
REPORT ON INTERVIEWS WITH JURORS IN THE JUBILEE LINE CASE

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Commissioned by HMCPSI to inform their review
of the Investigation and Criminal Proceedings
Relating to the Jubilee Line Case
and to inform the Department for Constitutional Affairs
in their consideration of what additional support
can be given to jurors in long cases

SCOPE OF THE RESEARCH

The research covered a list of topics that had been agreed with the Department for Constitutional Affairs (DCA) and Lord Justice Thomas. They can be divided into those covered principally (but not only) for the DCA, and those covered only for Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS).

Topics covered for both HMCPIS and the DCA

- *The information provided to the jurors before the trial* - was the literature provided sufficient/should anything specific to long trials have been provided/should information have been provided for employers/was the information on the likely length of the trial clear/was the information on the available allowances clear?
- *The information/support provided to the jurors during the trial itself* - was the information on the progress of the trial sufficient/what support would the jurors have appreciated to reduce the burden of the trial itself?
- *The information/support provided to the jurors after the trial* - would the jurors have appreciated more here - in terms of returning to work/what allowances could be claimed/dealing with problems that arose/support in dealing with the media?
- *The facilities provided to the jurors* - what facilities would the jurors have welcomed/ what were their thoughts on the accommodation provided to them/what more could have been provided to improve their comfort during a long trial?
- *Whether the sitting pattern of the trial reduced or increased the burden on the jurors* - i.e. did the sitting pattern enable the jurors to meet the needs of their everyday lives; e.g. doctors' appointments, shopping, paying every day bills/would they have welcomed longer or shorter hours/what the ideal sitting pattern have been?
- *How did the jurors feel about time spent at court but not in court* - how did they feel about periods in which they were not required to attend court because no evidence was being heard?
- *The allowances provided to the jurors.*
- *Particular practical or personal difficulties encountered by jurors in carrying out their jury service (such as illness, family/work responsibilities) and how (if at all) these related to the length of the trial.*
- *The jurors' attitude to their jury service at the start of the trial and as it progressed.*

Topics covered only for HMCPSI

- *Whether the jurors felt they were able to follow the evidence - were there any aspects of the way the evidence was presented that they found particularly helpful? Did they find any aspect of the trial confusing or difficult (such as the number of defendants/charges, the amount of evidence and documents, the nature of the evidence, the time span of the trial)? After listening to the prosecution's opening did they have a clear idea of what the case involved? As the trial progressed did they find the case clear?*
- *Whether there is any technology that could have been used in the courtroom that might have assisted the jurors with their understanding of the trial - would it have been better if some of the documents had been shown on screens?*
- *For their part, what did the jurors do to assist their own understanding and recall of the evidence - e.g. note taking, asking questions, discussion amongst themselves, consulting files of documents made available to them.*
- *Did the jurors co-operate amongst themselves - did they find that talking to the other jurors assisted them in their understanding of the case?*

PROCEDURE

After preparatory work the research was conducted in two stages. First a group discussion was held with all available jurors (eight), followed-up with individual interviews with all available jurors (11).

The jurors participating in the research

At the end of the trial on 22 March 2005, the jury consisted of ten jurors. All ten took part in the research, together with one juror who had earlier been discharged as a result of becoming pregnant. The twelfth original juror could not be contacted.

Jurors participating in the interviews were as follows:

1. **Group interview** held at HMCPSI's offices in Old Queen Street, London, attended by eight jurors.
2. **Individual interviews** with 11 jurors i.e. all the above, plus three jurors.

Background material

A certain amount of background information was necessary to inform the interviews. HMCPSI provided relevant documents including copies of newspaper articles, details of court sitting times, the prosecution draft opening, and extracts from the trial transcript relating to defence submissions concerning the jury and jurors' questions. Sally Lloyd-Bostock and Cheryl Thomas visited the Old Bailey (on separate occasions) to see the physical facilities available to the jurors and to hold discussions with the court manager and others involved with management and support of the jury. Cheryl Thomas provided the review team with notes on the information provided to her at, and following, her visits. This material provides background to the interviews but does not form part of the research itself, which is concerned with the jurors' views and experiences.

The issues to be covered by the research were refined and agreed in discussion with the review team, and approved by Lord Justice Thomas. This list included those topics put forward for inclusion by the DCA.

Group discussion

The group discussion was held on 4 August 2005 in a conference room at the HMCPSI offices in Old Queen Street. It was attended by eight of the ten jurors who were still serving at the time the trial collapsed. One did not wish to attend and another was not able to make the date, although both were subsequently interviewed individually.

The purposes of this session were:

- *To elicit the views and experiences of the jurors on selected issues in a constructive group setting.*
- *To give the jurors a 'voice' in the review.* It was clear from press reports and continued correspondence with the Court Service that several of the jurors were feeling aggrieved following the collapse of the trial. The group interview provided the opportunity for them to meet with the Chief Inspector and members of the review team, and make their views known to the team.
- *To feed into preparation of individual interviews.* Since this was a case study to be carried out within a short time frame there was no scope for piloting interviews. The combination of a group discussion and individual interviews allowed the design of the individual interviews to take account of the outcome of the group discussion.

Jurors arrived at the venue from 10.30am for a start at 11am. After a greeting and an introduction from the Chief Inspector, Stephen Wooler, the group session was divided into two stages. First, the jurors spent approximately two and a half hours (with breaks) with Sally Lloyd-Bostock and Cheryl Thomas. They were taken through a series of topics covering those it had been agreed would be included in the research. Where possible, a summary consensus view was established and displayed on a computer screen in the conference room. The session was led by Cheryl Thomas, who entered a summary of the jurors' views on the computer for display on the screen, and sent the review team a copy of the summary shortly after the group interview.

After a break, a second session began in which members of the review team (Stephen Wooler, Stephen Myers, Katey Rushmore and Tony Frankson) joined the group. Stephen Wooler provided the jurors with information about the day of the collapse of the trial which they had evidently not been given before. The session was then led by Stephen Myers who explored with the jurors their recall and understanding of aspects of the case. The jurors eventually left towards 5pm.

Individual interviews with jurors

Sally Lloyd-Bostock interviewed 11 of the 12 original jurors individually during the last two weeks in August 2005. The 11 included all ten who were still serving when the trial ended. Nine were interviewed at HMCPSI's offices and two at their homes.

The interviews were semi-structured, covering the pre-agreed areas and informed by the outcome of the group interview. They were recorded and analysed with reference to the designated topics. The jurors were keen to contribute to the research, and interviews lasted between one and three hours.

The purpose of the interviews was:

- *To obtain more detail of individual experiences and personal circumstances than was possible at the group interview.*
- *To follow-up issues raised by the group discussion.*
- *To allow jurors to make comments that they did not make during the group session.*
- *To provide an opportunity for jurors to agree or disagree with accounts and views expressed during the group sessions.*
- *To include the jurors who did not attend the group interview in the research.*

RESULTS - TOPICS COVERED FOR BOTH HMCPST AND THE DCA¹

Overview

Jury service had great impact on the jurors' lives, particularly their careers. The full extent of the effects on employment and careers only emerged after jury service was over.

The jurors evidently took their task seriously and were committed to jury service. Most were pleased to have been on the jury, despite the personal cost to them.

The group was mutually supportive and co-operative and long term friendships were formed.

The ending of the trial caused distress to the jurors.

Possible lessons for the management of juries on long trials include:

- The importance of continuity in the individuals allocated to support the jury on a long trial.
- The importance to the jury of forms of support which might not usually be within anyone's remit, such as minimising unnecessary trips to court.
- The importance to jurors of support from someone 'on their side' with the time and resources to deal with problems.
- The resentment caused by being treated 'like children' and not treated with respect.
- The importance of being kept informed.
- The importance of clear information about what they can expect as jurors and what will be expected of them.

¹ To reduce the identifiability of individual jurors, the gender given of those expressing views is not necessarily the gender of the actual juror concerned

Results by topic

THE INFORMATION PROVIDED TO THE JURORS BEFORE THE TRIAL

Most of the jurors found it difficult to recall exactly what information they had been given before the trial. They were, however, very familiar with the jury video and introductory talk given to new jurors, having heard them ad nauseam throughout their time as jurors. The general view was that the information provided was probably sufficient for 'normal' length of jury service. However, several said that more information and guidance would be helpful at the beginning of a long trial, so that jurors were clearer what to expect and what would be expected of them. This applied to their role as jurors, to court procedures, to the support they could expect, and to housekeeping procedures. For example, jurors mentioned that they would have appreciated knowing to expect so much legal argument without the jury and why that was likely to be necessary; guidance on note taking and asking questions; and guidance on what to expect from judge's summing up and directions. They would also have appreciated clearer guidance on such matters as procedures and policy on time off for appointments.

The basic information on allowances was generally thought to be reasonably clear, but again, circumstances over a long trial meant that for some jurors further guidance was needed, both at the outset and later during the trial. Guidance was particularly necessary for jurors who might be able to claim for less common categories of financial loss on top of basic income replacement (such as lost overtime, increments or bonuses).

"You don't know what you are entitled to – they definitely didn't tell us about overtime."

Most of the seven jurors who were employed felt that the court should have more responsibility for communicating directly with their employers. Perhaps not surprisingly, all reported that their employers were unhappy about the long trial. When the onus was placed on jurors to tell their employers to communicate with the court, communication between jurors, employers and the court could become quite confused, and sometimes difficult. Employers might not realise the juror has not chosen to be on the trial, nor what their obligations are as employers.

"The day we went to court and were told it was a long case, my employer... accused me: 'I suppose you put yourself forward for this trial.'"

Employers may not realise they can support jurors in claiming e.g. lost overtime, bonuses, etc.

The anticipated length of the trial was made clear to the jurors, although some commented that it was difficult to grasp what that would mean in reality and difficult to anticipate difficulties that might arise.

THE INFORMATION/SUPPORT PROVIDED TO THE JURORS DURING THE TRIAL ITSELF

Again, there was a consensus that a long term jury needs support and management in ways that do not arise for short term jurors.

Being kept informed - the jurors would have appreciated more information about the progress of the trial and scheduling. They understood that there were limitations to the information and explanations they could be given, and that the length of the trial was difficult to predict. However several said that they felt they could have been given more information. Uncertainty over how long the trial would continue, as well as day-to-day uncertainty about whether they would be in court, became a source of considerable stress.

"You are living by a phone call."

"The worst part was not knowing what you were doing on the next day. You were getting up in the morning waiting for a phone call."

One said that some of them would have gone away for long weekends or short breaks if the court could have been more specific about the times jurors would not be needed, and they would have found this very valuable.

"At the end of the day they are paying you – but even in a job you can say to your boss, 'Right, I want a long week-end'."

Often days off added up to a significant break, but they would be told only a few days at a time.

"It goes on for days... You get a phone call saying don't come back till next Monday. Then on Friday you are told forget Monday come back Wednesday. Then on Tuesday you are told forget Wednesday come back the following Monday... and it went on like that. You are not told anything."

Several jurors said they felt uninformed, and perhaps excluded from information that they could have been given. One juror commented, for example, that they were not told that a period of time off was for a barrister's paternity leave, or sickness.

"They would never tell us ... it would be nice to be told."

"You get a phone call ... saying don't come in for a week, you say 'Can I ask why?' and she says 'No you can't' – like talking to a child. She could say 'someone has phoned in sick' or 'they are discussing law in court'..."

Practical help - Most of the jurors needed some form of practical help as the trial progressed. Matters that commonly arose were claims for lost overtime or bonuses, need for paternity or other leave, and problems with employers.

Many positive comments were made about the helpfulness of the court staff. The majority of jurors said they had no or few problems obtaining what help they needed and some mentioned particular examples of efforts made on their behalf. For example, one juror described the court staff as 'terrific' when his father was terminally ill. The juror attended court as needed but then wanted to drive off straight away to visit his father. The staff

arranged for him to park his car at the Old Bailey. Another described the helpfulness of the usher in sorting out her leave.

However, jurors who needed help with less straightforward claims for allowances, or with their employers, were sometimes frustrated.

"My personal situation didn't fit into their rules and guidelines and legislation – that's the problem I had."

Because information was not provided at the outset of the trial, some jurors did not realise their possible entitlements until the trial was well under way. One reported taking out a bank loan before discovering that he did not need to accept the rate being paid to him if his employer sent a letter stating what he would have been earning. Even then he found it a struggle to obtain the additional money.

"It was a lot of hard work trying to get them to do it...It was not until I had got a bank loan that I realised I had to tell them [about the circumstances of my employment] ...I found it embarrassing having to explain my personal circumstances – you felt like you were asking them for money."

Others mentioned confusion later in the trial over NI or pension contributions, which might have been avoided if more information had been available from the outset. One juror mentioned that allowances were sometimes paid late, leading to bank charges because direct debits were not paid, or the need to borrow.

Some jurors had serious difficulties with their employers, including attempts to dismiss them, and would have liked more concrete help.

"They told me to sign or I would have no job to go back to."

"He sent me a P45."

Unco-operative employers could also cause problems over claims for allowances.

"As a juror it's your responsibility to get the stuff off your work, so if your work is being funny about it, if they don't want to fill in the form...it's a bit of a joke."

Two mentioned that they were assured they need not worry about their employers, and that the court would protect them, but in practice they felt protection was not forthcoming.

"We were told don't worry you will be covered, protected. And you do think you have the most powerful people in the country by your side – the judges."

"[The jury bailiff] said 'Don't worry the last person who messed an employee around on jury service got into a lot of trouble!'"

"They said they would deal with it [my problem] at the end of the case - which they never did."

For several jurors the extent of their problems with employment became apparent after the end of the trial – see below.

Support provided by the judicial assistant - all the jurors spoke positively about the help and support provided by the judicial assistant from September 2003 until she left in July 2004. It seemed that this support exemplified what the jurors felt was needed on a long trial, namely a key and effective person who took responsibility for looking after the jury. They felt they had someone to go to who would take action on their behalf. The jurors' comments raise the question of whether it is within anyone's remit to provide the kind of help and support that the jurors found so useful.

"You could say she was everyone's personal assistant...it was just nice to have someone you could go to, who you know would do their utmost to get the problem sorted...not just say 'OK, I'll look into that for you'...You knew, if you talked to [her], you knew...within an hour, or the next day you would get an answer back."

"You need someone, the same person who knew us, knew the problem, not back to square one with a new usher."

"From that time [when the judicial assistant left]...there was no-one to speak to and I think you needed that extra role because of the circumstances of the trial."

"It was as if she was put there to help us out – to help us cope with the case."

"She was excellent – she held it together."

'With [her] everyone knew what they were doing.'

'It made all the difference to everyone.'

"The court service ought to have somebody who was responsible for long term jurors, to take on that mantle and those problems...help with pensions, work, compensation, whatever it might be. It's that person's responsibility to be on their side and try to sort it out...You need to have someone there who is responsible, which [she] took on board unofficially."

Specific ways mentioned in which she helped included: where possible contacting them individually by telephone before they left home if they would not be needed at court, saving them a needless journey; helping with queries and problems with employers or over allowances; keeping the jurors informed as far as possible about what was happening when they were at court but not in court; making appointments (medical, dental) on their behalf at times that fitted in with scheduled sitting times; providing a fortnightly schedule of anticipated sitting times.

When she left the jurors felt they did not have the help and support they needed with practical matters, made more wasted journeys, were not kept informed even to the extent they could have been, and spent more time waiting at court when it was obvious they would not be needed e.g. because a juror was off sick.

Several jurors commented that she was probably going beyond her remit in the help and support she gave them, and that the jury had become used to it.

"She was doing things beyond her job description."

"She went beyond the call of duty."

"It might be we had too much of a good thing...After [the judicial assistant] people were just doing their job. [She] was doing over and above."

After she left it seemed it was no longer anyone's job to provide the support she had been providing and this led to resentment amongst some jurors.

"Some resented that they were given something - you felt as though someone was batting for you - then it was all taken away."

Several also commented that the attitude of the court staff became noticeably less helpful and friendly after she left.

"It just descended into people being quite despondent really - 'I can't get anything done about this problem, no-one is willing to help'. ... You need someone to take it and deal with it for you."

Management of the jury - again it was commented that long trials need different management from short ones.

"They were just following their usual kind of process...nothing was geared up to deal with us for that length of time...I did think it wasn't managed very well, but I think they didn't know how, because they are not used to having things and issues coming up because they don't usually happen if you are there for a short time."

Several jurors commented that the court was too lenient with jurors. This may sound paradoxical, since jurors clearly appreciated the court's efforts to accommodate their needs. However, the majority felt the case was being held up by a small minority who arrived late, took time off for appointments, or perhaps were too ready to be off sick. Jurors felt they were all being lumped together as unco-operative when most of them were being very conscientious about time keeping etc. Some commented that they heard the announcements to new jurors week after week telling them they would be fined for being late, and asked the court staff why they did not fine the late jurors, to be told that it that it could not be done.

"It was always the same people - so I said to one of the court staff 'Why don't you fine them? They'll probably only do it once'... 'Oh we couldn't do that, it's very difficult...' I hear this speech every Monday - its just words, an idle threat... In my eyes they lost all their credibility."

"I think we needed to be a bit more told, 'You are on a case and you have got to take [timekeeping] seriously'... You should have been told 'Now you have been selected, these are the rules. If you are late we are going to fine you' - that should have been told to us."

One juror said the court staff wanted the jury to solve the problem by putting pressure on its members to come in on time. She felt this was a matter for the court staff to handle, and not up to the jurors to resolve.

Jurors also found there was lack of clarity and consistency about such matters as where they were allowed to be in the building, and what was expected of them. A frequent comment was that they felt they were being treated like children, and told off as if they had been naughty, sometimes when they were doing what they had previously been permitted to do – such as use certain lifts or staircases, sit in parts of the building for lunch, or arrive at court a few minutes after other jurors to take advantage of more convenient travel arrangements.

The attitude of court staff - while most comments about the court staff were positive, there were several negative comments about the attitude of court staff, particularly after the judicial assistant left. There was general agreement that the court staff at the beginning of the trial had been helpful and friendly, but that after she left the attitude of staff towards the jurors hardened and they became less friendly. As already mentioned, jurors frequently commented that they were treated like children, and that they were treated as if they were all being unco-operative when most felt they were being very conscientious.

“We were treated like school children that had been naughty. It was very bad. I was thinking why am I coming in to be treated like this?”

“We were all lumbered into the same bracket.”

Some thought there had probably been a policy change after the departure of the judicial assistant, and that they were being seen as trouble. Jurors felt that the ushers in particular began to be very careful with their words, and would not give them any information. One was particularly upset by the rudeness of some court staff.

Throughout the trial jurors felt they were under some pressure to come in when they did not feel well, for example, returning to jury service after an operation, attending court with a migraine, or when suffering from sickness, or with other medical problems. In general jurors co-operated in this, in order not to hold up the case (and, again, sometimes did not feel they were given credit for this co-operation). However, toward the end of the case they found that court staff insisted they must come to court even when it was obvious that they would not be required, say because a juror was sick and the jury was incomplete. They might then spend several hours at court before being sent home (see further below). It seems that the attitude of the court staff reflects their priority of being able to deliver a jury to the court when it is needed, and that this may inhibit them from responding to the needs of the jurors.

The facilities provided to the jurors

In general the jurors regarded facilities at the court, such as the cafeteria, toilets, and lounges, as fine.

They appreciated special facilities that were provided because they were on a long case, in particular the use of a jury deliberating room and passes to the back entrance to the Old Bailey which saved them considerable time queuing at the front entrance. However, most thought there was a change in the attitude of court staff towards providing special facilities after the judicial assistant left. Passes to the back entrance were withdrawn and use of the jury room became more limited. As noted above, some felt they were being treated like naughty children and that facilities were withdrawn as a punishment.

"We were given certain privileges [jury room; passes] then they were taken away from us."

The jury room - the jury room was convenient and clearly made it possible for the jury to discuss evidence and witnesses, which all saw as valuable. They were also able to make coffee, play cards, and so on and store their belongings. Use of the room was particularly appreciated on the days when the new jurors arrived at the Old Bailey and the jury lounge was very crowded. However, not all jurors preferred being in the room to being in the jury lounge, canteen or overspill area, especially for any length of time. It is not a large room for several different activities to take place – reading, playing cards, talking, etc. As the trial lost momentum and everyone was becoming more stressed, time spent in the room expanded to several hours at a stretch on some days. Some jurors felt cooped up and friction arose.

"We could be cooped up in there for hours on end and it was not so nice."

Once in the jury room jurors were not permitted to leave it, e.g. to get to the kettle, without calling the usher, because of the corridor on which it was situated. This added to their sense of being cooped up and occasionally they did venture out to the kettle if the usher was not there.

Two commented that when they all came out of court at once and into jury room, the women had to queue for the toilet.

Smoking - one juror who smoked would have appreciated being accommodated. He was willing to smoke outside the building, but he found that court staff became agitated in case he was needed (even though he was only minutes away and with his mobile phone).

The information/support provided to the jurors after the trial

All the jurors were very shocked by the sudden ending of the trial and by the manner in which they were discharged. It is difficult to overstate the strength of feeling expressed about this.

On the day the case ended the jury were waiting out of the courtroom from 10am to 3pm. When they were eventually brought into court, the courtroom was full of press, relatives of defendants, etc. This immediately struck them as very unusual, and made them feel that everyone except them knew what was happening. Then in a short space of time they were discharged, with very little explanation or information provided. One juror stated at the group interview that her purpose in coming that day was to get an explanation. It transpired that by the date of the group interview (approximately five months later) the

jurors had still had no explanation or information about the reasons for the ending of the trial. They discovered from the television news that evening that the defendants had been acquitted.

Once discharged, the jurors quickly found themselves out on the street feeling dazed.

Two jurors described it as feeling like being made redundant, but without any redundancy payment, and one as like suddenly being given the sack.

"I had the same feeling at the end of this as [when I was made redundant] – I had no inkling of it. I was like 'What happened there?' You are going along on this big thing and then all of a sudden, nothing... We did not even go and have a drink together because everyone was in such a shocked state...shell shocked."

"We were dumbstruck... We weren't even handed a letter or anything, it was just 'If there are any more claims for travel or anything get them in now, and see you later.'"

"The way that was handled was absolutely appalling. Within twenty minutes of going into court and finding out it collapsed we were all walking out of the building."

"From time to time through the case people said the case would be thrown out, but I did not realise it would end like that – 'Bye Bye, have a nice life.'"

"We were marched upstairs, and they said any forms to hand in hand them in now, and see you later."

Referring to the letter sent to jurors five days later by the court manager, one said:

"This was too little too late. This should have been prepared for when we left. We should have all been taken, debriefed, given the letter there and then by hand. It was very shabbily done at the end, very bad that, very poor..."

Both during the course of the trial and on the last day of the case, court staff promised that the jurors would be given support when the trial finished but they do not think it has been forthcoming. Some mentioned receiving no reply letters to the court staff or the judge.

"I should be able to walk back into my job. The court says... it is up to you to talk to your boss or write us a letter and we'll see what we can do. What do I write in a letter? 'My boss is ruining my life, please help'? They'll just ignore it."

"If there was someone to maybe give you advice afterwards, just to say 'How is your work going?' after it's all over... just to give you support – it would make such a difference."

The immediate ending of income replacement the day of discharge meant that some jurors lost income because they could not return to work on full pay the very next day.

"I was told we would get paid until we were ready to go back to work. ... I am short two weeks wages. They ignored the first two letters, then eventually got back and said there is nothing they can do."

Effects on employment and careers - the extent of the damage to employment and careers continued to emerge several months later, and it appears that substantial financial losses have not been covered by court.

Return to work for seven of the 11 interviewed presented continuing problems nearly five months on. These include one who has been made redundant, one in an employment dispute, one required to undertake extensive re-training who has missed a definite and much desired promotion, and one signed off by his doctor as suffering from stress as a result of the work situation. A further three are back with their employers but report experiencing serious set backs in their positions because of their prolonged absence. These three are young people with few formal qualifications who had worked at the same company for some years and had progressed through experience. They find their responsibilities reduced, they have missed promotion opportunities, and their prospects and status within their organisations are harmed.

"I don't have [my job] basically. I am doing what I was doing years ago I don't know where to turn. I don't know what to do. I have actually lost my career because of this case. When I was doing the case I thought there might be some problems ...but I thought 'I've got the law behind me'. And I have nothing. The case collapsed, my job collapsed..."

One who had spent four years working his way up in his company said:

"Those four years have gone to waste. The two years have put me out of the picture....I personally feel I have wasted seven years because of these two years. It feels like I'll be wasting another two years at work rebuilding the two years. It sets me way back."

"Really in the last couple of weeks I have felt it. There is always going to be that I've missed out."

Of the remaining jurors, one retired, one is self employed running his own business, one works on a succession of contracts and may have missed out on pay increases but is otherwise happy, and one is a warehouseman happy with his new job.

Portrayal in the media - jurors felt unfairly portrayed as the cause of the collapse of the trial. They particularly objected to the portrayal of them in the press as unable to understand evidence or remember evidence and reach a fair verdict. Some were not particularly concerned, but others were very upset.

"I was just so angry – to blame us when it was not managed properly, it was a farce."

Whether the sitting pattern of the trial reduced or increased the burden on the jurors

Most of the jurors liked the original arrangement of one non-sitting day a fortnight, but it was not adhered to and was abandoned about three months into the trial. They found schedules of anticipated sitting times provided by the judicial assistant helpful in allowing them to plan in advance. However, they ceased when she left.

There was no support for Maxwell hours. Having travelled some distance to court the jurors were keen to sit as many hours as possible, and were against an arrangement that

might prolong the trial. It would not have been possible for the jurors to return to employment in the afternoons because of the travelling time involved. (Several also mentioned that the judge had said they should not return to their employment during the trial.)

Breaks and leave - Some jurors found the breaks in sitting time arranged for holidays did not fit in with their wishes, e.g. not to holiday within school holiday period; or to co-ordinate with their spouse's leave. On a trial of this length the impact was significant.

How did the jurors feel about time spent at court but not in court?

The jurors felt this could have been much reduced, particularly towards the end of the trial. As has been mentioned above, they also felt that they could have been told more about why they were not in court and how long to expect to be out of court. They thought they could sometimes have been sent away from court and not kept cooped up, or not brought in at all.

"We could be cooped up in [the jury room] all day."

"We used to be contacted quite early on, so it saved everyone a wasted journey. [later in the trial] you'd come in just to be told that you were going home, or you'd have to go in and sit in the room for ages just to be told you are going home. That was really frustrating."

Being brought in unnecessarily was particularly annoying for those with long journeys. The jurors came from a wide radius around London and had significant travelling times. One said that he caught a train at approximately 7am to be at court for 10am. Some commented that they were being paid to be there and could not really complain, but that did not make it less irritating and that they would have appreciated more information.

The allowances provided to the jurors

The jurors were unanimous that the retired should be paid. It was seen as unfair that people who are retired are expected to give up so much of their time and lives for nothing, especially when surrounded by other jurors being paid.

It was apparent that most if not all of the jurors suffered financially. The DCA will know about many of these sources of loss. Some particular examples were:

- Limitations on the possibility of claiming for missed bonuses, lost overtime, expected pay rises and missed promotion.
- The costs of child care during retraining required after the collapse of the trial.
- The costs of servicing loans taken out because payments from the Court were late and initially set lower than they might have been.
- The turnover of a juror's business was depressed (it has risen 40 per cent since the end of the trial).
- The cost of employing a replacement for oneself and keeping the person on after the jury was discharged to work for the length of time promised.

As detailed above, the interviews also indicated the importance to the jurors of prompt payment, full information and advice about allowances and financial matters, and help with claims in less usual circumstances.

Particular practical or personal difficulties

The main problems raised by jurors arose from employment difficulties and financial difficulties, as outlined above. In addition jurors mentioned that the continued uncertainty was very stressful. They were unable to plan, and had a feeling of being in a different world.

The amount of time off when they were not required in court might be thought of as a bonus, but it was not necessarily enjoyable. Lack of structure, purpose and routine was stressful for some.

“When you actually get week after week of time off it’s not good for you, you lose momentum in your life, you are not attached to the real world, you are not working ...”

Some were still suffering from long term stress at the time of interview, directly from jury service, or indirectly from continuing employment problems.

The jurors’ attitude to their jury service at the start of the trial and as it progressed

All but one juror still definitely support the principle of jury service. There was considerable concern was expressed about the removal of the right to jury trial, including for long trials.

“...on any trial, [trial by jury] is a fundamental right of any British person. If you start bringing in judges, or financial wizards or whatever you are not being judged by your peers.”

Most were enthusiastic about jury service when summoned and excited to be summoned to the Old Bailey. Feelings about being on a long trial were mixed from the outset. Most remained enthusiastic about serving on a jury but were also worried about the effects on their working lives. As the trial progressed feelings of frustration at having their lives taken over to such an extent grew, in the ways mentioned above.

As also described above, all the jurors felt frustrated and bewildered at the collapse of the trial which made serving on the jury feel like a complete waste of time.

“I have wasted two years.”

“I felt really unhappy when it collapsed. I was shell shocked at first then I felt a bit bitter, because I thought ‘What a complete waste of taxpayers’ money, what a fiasco it’s been.’”

After learning from Stephen Wooler the reasoning behind the ending of the trial some said they did now understand why it had to happen, but some still thought the trial should have continued.

Several commented that the jury was the one group that had come out of the trial worse off. The defendants and lawyers were happy. The court staff moved on to the next job. The jury who had put so much into the case at such cost to themselves were sent away after all their efforts without even an acknowledgement, just a ‘thank you and goodbye’.

"It affected me very badly because [the defendants] all walked away, cheerfully, happily...but people like me suffered....They had big smiles. ...Who is going to support me? Nobody supported me...."

Some felt they should receive financial compensation for their financial losses or to make up for all they had sacrificed in non-money terms to be jurors.

"If you are taking people out of their everyday life, it is going to have an impact on them...and I think they should be compensated for that in some way...I've lost out on promotion and on money because of that and I just think that there should be some form of compensation to say thanks a lot you did a good job as best you can, we know its affected you in this or that way and there is compensation there for it."

Others said that they what they most wanted was acknowledgment of what they had done and indication that their contribution was appreciated.

"It's the recognition more than anything...it's not the money. I think it's quite rude of people to ask for money because we were doing our duty, but at the same time I want recognition."

As indicated above, the sense that they were not appreciated arose during the trial as well as at the end. There seemed to be a gap between the rhetoric of jury service conveyed to the jurors – that they are important, that their contribution is valued and appreciated, and that they will be protected – and the reality of their treatment.

In spite of the difficulties and their feelings about the collapse of the trial, most jurors were still pleased to have served on the jury. Again, feelings were mixed:

"I enjoyed the trial, it's an experience. ...I would do it again. I am glad for the time I was on it, but in the long run, am I glad it has ruined my career? No."

RESULTS RELATING TO TOPICS COVERED FOR HMCPSI ONLY

The jury's understanding of the case - overview

There are obvious limitations to assessing the extent to which the jury in fact understood the evidence and the issues in the case on the basis of the interviews. Because a juror says he or she understands, we cannot be sure he or she really did. Moreover, the jurors were interviewed almost five months after the collapse of the trial, and without recourse to their notes or time to refresh their memories by discussion amongst themselves.

Within those limitations, it did appear that when the case collapsed this jury, taken as a group, had a good understanding of the case, the issues and the evidence so far, as presented to them. The jury's understanding needs to be considered with an eye to what had been presented to them, and what they could reasonably be expected to make of it.

The interviews show the importance of considering the jury as a whole. Different levels of ability can be expected within a jury. The jurors' assessments of their own and others' understanding produced a consistent, generally optimistic picture. Four jurors were

consistently said to have a particularly good and immediate grasp of the evidence and matters of construction, contracting to take copious notes, and to be able to assist other jurors' understanding. The remaining jurors all said that they understood very well and most appeared to do so, but one or two were consistently thought by their fellow jurors to have less of an understanding, take few or no notes, and perhaps have less interest in the case. All said that the understanding of the jury as a whole was greatly enhanced by discussion amongst the jurors (see further below).

The jury taken as a whole did not appear to have had difficulty understanding the evidence or the essentials of the case as presented to it. Most of the jurors insisted that they had a good or very good grasp of what the case was about from the prosecution opening onwards, that they understood very well the charges and the different combinations of defendant and counts, and that when the case collapsed they had a clear understanding of the evidence.

These claims were broadly supported by the understanding they (in combination) displayed at the group interview. In the afternoon discussion with the group, led by Stephen Myers, the jurors showed quite impressive familiarity with the charges, issues and evidence, despite the length of time that had elapsed; the fact that they did not have their notes or access to documents nor an opportunity to think back and refresh their memories; and the fact that they had not heard all the evidence, arguments and summing up. They recalled particular parts of the evidence, and particular witnesses and the substance of their evidence.

They recalled the different counts. Some at least indicated that they understood why the defence was laboriously going through the C4 evidence. The occasional mistaken recollection was understandable given the circumstances. (In individual interviews three jurors commented that they had felt they were being tested that afternoon, and that they would have been much better able to answer the questions immediately after the collapse and with their notes.) They were a little thrown when Stephen Myers asked whether they thought count 2 could have been dropped, and also when he asked them whether they thought the fact of a sizeable (measurable) loss was relevant to whether count 2 should have been included. Perhaps this response was natural given the task, case and evidence that had been presented to them.

Results by topic

WHETHER THE JURORS FELT THEY WERE ABLE TO FOLLOW THE EVIDENCE

Prosecution opening and presentation of the case - there were several positive comments about the clarity and usefulness of the prosecution opening. Not all could remember it clearly enough to comment, but most said that it was clear and helpful, and gave them useful background and guidance about contracting and tendering processes in language they could follow, as well as outlining the case, counts, and defendants.

One commented that he thought the prosecution barrister was not always clear himself at that stage about aspects of the case, and another that the prosecution was not clear about what it would be necessary to prove. The opening was generally remembered as longer than the five days shown on the transcript. Some remembered it as having taken several weeks².

As the trial progressed, again most thought the prosecution case was clear and well organised.

2 Memory research shows that the length of time taken by remembered events is frequently overestimated

They felt they kept on top of it all and had good grasp of the evidence. Some said the case became clearer as it progressed. On the other hand, as the counts and defendants interwove, with later witnesses contradicting earlier ones, the case also became more complex. One juror described how she referred back to her earlier notes much more after about six months.

“As it progressed certain witnesses were saying certain things, and it switched, rang a bell in your head thinking well - someone else has said that but not in quite the same way...and you start flicking back.”

Sometimes it was not immediately clear to the jury where prosecution evidence was going, but it became clear subsequently.

It was not always clear to the jurors how far the evidence supported the various counts. As demonstrated in the group interview, at least some members of the jury understood that there was a question mark over what the prosecution needed to prove in relation to count 2, and were waiting for the judge to clarify at the end of the case.

Jurors generally felt that they understood why each witness was included and how their evidence fitted in. However, sometimes it was not clear why a witness was needed (e.g. it was mentioned that one woman gave evidence for five minutes, and the defence said they were at a loss as to why she was there) or why several witnesses were called to give similar evidence, e.g. senior people in the companies concerned called to give similar evidence that documents should not have left. On the other hand, an important contradiction might emerge between witnesses although most of their evidence was the same.

Certain witnesses were frequently mentioned as particularly memorable – three names recurred.

DEFENCE

Jurors generally found the defence much less clear than the prosecution, and frequently extremely tedious. It was not always clear what was the point of a line of questioning. To some extent clarity varied with different defence counsel. All particularly remember the questioning on the C4s as extremely boring.

Overall, there were also signs of impatience on occasion in the notes sent by the jury and they made clear in meetings with us that there were some aspects of the defence cases which they thought could have been handled more crisply and succinctly.

ANYTHING ESPECIALLY CONFUSING?

The chief difficulty expressed by the jurors was not in understanding, but in finding evidence tedious and repetitive, especially the defence. One juror also said the amount of information they were presented with in the trial was a significant burden - that it was not difficult to understand, but the sheer volume was a burden.

“I think we had that level of understanding where we could make sense of it. Just the sheer volume of what it all was, would be hard for anyone I think.”

The sequence was sometimes found a little confusing e.g. when witnesses were taken out of order to maximise use of court time. This broke up the evolving story. It was also more difficult to keep track when a witness was brought back to give evidence in relation to a later count.

Some found the to-ing and fro-ing and repetition involved in having several defendants with separate counsel could become confusing. They had to keep track of exactly whom the particular barrister is defending.

However, the jurors did not find these things prevented them from following and understanding the evidence.

One juror found the 'stop-start' of the evidence caused considerable difficulty, and another that delays sometimes made it difficult to keep the thread, but the rest said they had no problem with gaps in the evidence. If there was a long gap there would be a re-cap, but this could be annoying as it seemed unnecessary ('as if we were idiots') and used up even more time³.

One mentioned that some barristers would deliberately make a juror feel uncomfortable.

UNDERSTANDING AT THE END OF THE TRIAL

The majority of the jurors said that they remained very involved in their task as jurors, and insisted they were on top of the evidence and had a good understanding of the case when it collapsed. They knew there was more evidence and the judge's summing up and directions to come.

Three said they found it difficult to sustain interest and enthusiasm towards the end of the trial, but others said this was not a problem. Several said they thought the trial had lacked momentum from quite early on, but towards the end one said it had become farcical. Another said that everyone in court was looking bored. In addition to loss of momentum, a few members of the jury became distracted by practical problems and their perceived poor treatment at court.

LANGUAGE

None of the jurors found difficulty with technical language used. They felt terms were explained as necessary. One commented that he knew more than the barristers about construction.

CONCENTRATION

In general the jurors said they had no problems concentrating apart from the difficulty of concentrating when the evidence became boring. (They pointed out that barristers appeared to be asleep during certain particularly boring evidence relating to the C4s.) Jurors thought there were sufficient breaks and they were not asked to concentrate for too long. One thought it was easier to concentrate in the mornings. One said he had found it a bit difficult when he had a new baby and sleepless nights.

JUROR QUESTIONS

Jurors said that the procedure and scope for asking questions was not initially made clear to them. However, early on one of them asked the usher, and thenceforth the jurors described asking frequent questions. Jurors commented that the judge appeared sometimes to be waiting for a note from the jury before intervening in a barrister's questioning.

Extracts from the transcript provided by the review team show around 25 notes from jurors. The jurors' rough estimates of questions they put in would suggest they handed in rather more than that during the course of the trial. One particular juror handed in most of the questions, sometimes on his own behalf, sometimes on behalf of the jury when they had

3 The defence made much of gaps in presentation of evidence and problems this must cause in their skeleton argument of August 2004

discussed something and agreed to put in a question. He thought he must have handed in about 50 altogether, of which about 80 per cent were his own and the rest were on behalf of the jury. Three further jurors said they also put in five to ten of their own questions.

The extracts from the transcript show the content of questions dealt with in court. Some are questions the juror would like put to the witness, some are trying to move the questioning along.

The content of questions from the jury is of limited use as an indicator of the jury's ability to understand the evidence, since a question only indicates that the juror had a question at that point in the evidence. We do not know which juror has put the question (some had a much greater immediate understanding than others); nor whether the juror would have needed to ask the question by the end of the evidence (jurors sometimes commented that questions were asked too soon, and that the point would have been cleared up if they had waited for more of the evidence, or had discussed their query first with other jurors). In response to the 'smokescreen' question 6 January 2004 the defence took the opportunity to suggest that the jury failed to understand the issues in the case. (It could equally be said that the issues in the case had not been made clear to the jury. It might be difficult for any jury to understand the issues in question given what had been presented to them.) Later the juror sent a note saying he now understood the relevance of the cross-examination and apologising for interrupting.

The jurors commented that it could be difficult to attract the usher's attention by waving a hand. Some suggested a button for jurors to press that would light up an indicator for the usher.

NOTES

The jurors took notes in individual loose leaf folders. The level of note-taking described varied from juror to juror, from virtually none through a page or two to very copious. I was told that one juror was taking such full notes, asking for more paper and asking for the evidence to be given more slowly so that he could keep up with his notes, that the judge was prompted to say there was no need to write everything down, she would review and summarise all the evidence at the end of the trial. (This was mentioned by several of the jurors as a further reason why they resented being portrayed as unable to recall evidence when the trial collapsed – they felt the judge had told them they were not expected to.)

It appears that four jurors took particularly full notes, three took very few or none, and the remainder took fairly full notes. Of those who took very few or no notes, two commented that they were following the evidence but note-taking was not something they were used to doing. One preferred to annotate and highlight documents. This juror did in fact show good recall and understanding of the evidence at the group interview, and was consistently described by fellow jurors as 'on the ball', with a good understanding.

Jurors said that the main content of their notes was a running record of each witness and the content of their evidence. Of those who took full or fairly full notes, five said that they also noted ideas and questions that occurred to them about the evidence, such as possible inconsistencies or cross-references that they wanted to check out.

The jurors were not, of course, allowed to take their notes from the courtroom. Several jurors said it would have been helpful to have time to look through notes and perhaps add to them, and that they would have liked to be able to take them into the jury room. They felt they would miss something if they tried to look back at notes or refer to documents

during evidence. They sometimes tried to do so whilst waiting for witnesses but there was not really time.

The jurors' notes represented a considerable amount of careful work over many months, which was in the event a complete waste. This was another way in which jurors felt they had put in a great deal of effort only to have it thrown away. Some asked what had happened to their notes and expressed dismay at the thought that jurors' notes were normally destroyed. Some said they were doing what they were paid to do and if 'they' wanted to tear it all up that was their business, but nonetheless it added to the sense of time and effort completely wasted. One diligent note-taker said he might as well have sat doing the crossword for two years.

DOCUMENTS

The defence (Defence submission 11 August 2004) listed a total of 46 files of documentation, as follows:

- 9 x prosecution jury bundles
- 5 x prosecution C4 bundles
- 4 x Mr Rayment defence bundles
- 9 x defence C4 bundles
- 5 x Mr Woodward Smith defence bundles
- 2 x Mr Fisher defence bundles
- 9 x Mr Skinner defence bundles
- 3 x Mr Wootton defence bundles

The jurors did not see the quantity of documents and files as a major problem and shared one set of documents between two. All agreed that there was a large amount of documentation and files, which sometimes got in the way in the courtroom, but they said it was well organised so that documents could usually be located easily. Jurors commented that documents were duplicated (included in more than one bundle) increasing the total bulk. Occasionally documents were missing when needed and there were delays whilst copies were found or made. The court staff tried to reduce the number of files in front of the jury, and this helped, though files still sometimes landed on the floor.

The jurors did not think they had any particular difficulty understanding documents. Some of them would have liked time to refer back to documents of their own accord without having to do it during evidence. Again, one said she would try to do this whilst a witness was being sworn in. One said he had anticipated that the volume of documents would be burdensome when it came to deliberation.

Most thought it would have been a good idea to present documents on individual (or shared) computer screens, though two were not in favour of this. Some pointed out that careful preparation of the evidence was needed if computer screens were to be used effectively, and also that individuals might need to be taught to use the technology.

DISCUSSION WITH OTHER JURORS

It was clear that jurors found discussion amongst themselves very important for their understanding of the case. They reported discussing witnesses and evidence frequently when they were in the jury room, most commonly when they had just come out of court. They cleared up difficulties of understanding, and put together joint questions.

Most jurors individually claimed to have a very good understanding of the case, but all also said that they had been helped by discussing evidence, witnesses, etc with their fellow jurors as the case progressed. One juror in particular said that he understood less and relied on others who clearly did have a better understanding of contracting etc. Three others expressed doubts about their ability to understand fully.

Certain jurors tended to be at the centre of discussions, whilst others would be quieter or not involved at all at times. However, it was described as a 'many-way' process. All thought that discussion amongst themselves helped everyone. Most discussion took place when they had just come out of court and would talk about the evidence they had just heard. That was when they might put together a question for the judge if they could not sort out something amongst themselves.

Discussion was much more difficult if not impossible when they did not have the jury room. All felt that this was a disadvantage.

The jury as a group - the jury appeared to be a remarkably co-operative, mutually supportive and cohesive group. They said they all took their task seriously, and that most took it very seriously.

Jurors described the jury as a good mixture, with members of all ages from all walks of life and different ethnic backgrounds. They generally felt they got on remarkably well, though all also said that friction arose quite often and arguments erupted, sometimes noisy. Certain jurors tended to spark off others. This was especially likely to happen when they were cooped up in the jury room. Several commented that they were thrown together and did not choose each other, and it could not be expected that they would all like each other. However, many of them formed lasting friendships within the jury. Two compared being on the jury with being on 'Big Brother' and the jury was also likened to a family. The general view was that arguments were soon forgotten and did not affect morale or the ability of the jury to act effectively as a jury.

Other aids to understanding - the jurors could not recall much in the way of other aids to understanding provided for them (such as flow charts, date lines, lists of acronyms, etc) although they thought some had been provided. They recalled asking for a map of the courtroom which they found very useful for keeping track of which barristers went with each defendant. They also recalled asking for a timetable of events. That is not to say that more would not have been helpful - it is difficult for the jury to specify what, hypothetically, they would have found helpful.

Sally Lloyd-Bostock
12 October 2005