

# First mock trial with deaf jurors at Parramatta

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A mock trial challenges lawyers' perceptions about the capability of individuals in a jury, Steven Doumit reports.

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Legal Aid provided staff and resources to support the Deaf Juror Project which investigated the participation in the administration of justice by deaf citizens as jurors. The main activity of the research project was a mock trial conducted at the Parramatta Justice Precinct Sydney West Courts on 16 and 17 July, 2014. The mock trial was to allow observation of the impact of having an interpreter in the jury room and whether it affected the dynamic and communications between the jurors.

The project was jointly conducted by University of New South Wales, Australian Catholic University, Heriot-Watt University in Scotland and the University of Alberta in Canada. Leading the research project were Professor Sandra Hale and Mehera San Roque from UNSW, Professor David Spencer from

ACU and Professor Jemima Napier from HWU. Mehera is familiar to Legal Aid criminal lawyers through her participation in the 2013 Legal Aid NSW Criminal Law Conference where she presented a session on "Challenging Experts' Evidence and Reports".

Previous research has found deaf jurors are not disadvantaged by relying on sign language interpreters and show comparable levels of understanding to other jurors.

Deaf people are not directly excluded from jury service. A person has good cause to be exempted or excused from jury service if "some disability associated with that person would render him or her, without reasonable accommodation, unsuitable for or incapable of effectively serving as a juror" (*s14A Jury Act 1977*).

No deaf person has ever sat on a jury trial in Australia. In May 2014 a deaf woman was excluded from serving on a Queensland jury on the basis that it would introduce an Auslan interpreter

as a "thirteenth juror" into the jury deliberations. However, NAATI Level 3 Auslan interpreters (the only Auslan interpreters used for court) are bound by a strict code of ethics that ensures they understand their role to only be to interpret, rather than comment, on what is being said.

The mock trial was based on a real trial that David Evenden, one of our Solicitor Advocates, had previously conducted. Three Legal Aid NSW staff were involved as legal representatives – David Evenden appeared as the defence solicitor advocate, Paul Johnson from Inner City Local Courts was the defence instructing solicitor and Steven Doumit from Grants was the instructing solicitor for the prosecution.

*A NSW Law Reform Commission review recommended in 2006 that blind or deaf people not be excluded from jury service but no deaf person has sat on a trial jury in Australia.*



Deaf Juror Mock Trial participants, Sydney West Trial Courts, Parramatta

**Below:** Participants in the Deaf Juror Project awaiting the jury's verdict l-r: Tim Macintosh, (ex-DPP – the Crown Prosecutor), Professor Sandra Hale (UNSW), the ever-hopeful accused, Paul Johnson (Legal Aid – instructing solicitor for accused), David Evenden (Legal Aid Solicitor Advocate for accused), Steven Doumit (Legal Aid – instructing solicitor for the Crown) and Mehera San Roque (UNSW).



A former prosecutor well known to Legal Aid, Tim McIntosh, appeared as the Crown. Retired District Court judge, Chris Geraghty, kindly gave his time to be the trial judge. Legal Aid staff are continuing to assist in the project with Pam King and Joe Wasuruj from Equity and Diversity, Strategic Policy and Planning attending the trial as members of the project advisory group and providing further critical analysis of the trial as members of that group. A special mention is owed to Reena Goundar from IT Services who provided invaluable help to Paul Johnson in transforming PDF documents into Word documents.

The mock trial involved a jury panel of 15 with two deaf jurors assisted by Auslan interpreters to follow the evidence and all interactions that occurred in the court and during the jury deliberations. Only one deaf juror was chosen for the panel of 12 to deliberate on the verdict. The whole trial and the jury deliberations were filmed and will be analysed.

For the legal representatives the experience challenged our preconceptions about the capability of individuals in a jury. We had no doubt that the deaf jurors were attentive to the proceedings in the courtroom. What happened in the jury room remains a mystery!

Preliminary findings from the analysis will be presented to a range of stakeholders and discussed through a number of focus and discussion groups during the next stage of the project in 2015.

Whether deaf jurors will be allowed to be members of NSW juries will depend on the resources required for Auslan interpreters to ensure that deaf people can fully participate. It would be nice to know that the contribution of Legal Aid to the project will help bring the participation of deaf people on juries to fruition.

## Immigration law in Albury

Earlier this year, Legal Aid ran an information event on immigration law in Albury. Newly arrived refugees from UN refugee camps learned about the criteria for different types of visas for family reunions. Many of the refugees in the audience had been in refugee camps for over 15 years before being resettled to Australia. Over the past five years a community of Bhutanese refugees has arrived in Albury and they eagerly sought immigration information about their close family members still in refugee camps overseas.

The information event and free advice sessions were held in conjunction with the Albury Wodonga Volunteer Resource Bureau Inc at Albury City Council's Mirambeena Community Centre and Legal Aid thanks them for their support.

Simon Bruck  
Immigration Outreach Lawyer  
Government Law Group

**Below:** Diana Elliott, Multicultural Settlement Officer at the Albury Wodonga Volunteer Resource Bureau with Simon Bruck, Legal Aid.

