
JURY EMPANELMENT: THE JURY SELECTION PROCESS STUDENT RESOURCE

Use the following information regarding the selection and empanelment of jurors to assist you to answer the questions below.

The jury system is used in the Supreme and District Courts of Western Australia. In criminal proceedings, jurors will only be empanelled after an accused has pleaded “not guilty” to charges in an indictment.

Potential jurors are selected from the electoral roll, maintained by the Western Australian Electoral Commission. In March each year the Sheriff’s Office notifies the Electoral Commissioner of the number of jurors that in its estimate will be required for jury service for each jury district for the year beginning 1 July.

The Electoral Commissioner will then select by ballot the required number of jurors for each district from the respective electoral rolls. The list of jurors selected will form the jury book for each jury district. In Western Australia there are 17 jury districts.

Jurors are then balloted from each jury book as required and issued with a “Summons to Juror”, which they usually receive four to five weeks before they must report for jury duty. People who attend in response to their summons form the jury pool. A person who does not respond to a summons may receive an infringement of a minimum of \$800 if they do not attend. The offence carries a maximum fine of \$5000 if it proceeds to court with the amount of the fine given to an individual to be determined by the Court.

At present the Perth metropolitan jury pool contains approximately 200-350 people each week. These people must report to the District Court Building in Perth at 8:15am on Monday morning.

For each court in which a jury is required, the Jury Supervisor ballots approximately 30 - 50 people (the number of people balloted depends on the expected length of the trial and the number of accused and is usually determined by the court) from the jury pool to form the jury panel for that trial.

Cards with a number allocated to each person in the jury panel are placed in the court ballot box. The Judge’s Associate draws a card out of the box and reads out the number. The juror whose card has been selected then stands and walks to the jury box. If no challenge (objection) is made then the person is empanelled by taking an oath or affirmation and becomes a member of the jury.

Each juror can elect to take either the oath or affirmation. A juror takes an oath as a way of swearing before God that s/he will give a true verdict according to the evidence and the issues to be tried by him/her. There are specific oaths and holy books for the different recognized religions in our community, e.g. Christian oath/Bible, Muslim oath/Koran, Hebrew oath/Pentateuch, Buddhist oath.

People who do not have any religious beliefs swear by way of an affirmation, which is swearing before the State without any religious connection, to give a true verdict according to the evidence and the issues to be tried by him/her.

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Both have the same effect of ensuring that a juror will consider the case on the facts and will not commit a wrong against God or the State by reaching a verdict which they know to be wrong.

Each party has the right to challenge the selection of potential jurors and those challenges can be in one of two forms. Firstly, peremptory challenges allow parties to challenge the selection of potential jurors without having to give a reason. Each party (the prosecution and defence) may challenge up to three jurors peremptorily. Challenges for cause allow the prosecution or an accused to challenge a juror for a reason that must be disclosed to the court. The party making the challenge will be required to explain the reason for the challenge and the trial Judge will decide on the facts in such a challenge.

A Judge or Justice in Western Australia may direct that up to 18 jurors be empanelled. This occurs if the trial is to extend beyond a few days. A trial may be aborted if the jury reaches less than 12 people, so by swearing in more jurors for longer cases, this issue can be avoided. All sworn jurors are given equal status.

If more than 12 jurors remain immediately before the jury retires to deliberate, the Associate selects the final 12 members of the jury by placing all the jurors' cards, except for the foreperson, into the ballot box. The Associate then selects 11 cards and these represent the jurors who will join the foreperson in the deliberations. The Foreperson is the only juror who cannot be eliminated at this point.

Summarise how jurors are selected for jury duty.

Summarise how a jury is chosen from those people that are summonsed to attend.

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What are peremptory challenges?

What are challenges for cause?

If you were a lawyer, in what circumstances would you make a challenge for a cause?

Think of some disadvantages of having to provide a reason for challenging the selection of a juror.

Why is it important to empanel more than 12 jurors in some cases?

