*Inclusive Juries Submission: Questions & Answers*

# Question 2: The Commission has identified some of the key reasons underpinning the

***need for reform. Are there any other reasons you would like to bring to our attention?***

The notion that persons with a disability are not as adequate as an able-bodied person pertaining to jury service should be re-evaluated. There are many people in the community who were born without a disability and then acquire a disability over the years. The disability should not define the person's character and life. There could be many intelligent, highly skilled and successful individuals who may be unable to see or hear but could achieve a just outcome for a person who has been accused of a crime that they did/ did not commit.

However, with the current laws not allowing prospective jurors who have a visual/hearing disadvantage to serve as a juror, the disabled community may feel excluded and unimportant; instead an able-bodied person who does not care about the trial or the accused’s future is viewed as more ‘eligible’ to be a juror.

Jurors with adversaries with their sight/hearing should be recognised as ordinary persons who go through life like any other person. Whether someone has a disability or not, everybody goes through life with struggles, tribulations and different outlooks. Would it not best demonstrate community values and inclusivity if those within the community be represented? With persons who are able-bodied having different experiences and overcoming different tribulations, what is the difference when it comes to those who may have adversaries with their sight/hearing?

# QUESTION 3: Should the Juries Act 2000 (Vic) be amended to specifically require the

***courts to consider the provision of reasonable supports for people who are deaf, hard***

***of hearing, blind or with low vision?***

The Juries Act 2000 (Vic) should be amended to specifically require the courts to consider the provision of reasonable supports for people who are deaf, hard of hearing, blind or with low vision. By the courts considering and providing reasonable supports, prospective jurors who have difficulties with their sight and hearing can participate in the panel without difficulties and feel included in the trial.

# QUESTION 4: Is the ACT approach appropriate for Victoria?

With the ACT approach covering:

* Decisions being made on a case-by-case basis whether a person will be able to perform the role of juror despite their disability
* Assessing the juror to see if they are suitable for the trial and would be impartial on behalf of the accused
* Allow access for prospective jurors to have support persons and interpreters when they are in court
* Ensure that supports/interpreters take an oath

the Victorian courts would benefit from these changes, thus the ACT approach is appropriate for Victoria.

Victoria should also implement these guidelines to allow prospective jurors to feel included in the community and the juror process while also ensuring that the law for the accused is impartial and just.

# QUESTION 5: What would be the best way to notify Juries Victoria and the courts that

***a prospective juror is deaf, hard of hearing, blind or has low vision and of the***

***supports they would need to serve?***

Pertaining to the supports that may be of assistance for the prospective juror, an eligible way to notify authorities that a prospective juror requires specific supports and aids could be through contacting authorities via telecommunications, face-to-face association or organising a meeting prior to the jurors becoming officially empaneled.

Another appropriate (albeit not limited to) way to notify Juries Victoria and the courts that a prospective juror has difficulties with their eyesight and hearing is through a consultation that involves the prospective juror. By having a consultation with the prospective juror, Juries Victoria and the courts can begin to organise any supports that the juror would need to be able to make a fair verdict and ensure that the juror is eligible to be a part of the panel without any adversaries or hindrances.

With the courts applying the requests of the prospective juror and understanding what they specifically require to fulfil their role as a juror, the juror will feel represented, acknowledged and included- therefore they will be more confident in their abilities when focusing on evidence and will give their maximum effort into ensuring that their decision is impartial and based on the evidence that they can identify (e.g. if the juror is blind but the evidence is auditory).

# QUESTION 6: Should the trial judge make the final decision about whether or not a

***person who is deaf, hard of hearing, blind or with low vision can discharge their***

***duties in the circumstances of the particular case?***

The trial judge should not make the final decision about whether or not a person who is deaf, hard of hearing, blind or with low vision can discharge their duties in the circumstances of a

particular case. Instead, a colloquium consisting of the Sheriff, jury commissioner and the trial judge should all agree upon whether the prospective juror is suited for the trial.

In circumstances where the trial judge has absolute conviction that the juror is not suitable for the trial and should be excused, the trial judge should form a consultation with the Sheriff and the Juries Commissioner expressing why the juror should be excused and provide evidence and plausible reasons why another juror would be better suited. Both the Sheriff and the Juries Commissioner will then determine if the juror is either suitable to continue in the trial or not.

The overall decision however should rest with the Sheriff if there is no decision agreed upon. The decision should be exercised through impartiality, fairness and the rationale that the juror is not suitable for the trial based on their competence rather their disability.

# QUESTION 7: Is a similar process to the ACT appropriate, where the Sheriff makes a

***preliminary decision and matters only need to go to a hearing if the recommendation***

***is that support cannot be reasonably provided?***

If it is absolutely necessary that prospective jurors who have difficulties seeing and hearing and cannot work without the support of aids, the Sheriff should make the preliminary decision and a similar process to the ACT jurisdiction should be inaugurated in the Victorian Courts.

# QUESTION 8: At what stage of the jury selection process should this assessment

***occur?***

The assessment should occur as soon as the juror has been officially selected and has confirmed that they wish to participate and be involved in trial. Once a juror who has difficulties seeing and hearing is committed to being a part of the empanelment, the Sheriff can begin to assist and organise any requirements that a juror may need and make accessible changes to accommodate the juror.

# QUESTION 9: What role should the Juries Commissioner or Juries Victoria play in the

***assessment process? Should anyone else be involved?***

It is important that authorities within the courts do not make jurors with difficulties seeing and hearing feel dismissed and inadequate. The Juries Commissioner should have assistance in determining if a juror is competent or not in being a part of the panel. A suggestion for those being of assistance pertaining to the Juries Commissioner is that there could be a

symposium of professionals (e.g. those who work in close proximity to people with disabilities, psychologists, councillors, caregivers, etc) who could determine if the juror is competent or not and if they are autonomous.

Overall the Juries Commissioner's role in the assessment process should be the most paramount. The Juries Commissioner should understand that jurors with weak eyesight/hearing could be the most intelligent, skilled or impartial juror on the panel, therefore the Juries Commissioner should assess the jurors based on their strengths. For example, those who are blind can be assessed with their hearing and deliberate with the Juries Commissioner. This way, the Juries Commissioner can determine how competent the juror is and can decide whether or not the juror is eligible to be a juror on the trial.

# QUESTION 10: What sorts of matters should be considered in determining whether it

***is ‘reasonable’ to provide supports? Is the ACT approach appropriate or should***

***additional factors be listed in legislation?***

The matters that should be considered in determining whether it is ‘reasonable’ to provide support to a juror who has adversaries with their sight/hearing is how reliant they are on assistive supports and if the assistive supports would help them to determine a fair and reasonable verdict that is not biased. Another considerable factor is how competent, focused, observant and experienced the juror is. If a juror is intelligent, intuitive,

non-judgemental and independent in their decisions, then the juror should be considered as an eligible candidate to be a part of the jury and should have access to supports and aids to see/hear with more clarity and help them further their final verdict on whether the accused is responsible or not based on the evidence they are exposed to. It is reasonable for the courts to provide support to the juror if they are absolute on being a part of the trial.

The ACT approach is appropriate for the Victorian courts to follow, although there should be more understanding and patience with jurors with difficulties with their sight/hearing. With one of the juror’s senses unresponsive, their other senses get heightened, resulting in the juror to have the ability to pick up on certain aspects of the trial and discuss what they noticed about the case. For example, if the juror was blind, the juror could listen to what the alleged is saying and determine if there are any inconsistencies with what they are saying (for example: stuttering on specific questions, aggravation in their tone,etc) and the juror would also determine their verdict based solely on what they heard and not towards the juror’s appearance.

# QUESTION 11: Should prospective jurors be questioned in open court, or in a private

***hearing?***

Prospective jurors should be questioned in a private court. Through a private approach, the prospective juror will not be humiliated or feel discriminated against and instead the juror will feel respected, valued and a part of the panel.

Regarding privacy aspects and regulations, there would be more congruence between court members and the prospective juror. If the prospective juror were to be questioned in an open court atmosphere, the juror might feel uncomfortable. With open-courts being a formal environment, which does not promote or uphold the juror’s privacy rights.

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# QUESTION 12: Does the Juries Commissioner need any further powers to allow Juries

***Victoria to better channel a prospective juror into a more suitable jury pool?***

The Juries Commissioner should have the overall power to assist and decide if a prospective juror is appropriate to serve as a juror for a particular trial in the preliminary stages of the jury selection.

The Juries Commissioner can assist the juror and if the juror is struggling prior to the trial or does not wish to be a juror for a particular trial, the Juries Commissioner could refer the juror to another case that best suits them.

# QUESTION 13: Should the Act give a judge a specific power to exclude a prospective

***juror if it appears that notwithstanding supports, that person could not perform their***

***duty in the circumstances of the particular trial for which the person has been***

***summoned?***

In very specific cases where the juror cannot perform jury duties without supports or aids, then the prospective juror should be notified and spoken to by the Sheriff instead of a judge. The judge should not be given a specific power to exclude a prospective juror, instead the power should rest with the Sheriff. The Sheriff should have more power presiding over the trial judge. The Sheriff should make the final decision whether or not a juror is suitable for the trial.

A judge could be old-fashioned or traditional and may be biased which could negatively affect how they see the prospective juror and determine whether or not they are suitable for the trial even if they have the experience and the ability to make an independent judgement of the accused. The Sheriff should instead be given a specific power to exclude a prospective juror.

The Sheriff should have the power to overrule the trial judges final decision. The Sheriff should act more impartially and eliminate any biases and can hear what the juror wants to say without any intimidation or fears of not being taken seriously.

The Sheriff should however listen to any doubts or concerns that the judge may have regarding the juror and determine if the juror is suitable or not with the judge having the ability to express their beliefs without judgement.

# QUESTION 14: In what type of situations might it not be appropriate for a person who

***is deaf, hard of hearing, blind or with low vision to serve even where supports can be***

***provided? Is this likely to occur often?***

It might not be appropriate for a prospective juror to serve as a juror if the evidence or trial is not compatible with their strengths (e.g. if all evidence was audio based and the prospective juror was deaf). Another situation where it might not appropriate for a prospective juror to serve as a juror could be:

* If the prospective juror does not know how to process the information being expressed or has no interest in the trial
* Does not have the emotional strength to go to all trial dates
* Feels constantly overwhelmed, anxious and uncomfortable despite telling the courts they are content
* Does not understand basic vocabulary or does not think independently for themselves and relies on other people constantly
* If the prospective juror cannot keep up in the trial and constantly interrupts the trial

However, this should rarely happen and would not likely to occur often. If a juror with adversaries with their sight/hearing wishes to be on the panel, they most likely would be strongly engaging and participating in the courts.

# QUESTION 15: If a juror is excluded from a particular trial should they be returned to

***the jury pool to serve on a different trial?***

If a juror is excluded from a particular trial they **should** be returned to the jury pool to serve on a different trial that aligns with their strengths and abilities where the juror plays a cardinal role in delivering a verdict that they are confident in.

# QUESTION 16: Should the common law prohibition on supporters or interpreters

***assisting in the jury room be modified by legislation?***

The common law should be modified to allow supporters/interpreters to assist in the jury room.

By allowing supporters/interpreters in the jury room, it would offer new approaches for the juror to feel safeguarded from any prejudice or discrimination against them and would give the juror the ability to understand what is being stated in the trial.

In regards to overcoming the ‘13th person rule’. Eliminating the ‘13th person rule’ would assist the courts by expeditiously moving the trial along while allowing the prospective juror to take in any information or evidence that has been provided in the trial. By eliminating the ‘13th person rule’, the courts would be more accessible and inclusive for jurors who may not be able to see or hear. By also allowing a 13th person (an interpreter respectfully), there would be less barriers and adversaries prospective jurors would have to face, which would allow prospective jurors to come to a decision quicker, review evidence better and be confident in their beliefs on the accused.

# QUESTION 17: Should the supporters or interpreters be required to swear an oath/s or

***affirmation/s to accurately interpret/support proceedings, maintain the confidentiality***

***and secrecy of deliberations and not disclose any information learnt in the jury room?***

The supporters/interpreters are required to swear a mandatory oath/s in relation that they will not breach any privacy or confidentiality codes or laws. It is the supporters/interpreters central obligation to support, assist and accommodate prospective jurors who have adversaries with their eyesight and hearing.

Supports/interpreters should work under strict conditions where they cannot share or reveal any information from the trial and abide by guidelines that would limit a supporter/interpreter from revealing any information about the trial.

Any unlawful acts or misrepresentation of the accused on trial should be determined as a breach and the supports/interpreter should be accordingly dismissed and penalised.

# QUESTION 18: Do new offences need to be created to deter or punish supporters or

***interpreters from revealing information about jury deliberations or to stop others from***

***soliciting information from supporters?***

New offences need to be created to deter or punish supporters or interpreters from revealing information about jury deliberations or to stop others from soliciting information from supporters.

If an interpreter:

* Discusses the trial outside of the courtroom and dispenses information to other persons/organisations
* Has not been responsive to the prospective’s needs and withholds cardinal information from the juror to influence the juror’s final verdict
* Deserts the juror and/or does not have the juror’s best interest and has increased interest in the trial information

Customarily, supporters/interpreters should be held accountable for what they say to third party persons who are not associated with the trial. Supporters/interpreters have a duty to uphold and assume all responsibility for the juror during the trial and their welfare.

Providing sufficient consequences in regards to interpreters revealing any information about the trial should be accordingly handled.

# QUESTION 19: Should supporters or interpreters be required to complete additional

***training to assist in jury deliberations and trial proceedings? What should that be?***

Supporters/interpreters should be required to complete additional training to assist in jury deliberations and trial proceedings. By supporters/interpreters completing additional training to assist in jury deliberations and trial proceedings there would be a decline of impeding ethical barriers, limitations of prospective jurors being excluded and a decline of inaccuracies or miscommunication between supporters/interpreters and prospective jurors.

The prerequisite training and skills that supporters/interpreters should be required to complete could be a certificate on completing a course that aligns with the constitution and community guidelines where supporters/interpreters have to perform in front of a group of volunteers who have trouble seeing/hearing and professionally experienced supporters/interpreters to ensure that there are no inaccuracies or errors in their communication. The supporter/interpreter will have to demonstrate their dexterity speed, their ability to translate at a relevant speed while concentrating on what is being expressed by the juror, their emotional understanding of persons who have tribulations with their sight/hearing and be able to accurately communicate without being ambiguous. The group of volunteers then assess and rate how the supporter/interpreter did and either approve/disapprove of the supporter/interpreter being eligible to assist a juror with trouble seeing/hearing.

There should also be mandatory workshops that supporters/interpreters attend and complete to stay up-to-date with changes in the law and also how to handle different emotions that may arise with different jurors.

Workshops demonstrating their abilities with those in the community who have adversaries with their eyesight and hearing.

# QUESTION 20: Does Schedule 2 of the Juries Act need to be amended to

***accommodate people who use Auslan? What form should this amendment take?***

Schedule 2 of the Juries Act should be amended to accommodate people who use Auslan. The amendment should be taken in the form of a regulation, therefore the courts can assist

jurors who need assistance from an interpreter by law and ensure that the juror is being included in the trial without any barriers obstructing them from being a part of the panel.

# QUESTION 21: If legislation provides for the consideration of reasonable supports

***should a person who is deaf, hard of hearing, blind or with low vision still have the***

***option of being excused from service because of their hearing or vision loss?***

A juror who is deaf, hard of hearing, blind or with low vision should have the option of being excused from service because of their hearing or vision loss if they wish to not partake in the trial. However, it would be inappropriate if external parties attempted to excuse the juror from participating. If external parties were being discriminatory towards the juror, the Sheriff should become involved in the decision to either excuse the juror or safeguard their

well-being and encourage them to take part in the trial.

# QUESTION 22: What can be done to reduce the likelihood of a peremptory challenge

***being used solely on the basis of the prospective juror being deaf, hard of hearing,***

***blind or with low vision?***

What can be done to reduce the likelihood of a peremptory challenge being used solely on the basis of the prospective juror being deaf, hard of hearing, blind or with low vision is having the trial judge, the accused’s lawyer and a member of the Juries Commissioner establish a signatory where the accused and/or their lawyer cannot select or allow the accused to choose a prospective juror who has difficulties seeing and hearing on the basis of their disability. By the courts creating a document where the accused’s lawyer signs upon the agreement of not approaching the prospective juror, the trial judge can sign a document that they are officiating the trial and have mutually agreed that they will not allow the accused’s lawyer or the accused themselves to specifically seek out a prospective juror and challenge them. The Juries Commissioner acts as a witness on behalf of the agreement to ensure that the prospective juror will not be challenged nor targeted by the accused or the accused’s lawyer. The trial should be impartial, equal and fair for both the accused and the prospective juror, therefore documents should be constituted to certify that both parties are respected and not be subjected to prejudice and bias.

It is understandable that the accused would want an impartial and fair trial, however by excluding a prospective juror who has difficulties seeing and hearing, the prospective juror may feel that their rights may be breached as they could feel inadequate, disrespected, humiliated, dehumanised and will not feel as though they contribute nor belong in the community.

Preconceived biases and bigotry will be evident in some people who will be trialled and they will not change to no avail. With the accused and the accused’s lawyer attempting to prohibit prospective jurors from being involved in the trial, documents and conferences should be

implemented to limit persons from discriminating against prospective jurors and impinging their rights to have the ability to participate as a respected juror.

# QUESTION 23: Should there be guidelines for the Victorian Bar outlining that

***challenges should not be used on discriminatory grounds including on the basis of***

***disability?***

There should be guidelines for the Victorian Bar outlining that challenges should not be used on discriminatory grounds including on the basis of disability. By including disability as a discriminatory ground, the accused and their lawyer cannot actively challenge a juror who finds it difficult to see or hear. A juror who has difficulty in seeing and hearing should not be subjected to being targeted or viewed as inadequate. By outlining that the juror cannot be challenged on discriminatory grounds that includes disabilities gives the juror the ability to express their beliefs, weigh up the presented evidence and gives them the opportunity to be apart of the empanelment and be seen as a juror rather than a potential juror who will be immediately challenged.

# QUESTION 24: Should the judge make a statement discouraging the use of challenges

***on discriminatory grounds?***

The judge ***should*** make a statement to discourage the use of challenges in discriminatory grounds. Jurors who have adversaries with their sight or hearing should be safeguarded from any intolerance or judgements that may make them feel like a pariah. It is cardinal that the judge upholds the rights of the juror and ensures that their human rights are not being impinged. It is urged that the judge makes a statement to warrant that the juror will not be humiliated on any unfair grounds.

# QUESTION 25: Should the guidelines for stand asides expressly state that disability is

***not a ground for the exercise of a stand aside?***

The guidelines for stand asides ***should*** expressly state that disability is not a ground for the exercise of a stand aside. This would help safeguard jurors with adversaries with their sight/hearing and will eliminate most challenges that might hinder a juror from being discriminated against or be viewed as inadequate by the accused and/or their lawyer.

# QUESTION 26: What technologies/supports would assist people who are deaf, hard of

***hearing, blind or with low vision to serve as jurors?***

The technologies/supports that would assist people who are deaf, hard of hearing, blind or with low vision to serve as jurors would be:

*Support for those who have difficulty seeing:*

* materials and resources with auditory recordings- this would give the juror the ability to access evidence/information and perform their role as a juror. Jurors could also be given the option to send auditory recordings of themselves their ideas, beliefs and evidence that they have identified or want to bring attention to
* Braille (in traditional form and technological form)
* Interactive services where the juror can have a support person who can use technologies to write and express the thoughts and ideas of the jurors during the trial (e.g. collaborated and touch screen devices)

*Support for those who have a hearing impairment:*

* visual cues (diagrams, pictures to support text, etc.) or written quotes of what the accused has said during their trial - this would give the juror the confidence to determine the outcome of their verdict and give them the opportunity to analyse and consider the evidence through a wider scope
* Speech-to-text software -this would allow the juror to read what is being expressed in the trial and be able to make a conscious verdict
* Record the trial, format it to be a video and add subtitles to the video to allow the juror to understand what is being expressed in the trial - this will allow the juror to be able to understand what is being said during the trial. The juror can also rewind and re-watch specific parts of the trial and have a better understanding of evidence and the trial

# QUESTION 27: What role could a support person play in assisting people who are

***blind or who have low vision in the courtroom and in the jury room? Who is likely to***

***perform this role?***

The role of a support person in assisting people who are blind or who have low vision in the courtroom and in the jury room could be:

* Initiating the structure of how the trial will work and what will be required of the juror
* Limiting any spurious ideologies from other jurors
* Being someone who the juror can trust, rely on and feel safe around
* Ensuring that the juror is following along with the trial and is not confused at any point
* Giving the juror the ability to feel connected, involved and included in the panel and feel that their presence is important
* Giving the juror the confidence to voice their thoughts, be active in the trial and participate in discussions with other jurors

*Persons who are likely to perform this role are:*

* interpreters
* Assistive readers/speakers
* Mobility supporters

# QUESTION 28: How could Auslan interpreters, court reporters and stenographers be

***booked or arranged in advance to ensure that a prospective juror could be supported***

***to serve?***

A potential option for courts to book or arrange supporters/interpreters prior to the trial date could be by getting all jurors who have been selected to be a part of the panel to fill out a confidential form that asks the respective juror if they have a disability that would need assistance or extra support with. If the prospective juror states that they do need assistance, then the Juries Commissioner can have a consultation with the prospective juror in advance and decide whether or not they would be suitable for the trial. If the juror is suitable, the Juries Commissioner can inform the courts that the juror is eligible and advise the courts on what the juror requires that will effectively assist them in the trial. Once the courts know, they can begin to arrange support in advance and notify the juror that they will have assistance and support during their time serving on the panel by booking/arranging supports by the means of contacting eligible supports through:

* Online services and 24 hour helplines
* Scheduling tools, ticketing system and apps to be notified when there is an available support
* Face-to-face communications through appointments and meetings prior to a jury being selected
* Reviewing rosters from supports who are available to serve
* Live active online forums where courts and supports can communicate to one another where the courts can be aware who can and cannot be assistive

# QUESTION 29: How could supports be provided where courtrooms are not evenly

***accessible or equipped with aids?***

Supports could be provided where courtrooms are not evenly accessible or equipped with aids by having stand-by support persons and/or interpreters to assist jurors from rural and regional areas. This would suggest that support persons/ interpreters would be able to assist jurors from rural and regional areas through placements to allow jurors to have the same opportunity of having access to support persons/interpreters and feel represented.

In relation to technological supports, rural and regional areas could have an agreement with courts that have the required technologies to have on stand-by just in case a juror from a rural/regional area may need the technology to assist them. If a juror does require the technology, then bigger courts (e.g. the CBD courts) with the technology can give the technology to the rural/regional courts to borrow until the trial is over.

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# QUESTION 30: Should there be an option for a person who is deaf, hard of hearing,

***blind or with low vision be able to visit court before empanelment to familiarise***

***themselves with the court and explore with court officials what particular supports***

***they might need to serve?***

Jurors with adversaries with their sight/hearing should be able to have the option to familiarise themselves with the court layout so they can recognise the courts layout and not feel intimidated of the unfamiliar environment they are in. This would benefit the jurors and the courts as the juror will feel more relaxed, confident and focused when they reach a verdict.

There should be an option for a person who is deaf, hard of hearing, blind or with low vision to be able to visit court before empanelment to familiarise themselves with the court and explore with court officials what particular supports they might need to serve.

This option will allow prospective jurors to become comfortable in the courts and be more confident in knowing where specific things are as they can recognise specificities of the court layout.

Jurors will also have an indication on how long the trial may go for and suggest what they may need during the trial and if there are any concerns that they may have they can let the courts know prior to the trial.

# QUESTION 31: Should guidelines about the operation of new laws be developed by

***the court and Juries Victoria to accompany reforms to ensure that they operate***

***effectively?***

Guidelines about the operation of new laws should be developed by the court and Juries Victoria to accompany reforms to ensure that they operate effectively.

By the laws being developed by the court and Juries Victoria, the laws could be expressed in ordinary terms where the average person should understand what is acceptable and what is

not. The court and Juries Victoria would also reduce any laws that might be ambiguous and unclear to the ordinary person and will have the skills to identify what laws would safeguard and protect jurors who have adversaries with their eyesight and hearing.

With the court and Juries Victoria having the expertise in the legal field and with the operations being developed punctiliously, members of the courts, parties jurors and the community will be aware of what is lawful and what is not.

# QUESTION 32: How should court and jury rooms be organised to accommodate a

***person who is deaf, hard of hearing, blind or with low vision, using supports to serve?***

Court and jury rooms could be organised to accommodate a person who is deaf, hard of hearing, blind or with low vision, using supports to serve by predominantly attending to the juror to certify the prospective juror can see and/or hear the alleged crime what the accused had committed, what evidence is for/against the accused and what the trial judge is saying in regards to the case.

Additionally, the courts should communicate with prospective jurors to understand what specific supports they need to serve on the jury.

The courts could also move a juror to the back of the courts if they are absolutely deafened and have a support person to help them process and understand the evidence, what the judge is saying and any other details about the trial. Another option to assist jurors who may be blind is providing the juror with headphones that are calibrated to the listen to what is being said in court -this could also include the use of a judge calling the juror on a device, such as a phone, and the juror hearing what the judge is saying clearly through regular/Bluetooth headphones- this suggestion would also allow other jurors to not be distracted by any excess noise as the juror will be at the back, therefore the juror can adjust the volume on the headphones to suit their comfortability and allow them to concentrate on the trial with more confidence.

The courts could also pre record evidence and what is being expressed in the trial and after the trial has been dismissed for the day, the courts could pre record what was expressed in the courts during the day by providing a tape player that the juror could borrow, allowing the juror to listen to the information and determine whether they believe the accused is guilty or not. With the trial being recorded during the day, the juror would be able to listen to what is accurately being stated, therefore there would be no errors, prejudices or influences that could impact the juror’s verdict.

Further considerations could include altering the light filtration in the courts as some prospective jurors may have difficulty concentrating and seeing what is in front of them if the light is not natural.

The juror should be comfortable and confident when they are on the jury and should feel that the courts have absolute faith in their abilities and if the juror needed further assistance, the courts and system will have the resources to provide them additional support.

# QUESTION 33: What trial adjustments might be needed to accommodate a juror using

***supports to serve?***

Trial adjustment that could be expedient in accommodating a juror using supports to serve a prospective juror could involve mandatory breaks for jurors who have adversaries with their sight/hearing to ensure that they are following the trial with ease and understand what is being expressed. By having a break, the juror could also have the chance to talk to their supporters/interpreter about their emotional state (how they are feeling) and anything they found interesting or concerning about what has been expressed in the trial.

# QUESTION 34: What is the best way of informing the court and parties about the use

***of supports in the trial process? When should this occur?***

The court and parties should be informed about the use of supports in the trial process through a court communique or a confidential consultation involving court officials and senior supports (e.g. an experienced interpreter) to discuss any external factors that could affect the trial and impede on the jurors engagement towards the trial. This should occur as soon as the prospective jurors have been selected and have expressed their interest in the trial.

# QUESTION 35: How should jurors be informed about how a fellow juror’s supports

***will work?***

Jurors should be informed about how a fellow juror’s supports will work by being notified through confidence through (albeit not limited to) e-communications (e.g. via email) or

face-to-face communications in privacy once the jury panel has been selected and that there

is a prospective juror that has tribulations regarding their eyesight/hearing and will need assistive support to help them. When the trial begins,the trial judge can deliberate with the juror and ask them if they would like to remind the other jurors of the support and assistance that they will require during the duration of the trial. The juror can either accept or deny the request. If the other jurors have any questions or concerns about the juror who has difficulties with seeing/hearing, then they can talk with the courts to find a solution on how they can be more understanding; however if the juror is intolerable, ableist or bigoted, the juror should be excused from being a part of the panel. If a juror already has existing prejudices for a juror who has difficulties with their eyesight/hearing then the juror would already have existing prejudices about the accused and would choose their verdict based on their beliefs. This would be unfair and unjust for the accused, therefore resulting in a biased trial which could negatively impact the accused’s life in an unfair manner.

# QUESTION 36: Does the use of supports raise any questions about the accuracy of a

***trial record for appellate court consideration?***

The use of supports should not raise any questions about the accuracy of a trial record for appellate court consideration. The purpose for the use of supports is to accurately assist jurors who have difficulties seeing and hearing. Supports allow jurors with difficulties seeing and hearing the ability to be a part of being a juror and have the ability to express their views and beliefs.

If there was a circumstance where supports were not accurate in their interpretations then they must be immediately rectified.

However, in unlikely instances where a support person, such as an interpreter, influenced the juror’s verdict by signing incorrectly or giving false information and the appellate court is considered by the accused, the measures that can be taken from the supports being rectified is that if the support was a person who could not accurately interpret for the juror or changed their signing to influence the juror’s verdict, then a tangible punishment should be issued that determines the extent of what they did and reflects the nature of their crime. The punishment should be severe and reflects the community's values.

However in most cases, the assistance of the appellate court should not be considered. To avoid the assistance of the appellate court, supports should be trialed and tested before they appear in court and are being relied upon for an extensive period of time.

If the supports were technological-based and were defective, then an appellate court may be of assistance. To prevent an ineffective technological support, a member of the courts could test the supports before the trial starts and get another member to see if the support picks up and displays evidence with ease. The member could also be in close proximity of the juror in case the support begins to not correspond to the evidence being presented. The member could also ask the juror through breaks if their support is working and projecting the evidence correctly.

In relation to interpreters as a means of support, they should go through a program where they will be tested on their signing, dexterity speed and ability to interpret while someone is speaking at a quicker pace. The program should also include a mix of highly trained AUSLAN interpreters and volunteers who have trouble hearing and rate the accuracy of the interpreter to see if what they signed aligned to what was being said and that they are capable of assisting a juror who has trouble hearing.

# QUESTION 37: What are the likely cost implications associated with reforming the

***law?***

The likely cost implications associated with reforming the law from future training programs and sessions, technologies, support persons and any necessary equipment or aids for jurors who have difficulty seeing or hearing. The implications involved could be unnecessary expenses for technology that may not be suitable for the courts, approaches that are unsuccessful and not beneficial to the courts and certain new and unfamiliar supports might

slow down the trial and negatively impact those involved in the trial (which could be unfair and unjust for the accused).

Although the likely cost implications could be arduous at first (e.g. providing ongoing training sessions and technological advancements), the reform will serve as a long-term investment by making the courts more accessible for the public (including ordinary persons whose eyesight or hearing might deteriorate overtime), therefore representing a wider group of people within our community.

There will be inevitable costs associated with reforming the law, however jurors whose eyesight or hearing has been compromised might be highly experienced in specific aspects and might be the most understanding and unbiased juror out of the empanelment and might pick up on certain details that the other jurors may have overlooked.

# QUESTION 38: Do the cost considerations differ in regional areas?

Regarding regional areas, support and assistance should be less expensive therefore there can be more resources and accommodation for persons who have tribulations with their sight/hearing who may become a prospective juror. By considering the cost difference between regional areas and more Municipal areas (e.g. the CBD), persons from regional areas would have access to support and have the ability to perform their service as a juror with more ease and acceptance rather than be dismissed due to lack of support and assistance.

# QUESTION 39: How could supports be provided in the most cost-effective way?

Supports could be provided in the most cost-effective way by only using supporters/interpreters when it is absolutely necessary. It would also be advised to not book supporters/interpreters until a juror who has adversaries with their sight/hearing is certain that they want to participate in the trial. This would save the courts time, effort and costs by limiting the chance of paying for a supporter/interpreter and then no longer needing their assistance if a prospective juror no longer wishes to attend the trial and be a part of the panel. Instead, the court should implement the use of technologies and other forms of assistance. For example, instead of an interpreter and paying them by the hour, there could be technology that can be put into use and aid the prospective juror. The technology can be frequently used and can be supplied to other courts if there are no jurors who have difficulties with their sight/hearing and would only cost the courts money if they need to be updated or replaced.

# QUESTION 40 Would Disability Awareness Training for court and Juries Victoria staff

***be useful to ensure reform is effective?***

Yes. Disability Awareness Training for court and Juries Victoria staff would be useful to ensure reform is effective. This would better accommodate and safeguard jurors from being discriminated against (intentionally or accidentally) by other jurors or even members of the courts. With more training implemented, there would be a decline in prejudice and ignorance from the courts and instead, courts would know how to approach jurors whose sight/hearing is hindered.

# QUESTION 41: Do you have any suggestions about how to overcome misconceptions

***about the ability of people who are deaf, hard of hearing, blind or with low vision to***

***serve?***

A possible suggestion pertaining to overcoming misconceptions about the ability of people who are deaf, hard of hearing, blind or with low vision to serve on the panel could involve getting all the jurors involved in the trial to share their most successful endeavours and what they are experienced in. This way all jurors have to discuss their strengths and this gives the opportunity for a juror with difficulties seeing/hearing to share information about themselves and connect with other jurors. By giving the juror who may struggle with their sight/hearing the opportunity to share about their personal life, other jurors may connect with their experiences, find the juror extremely skilled and intelligent, find the jurors personality appealing and view the juror as an ordinary person who is a part of their community just like themselves.

Another option could be the court providing fake case-scenarios (prior to the trial) for the jurors to complete independently in a timed manner to determine if ***all*** the jurors are competent enough to consciously make a verdict based on the evidence presented to them. If the juror has difficulties seeing, the juror can complete the case-scenario through an audible option (e.g. the case-scenario being read aloud in the format of a recording). This would show the courts how competent ***every*** juror is and to not only determine if a juror who has adversaries with their sight/hearing is eligible to serve, but also the other jurors who are overlooked because they appear to have no disabilities.

Relating to the courts overcoming misconceptions and prejudices over persons who have difficulties seeing/hearing, the courts should create a strict and monitored test to see if all jurors are able to participate in the panel. Jurors with difficulties seeing/hearing should not only be subjected to go through challenges to serve as a juror, but so should ordinary persons. If jurors are overlooked on the basis of their disability but have the experience, intelligence and independence to be engaged in the trial and make a fair verdict on behalf of the accused, then the accused may not receive a fair and just trial. There are many ordinary persons without a disability who may not have the experience, intelligence or independence to make a fair verdict as they might base their decision on a juror who has a strong presence or who has leadership qualities but are biased towards the accused, therefore the trial will unfairly impact the accused, especially if they were innocent.

With a juror having trouble seeing/hearing, the juror would be more intuitive and rely on their own judgements rather than a group's opinions. Additionally, the juror who has troubles seeing/hearing could be more engaged, motivated, focused and wants to achieve a fair and just outcome for the accused whereas an ordinary juror could be the opposite. Furthermore, the ordinary juror could be mediocre in terms of intelligence, lazy and easily influenced by external parties or they could not consider the accused and might just want the trial to speed up and may agree to whatever everyone else is agreeing upon.

It is paramount that courts recognise that jurors who have tribulations with their sight/hearing could be driving a fair and impartial outcome for the accused and may be more experienced than ordinary jurors. Jurors with weak sight/hearing should be viewed as an ordinary juror rather than be subjected to prejudice.

# QUESTION 42: Is there anything further that you would like to tell us about what you

***think would improve the participation of people who are deaf, hard of hearing blind or***

***who have low vision on juries in Victoria?***

In retrospect of the former acknowledgement of persons with tribulations with their sight/hearing, it would be appropriate if persons who have a disability, be first priority in regards to the empanelment. It would be best if persons with difficulties seeing/hearing were comfortable, included and engaged in the trial process; therefore members of the courts should be attentive and accommodating to the jurors and ensure that they are content with the behaviour and treatment they receive from the other jurors and the court members respectfully. Essentially, the behaviour, attitudes and treatment towards jurors with tribulations with their sight/hearing should be reflected upon. If a juror with weak sight/hearing feels uncomfortable or interprets an attitude as hostile or ableist, the juror may feel emotionally detached from those associated with the trial, which could affect their participation and engagement in taking in evidence and information, which could ultimately lead to the juror being indecisive or not interested in their verdict. The juror might also come to believe that the courts do not accept them if the courts arduously challenge the juror or not acknowledge them during the trial.