 | 13.9 |
| About the right length | 997 | 81.7 |
| Too short | 16 | 1.3 |
| **TOTAL** | **1,220** [a] | **100.0** |

a *5 jurors did not answer this question.*

**Table 5: Extent of jurors' self-reported understanding of the judge's summing-up of evidence**

| | *N* | *%* |
|---|---|---|
| Understood everything judge said | 702 | 57.5 |
| Understood nearly everything judge said | 340 | 27.9 |
| Understood most things judge said | 176 | 14.4 |
| Understood very little of what judge said | 3 | 0.3 |
| **TOTAL** | **1,221** [a] | **100.0** |

a *4 jurors did not answer this question.*

As Table 4 shows, about four in five (81.7%) jurors perceived that the judge's summing-up of the trial evidence was 'about the right length'. Only 4.3 per cent of the jurors surveyed perceived the summing-up as either 'far too long' (3.0%) or 'too short' (1.3%).

There was a significant relationship between the offences before the court and jurors' perception of the length of the judge's summing-up of the trial evidence ($\chi^2 = 7.055$, 1df, p = 0.008). Jurors who heard trials dealing with sexual assault or child sexual assault matters were 1.4 times more likely than jurors hearing trials dealing with other offences (21.3% vs 15.0%) to perceive the judge's summing-up to be 'far too long', 'too long' or 'too short'. Conversely, jurors who heard trials dealing with offences other than child or adult sexual assault were 1.1 times more likely than jurors hearing child or adult sexual assault matters (85.0% vs 78.7%) to perceive the judge's summing-up to be 'about the right length'.

Table 5 shows jurors' responses to *in the judge's summing-up of the evidence, did you understand [everything the judge said/nearly everything the judge said/most things the judge said/very little of what the judge said].*

As Table 5 shows, a total of 85.3 per cent of jurors stated that they understood either 'everything' (57.5%) or 'nearly everything' (27.9%) that the judge said during his/her summing-up of the trial evidence. The extent to which jurors say they understand the judge's summing-up of the trial evidence was significantly related to a number of characteristics of this summing-up, including the complexity of the language used by the judge. Jurors who found the words in the judge's summing-up to be 'easy to understand' were almost twice as likely as jurors who found the words 'hard to understand' (86.8% vs 48.5%) to say that they understood 'everything' or 'nearly everything' in the judge's summing-up ($\chi^2 = 38.586$, 1df, p = 0.000).

Jurors' understanding of the judge's summing-up of the trial evidence was also significantly related to whether jurors received a written transcript of that summing-up when considering their verdict. Jurors who did not receive a transcript were more than twice as likely as those who received a transcript (14.5% vs 5.8%) to say that they understood 'very little' or only 'most things' that the judge said in the summing-up ($\chi^2 = 4.962$, 1df, p = 0.026). However, there was no relationship between the jurors' self-reported understanding of the judge's summing-up of the trial evidence and whether the offences before the court dealt with adult/child sexual offences or other offences ($\chi^2 = 2.203$, 1df, p = 0.138).

The highest level of education attained by jurors had some effect on their understanding of the judge's summing-up of the evidence. While there was no difference between jurors who have a university education and those who have a diploma/certificate, those jurors who attained Year 12 or less were 1.5 times more likely to say that they understood 'very little' or only 'most things' (17.5% vs 12.0%) that the judge said in the summing-up ($\chi^2 = 7.106$, 2df, p = 0.029). However, there was no relationship between the extent to which jurors

understood the judge's summing-up and other socio-demographic characteristics of the jurors, including gender ($\chi^2 = 0.135$, 1df, p = 0.714), age ($\chi^2 = 9.425$, 5df, p = 0.100), or whether English was the juror's first language ($\chi^2 = 0.108$, 1df, p = 0.743).

Jurors were asked *how often in his/her summing-up, did the judge tell you things that you felt you already knew?* Table 6 shows the results.

As Table 6 shows, 47.3 per cent of jurors perceived that, when summing-up the trial evidence, judges 'sometimes' told them things that they already knew. While only one in nine (11.3%) jurors perceived that this happened 'a lot', almost two in five (37.2%) believed that the judge 'often' told them things that they felt they already knew.

Jurors were asked *in his/her summing up, did the judge generally use words you found easy to understand or words you found hard to understand.* Table 7 shows jurors' perception of the complexity of the words used by judges when summing-up evidence.

As Table 7 shows, almost all (97.1%) of the jurors surveyed agreed with the statement that *in his/her summing-up of evidence, the judge generally used words [they] found easy to understand.* Thirty-four (2.9%) jurors from 26 different trials stated that the judge used words that were hard to understand. Of these jurors, two in five did not specify which words were hard to understand. Others stated that 'technical words' or 'legal words' were hard to understand. Of those jurors who identified the specific words with which they had difficulty, the following examples were given: 'malicious', 'intent', 'beyond reasonable doubt', 'wrongful', 'indictable offence', 'circumstantial evidence', 'word against word', '"supply" of prohibited drug' and sentences with double negatives.

Jurors were asked to indicate *to what extent did the judge's summing-up of the evidence in this trial help the jury to reach a verdict [it did not help at all/it helped a little bit/it helped quite a bit/it helped a lot].* Similar questions were asked regarding the 'speech at the end of the trial' given by both the crown prosecutor and the defence lawyer. Table 8 shows the results.

As Table 8 shows, approximately two in five jurors stated that the summing-up/closing speech delivered by each of the three key players in the courtroom helped the jury 'quite a bit' in reaching a verdict. However, the judge's summing-up appears to be the most critical in helping the jury reach a verdict, with 67.2 per cent of jurors stating that it helped either 'quite a bit' or 'a lot'. Interestingly, approximately one in nine (10.8%) jurors stated that the defence lawyer's closing speech 'did not help at all'. This is twice as high as the corresponding percentage for judges.

**Table 6: *How often in the summing-up of evidence, did the judge tell you things you felt you already knew?***

| | *N* | *%* |
|---|---|---|
| Never | 51 | 4.2 |
| Sometimes | 576 | 47.3 |
| Often | 453 | 37.2 |
| A lot | 137 | 11.3 |
| **TOTAL** | **1,217** [a] | **100.0** |

a *8 jurors did not answer this question.*

**Table 7: *In his/her summing-up, did the judge generally use words you found…***

| | *N* | *%* |
|---|---|---|
| Easy to understand | 1160 | 97.1 |
| Hard to understand | 34 | 2.9 |
| **TOTAL** | **1,194** [a] | **100.0** |

a *31 jurors did not answer this question.*

**Table 8: Extent to which summing-up of evidence by the judge, and speeches given at the end of the trial by the crown prosecutor and the defence lawyer helped jury to reach a verdict**

| | *Judge* | | *Crown Prosecutor* | | *Defence Lawyer* | |
|---|---|---|---|---|---|---|
| | *N* | *%* | *N* | *%* | *N* | *%* |
| Did not help at all | 67 | 5.5 | 99 | 8.3 | 130 | 10.8 |
| Helped a little bit | 331 | 27.2 | 434 | 36.2 | 463 | 38.5 |
| Helped quite a bit | 449 | 37.0 | 456 | 38.0 | 447 | 37.2 |
| Helped a lot | 368 | 30.3 | 211 | 17.6 | 162 | 13.5 |
| **TOTAL** | **1,215** [a] | **100.0** | **1,200** [b] | **100.0** | **1,202** [c] | **100.0** |

a *10 jurors did not answer this question.*
b *25 jurors did not answer this question.*
c *23 jurors did not answer this question.*

The extent to which the judge's summing-up of the trial evidence helped jurors to reach a verdict is significantly related to a number of characteristics of the summing-up, the offences before the court and the jurors. Relevant characteristics of the judge's summing-up include the jurors' perception of its length. Jurors who perceived the judge's summing-up to be 'about the right length' were 1.6 times as likely as those who perceived the summing-up to be 'far too long', 'too long' or 'too short' (71.9% vs 46.4%) to say that the judge's summing-up helped the jury 'quite a bit' or 'a lot' in reaching a verdict ($\chi^2$ = 53.781, 1df, p = 0.000).

Another relevant issue is the extent to which jurors believed that the judge told them things they felt they already knew in the summing-up. Jurors who said that the judge 'often' told them things that they already knew were 1.6 times as likely as those who said this never happened, or only happened 'sometimes', to say that the judge's summing-up did not help the jury 'at all' in reaching a verdict or only helped 'a little bit' ($\chi^2$ = 31.857, 1df, p = 0.000).

There was a significant relationship between whether jurors received a written transcript of the judge's summing-up of the trial evidence and the extent to which it helped the jury to reach a verdict. Jurors who did not receive a written transcript of the judge's summing-up were more than twice as likely as those who received a transcript (34.2% vs 15.1%) to say that the judge's summing-up did not help the jury 'at all' in reaching a verdict or only helped 'a little bit' ($\chi^2$ = 12.785, 1df, p = 0.000). Conversely, jurors who received a transcript of the judge's summing-up of the trial evidence were 1.3 times as likely as those who did not receive a transcript (84.9% vs 65.8%) to say that the judge's summing-up helped the jury 'quite a bit' or 'a lot' in reaching a verdict.

There was, however, no relationship between the extent to which the summing-up helped jurors reach a verdict and either the complexity of the language used by the judge in that summing-up ($\chi^2$ = 0.349, 1df, p = 0.555) or the extent to which jurors said they understood the summing-up ($\chi^2$ = 2.567, 1df, p = 0.109).

Two characteristics of the jurors were significantly related to the extent to which the judge's summing-up of the trial evidence helped them to reach a verdict – age and gender. Jurors aged between 18 and 34 years were 1.3 times more likely than jurors aged 35 – 54 years (39.9% vs 30.9%) and 1.5 times more likely than jurors aged 55 years or more (39.9% vs 25.9%) to say that the judge's summing-up did not help the jury 'at all' in reaching a verdict or only helped 'a little bit' ($\chi^2$ = 16.033, 2df, p = 0.000). Juror gender also had an effect. Men were 1.2 times more likely than women (35.7% vs 29.6%) to say that the judge's summing-up did not help the jury 'at all' in reaching a verdict or only helped 'a little bit' ($\chi^2$ = 5.137, 1df, p = 0.023). Conversely, women were more likely than men (70.4% vs 64.3%) to say that the judge's summing-up helped the jury 'quite a bit' or 'a lot' in reaching a verdict.

There was no relationship between the extent to which the judge's summing-up helped the jury reach a verdict and other socio-demographic characteristics of the jurors, such as whether English was the juror's first language ($\chi^2$ = 1.827, 1df, p = 0.176), or the juror's highest level of education ($\chi^2$ = 1.256, 2df, p = 0.534).

There were significant relationships between the offences before the court and jurors' perception of whether the closing addresses of two of the three key players in the courtroom helped the jury to reach a verdict. This applied to the judge's summing-up of the trial evidence ($\chi^2$ = 17.467, 1df, p = 0.000) and the crown prosecutor's closing address ($\chi^2$ = 6.149, 1df, p = 0.013).

Jurors who heard trials dealing with adult/child sexual offences were 1.4 times more likely than jurors who heard trials dealing with offences other than sexual offences (40.8% vs 28.5%) to say that the judge's summing-up of the evidence did not help the jury 'at all' in reaching a verdict or only helped 'a little bit'. Jurors who heard other offences were 1.2 times more likely than jurors who heard adult/child sexual assault matters (71.5% vs 59.2%) to say that the judge's summing-up of the trial evidence helped the jury 'quite a bit' or 'a lot' in reaching a verdict.

Similarly, jurors who heard trials dealing with adult/child sexual offences were 1.2 times more likely than jurors who heard trials dealing with non-sexual offences (49.5% vs 41.9%) to say that the crown prosecutor's closing address did not help the jury 'at all' in reaching a verdict or only helped 'a little bit'. Conversely, jurors who heard trials dealing with offences other than sexual offences were 1.2 times more likely than jurors who heard adult/child sexual assault matters (58.5% vs 50.5%) to say that the crown prosecutor's closing address helped the jury 'quite a bit' or 'a lot' in reaching a verdict.

There was no relationship between the offences before the court and jurors' perception of whether the defence lawyer's closing address helped the jury to reach a verdict ($\chi^2$ = 0.045, 1df, p = 0.832).

## JUDGE'S INSTRUCTIONS ON THE LAW

One of the functions of the judge is to inform the jury about the meaning of key terms, the principles of the applicable law, and the facts which must be proved to justify their verdict. Jurors were asked two questions regarding the judge's instructions on the law:

1. *To what extent did you understand the judge's instructions on the law [understood completely/understood most things the judge said/understood a little of what the judge said/didn't understand anything the judge said]?*

2. *Would you have preferred to receive the judge's instructions on the law [at the beginning of the trial/at the end of the trial/just after the relevant evidence was given in the case]?*

Table 9 shows the results to the first question.

As Table 9 shows, the majority of jurors (94.9%) stated that they either 'understood completely' (47.2%) the judge's instructions on the law or 'understood most things the judge said' (47.7%). There were no relationships between the extent to which jurors self-reported that they understood the judge's instructions on the law and whether jurors received printed instructions on the law ($\chi^2$ = 1.630, 2df, p = 0.443) or whether jurors heard trials dealing with adult/child sexual assault matters or other offences ($\chi^2$ = 0.503, 2df, p = 0.778).

While there was no relationship between the extent to which jurors understood the judge's instructions on the law and their gender ($\chi^2$ = 0.711, 2df, p = 0.701) or their highest level of education ($\chi^2$ = 7.717, 4df, p = 0.103), there were significant relationships with juror age and whether English was their first language. Jurors aged between 18 and 34 years were at least twice as likely as jurors aged 35 years or more to say that they understood only 'a little' or nothing of the judge's instructions on the law. Conversely, jurors aged 35 years or more were 1.2 times as likely as younger jurors to say that they understood 'completely' the judge's instructions ($\chi^2$ = 14.708, 4df, p = 0.005).

Whether English was the juror's first language also has an effect on the extent to which they understood the judge's instructions on the law. Jurors whose first language was not English were almost twice as likely as those whose first language was English to say that they understood only 'a little' or did not understand anything that the judge said in the instructions on the law ($\chi^2$ = 6.385, 2df, p = 0.033).

Jurors were asked at which stage in the trial they would prefer to receive the judge's instructions on the law. Table 10 shows the results.

As Table 10 shows, 46.3 per cent of the jurors surveyed stated that they would have preferred to receive the judge's instructions on the law at the end of the trial, which is the current practice. One in four (26.0%) jurors would have preferred to receive the instructions at the beginning of the trial and another one in four (25.7%) jurors would have preferred to receive the instructions just after the relevant evidence was given in the trial. A small proportion (2.0%) of jurors stated that they would have preferred to receive the judge's instructions more than once during the trial. Some jurors said they would have preferred to hear the instructions at both the beginning and the end of the trial; others said they would have preferred to receive the instructions just after the relevant evidence in the case and also at the end of the trial; still other jurors said they would have preferred to receive the instructions on three occasions – at the beginning of the trial, just after the relevant evidence and also at the end of the trial.

Jurors' preferred timing for receiving the judge's instructions on the law was not significantly related to juror's gender ($\chi^2$ = 1.050, 2df, p = 0.591), age ($\chi^2$ = 4.008, 4df, p = 0.405), highest education level ($\chi^2$ = 6.981, 4df, p = 0.137), or whether the juror was employed ($\chi^2$ = 2.777, 2df, p = 0.249). However, whether English was the juror's first language was significantly related to juror's preferred timing for receiving the judge's instructions ($\chi^2$ = 15.868, 2df, p = 0.000). Jurors whose first language was not English were 1.5 times more likely than jurors whose first language was English to prefer to receive the instructions at the *beginning* of the trial (35.9% vs 24.5%).

**Table 9: Jurors' responses regarding *to what extent did you understand the judge's instructions on the law***

| | *N* | *%* |
|---|---|---|
| Understood completely | 575 | 47.2 |
| Understood most things the judge said | 581 | 47.7 |
| Understood a little of what the judge said | 60 | 4.9 |
| Didn't understand anything the judge said | 2 | 0.2 |
| **TOTAL** | **1,218** [a] | **100.0** |

a *7 jurors did not answer this question.*

**Table 10: Jurors' responses to *would you have preferred to receive the judge's instructions on the law…***

| | *N* | *%* |
|---|---|---|
| At the beginning of the trial | 316 | 26.0 |
| At the end of the trial | 563 | 46.3 |
| Just after the relevant evidence given in case | 312 | 25.7 |
| [combinations of the above] | 24 | 2.0 |
| **TOTAL** | **1,215** [a] | **100.0** |

a *10 jurors did not answer this question.*

## SUMMARY OF FINDINGS AND CONCLUDING REMARKS

This study was motivated by concern that jurors may not understand judicial instructions or the summing-up of trial evidence given by judges at the end of criminal trials. Considered against this backdrop, the results of the present study are, in most respects, reassuring. The vast majority of jurors (94.9%) stated that they either 'understood completely' (47.2%) the judge's instructions on the law or 'understood most things the judge said' (47.7%). The vast majority (81.7%) of jurors perceived that the judge's summing-up of the trial evidence to be 'about the right length'. The vast majority (85.3%) of jurors stated that they understood either 'everything' or 'nearly everything' that the judge said during his/her summing-up of the trial evidence. Nearly all jurors (97.1%) stated that 'in his/her summing-up of evidence, the judge generally used words [they] found easy to understand'.

Notwithstanding these results, there is clearly room for improvement. Jurors report that they understand the judge's summing-up of the trial evidence if it's of the 'right length' rather than if it's 'too long' or 'too short' and if the judge uses language that is easy, rather than hard, to understand. Receiving a written transcript of the summing-up also helps the jury to reach a verdict. A much higher percentage of jurors said they found the judge's summing-up helpful than said they found the closing addresses given by the crown prosecutor and the defence lawyer helpful. It could be that the judge's summing-up is perceived to be more balanced and comprehensive, integrating the threads of all the evidence presented, whereas the closing addresses by both the crown prosecutor and the defence lawyer may focus on specific pieces of evidence to the exclusion of others.

Indirect evidence of the need for improvements in the way judicial instructions on the law are given to juries can be found in the disagreement amongst jurors on their preferred timing for receiving those instructions. Less than half (46.3%) of the jurors surveyed stated that they preferred to receive the judge's instructions on the law at the end of the trial. One in four (26.0%) jurors said they would have preferred to receive the instructions at the beginning of the trial and another one in four (25.7%) said they would have preferred to receive the instructions just after the relevant evidence is given in the trial.

The problems in juror understanding, however, do not all stem from the way judges give instructions. It is assumed at common law that the phrase 'beyond reasonable doubt' requires no explanation and is readily understood by most ordinary people. Appeal courts have, for this reason, repeatedly warned trial court judges (see Green v The Queen (1971) 126 CLR 28, 32-33) not to attempt to clarify the phrase when explaining its importance to juries. The present study shows, however, that there is considerable divergence among jurors about the meaning of 'beyond reasonable doubt'. Around half (55.4%) of the jurors surveyed, believed that the phrase 'beyond reasonable doubt' means 'sure [that] the person is guilty'; 22.9 per cent believed that the phrase means 'almost sure' the person is guilty; 11.6 per cent believed that it meant 'very likely' the person is guilty; and 10.1 per cent believed it meant 'pretty likely' the person is guilty. This is quite a wide spread of opinion and it suggests that some clarification of the threshold for convicting a person would be of assistance to juries.

While statutory clarification of the phrase 'beyond reasonable doubt' may be controversial, one relatively simple change that could be made to improve current practice would be to provide written materials to the jury to assist in their deliberations. Providing aids to jurors, such as written materials, has been advocated by several researchers (e.g. Glassman Prager, Deckelbaum & Cutler 1989; Young, Cameron & Tinsley 1999) and has also been suggested by Justice James Wood, Chairman, NSW Law Reform Commission. Although the results of the current study provide only partial support that written materials assist jurors in their deliberations, the advantages to this practice are intuitively obvious. Providing written materials eliminates the need for jurors to rely on their memory of what was said, eliminates the possibility of different jurors applying different interpretations of the judge's meaning, and eliminates jurors' reliance on their notes which may not be comprehensive.

Like most jury studies, the present study has both strengths and limitations. One of the strengths of the present study is that it employed actual, rather than mock, jurors; and it was conducted in actual, rather than simulated, trials. Furthermore, the survey was administered immediately after the jury delivered its verdict when the issues were still fresh in the juror's mind rather than relying on the juror's memory of events. This said, two limitations need to be kept in mind when interpreting the results.

Firstly, the responses given by this sample of jurors may not be representative of all jurors hearing District Court and Supreme Court trials. While attempts were made to administer the survey in all criminal trials held in the selected courthouses during the data collection period, this did not occur. The survey was administered in just under half the trials that were held, so jurors in a substantial proportion of trials were not surveyed. Their views may differ from those jurors who participated in the survey. Based on anecdotal information provided by court staff, some of the reasons why the survey was not administered related to timing. In some trials, jurors reached a verdict very quickly and court staff were not ready to administer the survey. In some cases,

the trial finished late in the afternoon and court staff did not invite jurors to complete the questionnaire. However, in other cases, the presiding judge did not permit the survey to be administered at the end of his/her trial, perhaps because of the issues under consideration.

Secondly, the survey relied on the juror's *self-reported* understanding of the judge's summing-up of the trial evidence, the language used by the judge and instructions given. Jurors may not have been entirely candid in their responses about their levels of comprehension or they may believe that they understood when perhaps they did not.

Some researchers have found that, when asked substantive questions about the issues presented in trials, some jurors misunderstand instructions in fundamental ways. For example, Saxton (1998), adopting a true-false methodology in his study, found that only 59.5 per cent of actual jurors in criminal trials correctly recognised and were 'very sure' about a false statement describing the burden of proof. Some were only 'pretty sure' (9%) that the statement was false or did not know whether it was true or false (1%). However, the remaining three in ten jurors completely misunderstood the statement, being 'very sure' (19.5%) or 'pretty sure' (11%) that the statement was true, when in fact, the statement was false.

While findings like these underline the need for caution in the interpretation of the current findings, they do not mean that surveys of juror comprehension are inherently flawed. It is one thing to show that jurors are sometimes mistaken in their understanding of a particular point of law or statement about the evidence made by a judge or lawyer. It is quite another to show that a substantial proportion of jurors misunderstand most of the evidence and the instructions given to them during a trial. Self-reported juror understanding in the present study was linked, in predictable ways, with length of the judge's summing-up of evidence, the receipt of aids, such as a transcript of the summing-up, and the juror's level of education. These links provide a basis for confidence that surveys such as the current one give useful insights into juror comprehension.

Nonetheless, future research could test actual jurors' comprehension of instructions or judicial directions in criminal trials by, for example, asking jurors to paraphrase them. Since directions vary depending on the offences before the court, such research could target trials dealing with specific offences (e.g. sexual assault or child sexual assault) and test the extent to which jurors comprehend the directions which are generally given in such trials. If comprehension is found to be low, strategies to increase comprehension would be crucial.

## ACKNOWLEDGEMENTS

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## NOTES

1. A copy of the survey can be obtained from BOCSAR.

2. The beginning of the data collection period was determined by the dates when permission was granted by the Chief Judge and the Chief Justice for BOCSAR to undertake the survey. Data collection was ended in February 2008 so that the NSW LRC would have some objective information to guide the preparation of their discussion paper regarding jurors' understanding of judicial instructions. Courts were in recess from the week before Christmas 2007 to the third or fourth week of January 2008; the dates varied from court to court. For Supreme Court matters heard at the Darlinghurst courthouse, the data collection period began on 2 October 2007 rather than mid-July 2007.

3. A potential problem with clustered data such as these, is that the 'effective sample size' is smaller in magnitude than the actual sample size. This is due to individuals within each cluster (i.e. jury) giving similar responses to the outcomes of interest compared to those from other clusters. The degree to which the effective sample size is smaller than the actual sample size is referred to as the 'design effect' (DEFF). This has important implications for statistical significance testing and confidence interval estimation. Special statistical procedures therefore need to be applied. The confidence intervals in Appendix 1 estimate the range of the point estimates (i.e. the percentage with the outcome of interest) which would arise on 95 per cent of occasions were the survey actually repeated a very large number of times.

4. Another 12 trials were held during the data collection period in the courthouses of interest, but have been excluded from this total. In eight of these trials, the defendants entered a plea either at the commencement of the trial or during the early stages of the trial; it is therefore assumed that juries were not involved and, as a result, could not have participated in this study. The other four trials were held at the Darlinghurst courthouse prior to October 2007; this courthouse was not included in the study until after this date.

5. Based on anecdotal information from court staff, for some trials the verdict was delivered in the late afternoon after long deliberations. In these situations, jurors were not invited to complete the survey.

6. While no objective information is available, it is assumed that, in this sample, each jury consisted of 12 jurors.

7. As indicated earlier, in the questionnaire, jurors were given a list of items of written materials (e.g. transcript of the judge's summing-up of the trial evidence), and for each item, they were asked to indicate whether or not they had received it when considering their verdict. No objective information was available about whether written materials were provided to the juries in this sample. In many cases, there was considerable within-jury variation in the responses given to this question. For example, for 20 (17.9%) of the 112 juries in this sample, half of the jurors stated that they received a transcript of the judge's summing-up of the trial evidence and the remaining half stated that they did not receive a transcript. For a further 18 (16.1%) juries, either most of the jurors did not answer this question or, based on the responses given by the remaining jurors, it is not clear whether or not a transcript was provided to the jury. Based on the responses given, it was assumed that for 66 (58.9%) of the 112 juries, the jury did not receive a transcript and for eight (7.1%) trials, the jury received a transcript. Jurors were asked *were printed instructions on the law given to the jury when considering the verdict?* This question also produced substantial within-jury variation in the responses given. For 15 (13.4%) of the 112 juries, half of the jurors stated that they received printed instructions on the law and the remaining half stated that they did not receive them. For a further 31 (27.7%) juries, either most of the jurors did not answer this question or, based on the responses given by the remaining jurors, it is not clear whether the jury was provided with printed instructions on the law. Based on the responses given, it was assumed that 44 (39.9%) of the 112 juries did not receive printed instructions and 22 (19.6%) juries received the printed instructions.

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# APPENDIX 1: 95 PER CENT CONFIDENCE INTERVALS FOR KEY OUTCOME MEASURES

| | | | 95% Confidence Intervals | |
|---|---|---|---|---|
| *Variable* | *Frequency* | *Per cent* | *Lower* | *Upper* |
| **Jurors' perception of the length of the judges' summing-up of the trial evidence** | | | | |
| Far too long | 37 | 3.0 | 1.6 | 4.5 |
| Too long | 170 | 13.9 | 10.7 | 17.2 |
| About the right length | 997 | 81.7 | 77.6 | 85.8 |
| Too short | 16 | 1.3 | 0.5 | 2.1 |
| **Extent of jurors' understanding of the judge's summing-up of evidence** | | | | |
| Understood everything judge said | 702 | 57.5 | 53.4 | 61.6 |
| Understood nearly everything judge said | 340 | 27.9 | 24.6 | 31.1 |
| Understood most things judge said | 176 | 14.4 | 12.1 | 16.7 |
| Understood very little of what judge said | 3 | 0.3 | 0.0 | 0.5 |
| **How often in the summing-up of evidence, did the judge tell you things you felt you already knew?** | | | | |
| Never | 51 | 4.2 | 3.0 | 5.4 |
| Sometimes | 576 | 47.3 | 44.1 | 50.7 |
| Often | 453 | 37.2 | 34.2 | 40.0 |
| A lot | 137 | 11.3 | 9.3 | 13.2 |
| **Words easy/hard to understand in the judge's summing-up of evidence** | | | | |
| Easy to understand | 1,160 | 97.1 | 96.1 | 98.3 |
| Hard to understand | 34 | 2.9 | 1.8 | 3.9 |
| **Extent to which summing-up of evidence by the judge helped jury to reach a verdict** | | | | |
| Did not help at all | 67 | 5.5 | 3.9 | 7.1 |
| Helped a little bit | 331 | 27.2 | 23.7 | 30.8 |
| Helped quite a bit | 449 | 37.0 | 33.9 | 40.1 |
| Helped a lot | 368 | 30.3 | 26.8 | 33.8 |
| **Extent to which speech at the end of the trial by the crown prosecutor helped jury to reach a verdict** | | | | |
| Did not help at all | 99 | 8.3 | 6.1 | 10.4 |
| Helped a little bit | 434 | 36.2 | 32.7 | 39.6 |
| Helped quite a bit | 456 | 38.0 | 34.8 | 41.2 |
| Helped a lot | 211 | 17.6 | 14.9 | 20.2 |
| **Extent to which speech at the end of the trial by the defence lawyer helped jury to reach a verdict** | | | | |
| Did not help at all | 130 | 10.8 | 8.6 | 13.0 |
| Helped a little bit | 463 | 38.5 | 35.3 | 41.7 |
| Helped quite a bit | 447 | 37.2 | 33.9 | 40.5 |
| Helped a lot | 162 | 13.5 | 11.3 | 15.7 |
| **Extent of jurors' understanding of the judge's instructions on the law** | | | | |
| Understood completely | 575 | 47.2 | 43.6 | 50.8 |
| Understood most things the judge said | 581 | 47.7 | 44.4 | 51.0 |
| Understood a little of what the judge said | 60 | 4.9 | 3.6 | 6.3 |
| Didn't understand anything the judge said | 2 | 0.2 | 0.0 | 0.4 |
| **Jurors' preferred timing of the judge's instructions on the law** | | | | |
| At the beginning of the trial | 316 | 26.0 | 23.0 | 29.0 |
| At the end of the trial | 563 | 46.3 | 42.6 | 50.1 |
| Just after the relevant evidence given in case | 312 | 25.7 | 22.8 | 28.5 |
| [combinations of the above] | 24 | 2.0 | 1.1 | 2.9 |

# APPENDIX 2: SOCIO-DEMOGRAPHIC CHARACTERISTICS OF JURORS

| *Socio-demographic characteristic* | | *N* | *%* |
|---|---|---|---|
| **Gender** | Male | 614 | 50.8 |
| | Female | 594 | 49.2 |
| | *Total* | *1,208* | *100.0* |
| **Age (years)** | 18 – 24 | 142 | 11.8 |
| | 25 – 34 | 251 | 20.8 |
| | 35 – 44 | 260 | 21.5 |
| | 45 – 54 | 258 | 21.4 |
| | 55 – 64 | 245 | 20.3 |
| | 65+ | 52 | 4.3 |
| | *Total* | *1,208* | *100.0* |
| **English first language taught to speak** | Yes | 998 | 82.6 |
| | No | 211 | 17.4 |
| | *Total* | *1,209* | *100.0* |
| **Highest level of education attained** | Post-graduate degree | 152 | 12.7 |
| | Graduate diploma/certificate | 101 | 8.4 |
| | Bachelor degree | 242 | 20.2 |
| | Advanced diploma/certificate | 154 | 12.9 |
| | Certificate level | 292 | 24.4 |
| | Secondary education | 250 | 20.9 |
| | Pre-primary/primary education | 3 | 0.3 |
| | Other (e.g. apprentice) | 2 | 0.2 |
| | *Total* | *1,196* | *100.0* |
| **Current employment status** | Employed or self-employed | 1,002 | 83.2 |
| | Unemployed and seeking work | 19 | 1.6 |
| | Unemployed and not seeking work | 25 | 2.1 |
| | Retired | 120 | 10.0 |
| | Student/other | 38 | 3.2 |
| | *Total* | *1,204* | *100.0* |

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| | |
|---|---|
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