

JURY DUTY IN ONTARIO

IN BRIEF

TEACHER RESOURCE

Learning Objectives

- To introduce students to the jury selection process in Ontario, including how the jury roll is formed, how jurors are summoned, and how they are selected in criminal and civil trials through an interactive simulation activity.
- To introduce students to the legislation governing juries in Ontario and the eligibility requirements for jury participation.
- To raise students' awareness of issues related to representation in the Canadian jury system, specifically related to First Nations and other underrepresented groups in the jury system.
- To teach students about the supports available to jurors, including compensation, travel expenses, accommodations, and counselling services.
- To develop students' understanding of the importance of a jury in a court case.

Materials

- Copies of the *Mock Jury Selection* activity package, including the following:
 - *Introduction to Jury Duty* handouts
 - Role preparation sheets
 - Juror ballot cards (two full sets)
 - Juror excuse cards
- A container/bin for ballot cards

Teaching and Learning Strategies

Activity 1 – Mock Jury Selection

This simulation activity introduces students to how a jury is selected and to the process of controlling for impartiality. It is based on a jury selection for a criminal trial, but teachers can modify any part

of this simulation task for civil trials or for other criminal scenarios. Additional scenarios are available on the OJEN website at www.ojen.ca.

1. Distribute the *Mock Jury Selection* materials to students. Begin by reviewing the *Introduction to Jury Duty* section of the resource. Spend time discussing the difficult concepts and issues and clarifying students' understanding.
2. The *Introduction to Jury Duty* handout contains links to a number of external resources, including the Jury Questionnaire, the Summons, the Ministry of the Attorney General *Jury Duty and You* video, and a number of newspaper articles that you may want to spend time reviewing with students. Most importantly, ensure that students have a fulsome understanding of the key steps in the jury selection process, including the challenge for cause procedure as they will need to know this for the simulation activity.
3. Review the scenario, indictment, timeline, and roles with students. Have students select roles or assign them. You may want to assign multiple students the roles of judge, court registrar, and lawyers, and have them share the role.
4. In preparation for the simulation, **you will need to print and cut out two sets of the juror ballot cards** – one set to be distributed to the potential jurors and one identical matching set to be placed in the container/drum of the court registrar for selection of the potential juror names. You will also need to cut out the excuse cards and distribute them to some but not all of the potential jurors. There are blank cards provided in case students want to make up their own excuses.
5. Once students are familiar with the scenario, timelines, and role preparation sheets, divide them by role and have students prepare their

particular aspect of the simulation. You may want to invite justice sector volunteers to coach the students or assist in preparation. Students may work individually or in groups as needed.

6. Allow students some time to prepare their roles and practice their individual parts. Prior to the final simulation, review courtroom etiquette (contained in the *Mock Jury Selection* activity package) with students. The jury selection takes place in a courtroom, so the etiquette is the same as for any court proceeding.
7. On the day of the mock jury selection, rearrange the classroom to look like a courtroom and have students perform the simulation.
8. Debrief the class and discuss the following:
 - What makes one eligible to participate in jury selection?
 - Can an individual's personal circumstances excuse them from jury duty?
 - What factors must be considered when establishing an impartial jury?
 - What questions could you ask in order to assess whether or not a potential juror is biased?
 - Do you think it is important to participate as a juror if called for jury duty? Why or why not?
 - Would you want to participate in jury duty?

Activity 2 – Underrepresentation of First Nations in Canadian Juries

1. In *R v Sherratt*, the Supreme Court of Canada stated that a modern jury is meant to be

“a representative cross-section of society, honestly and fairly chosen.”¹ It was here that the Court recognized the requirement of a representative jury as a constitutional principle and bedrock of jury formation. Yet, in Canada and Ontario, there still remains a critical underrepresentation of First Nations people as well as other minorities on juries.

2. In order to teach students more about this critical human rights issue affecting the Canadian justice system, have them do one or more of the following:
 - Review the final **Verdict of the Coroner's Jury**², watch the CBC Fifth Estate documentary **Stories from the River's Edge**³ and/or listen to the CBC podcast **Thunder Bay inquest examines death of 7 First Nations high school students**⁴
 - o This Coroner's Inquest examined the deaths of Jethro Anderson (2000), Curran Strang (2005), Paul Panacheese (2006), Robyn Harper (2007), Reggie Bushie (2007), Kyle Morrisseau (2009) and Jordan Wabasse (2011).
 - o The Inquest was originally an inquest into the death of only one of these students, Reggie Bushie. However, his inquest was stalled in 2008, due to concerns regarding the lack of First Nations representation on jury rolls. Nishnawbe Aski Nation (NAN) took legal and political action with the Ontario government. In response, Justice Frank Iacobucci was appointed to review the issue of First Nations representation on jury rolls, which led to his foundational report released in 2013, “First Nations

¹ [1991] 1 SCR 509 at p. 524.

² Verdict of Coroner's Jury, Inquest into the deaths of: Jethro Anderson, Curran Strang, Paul Panacheese, Robyn Harper, Reggie Bushie, Kyle Morrisseau, and Jordan Wasasse, Office of the Chief Coroner, The Coroners Act - Province of Ontario (June 28, 2016), online: <<https://www.mcscs.jus.gov.on.ca/english/Deathinvestigations/Inquests/Verdictsandrecommendations/OCCVerdictsSevenFirstNationsYouths.html>>.

³ CBC Fifth Estate, 'Stories from the River's Edge', online: <<https://www.cbc.ca/fifth/episodes/2011-2012/stories-from-the-rivers-edge>>.

⁴ CBC Radio, 'Thunder Bay inquest examines death of 7 First Nations high school students' (podcast), online: <<https://www.cbc.ca/radio/thecurrent/encore-thunder-bay-inquest-examines-death-of-7-first-nations-high-school-students-1.3742541>>.

Representation on Ontario Juries: Report of the Independent Review Conducted by The Honourable Frank Iacobucci.”⁵

- o After hearing from 146 witnesses with 185 exhibits during eight months of proceedings, the jury delivered 145 recommendations on June 28, 2016, directed at improving accountability, safety and education outcomes for all NAN students.
- Review and discuss any of the following and assess the implementation of the recommendations:
 - o [First Nations Representation on Ontario Juries: Report of the Independent Review Conducted by The Honourable Frank Iacobucci \(February 2013\)](#)
 - o Debwewin Jury Review Implementation Committee – [Progress Report](#) (September 2013-March 2015)⁶
 - o Debwewin Jury Review Implementation Committee – [Final Report](#) (April 2018)⁷
- Watch the documentary **nîpawistamâsowin: We Will Stand Up**.
 - o On August 9, 2016, a young Cree man named Colten Boushie died from a gunshot to the back of his head after entering Gerald Stanley’s rural property with his friends. The jury’s subsequent acquittal of Stanley captured international attention, raising questions about racism embedded within Canada’s legal system and propelling Mr. Boushie’s family to national and international stages in their pursuit of justice. It also prompted discussions about the use of peremptory

challenges as part of the jury system and led to them being eliminated in criminal context.

• Discussion Questions:

- o What are some of the most important recommendations for jury reform? What is happening with them now?
- o What did you think and feel after watching the videos?
- o In what way are coroner’s inquests and jury selection related, and what impact could this have on inquest findings?
- o What did you learn about First Nations people today that you did not know before?
- o What are some possible ways in which Indigenous culture and perspectives on justice could be more adequately taken into account by the Canadian justice system?

Activity 3 – Support for Jurors after Trial

1. Have students review the short section called “After the Trial” in the *Introduction to Jury Duty* handout.
2. Have students listen to the CBC podcast, *Jurors in traumatic trials need counselling and support, not just ‘a coffee and a handshake’: advocate’*. Discuss the following:
 - What might be some difficult aspects of being a juror that might affect someone after the trial finishes?
 - How do you think a juror might be impacted after a trial?

⁵ Ontario Ministry of the Attorney General, “First Nations Representation on Ontario Juries: Report of the Independent Review Conducted by The Honourable Frank Iacobucci”, online: <https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/iacobucci/First_Nations_Representation_Ontario_Juries.html>.

⁶ Online: <https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/debwewin_progress_report/>.

⁷ Online: <<https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/debwewin/>>.

- How could a juror deal with trauma they might experience from acting as a juror?
- What kind of supports do you think the government should be providing jurors both during and after the trial?
- What type of stigma might jurors experience that may prevent them from seeking support?
- Do you think counselling for jurors should be mandatory?

Extension

- Have students complete the OJEN resource, *Top Five 2015: R v Kokopenace*

Additional Resources

- Juries Act, [R.S.O. 1990, c. J.3](#)
- [First Nations Representation on Ontario Juries: Report of the Independent Review Conducted by The Honourable Frank Iacobucci \(February 2013\)](#)
- Debwewin Jury Review Implementation Committee – [Progress Report](#) (September 2013-March 2015)
- Debwewin Jury Review Implementation Committee – [Final Report](#) (April 2018)
- Ministry of the Attorney General – [Jury Duty Information](#)
- National Judicial Institute – [Model Jury Instructions](#)
- R. v. Kokopenace, [2015 SCC 28, \[2015\] 2 S.C.R. 398](#)
- R. v. Sherratt, [\[1991\] 1 S.C.R. 509](#)

⁸ CBC Radio, 'Jurors in traumatic trials need counselling and support, not just 'a coffee and a handshake': advocate' online: < <https://www.cbc.ca/radio/thecurrent/the-current-for-january-15-2019-1.4975304/jurors-in-traumatic-trials-need-counselling-and-support-not-just-a-coffee-and-a-handshake-advocate-1.4975309>>.