We the Jury
VELS teacher notes
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About these materials

*We the Jury* has been developed to help students understand the complexities of the Victorian jury system and the responsibilities of jurors.

This unit of work supplements the activities prepared by Victoria Law Foundation to accompany the DVD *We the Jury*. As jury service is a privilege that we are all likely to experience at some point, this unit is designed to give students the basic knowledge, understanding and skills required to undertake their role as active citizens in our society.

The materials comprise guidelines for a lesson-by-lesson approach to teaching a succinct unit of work based on the jury system in Victoria. It is targeted at VELS Level 6 but could also be adapted for VCE Legal Studies. The materials include a guide to each lesson, along with the necessary worksheets, activities, case studies and answers.

A list of resources is provided for use by teachers and students. A sample assessment task is also included.
Curriculum links

Victorian Essential Learning Standards (VELS)

Level 6: Physical, Personal and Social Learning
Learning Domain: Civics and Citizenship
Standard: Community Engagement

*We the Jury* and accompanying notes, references and tasks will assist students to:

- consider the ways that laws allow citizens to participate in governance and how well these elements support democratic values
- examine the processes for bringing about change through Australia’s legal and political systems.

The materials can also be linked to:

- VELS Level 5: Civics and Citizenship
- VCE Legal Studies: Units 1 and 2
How to use these materials

This unit of work has been designed for Year 9 students, but can easily be adapted for other year levels. The unit is planned to run for eight 75-minute lessons. This could be adapted to twelve 50-minute lessons.

Three key areas of jury service are covered within this unit:

- Area 1 Responsibility
- Area 2 Selection
- Area 3 Role of the juror

The lessons are organised so that each of these areas is taught sequentially and is covered in the revision and assessment lessons.

Lesson plans provide a guide to what can be achieved in each lesson and outline how the activities and worksheets can be used. These can be adapted to suit the year level, the environment or the competency and understanding of students. Answers have been provided where appropriate to help the teacher assess students’ work. For tasks where there is no single correct answer, answers have not been provided.

Throughout the lessons, reference is made to textbooks, written resources and media resources. These are all readily available; find them listed in the Resources section on page 36.

The three key areas can be further explored using four key topics:

- the history and current state of Victoria’s jury system
- the process of jury selection
- the roles and responsibilities of jurors
- the advantages and disadvantages of the jury system.

We the Jury and its accompanying notes, references and tasks will enable students to:

- understand the jury system through class discussion, worksheets, audio-visual material and practical activities
- participate in a role-play of a mock jury selection process
- debate the advantages and disadvantages of the jury system
- test their knowledge and understanding of the jury system and jury service
- develop communication skills.
How to use Lesson 1

This lesson focuses on the history of jury service, why people have to serve on juries and the structure of a jury. Topics covered include the Constitution (Section 80), the Juries Act 2000, and civic and social responsibility. You could start with an overview of the jury system in colonial times and then explain that different states in Australia have different systems of jury service. This means that even if you have been on a jury in New South Wales, if you relocate to Victoria and you are called for jury service, you will need to learn about Victoria’s system, because it has significant differences from the system operating in New South Wales.

You will need to emphasise that the jury trials students see on television and in movies do not reflect what goes on in Australian courts. Most of the TV and film depictions of juries are based on the American legal system, which is very different to the system in Victoria.

Explain that the guiding document for jurors in Victoria is the Juries Act 2000. This outlines the eligibility and duties of citizens to participate in jury service.

A useful summary of these topics can be found in VCE textbooks. Make sure that students understand terms such as “trial by peers” and “decider of the facts.” A class discussion may be helpful.

Possible activities for this lesson could include:

- Students write their own definitions of a jury, the jury system and the role of a juror.

- Students complete Lesson 1 worksheet: Pre-knowledge response. (This activity is also included at the end of the unit to gauge how students’ opinions have changed after gaining more knowledge of the topic.)

- Students state the differences between criminal and civil cases. The main difference to note is the size of the jury and the type of decisions that they make.

- Students list and discuss the roles of the jury. Ask the students to develop their own list first, then compare, discuss and analyse.

During this first class, students may find the court system and the jury process very interesting and want to ask a lot of questions. It is important to let the discussion flow and answer these questions. You can develop a “Question Wall” out of this discussion.

A “Question Wall” involves students writing one question each on a small piece of paper and sticking them up on a wall in the classroom. When a student’s question has been answered during the unit of study, the question is moved to another allocated section of wall. Hopefully, by the end of the unit all of the questions will have been moved to the “answered” section of the wall. If questions remain unanswered at the end of the unit, further discussion and exploration may still be required. This activity will help you modify your lessons and give you an ongoing guide to the students’ progress in understanding the topic.
We the Jury VELS teacher notes

How to use Lesson 2

This lesson focuses on how people are selected for jury service. It emphasises the random nature of the process of selecting jurors.

Begin with a class discussion and guided questions about the differences and similarities between the civil and criminal jury systems. Then lead students in a discussion about the selection process.

Discuss the role of the Juries Commissioner of Victoria. Explain that the commissioner or representatives from the commissioner’s office will decide whether people are eligible for service, disqualified, ineligible, excused for good reason or permanently excused. You will need to ensure that students understand each of these categories and the differences between them. As a class, define the terms in Lesson 2 worksheet: Common jury terms and give some examples of each.

Distribute and explain Lesson 2 worksheet: The jury selection process. This flow chart visually explains the process for determining people’s eligibility for serving on a jury, their attendance and finally the empanellment process. Students can be divided into three groups and each group given a topic: eligibility, attendance or empanellment. Each group studies their topic and then presents their findings to the class. Alternatively, students could all be given one aspect of the flow chart on a piece of paper. They then have to arrange themselves around the room in the correct order to represent the selection process.
How to use Lesson 3

The focus of this activity is the role of the jury in the courtroom. Students watch the DVD We the Jury and complete Lesson 3 worksheet: Viewing the DVD We the Jury.

After students have watched the film and completed the worksheet, discuss the procedure for empanelling a jury. Some students may find these concepts difficult, particularly the different grounds for challenges in civil and criminal empanellments.

To end this session, students should read Lesson 3 reading: Majority verdicts – The case FOR and Lesson 3 reading: Majority verdicts – The case AGAINST. These can be used as the basis for a class discussion on the positive and negative aspects of majority verdicts.

As an alternative activity, students can compare and analyse both sides of the debate using a PMI chart (plus, minus, interesting – for a model, see Lesson 5 worksheet: The jury system PMI chart). Students then complete Lesson 3 worksheet: Majority verdicts.

Answers

Lesson 3: Viewing the DVD We the Jury

1. Describe what you see in the County Court of Victoria.
   • Wood panelling.
   • People in wigs and robes.
   • Desks and chairs.
   • The judge and other people working in the courtroom.

2. How do most cases open? Why would the jury not be present for this part?
   • Technical arguments are put to the judge.
   • Legal points are submitted, which may not be relevant for the jury to hear and may bias them in some way.
   • Openings can be very complex and may take some time to debate.

3. Where does jury selection start?
   • Selection starts in the jury pool room.

4. How is this stage carried out and by whom?
   • Random names are drawn out of a container from all people called in for jury service (the pool).
   • These people go through to the courtroom.
   • The jury supervisor selects the names.

5. What is the layout of the County Court?
   • The accused sits at the back.
   • The jury box is located on the left of the judge.
   • The judge is located at the front.
   • The Bar table has positions for defence and prosecution barristers.

6. What is the role of the judge?
   • Primary duty is to ensure the trial is fair.
   • Presides over the court to ensure that the evidence is presented fairly to the jury.
   • Ensures that the trial is conducted according to the rules of evidence and procedure.
   • Instructs the jury as to the law.

   Note: The judge does NOT decide the outcome of the case.

7. Why may a person be excused from jury service for a particular case?
   • The person knows the accused or any of the witnesses.
   • The dates or length of the case will create real hardship.
   • The person cannot properly consider the evidence due to a disability.

8. What knowledge could bias a juror?
   • Any knowledge about the participants in the case.
   • Knowledge that will affect the decision a juror makes.

   A juror must be impartial. Simple knowledge of the case—for example, knowledge gained through reading the newspaper—is not enough to exclude a prospective juror.
We the Jury VELS teacher notes

9 What does it mean to “arraign the accused”?  
- The charge against the accused is read to him or her.  
- The accused must make a plea: “guilty” or “not guilty.”

10 Who has the right to reject (“challenge”) jurors?  
- The accused (through a barrister).  
- The prosecutor.

11 How is the jury chosen at this point?  
- The jury is chosen randomly.  
- No information is given apart from each person’s name (or number) and occupation.  
- Names are shuffled several times.  
- The aim is to ensure that the jury cannot be stacked to support either side.

12 If a juror is “challenged,” what does this mean and should a juror feel bad?  
- Either the prosecutor or the accused is concerned about a juror and their ability to make an unbiased decision.  
- Decisions are made on gut-feeling rather than knowledge.  
- No-one should feel insulted or demeaned if they are challenged.  
- We can never know the reasons behind the decisions of the parties in this challenge process.

13 If jurors are not selected, what happens to them?  
- They return to the jury pool room to await another trial.  
- If no other trial is operating then they will not be required.

14 What must a juror do to do his or her job well?  
- Have an open mind.  
- Try to shed all previous prejudice.  
- Listen to all of the evidence before making up his or her mind.  
- Use common sense.  
- Consider everything they hear from beginning to end.

15 How many jurors are selected for a criminal trial?  
- 12.

16 What does a foreperson do and who selects this person?  
- Represents the whole jury.  
- Is the only one who can ask any questions of the judge in the courtroom.  
- Chairs the deliberations of the whole jury.  
- Announces the verdict.  
- Is elected by the jury.

17 List the steps of the trial as announced by the judge.  
- Crown prosecutor outlines the case.  
- Witnesses are questioned.  
- Crown prosecutor addresses the jury and advises what view to take based on the evidence.  
- Counsel addresses the jury and advises what view to take based on the evidence.  
- Judge states how the law is to be applied to the evidence.  
- Judge summarises the information.  
- Judge summarises the arguments presented by each counsel.  
- Jury considers the verdict.

18 What are the advantages of having a jury?  
- Most juries do a good job.  
- The jury system promotes community participation in the legal system.  
- A jury is made up of people from different backgrounds, all walks of life, all with their own common sense, all with their own experiences.  
- Jurors consider the evidence conscientiously.  
- Jurors take the role seriously and understand the responsibility of the task that they have.
How to use Lesson 4

This lesson focuses on the importance of the disclosure of information during the selection of jurors and includes an activity based on the jury selection process. Explain that information about jurors is kept secret at all times. Confidentiality is integral to the whole process in order to protect people’s privacy.

The following activity for the lesson is a mock empanelling process. Complete Lesson 4 activity: Jury selection, Scenario 1, the first of the jury selection activities. Use this as a practice selection process for a much larger jury selection activity in a following lesson.

This initial activity will help students understand the whole process.

Jury selection activity

This activity is best completed in a large open area. You will need chairs for each student but only a few tables. Set up the room to resemble a courtroom.

Alterations to this activity involve assigning students an occupation, name and age in one lesson and then getting them to find appropriate clothing to wear to the next lesson when the jury goes through the empanelling process.

1 Allocate the following five roles to students in the class:
   - judge
   - judge’s associate
   - defence barrister
   - prosecution barrister

Give each of the other students a card outlining who they will be in the role play. These cards can be made from the table in Lesson 4 activity: Jury selection, Scenario 1.

2 Each student can make up a sensible name for his or her character. The judge’s associate records the name and occupation of each prospective juror.

3 Act out the following process, with students in their assigned roles:
   - The judge oversees the proceedings. He or she asks if there is anyone present who knows the defendant or victim, or has other reasons why they should not be part of the jury.
   - Prospective jurors who have a reason why they should not be part of the jury approach the judge to explain why they should be excused. The judge decides whether the reasons offered are valid.
   - The judge’s associate reads out names and occupations of those eligible.
   - As each name is read, the person makes his or her way to the jury box.
   - Before the person reaches the jury box, the prosecutor or the defendant can challenge the prospective juror. Up to six people can be challenged without giving a reason. In challenges “for cause” (with a reason), the judge decides whether the reason is acceptable.

You can repeat the role play, rotating the roles played by the students.

The following questions can be used in a class discussion after all of the jury selection activities:

   - What is the purpose of challenging prospective jurors?
   - Identify any bias or prejudice that could affect a juror’s decision-making.
   - Comment on the jury selected for each of the scenarios. What did you observe about the choices made? What was the legal counsel trying to achieve by choosing those particular jury members?
   - How important is the role of legal counsel in selecting a jury?
   - What does a person’s occupation and name reveal about them? How does this impact on the jury selection process?
   - How does a person’s dress affect how others perceive them? How does this impact on the jury selection process?
How to use Lesson 5

The focus of this lesson is a comparison of the advantages and disadvantages of Victoria’s jury system. These should be noted and discussed at the beginning of the lesson, based on the knowledge students have gained so far. Get the students to complete a PMI chart once they have a basic understanding of the process and system. Use Lesson 5 worksheet: The jury system PMI chart.

Once students understand the advantages and disadvantages of trial by jury, students could have a class debate or a series of short debates based on the information gathered. As an assessment task, students could complete a short argumentative essay, again based on the PMI charts.

If the above activities are completed during class time, you can distribute names, occupations, and ages in preparation for a second and third jury selection activity in Lesson 6. Use the role-play cards provided.

How to use Lesson 6

In this lesson, students complete jury selection scenarios 2 and 3. Use an appropriate space to conduct the mock jury selection (set up as a courtroom, as shown in Lesson 4) and follow the instructions carefully to complete the tasks.

Find recent articles about jury trials to help students understand the types of cases juries are involved in and the decisions that they have made.

How to use Lesson 7

This lesson emphasises the importance of the jury system. Students can watch the video The Criminal Trial. It demonstrates the role of all parties involved in the legal process, including the jury, and can be used as the basis of a class discussion summarising the knowledge the class has acquired on the topic.

Complete some revision activities. You may wish to design your own, but you can also use the Lesson 7 worksheets as basis for revision for the assessment task in Lesson 8.

Students will also need to study the notes they have taken in class to prepare for the assessment task. They could summarise their notes and compare them in groups as a useful revision activity.

Answers

Lesson 7 worksheet: Jury system revision

Paragraph 1
compulsory, privilege, responsibility, questionnaire, eligible, permanently excused, deferred

Paragraph 2
peers, conscience, civil, criminal, 12, reasonable doubt, 6, probabilities

Paragraph 3
court, juror, empanelling, challenged, foreman/forewoman, judge, verdict

Paragraph 4
listening, understanding, concentration, law, prejudices, decision

Paragraph 5
democratic, cross-section
# Answers

## Lesson 7 worksheet: Jury system revision

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How to use Lesson 8

In this final lesson, students complete a sample assessment task. This has been designed to be completed in 70 minutes, but it can be easily modified if required.

Section A is a set of true-or-false questions. Section B comprises multiple-choice questions. Answers for both sections have been listed below. Section C comprises short-answer questions about the jury system in Victoria. Section D comprises a case study about the infamous Jaidyn Leslie murder case and accompanying questions.

After the assessment task, ask students to complete a reflection on this unit of study using Lesson 8 worksheet: Post-knowledge response. Ask students to respond again to the statement presented in the first lesson: ‘That serving on a jury is a privilege and neither insignificant nor a burden for citizens of Victoria.’ Having students complete this reflection will enable you to gauge the development of their knowledge and understanding over the course of the unit of study.

Answers

Lesson 8 assessment task

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Other activities that you could use to extend the unit or use as replacement activities are listed below:

Debate
Conduct a class debate on the advantages and disadvantages of the jury system in Victoria.

Proposal for change
In groups, students put forward a proposal to the Juries Commissioner for changes designed to improve the operation of the jury system. Ideas for this may emerge from the debate.

Media analysis
Students collect newspaper articles and use them to establish the types of cases that a jury is used for and the decisions they have made. Present the information in a table and see if there is any correlation between the type of case and the verdict given.
Pre-knowledge response

Student name

At this stage you may not know a lot about the jury system in Victoria but you should have an opinion about serving on the jury. Think carefully about how you would feel if you were selected for jury duty today. Write a response to the following discussion statement:

“That serving on a jury is a privilege and neither insignificant nor a burden for citizens of Victoria.”
**Common jury terms**

<table>
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<th>Term</th>
<th>Definition</th>
<th>Examples</th>
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<td>Civil trial</td>
<td></td>
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<td>Criminal trial</td>
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<td>Eligible for service</td>
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<td>Disqualified</td>
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<td>Ineligible</td>
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<tr>
<td>Excused for good reason</td>
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<td>Permanently excused</td>
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### The jury selection process

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<tr>
<td>Juries Commissioner orders new jury roll from Victorian Electoral Commissioner.</td>
<td>Summons are sent to eligible citizens.</td>
<td>Trial judge notifies Juries Commissioner of need for jury panel.</td>
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<tr>
<td>Victorian Electoral Commissioner randomly selects citizens required to make up jury roll.</td>
<td>Citizens receive summons.</td>
<td>Pool Supervisor conducts a ballot of prospective jurors from pool to form panel.</td>
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<td>Eligibility questionnaires are mailed to prospective jurors.</td>
<td>Prospective jurors may apply for deferment or excuse.</td>
<td>The panel is escorted to court. Names or ID numbers of jurors are called.</td>
</tr>
<tr>
<td>Prospective juror receives questionnaire, completes and returns it to the Juries Commissioner’s Office.</td>
<td>Prospective jurors attend for jury service as per summons.</td>
<td>Trial information provided to panel. Prospective jurors are provided with opportunity to be excused by trial judge.</td>
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<tr>
<td>Juries Commissioner’s Office processes returned questionnaires.</td>
<td>Prospective jurors are allocated to a jury pool on date nominated in summons.</td>
<td>Jury is selected from panel by ballot process. Selections are subject to challenge.</td>
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**Trial begins.**
We the Jury
Lesson 3 worksheet

Viewing the DVD *We the Jury*

Student name

1. Describe what you see in the County Court of Victoria.

2. How do most cases open? Why would the jury not be present for this part?

3. Where does jury selection start?

4. How is this stage carried out and by whom?

5. What is the layout of the County Court?

6. What is the role of the judge? (List 3.)
   1. 
   2. 
   3. 

7. Why may a person be excused from jury service for a particular case?

8. What knowledge could bias a juror? (List 3.)
   1. 
   2. 
   3.
What does it mean to “arraign the accused”? 

Who has the right to reject (“challenge”) jurors? 

How is the jury chosen at this point? 

If a juror is “challenged,” what does this mean and should a juror feel bad? 

If jurors are not selected, what happens to them? 

What must a juror do to do his or her job well? (List 4.) 

How many jurors are selected for a criminal trial? 

What does a foreperson do and who selects this person?
17 List the steps of the trial as announced by the judge. (List 8 steps.)

1

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18 What are the advantages of having a jury? (List 4.)

1

2

3

4
Majority verdicts—The case FOR

**NO MAGIC IN A DOZEN**

Other accused get fair trials without a unanimous verdict, so why not alleged killers, says PETER FARIS

Unanimous verdicts have been required in English common law since 1367. But things have changed in the past 632 years. Today, in all other criminal jury trials in Victoria, there can be majority verdicts—murder trials being the exception. There is no need for this exception. Accused people have been receiving fair trials with majority verdicts and it is time that murder trials were brought into line.

There is nothing special about murder trials. In some ways, they are serious assault cases where the victim has died. These days, drug traffickers often get higher effective sentences than those convicted of murder.

A majority verdict has the effect of breaking an 11–1 deadlock which would otherwise force a retrial (which is an extra pressure for the accused, great inconvenience to witnesses and expensive for the taxpayer). A majority verdict may permit a conviction or an acquittal. A vote of 11–1 for an acquittal in a murder trial at present would see the jury discharged and a retrial ordered.

There is no magic in the figure 12 (instead of 11) for an acquittal or conviction. I support a greater saving to the taxpayer by having 10–12 verdicts, although this is not government policy at the moment.

In some ways, juries themselves are not necessary for a fair trial. In New South Wales, South Australia, Western Australia and the ACT some criminal trials are heard by the judge alone, that is, with no jury.

These trials are conducted fairly. Magistrates’ courts do not have juries, nor do most civil actions. The Family Court and the Federal Court do not have juries. Again, all these trials are fair.

On the other hand, juries bring a sense of community values into trials, but this is limited as most people are able to avoid jury service because of employment, study or family demands.

Juries are no longer truly representative of society.

The real problem with jury trials is they are expensive. This is because the system treats juries as being stupid.

Great care is taken to keep evidence away from juries because if they hear everything they will be “prejudiced.” So the fact that fingerprints are on the gun, the accused has admitted the murder or has been found guilty of five other murders may be excluded as evidence for various reasons.

Should a whiff of these facts reach the jury then there will be a retrial (at the taxpayers’ expense). Sometimes this makes trials a bit of a joke. In one trial I did, a witness being questioned turned to the judge and said, “Your Honour, can I tell the truth?” The judge replied, “Send the jury out.” The problem is not present when the matter is heard by a judge alone: he or she is a trained lawyer who can “put out of their minds” anything that they are not supposed to hear.

Trials without a jury proceed more quickly because the risk of mistakes is removed.

The government is correct in seeking to apply majority verdicts to murder trials. Unanimous verdicts may create more work for lawyers but are not in the public interest.

Source: *Herald Sun*

Reproduced with kind permission of Peter Faris QC
Majority verdicts—The case AGAINST

The push is on for majority verdicts in all trials, including murder. The odd man out on a murder trial jury may just happen to be the one who has got it right, says FELICITY HAMPEL

In the film 12 Angry Men, Henry Fonda was cast as the lone, principled juror, arguing passionately for justice. He exposed prejudice and bigotry for what they were. He forced his fellow jurors to do their sworn duty of deciding the case on the evidence they had heard, in accordance with the judge’s directions.

The jury brought in a verdict according to the evidence. If the proposal of the Victorian Government to introduce majority verdicts in murder trials proceeds, a juror who holds a strong view contrary to the majority of the jury may well be unable to have that view reflected in the verdict.

That would inevitably lead to wrongful convictions and also to wrongful acquittals. We would not have a Victorian Henry Fonda ensuring justice was done.

Since the 14th century the criminal justice system, which we inherited, has had unanimity of jury verdict as an essential, inseparable part of the right to trial by jury for serious offences. In 1993 that right was removed in respect of state charges, excluding murder and treason.

In the same year the High Court declared that the constitutional guarantee of right to trial by jury carried with it the absolute requirement for a unanimous verdict.

The Victorian Government now plans, for no good reason, to extend that removal of right to the most serious charge on the criminal calendar.

Far from doing that, it should restore the fundamental common-law right to unanimous verdicts for all state offences, to give us all the same right to trial by jury that we have under the Constitution, in respect of Commonwealth offences.

Why should a jury verdict be unanimous? Because a jury cannot convict a person unless it is satisfied beyond reasonable doubt of the guilt of the accused.

A jury cannot acquit a person unless it is not satisfied, beyond reasonable doubt, of the person’s guilt.

If one or more of the jurors is not satisfied of guilt, then the jury is not satisfied.

If 12 members of the community, sworn to do their duty as jurors, cannot agree then a person’s guilt has not been determined.

If the jury cannot agree, then the individual and the community have the right to have a different jury, differently composed, consider the evidence and agree, if it can, on a verdict.

It is untenable that a person be acquitted when one juror is satisfied beyond reasonable doubt of his or her guilt as it is that a person be convicted when a juror is not satisfied beyond reasonable doubt of guilt.

There is no evidence to suggest Victoria has a high rate of disagreements where the jury is split 11–1 as opposed to, say 6–6. Were there evidence of any of these matters, perhaps an argument justifying the proposal could be made.

Nor is there any evidence to suggest that we have a plague of “rogue jurors” who refuse to do their sworn duty of deciding the case on the evidence.

The number of hung juries is very small. That is not to disparage the effect on those, including families, witnesses and the accused who asserts innocence, who are involved in a case where by reasons of disagreement, a retrial has to be held.

Retrials are necessary for reasons other than a jury’s failure to agree. They include appeal, illness, absence of witness, impermissible prejudice to fair trial. Whatever the reason for a retrial, it exacts a heavy toll.

Reform of the criminal law must be necessary, principled and fair. This proposal fits none of these criteria.

Reproduced with kind permission of Her Honour Judge Hampel
Majority verdicts

Student name

Using the two articles *No magic in a dozen* and *Eleven good men and true*, answer the following questions.*

1. Explain in your own words how a majority verdict is different from a unanimous verdict.

2. What reasons does Faris give for majority verdicts to remain in the State of Victoria?

3. What reasons does Hampel give for retrials other than a jury’s failure to agree?

4. Faris states that “there is nothing special about murder trials.” What do you think he means by this and do you agree with the statement?

5. What alternatives does Faris give instead of a majority verdict and what problems might arise from these alternatives?

6. Do you think majority verdicts should remain in Victoria? Why/why not?

* Questions adapted from Beazer and Humphreys, *Justice and Outcomes*, with the kind permission of Beazer Publishing Company.
### We the Jury
#### Lesson 4 activity

**Jury selection**

**Scenario 1**  
Tony Willow, 45, a chemist from Box Hill, is charged with the rape of Michelle Coulta, 23, a nurse from Balwyn.

<table>
<thead>
<tr>
<th>Occupations/situations of people summoned for jury duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teacher</td>
</tr>
<tr>
<td>Receptionist</td>
</tr>
<tr>
<td>Police officer</td>
</tr>
<tr>
<td>70-year-old male</td>
</tr>
<tr>
<td>Dentist</td>
</tr>
<tr>
<td>Truck driver</td>
</tr>
<tr>
<td>Car salesman</td>
</tr>
<tr>
<td>Unemployed person</td>
</tr>
<tr>
<td>Pilot</td>
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</tbody>
</table>
The jury system PMI chart

Think about the advantages of the jury system. Use the PMI chart to list all of the positive (plus), negative (minus) and interesting aspects of the topic to help you form an overall opinion and argument, and prepare for a debate.

<table>
<thead>
<tr>
<th>Plus</th>
<th>Minus</th>
<th>Interesting</th>
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</thead>
<tbody>
<tr>
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</tbody>
</table>
### Scenario 2
Ahmed Sinsha, 47, from Northcote, was brutally assaulted by Sean Duffle, 24, from Carlton.

**Occupations/situations of people summoned for jury duty**

<table>
<thead>
<tr>
<th>Magistrate</th>
<th>Baker</th>
<th>Nun</th>
<th>Podiatrist</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial advisor</td>
<td>Flight attendant</td>
<td>On remand</td>
<td>University lecturer</td>
</tr>
<tr>
<td>Nurse</td>
<td>Solicitor</td>
<td>Dietitian</td>
<td>Hairdresser</td>
</tr>
<tr>
<td>Legal secretary</td>
<td>Undergoing chemotherapy</td>
<td>Psychiatrist</td>
<td>Grocer</td>
</tr>
<tr>
<td>Retired professor</td>
<td>Receptionist</td>
<td>Builder</td>
<td>Shelf-stacker at Safeway</td>
</tr>
<tr>
<td>Plumber</td>
<td>Teacher</td>
<td>Unemployed person</td>
<td>CEO of company</td>
</tr>
<tr>
<td>Intellectually disabled</td>
<td>Doctor</td>
<td>Aged 75</td>
<td>Retail assistant</td>
</tr>
<tr>
<td>Fireman</td>
<td>Lives 60 km away from the court</td>
<td>Veterinary nurse</td>
<td>School crossing supervisor</td>
</tr>
<tr>
<td>Beautician</td>
<td>Carpenter</td>
<td>He had a suspended sentence within the last 5 years</td>
<td>Local mayor</td>
</tr>
</tbody>
</table>
## We the Jury
### Lesson 6 activity

### Jury selection

**Scenario 3** Samantha James, 38, from Eltham, killed her husband, Lou James, 39. She claimed that she had been a victim of domestic violence for the twelve years that they were married.

<table>
<thead>
<tr>
<th>Occupations/situations of people summoned for jury duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child care worker</td>
</tr>
<tr>
<td>Garbage collector</td>
</tr>
<tr>
<td>Postman</td>
</tr>
<tr>
<td>IT specialist</td>
</tr>
<tr>
<td>Veterinary surgeon</td>
</tr>
<tr>
<td>Real estate agent</td>
</tr>
<tr>
<td>Visually impaired</td>
</tr>
<tr>
<td>Recovering from surgery</td>
</tr>
<tr>
<td>Intellectually disabled</td>
</tr>
</tbody>
</table>
Jury system revision

Complete the revision passage below using words from the table.

<table>
<thead>
<tr>
<th>eligible</th>
<th>empanelling</th>
<th>verdict</th>
<th>responsibility</th>
<th>12</th>
</tr>
</thead>
<tbody>
<tr>
<td>prejudices</td>
<td>listening</td>
<td>conscience</td>
<td>probabilities</td>
<td>questionnaire</td>
</tr>
<tr>
<td>deferred</td>
<td>reasonable doubt</td>
<td>permanently excused</td>
<td>privilege</td>
<td>peers</td>
</tr>
<tr>
<td>juror</td>
<td>law</td>
<td>civil</td>
<td>challenged</td>
<td>court</td>
</tr>
<tr>
<td>understanding</td>
<td>judge</td>
<td>decision</td>
<td>concentration</td>
<td>democratic</td>
</tr>
<tr>
<td>6</td>
<td>criminal</td>
<td>cross-section</td>
<td>compulsory</td>
<td>foreman/forewoman</td>
</tr>
</tbody>
</table>

Serving on the jury here in Victoria is ___________________. It should be regarded as a ____________________ and part of your civic and social ________________________. When you are selected for jury service, you will be sent a ____________________ from the Juries Commissioner’s office. Once you have returned this, you will either be deemed ____________________, ____________________, ____________________, excused on this occasion, ____________________ or ineligible.

The jury system is a trial by ____________________. The jury does not give a reason for its decisions and therefore members of a jury are able to make their decisions based on __________________________. You can be selected to serve on a jury for either __________________ or __________________ cases. Criminal trials have ___________ members of the jury and must make a decision beyond ____________________ __________________. This is compared with civil trials which have ___________ members and make a decision based on the balance of ____________________.

Once selected for jury duty, members must attend _______________. A prospective _______________ must undergo the _______________ process which involves being informed about the case to be tried. If a prospective juror is _______________ then they will return to the jury pool possibly to be selected for a different trial. A jury, once selected, must elect a _______________. This person acts as the spokesperson for the whole jury and is the only member of the jury that can ask the _______________ questions and deliver the ________________.

Jurors have a number of duties they must perform. These involve ____________________ to all of the evidence, ____________________ the evidence and trying to not lose ____________________. A juror must also understand the _______________ as explained by the judge, put aside all _______________ and finally make a _________________ based on the facts of the case.

The jury system helps protect our ____________________ values. It gives ordinary citizens, selected from a _______________ of the community, the opportunity to contribute to the effective operation of the legal system.
Jury system wordsearch

Find all of the words from the table in the wordsearch.

<table>
<thead>
<tr>
<th>jury</th>
<th>judge</th>
<th>jury pool room</th>
<th>lawyer</th>
<th>defence</th>
</tr>
</thead>
<tbody>
<tr>
<td>constitution</td>
<td>responsibility</td>
<td>guilty</td>
<td>trial</td>
<td>privilege</td>
</tr>
<tr>
<td>criminal</td>
<td>civil</td>
<td>jurors</td>
<td>court</td>
<td>selection</td>
</tr>
<tr>
<td>questionnaire</td>
<td>commissioner</td>
<td>ineligible</td>
<td>disqualified</td>
<td>excused</td>
</tr>
<tr>
<td>empanelling</td>
<td>majority</td>
<td>challenge</td>
<td>verdict</td>
<td>eligible</td>
</tr>
</tbody>
</table>

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Instructions
Reading time 5 minutes. Writing time 65 minutes.
• There are four sections to this paper.
• Answer each section in this booklet.
• Marks are stated at the end of each section.
• Make sure that you allocate sufficient time to answer each question.

Section A
True or false questions

For each of the following statements, write “true” or “false.”

1. Anybody living in Victoria can be sent a “Notice of Selection for Jury Service.”
2. Most cases begin without a jury present in the courtroom.
3. A person who lives outside Melbourne and over 60 kilometres from the court may be excused from serving on a jury.
4. The number of jurors in a criminal jury and in a civil jury is exactly the same.
5. The foreperson is the person selected fourth to be on the jury by counsel and is the only juror who can converse with the judge.
6. The jury is the decider of the facts.
7. Victoria and New South Wales have different systems of jury service.
8. A majority verdict consists of two-thirds of the jury agreeing on a decision.
9. The Victorian Juries Act was passed in 2000.
10. The judge selects who will be on the jury.

[Total marks for Section A: 10 marks]
Section B
Multiple choice questions

Circle the correct answers.

1. The number of jurors on a criminal case is
   a. 14
   b. 6
   c. 12
   d. 10

2. Which of the following occupations would make a person ineligible for jury service?
   a. ambulance officer
   b. hairdresser
   c. train driver
   d. police officer

3. A criminal case could involve which of the following crime(s)?
   a. manslaughter
   b. murder
   c. theft
   d. all of the above

4. Which of the following is not a court in Victoria?
   a. Melbourne City Court
   b. The Magistrates’ Court
   c. The County Court
   d. The Supreme Court of Victoria

5. The accused is allowed to challenge jurors. This means that the accused
   a. debates the facts of the case with the jury
   b. has the opportunity to stop jurors from sitting on the jury if they think they are unsuitable
   c. selects jurors for the jury that they know
   d. is able to add additional members to the jury once the final number has been selected

6. When a juror is called to the jury box in the court, what two facts are read aloud about the juror?
   a. their name (or number) and occupation
   b. their name (or number) and age
   c. their name (or number) and residence
   d. none of the above

7. Which of the following are categories under which people may not have to serve on a jury?
   a. disqualified
   b. excused due to occupation
   c. ineligible
   d. all of the above

8. In cases that involve a jury, which of the following is not part of the judge’s role?
   a. instructing the jury as to the law applying to the case
   b. ensuring that a fair trial is held
   c. ensuring that the trial is conducted according to the rules of evidence and procedure
   d. deciding the case and gives his or her opinion to the jury

9. Jurors may be excused from a case if
   a. they know the accused
   b. they know a witness
   c. the length of the case will cause hardship
   d. all of the above

10. The jury is chosen
    a. randomly
    b. in alphabetical order
    c. so that it supports the case of the defence counsel
    d. so that it supports the case of the prosecution
Section C
Short-answer questions

1 Explain two advantages and two disadvantages of the jury system in Victoria. [4 marks]

2 What is the main difference between the role of a jury in a criminal trial and the role of a jury in a civil trial? [2 marks]

3 Identify three valid reasons for being excused from jury service. [4 marks]

4 What is the purpose of the questionnaire sent to prospective jurors? [4 marks]

5 What does “majority verdict” mean? In what types of cases can a majority verdict not be used? [3 marks]

6 Who selects the foreman/forewoman? [1 mark]

7 Give two reasons why a jury might not be used in a civil case. [2 marks]

[Total marks for Section C: 20 marks]
Greg Domaszewicz was charged with the murder of Jaidyn Leskie. This case caught the attention of the nation and drew wide media coverage due to the bizarre circumstances that surrounded the case. Jaidyn went missing on 14 June 1997. He had been in the care of Greg Domaszewicz. Jaidyn was left at Domaszewicz’s house while Domaszewicz went to pick up Jaidyn’s mother from a local hotel. When Domaszewicz returned the little boy was missing and a pig’s head was found in the garden of Domaszewicz’s house. Jaidyn’s body was found in the Blue Rock Dam near Moe on New Year’s Day 1998 (more than six months later).

The members of the jury would have been fully aware, before the trial began, of the circumstances of the disappearance of the little boy and Greg Domaszewicz’s connection with the case. They had to put all preconceived ideas out of their mind and listen to the facts of the case as presented during the trial.

Various doubts were raised and theories offered during the trial. In summing up the case, Justice Frank Vincent told jurors to limit themselves to the evidence in considering a verdict. He said that jurors had heard various theories given by both sides about what had happened to Jaidyn and they had to be acutely conscious about filling in the gaps with their own theories. Justice Vincent also commented about the intense media and public interest and the wild propositions that had been put forward. He went on to say “You must draw rational conclusions as the case requires, from the evidence, and only on the basis of the evidence which has been given in the trial.” He told the jurors that they should rely on basic commonsense and notions of justice when they were deliberating.

On 4 December 1998 the jury found Domaszewicz not guilty of murder and not guilty of manslaughter. He was allowed to go free.

The jury was made up of eight men and four women. The jurors cannot be identified, but their occupations represented a cross-section of the community, and their ages ranged from early 20s to late 60s. They included:

- a panel beater (male)—foreperson
- a clerk (female)
- an accountant (male)
- a nurse (female)
- a water maintenance worker (male)
- a motor mechanic (male)
- a communications coordinator (female)
- a retired person (male)
- an unemployed person (female)
- a storeman (male)
- a technical writer (male)
- a journalist (male)

Jurors were chosen from a panel of 60 summoned for jury service. Twenty-eight of the 60 asked to be excused, and went back into the jury pool. The defence counsel challenged five members of the jury panel. These were three women and two men. The Crown made no challenges.

One of the 12 jurors empanelled was excused on compassionate grounds late in the trial after the death of a close relative. Justice Vincent allowed the trial to continue with 11 jurors.

Observers noted that one of the jurors regularly fell asleep during the trial, and showed little interest when awake.

* Reproduced from Beazer and Humphreys, Justice and Outcomes, with the kind permission of Beazer Publishing Company.
1 Explain why the jurors may have had preconceived ideas about this case before being selected for the jury. How could these ideas have influenced the final outcome of the case? (4 marks)

2 What was the general message to the jury by Justice Vincent in his summing up? (2 marks)

3 What is meant by the term “cross-section of the community”? (2 marks)

4 Why do you think some jurors would be more likely to be challenged than others? (2 marks)

5 If the case were about a person stealing money from a business (fraud), which of the jurors do you think would be challenged and why? (4 marks)

6 The jury verdict is final. Do you think that this is an advantage or disadvantage? (2 marks)

7 With reference to this case, present an argument against the use of the jury system. (2 marks)

8 Why do you think that the majority of the jury members were male, and that more females were challenged than males during selection? (2 marks)
Post-knowledge response

Student name

At this stage you should know quite a lot about the jury system in Victoria. Think carefully about how you would feel if you were selected for jury duty today. Once again, consider the following statement and respond accordingly:

“That serving on a jury is a privilege and neither insignificant nor a burden for citizens of Victoria.”
We the Jury Resources

Texts

Beazer, Margaret and Gray, Josie, Access and Justice: Legal Studies for Units 1 and 2, 7th ed, 2005, Beazer Publishing Company, Melbourne

Beazer, Margaret and Humphreys, Michelle, Justice and Outcomes: Legal Studies for Units 3 and 4, 8th ed, 2005, Beazer Publishing Company, Melbourne

Other Legal Studies VCE textbooks will also contain very similar information and can be easily substituted.


Victorian Curriculum and Assessment Authority (VCAA)
www.vcaa.vic.edu.au

Videos/DVDs

The Criminal Trial, 2008, Law Vision
www.lawvision.com.au

We the Jury, 2012 (reprint), Victoria Law Foundation
www.victorialawfoundation.org.au
Weblinks

Victorian courts and tribunals
www.courts.vic.gov.au
This website has links to all Victorian courts and tribunals.

Victorian Department of Justice
www.justice.vic.gov.au
This is a very useful website for students, which contains current information about the delivery of justice in Victoria and about changes and proposed changes in the law.

Legal Online
www.legalonline.vic.gov.au
This is a legal information website for the general public created by the Victorian Government.
It provides basic legal information including citizens’ rights and responsibilities, how to get legal assistance, career opportunities in the law and resolving neighbourhood disputes.

Supreme Court of Victoria
www.supremecourt.vic.gov.au
This website provides detailed information about the court and its criminal and civil jurisdiction.

Victoria Law Foundation
www.victorialawfoundation.org.au
This website provides access to a wide range of teacher and student resources for VCE Legal Studies and VELS Civics and Citizenship, and lists all of the foundation’s publications. You can download a copy of the Juror’s Handbook from this site.
Contributors

About the Victoria Law Foundation

Victoria Law Foundation helps Victorians understand the law and their legal system. We are a not-for-profit organisation funded by the Legal Services Board Public Purpose Fund.

The foundation funds and generates innovative projects, including plain language publications that promote community understanding of the law and the legal system. Wherever possible, publications are made available at no cost to schools and community organisations.

The foundation also organises the annual Law Week in May, which features a number of activities for schools. For more information visit www.victorialawfoundation.org.au/lawweek.

About the author

Cain McDonald, BA, BEd, GradDipThEd, M.Ed, is currently principal at Victory Lutheran College, Wodonga. This project was undertaken while Cain was SOSE Key Learning Area team leader at Catholic Ladies’ College, Eltham. Cain has also served as director of the History Teachers’ Association of Victoria and teacher liaison officer for the Pauline Glass Yad Vashem Teachers’ Scholarship. He has authored various SOSE chapters for Harcourt Education (Heinemann) and is currently a serving member of the North East Local Learning and Employment Network.
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Danielle come to judgment
A model criminal hearing in the Magistrates’ Court

Death at Blue Hills
A model criminal hearing in the Supreme Court

Dr Grant and his underpants
A model mediation

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VCE teacher notes

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David Thomson
Teacher-in-Residence, Victoria Law Foundation, and Teacher, Caulfield Grammar