

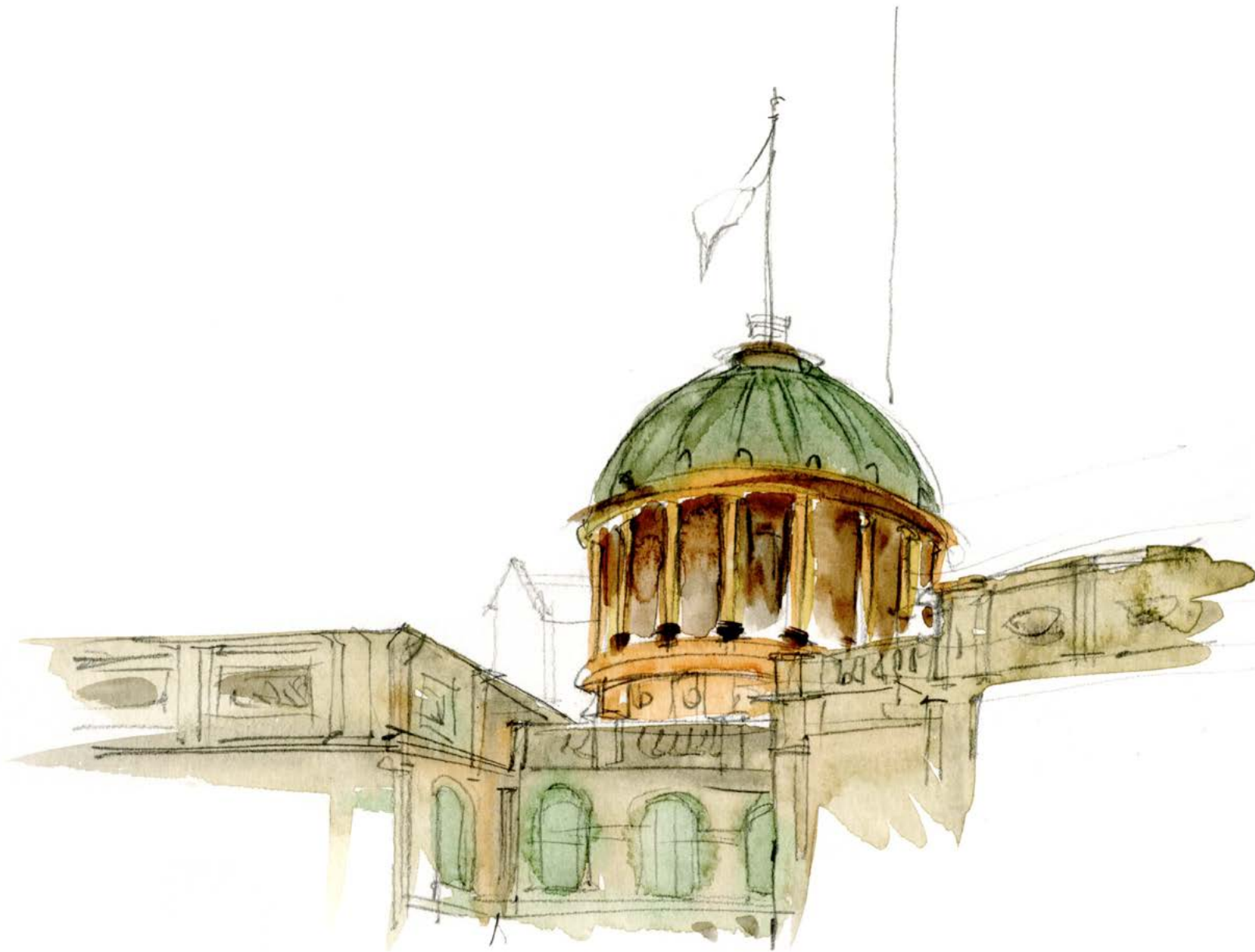


FORTRESS OR SANCTUARY?

ENHANCING
COURT SAFETY
BY MANAGING
PEOPLE, PLACES
AND PROCESSES

REPORT ON STUDY FUNDED BY
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SUPREME COURT OF VICTORIA

Watercolour: Noëlle Herrenschmidt

COMMONWEALTH LAW COURTS, MELBOURNE

(FRONT COVER)

Architect: Paul Katsieris, HASSELL

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OVERVIEW OF THE REPORT

Chapter One provides an introduction, background to the issues, theoretical framework and review of the historical and policy context. Chapter Two outlines the methods used in the report. The three subsequent data chapters review the three key organising themes of the report: places, processes and people, as outlined in the following list of contents:



PLACES

- 3.1 Approaches to court
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- 3.3 Waiting areas
- 3.4 Courtrooms and hearing rooms
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MELBOURNE FROM SOUTH BANK PROMENADE

PROCESSES

- 4.1 Assessing and monitoring risk
- 4.2 Managing flows of people through the court
- 4.3 Managing the waiting process
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- 4.5 Keeping dangerous objects out of court
- 4.6 Providing training
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COMMONWEALTH LAW COURTS, CLERK

PEOPLE

- 5.1 Judicial officers
- 5.2 Court staff
- 5.3 Security staff
- 5.4. Professionals
- 5.5 Lay participants
- 5.6 Families and supporters



SENIOR CROWN PROSECUTOR



MANCHESTER CIVIL JUSTICE CENTRE

New courthouses like the Manchester Civil Justice Centre offer an imaginative and welcoming face to the city, while offering a safe and professional environment to its users.

Architect: Denton Corker Marshall

Photo: Wayne Martin

INTRODUCTION

This study reports on research about a major problem of contemporary society - security and safety - in the context of court buildings and justice processes.

The project brings together the experience of people who work in, or who have contact with, courts across Australia and New Zealand, including judicial officers, court executives and managers, registry and front-line staff, support workers and advocates, prosecutors and defence lawyers, court planners and architects, security consultants and workers, and many others. The research team is drawn from architecture, psychology, sociology, human resource management and law. The project was funded as part of an Australian Research Council Linkage grant, LP0882179.

Justice partners include the Family Court of Australia and Federal Circuit Court of Australia, The Western Australian Department of the Attorney General, the South Australian Courts Administration Authority and the Victorian Magistrates' Court, with the New Zealand Ministry of Justice and District Court also contributing to the project. Other industry partners were architecture firms PTW and Lyons, security consultants Connley Walker and training company, MyriadD Consulting.

BACKGROUND TO THE ISSUES

Security is a central preoccupation of contemporary society. Borders, water supplies, energy provision, restaurant sanitation, pharmaceutical goods, health funding, the design of cars, prams and skateboards – all these issues are seen as having an important ‘security’ dimension. Facilities are increasingly required to be resistant to fire, bombs, floods, earthquakes and terrorists. Airports set the standard for physical security with identity checks and screening of people and bags, designed to protect the safety of passengers, staff and facilities. Many other public and private facilities regulate flows of people and goods into their spaces. At the same time psychological and cultural safety issues are being placed on the agenda of many organisations. The needs of children, victims, people at risk of harm from others (or themselves) are being addressed as part of the ‘duty of care’ such organisations are assuming to those who come into their jurisdiction. This responsibility extends as much to those who operate the court as court users (see note on opposite page for definitions).

Court buildings, like other public buildings, may face threats ranging from graffiti or vandalism to being rammed by a vehicle or destroyed by a bomb. They may also face potential natural disasters like earthquakes or flooding. Disgruntled litigants may send parcels containing dangerous materials, or send phone or written messages threatening to cause damage.

Court processes meanwhile vary considerably in the types of security challenges they face, ranging from everyday incivilities in a high-volume magistrates’ court to intimidation of witnesses or jurors in trials of organised crime figures, or interpersonal hostility of intimate enemies in child custody or child protection matters.

Court users may be anxious as a result of waiting in crowded corridors with uncertain court appearance times, on top of being in an unfamiliar environment and facing an unknown outcome. They may face a risk of being attacked or shadowed, in dark corridors outside restrooms or leaving the court building. Family and supporters, including gang members, may cause disruption, or instil fear in others.

Court staff may be stressed as a result of working with difficult clients, taking the flak after unfavourable decisions, working in noisy environments, feeling unsupported by their supervisors or organisations and not being trained fully to respond to challenging situations. Judges and prosecutors, child protection workers or social workers, counter staff and security staff: any of these may be targeted by dissatisfied clients. The most likely behaviour they experience will be angry outburst or insults, but on rare occasions they may be subjected to physical violence.

Many of these threats are low risk, but they are



PONTOISE COURTROOM

Law, enforced by the courts, provides the foundation for a secure society. Drawn from the writings of Rousseau, this message confronts court visitors in this courtroom in Pontoise on the outskirts of Paris.

Architect: Henri Ciriani

Photo: Diane Jones

part of the safety and security landscape of courts. The challenge for those planning security is to develop risk management strategies that balance highly unlikely events - but ones with catastrophic consequences - with everyday events with relatively minor consequences. In a sense the types of threat are so different that it is questionable whether they should be included in the same policy discussion. After all, what does a bomb threat have in common with an insult, graffiti on a toilet wall or a heated confrontation between gang members?

In terms of the impact on court users and those who operate the court, the answer is fear, frustration and anxiety. Court participants may be unable to carry out their business in a calm and orderly manner. If those involved in court processes are afraid, it increases the risk that vulnerable people will not feel protected by the law, litigants will distrust the credibility of the process, witnesses may feel pressured to tell their stories in particular ways, jurors may be constrained from delivering a just verdict, and observers may question the integrity of the court process. These, in turn, have the potential to deepen the broader community's lack of confidence in the criminal justice system as a whole.

So security is not just about court users or buildings, critical though they are to the delivery of justice. Court staff, whether behind a Bench, a registry counter or a broom, also feature prominently in the

story. Court procedures themselves may contribute to improving the experience of court users, the safety of staff and the integrity of the process. Finally, courts play a wider security role for the community as a whole, in protecting rights established by law, and helping to create a safer community.

Note: In this study 'court users' are defined as lay people who use court services or appear as witnesses, litigants or accused in court, plus families, friends and visitors. Those who run the court, provide professional or volunteer services are considered 'court operators' or 'service providers'.

A THEORETICAL FRAMEWORK

The title of the project – ‘Fortress or Sanctuary: people, processes and places’ - neatly captures two of the major ways of thinking about security policy in the court context. Should courts be seen as impregnable strongholds, impervious to external attack? Or would a more useful metaphor be a place of refuge, a shelter for those who need the law to protect them against violent partners or unfair business dealings? A courthouse designed for terrorism or organised crime trials might incorporate the type of physical protection that is conjured up by the image of a fortress, with domestic violence or family courts being most readily thought of as a sanctuary. The two contrasting views are illustrated by the Pohutakawa tree set in the courtyard of the Manukau District Court in South Auckland (see page 75), providing sanctuary for those waiting, and the high security court in Düsseldorf, with its bomb-proof roof helipad for protected defendants and witnesses (see page 11).

While the images of fortress or sanctuary provide a tantalising glimpse into the metaphors of security, a more developed typology can be found in the work of French philosopher Frédéric Gros¹. He distinguishes four dimensions of security:

- Freedom from danger and harm
- A personal quality of assurance and freedom
- A state activity involving protecting rights and maintaining order; and

¹ Gros, Frédéric. *Le principe sécurité*. Gallimard, 2013.

- Control over uncertainty

The taxonomy places classical philosophy in a conversation with contemporary issues. For the purposes of this study, the framework, slightly modified to emphasise its relevance to this specific area of policy, allows us to analyse court security issues in a systematic and comprehensive way.

The four types of security in this taxonomy are:

1. Secure society
2. Secure person
3. Secure environment
4. Secure process



HIGH SECURITY COURTHOUSE, DÜSSELDORF

A helipad for protected witnesses or terrorism suspects, a bomb-resistant roof and surveillance over the surrounding countryside: this is the setting for some of Germany's most secure terrorism trials, including one of an al Qaeda cell.

Design and construction: Bau- und Liegenschaftsbetrieb NRW
Düsseldorf

Photo: Jay Farbstein



NEW COURTHOUSE, MONTPELLIER

Clear signposting, bright colours and generous provision of natural light makes it easy for users of the Montpellier court to find their way around this building.

Architect: Bernard Kohn
Photo: Jean-Paul Miroglio

A SECURE SOCIETY

First, a **secure society** is one in which citizens are protected from violence, their individual and property rights are respected and social order is maintained. Courts, together with policing, prosecution and intelligence services, prisons and community corrections, and a whole network of other agencies, play their part in maintaining the peace and protecting rights. One question that arises in terms of this aspect of security is whether courts do in fact contribute to improving community protection. For example, do intervention orders curb violence in the home or workplace? Does the imprisonment of dangerous criminals make the streets safer? Do court and tribunal interventions contribute to curtailing fraudulent business practices, or help to ensure that applicants for professional registration, political asylum, mental health orders or small claims are treated promptly and fairly? This dimension of security is far more than just pragmatic; it taps into public trust and political legitimacy. Are justice decision-makers seen as impartial and fair, will warring parties trust the justice system to arbitrate their grievances, and do justice participants regard the processes they experience as legitimate? Protecting citizens while they are inside the court precincts is part of the court's duty to protect, but this will count for little if the system is seen as arbitrary or unjust by justice participants. The credibility of courts and justice processes more generally is therefore

more than just a public relations issue. They touch at the heart of the effectiveness of justice. A secure society, in the terms suggested by Gros, is one in which justice processes are accepted as legitimate by the majority of citizens.

Those who administer the courts on a day-to-day basis might have little control over these wider forces, but they are affected by them. For example, the decriminalisation of public drinking in the 1970s reduced the role of courts in managing minor public order offences, while no-fault divorce meant that courts could avoid ruling on adultery allegations. On the other hand members of outlaw bikie gangs, and human rights groups, feel that conspiracy laws in some states are unbalanced. Some men's groups feel the same way about the Family Court, as do communities most impacted by counter-terrorism laws. But court staff are required to treat all court users with courtesy, something that may be difficult when the person they are dealing with disputes the very laws and the processes within which the staff are working. In this context symbolic gestures by courts can become relevant to enhancing the credibility of the justice system, contributing to security in this wider sense. This might include, for example, scheduling court sessions around Moslem prayer times – as happened in the Parramatta terrorism trials - or inviting family members to sit with Indigenous defendants in remote witness rooms.



COMMONWEALTH LAW COURTS, MELBOURNE

Wide corridors, large windows and views over Flagstaff Gardens: users of the Commonwealth Law Courts in Melbourne find the spaces reassuring, if at times overwhelming.

Architect: Paul Katsieris, HASSELL
Watercolour: Noëlle Herrenschmidt

A SECURE PERSON

Second, a **secure person** is someone who possesses the self-assurance that allows them to act freely and perform their duty effectively. *Ataraxia* is the key Greek term Gros uses, drawing on Epicurus, a word indicating an inner tranquillity based on discipline and simplicity. A person who has this quality of *ataraxia* is able to remain calm in the face of pressures from the outside world as well as manage their own emotions. A secure person in a court context would be someone who is well-informed, competent and psychologically ready to perform their role in the justice process. This definition highlights the importance of information, communication, training and support to achieve this type of security. Rather than security being seen as something external to the real processes of courts, it can be understood as being a central characteristic of the justice process, one that enables participants to carry out their assigned role, whether it be as a court staff member, a witness or defendant in a case, or as a practitioner. While security in this sense implies skill and knowledge, it also requires a calm state of mind and serene environment in which reason can flourish.

So what contributes to enhancing self-assurance? For the Greek and Roman philosophers Gros was examining, this was a quality of a person resulting from self-control and understanding; for court

participants it is also likely to be associated with features of the external world such as speedy and credible processes, access to support services, and generous court spaces. While this dimension of security certainly draws attention to what might be called cultural and psychological safety, the focus is on capacity to perform, whether as a judge, a witness or family support worker.

Decision-makers, whether tribunal members or judicial officers, might be secure, in this sense, if they are appropriately trained and experienced in the issues relevant to the jurisdiction, whether that be domestic violence matters, trade practices or mental illness. This assurance might be increased by knowing that lay participants (whether victims, defendants or litigants) know their rights and can follow the proceedings, that information tendered is accurate and can be tested, and that hearing room facilities are adequate for purpose. They would feel more confident in carrying out their duty if they knew that that the orders made would be respected, resources required to carry out these orders would be provided, and the staff involved in implementation were competent and professional. The self-assurance of decision-makers would be enhanced by knowing they would not be censured for making decisions that were legally correct but politically unpopular.

A similar argument can be made for all the other participants. Defence lawyers would be more



Justice in medieval times might be enacted under a tree. Security in a modern society involves a more complex division of labour. This tree in Melbourne's Flagstaff gardens symbolically divides federal jurisdiction on the right - the Commonwealth Law Courts - from state authority on the left - the County Court with the Dome of the Supreme Court peeking over the top.

Watercolour: Noëlle Herrenschildt

secure if they had been able to prepare their cases thoroughly and receive instructions from their clients in good time. Court security staff would be more secure if they are given adequate notice of a high-risk group of clients coming to court, if they are well-trained and if they have access to good communication facilities. Registry staff might be more secure if they did not have to deal with long queues and inefficient processes. However – and this is the important point – the security of any one participant is dependent on a network of interdependencies. Each relies on the goodwill, training, preparation and support of others. So even though this form of security may be experienced as an individual state of mind, calmness and ability to act, its achievement relies on the affordances made possible by suitable processes and environments.

A SECURE ENVIRONMENT

Third, a **secure environment** is one where there is freedom from harm and danger. This is the most commonly understood dimension of security and safety. Danger can be seen as the potential for harmful incidents to occur. Risk is a calculation of the relative likelihood that such events will occur within a specified timeframe. The concept of ‘incident’ is central to this understanding of security; it is an event that can be observed and recorded

which threatens persons or property, or undermines the stable functioning of a system, in this case a court. For some of the philosophers Gros reviews, including Hobbes and Rousseau, this aspect of security underlies the foundation of the modern state, and provides legitimacy for government. Gros sees this type of security as ‘objective’, a feature of the external world, which he contrast with the internal state of tranquillity represented by the *ataraxia* of a secure person.

The objective risk to courts can be to the building itself or facilities within it, the information and communications system and the processes that rely on them, the integrity of data, or to people associated with the court in some way. Harms can include physical injury or disease, whether produced by natural disasters, faulty building design and maintenance, accidents like falls or running into objects, or deliberate action by others. Danger can come in the form of mail packages, epidemics, computer viruses, or concealed weapons. Harms can also be emotional or psychological, resulting from threats or intimidation, uncivil exchanges at registry counters, insults or shouting, excessive waiting or uncertainty.

Some perceived harms may result from legal processes themselves – excessive delays, having to divulge private information, being cross-examined in a hostile manner, or being confused by a complex



ENTRANCE TO COMMONWEALTH LAW COURTS

The process of moving thousands of people into court each day can be a challenge. A long walkway alongside running water, trees and a wall of colour provides a safe and welcoming entrance to the Melbourne Commonwealth Law Courts.

Architect: Paul Katsieris, HASSELL

Watercolour: Noëlle Herrenschmidt

system. Some harms are the intended outcome of legal decisions - incarceration, having children removed, fines that in some cases may deepen poverty. In a civil dispute one party typically loses; in family disputes sometimes both parties feel they have lost. Protective tribunals may authorise involuntary detention or treatment.

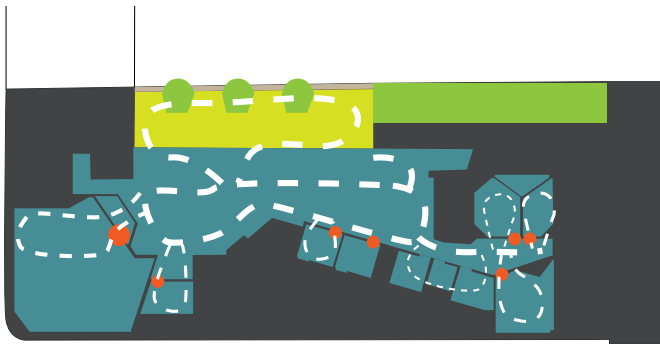
In the context of institutions whose job includes inflicting (what might be experienced as) harm at least on some participants, it is to be expected that legal processes and decisions should produce some anxiety and stress. The goal for courts and tribunals in terms of this aspect of security, is therefore to minimise risk, to balance the efficient delivery of justice with the minimizing of harm. Harms resulting from legal decisions can be classified (from a court's point of view) as unavoidable, but from the perspective of court staff and support workers such decisions may result in angry clients who abuse fines counter staff, threaten child protection workers or intimidate other parties to their case. However, harms resulting from lengthy delays, accidental meetings between warring parties, and unintelligible processes can be classified as avoidable, at least in principle.

Minimizing risk can involve transforming court spaces and processes. A waiting area that has to be used by both parties in an acrimonious dispute is potentially more dangerous than a waiting facility

that provides for separate spaces, even if no actual harm occurs. A scheduling system that minimizes waiting times – where courtrooms, video links or interpreters are booked for specific times, for example – may reduce this form of danger further.

A SECURE PROCESS

Fourth, **secure processes** provide control over flows, reducing flux or uncertainty. The examples Gros gives include food security or energy security, in which continuity of supply is critical for society to function effectively, with regulation of quality also a key feature. Courts are increasingly developing charters that establish benchmarks that resemble food standards – they define what constitutes an acceptable level of service and product quality, a grievance mechanism and a system of monitoring and regulation. Managing flows of people and information is core business for courts. Within court buildings bottlenecks may occur when too many cases are scheduled at the same time, when processes are too slow or when resources are inadequate. But they may also result from funnelling people through narrow spaces, or slowing the flow at critical points. In lower level courts, the majority of time court users spend in court involves waiting, which increase risks of incidents with others and anxiety. In family courts, cases can take

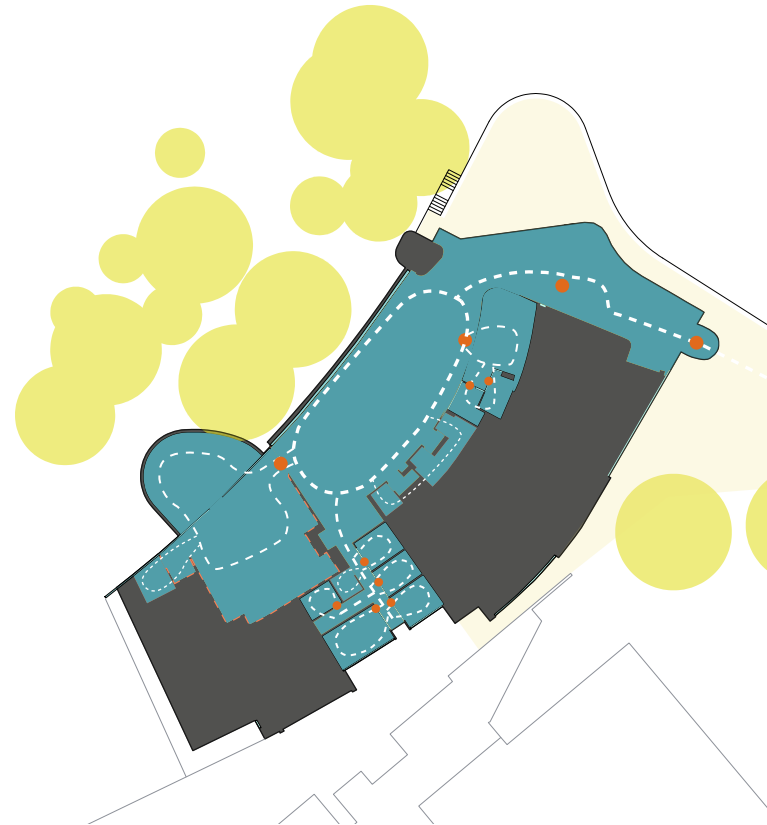


COLLINGWOOD NEIGHBOURHOOD JUSTICE CENTRE

The circulation pattern on the first floor level permits users and visitors to move easily between internal and external spaces. The courtyard provides for waiting in the fresh air; a glazed airlock allows people to view into the public gallery of the courtroom before entering. The shallow plan is easily understood by court users.

Architect: Lyons Architects

Photos: Diane Jones



COFFS HARBOUR COURTHOUSE

The new courthouse design provides a choice of movement paths on the ground floor. The court users move from the entry along an elongated path (to permit time and space to adjust psychologically) which offers views out to the surrounding landscape. The multi-purpose courtroom at the west end of the public hall has a glazed airlock modelled on the Collingwood Neighbourhood Justice Centre

Architect: PTW Architects

KEY

- THRESHOLD
- PUBLIC ACCESS

years to resolve so managing the flow of people, documents and emotions through the system is a major challenge. With domestic violence victims, moving from car parks to secure waiting areas to courtrooms and back to parking areas may create considerable anxiety. Jurors should move through the building without accidental meetings with witnesses or family members of the accused. Conceptualising security in terms of managing flows (rather than just avoiding incidents) provides a dynamic and proactive approach to policy development.

Framing the issue as one of avoiding incidents tends to lead to stopping things – putting up barriers, restricting access, excluding high-risk groups or individuals, taking away potential weapons, avoiding particular types of process. Framing the issue in terms of regulating flows by contrast tends to suggest things should be sped up – increase timeliness of hearings, reduce delays, shorten queues, increase speed of processing matters, and provide customised pathways. At least some incidents can be understood as products of a failure to regulate flows.

For a litigant or witness, an integrated pathway through the complex court process may make the journey less stressful and more intelligible. Witness support staff and domestic violence workers may sometimes provide such a service for those under their protection, while lawyers may do this for their

clients. A typical court journey can involve finding a park, walking to the court entrance, being screened, meeting a companion, finding out where to go, working one's way through the public circulation system, approaching the counter, mediation room or courtroom, waiting, participating in a courtroom interaction, getting information or a decision, and exiting. If these activities are integrated into a coherent pathway the process may be more efficient and less stressful. Pathways may become simpler – expedited tribunal processes to settle disputes rather than full civil courts, for example – or avoiding in-person attendance altogether through fuller use of on-line scheduling, video appearances and administrative fines.

At a macro level, security of supply means identifying future need for services, and providing new or enhanced facilities when they are required. Part of the reason for overcrowded waiting areas, delays in getting matters resolved and finding suitable areas for hearings or meetings is that the security of supply for these facilities has not been obtained. Not all of the flows can be predicted: Parliament may vary the types of matter brought before courts and tribunals, crime rates or litigation levels may go up or down, while demands for child protection or domestic intervention orders may expand, or more rarely, contract.

To bring together this discussion about security, we



'THE QUALITY OF MERCY', MELBOURNE COUNTY COURT

A series of suspended glass panels undertaken by Dunedin-born Colin Lanceley. It provides a playful representation of *Justitia*, broken chains and a bird flying free. It can be seen as an invitation to court users to relax, and respond to the invocation of freedom suggested by the artworks.

Artist: Colin Lanceley

Watercolour: Noëlle Herrenschmidt

can say that providing court security does include managing risk, which aims to reduce the number of security incidents in court buildings. Seeing the task also as one of managing flows of people and processes allows us to identify the critical points and places where stress may be alleviated. However, for courts to succeed in their core business of delivering justice, participants must be 'secure' in themselves: properly informed, able to participate effectively in the process and free from fear of intimidation. The ultimate purpose of justice processes achieved by self-assured participants is to maintain a 'secure society', producing not just individual justice but trust in the rule of law and legitimate authority. All of these are in a sense 'aspirational'; it is no more possible to achieve all of these forms of security than it is to have a completely just legal system or a totally peaceful society. In a policy review like this, however, an attempt is made to identify the extent of progress towards the specified goals, and identify the policies that may contribute to this change.

This multi-dimensional way of thinking about security is somewhat wider than conventional incident-driven perspectives. It has the advantage of bringing together individual and collective interests, physical and psychological harm, placing courts within their statutory responsibilities to protect citizens and implement the law, and locating risk within the dynamic framework of flows. Nevertheless, this framework is not a definitive definition of security,

any more than any other taxonomy. Rather, it is a useful scaffold around which to structure discussion and develop a more holistic approach to security challenges. This report provides recommendations that will inform future policies about security in courts and tribunals.

HISTORICAL AND POLICY CONTEXT

THE EVOLVING LANDSCAPE OF JUSTICE INSTITUTIONS

The landscape of justice institutions in Australia has changed considerably since the 1970s, partly though not entirely in keeping with international trends. Court functions and services have expanded and became more specialised. Tribunals, more developed in Australia than most other countries, have proliferated and then consolidated, taking some functions away from courts and meeting new needs. Legal services and prosecution offices have been professionalised, while advocacy organisations have taken on a larger role. Meanwhile greater attention has been paid to co-ordinating and streamlining the governance of court and tribunal services.

From about 1975 the number and variety of courts and tribunals operating in Australia has expanded greatly. In 1976 the Family Court of Australia began operations, followed the next year by the Federal Court of Australia. In 1980 Victoria created a separate children's court jurisdiction, providing recognition for a children's court system that had been in operation since 1906. In 1989 NSW set up a dust diseases tribunal, to address the lengthy delays in getting compensation for victims of asbestosis and other dust-related diseases. However, the first recognised 'speciality court' to appear in Australia was the South Australian Family Violence court, in

1997¹. This was followed in 1999 by the first special purpose drug court in NSW, while in the same year South Australia opened both an Aboriginal sentencing court and a mental impairment court. Most other states and territories followed soon after with their own variants of these special jurisdictions. Responding to special challenges faced in its region, in 2005 the Northern Territory established a narrower form of drug court, an Alcohol Court with a brief to address dependency and rehabilitation issues; the court was later subsumed under a more general drug court.

While most of these problem-solving courts, as they came to be known, tended to focus on a particular issue, the Collingwood Neighbourhood Justice Centre in Melbourne took a more holistic approach. Opening in 2007, it brings a range of both court and tribunal functions together with community and social services. As with drug courts, the neighbourhood justice centre represented part of an international movement, twinning Melbourne with Brooklyn in New York and North Liverpool in England and Wales. One of the philosophical principles inspiring many of these courts – particularly relevant to this study – is that they are designed to be 'therapeutic', aimed to address the underlying cause of the offending behaviour (rather than simply allocate

¹ Payne, Jason. *Specialty courts in Australia: Report to the Criminology Research Council*. Australian Institute of Criminology, 2005.



VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

Access to justice was increasingly provided through the expanding tribunal sector in the 1980s and 1990s, such as the planning list of the Victorian Civil and Administrative tribunals shown here. Processes were generally less formal than courts, lawyers were often not necessary and decisions made by panels including members expert in the issues under review.

Watercolour: Noëlle Herrenschmidt

punishment), acknowledge and involve victims and use a process that communicates effectively is readily understandable to lay participants. Many of the innovative courts were initially considered pilot projects, limited geographically or to a narrow group of offenders and victims. Some court innovations did not last, with Aboriginal sentencing mental health and drug courts being discontinued in Queensland in 2012 under a conservative government.

The tribunal sector saw even more dramatic changes. In 1975 an Administrative Appeals Tribunal (AAT) was set up to review Commonwealth government decisions. In the following decades, the number of tribunals expanded greatly. Other AATs were set up to review state government decisions, with offices of ombudsmen developing alongside them to examine a range of decisions of governments, public transport authorities, telecommunication, water or energy companies, banks and insurance companies, and other agencies against whom individual consumer might have a complaint. Protective jurisdiction had been largely managed through cumbersome state Supreme Court procedures; tribunals would dramatically increase access to legal protection over property, health care and personal matters². In 1979 South Australia set up mental health and guardianship boards to protect

² See Carney, Terry, and David Tait. *The adult guardianship experiment: Tribunals and popular justice*. Federation Press, 1997.

the interests of vulnerable people, followed shortly by Victoria. Tribunals developed to hear disputes about residential tenancies, domestic building, consumer matters, equal opportunity, privacy and professional registration. By 2013 NSW alone had some 30 tribunals or similar bodies, some 20 of which were merged into a super-tribunal belatedly following the example of four other Australian jurisdictions.

New Zealand had a somewhat different history in terms of court organization. With a unitary form of government there is no federal jurisdictions. With its scattered population, New Zealand has 47 separate court buildings to maintain (about the same as Victoria which has 50% more population). Many functions that in Australia were assumed by tribunals – planning and guardianship for example – are retained by courts in New Zealand. Tribunals were established however for tenancy matters in 1986 and disputes in 1988. What distinguishes New Zealand from Australian justice processes is the greater reliance on family group conferences or other restorative justice approaches, and the central role given to Maori cultural practices in courts like the drug court.

While in Australia the number of courts and tribunals grew there were also attempts to co-ordinate management of the different jurisdictions, exemplified by the development of a Court Administration Authority in South Australia in 1993,



ADELAIDE COURTS

The growing role of the Commonwealth in family matters after 1975 saw new court buildings for federal jurisdictions around the country. Sometimes they nestled beside older court buildings, as in Adelaide's Victoria Square.

Commonwealth Law Courts Architect: David Vidler and Mariano DeDuonni, HASSELL

Adelaide Magistrates Court (formerly Supreme Court of South Australia) Architect: Richard Lambeth

Photo: Tess Simson

an independent statutory authority. The 2014 Victorian model did not create an independent authority, but it separated courts from the Department of Justice and, unlike South Australia, also included the tribunal system within its orbit, and included explicit representation from both the Children's Court and the Coroner's Court. Court administration, it might be said, had come of age.

Alongside courts and tribunals, other parts of the justice system were experiencing change. The federal government created a legal aid service for federal law matters in 1974, while state legal services were consolidated into legal aid commissions in Victoria in 1978 and NSW the following year. Aboriginal legal aid services, which had begun with volunteers in 1970, expanded into both urban and remote areas, while the first general community legal centre opened in the Melbourne inner suburb of Fitzroy in 1972. Diversionary or restorative processes that for the most part kept offenders out of court were introduced; family group conferences were developed in Wagga Wagga in NSW in 1991 and spread quickly to Western Australia and South Australia. An independent prosecution service was developed in Victoria in 1982 and other jurisdictions shortly thereafter.

Community organisations and advocacy groups also began to play a more prominent part in justice processes, with crime victims' organisations

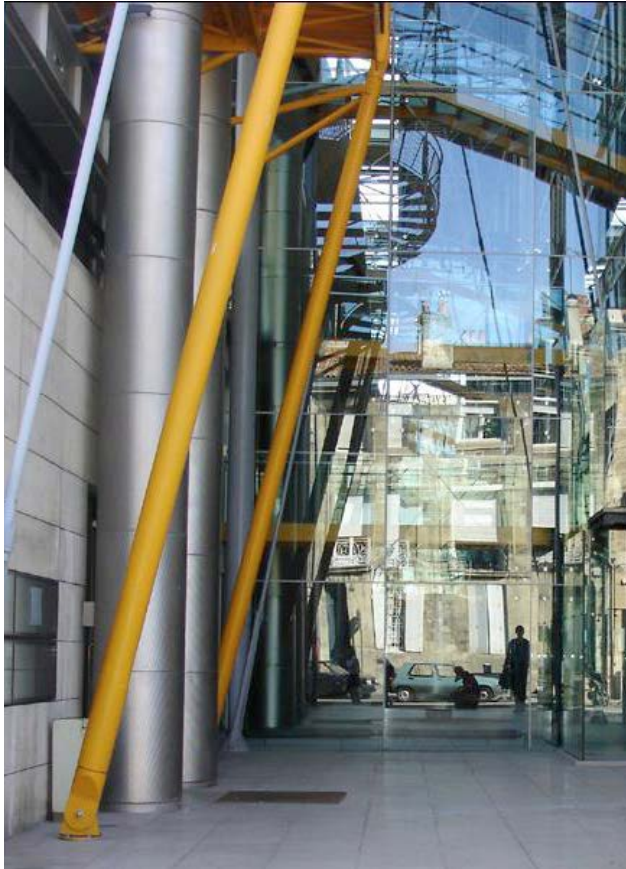
established in 1979 in South Australia and Victoria³. In federal jurisdictions advocacy groups for veterans and refugees developed. Mental health, domestic violence and Indigenous support workers could be increasingly found in state court buildings, and in three courts in Victoria an integrated services model ('Court Integrated Services Program') was introduced in 2006 to provide case management for selected offenders, and referral to a range of community services and treatment options.

In conjunction with the evolution of new forms of court and justice processes, a widespread program of court building was instigated.

COURT BUILDING PROGRAMS

From the 1980s Australia saw a growth in court building programs unprecedented since colonial times. In 1980 the High Court building in Canberra was completed. Buildings to accommodate the Commonwealth jurisdictions were provided in Brisbane, Canberra, Melbourne, Adelaide and Parramatta. In central Sydney the Family Court received its own building while a high-rise building was constructed to be shared by the Federal and

³ Adam Sutton. *Victims of Crime; An Overview of Research and Policy, South Australia. Office of Crime Statistics, Attorney General's Department, 1988.*



NEW COURTHOUSE, BORDEAUX

The new courthouse in Bordeaux provides a strong visual link to the surrounding city. The courtrooms comprise 'pods' that provide another local link – they resemble the wine vats that has made the region internationally famous.

Architects: Richard Rogers + Partners

Photo: Diane Jones

High courts and the state Supreme Court. Sydney and Adelaide residents could watch as one of their historic department stores was transformed into a court building. Victoria built a new County Court, Children's Court and Magistrates' Court in the downtown legal precinct, near the new Commonwealth Law Courts, [seven] new suburban courts and [five] court buildings elsewhere in the state. All the other states experienced a similar frenzy of court building activity to accommodate the new needs. In Western Australia new court buildings were developed in South Hedland (1999), Rockingham (2000), Fremantle (2001), Albany (2006), Perth District Court (2008) and Kalgoorlie (2013). Multi-function justice facilities that provided access to courts via video links were developed in four other regional centres. New courts made striking contributions to the cityscape or townscape, such as the Commonwealth Law Courts in Adelaide.

As courts and tribunals expanded, a wider diversity of spaces was required. In the Family Court of Australia, and its junior partner, the Federal Magistrates' Court of Australia (later the Federal Circuit Court), much of the work of the court was done at registry counters, by family support officers or on the phone, so the need for public service areas and call centres became critical. In magistrates' courts, some space was found for victim support services, Aboriginal services, legal aid, interpreters and a range of other services. While courts could

be seen as continuing to carry out their primary roles of adjudication and protecting rights, they began to see themselves increasingly as service providers. Court staff, whose role had previously tended to focus on serving the judiciary, were increasingly seen as addressing the needs of the public⁴. This is illustrated in the sign on a door on a Montreal court, indicating both the increasingly important role of meeting rooms and the way courts were seeking to protect the rights of vulnerable court users (see page 26).

New court buildings began to reflect changed sensibilities about the nature of the law, the place of the public and a more 'Australian' approach to justice. At a conference in 1988, the Chief Justice of the Federal Court announced that the key principle of court design should henceforth be reconciliation rather than authority. Colours for courtroom furnishings were increasingly borrowed from the local landscape. Art works paid homage to Aboriginal heritage, emulating trends from across the Tasman. 'Transparency' became the mantra for new court buildings, with more natural light flooding into courtrooms and stronger visual links to parks, trees and cityscapes.

Attitudes of court planners and architects to natural light has shifted across the generations. Nineteenth

⁴ Parker, Stephen. *Courts and the Public*. Australian Institute of Judicial Administration, 1998.



century courtrooms had natural light – they had to, or participants could not see⁵. With the development of the fluorescent light in the 1950s, courtrooms tended to become internal, and avoided natural light. The Children’s Court in Montreal, built during that period, has internal courtrooms, but on the other hand, magnificent views over the mountain from waiting areas. The Children’s Court in Melbourne, by contrast, does have views of nature from courtrooms, but its waiting areas are internal.

THE CHANGING SECURITY ENVIRONMENT

Paradoxically, at the same time as there was an increasing emphasis on accessibility and transparency in design, court buildings were becoming more closed. A new security consciousness was developing that resulted in entrance screening, remote monitoring, duress alarms in courtrooms, separate circulation zones for different participants and a range of other measures designed to cope with possible threats. The ultimate expression of this was found in the Parramatta trial

⁵ In a celebrated book on court architecture, Katherine Fischer Taylor describes how a sentence was passed on a prisoner in the Palais de Justice in 1870s Paris. The accused was in darkness. *Theater of Criminal Justice: The Palais de Justice in Second Empire Paris*. (Princeton University Press, 1993)

courts with five separate circulation systems. The earlier approach to security was recalled by one magistrate:

When I first started here in this old building that was on this site, the public had access generally to all the corridors, there was no screening and in fact my chambers, believe it or not, and it is hard to believe in the modern age, were directly opposite the Justices of the Peace room where all offenders went to sign their bonds and bails. Even in those days, probably out of sheer naivety, I was not particularly concerned about security.

Reflections about past court security arrangements provide a range of narratives: society was simpler then, people are more dangerous today, or in the example cited, there were real dangers that we have since become aware of. Even if actual risks to justice participants have not changed, perceptions of risk have become heightened.

In part this security awareness reflected a wider public attitude about security after terrorist attacks overseas. But the form of the response was also shaped by particular local court-related incidents. As one court manager put it, ‘with security issues really – it always takes an incident to make everyone more aware of it.’

CHILDREN’S COURT, MONTREAL

As courts and tribunals take on a service responsibility to their users, they confront systemic issues of discrimination or violence. The Quebec Ministry of Justice provides financial support and facilities within court buildings to organisation involved in the struggle against homophobia.

Photo: Emma Rowden

Speaking of Australia's new Parliament building, architecture professor Kim Dovey says :

The profound changes to the practices of power in this building need to be seen in contrast to the provisional parliament building. This intimate 'cheek by jowl jumble of corridors' where 'gossip literally buzzes around the corridors' was systematically eradicated through a combination of security considerations, political vanity and bureaucratic segregationism

Kim Dovey (1999). *Framing Places: Mediating power in built form*, Routledge, P.96

Courts underwent a similar transformation, with even higher levels of segregation than parliaments. In the parliament building politicians were kept apart from the people they represented; in courts judges, court staff, protected witnesses and jurors were increasingly kept away not just from the public but each other.

One famous incident, seared into the consciousness of judges and court officials alike, was the assassination of Judge David Opas of the Family Court outside his Sydney home in 1980. Another Family Court judge was injured and his wife killed in a bomb attack on their home in 1984. Both of these tragic deaths occurred at home, not in or near a court building. Home is also a more risky place for clients of family or domestic violence courts; in the 30 years since 1984 roughly 1400 people have been killed in Australia by their intimate partner at home, while none at all have been killed at court. (In New Zealand, there was one such death at court, described below)⁶.

One of Australia's most celebrated hitmen, Chopper Read, entered a courtroom at random in Melbourne's County Court in 1978 and tried to take

6 This estimate is a projection of three years data from Jack Dearden and Warwick Jones, *Homicide in Australia: 2006–07 National Homicide Monitoring Program annual report*, Australian Institute of Criminology, Appendix F (66 intimate partner homicides for 2006–7), and Andy Chan and Jason Payne, *Homicide in Australia: 2008–09 to 2009–10 National Homicide Monitoring Program*, Australian Institute of Criminology, p 6 (122 intimate partner homicides for the two year period, 2008 to 2010) and table 4 (143 of 185 domestic homicides, the group that includes the 122 intimate partner homicides, were at the victim's home, the offender's home or another home). If we take the lower of the two annual estimates, the 2008–2010 figure of 61 intimate partner homicides per year for 30 years, and assume that 143/185 or 77 per cent of these were 'at home', we get an estimated total of 1415 such deaths over the period. If we take the higher rate from 2006–7 of 66 such deaths per year, we get a figure of 1530.

a judge hostage, wearing a denim jacket and armed with a sawn-off shotgun which had been hidden in his trousers. According to the tipstaff, the judge 'bravely pushed the gun aside, stood and went through the bench door with 'Denim' in hot pursuit. At this point, the judge turned to face the assailant and gave him a hefty kick in the knackers.' The tipstaff pushed Read against the door frame and grabbed the barrel of the rifle, while police rushed in to help⁷. This was one of the incidents that made screening for weapons a priority. It was not an isolated incident.

Melbourne was also the scene in 1980 of a double slaying in the Supreme Court⁸, after judgment was handed down in a civil matter about a bank account. One of those killed was an interpreter and a prominent member of the Albanian community. It followed the assassination the previous year of a notorious robber, Raymond "Chuck" Bennett, on the steps of the old Melbourne Magistrates' Court. His assailant escaped through a gap in the back fence of the court and was never apprehended⁹.

The slaying of a senior health official in Adelaide by

7 'Chopper v Trotter: day of judgment', *The Age*, December 1 2013, <http://www.theage.com.au/victoria/trotter-v-chopper-day-of-judgment-20121130-2am3m.html>, last accessed March 15 2014.

8 'Two die, 3 hurt in court shooting', *Canberra Times*, 22 May 1980

9 Tony Wright, 'Suppression orders, gangster style', *The Age*, 23 April 2011



SUPREME COURT, VICTORIA

The ornate and impressive appearance of Victoria's Supreme Court did not deter an aggrieved litigant from carrying out a double murder in its precincts in 1980.

Watercolour: Noëlle Herrenschmidt



KING STREET COURTS, SYDNEY

Duress alarms can be effective in summoning security assistance when required, at least when they are connected to a security station and tested regularly.

Architect: PTW Architects

Photo: Scott Wojan

a deregistered psychiatrist – outside an elevator - led to enhanced custody centre facilities in a heritage building as well as more extensive intelligence process for anticipating possible issues. The escape of nine prisoners from the Supreme Court of Western Australia in 2004 led to tightened security over persons in custody. A hostage situation in an Adelaide courtroom in 1999, in which a former policeman being sentenced for armed robbery jumped out of the dock and threatened to kill a court stenographer, led to the strengthening of duress procedures in court.

Several other incidents involving defendants have recently occurred in Australian courts. In 2008 a man charged with stealing a car at knifepoint tried to flee the courtroom by jumping the dock in Fremantle and was wrestled to the ground by the police prosecutor and guards¹⁰. In 2011 an alleged bushfire arsonist jumped the dock after his bail was revoked by a Melbourne magistrate. It took ten minutes and one protective services officer, two prison guards, a police prosecutor, a police informant and four security guards to subdue the man¹¹. In 2012 a man accused of stealing a Xbox and toiletries in

10 ABC News, 24 June 2013, <http://www.abc.net.au/news/2008-06-24/accused-man-jumps-court-dock/2482804>, last accessed April 16 2014.

11 Herald Sun, April 15 2011, <http://www.heraldsun.com.au/news/court-guards-battle-accused-arsonist-as-he-jumps-from-the-dock-at-melbourne-magistrates-court/story-e6fr7jo-1226039836467>. Last accessed March 15 2014.

Rockhampton jumped out of the glass-framed dock after he correctly guessed that the magistrate was about to refuse him bail¹². In 2013 a young man being sentenced for murder in Sydney leaped out of the jury box where he was seated and tried to attack his co-accused seated in the dock by throwing a 'stapled wad of court papers' at him.¹³ In Moree the same year a man jumped out of the dock after being refused bail, and caught a taxi outside the court to effect his escape¹⁴. After being sentenced to prison for stealing a car, in 2014, a 14 year old boy fled a Perth court past security staff and disappeared¹⁵.

Other incidents included a social worker being threatened with a knife in 2008 in the Victorian Children's Court, and in the ACT Supreme Court in 2010 a prosecutor was attacked by a mentally ill offender¹⁶.

12 Emma McBryde, The Morning Bulletin, 22 Oct 2012, <http://www.themorningbulletin.com.au/news/prisoner-jumps-court-room-dock/1590577/>, last accessed March 15 2014.

13 Sydney Morning Herald, August 15, 2013, <http://www.smh.com.au/nsw/murderer-lunges-at-coaccused-as-violence-erupts-in-sydney-court-20130815-2ry0w.html>, last accessed March 15 2014.

14 The Northern Daily Leader, August 23, 2013, <http://www.northerndailyleader.com.au/story/1729526/accused-escapes-moree-court-flees-in-a-taxi/>, last accessed March 15 2013.

15 Amanda Banks, Security breach as teen flees court, The West Australian, November 22 2013, <http://au.news.yahoo.com/a/19972521/>, last accessed March 15 2014.

16 Several of the following incidents are recounted in Sarre, Rick, and Tim Prenzler. "Issues in courtroom security: A key



OLD COURTHOUSE, MONTELLIER

One way of managing unruly or potentially dangerous defendants in the courtroom is placing a glass screen around the dock. Whether this reduces risk or merely increases fear is a matter of hot debate as court administrations transform courtroom such as this one in the old jury court in Montpellier.

Architect: Charles Abrie (1854)

Photo: Diane Jones

New Zealand had its own share of in-court incidents. In 1990, a judge had her face slashed badly in the Otahuhu Youth Court by a 16 year old boy with a machete; in 1998, a man stabbed to death his former partner in a waiting room at the Palmerston North Family Court, while in Dunedin District Court gang members stabbed a man in the head. In 2005 a lawyer was hit with a chair by a member of the public in the Porirua District Court. In 2006 a judge in the Nelson District Court was punched by an accused person who jumped out of the dock: the accused said he intended stabbing the judge with a pencil but could not get it out of his pocket¹⁷. In 2007 in the foyer of the Wellington District Court a Mongrel Mob member stabbed a member of the Black Power gang in the neck, while in the Napier District Court in 2013 another Mongrel Mob member, appearing on a charge of possessing an imitation forearm, was punched by a stranger and returned to stab him with a pocketknife later that day¹⁸. In the latter case, the use of a blade, the accused reported to police, was an accident: he had a corkscrew as a weapon in the courthouse, not a knife, and said he “only intended to hold the corkscrew in his hand to prevent his knuckles from breaking when he hit the

role for the private sector in Australia and New Zealand.” *Security Journal* 25.1 (2012): 25-37.

¹⁷ Christchurch Court News, <http://courtnews.co.nz/story.php?id=3674>, last accessed March 15 2014.

¹⁸ TVNZ News, September 26, 2013, <http://tvnz.co.nz/national-news/gang-member-accidentally-used-blade-in-stabbing-5591158>

victim”. Finally two incidents of self-harm: in 2009 in the Wellington District Court a convicted person in the dock awaiting sentence stabbed himself using a knife concealed in his sock¹⁹, and in 2010, an offender sliced her arm with a razor blade in the New Plymouth District Court²⁰.

This list of incidents (while not fully comprehensive) does confirm that real physical dangers do exist in courtrooms and court buildings more generally. Knives seem to be the most common weapon. Types of hearing where a risk exists vary from bail applications to trials to sentencing hearings. People at risk include the person themselves (self-harm), judicial officers, court staff, social workers and other professionals, prosecutors and lawyers, and other parties in a matter. People who are in an ongoing situation of conflict with someone could be at particular risk. But a story that can be repeated in almost every criminal courthouse in every jurisdiction – as seen from the incidents described above – is a defendant ‘jumping the dock’.

One of the most noticeable security additions to many modern courtrooms has been the installation of glass screens around docks. One of the first was in Brisbane, in the Farr case in 1994, where the accused had assaulted court staff during a

¹⁹ 3News, 30 June 2009

²⁰ Stuff.co, www.stuff.co.nz/national/crime/3347244/Accused-cuts-arm-in-court



KING STREET COURTS, SYDNEY

There are more subtle ways of stopping people jumping the dock than glass screens. One of the methods used in NSW courts, invisible to the jury, involves a ledge that folds down over the lap of the accused when seated.

Architect: PTW Architects

Photo: Scott Wojan

previous hearing²¹. When these security features were challenged in the Victorian and NSW Supreme courts, where no such risk was established, the presiding judges ordered the glass removed. A more subtle constraint was installed in Sydney's King Street Courts for Supreme Court matters – when the accused is sitting in the dock a wooden ledge comes down to limit escape attempts. On one occasion security staff had forgotten to put down this ledge, and had fallen asleep; the defendant took the opportunity to stand up and, targeting the jury, threw fruit that he had secreted in his pockets during the lunch break.

Tribunals meanwhile had been dealing with their own safety issues in lower-key ways. A party to a guardianship hearing before the Victorian Guardianship and Administration Board had leaned over the table and tried to strangle the presiding member; the Board's response was to introduce a second table for the parties, using distance to reduce risk. In Perth, similar fears led to strategically-placed pot plants between the member's area and the public²².

Not all measures taken in response to incidents seem to directly address the security issue that

inspired them. In one suburban courtroom, according to one of the staff working there, a person with a gun approached the service counter; the person who was threatened jumped the counter to get out of danger. As a result of this incident a glass barrier was placed at the counter to avoid anyone else getting over the counter. In another incident, again reported by one of the service staff, a visitor had set fire to himself close to the waiting area; as a result of this a glass screen was placed around the waiting area. In a Federal Court foyer in Sydney in 2008 a woman involved in an immigration matter threatened to kill herself with a knife and a pair of scissors; the court's response was to review the security measures in the temporary building with a view to introducing an x-ray machine. This example illustrates the way in which psychological issues are sometimes addressed with physical measures.

²¹ *R v. Farr* [1994] QCA 266, 2 (Austl.).

²² Kennedy, L and Tait, D (1994) *Court Perspectives Architecture Psychology and Law Reform in Western Australia*, 52 Western Australian Lay Reform Commission, 1066



CHAPTER 2

METHODOLOGY

The study involved several approaches or methods: interviews with stakeholders; ‘user juries’ with advocates or other court users; observations of court spaces and processes (resulting in ‘activity maps’); and incident reports. These are supplemented by unstructured observations; and feedback provided by architects, judges, court executives and others during court architecture tours, conferences and other events. Photographs and watercolours are used to provide spatial and human context to the issues. These approaches are further described below.

Overall there were 198 research participants from the following jurisdictions:

New South Wales	4
Victoria	52
Western Australia	31
South Australia	44
Family Court of Australia	54
New Zealand	13

A DAY IN THE LIFE: CHIEF JUSTICE, DIANA BRYANT

A day in the life of a Chief Justice involves a variety of tasks, including recording decisions, communicating with staff, the media and members of the public, managing her office, preparing speeches - and on occasions hosting artists and interviewers.

Watercolour: Noëlle Herrenschmidt



INTERVIEW

Some 81 semi-structured interviews were carried out with the following:

- 14 judicial officers;
- 6 court executives or senior managers;
- 5 security managers
- 23 other managers or registrars
- 5 court security staff;
- 10 front-line staff (registry or in-court staff);
- 6 social workers or family consultants; and
- 12 advocates or volunteers.

Topics covered in the interviews were customized according to the responsibilities of the respondent, but in general covered the following types of issue:

- Experiences and stories to illustrate safety and security issues.
- Policy issues about identifying and managing security matters.
- Hazard/risk/threats (unsafe areas and environments, toilets).
- Place-making and relationship-building.
- Information clarity and structural legibility.
- Separation/segregation/sanctuary (places for

children, meeting rooms).

- Waiting (general, seats, lists, diversions while waiting, improvements).
- Staffing issues, including security staff.
- Screening facilities.
- Surveillance.
- Intelligence gathering/planning ahead/proactive security.
- Perceptions of safety (general safety issues).
- Occupational Health and Safety.
- Responding to critical incidents.
- Service culture.
- Technologies.

Quotations from the interview participants are used throughout this report to illustrate and highlight key points, and to describe participants' perspectives on the issues in their own words.

Interviews were conducted with respondents using protocols established by the University of Canberra human subject ethics committee. Interviewees signed consent forms and were given information sheets describing the project. For the most part identifying information about interviewees is not provided in this report. Where the context is particularly relevant, such as the use of a marae

A DAY IN THE LIFE: JUDGES AND STAFF IN THE COURTROOM

A day in the life of courtroom judges and staff involves hearing the cases put by lawyers and litigants, managing flows of matters and case files, recording decisions, keeping order and where possible avoiding the sorts of 'incidents' that feature in this study.

Watercolour: Noëlle Herrenschmidt

for holding court hearings after the Christchurch earthquake, the location is noted. In other situations either the jurisdiction or the occupation of the informant may be noted, but not both. As a rule, we are trying to draw general lessons about the challenges faced or solutions found, so use the interview material to illustrate the general issues. However, where statements are made, either in public statements or to the research team, by a senior member of a court or agency, representing official policy, the position of the person may be identified (with their permission).

Formal interviews provide insights into the thinking behind different arrangements, practical problems in implementation and explanations for how programs evolved. Interviews are undertaken with people at all levels of the organizations from chief executives to entry-level clerks. The opinions expressed reflect the position of the interviewee in the organisation; but many of the participants bring years of experience and insight.

INCIDENT STATISTICS

Incident statistics from some of the participating jurisdictions are used where possible. To some extent these provide a 'reality check' about the type and level of risk faced by courts as they carry out their everyday duties. They may also offer some insights into both the way security issues are defined and the impact of measures being taken to address particular issues. It was anticipated that some comparisons between jurisdictions could be made, but differences in collection methods make any comparisons unreliable. Nevertheless, the procedures used to gather information and the use that is made of the data do shed light on the somewhat different philosophies that underlie the approach of each jurisdiction.

‘USER JURIES’

‘User juries’ were small groups of advocates or persons with special understanding of particular court users. Altogether 63 people took part in these groups. They came from victims’ groups, Indigenous communities, family, disability and child support workers, and representatives of legal aid organisations, community legal centres and dispute settlement centres. For ethical reasons it was inappropriate to include people who were involved in court matters at the time or were experiencing stress from recent court experiences. Advocacy groups provided the ideal population for user juries: they were knowledgeable about the issues but could stand back from individual cases and reflect on the wider issues.

User groups made comparisons between inner city courts in four cities, plus two suburban courts in Melbourne and two country courts in Western Australia, as follows:

Victoria (5 groups)

- Children’s Court and County Court (2 groups);
- Family Court and Magistrates’ Court (2 groups);
- Broadmeadows Magistrates’ Court and the Collingwood Neighbourhood Justice Centre

South Australia (2 groups)

- Magistrates’ Court and Family Court (2 groups)

Western Australia (2 groups)

- Central Law Courts and District Court in Perth, Bunbury and Busselton

New South Wales (1 group)

- Queen Square, King St and Downing Centre courts in downtown Sydney

User juries walked - or rolled their wheelchairs - around the public spaces of two court buildings, sometimes on the same day, sometimes on successive days. As they walked around, they took notes about the following issues:

- perimeter security;
- waiting areas;
- signage and access;
- registry areas; and
- courtroom entries and public areas.

After seeing both courts, the user juries came together for a one hour focus group discussion about the issues raised in the comparison. These discussions provided valuable insights into their responses to the spaces they visited, hypothetical reactions they suggested from the client groups they represented, and memories, stories and

general comments based on their experience. The discussion was subsequently transcribed.

A special study of the Family Court of Australia was carried out by Doug Jackman, a doctoral student funded by the project under the supervision of Professor Deborah Blackman. As a management thesis this focused on the client service system within the court using a theoretical framework of the 'boundary tier' around the judiciary provided by court staff. The current report draws on the interviews carried out for that part of the study, but readers are referred to the thesis for the full analysis.¹

'ACTIVITY MAPS'

Structured observations and activity maps of specific court buildings were carried out under the direction of the architects on the research team. These provided valuable data about the 'flow' dimension of security (see 'theoretical background' above). This also provided a check on what courts staff said happened in the buildings, as the observations recorded what actually did happen, at least during the times observed. Observers sat in public areas of courts and plotted traffic flows over several hours in both the morning and afternoon. For multi-level court buildings, activity maps were drawn for two levels of the building, allowing comparisons to be drawn between the entrance level and another level providing access to courtrooms, meeting rooms or victim support areas.

¹ Jackman, D. (2014). The relevance of the 'boundary tier' to court , security, PhD thesis in management, University of Canberra.



NOËLLE HERRENSCHMIDT

Noëlle Herrenschmidt is France's most celebrated watercolour artist/reporter. Her watercolours have featured in books about many of the major court buildings of Europe, hospitals, the Vatican, prisons, the National Assembly and dinner tables of leading political leaders. This photo shows Noelle sketching the library of the Victorian Supreme Court.

PHOTOGRAPHS + WATERCOLOURS

Photographs are used wherever possible to illustrate the issues outlined in the text. Some of these photos were taken by members of the research team during their visits to particular facilities, others were taken as part of court architecture tours in Europe and North America over the last decade. For ethical reasons, most of these images show rooms that are not in operation, with the only people shown members of the research team or visitors on court tours. Some of the photographers whose works are presented here are architects – Diane Jones, Frank Greene, Jay Farbstein, Jean-Paul Miroglio and Emma Rowden. Others are judges – Wayne Martin and Laurie Newhook, or court executives – Ray Warnes.

To provide visual perspectives of justice processes in action, watercolours by famous French artist Noelle Herrenschmidt are used, made during visits to Australia in 2002 and 2004. These capture some of the emotions and atmosphere of the courtroom, as well as counters and backroom offices, and document the bustle around court entrances and waiting areas. The visit of Noelle Herrenschmidt to Australia was organized by the Court of the Future Network was made possible by kind support from the Supreme Court of Victoria and the Federal Court of Australia.



CHICAGO CHILDREN'S COURT

There are subtle differences between the way justice participants act in court even between different Common law jurisdictions. This watercolour of a protection matter in Chicago's Children's Court illustrates the way parties stand around the Bench to settle a matter. The number of files on the trolley indicates the pressure of cases before the court. The courtroom was designed to be light and welcoming to offer reassurance to anxious court users.

Watercolour: Noëlle Herrenschmidt

CONCLUSION

The approach described above allows us to explore different dimensions of court security and safety. Bringing together different perspectives on the issue enriches the policy debate. It is important to understand the views of those who design policies, those who carry them out, and those with expert knowledge of one or more aspects of security. The user juries meanwhile provide a view into the world of some of the most vulnerable court users. Many of the members of the user juries are openly critical of court procedures and offer valuable suggestions for what they would like to see changed. Court executives were particularly keen to ensure that the voices of disadvantaged groups were explicitly included in the study. The user juries also provide a comparative perspective on how well different court buildings are experienced; rather than comparing each building to an ideal type they use as the point of comparison another court nearby, or in another town or suburb.

While the report does not identify individuals for the most part, the project did set out to identify 'best practice' from different jurisdictions. So some general comparisons are made that seek to describe how and why certain practices work better than others, and to characterize the security philosophies found in each jurisdiction. Based on the theoretical framework offered by Gros and adapted for this

study, the research, was framed around 'people, processes and places', and the way security policies addressed these three inter-related dimensions¹.

As these three terms are closely linked, it is possible to review many of the issues under all three categories. For example, perimeter screening could be seen as an issue for people (court users who get screened), processes (the process of checking those who enter the court) and places (court entrances). To simplify the following discussion, these duplications have been limited as far as possible and the discussion placed in what appears to be the most convenient location. The fact that some types of justice participant, process or place are not listed separately does not mean they are not important.

¹ For a fuller discussion of this distinction, see Wallace, Anne, Emma Rowden, and Deborah Blackman. "Reconceptualizing Security Strategies For Courts: Developing A Typology For Safer Court Environments." *International Journal for Court Administration* 5.2 (2013).

CHAPTER 3

PLACES

Courts have undergone considerable change in the last few decades, and court buildings have responded to the changing needs. But however 'service-oriented' they try to be they remain places where the consequences of violence, family breakdown, law breaking and conflict are played out. Because of the nature of court business, the buildings and the assets they contains are subject to various risks, risks. In New Zealand vandalism and other property damage were the most frequent type of such incident . In Western Australia, by contrast the reported level of such incidents was quite low. Over a 14 year period, the 47 New Zealand courts reported an annual total of 29 such incidents each year, together with an average of 5 bomb threats per year. It is likely that some less serious incidents were not reported, but even so the risk of such events appears to be low.

How serious the incidents involving court buildings are can be seen in the list of incidents for Victorian courts over a 15 month period (table 1.2). As with the New Zealand statistical collection it is likely that some less serious incidents were not recorded, so what were the serious incidents that were not only counted in the Victorian statistics but were flagged as deserving special mention? They included people trapped in lifts, doors and windows broken by angry court users, bomb threats and suspect packages, people going into areas that they were not supposed to access (such as a jury room), faeces smeared over walls or floors, and a car being driven into a court pillar. These incidents touch on the target hardening of the building, the reliability of building services, screening procedures, cleanliness and health, and access control.

Safety and security is a continuing challenge to design and design thinking – all participants want to feel safe, but no one wants the courthouse to feel like a fortified camp.

Professor Graham Brawn, *Changing face of justice*, Architecture Australia, September/October 2009, 41

TABLE 3.0.1

*Incidents involving court buildings,
New Zealand 2000-2013*

INCIDENTS RECORDED	2000 - 2006		2007 - 2013		Total	Annual Average
Threats						
Bomb threat	32	10%	40	14%	72	5
Threat to court property	9	3%	20	7%	29	2
Damage						
Vandalism/Wilful Damage	230	72%	177	63%	407	29
Arson	21	7%	8	3%	29	2
Access issues						
Burglary	15	5%	10	4%	25	2
Attempted burglary	6	2%	2	1%	8	1
Trespass	2	1%	10	4%	12	1
Unauthorised Access	2	1%	12	4%	14	1
Insecure Door Cell Area	3	1%	1	0%	4	0
Total	320	100%	280	100%	600	43

TABLE 3.0.2

Incidents separately itemised involving court buildings over 15 month period, Victorian courts

Threats	Damage	Access
<ul style="list-style-type: none"> Bomb threat received at Court. Police informed. Building searched. All clear. No bomb detected. Molotov cocktail discovered at Court followed by telephoned bomb threat to Police Suspect package found outside County Court. Bomb Squad responded. Bomb threat to old Melb MC. William St Melb MC checked, nothing found. GSL officers reported a bomb threat from a male in foyer to PSO's White powder found in envelope. Three staff in isolation. Police attended. 	<ul style="list-style-type: none"> Dog faeces smeared over walls in toilets. A bag which contained faeces spilled onto the floor near the security scanners. Offender unknown. Male left court abusing staff. PSO's escorted male who kicked glass door. Charges pending. Female slammed court door after penalty given Agitated male puched a hole through a wall. Charged by Police with wilful damage. Emergency glass panel of security door panel broken by person to exit building. Graffiti applied to front of building. Reported to police. Mentally handicapped male became agitated and removed a toilet cubicle door from hinges. Defendants threw items at the back wall and window of Court. No injuries. Police attended. Stolen vehicle driven into steel pillar of Court. Building undamaged. Police investigated. 	<ul style="list-style-type: none"> Female wandered into Jury Room Intervention applicant approached by drug affected boyfriend in ladies toilets. PSO's & Police attended Defendant approached AFM and tried to follow her into remote witness room Burglary at Court. Access through Chambers window. Police & CIU investigating. Male sentenced to imprisonment without escorting police in court room. Near fall of child through gap in stair barrier Five persons caught in lift for 15 Three persons caught in lift for 20 mins. Three people caught in lift for approx 10 mins. One person tripped as lift stopped below ground level. Pregnant woman trapped in lift for 15 mins. Shaken by incident. Required to walk 4 flights of stairs afterwards.



ANTWERP COURT OF JUSTICE

The Nieuw Justitiepaleis provides a striking addition to Antwerp's cityscape. The grand staircase invites visitors to ascend to the elevated spaces of justice, while the sails above the largest six courtrooms recall the maritime traditions of the city.

Architect: Rogers Stirk Harbour + Partners, VK Studio and Ove Arup & Partners

Photo: Wayne Martin

3.1 APPROACHES TO COURT

Court architecture may communicate messages to the public about the sort of building that it is and what people can expect from it. Security in the second sense defined by Gros – a secure person who is able to act freely, to participate effectively in a process – is engaged as people approach a court building. The court building may elicit responses, such as reassurance from the traditional classical columns of the Adelaide Magistrates Court, set amongst trees that may help to calm anxious spirits. Or visitors may gain inspiration as they gaze up to the sails that bring light into the Antwerp courthouse reflecting both the maritime history of the Flemish port and the imagination of the architect.

Reactions may also include feeling welcomed, entering a ‘place of punishment’, or – for some approaching the Nga Hau e Wha marae¹ being used as a temporary court in Christchurch – something more confronting:

I can remember having a chat with a defendant outside who did not want to come inside, and he was so aware of the Maori, all the cultural value there was represented in the building, and he said to me, “It’s forcing me to deal with my crap.” And it was – that’s what it’s really all about. And so it’s a huge

¹ A marae is a traditional Maori meeting place usually associated with a single iwi (tribe), hapu (clan) or whanau (extended family). While some urban maraes retain links to particular groups, most urban marae are pan-tribal.

change.

The symbolism of a Maori meeting house reminded some of the people who entered of their traditions. Tradition confronted members of a Victorian focus group in a different way in a comparison of Ballarat (a historic courthouse) with Bendigo (a new courthouse). They were torn between preferring the symbolism of the old or the services and convenience made possible by the new.

Meanwhile a focus group in Western Australia reflected on the symbolism of national or state authority they wished to see outside courthouses in their state:

RESPONDENT: I’m not a nationalistic person because I think it divides the world rather than unites, but there was no flags up. There’s no Aboriginal flag, there was no Western Australian flag, there was no Australian flag.

INTERVIEWER: There’s a flagpole but there’s nothing on it.

RESPONDENT: There’s a flagpole, but there was no flags. There was nothing to signify that court was in session or to have that kind of pride in the building, that this is the court house and this – so straight away people know that this is a formal process that they’re going to and there’s that respect for the

'Defendants who walk from the cells along cold corridors, accompanied by security guards and seeing stark walls and furnishings under artificial lighting experience different emotions from those defendants who enter the building freely through the front door'

Louise Kennedy and David Tait (1999). *Court Perspectives: Architecture, Psychology and Western Australian Law Reform*, Western Australian Law Reform Commission, 1027.



GUOIN TUNNEL, MONTREAL

Tunnel connecting high security court, Centre de services judiciaires Guoin, to the prison de Bordeaux next door, Montréal.

Photo: Diane Jones



IPSWICH COURTHOUSE

Ipswich court in Queensland is approached through a small irregular courtyard, endowed with trees and a bench. The building unfolds around the courtyard, allowing court users to relax before they enter the court.

Architect: AB+M Cox Rayner
Photo: Diane Jones

building. It's just like oh yeah, rock up, it's a daggy old building, who cares. There's already none of that pride given to the building itself, no matter what.

A South Australian magistrate noted that the state coat of arms was used outside courts in that state, but in a different form to that used elsewhere in the state – representing the independence of the judiciary from the executive.

Others in the Western Australian focus group commented on the appearance of the building's environment, either in an urban streetscape or with natural surroundings. Respondents objected to what they saw as poor upkeep:

The outside I thought was a disgrace, the gardens are disgusting. I know it's only a garden, but half of it is dead, there's rubbish in there. It doesn't look like it's been looked after for ages. The outside seats are all rusty.

A general shabbiness may, on the face of it, seem irrelevant to the court experience. Invoking Gros' concept of a secure society, however, reminds us that public trust in law and a belief in the legitimacy of the justice system may well be affected if poor upkeep leads court users to perceive a lack of respect for the courts. To bring together the discussion of flags and upkeep, courts in Catalonia sometime fly three flags, the Spanish and Catalan

flags, but also the flag of the municipality because that will reportedly ensure that the local council maintains the court surrounds.

Court users did appreciate trees, streams, even seats around the courts they had visited. Views of nature was a feature that, in the view of many respondents, was highly valued, in part because of the impact it had on the emotions of the court visitors. Speaking of an outside waiting area outside a children's' court some focus group participants commented:

RESPONDENT 1: Why, why did you find it calming ...

RESPONDENT 2: Oh.

RESPONDENT 1: What features yeah?

RESPONDENT 2: Because it's full of trees ...

RESPONDENT 1: Mmm.

RESPONDENT 2: It was open, it was spacious.

RESPONDENT 1: Yeah.

RESPONDENT 2: Oh that, that particular one with the trees and that was very nice ...

RESPONDENT 1: Yes.

RESPONDENT 2: Because it had the greenery.

Thus a calm and emotionally pleasing physical environment may contribute to a sense of psychological safety, facilitating Gros' 'secure



PORT AUGUSTA COURTHOUSE, SOUTH AUSTRALIA

Having a well-landscaped setting creates a calm environment for court participants. The Port Augusta court provides separate external waiting spaces for different groups, and helps to minimise the risk of conflict between parties.

Architect: Denis Harrison, South Australian Department for Transport, Energy and Infrastructure

Landscape consultant: Viesturs Cielens design

Photo: Mark Forth

person' who requires, among other things, a serene environment to be able to participate effectively in the justice process.

While public spaces surrounding justice buildings may provide relief, shade and sanctuary, they may sometimes pose dangers both for court staff and users, and can heighten feelings of uncertainty and fear. Many incidents between warring groups occur outside rather than inside the court. Three people assaulted a man charged over a stabbing death outside the Perth Supreme Court in 2011 after he was released on bail². A fight broke out in 2013 outside the Alice Springs court between some men who came out of the court and confronted a man in a park opposite, with the fight moving back across the road to the steps of the courthouse³. A man convicted of having sex with an underage girl was attacked outside the Tasmanian Supreme Court by two women related to the victim; one hit him with a stick and the other with a handbag, causing bleeding to his head⁴.

² ABC News, 18 February 2011, *Charges laid over attack outside court*, <http://www.abc.net.au/news/2011-02-18/charges-laid-over-attack-outside-court/1948620>

³ ABC News, 13 March 2013, *Fight outside court during Liam Jurrah assault trial* <http://www.abc.net.au/news/2013-03-13/liam-jurrah-trial-day-3-witnesses/4569996>

⁴ ABC News, February 17 2012, *Martin recovers after attack*, <http://www.abc.net.au/news/2012-02-16/martin-court-sentence/3834394>

A constraint on court security staff – compared to the police who may have had responsibility for court security during an earlier period – is that they are not authorised to intervene in incidents on the road, footpath or car parks outside the court precincts. As one court manager put it:

To be frank, if somebody really wants to do harm, they have to stand on the footpath. And our officers, their powers only extend a very short period. They can't run onto the road.

In the Hobart incident court security staff did rush out to help the man who was being assaulted, but they may not have been legally protected if anything had gone wrong.

Court surroundings may be a point of vulnerability if the court building itself is the target, such as the 1995 Oklahoma City bombing in the US that targeted the Murrah federal building containing courts. The bomber drove a truck packed with explosives up to the building. Such attacks might be extremely unlikely in Australia, but the damage that could be produced could be very serious: in the Oklahoma building 168 people died and 500 were injured. Further, it was a bomb that killed the wife of a family court judge in Sydney in 1984. Far more common are bomb threats that disrupt court functioning for several hours. So even if the reality of an attack is very remote, the fear is never completely

absent. On one occasion, reported a New South Wales court manager, a bomb threat came into the switchboard of the local court. The telephone operator was said to have replied to the caller 'That seems to be a family court matter. The family court is down the road.' While the story may have been apocryphal, at least in part, it does show how risks of catastrophic attacks on courts become part of everyday conversations and fears. In New Zealand as reported above, there were on average five bomb threats a year, and in Victoria four over a 15 month period, one of them to a court that had not been used as a court for the previous 14 years.

The environment around court buildings, as public places, can sometimes cause anxiety for other reasons – reporters trying to get a story, according to an Adelaide member of a focus group:

The other intimidating thing about it is that whenever there's something high profile going on here, there's cameras down there like flies around a dead rabbit.

Media fracas can present a significant source of anxiety for court participants. The physical proximity within which media approach witnesses, victims and defendants can be perceived as an intimidating violation of privacy and personal space, resulting in threats both to psychological safety (and thus to security of the person) and to perceptions of the justice system as fair and legitimate.



NGA HAU E WHA MARAE

Using a marae – a Maori meeting house – as a court reportedly reduced anxiety for participants, and increased respect for the judicial process.

Building: Nga Hau e Wha Marae, Aranui, Christchurch
Photo: John Kirk-Anderson, Fairfax NZ

Courts are unable to control the actions of the media: if cameras are on the sidewalks outside the court building they are not on court property, so that the court cannot impose any restrictions. Nonetheless, some courts do attempt to ameliorate the problem with alternative processes: in Perth this problem was sometimes avoided by giving media outlets the full remarks of sentencing judges in return for avoiding media scrums around court participants.

Some types of building help to reduce anxiety and risk. One example was when the Nga Hau e Wha marae in Aranui was used as a courthouse after the Christchurch earthquake. As a court executive commented:

The feedback I get ... from lawyers, from people working out there, that they feel it's relaxed. They feel people are respectful. They feel there is not the tension that goes with the normal waiting area in our court building and that generally people are well behaved.

There were several explanations for the changed behaviour – the sacred character of the site, greater cultural relevance for Maori, the more open nature of the buildings and 'pulling together' after the disaster of the earthquake.

Parking is a particular source of anxiety in some courts. One case worker reported having the

tyres of her car slashed. Others reported being shadowed, or having threats made to them. One support worker whose clients had experienced serious violence from partners got them to come to her office and then escorted them to court herself:

If I have clients from my service I'll actually get them to come to my service 'cause I'm in walking distance currently to the court. So they'll park and keep their vehicles out of sight and everything and then they'll all go up together. So parking for a lot of them is an issue.

Another support worker with a similar client group drives the clients to court in her own car, placing herself in a situation of danger:

So getting [my clients] to court then, if I'm driving them, puts me and even my work colleagues at risk because some of these people [former partners] have then traced licence numbers and things like that or followed us from the courthouses, and then they've followed me back to where I work. So then that puts even my work colleagues at risk.

The team leader for a domestic violence support team describes how she tried to address the issue by getting a secure car park for a support worker:

There's one other person I was supervising a little while ago [whose partner] was very difficult here and

he's been banned from the court environment, but that doesn't mean to say they won't hang around and he threatened her. He said, "I'm going to get you. You're dead. You're dead. You're marked."

Hearing that one of her team had been told she was 'dead' and 'marked', the team leader put in a special request for a temporary car park in a secure area. She recounts her conversation with her director:

I said to her, "Well what do you think we should be doing? We need to put something in place to – so she can feel safe and she's not going to be feeling- 'cause she had to walk to the train station. And all we need really is a car park and that will give her a sense of safety." And the director said, "Oh no just tell her to look over her shoulder." And I thought that was the most appalling thing I'd ever heard.

The story combines three forms of stress: intimidation associated with death threats, pressure on resources and reported lack of support from superiors. Secure parking facilities was something that court staff also reported made them feel safe, but it was a scarce resource. In general the few available parking places were allocated according to seniority, but in one court fines counter staff were grateful that they were provided with some:

We've got – our car park is secured as well. You've just got to make you get here early enough to get



MELBOURNE COUNTY COURT, LAWYERS ARRIVING

Entrances to courts are busy public places. Melbourne's County Court sees lines of bewigged lawyers, gowns fluttering in the wind, parading through the revolving door of the court. Overshadowing them is a shelter affectionately known as 'the guillotine'.

Architect: Daryl Jackson SKM and Lyons Architects

Watercolour: Noëlle Herrenschmidt

one. But that's good, 'cause you know, we've got sort of swipe in and out access, so that makes a big difference when you've just had a run in with someone at the front and then you're going home. You don't sort of have to look over your shoulder as much as what you would if you were just walking over the road.

'Looking over your shoulder' was part of the everyday life for some support workers and court staff – the fear of being watched, being followed and being 'marked'. Even magistrates who are provided with underground parking express a similar fear. A magistrate reported feeling unsafe when he found a stranger in the judicial car park late at night, smoking marijuana. Another magistrate compared the facilities his court had with that provided to his federal colleagues:

(Federal judicial officers) drive in and they have a security door that opens very quickly and then shuts really quickly behind them. You'd have to be Buck Rogers to roll under the door in the time that it took for the door to open and shut. Ours is like a domestic garage, it stays open for ages and it's open for - I often drive up to it and it's already open and there's nobody around. Now, surely, somebody – certainly somebody got in 30 seconds ahead of me and so that's why the door is still open, I don't know. So it's a really weak spot here.

However, there is another source of danger in being seen outside a court– public exposure, more likely in the country according to one magistrate:

You don't get that anonymity there, so the pressures in those sorts of areas for people who are participating are great. If you go to court, people know. So, if you have been the victim of a sexual assault, for instance, people know. It is hard to hide.

Courts are very much public places. While this may be important for representing access to justice, 'being on show' can be stressful, particularly for people with disabilities:

The fact, the sense of being on show ... coming out of the courtroom or going in or standing waiting to talk to the court helping man, advice man, whatever he was, all of that from a person with a mental health problem I think would be quite anxiety providing.

One 'design solution' to limit both unwanted meetings with other parties and breach of anonymity is to provide separate facilities for vulnerable participants, including within a court precinct. Separate entrances for different parties might be used, or entirely separate facilities. As one experienced security manager reflected:

Depending on the environment, you'd build a different building with different facilities. We don't



WAITING AREA IN CHILD WITNESS FACILITY

The Melbourne justice precinct provides a separate facility for child witnesses. This creates a safer environment for children testifying at any court in the city, and provides a supportive and cheerful setting that minimises stress and avoids accidental meetings.

Photo: Emma Rowden

deal a lot with children now. Well, we won't in the near future, in terms of violent restraining orders, but we used to have separate entrances for children and witnesses. I mean, that's the ultimate. I've never seen it yet and I've travelled a bit in Australia looking at courthouses. I've never seen anyone do it really successfully. I don't think it can be done.

The argument that separate entrances are not enough to keep children's matters entirely separate from other matters was taken further with some observers of the Melbourne Children's Court (which is a separate building) arguing that protective and criminal matters for children should not be heard in the same building.

Melbourne provides a separate facility involving video conferencing, waiting facilities and support services, for child victims in sexual assault matters testifying by video link. A Victorian country town provided equivalent services almost by accident according to a senior magistrate:

Because they haven't been able to use a section of the court due to these structure problems, they have actually moved the witness service off-site so they might not know they now have 'best practice', despite having one of the worst courts in terms of its physical space.

Increasingly justice services are being planned on a

'justice precinct' basis rather than just for individual courts. From the evidence presented here there is a good case for extending this cooperation to protecting the security of court users as they leave the court – both their physical security and the psychological security.

SUMMARY

The exterior of the building has important symbolic function in conveying access and public confidence, while culturally significant buildings or layout (such as the marae used in Christchurch) may lessen a sense of anxiety. Gardens, parks and trees nearby may be calming and well-maintained settings contribute to feelings of safety. Incidents and threats occur on journeys to and from the courthouse so the wider environment of the court need to be considered in any plans for court security. Walking to and from car parks can be a particular source of anxiety. Separation through technology such as videoconferencing or separate entrances can enhance safety.

RECOMMENDATIONS

- Outdoor gardens, seating and smoking areas should be regularly maintained and cleaned
- Incorporate gardens or views of nature in courthouse design for their calming influence
- Although legal powers to intervene may not extend beyond the court footprint, staff training should include site-specific strategies on safely managing incidents which take place on the footpath, in car parks, or public parks outside.
- Assess whether individual clients or staff may feel at risk on the journey to and from parked cars
- Offer secure car parking or escorts to and from cars for clients or staff who feel at risk
- Develop court safety plans on a justice precinct basis, including car parks, outdoor natural areas and facilities such as videoconferencing

3.2 ENTRANCES AND EXITS

One of the most visible aspects of court security is the screening process at the entrance to the court building. When judicial officers, court staff or court users are asked about 'security' it is usually perimeter screening that first comes to mind.

Even before reaching security there may be hazards, at least for children or people in wheelchairs. Revolving doors are a source of concern to some:

You know the revolving doors I'm talking about – so the kids, they run around unattended, and they'll get in there and they'll put their fingers around the end of the door, and even little fingers can get mangled badly. And - - -

INTERVIEWER: So has that happened?

RESPONDENT: As far as I know it hasn't happened, but I've seen it come very, very close. And yeah... that's why we've closed it off.

While some security measures are responses to what has happened, a risk assessment approach goes beyond this to what might happen. The vast majority of risks are to people rather than buildings, and special strategies are developed to manage the different sorts of risk facing each category of person. In larger courts, people in custody are segregated from others by being brought into court through a secure entrance. A separate circulation system within the building typically ensures that people in

custody do not come into contact with members of the public as they enter and leave the courtroom. Meanwhile, judicial officers are increasingly being given their own entrances and car parks; this privilege may be extended to some court staff and professionals. For clients in family matters believed to be at risk the Family Court of Australia prepares safety plans. The person is typically escorted into the building by a non-public door, exit times of the parties are staggered to avoid accidental meetings, and underground car parks may be accessed.

Perimeter screening can take several forms. The most thorough can be found at the The Hague at the international criminal jurisdictions. Visitors enter a building that is separate to the main building. They pass through a magnetometer (metal detector). They must produce identity documents and store their bags, computers and phones in lockers provided. They are given an authorisation permit to enter the main building, but even in the courtroom are separated from the main body of the courtroom by an acoustic barrier in the form of a glass screen.

A second form can be found in many French courts (photo 3.2). The visitor walks through a magnetometer but their bag is checked manually by a gendarme who tends to engage the person in conversation, providing information about court activities and services, and glean intelligence about potential risks.



NEW COURTHOUSE, LYON

In most French courts, such as this one in the new Palais de justice in Lyon, visitors pass through a magnetometer, while their bags are checked by gendarmes. The entrance way is bathed in natural light, while plants and art work make entry to court a less daunting experience.

Architect: Yves Lion

Photo: Emma Rowden

A third form is to have a screening station available but use it only when required. This is how screening is carried out in one of Australia's oldest courts, the King St courthouse in Sydney. When a trial requires screening, this is done at the door of the particular courtroom, although on occasions some checking can also be done at the entrance to the court. The main trial courts in Montreal follow a similar practice, with visitors not being screened until they reach an area of the court building where it is needed. Flexible screening is also the practice in most New Zealand courts. For five of the major courts screening is carried out full-time (at least in theory), while for the other 30 it is done during the morning peak period, or when there are enough security officers that day, or when there is an identified need. This type of flexible screening process may serve as a warning – you may be screened – and may therefore serve as a form of general deterrent to carrying weapons. However, several of the incidents in New Zealand courts, including the Napier stabbing, occurred after security screening had ceased for the day.

For particularly high risk matters, double screening takes place. This has happened, for example, at major terrorism trials in Sydney and Melbourne. The process was described by a security manager in Perth:

So you have the situation where you might have walked through security, as you did this morning to

get into the building, and then we'll have a second line of weapons detection at the courtroom. So if anyone has snuck anything in or whatever, then we can have that second check.

The most frequent form of security screening in most Australian and New Zealand courts is what is generally referred to as 'airport security'. The person passes through a magnetometer (metal detector) while their coats and bags are placed on a conveyor belt and checked by a fluoroscope (x-ray machine). If the x-ray machine detects anything that requires further investigation, the person may then be wanded with a hand-held metal detector. As in an airport, the person is then free to proceed with their bag or personal effects, minus items that are checked in or confiscated. (This contrasts with the Old Bailey in London where personal effects are not allowed and the court does not provide facilities for storing them. This provides a lucrative business for a cafe over the road that charges £2 per bag for storage).

South Australian courts carry out some 1.3 million searches at the entrance to its courts each year (table 4.5.1). In 2004-5, 34 weapons or other items deemed inappropriate were permanently confiscated, by 2012-13 this was down to 3 items seized across the whole state that were deemed to be sufficiently dangerous that they had to be confiscated.



ANTWERP COURT OF JUSTICE

The new Antwerp courthouse has an information counter just inside the main doors. There is no security screening, with security staff circulating when required. The huge entrance hall provides visibility not just over the public but also along the great boulevard of Bolivarplaats. It feels a little like a railway station, which indeed was the previous building on the site.

Architect: Rogers Stirk Harbour + Partners, VK Studio and Ove Arup & Partners

Photo: Diane Jones

The sorts of security threats posed by visitors to Victorian courts can be seen in the inventory of personal incidents collected over a 15 month period in 2008-9 (table 3.2.1). More detailed information about weapon seizures in Victoria are reported in chapter 4.5. There were 14 incidents over this period involving personal confrontations at court entry. Two of the incidents involved solicitors, one a tribunal member, and two involved security staff or police. Another involved a man trying to bring the skeleton of a cat into the building.

Until about 2005, cameras were generally not permitted to be taken into Australian courtrooms, so were checked in by security, but with smartphones having photographic capacity, this rule has been replaced by a requirement to turn phones off and not use them. For trials that demand special security, such as major terrorism-related trials in Sydney and Melbourne, visitors may additionally be required to have their identity checked and lodge their phones and computers at a desk outside the courtroom.

But screening is not just a physical process. It may also involve assessing potential emotional or psychological issues that may require ongoing monitoring. As one security officer recounted:

You look at the person, it's just the person, their demeanour. You warn them that any actions they take here in the court precinct that are negative,

not a good thing, and that could impact on their appearance today. We would share that information with other sheriff's officers so that they know – and obviously the sheriff's officer running that particular court – and just try and manage it that way.

Retro-fitting screening stations to older court buildings tends to produce cluttered entrances, and queues out in the street. The most extreme example of this can be seen in the Melbourne Magistrates' Court, where queues at peak hours can wind around the corner.

Is screening a prudent investment? Most respondents think so. One answer is the assurance that at least people will be protected from physical danger. An inventory of items seized can be used to support this viewpoint:

In terms of the security screening, I actually think that it is essential. And if people don't like it, they should understand what is actually seized. On an annual basis there are knives, pen pistols, the scissors, the shaving strops, or cut throat razors, taken. You would be absolutely horrified if you were made aware of what was actually seized on an annual basis. For me, it is actually really reassuring that people have to go through the metal detectors. I think the general public would be reassured to know. (Victorian magistrate).

TABLE 3.2.1

*Entry incidents separately itemised
in Victorian courts
15 month period, 2008-9*

Solicitor refused to comply with Court entry policy. Police intervened.

Solicitor became aggressive with PSO's at security checkpoint

VCAT member disagreed with Court entry policy and shouted at G4S officer. Member later apologised for her behaviour.

Armed security guard tried to enter Court. PSO's intervened.

Police unaware of police entry requirements at Court. Registrar informed.

Male refused to put his bag on the xray machine conveyor belt. Matter dealt with by Senior Registrar.

Disturbance o/s front door of court between applicant and an unknown male. Police called.

Male failed to comply with entry requirements. Male threatened suicide. Police & Ambulance attended. Male taken to Hospital.

Security breach. Improper entry by male at County Court.

G4S reported an abusive male at screening point. PSO's attended.

Male abusive towards G4S staff. Male refused to leave. PSO's intervened.

Male ejected from Court as he refused to comply with court conditions of entry.

Defendant in verbal tirade with police door man. Two police vehicles arrived after defendant left building.

Male removed from Court after trying to bring a skeleton of dead cat into building.

PSO – *Protective services officer*

VCAT – *Victorian Civil and
Administrative Tribunal*

G4S – *Private security firm*



CHILDREN'S COURT, MELBOURNE

Screening stations have become the norm for most Australian courts, such as the Melbourne Children's Court. A carefully-located pot plant acts both to provide relief and direct visitors to the correct pathway.

Architect: Bates Smart
Photo: Tess Simson

The manager of the New Zealand District Court issued a statement in response to an incident involving the stabbing (reported above) in the Napier District Court in 2013:

In 2008 one in every 77 people screened tried to bring a weapon into a court, but that had dropped to one in every 186 in 2012. These could be everyday items like letter openers or nail clippers but for the whole of 2012/13 people only attempted to bring 29 offensive weapons into court. That's with 1.5 million people being searched.¹

This statement distinguished between the large number of items confiscated or temporarily held by court security and the small number of items that were considered dangerous.

Another magistrate argues that the ordinary 'one-off' people who come into the court will be particularly reassured by the screening process to know that the 'very bad people' who come to the building have undergone screening.

Many front-line court staff also report feeling safer as a result of screening procedures. One service counter staff member commented 'there is now a big improvement, because before that, we had no glass'. So physical barriers and screening stations became

¹ NZ City News, September 4 2013, <http://home.nzcity.co.nz/news/article.aspx?ID=173218>

seen as the guarantee of personal safety both for them and court visitors.

A contrary view to this is provided by a South Australian court executive, who points out that some people just carry knives as part of who they are – but are most unlikely to actually use them. The effect of confiscating such items, in his view, is not to make courts safer but to make everyone else more fearful. Indeed in other settings (he went on) we show no anxiety in mixing with the very people who are branded as dangerous as a result of the court's checking processes. Screening, he says:

just keeps reinforcing for people that it's a scary place. And yet, the very people they've seized that from are walking beside them up and down the street every single day and they are sitting beside them on buses and so again, all these sort of symbols of 'we take security seriously' have a counter effect.

In his view the enhanced security measures fed a 'fear factor' and made people feel less safe. A prominent court architect agreed, saying 'we actually find that the more security [there] is, the more unsafe the community feels about it'. The focus group that visited Collingwood Neighbourhood Justice Centre reported feeling safe despite the lack of screening. A magistrate pointed out that the 1985 incident involving a Family Court judge was at his home not the court, and that everyone mingled on the streets



COLLINGWOOD NEIGHBOURHOOD JUSTICE CENTRE

An alternative to machine screening is offered at the Collingwood Neighbourhood Justice Centre. People entering the court pass a desk staffed by uniformed security officers, who offer a friendly face and information, but do not check bags. This approach is consistent with the innovative approach to justice practised in the Centre. It may also reflect the less serious type of matter that is heard at Collingwood.

Architect: Lyons Architects

Photo: Diane Jones

anyway. The South Australian court executive argued for less attention to physical barriers and more attention to human responses:

They'll escape from the Supreme Court cells and all of a sudden now they have this huge sort of mechanism in place. South Australia had a hostage, and all of a sudden we had this huge thing in place. And so you end up – and this is a purely personal view – the high risk is you have an overreaction to something.

I mean, look at the Sydney Airport where they have the fricassee there and that guy got killed, the bikie one there. ... Look, really terrible that it happened, but for goodness' sake, on one situation, does that mean that everything in the whole place has to be bolted down? Or do you make sure that if that's starting to brew, that you actually can pick that up quickly and respond quickly to those sort of things?

However, he pointed out the serious consequences of a major incident: ' [if] somebody gets hurt, the consequences are dire. We work in ... an unforgiving organisation'. The lack of 'forgiveness' tends to refer to bad publicity and criticism from government and justice departments.

There is some evidence that extra security increased rather than reduced fear. One magistrate – a group

that is most thoroughly protected - speculated that a disgruntled defendant could throw an egg at him or roll a grenade under his car. This is an example of a low-risk event but one with 'dire' consequences; it is not impossible as shown by the assassination of Airey Neave, then opposition spokesman for Northern Ireland, by a car bomb as he was leaving the Houses of Parliament in 1979.

An advocate suggested that it was not screening itself but how it was done that could shape a person's responses, including their subsequent court experience, arguing for a more 'user-friendly' approach :

But the way it's handled, I think, is really what I'm talking about. I mean, it's got to be there. But it needs to be a little bit more user-friendly. A little bit friendly, a little bit more welcoming. I mean, it's the first stage that you reach when you come into the building. So it's going to colour your attitude maybe to the – to what other things that happen in the building. And my first thing was they're all abrupt. I started to take offence to their attitude. So it started to rattle me a little bit.

An Adelaide advocate in a focus group compared the first impressions provided by in the Magistrates' Court with that given in the Commonwealth law courts:



MELBOURNE COUNTY COURT

A friendly face at the reception desk may shape a court user's experience for the rest of their visit. This comment – from a South Australian court executive – is illustrated in Melbourne's County Court, where a large vase of flowers contributes to a welcoming environment.

Watercolour: Noëlle Herrenschmidt

This building, even though it's kind of grotty and old and looks like it could do with a fresh coat of paint, I instantly felt much more at home, yeah. And it just feels more homely right from the creaking floorboards to the friendly lady at the – when you first come in and you go through a smaller security screening, which didn't feel so daunting, possibly because I'd already been through the bigger one before but, and then there was this lady with a smile on her face who was very approachable. I thought ah that's a huge difference. Whereas the other one didn't seem to have anyone who was ready waiting to take your questions or someone to ask directions. They were the main contrasts between the two.

A similar comparison emphasizing the human interaction was made between the Commonwealth Law Courts and the city Magistrates' Court by advocates in Melbourne:

RESPONDENT 1: They welcome you in a better manner or - - -

RESPONDENT 2: Yeah, they say good morning - - -

RESPONDENT 1: Yeah.

RESPONDENT 2: - - - at the Magistrates Court and they look you in the eye and - - -

RESPONDENT 1: We had a little conversation, I can't remember what it was, with the woman and then we saw her upstairs and she said hello - - -

RESPONDENT 2: Yeah.

Going through metal detectors provided physical challenges for those with wheelchairs or prams – something the focus group members tried. This could increase anxiety for mothers with young children:

[it is difficult] having to go backwards and forwards without your baby, while the baby is sitting on one side of the metal detector while you're moving through (focus group interview with mothers).

The screening may also be stressful for the staff interacting with the visitors, requiring staff trained in defusing conflict. One security staff member recounted a typical interchange beginning with a challenge by someone who wanted to enter the court but objected to screening.

“Well, I have every right to be here.” “Yes, you do. If you have court business today you are most welcome to come in but you need to empty your pockets for your safety and for anybody else’s in this courthouse’s safety.” “I don’t really care about that.” “Well, that may be so, sir/ma’am. That may be so but the point is if you wish to come in and conduct your business this is what you have to do, it is a condition of entry and it’s written on the door when you come in.” “I don’t really give a stuff about that.” “Well, that may be so but these are your choices, the choice is yours.” Most of the time they will react and,

“Nng, nng, nng,” turn around and either put all their stuff in the tray and we then keep an eye on them, or, “Fuck this for a joke,” and they’ll walk around walk away, we’ve avoided an incident.

There are differences in screening process between different courts. While some of the variety may be due to the personalities of the different security personnel, there seemed to be a consistent difference between state and federal courts. One disability advocate commented about the security screening staff in the Commonwealth Law Courts in Melbourne, in comparison to a suburban Magistrates’ Court:

Yeah, the federal building. I found them very rude to people. They didn’t explain anything and, I mean, they were really abrupt to people. People didn’t know what they were doing or supposed to do. Yeah, I found them very, very rude.

Reducing unnecessary screening is seen by some architects as part of the solution to the stress-inducing character of screening. In King Street Courts in Sydney, the level of security is varied according to the risk, with the screening station at the door of the courtroom. For some hearings there is no formal screening: the presence of security staff is enough to maintain order. For other hearings, visitors go through a full screening process. The negative impact of such processes on visitors’



PORTABLE SCREENING UNIT

A portable screening unit, now used at a number of courthouses in NSW (photographs taken at Darlinghurst Courthouse, September 2014) offers the potential for using screening in response to identified risk. The portable unit is readily assembled and dis-assembled by one person.

Photo: Diane Jones



experience of the courts can be reduced by 'peeling back' the security, in the words of one architect, and creating what he referred to as a 'meet, greet and wait' area outside security. This can be seen in the Sydney West Trial Courts in Sydney. The next step in this 'peeling back' process is to place the registry counter outside security; this was achieved in the new Perth District Court, where the 'peeled back' security allows people to meet, have coffee and visit the registry without going through a screening process.

Placing security screening back from the entrance is not simply an aesthetic decision. According to security consultants it is essential for physical screening to operate effectively². A 'visual assessment and reaction zone' allows security staff to identify suspicious behaviour, anticipate possible incidents and prepare themselves. Or from a more service-oriented perspective, it could allow court staff to assist people who appear to be anxious or confused.

² Center for Judicial and Executive Security, 2011, *Security Screening: Facility Guidelines, Policies and Procedures*, Saint Paul Minnesota, p1.2

SUMMARY

Given the fact that in living memory in Australia and New Zealand, people have been killed or seriously injured in court precincts there is an argument for entrance screening. Whether it is necessary to screen those who are using other court services (such as registries) is less defensible. Further, there may be disadvantages to screening, such as instilling fear and creating a false sense of security that may reduce rather than increase public safety.

A secure society requires people to be protected from crime, and for social order to be maintained, with adequate levels of public trust. A public that is fearful within a court building will be less likely to be able to participate effectively in criminal justice processes. Court staff on the other hand tend to feel safer with Perimeter screening. Thus while physical safety via screening processes at court entrances may well be successful at identifying potentially hazardous weapons, its placement and its degree of intensity clearly needs to be carefully considered.

RECOMMENDATIONS

- Entrance screening for weapons should be considered a necessary precaution to combat the risk of violent attacks in courtrooms and court buildings;
- The level and location of screening should be determined according to the degree and nature of the risk;
- Where possible, court services such as registries, refreshment and meeting areas should be located prior to the screening zone

3.3 WAITING AREAS

Waiting is one of the activities with which many court users are very familiar. They may have to wait several months for their case to come to court: in the Australian higher courts, the average wait time between a case being initiated and finalized is 41 weeks, while in the Magistrates' Courts the wait time is 11 weeks¹. On arrival in court the person is likely to join a queue to enter the court. At a registry counter or fines counter the person might be asked to take a ticket and wait until their number is called; this might take another 15 minutes or more. In a mentions court participants are typically required to attend at 9.30 or 10 a.m., but may not appear before a magistrate until the afternoon. An interpreter appointed to assist court participants could be in a similar situation. As a witness a person may sit outside the courtroom not knowing when they will be called to give evidence. (What they might know with greater certainty is that their parking meter has expired). People in custody may be brought to court early in a prison van, then wait in a downstairs cell until their case is called, then wait once more for the rest of the day until the prison van is ready to depart. Waiting is therefore an activity that has become a central part of the court experience for many court users.

Waiting facilities are also increasingly addressed in the design of court buildings. In nineteenth century

¹ ABS, 4513.0 *Criminal Courts Australia*, 2012-13, table 7.

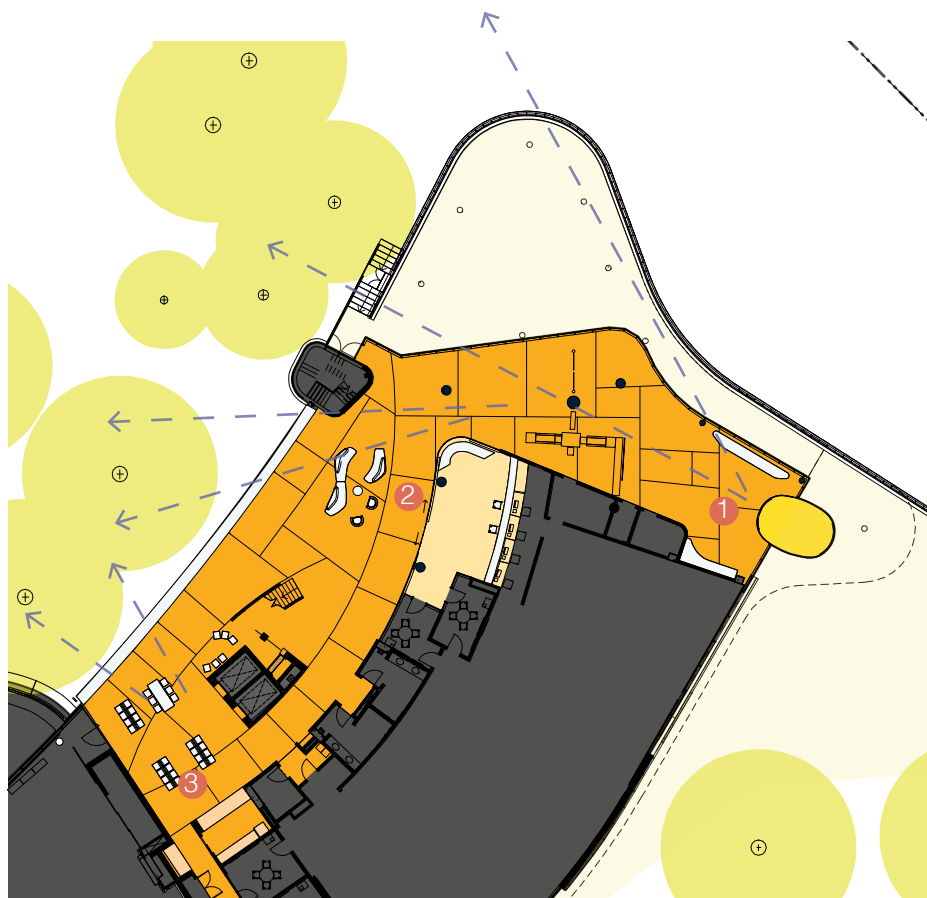
courthouses the waiting area was typically the street or steps outside, an internal courtyard, or in country courts, a paddock. This also might serve as the jury assembly area, or the meeting space for lawyers to meet their clients and settle disputes informally. But court cases were typically shorter: in early nineteenth century England – about the time the King St courts in Sydney were being built – the average felony trial took eight and a half minutes by one estimate (plus another two to three minutes for jury deliberation)². Defendants would be crowded into the 'prisoner's dock' in the courtroom and move forward to the bar when their case was called. The average length of a jury trial in the County Court of Victoria was estimated to be eight days in 2007, rising to 11 days by 2013³. Many Supreme Court trials are considerably longer than that.

Older country courts may reflect the needs of an earlier period when court hearings were shorter. As an advocate in a Western Australian focus group reflected about one such courthouse:

This court house looks like it was designed to not

² Langbein, John H. *The origins of adversary criminal trial*. Oxford University Press, 2003, p 17, note 35.

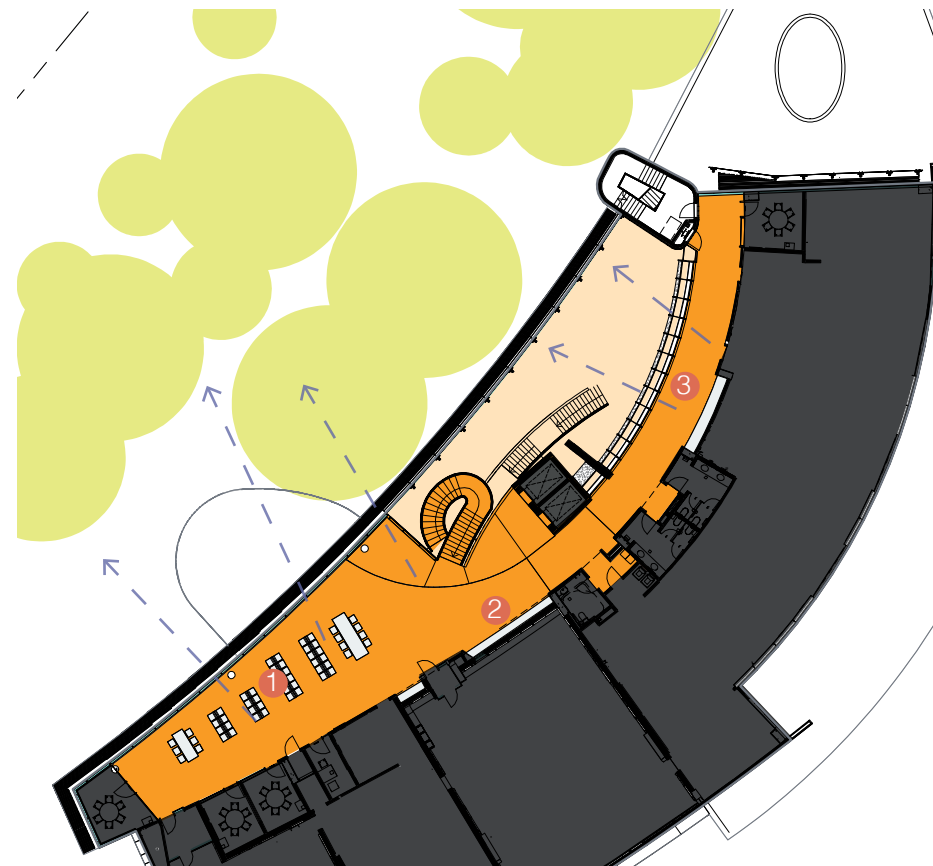
³ Victorian Legal Aid, *Background to the Consultation for delivering high quality criminal trials*, Unpublished data provided by County Court of Victoria, <https://www.legalaids.vic.gov.au/information-for-lawyers/doing-legal-aid-work/delivering-high-quality-criminal-trials/background-to-consultation> last accessed May 1 2014.



COFFS HARBOUR COURTHOUSE

Architect: PTW Architects
Diagrams: PTW Architects

- ① Entry path is elongated and defined by views to the outside
- ② Waiting area located close to the glazed Registry entry
- ③ Waiting area, including table and stools for informal meetings and working, located close to entry to multi-purpose courtroom and to severy (used by volunteer services)



- ① Waiting areas have both seats and tables and stools to allow for working and informal meetings
- ② Seating alcoves provide for waiting areas protected by the wall behind and offering views out to the sky and tree canopy beyond
- ③ The gallery leading to the interview rooms and rooms used by support services offer alcove seating and views across the atrium to the trees

Speaking of the design of shopping malls, Kim Dovey notes (p 130):

The mall constitutes a **safe and predictable realm** within a world rendered dangerous by both crime and cars... The mall creates a purified environment, not only physically and climatically, but also socially. The mall offers at least the **illusion of a vital public life and harmonious community**. These meanings are congruent with those of 'home' – a stable and sheltered sense of enclosure.

Courts similarly combine familiar images both of home and the marketplace, with waiting areas sometimes decorated to feel like a living room, and registry areas bustling with people transacting business. Dovey's description of malls points to the way imagination and memory shape the way we understand and respond to buildings. Others compare courts to other public buildings like airports, concert halls or Centrelink offices.

make people want to stand around it or stay around it, and I can understand why it's like, because there's no cover from the sun, there's no cover from the rain or the elements. If you're waiting you either wait inside or back up at that waiting room, or you go downtown somewhere and you find some shelter. As I said, we've got this beautiful old historic building, the original court house and police station next door, which has been refurbished, this danky old garden full of cigarette butts in it and a Jim Beam bottle stuck there which needs to be gardened out now.

Waiting areas in courts built in the 1970's had a different set of problems. A Melbourne suburban courthouse, which did make provision for different court users to wait in separate rooms, was experienced by another focus group as being claustrophobic:

RESPONDENT 1: [W]e sat in the different rooms like outside the courtrooms themselves, the what do you call them, the waiting areas where you had to wait for – and you can go into these other smaller rooms. And you close the door in there and especially, like, you have a thing about heights and things like that.

RESPONDENT 2: Yes.

RESPONDENT 1: A fear in there just looking at four walls is phenomenal.

RESPONDENT 2: Mmm.

RESPONDENT 1: We closed the doors on each

other just to see what it was like, sat there for five or 10 minutes. And it's totally different. And it makes you think, you know, you think about what have I done wrong, am I going to get out of here? It's like a jail cell.

The problem with waiting areas is more general, in the view of one court executive with thirty years of court experience in several jurisdictions. Waiting areas in courts, he reports, are generally of poor quality and this may affect the safety of the environment:

I – I would say particularly in my early days in court, I would say the – the intimidating thing I found about court rooms was the waiting areas; walking through waiting areas. My experience back in those days and still into now is that, our waiting areas are overcrowded and that leads to frustrations and anger and so on and so forth. So it's – it – ever since I've worked in courts and the criminal court arena I'm talking about, I've always found that our waiting areas have been insufficient to meet the needs of the numbers of people that we're drawing in. And that says something; not only about our waiting areas but about the way we schedule cases. We get everyone here at a certain time and so we have this big mass of humanity come into a building who – you walk through a corridor and they can be with a – you've got a metre to walk through on either side. And even though from a – you feel safe in your own



FAMILY COURT, BERLIN

The most welcoming room in the Family Court in Berlin's Templehof-Kreuzberg district is the Kinderhaus, the waiting room for children. It is a small colourful house, surrounded by nature, and connected to the main court building by a passageway.

Architect: Oswald Matthias Ungers

Photo: Jay Farbstein

building as a core staff member, that – that at times has been intimidating.

Intimidation, frustration and anger were three of the consequences reported of the type of waiting areas provided in many courts. However, as a court administrator, the respondent saw the problem not just as one of providing better spaces: he also identified a need to transform processes to avoid unnecessary waiting. This respondent has thus highlighted how the question of waiting taps directly into two of the security concerns raised by Gros: the ability of courts to provide a secure environment for participants and the need for better management of flows as part of a secure process. Unnecessary and unpleasant waiting represents a threat to both these forms of security.

One of the issues raised in designing suitable waiting spaces is getting a balance between protecting privacy and giving those waiting a sense of spaciousness. A good example is a children's waiting area in the family court in Berlin, a room surrounded by garden and full of colour and light. One experienced court architect explained that 'people get a better sense of safety when they're able to just find their own bit of territory in the space'. Some of the waiting areas in courts he has designed provided views outside to help create a calmer environment. This architect suggested providing more break out spaces, several different

types of seating, and a greater variety of waiting areas. Some seats should have tables, he argued, and 'intense' clusters of chairs might replace evenly distributed rows of seating. This would allow justice participants to 'find their own space'.

Bringing a mixture of people together when they are most fragile is, in the view of several respondents, a recipe for increasing the risk of unwanted incidents. As one court executive put it:

People might be, a) embarrassed to be there; so there's nowhere to hide and, b) you've got people coming from completely different backgrounds and if you look at gangs and the likes like that, you're throwing all that sort of tension into a very small space. People are – they may be on drugs, alcohol, so their reactions are different from what you would expect a normal reaction to be, whatever that may be. So just breaking – breaking it down, I guess, is that people have – need their personal space and they also need time to think about what's going on. And in that humdrum of hundreds of people coming in they don't get that opportunity.

A somewhat different point of view emerged from a comparison of the Christchurch District Court before the earthquakes of 2010 and 2011 and the marae used as a temporary court, with too many personal spaces being seen as less safe than large open areas. As a court staff member commented:



OLD COURTHOUSE, STRASBOURG

A central feature of French courts is the *salle des pas perdus*, the waiting hall where people meet, wait and reflect. There are some hard benches, but for the most part, people stand.

Architect: Skjöld Neckelmann

Photo: Ray Warnes

In my opinion, I would say that this was a safer place because there's so many nooks and crannies in the town place, for people to run and hide behind them, and rooms to run into and hide in, you wouldn't know where someone might be waiting. But here, it's open spaces.

Others supported this view, commenting on the large foyers at the entrance to many French courts, *salles des pas perdus*, which provide generous public areas for people to meet and wait, but also with sufficient visibility to allow people to avoid each other if they wish to. The Queen Elizabeth II courts in Brisbane provide an illustration of this principle, with a variety of waiting spaces inside the main foyer including an eating area, a garden and a museum. There is evidence from prisons, hospitals and workplaces more generally that providing quiet, comfortable and dignified waiting spaces may contribute to reducing stress⁴. Given the high levels of anxiety in courts, similar effects are likely in these settings.

⁴ There is evidence about the impact of good environment design on stress reduction from prisons: Moore, Ernest O. "A prison environment's effect on health care service demands." *Journal of Environmental Systems* 11.1 (1981): 17-34.; hospitals: Marcus, Clare Cooper, and Marni Barnes, eds. *Healing gardens: Therapeutic benefits and design recommendations*. John Wiley & Sons, 1999.; and job performance more generally: Vischer, Jacqueline C. "The effects of the physical environment on job performance: towards a theoretical model of workspace stress." *Stress and Health* 23.3 (2007): 175-184.

One of the most obvious risks in waiting areas is physical confrontation. These may involve parties who are appearing in court because they are in conflict. For some regular court users this is a predictable event that they can plan for; in the words of one court manager:

Indigenous families often come in really big groups and they're like two clans and the two can end up with – we've numerous times had to have the police here before the court event knowing that from past experience it can end up in a very big fight either in the courtroom or outside the courtroom because they tend to bring in many family members.

Other physical confrontations are possible, but less predictable:

There was a ... family here in the waiting room and the mother came in and there was, unbeknown to her, there was the – her ex-partner, his father, his uncle and someone else, I think there were four men on one side there – all waiting there, she came in and she came I think with her father and there was a big fight in the waiting room and her shoulder was dislocated. She had it dislocated because they pulled her and she was on the ground. Now we called security, the security guy couldn't touch them, he just stood there. He was so traumatised by it he actually left the next day, he didn't want to know about it so he left.



PORT AUGUSTA COURTHOUSE, SOUTH AUSTRALIA

Architect: Denis Harrison, South Australian Department for Transport, Energy and Infrastructure
Photo: Emma Rowden

This story, told from the perspective of a domestic violence support worker, describes the extra risk to victims of domestic violence of going to court. It identifies what she sees as the powerlessness of court security staff in that jurisdiction to protect vulnerable witnesses. From the perspective of the family courts, or specialist domestic violence courts, the story provides a different lesson – the need for prior intelligence and safety plans to be in place well before the person at risk comes to court. It also supports the argument for separate waiting areas for groups who may be in conflict, even if a specific safety plan has not been put into place.

Not all fights occur between parties that are already in conflict. Some confrontations may take place between strangers – confining anxious people to a small space for lengthy periods is an inherently risky situation. When some also have a mental illness, the danger associated with overcrowding may be enhanced⁵. There may also be gender differences. According to some studies, overcrowding tends to increase ‘fight or flight’ tendencies amongst men, while it increases ‘tend and befriend’ tendencies in women⁶. A magistrate in a large metropolitan court provided some evidence for the former:

⁵ Ng, B & Kumar, S. (2001), “Ward crowding and incidents of violence on an acute psychiatric inpatient unit,” *Psychiatric Services*, 52:521-525.

⁶ Taylor, Shelley E., et al. “Biobehavioral responses to stress in females: tend-and-befriend, not fight-or-flight.” *Psychological review* 107.3 (2000): 411.

We did have a punch up downstairs, didn’t we, between two blokes who weren’t – didn’t have anything to do with each other just started an argument down there.

Common waiting areas can produce additional stresses:

R 3: And that was messy in that waiting room. It’s just like everything is in there, like there’s courts there, there’s a front counter, there’s Legal Aid.

R 1: Police.

R 2: And the doors are open.

R 3: And – yeah, and there’s just it was packed full of people, like no sitting room and no – no nothing. (Domestic violence workers, focus group).

Safety for those were waiting did not just involve physical risks. The close proximity of so many people could lead to privacy being violated:

There was a lot of communication in the actual waiting room so I felt that there was a safety issue about the person’s privacy. There was a lot of people as they were going in, you know, there was one particular woman and she was getting really angry about her circumstance in explaining it to whoever she was with, and I just thought there was no confidentiality in waiting to go in. So a lot of people



NEW COURTHOUSE, LYON

"The salle des pas perdus offers some intimate spaces where people can confer privately with their lawyers or simply go to weep." Yves Lion

Architect: Yves Lion
Photo: Diane Jones

were either very quiet on their own or scared to say something in case of, you know, somebody hearing what their circumstances were. (Domestic violence worker, focus group)

Sometimes court staff make use of interview rooms, or even unused court rooms, to provide private space for court participants while they are waiting, both to provide a quieter environment for them and avoid unwanted confrontations in public waiting areas:

Interviewer: And do you have any concerns for the safety of people visiting the courts?

Court security officer: Yeah, at times. Mostly that's during a day where we might have a call-over. We've got trials and we've got witnesses are rolling up. So those people are obviously feeling vulnerable. So we always try and make them feel more secure and comfortable, we try and offer them an interview room where they can just be placed quietly, and close the door and just let those sheriff's officers in the call-over court know where they are and who they are.

Separate waiting areas allow people with different needs or habits some privacy, while avoiding annoying others.

I think we need a third room, like a quiet room where

if people do get agitated they can either be taken in there and sit quietly with someone, yeah. Because some people with mental health problems they pace, don't they? That could cause a few problems for everybody really.

Separate waiting spaces can provide an extra level of safety for those who are involved in family violence cases, but threats are still possible and so visible security continues to play an important role:

Definitely two separate areas but very clearly separate and I think that if you're going to have a separate area for say, you know, partners and you know the women that we support in court, then you've got to back it up with security, otherwise it's just – and again, it's fine if you're with a worker because you've got that safety and you don't have to negotiate with the court, but for it to be quite clear that this is where you can sit and your partner is not allowed in here and there's got to be security for you so you're going to, you know, so you can actually physically see them because if the partner comes up and threatens you – I've been, like all of us as workers have felt under threat at some stage by partners in court and that's – that's us being professionals and – but if it was our partner no wonder women just kind of go no, it's too hard. (Family violence worker).

Giving groups in conflict separate waiting areas can



POHUTAKAWA TREE, MANUKAU

Many court buildings in Australia and New Zealand take advantage of their natural surroundings, none more so than the District Court in Manukau, South Auckland, where visitors can sit under this magnificent Pohutakawa tree.

Photo: courtesy of Chief Judge Jan-Marie Doogue, New Zealand District Court

reduce risk, but waiting in close proximity to each other – even with separate waiting areas - is only asking for trouble, in the view of one magistrate:

If you talk about the family violence jurisdiction, even the notion of separate waiting spaces...if somebody is the subject of an intervention order, the extent to which there are standard orders, you are not permitted to be within 5 metres of the other party, or permitted to be within 200 metres of where they live, but they come to court and they are all waiting around in the same area.

A key feature in the design standards for waiting areas in new courts is access to natural light, and where possible, views of nature. Providing gardens, water features and other natural settings for court users to enjoy may reduce stress. Visitors to the Commonwealth courts in Melbourne walk past flowing water as they approach the doors. Users of the ACT Supreme Court walk out the back of the court building to face the tree-lined City Hill. Parties – mostly Indigenous people - waiting for matters in the Port Augusta court have two separate outside sheltered waiting areas, surrounded by trees and plants. The public area in Sunshine Magistrates Court commands a view over trees. The central forecourt of the Manukau court in south Auckland is dominated by a magnificent Pohutakawa tree. Nature is being harnessed to create a calmer environment. Users of the Children's Court in



COMMONWEALTH LAW COURTS, MELBOURNE

A small waiting space in Melbourne's Commonwealth Law Courts allows court users to 'find a space of their own'.

Architect: Paul Katsieris, HASSELL
Photo: Tess Simson

Melbourne appreciate its access to nature in courtrooms but regret this absence in waiting areas:

(W)e have got a lot of natural light in the building, natural light in the courtrooms, natural light front and back, but it would be great to have, you know, more opportunities for people to wait in spaces where they can see outside. They're very long and narrow those waiting spaces down there so people are naturally sort of contained in fairly internalised spaces.

One feature that distinguishes court users from the general population is the above-average proportion of smokers they include. Providing waiting areas where people can smoke might run counter to public health campaigns to stop smoking but court managers are aware that smoking may reduce anxiety for smokers. Not providing smoking areas may create additional risks:

A lot of these people still smoke so at the moment they've all got to go out the front and basically stand on the street together and smoke. And the amounts of fights that happen out where people are smoking are incredible.

There are a variety of different types of waiting area – outside court or hearing rooms, in meeting rooms, or in service areas. Some waiting areas, such as those in the Adelaide Magistrates' Court, according to one focus group member, felt 'like you

are in a railway station or a bus station'. Some court buildings, such as the County Court in Melbourne or the Queen Elizabeth II courts in Brisbane, have external garden spaces within the secure area that can be used for the public to wait in tranquility. The Children's Court in Melbourne has external play areas for children.

SUMMARY

Waiting is a central part of the court experience but overcrowded and noisy conditions can induce fear, anger and frustration. Breakout spaces, clustered seating or views of nature can relieve this and enable those waiting to create a sense of personal space. Too many nooks and crannies can create fear of hidden danger; having a variety of waiting spaces within a larger foyer or atrium enables distance, a degree of aural privacy and visual surveillance. People at risk include members of families in conflict and gangs. Men and those with mental illness may be more prone to fear or confrontation. Participants identified as at risk should be given the opportunity to wait separately. A visible security presence is essential to increasing a sense of safety. The stress of participants waiting can be further reduced by providing access to or views of nature, natural light, dedicated smoking areas and places for children to play.

RECOMMENDATIONS

- Provide a variety of waiting options including individualised seating clusters within a large common area, and separate spaces for parties in conflict, and for those who are particularly vulnerable
- Provide a visible roving security presence in waiting areas
- Design waiting areas with views of nature and natural light
- Enable vulnerable court users to wait separately both through pre-prepared individualised safety plans and when new information about risk arises on the day
- People who are waiting should be able to access refreshment facilities without having to go through security again

3.4 COURTROOMS AND HEARING ROOMS

The courtroom is the place where, for the most part, public justice is enacted and decisions announced. Complaints may be filed and statements taken in police stations, plea or charge bargains may be struck in prosecutors' offices, agreements reached in mediation and conference rooms, instructions taken by lawyers in meeting rooms or corridors, forms filled out and fines paid at service counters. But for most cases, the courtroom--or more generally the hearing room to include tribunal and other less formal matters--is the place where the public gets a window into how justice works. It is the place where victims may tell their story and defendants confront their accusers, where evidence is presented and tested and civil parties work out the strength of their opponent's case. It is the place people think of when they demand their 'day in court'. So courtrooms have a special significance for justice processes.

Courtrooms also have a special place in the architecture of courthouses. In early nineteenth century courthouses the courtroom was the courthouse, flanked by the judge's chambers, a registry office and a cell. (And after juries were introduced in NSW in 1847, jury rooms). Courtrooms range from the modest to the grand.

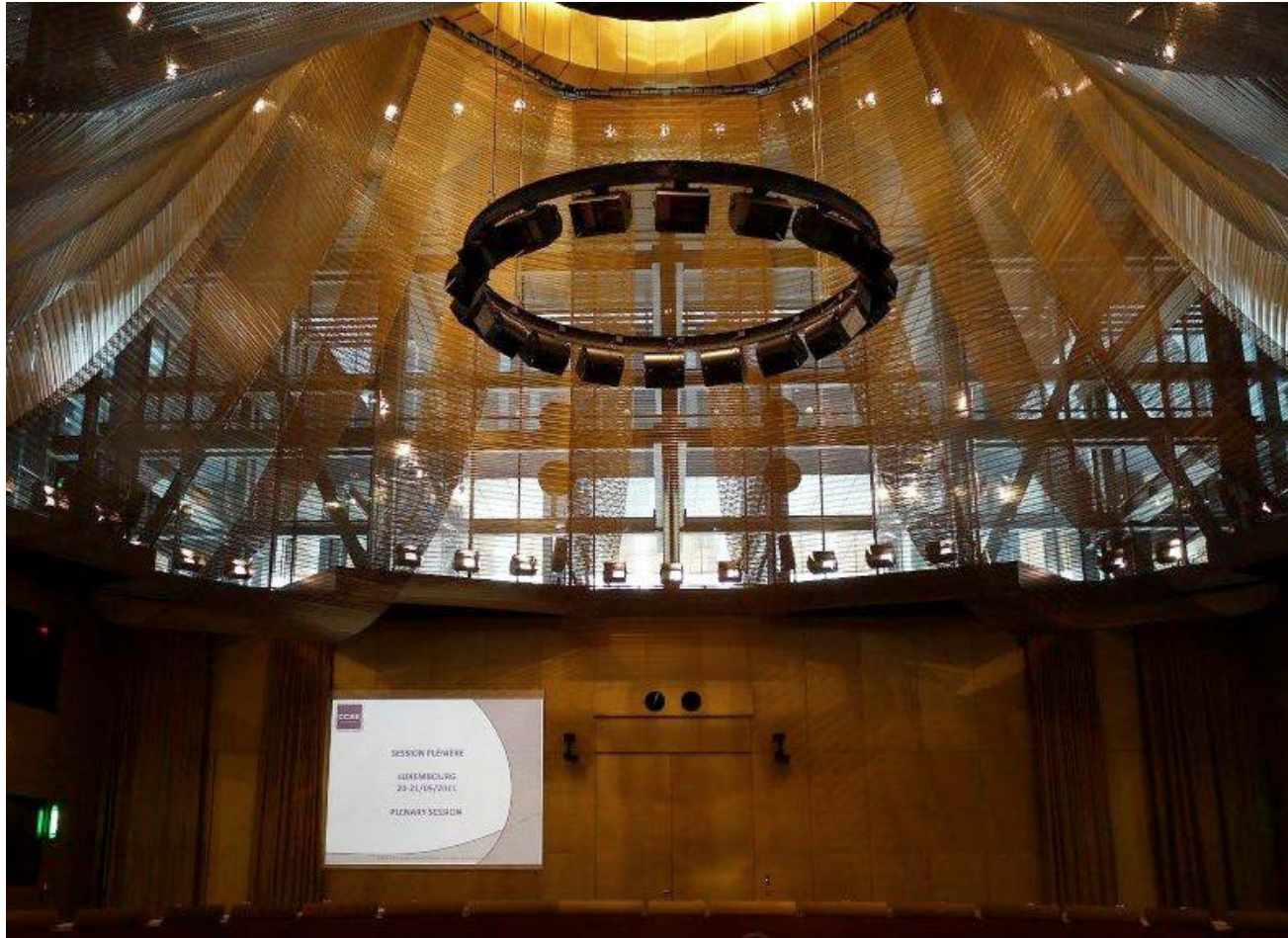
The modern courtroom marks the confluence of several different circulation systems. In the most complex courts, judges, juries, people in custody, protected witnesses and the public all have separate

entrances as well as spaces in the courtroom. Some courtrooms also have attached rooms for judicial robing, jury deliberations, orders made by the court to be signed and followed up, lawyers and clients to consult, parties to conduct private negotiations or technology systems to be serviced. In some court buildings participants approach the entrance to the courtroom along a corridor, in others via a lift or staircase. Regardless of the particular configuration of the courthouse, the courtrooms share something in common – they provide a common meeting area for participants.

Security hazards or safety concerns in a courtroom are rather different from those in entrance or waiting areas. Unlike general waiting areas, participants are placed in specific locations according to their function, often segregated by furniture. There is a single authority figure who has a commanding view of the room and is responsible for maintaining order.

The decisions made are rarely ones that please all the participants. Guilty verdicts are handed down against some defendants – 97 percent of finalized criminal matters result in conviction in Australia - and penal sanctions announced¹. More than 30,000 Australians lose their liberty each year as a result

¹ ABS, 4513.0 - Criminal Courts, Australia, 2012-13, Table 1. The figure is 92% for Higher Courts and 97% for Magistrates' Courts.



EUROPEAN COURT OF JUSTICE, GRAND CHAMBER

A golden veil made of aluminium mesh produces a calm and dignified setting in the main courtroom of the European Court of Justice.

Architect: Dominique Perrault Architecture

Photo: Kawai Yeung

of court decisions². Even if victims welcome such verdicts they may express disappointment at the penalties handed down. Decisions about parenting arrangements for children cause particular anxiety, in the words of one child support worker:

These courtrooms have terrible sagas where people are told what's happening with children. ... [W]e're involved in handovers where children are taken off their mother and where there are children screaming and vitriolic mothers. It's a terrible time for children. That's the reality of the situation that is played out here. People involved have to try and minimize the trauma on children.

Courtrooms themselves may be welcoming and generous in space, allowing sufficient distance between parties and minimizing stress. Unduly small rooms on the other hand may increase tension. Hearing rooms used by tribunals or small claims courts tend to be more intimate and less able to use space to increase safety. Nevertheless small courtrooms that make effective use of natural light and plants can provide a calming environment.

Being a common meeting area, the courtroom poses

² The number of appearances that result in custodial orders is just over 52,000 (Table 1, loc. Cit). Allowing for re-appearances by the same person within a year the rough estimate of 'over 30,000' is a reasonable guess without accessing unit record sentencing data for each state.



CHILDREN'S COURT, MELBOURNE

The Melbourne Children's Court is frequently crowded, but its courtrooms provide a sanctuary for troubled children, offer calming views of nature to court users.

Architect: Bates Smart

Watercolour: Noëlle Herrenschmidt

particular challenges for court security. People in conflict are brought together, so distance between them in the courtroom is critical. Those who come to show their disapproval of the accused are in close enough proximity to express their views directly to the person. Families, gangs or other supporters of one side could find themselves sitting within shouting, spitting or missile-throwing distance of supporters of the other side. Witnesses who are there to tell their story find themselves being questioned by lawyers whose job is to put these very stories to the test. Co-accused people may turn on each other³ Defendants or litigants who do not like statements made by the judge, lawyers or witnesses, or decisions announced by the court may try to show their displeasure. For the most part this can be handled by careful judicial management, as a magistrate recalled:

I've had occasion in the last three months to warn somebody that unless they didn't stop interrupting ... I'm going to ask them to stand outside the court for a while. I have actually asked witnesses that were perhaps in the court or family friends supporting one of the parties to leave the courtroom.

Physical attacks, while rarer than incivilities or heightened stress levels, do take place from time to time, and the awareness that they might occur

³ Witness the 2013 NSW Supreme Court incident referred to above, note 11

may shape attitudes to the safety of judicial officers themselves and others.

There was only one occasion [when] a really serious incident in my courtroom occurred, I remember now, it was when police were guarding a defendant, the defendant was agitated. If I see an agitated defendant I often sit them down, because a seated person is often disarmed in the sense of it seems to calm them. But I hadn't got him seated down and he suddenly king hit the police guard, knocked him to the ground. Now at the very precise moment that he did that, guess what I was doing? I was looking down, I was at my bench book, I didn't see a thing. I was absolutely no help to anyone. When I looked up my mind was so numb but what had happened, I couldn't think [what] I should do next.

Another incident reported by a magistrate involved a defendant being attacked by the family of the alleged victim:

I've seen them in court in Bunbury sitting there, a guy charged with child sex offences, the family was sitting along the – along the front row. As the guy walked passed, grandma got up and just went whack and decked this bloke in the courtroom.

Risks in courtrooms can sometimes be anticipated and extra precautions taken. People with a mental illness or other medical condition that poses



COLLINGWOOD NEIGHBOURHOOD JUSTICE CENTRE
COURTROOM (ABOVE)

Architect: Lyons Architects

Photo: Diane Jones

BARCELONA CITY OF JUSTICE COURTROOM (RIGHT)

Architect: David Chipperfield and b720

Photo: Kawai Yeung



Courtrooms provide different representations of safety. The level, internal, courtrooms in Catalan courts, such as in Barcelona's Ciudad del la Justicia may provide a sense of privacy, while reflecting an egalitarian ethos and encouraging short hearing times. Meanwhile the open courtroom at the Collingwood Neighbourhood Justice Centre communicates accountability while giving court and tribunal participants visibility over other parts of the building.



CENTRAL LAW COURTS, PERTH

Docks surrounded by glass are increasingly being used in Australian courts, such as the Perth Central Law Courts. Security staff generally find these facilities useful, but communication with lawyers may be difficult and judicial officers sometimes comment that it makes the defendants look dangerous.

Photo: Tess Simson

particular issues may require special arrangements. As one magistrate with special awareness of disability issues put it:

With the XXY man, I'm not scared of him. But when he comes before me, I clear out the court room so that there is no one else other than the police officer. He never has a lawyer. But I ask the Protective Security Officers to give him a very wide berth because he gets very agitated by the uniforms so we keep them out of eye-shot. We also put his case first and we try to get him out of the court quickly. So we specifically tailor the court process around him.

Duress alarms are typically fitted in new courts or during re-fits, but in some courts there is not a regular process to test that they actually work. In the Commonwealth Law Courts in Melbourne a court staff member reported an incident with a faulty duress alarm:

RESPONDENT: I just have to say, I had a situation, I was in court and the duress button wasn't working and we had a client who - there was a pipe on the Bar table from a motorbike ...

INTERVIEWER: As an exhibit?

RESPONDENT: On the Bar table and this client went off and I pressed the duress button, I reckon about 10,000 times, and apparently because it wasn't working in that court they disarmed it.

What happens when a duress alarm is activated? As one duty lawyer in a Melbourne suburban court reported after pressing a duress button with no effect:

It seems that noone actually knew what happened when the button was pressed. The office manager was sure that it went through to police.

In this particular incident, both the court staff and the duty lawyer managed to escape without injury, but the incidents do highlight the way court users may place unwarranted trust in technologies to protect them.

Other measures include placing the accused in a security dock, one surrounded by glass, to protect both the accused from others, and others from the accused. However this is generally a last resort, and most magistrates are reluctant to use such docks:

We do have glass screens but we don't like using them because it is hard to hear. But sometimes we have had to keep defendants behind the screen to keep them safe from people in the court room, for instance in murder cases. The police will often communicate to us if there is a high profile or very volatile situation that is about occur; the police will warn us so we can take some steps to make sure that everybody is safe.



FAMILY COURT, BERLIN

Elegance and intimacy come together in this serene setting for addressing family conflict or dealing with cases of children at risk in this family court in Berlin. The architect designed the furniture, brought in natural light and placed the parties at distances from each other that encourages communication while (hopefully) minimising intimidation.

Architect: Oswald Matthias Ungers

Photo: Kawai Yeung

With jury trials, the stakes are higher and the risk of an unfair trial precludes the use of glass docks in most courts. One configuration that seeks to balance protection and fairness can be found in Queensland courts – the accused is placed at the back of the court in front of the public gallery, with a glass screen behind and on both sides.

Increasingly, protected witnesses, defendants or appellants testify from remote locations. With child sexual assault matters the default option in some jurisdictions is for the child to testify by video link. Preliminary matters for accused people awaiting trial are increasingly heard by video link, although this has as much to do with saving time and money as it has to do with safety. In the ACT Supreme Court a disruptive prisoner was required to observe his appeal via video from his cell in the court basement after he continually interrupted court proceedings.

In some matters the security is so tight that not even the remote location is publicly disclosed. As one magistrate put it:

If people are generally worried about giving evidence we can make all sorts of arrangements. In criminal cases, I have actually heard evidence remotely from undisclosed locations. With the gangland stuff, for example, I heard someone giving evidence from a different location every day.

Safety issues for courtrooms also include the same

sort of occupational workplace issues that may occur in any building. In one family courtroom in Christchurch, for example, a light fitting broke and crashed onto the Bench, which was fortunately unoccupied at the time. Poorly designed courtrooms may cause occupational injuries to those who have to spend their days working in them. As one woman magistrate explained, courtrooms were designed for people of average size, and the design of the courtroom resulted in magistrates getting a sore neck:

I am quite a short – a small woman and the range of sizes, there's men shorter than me, range from about my size to six foot four men and we all sit in exactly the same chairs and we all have the same height on the Bench, and the courtrooms were renovated when the District Court was built and they are so badly renovated that no-one thought to bother to ask the Magistrates about where they need to sit and look and so I have just spent the entire day with a crook neck trying to look towards our custody area where there is a Perspex glass around so that people can't attack you because it's the lock-up court, and of course I can't hear them, they can't hear me, and then the monitor is sitting over here, the lawyers are here, so you are constantly turning. It is the same in the video court; it is in the same in the restraint order court. The courtrooms are so badly designed and impractical to use.

As in waiting rooms, physical attacks are less

common than verbal exchanges, insults or hints that are experienced as threatening. Sometimes judicial officers will provide sanctions for verbal outbursts, however at other times they 'manage' the emotions in order to avoid escalation.



MELBOURNE COUNTY COURT, CRIMINAL TRIAL

In jury trials, emotions can run high, and distressing evidence may be produced. However unlike the chaos and danger sometimes reported in waiting areas, courtrooms, such as this one in Melbourne's County Court, tend to be orderly places with judges exercising authority and lawyers generally following strict codes of behaviour.

Architect: Daryl Jackson SKM and Lyons Architects

Watercolour: Noëlle Herrenschmidt

SUMMARY

Courtrooms are the place where conflict may be openly expressed and (sometimes unpopular) judicial decisions made. For courtroom participants, it can be the site of anxiety, confusion, verbal outbursts or occasionally physical attacks. Skilled judicial officers and court staff de-escalate potential conflict by making use of prior intelligence, giving clear explanations and treating people courteously – but also having exit strategies to deal with serious incidents. Courtrooms that keep warring parties at a distance may minimise opportunities for direct confrontation; this may include use of video conferencing and screens. However overreliance on technology at the expense of training people and implementing robust processes can create a false sense of security.

RECOMMENDATIONS:

- Enable peer learning among judicial officers, who employ effective, locally specific interpersonal strategies to manage risk in the courtroom
- Find a mechanism (through the judicial officer or information provided by other court staff) for explaining in non-legal language what happens in court and what the court user's role will be
- Remote testimony by videolink from undisclosed locations can protect vulnerable witnesses
- Consider adopting training in 'reading the signs' to prevent escalation, developed for Victorian magistrates and support staff, in other jurisdictions

3.5 SERVICE AREAS AND MEETING ROOMS

While the courtroom may be the most visible part of any court building, much of the interaction between the court and clients occurs at service counters of various sorts. There are often information desks, either near the entrance or as people exit lifts at different levels of a court building. Sometimes these are staffed by volunteers. There may be ‘general’ registries that allow people to get more specific guidance, or follow up matters; or jurisdiction-specific registries such as in criminal, civil, probate, family violence and children’s matters. In the Family Court of Australia, services are provided by registrars (lawyers) and family consultants (psychologists), assisted by a client services team and a national call centre.

Older registry counters tend to require the visitor to stand and talk to the staff member across a counter, sometimes with a glass screen (photo 3.5d). These were generally found to increase anxiety, and the Family Court of Australia led the way in introducing sit-down, or ‘bank style’ counters in which clients and staff members sit across a round or oval table. As reported by a Family Court of Australia registry staff member:

We had a refurbishment and we had closed counters and I think a lot of staff when they opened up the counters and took the glass away felt intimidated. But what happened is it changed the vibe in the registry and it had a positive effect on the clients.

They're more comfortable now they're relaxed they're sitting down.

In most service areas, clients take a ticket, sometimes specific to the type of matter, and wait until their number comes to the top of the queue. Waiting for service at registry counters can provide particular forms of stress for clients. According to staff in one registry:

People were sitting here and being pushed along like cattle but it was very slow cattle.

Or as a fines counter staff person explained:

You might get someone who takes a ticket to organise a fine, so it would be 20 minutes, perhaps, before they get to our counters. Then we give them a form and say, “You’ll need to fill that out and then, you’ll need to get a ticket for the Justice of the Peace,” and then, “I’ve been waiting for 20 minutes already.” “I’m sorry, that’s what you need to do.”

In one of the registries, anyone who had been waiting more than ten minutes was flagged on the screen with a red mark. This indicator, designed to encourage speedy service by reminding staff of their service obligations, had a rather different effect – it increased stress levels for staff, without providing any way of reducing delay times.



COMMONWEALTH LAW COURTS, MELBOURNE

Family court registries, such as this one at the Melbourne Commonwealth Law Courts, allow clients to sit down at a desk to discuss their case. The counter is also staggered to give greater privacy. This configuration reportedly reduces stress for clients who are frequently quite agitated, and facilitates a calmer interaction with staff.

Architect: Paul Katsieris, HASSELL; with registry modifications made by Philip Ward

Photo: Tess Simson

You have people – like we have our ticketing machine which you saw. Sometimes, you would have 30 people waiting in the line, which looking at that red line, that's stressful, and if it's more than 10 minutes, everything is red.

INTERVIEWER: What's the red line?

RESPONDENT: That means 10 minutes over is red. I think the stress in that

is that if you can see that there are people have been waiting for that long, you know when they get to your counter, they're not going to be very happy about having to wait that long.

Some registry areas did not have enough seats, so people might have to sit on the floor to wait, in the words of a registrar:

And also people are here for, you know, could be here all day just waiting so you want them to be – you want people to be comfortable, why should they be uncomfortable? We have days here where we have people sitting all over the floor down there.

People visiting registry areas are often unhappy about the matter that brings them to court, and they may try to focus this frustration on court staff. While duress buttons may help deal with incidents after they have happened, early intervention strategies are reported to be effective in preventing a situation escalate:

If there's early intervention like we're doing now where if someone is becoming a little bit heated one of the people there will call point of entry and point of entry will call the Senior who will then organise one or two people to casually stroll by pretending they're going into the Registry area door but just hanging out of sight, listening, watching, what else. If that officer feels that the situation is escalating or going to escalate they will call for back-up.

Meeting rooms can be made the centerpiece of a court building, symbolizing the coming together of different parties and the hope for resolution. Nowhere is this more clearly expressed than in the Manchester Civil Justice Centre, designed by Melbourne architect John Denton. The meeting rooms sit out from the building, bringing in natural light and offering views over the city. Seen from the city the meeting rooms seem to suggest public concern for private disputes.



COFFS HARBOUR COURTHOUSE

Interview rooms have glazed walls to the waiting gallery; westernmost interview room conceived as a room “in the tree canopy”. This sense of being an “almost - outdoor” room is heightened by the baffle ceiling

Architect: PTW Architects

Illustrations: PTW Architects



SUMMARY

A significant number of courthouse interactions occur at information desks or registries, as with courtrooms and waiting areas, these can be sites of anxiety and anger. Some stress-inducing factors are to some extent within the court's control, such as making users wait in line, long waiting times, and queuing multiple times for different forms, or having limited seating so that people have to wait on the floor. Other factors are due to the court business itself, for example stress over family matters or the inability to pay very high fines. Counters with glass screens improved perceptions of safety for some staff but were found to increase anxiety for some court users. Sit-down counters convey respect for the interaction and are preferred where business is of a more significant or stressful nature, such as at the Family Court. As with elsewhere in the courthouse, interpersonal skills in early intervention and deescalation are key.

RECOMMENDATIONS

- Make greeter use of sit down counters and sit-down tables for more than brief information enquiries
- Use ticketed queuing to reduce the stress, fatigue and physical proximity of waiting-in-line; with provision for allowing clients to wait nearby (such as coffee shops in the court)
- Avoid electronic ticketing systems that compound staff stress (such as flagging clients with longer wait times); if such technologies are used they should be used for increasing capacity rather than increasing pressure on staff
- Have locally specific strategies for dealing with waiting area overflow to improve the comfort of those waiting
- Provide duress buttons for registry staff to summon extra security staff to assemble in earshot, ready to act in case of escalation.
- Where possible deal with overcrowding by minimising the number of court visits necessary (including through the option of e-registries or fine payment online)

3.6 A CLEAN ENVIRONMENT

For some people who visit court, a clean and tidy environment contributes to feeling safe in the court building. Jurors who are set to work in the jury rooms at the Perth District Court are likely to feel that their creature needs are met, with a spacious room, comfortable chairs, well-maintained services and a clean uncluttered room.

Graffiti, poor ventilation, broken furniture, clutter and flaking paint meanwhile may all contribute to the impression that the building is not being properly maintained. Given that inadequate ventilation may contribute to ill health, and broken furniture may cause injury, this is also a health issue. The surrounds of the court may give a poor impression if there is glass or other rubbish lying around, unkept gardens or the approach is unduly muddy. There is some evidence that cleanliness makes a difference: general cleanliness and lack of graffiti do make a difference to school achievement, so it is not unreasonable to expect that they would also make a difference to how court participants behave¹.

Some courts pride themselves on keeping their facilities in top condition. Staff at the Collingwood Neighbourhood Justice Centre commented on how important it was to them:

¹ Cash, Carol, and Travis Twiford. "Improving student achievement and school facilities in a time of limited funding." *International Journal of Educational Leadership Preparation* 4.2 (2009): 1-9.

There is a very low rate of graffiti and vandalism inside and outside the building. Staff take the appearance of the building seriously; scuff marks are removed, carpets and furnishings are steam cleaned regularly, seating, facilities, toys and vegetation are all in good condition. (Melissa Spencer).

Comparing courthouses in Ballarat and Bendigo, a Victorian advocate noted:

One thing I noticed about Ballarat actually, that struck me that the outside of the building was quite grubby and dirty, I mean obviously they had a bit of a problem with pigeons ... and I think that Ballarat did seem to have a bit of sense of nice new building, hasn't been well maintained, and at least from the external view... I would [say] that Ballarat is a lot cleaner inside [compared to Bendigo]. Like I was even looking at the toilets and stuff like that, when I went to use them, because of this sheer amount of toilets and levels and stuff like that, whereas in Bendigo, you have the toilets and that's all. So practical things like that, Bendigo is an older building. I would hate to think how dirty those carpets that I just had noticed today. They'd be filthy.

After commenting on the external appearance, this advocate mentioned bathrooms, a topic taken up by advocates in a West Australian town. Noting that there was no soap in the women's toilet and that handrails had been touched by many hands (some



CANBERRA COMMONWEALTH LAW COURTS

Set on the edge of the Australian National University, Canberra's Family Court and Federal Circuit Court is remarkably clean and tidy. The mature trees that surround it give it a restful ambiance.

Watercolour: Noelle Herrenschmidt

of which were dirty because of the lack of soap) she went on to apply the critique of cleanliness to the type of clientele the court attracted:

That's the kind of clientele that you're getting at the courts and when you say no soapies, no automated doors, anything, not saying wrap us in cotton wool but there is that certain cross contamination that you just – people are going in there with children and all that kind of thing and you are going to get sick. Unfortunately you do get people who think it's funny to fart in the lift so that everybody else that gets in there is, you know, lack of oxygen. So again, you're thinking about the clientele that frequent and trying to cope with that.

In some courts, observers commented that the women's bathroom opened directly on to the main foyer of the court, making the users feel exposed. For others, having to walk along a narrow corridor to the toilets was experienced as being somewhat unsafe.

In another focus group, the cleanliness of lifts was a topic of discussion:

RESPONDENT: It just felt like there was no exhaust system in there whatsoever.

RESPONDENT: Yeah. Get someone with a spray every hour or so.

RESPONDENT: Actually the smell was like someone's been smoking in here.

RESPONDENT: Just stale.

RESPONDENT: Just – just a stale – a stale smell.

RESPONDENT: Yeah. Just all the bodies that continually occupy that space.

Some courtrooms were considered exemplary for their cleanliness. The Victorian County Court is one example of this.

Dirty courtrooms are particularly noticed by those who have to work in them every day. The following description of his workplace comes from a country magistrate:

It's badly designed, it's filthy dirty, the courtroom is so disgusting I actually have to get a sponge and wipe down the desk and the cobwebs. It is dirty, it is badly designed, there are too many people that go through, you just can't keep up with the volume of work.

Occupational stress, already serious because of the volume of cases, was exacerbated by having to work in a dirty environment. The comment by the magistrate reflects also a sense of being ignored, or not having one's needs taken seriously. If such a concern could be expressed by a judicial officer, someone with real authority in the justice



MANCHESTER CIVIL JUSTICE CENTRE

Cleanliness may be part of a religious duty for some religious groups, including Moslems and Sikhs, so foot washing facilities are increasingly provided in public places like airports or courts, such as the Manchester Civil Justice Centre.

Architect: Denton Corker Marshall

Photo: Wayne Martin

system, how much more would it be felt by more marginalised groups.

There were also cultural issues about use of toilets. In several German courts, such as the high security court in Düsseldorf, special facilities are provided for those who wished to squat. One respondent felt that in Australian courts there should no such provision; instead there should be signs telling users to comply with local conventions.

So you also have to have the signage as well to let people know they don't stand on the toilet seats to go to the toilet. Those little things help towards keeping the tone of the toilets up, yeah, and just little signages around.

Some complaints about lack of cleanliness may be oblique comments about other court users, and with a commitment to open justice for all, courts may wish to consider such comments with caution. Nevertheless the link some users draw between cleanliness and safety does indicate how proper upkeep of the physical environment can affect how comfortable some users feel in the court environment.

FEDERAL COURT OF AUSTRALIA

Watercolour: Noëlle Herrenschmidt



SUMMARY

A well-kept external environment at the approach to court buildings and a clean internal environment not only provides a less stressful workplace for employees but also has the potential to affect people's perceptions of the legitimacy of the court itself: if the building is dirty and uncared for, how can court users and staff be expected to respect the processes that take place within? Court users notice particularly the condition and location of bathrooms.

RECOMMENDATIONS

- Court surrounds should be kept clean and tidy
- Ensure bathrooms are cleaned and stocked regularly
- In new court designs, locate bathroom entry doors away from waiting areas yet with relatively open access paths. Ideally, separate male and female entry paths

CHAPTER 4

PROCESSES

At the level of the court *system*, preserving the security of court processes includes ensuring that the business of the court functions effectively – staff are paid on time, jurors are summonsed when they are needed, court hearings are scheduled efficiently, buildings are kept clean and free from workplace hazards, cleaning contracts are organized, the building can be evacuated quickly in case of fire, and a range of other details that attract attention only when they fail. Increasingly information security is critical for any complex organization, with data about cases, workloads, staff, buildings and budgets constantly accessed, updated and used to prepare reports. Unauthorized access to these systems could result in disruption to business activity, violation of privacy and loss of confidence in justice processes.

At an *individual* level, a secure process for clients may include having one's case handled expeditiously and competently, having a court hearing (or registry interview) that is intelligible and fair, and moving through the court spaces safely. For court staff and the judiciary, a secure process may mean having the necessary information and case scheduling system to be able to carry out their duties efficiently.

4.1 ASSESSING AND MONITORING RISK

Providing a secure court environment requires being able to assess possible danger, in order to deploy resources most effectively to address the risks. This requires intelligence, both about the types of case or type of client where risk is elevated, and about specific cases or clients. It means knowing the type of risk that these pose to property, other clients, staff or judicial officers, but also to themselves. It also means, as several court executives pointed out, being able to identify the matters where security measures can be relaxed.

Monitoring past incidents and using these to identify risk factors is a strategy that all courts use to varying degrees. Incident reports may be generated by security staff at screening stations or other locations in the courthouse, by judicial officer or in-court officials, and by registry or other office staff. Incidents are summarized and fed into monthly summaries that may be presented to court or justice agency security committees, and used to monitor the success of security policies. An overview of the type of incidents or security actions undertaken in South Australian courts over an eight year period is instructive (table 4.1). It shows that about half of the thousand or so specific actions undertaken by security staff each year were preventive in nature, they were designed to avoid incidents actually occurring. The reports seems to confirm that this preventive work was successful, with only 1% of actions involving incidents like violent encounters or

escapes. There was for example an average of only 6 violent incidents per year reported for the whole state over this period. Another third of the activities reported involved responding to requests – a just in time type of preventive action, while the remaining quarter involved providing protection for witnesses or prisoners.

Like any reporting system where discretion is involved, some incidents may go unreported, as a registry services team leader reported:

RESPONDENT 1: I think that everybody on the ground floor is very tolerant. It gets to the point where we'll debrief about a client that's come in and somebody will say, "Oh well, should we do an incident report?" And they're like, "Oh no, it's alright. No, it's okay."

INTERVIEWER: A bit too much of a hassle.

RESPONDENT 1: Yeah, pretty much. And it can be that you have to coerce somebody into filing the incident report because you know, the point that I try to make is that it might not matter to you but it could matter to the next person that that client is in contact with.

Inconsistency of reporting incidents may mean that statistical comparisons between courts within a single jurisdiction may be subject to error, or more importantly, as the senior registry officer pointed out,

TABLE 4.1.1

Incidents and security actions recorded in South Australia courts, 2004-2012
(Excludes entrance screening)

INCIDENT	2004-2009		2009-2013	
Preventive actions				
Security attendance	1842		1114	
Removal from court	130		145	
Needles found	434		119	
Total	2406	54%	1378	38%
Response to alarms or threats				
Duress alarms	1237		1133	
Emergency alarms	23		42	
Bomb threats	3		4	
Total	1263	29%	1179	32%
Protecting individuals				
Witness protection	105		95	
First aid emergency	70		136	
Remand in custody escorts	435		546	
Prisoner production	109		247	
Total	719	16%	1024	28%
Dealing with incidents				
Escapes	0		0	
Attempted escapes	3		3	
Violent encounters	23		28	
Arrest/report	17		25	
Total	43	1%	56	2%
All incidents or actions	4431	100%	3637	100%



MELBOURNE COUNTY COURT

Risk of altercations may be minimised by providing a number of small, separate waiting areas outside each courtroom, with good visibility plus an open area at the end of the corridor with a view over the city or gardens. Clear signposting, such as in Melbourne's County Court, also reduces stress.

Architect: Daryl Jackson SKM and Lyons Architects

Watercolour: Noëlle Herrenschmidt

it could increase the risk to other staff in future.

These statistics may be used to identify the types of matter that require specialized lists, separate facilities, or additional staff resources. Critical incidents – such as those involving injuries, or attacks on judicial officers or staff - are generally relayed through to court executives and relevant ministers.

But what are the sorts of physical altercations that happen in and around court buildings? Those involving staff or judicial officers are reported in the sections about these groups. In terms of ordinary court users, data have been provided for Victoria for a 15 month period in 2008-9 (table 4.2a). Only two of the 21 incidents were in court, suggesting that the courtroom may be one of the safest parts of the building. One of these involved two parties in a mediation session confronting each other in a physical manner, the other involved a woman throwing a Koran at a man (the report did not mention whether it hit him). There were another 6 in court waiting areas, 7 outside the court, and 8 in areas not specified. Two of these involved children hitting their mothers, and one incident involved a dog attacking people. Most of the people involved in the incidents knew each other, but in one case a man not involved in a dispute was accidentally hit with a bottle. One incident was reported to involved people who had no court business that day.

Identifying future incidents is certainly assisted by being able to project from past experience. However, specific information about particular matters enables scarce resources to be targeted more precisely. Cases involving terrorism charges and organized crime gangs tend to require more thorough weapons screening and additional staff to manage supporters. Domestic violence and family matters may require personal protection for one of the parties. The presence of persons with a history of disrupting court proceedings may trigger changes in scheduling or case management. Sometimes the information comes from the court's own case tracking system, at other times from a request by one of the parties, but quite often security staff may raise concerns during the screening process or during roving patrols. One additional method that is used most systematically in Western Australia is data sharing with other agencies.

Western Australia has an integrated approach to obtaining intelligence. Weekly meetings are held with other agencies, including police, corrective services and the Australian Crime Commission. Planning takes place up to six months before a major trial, with particular attention paid to hearings that need careful preparation such as those involving outlaw motorbike gangs. This cooperation also works in a more informal way between front-line staff, as recounted by a security officer in Perth:

[W]e work really hard at building relationships with police, DPP prosecutors, private prosecutors, private defence counsel, judicial officers and their associates and support staff, so that if someone hears a whisper that something might be a bit a tense, or something's happening at a court house, they'll give us a ring or get in touch with us some way to say, you know, Bill Bloggs is coming to court, I'm just a bit worried about the fact that, you know, the families, and then once we've got the trigger, we can then do what's - we can do try and find out some information about the people and exactly what risk it poses.

As well as verbal or written information, information may also come from databases, including those from other agencies such as Corrections.

Another [risk] is someone that comes to court that is known to – has in the past tried to escape, whether it be from a prison or from a court environment. ... Through computer systems, computer databases, whether it be the database belonging to Department of Corrective Services in the prisons, there's warnings, there's alerts, we have an intel section so it's a matter of speaking with different people, gathering information, and then implementing that. (Western Australian court security officer).

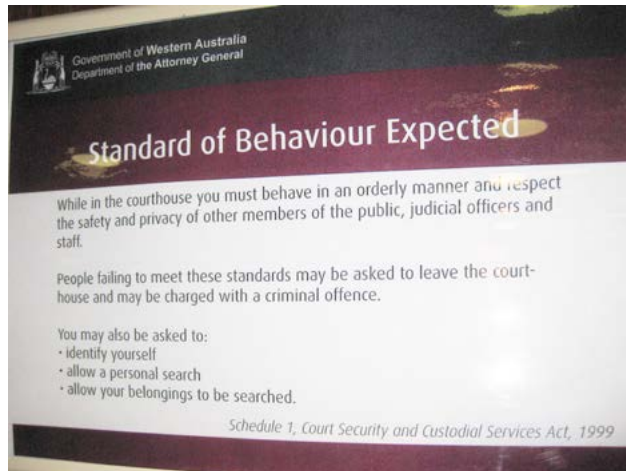
The risk assessment process that is followed is

TABLE 4.1.2

Incidents of fighting or physical assault between court users, separately itemised in Victorian courts
15 month period 2008-2009

PSO – Protective services officer
VCAT – Victorian Civil and Administrative Tribunal

In court or hearing room	Outside court
<ul style="list-style-type: none"> • Woman threw Koran at a male in Court • Two males attending mediation session involved in verbal & physical assault. Police intervened. 	<ul style="list-style-type: none"> • Alleged Assault outside courts main entrance • Eight person brawl outside building, 4 police vehicles attended. Parties interviewed by Police. • Assaults in Court garden area by parties with no court business. One female arrested. • Alleged assault & disturbance outside main entrance of Court • Fight between 5 males in waiting area outside Courts 3 & 4. Police & PSO's intervened.
In waiting areas	Other or location not specified
<ul style="list-style-type: none"> • Three started brawl in foyer. All 3 prosecutors, court orderlies and other police intervened. • Assault between two defendants. PSO's attended. • Verbally abusive and aggressive behaviour by 6 people in foyer. PSO's & Police responded. • Two parties of FV Intervention Order in altercation in foyer. Police intervened • Two IVO parties fought in Court foyer. Friends joined in. Police called to intervene • Verbal and physical altercation between parties o/s Court 1. PSO's intervened. 	<ul style="list-style-type: none"> • Violent child who assaulted mother & others was subdued by PSO's and Police. • Two parties involved in fight on premises. Incident quickly responded to by police. • Female punched in the face by male. Police & PSO's attended. • Male abusive to female, grabbed her purse and threw it over a fence. • Dogs attacked council workers • Loud verbal argument resulted in drink bottle thrown hitting uninvolved male.. PSO's involved. • After hearing AFM assaulted her mother striking her mother's face. PSO's & police attended • A female alleged that she was slapped in the face in the toilets. Police attended.



PERTH CENTRAL LAW COURTS

The standards of behaviour for court visitors to Perth's Central Law Courts are clearly stated in this sign. Respecting the 'safety and privacy' of others is one of the key objectives identified, emphasising the right of people to take part in a public legal process without danger, while preserving their personal space.

Photo: Tess Simson

based on a risk matrix, one that compares a list of known 'persons of interest' to the list of defendants, witnesses and even supporters who may be coming to court in the next period. As a court security manager explains:

[The risk assessment is] based on a likelihood and consequence risk matrix and it's the low, moderate, high type scenario. And then overriding that, we have a look at who's going to each court, and what we know about them and their associates and their likelihood to a) become aggressive or cause problems, or injure people or damage facilities, or b) that just because of the way that they are, they might disrupt – disrupt proceedings. And we have, through our intel system, we have a number of people who are designated persons of interests who we compare the listings to our POI [person of interest – the accused] list each week, and we – each week we run reports for the next week, for the next three weeks.

Getting relevant intelligence is a cooperative task, in which court staff also contribute information to keep the database up to date:

So there's different areas in our office, and one of them being operations, which I work in. And the other is intel. So they – they're the ones who would prepare the lists in terms of all people that have been deemed a person of interest for us, and when

they – who they are, when they're appearing in court, what date, what court it's in, what the matter is. And then obviously the risks and concerns with them as well. And then we might ask them to go further into doing a big background check on the person. They'll speak to different areas, do their own threat assessment, or risk assessment, and put that information forward to us, so that we can take it on board and use that when we plan our operations and such. So intel feed us, but we feed intel as well, because we're out on the ground, we see a lot of stuff, and we can report it back in. (Western Australian court security officer).

Prior intelligence, assisted by a 'court security generic inbox', allows some Western Australian courts to keep up-to-the-minute information and respond quickly to situations of potential risk, using separation both by space and time:

Just an example I'll use of a matter coming up today, where I was given information that a person is appearing in court on a trial, domestic related, so the female ex-partner has to give evidence, and on the same floor, her – another male former partner of hers is appearing on unrelated offences and she has a VRO out against him, but VROs don't apply in the court complex, but – because if you've got to be at court, you've got to be at court, but there's the risk that this guy may spot her, when he's there for his own appearance, so a couple of things we did

was alerting on ground security, but then changing one of the court listings from level three, to level four, so we've now got floor separation and asking that, whenever one of them is appearing, that his matter be heard first on the list, so he's in and out of the building and then once he's gone, we don't have the concerns anymore.

In this situation, use of intelligence allowed conflicting partners who were appearing in unrelated cases to be kept apart, and for the order of cases to be changed to avoid unwanted contact. Other jurisdictions use information provided to them, but do not seek to develop such a comprehensive profile of their clients. The Family Court of Australia has an ongoing relationship with its clients, so has less need to seek out information from other agencies, although it does have a policy of providing protection for individuals who request it.

In South Australia, court executives tend to place greater emphasis on client privacy and so are more reticent to use data matching. The use of trained sheriff's officers in South Australia both for screening and monitoring people in the building provides an alternative form of gathering intelligence. Coroner's courts can be the site of conflict between parties, particularly when decisions about the cause of death of a loved one is read out. In this case the intelligence that is used by court security staff is based on an understanding of the process as well as

the particular participants:

[T]here have been ... instances where at a coronial inquest the coroner announces his decision and reads it out in the court, and if there's two sides of the family, because things get very acrimonious at that point in time and people blame people for all sorts of things, when the coroner hands down his decisions, sparks can fly. So that's just another example of where you need to know what's happening in your building constantly and react accordingly.

SUMMARY

Risk assessment processes includes predicting risk based on type of case (e.g. domestic violence or terrorism) or the individuals involved. Effective risk assessment also involves identifying where systems may relax to avoid an escalating and all-pervasive system of risk management. Past incident records can be predictive of future risk, but there may be little motivation for busy staff to report lower level incidents. Risky individuals (or those at risk) can be identified from past behaviour, the requests of individual court users or through data sharing with other agencies, such as prisons and police, but this relies on building good relationships. Information sharing about individuals raised privacy concerns in one jurisdiction (South Australia), which chose to focus on having more trained staff instead. However, risk assessment processes are only as effective as the people who use them. Databases and risk assessment tools rely on staff cooperation, diligence and information sharing between office staff and security staff on the ground, as well as wider networks.

RECOMMENDATIONS

- Create a generic court security inbox to enable real time reporting and updates on security issues
- Use electronic databases to compare a list of locally known 'persons of interest' with names on upcoming court listings.
- Employ a risk matrix to enhances human decisionmaking and allow multiple risk factors to be taken into account
- Enable information sharing about risk by building and maintaining good relationships and communication between intelligence and ground security staff; security staff and general court staff; and court staff and those in other agencies



MELBOURNE MAGISTRATES' COURT

Video hearings are increasingly allowing courts, such as the Melbourne Magistrate's Court, to reduce risks associated with moving prisoners into court. They also avoid unnecessary inconvenience to the prisoners themselves. Private telephone lines before and during hearings may allow clients to brief their lawyers.

Watercolour: Noëlle Herrenschildt

4.2

MANAGING FLOWS OF PEOPLE THROUGHOUT THE COURT

Moving people through court buildings requires good intelligence and planning in order to provide a secure process that is timely and as predictable as possible. Ensuring people get into court safely is one of the first challenges for court administrations. This can be an issue if security staff have been made aware of possible threats:

It may that there's a protected witness, and – or a covert witness, and they can't come through the same entry that a member of the public would, otherwise their safety is a concern, so taking them through secure entrances, such a victims support area, or a judicial car park, is something we often do, whenever we've deemed, if there is a risk of someone possibly being threatened or attacked.

In this case, some creativity was used to allow the witness to enter the building safely. Judicial car parks were used in this case; in other courts staff entrances may be used. In general, secure areas may be used for more than one group for whom special security is required. This is not merely a sensible precaution; it can help to reduce the chance of a witness being intimidated or attacked. However, using staff entrances and circulation areas may create anxiety for other staff members, as reported by a registry staff member in the Family Court of Australia:

The family consultants let their clients walk out

around the corridors to the front desk. So we don't know who these clients are walking around the registry. We've got files there and everything. If I just walk down there there's a hallway here there's a hallway here, a hallway here - it's a maze and they get lost and they're wandering around the corridors. [My colleague] down the end heard this really strong accent and she walked out and here was this different nationality person standing outside her door and she was like, what are you doing here?

Managing bikie gangs, or more generally any group who 'hunt in packs', can require special planning and attention according to a security manager:

We have a lot of bikie gangs. ... And they're not allowed to come to the court in colours, but there's never that – I say they're like policemen. When you go to a meeting with the police, there's never, ever one police officer sitting opposite you; they always hunt in packs. And motorcycle gangs are just like that. They go in with a bunch of people supporting them, and Aboriginal people are very clannish as well and they do it as well. The whole family comes in support. So you just need a warring faction or a feud and the wrong witness in the wrong place at the wrong time. It can [cause] troubles.

One of the main principles used by courts to minimize conflict is separation of groups or individuals who might pose a risk to others. Gangs

are an issue for many Australian and New Zealand courts. A similar practice is followed in Victoria and South Australia: scheduling members of the two groups at different times, one in the morning, the other in the afternoon.

The other aspect that you can forget about is the running of the committals here and for the very high level crimes and those committals of the Haddaras, where you have the gangland families. If you get both groups of those people in court at once then you have the potential for a really volatile situation. Now that is the sort of thing we would want to manage well before it gets started. The police met with PSO [Protective Services Officer] and court staff met with the magistrate, and then they worked out how they were actually going to run the case. I think they did it in some clever way where they had the Chaouk witnesses in the mornings and the Haddara witnesses in the afternoons. This was even when they were cross examining the other side. This was a case where there was a shooting and there was one set of defendants who were the shooters in the car, the other set of defendants were the people in the house that were doing the cross firing. There were some common witnesses and of course the warring families and that was very closely managed by one of our magistrates to make sure everyone was kept away from everybody else. (Victorian magistrate).

Yeah. I mean, even when the bikies come in, it's

never a drama because I think – there's one file at the moment that there's half of the file are Hell's Angels and the other half is the Finks and they're all charged on the same file. So they decided to split them and bring one lot in at 9.30 and the other lot at 2.15 so you didn't have Hell's Angels and Finks all in together at 9.30. It separated it. (South Australian court clerk).

By organizing the hearings at different times, this also ensured that supporters can also be segregated more easily. Getting opposing factions out of court can sometimes be as difficult as escorting them in. This challenge has been addressed in downtown Perth by using separate entrances for the two parties:

If it's a matter that we see a significant risk of a clash one group may be taken out of the court via an alternative route perhaps and, for example, in the courts here in an underground tunnel. So if a matter is in the District Court Building and then there is a group at the conclusion of a trial or the conclusion of a sentencing and perhaps the supporters of – the supporters and family of a victim come down and they are waiting out the front of the court to intimidate or have their say or whatever towards the other group, one, we will hold a group back, e.g. the family of the accused and we may use an alternative exit and use – take them out the underground tunnel to the Central Law Courts Building and then



INTERNATIONAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Even when a witness appears by video link, their image can be pixelated to protect their safety, as with this witness at the International Criminal Tribunal for the Former Yugoslavia.

Photo: Diane Jones

take them out of sight so they don't come – so we manage – we put things in place so they don't come in contact with one another. (West Australian court security official).

Members of the public, however, cannot be prevented from attending the part of the case in which a member of the opposing gang is in the witness box. Wherever possible video conferencing facilities are made available to members of the other group, preferably not in the same building. Or where feasible, separate areas of the court can be designated for supporters of different sides to assist in avoiding conflict. In these situations – for example in homicide trials – court staff designate some parts of the gallery for particular groups. In the Victorian Supreme Court, for example, the upstairs gallery might be reserved for the family of the victim in cases where necessary. In Western Australia two different approaches are reviewed by a security manager:

Now you might have a situation where you have a trial where you've got the victim's family in there watching the trial, but the accused's family in another court, watching it remotely. Or you might just have them on different – if the court is set up in such a way that there's a nice big wide gallery, with an aisle down the middle, so you can put victim's supports over that side and accused's supporters over that side, then we'd do that. So there's a whole range

of options we can use to manage the risk so that it's mitigated down to a reasonable level.

When fear rather than physical risk is an issue, victim support workers may suggest ways of keeping victim and accused apart:

Another example which is quite a little less vivid is it was just a break and enter and it was not an aggravated burglary. There was no contact between the robber and the victim of the house. But the householder was an 86 year old frail aged lady. We applied successfully for special witness status because the very thought of even setting eye on the person that broke into her home and invaded her sense of security was too much for her. Right. And more often than not the courts are pretty – look at these things favourably. They don't turn around and suddenly say we want a full psych assessment.

In such cases, screens are sometimes used in court to avoid visual contact between parties. Most courts in South Australia have these as a standard furniture item. These can have curtains that can be drawn to hide the witness as in this example from Kingston upon Thames just south of London. (photo 5.5). However, it is not always possible to identify members of a group in advance, and often not feasible to provide segregation by visual barriers, time or location. Creating sufficient distance between someone in the witness box and supporters of the



KINGSTON-UPON-THAMES CROWN COURT

Screens are increasingly used in the digital age to increase visibility. An older technology, such as that used in the court in Kingston upon Thames south of London, allows witnesses to be concealed from the accused by drawing a curtain between them.

Photo: Emma Rowden

'other side' can also be a challenge. The threat is usually not so much of physical violence, but glances, threatening looks, gestures and comments. Spitting is reported to be a fear, but no cases of this were reported in this research.¹

Managing the flow of people in a court in a small country town where drunkenness is a problem poses an entirely different set of issues to those associated with large city courts. Rather than keeping people apart, there may be occasions where it is better to keep them all together:

[T]he magistrate asked people to wait in the public gallery of the courtroom, otherwise they'd go out to their esky of beer in the car and get drunk before appearing and would then be hard to deal with. However, when a matter was sensitive, it was difficult dealing with it in front of half the town.

Despite the prominence given to security in criminal matters, civil disputes, in the view of one security

¹ There are few reported cases of spitting in court. One of these involved a Florida man convicted of double murder in 2013 who spat at the prosecutor (but missed); <http://www.miamiherald.com/2013/05/07/3385478/convicted-of-double-murder-miami.html> [last accessed May 3 2014]. However, a homeless man who spat at an Illinois prosecutor while she was having her lunch was ordered not to spit at anyone else, as part of a plea deal. See: <http://joliet.patch.com/groups/police-and-fire/p/homeless-man-pleads-guilty-to-spitting-on-states-attorney-ordered-not-to-spit-on-anyone-anymore> [last accessed May 3 2014].

manager, can cause just as much trouble:

It's the civil arena that doesn't, from my point of view, get as much focus, where in fact tensions in a civil arena, it's very much about you and me, not you and the system. ... It could be anything. I mean, it could be restraining orders or misconduct orders, but typically it's where someone owes someone else money and you put them into a situation where they're in a court or they're going through mediation, even in mediation, it's very difficult to split the clients.

In family matters, while the threat might come from groups of supporters, the risk is usually associated with the estranged partner. The Family Court of Australia encourages people in this situation not to come to court for the stages of the process that can be done as well by phone or email. The impact of these changes means that the clients who turn up at court turn out to be the most likely to be distressed, antagonistic and pose management challenges for the court. In the words of a judge's associate:

One of the changes that have come in in the last couple of years, before people come to court, to the Family court, they have to go through mediation first. So the people who now come to court are the ones who aren't going to agree anyway.

Many family court enquiries are handled through a national enquiry centre, based in Parramatta NSW.

FEDERAL CIRCUIT COURT NOTICE OF RISK

Planning for an effective court process involves getting prior intelligence. One source of acrimony in some family law proceedings is when sexual abuse against a child is alleged. In order to identify possible issues in a timely way, the Federal Circuit Court (in a pilot in South Australia) provides an on-line form to require both parties to provide such information with all parenting applications. This allows screening of cases, triggers responses such as notification to the police, and helps inform possible safety plans for clients.

1. This Notice is filed by:

Applicant ☐ Respondent ☐
Other Party ☐ Specify:

2. Has there been child abuse or is there a risk of child abuse by a party to proceedings or any other person, that is relevant to these proceedings? (See sections 67Z, 67ZBA, 69ZQ(1)(aa) and sections 4 & 4AB of the Family Law Act 1975)

Yes ☐ No ☐

If you tick 'no' go straight to question 3.

NOTE: If you tick 'yes' to this question, this information will be reported to the relevant child welfare authority, as required in section 67Z of the Family Law Act 1975.

QUESTIONS IN THIS SECTION RELATE TO ALLEGED CHILD ABUSE:

(a) Do you allege that a child to whom the proceedings relate has been abused by a party to proceedings or any other person who is relevant to these proceedings?

Yes ☐ No ☐

(b) Do you allege that a child to whom the proceedings relate is at risk of abuse by a party to proceedings or any other person? (See s. 67Z)

Yes ☐ No ☐

(c) If 'yes' is ticked to questions (a) or (b) please select all of the categories that cover the alleged abuse or risk of abuse.

Physical Assault ☐

Sexual Assault or abuse ☐
Serious psychological harm ☐
Serious neglect ☐

(d) Who have these allegation/s already been reported to?

Police ☐
Child Welfare Authority ☐
Medical Practitioner ☐
Other ☐
..... (please specify)

4. Are there any other facts or circumstances that you allege pose a risk to a child who is the subject of the proceedings?

(a) Do you allege that a child(ren) is at risk because a party to the proceedings suffers mental ill-health?

Yes ☐ No ☐

(b) Do you allege that a child(ren) is at risk because a party to the proceedings abuses drugs or alcohol?

Yes ☐ No ☐

(c) Do you allege that a child(ren) is at risk because a party suffers a serious parental incapacity?

Yes ☐ No ☐

(d) Do you allege that a child(ren) is otherwise at risk of neglect or abuse?

Yes ☐ No ☐

The linear or fanned structure controls circulation and social interaction in certain key spaces. The degree of control of a given cell is the degree to which access to other cells must pass through it. Thus a hallway or foyer which is the only access to a cluster of rooms has a high level of control over the flow of everyday life. The linear structure produces a spatial narrative with very strong levels of control except the deepest, The fan structure gives access to many segments to many segments from a single segment of control. The looped or ringy structure offers many possible pathways, diverse encounters – the flow of life through space is only loosely controlled.

Kim Dovey (1999). *Framing Places: Mediating power in built form*, Routledge, p. 22.

The use of a call centre means that staff avoid direct contact with clients, reducing risks associated with that. However, calls may include threats or abuse, causing distress to staff members handling the calls. Peer support procedures are available, although frequently not used. However, requiring staff to complete an incident report may provide a form of support. According to one of the managers at the centre:

The security incident report was regarded as a de facto form of debriefing for staff members. It is perceived to help them objectify the call. It is perceived to assist by knowing that someone else in authority will be made aware of the nature of the call.

If a client is coming to the Family Court and a risk is identified, a safety plan is put into place that ensures the person is escorted into the building, kept in a safe waiting area before the hearing and escorted out of the building, usually at a different time than the other party. For a similar group of clients, in Western Australia, a team leader rued that the security for clients was actually better than for staff:

We actually have good practices around that that protect them and if we get a heads up about it we might organise to have security here and they will put in mechanisms where they can get the police here if need be. So we can actually protect clients better than we can protect ourselves I think. (WA

team leader).

One source of ongoing concern for many staff dealing with family matters is that they do not know in advance the fear that a person has for their safety, or learn about it only the previous day. This creates additional stress for staff involved, as the team leader reports:

But it's the ones that don't tell us and don't think to ask and are fearful that if they do anything that are really – have been seriously subject to family violence and they're fearful that if they say anything about it that they're going to be – there's going to be some kind of retribution or that the person is going to find – the other person's going to find out and take it out on them.

Better case planning overall can reduce the pressure on the system, avoiding many incidents and reduce unnecessary anxiety. This was identified by a court executive:

[We need better] scheduling of cases and only bringing people to court when they need to be at court. We need, from my perspective, more interaction between prosecution, defence and defence lawyers and defendants outside of the court arena between court events, to make sure that court events are meaningful and are only held when they're needed and that we don't have this



Courts can be confusing buildings, particularly to newcomers, and signs can be invaluable aids to navigation. People who are concerned about their personal safety are likely to be particularly stressed, so information about how to seek assistance is likely to be welcomed.

churned situation which causes the overcrowding. So trying to get away from the overcrowding is better scheduling but that means less numbers in reality and cases being disposed of as quickly as possible to meet the needs of everyone.

An example of where better case planning could have helped is provided by a woman who reflected on her multiple visits waiting in the same waiting room with her ex-partner, only to have the matter deferred:

RESPONDENT 1: But I know I was here because I was assaulted and the person who did it, he was in the waiting room and I came in and we had to sit in that area.

RESPONDENT 2: That would be awful.

RESPONDENT 1: And it kept getting deferred or something. So this was happening, I think it happened about four times and each time you're in the same room, and this is what's happening there, they keep you all in the same room. There's no area that you could go to, unless you go outside.

This comment illustrates how design of spaces and processes go together, in this case to make her experience more difficult. Other aspects of design are also relevant to managing the flows of people through a building. As a domestic violence advocate in Western Australia described her local court:

From a security point of view, you imagine if there was a really high profile murder case going and that foyer, that front entrance is so squished, how would you go as a police officer or a security person trying to protect family members coming in who might be the target of abuse or parents of the person or whatever.

While showing empathy for court clients may be useful for court staff, including judicial officers, excess familiarity can undermine the integrity of the process. According to a magistrate who travelled on circuit to remote communities:

The circuits are quite demanding in the sense that you're living in different beds and eating dodgy food all the time and – and you get too familiar with people. When you have to deal with people you get too familiar and they'll get right into you. Like in that situation I had people get stuck into me because they were confident enough to sit there and give you a bit of back chat.

Maintaining the right distances between participants in court processes is one of the ongoing challenges for court security. Most of the time the issue involves warring parties and the risk of verbal or physical altercations; however as this comment indicates it may also extend to the judicial officer and the parties, with an increased risk of disorder in court.



MELBOURNE COUNTY COURT

Separating different groups is a key strategy for managing flows of people through the court. Juries are one of these groups – they are kept away from witnesses and other parties by having their own spaces and even circulation zones, illustrated in this sketch of the jury counter at the Melbourne County Court.

Architect: Daryl Jackson SKM and Lyons Architects

Watercolour: Noëlle Herrenschmidt

SUMMARY

Facilitating both a secure environment free from harmful incidents and a secure process that enhances timely, predictable pathways through the system – key components of security in Gros’ theoretical framework – are important aspects of the work of the courts. Separation by time or location is a key strategy for achieving such security, by managing flows of people through courthouses. Scheduling hearings at different times, using videoconferencing at separate locations or physically separating parties to a dispute are all ways to manage people within the courthouse and thereby reduce the potential for conflict. Within the courtroom itself, confrontation is more difficult to manage as threats can be made verbally or simply by gestures and looks. Individualized safety plans protect individuals at risk with escorts, safe waiting areas and staggered timing, however this depends on identifying those at risk, which may be difficult in cases such as domestic violence matters where victims (and staff) may fear reprisal. Every court appearance presents a risk: cutting unnecessary appearances reduces risk. Court appearances for matters that are deferred present unnecessary additional risks.

RECOMMENDATIONS

- Separate opposing parties and their supporters by time or location where risk is high
- Provide individualized safety plans for the visits of court attendees identified to be at risk
- For higher risk case types such as domestic violence matters, enable separation on the day even if victims have not identified themselves as at risk in advance
- Reduce unnecessary court appearances through better information sharing by parties on both sides
- Reduce unnecessary court appearances through allowing participation by phone or email for some parts of the court process
- Use ongoing case management to inform case scheduling so that scheduling decisions are made with the most up-to-date, comprehensive, case-specific information

4.3 MANAGING THE WAITING PROCESS

Different court buildings provide quite different waiting experiences for court users. Melbourne Magistrates' Courts, one of the busiest courts in the country at peak times can feel rather cluttered (figure 4.3). The area is shaped like a hub, concentrating noise and activity. There are many disparate groups of people queuing at the registry desk, seeking information, waiting to take part in a court process or just visiting as school students. Lawyers are talking to clients. There is a coffee stand inside security so that provides some relief. Smokers hang round outside near the entrance. On a good day this feels like bustling humanity, on a bad day there is tension in the air as security systems break down and 'beep' everyone coming through, and lines snake around the block outside in the rain. Contrast to this a smaller Magistrates' Court in Melbourne's western suburb of Sunshine (figure 4.3a). The waiting area is laid out along an axis. Most of the seating areas are occupied, but there is some separation between the different functions, with legal aid clients in one area, mental health services clients in another, and those waiting for particular courts outside those spaces. Or a third space – the Perth District Court, where most of those waiting are outside the secure zone, where they can have a coffee or consult the registry (figure 4.3b). A baby may be crying and the queues at registry might be long but there are several discreet waiting areas that allow people to find their own space.

For many court users, much of their time within the court building is spent waiting. Waiting can take several forms: waiting to get into the building, to get service at a registry counter, for a case to be heard or to be called as witness, or for paperwork to be completed afterwards. In one suburban Magistrates' Court, trying to get an intervention order involved two levels of waiting: first in a queue to get into the courthouse and through security and then in another line at the family violence counter:

The line was insane and I think that set it off for me from the very beginning, – I wouldn't feel safe because there was no security around and the line went on forever. While being in the queue that's the first scary [thing] and then secondary was another long queue in – when you just entered and there's a long queue for the Intervention Order. (Domestic violence support worker).

Anxiety levels increase when people see what they consider unfair queuing practices, or staff who could help but don't. In the case of a suburban court, having all the clients in one queue while the other two counters had no business seemed to create additional tension:

R 1: It was three counters at the front, one said Intervention Orders and Enquiries, the other one said Court Listings Today and the other one was just Enquiries, General Enquiries. And everyone was



BRONX HALL OF JUSTICE

Waiting to get into a court building can be a slow process, and lead to frustration and conflict. The crowd barriers outside the Bronx Hall of Justice accommodate a queue several hundred metres long in the morning peak.

Architect: Rafael Viñoly Architects

Photo: Diane Jones

there for Intervention Orders.

R 3: Well they were all in that line.

R 1: And it wasn't clear as to what the enquiry, I mean could you enquire for an Application? I heard one of them go well we're listed for today, can't we go to the court listing, hearings listed? They went down there and then they went back to the Intervention Orders. You've got people that have been waiting 40 minutes outside and then they've waited another 40 minutes in the Intervention Order, it was just bizarre that they couldn't open up another – I don't know, it just didn't seem...

R 3: You'd have all hands on deck wouldn't you? (Domestic violence focus group).

But even once a person has survived these two queues they join yet another -for their case to be heard in court. In domestic violence matters, it can be hazardous waiting outside the courtroom – or in the following example outside the court building, as explained by a victim support worker:

We have very safe courts for Victim Services and we have less safe courts. And we have courts where there is simply no safety for the worker or the victim. Probably the worst is Broome. ... Broome is a beautiful building in a beautiful park but it's so small that it literally has the court and a little registry and yet you're in a major hub. As a result all court users wait on the area outside and I've seen, within the last

three years, an elderly lady with a nulla nulla, a little stick, protecting her 50 year old daughter because the accused and his family kept coming and trying to assault her while they're waiting all day for a violence restraining order to be heard.

Forms of intimidation that might to others appear harmless to the person at whom they are directed may communicate a clear threat. In the words of another domestic violence support worker:

But when you know women who have been in extensive relationships, long term relationships, experienced high levels of violence, that perpetrator only has to just move his head a certain way or flick his foot a certain way or tap fingers or do something. He can eyeball that person, he can really intimidate them prior to going in to court....It means you're going to cop it later, you're not making it home, I'm going to give you a flog on the way home. So this kind of threatening behaviour that's in those gestures, that's body language that she would have seen over many years. It's intimidating, there's nowhere – she's got to be there. They can't do, unless it's really extenuating circumstances, they can't do VROs [violence restraining order] through video link up.

Noise can increase stress, anxiety and aggressive behaviour¹. A court security officer provides

¹ Kryter, Karl D. (1994). *The handbook of hearing and*



CENTRAL LAW COURTS, PERTH

Providing separate alcoves for different waiting groups, illustrated in the Perth Central Law Courts, is one way to minimise unwanted interactions in waiting areas. It also helps to reduce noise.

Photo: Tess Simson

evidence for this argument:

Screaming from one, two, three kids in that area oh my God, it irritates us and we're fairly calm. If you get someone that's volatile out there, which has happened before, the kids just irritate it, they light the fuse.

Victims find the waiting difficult enough even without any incidents such as those reported above:

If I went for the first time for an Intervention Order and someone said to me that you can get that extended just come back, no way I'm going to stand 40 minutes out there in the rain and then another 40 minutes in the Intervention Enquiry and then possibly another hour to have it heard in the courtroom because the judges didn't even come out until 10.45 I think it was when they came out. (Victim support worker).

At the other side of the Bench or the counter long queues can create stress. Magistrates have heavy workloads, placing extra demands on them and court staff. Several Family Court of Australia registry staff reflect on the experience of facing queues at their counters and how they cope:

the effects of noise: physiology, psychology, and public health.
Boston: Academic Press

RESPONDENT 1: if there are 30 people in the registry you can only focus on that one person in front of you. If it gets that busy we get help from other parts.

RESPONDENT 2: That's right and it's not up to us as the client service officer with a client in front of us to even consider how many people are out there. There's a [supervisor] sitting at the end there and it's their job to monitor the number of people and whether or not we need assistance.

RESPONDENT 1: I generally say to client service staff it's best not to look around the registry because it can be overwhelming to see all these people and they're all looking at you. When are you going to serve me?

RESPONDENT 2: Yes when are you going to get on with it, finish with this person and get [to me].

INTERVIEWER: So they put the pressure on.

RESPONDENT 1: So you're serving the client in front of you and not the one that's in the queue.

RESPONDENT 2: Exactly.

In this case, having a process for allocating more staff when required was key to minimizing stress both for clients and staff. According to a senior court executive, keeping clients waiting unnecessarily is a failure of management:

Then if we have better scheduling, if we have lower



FAMILY LAW REGISTRY, ADELAIDE

Ticket machines are increasingly used to manage queues of people waiting for registry services. This one in a Family Law Registry in Adelaide filters those who come to file a document from those needing a JP to witness a signature or make an enquiry. It allows people to sit and relax while waiting rather than standing in line.

Photo: Tess Simson

numbers, if we can get people here to get there five minutes before the judge or whatever it is needed on an individual basis, then we take away all that, or hopefully we do. We also give the feeling to people that they've been heard and they are respected as an individual and – and – and I guess getting their five minutes of court time, not in amongst 100 others.

The court executive refers not just to the frustration of waiting – with the implications this has for people management and security in the building – but the way waiting in a large group means that clients get the message they are not valued as individuals. Smaller more discreet waiting spaces can help to relieve this tension, such as this one in the Perth Central Law Courts (photo 4.3).

Several courts in each of the jurisdictions examined have a staggered list, with three starting times, but urgent cases come up, lawyers may be available only at certain times due to other court commitments, and some matters take longer than anticipated. As several magistrates pointed out, while staggered lists are beneficial to clients and sound like a good idea in theory, they can lead to inefficiencies in court operations, with some lists finishing early and fewer cases processed in the day. Not all court staff or magistrates are able to sit until 10 pm as one of the magistrates cited above reported.

However, a novel method of 'list shifting' was reported by magistrates in Western Australia. A magistrate in one country town finished her daily list early, and then cleared the backlog of a magistrate in another town – by video link. This has now become relatively common in Western Australia: the same approach to intelligence used for understanding the needs of clients is also used to manage cases.

Another innovative approach to relieving the stress of waiting comes from a sheriff's officer in South Australia. In this case the assistance of the officer allowed the client to take her children away (reducing stress for others) while keeping her place in the line.

I can't remember having to kick somebody actually out of the court because of their kids' noise or anything. Sometimes we do ask them to just take away – go outside for a breather and if they're waiting for an FPU [Fines Payment Unit] or whatever they've got a number, we'll keep an eye for the number and we'll go and let them know.

The story illustrates the role of proactive staff in managing situations before they escalate. People management skills of staff is critical to defusing potentially volatile situations:

[W]hat we rely upon I think ... is our skill to manage the situation in the first instance because you don't



CENTRAL LAW COURTS, PERTH

Waiting in court can be an anxious time for many people, and the opportunity to sit down over a cup of coffee may reduce tension. Some courts, such as Perth's Central Law Courts, ensure that such a service is provided within the secure perimeter of the court.

Photo: Tess Simson

have a security officer or perhaps a policeman standing here right with you at all times and the thing is, is therefore it comes – it ultimately comes back to the skill of a practitioner in managing and seeing – reading the signs before it escalates to that point.

'Reading the signs' to prevent escalation is a common theme for court managers, security staff and judicial officers alike. This skill is built into training for Victorian magistrates and support staff in specialist jurisdictions dealing with vulnerable clients, and it formed part of a 2009 training program for Family Court of Australia staff focusing on suicide prevention.

While noise and crowding can make the waiting experience more stressful, access to refreshments can relieve some of the pressure. The opportunity to relax, discuss strategy or wait over a cup of coffee is something that many respondents found very welcome. There are several courts where this is possible, with the Collingwood Neighbourhood Justice Centre in Melbourne being particularly popular with its friendly team of volunteers offering refreshments. The Adelaide Magistrates' Court was appreciated both for access to refreshment services and the 'person component', in a comparison with the Commonwealth Law Courts nearby:

The Magistrates' Court I found more intimidating as far as the building went, but the thing that made it

comfortable and relaxing for me, and welcoming, was that person component. And the areas where, you know, even down to the volunteer coffee services, you know, through to the vending machines through to drinking facilities on every level, which you didn't have that in the Family Law Court.

Compared to this, having to go outside to a coffee shop and back in through security was not rated as very user friendly:

I found it important to maybe have a drink – some sort of little café type thing inside. Because if you want to have a coffee you had to go outside and then have your coffee and then come back through the screening thing again, you know. But I found that – yeah, I didn't want to leave the building here because of that I thought, oh, I don't want to go back through the screening again.

While providing access to refreshments might be seen as outside the core responsibilities of courts, in terms of relieving the stress of waiting it could be argued to contribute to the safety of court users, both in terms of reducing the risk of dangerous incidents and in enhancing perceptions of psychological safety.

SUMMARY

Court users spend time waiting at several points throughout the courthouse. Frustration and anxiety may be increased by what is experienced as unfair or inefficient queuing, as well as having to queue multiple times. Waiting or queuing in a crowd may reduce the likelihood that users feel heard and respected as an individual. Staggered lists may reduce some of the anxiety, albeit at the expense sometimes of efficiency. Video link may be used for magistrates who finish early to see cases from other courts.

Queues and waiting areas may be experienced as unsafe places if no security is present, particularly for domestic violence victims and support workers when intimidation and threats are covert. Stress in waiting areas is compounded by noise, for example noisy children may annoy volatile court users, while overhearing other parties discussing private aspects of their case may make people feel unsafe. Stress is reduced through access to coffee or refreshments within the court building without having to go outside.

RECOMMENDATIONS

- Enable peer learning among court managers to share knowledge about scheduling practices that reduce in-person wait times
- Provide separate waiting areas for those involved in domestic violence matters and their support staff
- Maintain a visible security presence in waiting areas where parties involved in domestic violence matters may be
- Enable court users to have private conversations in waiting areas where possible (e.g. through the design of waiting areas, the provision of separate private rooms or retrofitting acoustic barriers)
- Make waiting areas as comfortable as possible by providing access to refreshments
- Re-design waiting processes to include a messaging system allowing people waiting to sit in other nearby areas



FEDERAL COURT, MELBOURNE

Emotions may run high in civil disputes, such as in this Melbourne courtroom of the Federal Court of Australia. Judicial control of the court and rules of conduct practised by lawyers tends to ritualise conflict into manageable forms, and views over the city provides relief to participants.

Architect: Paul Katsieris, HASSELL
Watercolour: Noëlle Herrenschmidt

4.4 MANAGING EMOTIONS

People who come to court bring a range of emotions: grief, anger, fear, hope, anxiety or desire for revenge. Court outcomes -- including punishment, removal of children, awards in civil disputes -- can further intensify the emotional climate of the court environment. Managing emotions is an everyday task for judicial officers, court staff and support workers as they attempt to provide safe places and secure processes.

A court staff member emphasised the importance of first impressions, seeing screening as something that may contribute to stress:

When people come here they are mostly stressed anyway. They don't want to be here, because they've got to either face the magistrate or to pay fines. So I think we're dealing with stress the minute they walk in because they – at the point of entry they will be searched, and so there's their first bit of stress. And then they've got to go to court or FPU [Fines Payment Unit] and then there's step number two with the stress.

Victims are particularly vulnerable. Initial trauma may be compounded by insensitive questioning in court by lawyers, particularly in matters involving sexual violence:

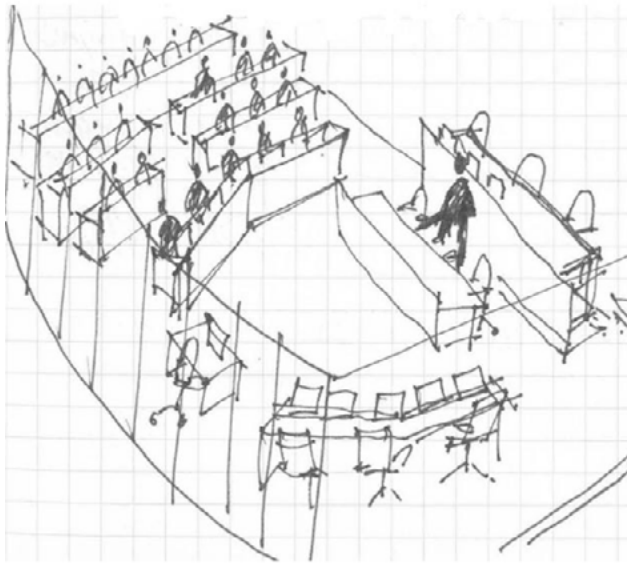
If you haven't had the opportunity for any preparation and you're suddenly stuck in this room and some

idiot defence counsel starts talking penises and vaginas at you and you don't even know what those words mean 'cause they're not that in your language, she turned to my worker and said, "What's that, what's that?" and my workers can only go, "You've got to talk to the screen, you've got to talk to the screen." She still got bollicked by the prosecutor saying, "Look we're going to have you for – we're going to – this could be misconstrued that you're leading the witness, would you please keep quiet." Now that is because she didn't feel safe. She wouldn't engage because there was nothing there that would make her feel safe to engage. And the court did that 'cause it didn't offer them anywhere.

Family members of those involved in court processes can be distressed by lack of information as well as inefficient court processes. The following story illustrates the anguish felt by one mother as she waited to hear what was happening to her sons in custody:

RESPONDENT 1: I have been there and I've had sons underneath waiting to appear at the Magistrates' Court. And, believe me, it's the most frightening, terrible thing you can ever go through if you've got family you know down there. Nobody comes to explain to you what's going to happen.

RESPONDENT: What do you mean down there, I'm sorry?



One way to ensure that anger by members of the public does not disrupt a trial is by placing visitors behind a glass screen, such as in the International Criminal Tribunal for the former Yugoslavia. This allows the public to see and hear what is going on, but not interrupt. When a protected witness is in the stand the person might also be visually screened from the public gaze.

RESPONDENT: They're in the jail downstairs.

RESPONDENT: Oh, okay. Sorry.

RESPONDENT: Yeah, so you haven't seen your children or your partners or your fathers or your mothers since the day they were arrested. And it could be two weeks, three weeks before they come to face court. So you haven't seen them. There's no

contact whatsoever. And it's terrifying. You don't know whether they've been bashed.

You don't know whether they've been hurt. You don't know anything. So you're sitting there waiting.

RESPONDENT: All day?

RESPONDENT: All day. I was told be there at 9 o'clock in the morning. We were still there at 4 o'clock in the afternoon. And I hadn't spoken – the boys' solicitors come up, didn't tell you much at all. They're – I said, "Are they all right?" And they said, "Yes."

But for – it's just – and it's this – other people – so many people there and you're looking and they're crying and they're forced to – it's terrible. It's a terrible, terrible

thing. And you've got to go through it to get that true feeling of what it's like. And

my boys were lucky. They were found not guilty.

They were home. But, I mean, there

wasn't – there was a lot that didn't come home. I mean, even now, I get emotional just thinking about it because it's so bad, so bad.

Dealing with strong emotions requires considerable diplomacy and skill for the judicial officer managing the hearing.

It was a civil dispute between a guy who ran a mechanic shop, as a lot of them are, and a guy whose car he fixed – purportedly fixed; the car didn't get fixed. Two and a half thousand dollars, the hearing went for about two and a half hours. They were so hard to manage, I had to keep on interrupting and controlling him with the backbiting that was going on between one another And they were just hammering one another. Snide comments going back and forward, insulting comments being made to one another, just arguing, really hard work; controlled them. Got to the end of it all, I found for the – for the mechanic. This guy turned to this bloke across the road and he went, "Hey, dickhead, if you hadn't called my wife a slut 18 months ago, you would have had your money." And that was what the whole thing was about.

One way of dealing with accused persons who are upset in court is firing Taser arrows at them to immobilize them. As recounted by a magistrate:

The Family Court began operations in 1976. This unleashed new emotions into the court process:

Through the doors they came,
thousands of couples seeking
emancipation from an unhappy
marriage. But the court's creators failed
to factor in one important truth: that
in a marital tug of war, vitriol and
vengeance often walk hand
in hand.

Debi Marshall, *Road to revenge*, Good Weekend,
August 30 2014

I have had so many incidents where people have sworn at me, and not just me, you know, and I can understand their anger and their frustration, and they had to Taser a guy last time. He came back before me today and he's got the Taser probes on. Legal Aid still hasn't approved his application so I have had to put it off again and he said, "Oh, look, look at me, I've got the laser – the Taser bandages on." And I said, "Well, you didn't behave appropriately last time, did you?" And he goes, "Oh, yeah, well, I'm not going to do that again." But they left him sitting there, they left him sitting there getting angrier and angrier.

Tasering unruly defendants in court to maintain order is not a widespread practice, and no other examples were reported. Similar practices, in the form of stun belts on defendants in court, are reported in some American states¹.

Screening and counter staff play an important role in creating a supportive environment for clients. As the CEO of a major court reported, one of the practices his staff use to calm clients down is to 'smile and nod' and 'use calming language'. A focus group member commented on seeing a smiling staff member who welcomed her as she entered the Adelaide Magistrates' Court:

¹ *People v. Mar*, 52 P. 3d 95 - Cal: Supreme Court 2002 at 364.

RESPONDENT 1: I could see the lady with the smile and I thought, oh, I'll head for her. She'll tell me where to go.

RESPONDENT 2: That human presence.

RESPONDENT 1: Yeah, definitely.

RESPONDENT 2: Makes a difference when you see a friendly face.

INTERVIEWER: It certainly does, doesn't it? Yep. Just sort of starts to relax you, doesn't it? Yep.

RESPONDENT 1: Well, I think they should actually teach their security guards to be a bit more friendly and more sort of – because people are already a bit tense that they don't have to be officious.

RESPONDENT 2: Well, it's like front-counter staff, isn't it? They're the face of the organisation that – really, and I guess security's the same thing if we take it back to customer service, for example. You know, they are the face of the court building really.

RESPONDENT 2: And if you were serving, if you ran a café or something and you're the – your income depends on it.

RESPONDENT 1: You'd be smiling all the time.

By creating a welcoming first impression, the 'face of the organisation' helped to shape the emotional climate of court. Creating a sense of psychological safety increases a person's perceptions of individual security, facilitating a more effective involvement in the justice process.



Court users may be anxious both about the process and the possible consequences of the outcome of their case. This watercolour of asylum seekers before the High Court of Australia emphasises another aspect of security - the role of independent tribunals in enforcing rights established under international law.

Watercolour: Noëlle Herrenschmidt

SUMMARY

Court users may be in heightened emotional states due to the nature of the matters they are involved in, apprehension about going to court, as well as underlying factors affecting their emotional stability such as mental health issues or substance addiction. Court outcomes or interactions with other parties may exacerbate these states. Court staff can, to some extent, lessen or exacerbate distress in their interactions through: treating court users with respect, keeping them updated with information, and being sensitive to cultural and linguistic differences, and to court users' underlying vulnerabilities (for example those of victims of sexual assault). 'Reading the signs' and being equipped with interpersonal skills to deescalate or calm agitated court users is also helpful. Intimidating point of entry security can heighten distress upon approaching the court, but staff who smile and greet court users create a welcoming atmosphere that can defuse anxiety.

RECOMMENDATIONS

- Incorporate knowledge about court users' emotional states in orientation and professional development for all staff who interact with the public
- Upskill staff in 'reading the signs' and deescalating conflict through interpersonal strategies
- Share with security and information desk staff the importance of greeting the public and being an approachable 'face of the court' in order to defuse anxiety and mitigate risk

4.5

KEEPING DANGEROUS OBJECTS OUT OF COURT

While managing people and their anxieties and conflicts is one of the major challenges for court security, another is clearly keeping out dangerous objects. Perimeter security processes screen for weapons or other potentially dangerous objects, while roving security and CCTV cameras may supplement this by ensuring that other objects are not used in a threatening manner. Given the incidents referred to above of three people shot with firearms in courthouses, a judge held hostage with a sawn-off shotgun and a social worker threatened with a knife (all in Melbourne) another judge attacked and badly injured with a machete (in Otahuhu) and two gang-related stabbings (in Wellington and Napier), the risks are real even if rare.

The type of weapons seized in the most dangerous jurisdiction noted above -Victoria – can be seen in the inventory of weapons seized over a 15 month period in 2008-9, towards the end of a gangland war (table 4.5). Of the 58 weapons seized, 46 were knives, 26 of them lock knives. Other weapons included a cricket bat, a steel rod and two batons. There were no firearms, although three were toys or imitation firearms. This can be interpreted as evidence for the success of the screening policy – nobody tried to carry a firearm into Victorian courts in the reference period.

Screening methods are not infallible and weapons may make it through security. For example during

the terrorism trial in Sydney West Trial Courts a security officer outside the courtroom used for the trial reported watching a long knife going through undetected by security downstairs (he had a second monitor); in this case the double screening process avoided an incident. However, many of the in-court incidents involve instruments that are not generally considered weapons: pencils, chairs and papers. One object that can be used as a weapon in many courts is a Bible; in one incident in a Tennessee Church, a pastor suffered welts on his head when a grandmother tried to 'knock the demon' out of him with a Bible¹. A Koran was used as a weapon in a Victorian court, reported above. NSW courts have reportedly removed the potential weapon of religious texts from most of their courtrooms.

One strategy for minimizing the risk of harm caused by court visitors is keeping people out of court buildings altogether, through video-enabled communications, transferring functions like fine collections to other locations, and greater use of on-line facilities. Procedural and scheduling matters, and bail applications are increasingly handled by video link in many jurisdictions. Where the person is in custody the use of video links minimizes not just risk of escape, but distress to prisoners in being driven sometimes long distances to court for a

¹ See *Tennessee Woman, Allegedly Hit Pastor With Bible At Church*, http://www.huffingtonpost.com/2012/07/11/ina-garrett-woman-hits-pastor-bible-church_n_1663415.html



IPSWICH COURTHOUSE

Screening stations that are retro-fitted can appear intrusive and destroy the integrity of the design of the entrance area. Screening areas that are integrated into the design, such as this one in Ipswich court, can appear natural, normal and even elegant.

Architect: AB+M Cox Rayner

Photo: Diane Jones

TABLE 4.5.1

Objects detected at screening in South Australian courts 2004-2012

Incident	2004	Annual average 2005-2013
All searches	1,309,452	1,357,866
Weapons and inappropriate items confiscated	34	4
Items temporarily removed at point of entry	7,602	8,164



short hearing. This is not just a hypothetical risk: in Western Australia an Aboriginal elder was ‘cooked to death’ (in the words of the Coroner) after he was driven in a prison van some 360 kilometres across the desert in 47 degree heat, after being charged with drink driving.²

Although keeping people away from court may reduce risk, it does not eliminate danger altogether. Disgruntled litigants can still phone in bomb threats (or post packages), verbal abuse may occur on video links, and the pressure on call centre staff from the nature of the cases might still be unrelenting. International criminal tribunals have an elaborate system for keeping out suspicious packages, weapons, and people (photo 4.5). Observers sit behind a screen which can be darkened and sound cut off if the name of a protected witness is accidentally disclosed.

A staff member in an Australian court recounted a scare associated with a package suspected of containing anthrax:

RESPONDENT: Well there was a thing—I don’t know if it was on the TV or whether it was here – concern about anthrax and there was mail – people – then there were copy cats sending mail through that had

² See The Guardian, June 14 2009, <http://www.theguardian.com/world/2009/jun/14/australia-aborigine-cooked-prison-van>

some kind of powder on it.

INTERVIEWER: To you?

RESPONDENT: Not to me, but to some into the court environment. And so there just was a spate of it and I think there was stuff on the TV. You know how you always get this copycat things? So then everybody had to become aware of if mail’s coming through to be aware about that mail when it came through and the powder turned out to be talcum powder or something, but nonetheless that’s that – and it raises people’s awareness and then it all passes.

Uncertainty and fear are the main outcomes for staff of unsolicited packages containing unknown substances. A court manager told a story of a chocolate cake being sent to a judge; court staff were afraid it had been poisoned. Even written documents can be distressing, and not just because of their content; as reported by a registry staff member at the Family Court of Australia:

One had been some documents which came over the counter and had a red stain on them and we later found out that it was actually blood that the client told us in writing that it was blood. That was probably one of the worrying things. I mean yes it’s dry blood she’d just done it though and put it on the document. It had gone all the way to a Federal Magistrate’s chambers before it was picked up and I don’t think

Many courts, such as the Adelaide Magistrates Court, have discreet needle disposal bins for court visitors to get rid of sharps. This facility avoids unnecessary confrontations with security staff and reduces risks for other court users.

Photo: Tess Simson

the organisation really handled that well. There's no protocol in place for that.

The fear of blood in a family matter may raise the question of whose blood was shed to make the mark. But in an age when the risk of blood-borne disease creates fear in anyone who touches blood there is an additional concern:

My registrar she'd been in contact with the documents as well and was quite concerned about that. She's done things with airborne diseases and things like this and this client is actually - not confirmed - but might be a HIV client. She was a cocaine addict so that was a little bit scary and there wasn't a lot of backup for that. ... We're handling these documents with our hands breathing in the air off these documents. You can smell some documents. I think it's a little bit concerning that there's no protocol in place whatsoever for dealing with it.

While most anxiety reported in this study referred to the senses of sight (fighting, intimidation) or sound (verbal abuse, threats, noise), smell was also an issue. Some court staff commented on the smell of some of their clientele, some clients commented on the smell from cigarette butts outside the court; in the case just cited there was also a concern about the odour coming from documents. Retail firms

and hospitals may sometimes use olfactory cues to make the environment more attractive or provide information³. While providing pleasant smells may not be a priority for courts, there may be increasing pressure to avoid unpleasant smells. As with a strong demand for cleanliness, this may impact on clients' sense of safety.

³ Goldkuhl, Lena, and Maria Styvén. "Sensing the scent of service success." *European Journal of Marketing* 41.11/12 (2007): 1297-1305; Fugate, Douglas L. "Atmospherics, the Marketing Concept, and a Marketing Tool for Hospitals." *Journal of Hospital Marketing* 6.1 (1992): 37-51.

TABLE 4.5.2

*Weapons separately itemised, Victorian courts
15 month period 2008-9*

Knives		
kitchen	2	
lock	26	
long	3	
pocket	3	
stanley	2	
hunting	1	
not specified	9	
Total, knives	46	
Other weapons		
Cricket bat	1	
Baton	2	
Bullet	1	
Imitation gun	1	
Imitation gun buckle	1	
Toy gun	1	
Knuckle duster	1	
Kubotan	1	
Slingshot	1	
Steel rod	1	
Syringe	1	
Total, other	12	
Total	58	

CONFISCATED WEAPONS, PERTH DISTRICT COURT

Not all weapons are immediately identifiable, so court security services, such as those in the Perth District Court may draw attention to item that have been confiscated previously. These include belts that turn into knives and footwear that can cause serious injury.

Photo: Tess Simson



SUMMARY

The small number of incidents involving dangerous weapons causing harm in courthouses justifies airport security screening for at least some court matters. However, as with all technology, these screening stations are fallible and prone to human error. Objects not typically considered weapons (such as chairs and Bibles) have also been used to injure. It would be impossible to ban or bolt down every object which could pose a risk. While courts may be justified in removing dangerous weapons upon entry, staff skill in defusing conflict and responding to threat is also important. Reducing in-person appearances through the use of videolink or online mechanisms decreases the risk of a weapons attack as well as being cheaper and avoiding the risk to life that a long journey in a prison van can pose. Nevertheless those not attending court may still cause harm by phoning in bomb threats or posting dangerous or threatening packages.

RECOMMENDATIONS

- Use airport style screening if justified by the level of risk for a particular courthouse or trial
- If airport security screening is used, employ strategies (e.g. regular breaks) to reduce the likelihood of human error in monitoring machines
- Train staff in ways to respond if confronted with a weapon or everyday object (e.g. chair) being used as a weapon
- Where appropriate use videolink to reduce risks associated with court attendance



HIGH COURT OF AUSTRALIA, CANBERRA

Judicial officers, legal professionals and court staff all need ongoing training to keep up with developments in their field. This may focus on particular issues, such as court security, or in the case of eminent American architectural historian Katherine Fischer Taylor speaking in the High Court of Australia in Canberra, court architecture.

Architect: Christopher Kringas (team leader), Edwards Madigan Torzillo Briggs

Watercolour: Noëlle Herrenschmidt

4.6 PROVIDING TRAINING

Training in ‘security’ for court staff can include everything from learning how to deal with anxious visitors to using surveillance technology, obtaining intelligence or understanding incident statistics. The issues are somewhat different for each jurisdiction, and for each type of participant: judicial officers, in-court or counter staff, perimeter security staff, case workers and those who provide support for vulnerable participants all have different needs. For each there are different sorts of threats, intelligence and risk that may be relevant. However most of the training that impacts on security (in the broad sense) is not primarily defined as this, it can include scheduling and managing queues, customer service and providing information, organizing referrals and support services, and dealing with cultural diversity. Training is important for creating a sense of confidence in the job and the ability to anticipate and respond quickly to an unknown situation. This includes learning protocols to follow in specific situations.

With specialist jurisdictions, such as domestic violence or drugs, many courts provide special training for the staff involved. This can be seen for example with the special lists developed in Victoria; magistrates and court staff cannot work in these special courts without such training. The Family Court of Australia also had a well-integrated training program, in the view of some registry staff who described the positive response it generated:

[W]e were very enthusiastic; we were very clued up on what was required through that integrated program and it was a good program. There was mental health, there was communication, there was customer service. It was terrific. There wasn't so much about security. We touched on it, but it wasn't really a major component. But we were all, like I said, clued up and new tools, it was great.

The outcome of the training was not just improved skills, it also impacted on the enthusiasm staff had for their job and the confidence they felt in carrying it out. However, the program was not continued as the staff member pointed out, ‘it's been two years and a refresher wouldn't hurt.’ The lack of ongoing training impacts both on staff and clients, affecting the accuracy of information provided and therefore the quality of service. This is likely to affect the ability of both staff and clients to be ‘secure people’ – well-informed, confident and calm:

The staff training is very poor here and so much of it is not relevant and they wishy washy over it if you get any. And it's really poor when you're dealing with people and you have to convey that information, if you don't know the correct information yourself, or haven't been trained properly, it's very, very difficult and it must be frustrating for the clients as it is for us as well.

Changing job descriptions and tasks also requires

training for the new responsibilities. In South Australia, some court staff commented that the regularity of training was better in Adelaide than in more remote parts of the state, so that new staff in country locations might have to wait for up to six months to get initial training. However, the policy of rotating sheriff's officers through a range of roles could allow court staff to develop a depth of understanding of court processes, providing a certain amount of informal training by more experienced colleagues. But multi-skilling does require training, and the following comment by a registry worker in Melbourne reflects a demand for more thorough training:

Another issue as well, a couple of years ago we had different sections of case coordinator/client services and then they all said, "You're all multitask now" and it was like an hour session. They said, "You know everything now." So the people in case coordination come over and go up on the counter, you're trained. And then the people that then do case coordination. And from that - that would have occurred three, four years ago, and that was the training. Honestly, I spent an hour with the case coordinator manager at the time in a group, and they said, "You're trained now." Yeah.

The consequences of piecemeal training could be that clients get different advice from different registry officers, undermining the continuity of service that

courts try to provide. This view is canvassed in a group interview with Family Court of Australia staff:

RESPONDENT 1: The reality is really most people don't know everything that well. You know bits and pieces, but ...

RESPONDENT 2: Depending on how long you've been in the registry and what you do. Yeah, and what you've picked up along the way, yeah.

RESPONDENT 1: But again it's the same thing though. It's a training issue and we do have three different answers to one client and then trying to clarify what's the right one. That's another example of why you're getting three different - the client's getting three different answers to their enquiry. And conflicting answers.

Staff training for personal safety is undertaken in some courts, as reported by a Western Australian security manager:

Apart from that, there's the local – just what the supervisor talks you through when you're going, and we have electronic learning modules which touch on security. And I insist that all my staff have a meeting with security officers at least once a year and talk about personal safety. So that's not – that's safety in the building, but also personal safety when you're a court officer walking out of the building, being shadowed down the street by someone who's taken



a shine to you.

Training judicial officers has been recognized as an important part of creating processes that protect vulnerable clients and ensure that court processes are as effective as possible. In Victoria this recognition led to the development of specialist lists to handle matters involving domestic violence, sexual offences, persons with a mental illness or cognitive impairment and a liaison service for homeless persons. Staff and judicial officers serving in these areas are trained to deal with the particular types of issue they face in the specialist jurisdiction. Without such training, magistrates or other legal professionals may place vulnerable clients at risk:

I've had magistrates that have stood up in court and said AVOs [apprehended violence orders] are a waste of time, I don't believe in them. And so all the women in there are thinking oh God, what are we doing? So I think magistrates and solicitors and prosecutors and police at times put these women at risk with their attitudes towards what they can say and do. We've got a heap of issues with police telling victims not to turn up at court. Well they don't turn up at court and then it doesn't go through.

Some of the most useful training comes from bringing together experts in different fields, such as this design exercise about how to create a safe but symbolically powerful human rights court. Justice Margaret Wilson from Queensland chaired the group in the Peace Palace in The Hague with New York architect Frank Greene.

Photo: Diane Jones

SUMMARY

Staff training including issues related to security, such as customer service, can empower staff to be confident in their interactions, while a lack of training may hamper staff ability to convey information in a confident and informed manner. In addition, regular training on personal safety may alleviate staff fears of attack by court users. Changing procedures, job descriptions and tasks makes ongoing training essential. Superficial or piecemeal training can lead to staff providing different information to clients, undermining continuity of service. In some courts, users perceive that lawyers, police and the judiciary hold dismissive attitudes to the safety of domestic violence victims, leading them to question the use of engaging with the justice system. Training within specialist jurisdictions for domestic violence, sexual offences and persons with a mental illness or cognitive impairment can enhance service as staff in that specialist jurisdiction receive additional training in that area.

RECOMMENDATIONS

- Training should focus on the safety issues facing particular court users, such as domestic violence victims, as well as those facing court staff.
- Staff training should be provided on a regular schedule to both new and continuing staff
- Training should be sufficiently in-depth to enable a sense of confidence when dealing with the public
- The personal safety of staff members themselves, both physical and psychological, should be a high priority for training
- Where possible rotate staff through a range of roles to enable mentoring and exposure to a variety of situations across the courthouse.

4.7

MANAGING CULTURAL SAFETY ISSUES

One of the challenges for courts is recognizing the diverse needs and backgrounds of clients within the context of providing equal treatment. This can be represented visually by including art work in the courtroom, such as this courtroom in south Auckland. This need for recognition is particularly important with Indigenous people, but there is a paradox, in the view of one advocate:

Well, I think, without causing a race war obviously, but just I think there should be that acknowledgment that we were saying as well, it has to be very well handled because you don't want to associate court with Aboriginal people because again, then you're going into that discriminatorial or blanket labelling of people, and a lot of it could be family supporting the one black sheep in the family, so to speak, the one who's maybe not doing the right thing but family is here to support, because Indigenous are very family orientated. So you don't want everyone to feel like they're in trouble for coming to court. But again, [in terms of] information, I think there could be that recognition that they were there. In the décor once you come into the court, paintings and stuff like that from local respected elders or Indigenous people. Just yeah.

Cultural sensitivity includes recognizing that some court clients may not be literate, as reported by a social worker, referring to an Aboriginal client:

This woman was required to fill in a form, she, she was ashamed, there was embarrassment there, she couldn't, she couldn't write, there was no insight whatsoever by staff regarding that, and she was pretty much shown the form and sent away and looked down on so, so there's really they, they you know we're, we're mainly social workers here and we've had a lot of training around, you know around cultural appropriateness etcetera, but I guess you know, the staff in the Registry are in fact, I don't know what sort of training they have or what they're background is.

While for some Indigenous defendants, appearing in court can result in displays of family solidarity, for some Indigenous witnesses the experience of having to appear in court can be a solitary experience and can disrupt the ties to their community. This is particularly the case with young women who have experienced sexual assault by another member of their community, as reported by one of their support workers:

So we now talk regional. We now talk remote. And we now talk safety. They don't feel safe in their community but they don't feel safe away from their community. They are out of country as they call it. When you're out of country you really don't exist. You have no support mechanisms at all and we've had people moved out of country for their safety prior to major hearings and some of them have become



MANUKAU FAMILY COURT, SOUTH AUCKLAND

Artwork in court may represent some of the cultural diversity of the communities they serve. New Zealand courts contain some powerful examples of this, including a tapa cloth presented to Manukau Family Court in South Auckland by the Tongan community.

Photo: courtesy of Chief Judge Jan-Marie Doogue, New Zealand District Court

quite clearly suicidal. The response to that is to shut down, is to not acknowledge what's happening and certainly not acknowledge the fact that you're going to have to give the most intimate details that are to a young Indigenous woman beyond shame.

But even offering protection to witnesses in court does not address the longer-term problems of what happens when they return to their community:

It's a bit like saying to a woman in the middle of the Western Desert, "Well we can make you safe, we've got a refuge in Kalgoorlie." What use is that to a woman who knows full well she's probably going to cop retribution when she gets back? So it's more a case of – when we're talking about cultural security, it's more a case of does the court process impact on that rather than the court itself?

People who come to court speak a variety of languages. According to an Adelaide advocate who works closely for such groups, both in courts and hospitals, there are a variety of responses to the request for an interpreter:

I said "Don't you guys use TIS, the telephone interpreting service?" "No." They said, "We manage. We try to be as helpful as we can," was the answer given to me but we now have a multi-cultural policy so I think they should be thinking about being a bit more, you know, to be inclusive. They should have

better trained staff. I think the staff are not really culturally aware or competent, because the other answer I got was, "Oh, they normally bring a friend." It's like we fight with hospitals all the time to – and the hospitals, we go there and tell them, "Look you better have some cultural training and stuff," and they say, "Oh, there's the cleaner, we can ask the cleaner."

or a friend who is not trained to start translating for you.

Having translations in the relevant community languages can also be an issue:

They have some written translation stuff that they gave to me and it's only in, how many languages? ... Seven of the, kind of, main languages. Say if you weren't in this group, I wonder what would happen. I can read it to you what they've got. They've got Chinese, Croatian, Greek, Italian, Persian, Serbian and Vietnamese. Okay, but there's a hell of a lot of African people at the moment and they've got a lot of problems. I see several of them walking around the courts, so what do they do? I mean, I work with a lot of African refugees and I'm telling you a lot of them, especially the women, they don't speak English.

INTERVIEWER: And so really the onuses are left up to the person, the individual to come with whatever they need.

RESPONDENT: Yeah, so to ask a friend. Sometimes when you are dealing with legal matters, like I said, with medical stuff, you don't want a family member



KOORI COURT, BROADMEADOWS

Transforming court rituals to reflect indigenous values is one approach to addressing the alienation from justice processes felt by some of the original inhabitants of Australia and New Zealand. One example of this is the Koori court in Broadmeadows, an outer suburb of Melbourne, which takes place around an oval table and underneath appropriate flags and artwork.

Watercolour: Noëlle Herrenschildt

SUMMARY

A secure person is one who feels competent and informed and able to participate in the justice process in an effective fashion. In the absence of cultural and psychological safety, it is unlikely that court users will be able to understand proceedings and participate in them as fully as they should. This has significant implications for people's access to justice and for their confidence in the justice system itself.

Non-Aboriginal court users wanted to see Indigenous people welcomed to court through recognition of Indigenous culture in the artwork or décor. For Indigenous court users, appearing in court may necessitate profound dislocation—being 'out of country'—through being remote from community as well as socially isolated when testifying as a witness, particularly in sexual assault or domestic violence cases. Advocates report that staff had limited knowledge in referring culturally and linguistically diverse clients to trained interpreting services, while translated printed material was not available in the languages prevalent in local communities.

RECOMMENDATIONS

- Include Aboriginal artwork or décor where possible in court design
- Offer training in cultural sensitivity in working with Aboriginal clients to social workers, judges and lawyers
- Raise staff awareness of the prevalence of non-literate court users and ways to enable their participation
- Raise staff awareness of the importance of having interpreting services provided by trained staff, rather than a family member
- Work with local refugee and migrant groups to assess whether printed material should be provided in translation in additional languages

CHAPTER 5

PEOPLE

The people who work in courts or come to court represent a broad cross section of the more anxious members of the community. Court clients might be vulnerable, aggrieved, angry or dangerous, supported potentially by family members who might be even more angry or friends who might be even more dangerous. Courts are operated by judicial officers, lawyers, social workers and other professionals, managers, office and reception staff, volunteers, security workers of various sorts – all of whom may experience from time to time occupational stress, personal danger, abuse or lack of respect or fear. Developing secure environments for some participants may include provision of separate spaces, whether cells, protected witness waiting areas or an elevated Bench in the courtroom. Creating secure people – in the sense of being well-informed and able to participate confidently in the process – may be enhanced by supportive management for staff, properly designed processes and buildings that provide privacy while ensuring public access. Ensuring secure flows of cases through the system, and people through the courthouse, may be facilitated by good scheduling and case planning, advance intelligence and cooperative work between relevant parties.

5.1 JUDICIAL OFFICERS

At the heart of the justice system is the decision-maker, whether judge, jury, magistrate or tribunal member.

The ways in which decision-makers relate to lay participants is often critical to the experience of justice for litigants, defendants, witnesses and others. Good communication is the key, in the view of one West Australian magistrate, working in a drug court setting:

When I let him out on bail I said to him, "Look, if you can go right through this and we get you into a rehab place and your urines are clean I'll give you a suspended imprisonment order but if you don't you're going to gaol." And he goes, "Yes, I know that, I know that." Showed up for two appointments, the third dirty, he had morphine, he'd had heroin, benzodiazepines. The fourth he showed up he had methyl amphetamine, he didn't show up for any others - so he knew. And when people accept that they've been warned and told - he accepted the sentence, he thanked me, "Look, I know you did the best for me," and we talked about it, I just said to him, "Look, you can't expect anything else," and he agreed.

Respect, in this case, was earned by the magistrate by engaging directly with clients, letting them know what was expected of them, and showing consistency. (However it should be noted this was

the magistrate's version of the story). The same magistrate went on to explain his philosophy:

I think communication in the courtroom is what it's all about. If somebody feels they're being listened to, even though sometimes I might have half an ear on them while I'm doing something else, I think it's important that they do have a voice.

A South Australian magistrate had a similar approach:

I don't get problems from people, but I deal with them formal but fairly and with courtesy. And that includes everyone, it includes the alcoholics, it includes the drug addicted, it includes the ladies who may be shoplifting. It includes everyone. That is the way I try and deal with it.

Managing cases involving unrepresented litigants and defendants requires special skills from the judicial officer, including clear explanations of the process. One magistrate explains his approach:

I also try and follow certain fixed directions and routines, which people sitting in the court can pick up fairly quickly, so that they can at least the later ones that come in can then form some view about what's happening. I explain to them their rights very clearly. I then explain to them that I will hear what they have to say but first of all we found it more convenient to



Judges play a key role in providing security to the community – upholding laws, making decisions that are seen to be fair and keeping order in court. They are set apart from other court participants both by their position in the courtroom, also also their distinctive clothing, such as that worn by the Chief Justice of Victoria.

Watercolour: Noëlle Herrenschmidt

hear from what the prosecutor has to say so if they would like to sit down the prosecutor will now talk. I then invite them to stand again and ask them clearly about whether they wish to say anything to me. I assist them in saying things to me sometimes by asking questions, and I then in nonlegal language as much as possible, clearly communicate to them what I'm doing and why. And what my expectation of them are, and then I also clearly indicate to them what's going to happen once I leave the court, that they have wait, if they have to do certain things. All right so that is my way of dealing with it.

Judges and magistrates are sometimes the focus of discontent for court users unhappy with the conduct of a hearing or the decision made. How to manage the situation is a challenge, but avoiding any escalation of the situation is the preferred approach of judicial officers. One strategy that reportedly works is simply vacating the room, according to a South Australian magistrate:

I've seen them struggling with a sheriff's officer but looking at me. That struck me as odd the first time I saw that and I worked out they really are angry at me, not the sheriff's officer. So I, after a while, spoke with some of my colleagues and whenever I get into a situation like that I walk out of the court. So I leave the authority figure that they're angry with leaves and then the sheriff's officer or the tip staff becomes a less potent figure.

To the extent that the judicial officer is perceived by the client as the source of the problem, the disappearance of this symbol of authority might defuse the situation. One problem with the judicial officer departing is that it might leave others more vulnerable, particularly court staff whose main exit might now be locked

So my personal issues in a courtroom are easy and usually there's two steps to a door behind me that I can leave from and lock from the other side. But when I do that quickly I actually lock the rest of the staff in the room with them. There's no easy way out for the staff. I mean to get to me they've usually got to climb over the clerk and my personal clerk, not the tip staff or the sheriff's officer. We seem to forget about them. (South Australian magistrate).

While successful attacks on judicial officers in their homes might be rare, there are some threats that are understandably not publicised, which do cause considerable anxiety. One magistrate reported on an incident that involved the risk of violence:

The police came and they - there was report of a guy outside of my personal home at 2 o'clock in the morning with a shotgun and poor fellow was – you know, I actually can't summon up any anger against him to be honest with you, he had mental health problems and he'd taken a view that I was taking something personal. As it turns out I'd never actually



One of the most important weapons in the armoury of judicial officers to defuse conflict is their ability to communicate – with agitated defendants, disgruntled family members of victims, over-zealous lawyers and, in this image, jurors.

Watercolour: Noëlle Herrenschmidt

dealt with him, he was completely wrong about all of that, I was the wrong magistrate, not that I'd wish it on the right magistrate. Now, the police provided a massive response to that and it was really, I thought, first class actually in and around my home, you know, cameras of all kinds, 24/7 recorded cameras linked to the police station.....

However it was not just the magistrate affected by the threat; his family was impacted as well:

The really tough thing was going home to your family and saying, look, here is a photo of this lunatic that's been sleeping outside our house with a shotgun at 2 o'clock in the morning. And then, of course, you put his face on the fridge door, so that if they see him in public they can be aware or concerned or they don't have to be caught by surprise and that really impacts on your family and they didn't sign up for this.

Although the physical safety of judicial officers is a serious concern, verbal abuse is more frequent issue:

There was, I have to say, at least in court, never any physical attacks, but they became increasingly abusive towards the judicial officer, to the degree that at one stage, as I said, whenever those two men appeared I always ensured there was security in the back of the court. And with one who was finally – one of them who was finally banned from the

court building, she – the magistrate didn't come into court until I went out and told him that if he behaved himself she would appear, if he didn't she wouldn't. He initially agreed to, and then of course, when she came into court – it was obviously a female magistrate – when she came into court he began using quite strongly abusive language, so she left court and he was escorted from the building.

From one perspective, the safety of all court participants, staff and clients alike, is equally important. But from a symbolic perspective, the judicial officer has particular importance. If a registry officer is assaulted, this is a breach of the court's duty to protect its staff. However, if a judge is attacked an additional symbolic element is involved as well – an attack on the integrity of the justice system. So while from a democratic point of view, equal protection should be afforded all users of the court, extra protection provided judges can be justified on purely functional grounds. As one security officer commented:

Our prime job is the security of the judicial officer, so, that's first and foremost. Normally it isn't an issue, but as I said there have been occasions where, as I said, particularly more in that environment than a lot of other jurisdictions, because there are so many people self-represented, that there have been problems on occasions.

TABLE 5.1.1

Incidents involving judicial officers separately itemised, Victorian courts
15 month period, 2008-9

Two females removed after being loud and aggressive to Magistrate.
Defendant screamed and yelled at Magistrate & staff.
PSO's attended after duress activation.
Male on phone stated that Magistrate should be shot for hearing his case. PSO's notified.
Applicant became argumentative with magistrate. She left without incident
Verbal threat made against Magistrate B. Reported to Security Intelligence Group
Magistrate felt threatened & intimidated by a father of deft in custody in a park at lunchtime. Father had stared at Magistrate.

PSO – Protective services officer

The level of protection required may vary according to the nature of the matter. As one magistrate recalls:

During 1993 I did the third war crimes committal, and of course that raised all the issues of the Holocaust, and at that time I had someone from special branch or somewhere, a police officer armed in the court room at all times.

Judicial officers may also be at risk outside the confines of the court building, as shown by the attacks on family court judges in the 1980s. So in some jurisdictions judicial officers get an allowance to assist them install additional home security measures, in others security equipment may be installed and monitored by security personnel. Less serious threats may also be experienced, ones that are less likely to come to public attention, according to a court security manager:

But there have been some instances where magistrates have found themselves in the wrong place at the wrong time, or even a home – been broken into at home, and little notes left. Yeah, so it goes with the territory, I think.

Apart from risks to judicial officers from court users, there are a range of occupational hazards that increase stress, and reduce the ability of decision-makers to maintain their serenity and remain a

‘secure person’ in Gros’s terms. Sometimes this is caused by the pressure of work. One magistrate reportedly deals with this by sitting well into the night:

There’s a bit of stress whether you’re going to get through [the list] or not. I have learnt over years not to worry about the size of the list, even though I have had enormous lists, but just put your head down and do what you can. I don’t stop at 4 o’clock and say everybody goes home now; I just keep going until I get it done. I have sat in court til 10 o’clock at night from 10 o’clock in the morning.

The magistrate went on to explain how this pressure could affect the quality of justice, something that was not helped by additional pressures placed on magistrates by judicial review processes:

With an overwhelming list size, you can’t think, you can’t do justice correctly. If you are doing – thinking about bail applications or sentencing you will make mistakes because you’re trying to rush through it and it’s all right for the Supreme Court to say, “You should have given more comments in your sentencing,” but you don’t have time, you’ve got a list of, you know, a hundred people, and that’s happened, and you just need to get through it.

SUMMARY

Judicial officers can sometimes be the focus of disgruntled court users' attentions but skilled judicial officers can usually manage such situations. They minimise conflict by communicating effectively with defendants. Physical attacks on judicial officers are rare; verbal abuse is more common. Dealing with attacks or verbal outbursts against others in the courtroom is a more frequent challenge for judicial officers. However, the symbolic importance of the judicial officer makes their safety a priority. Self-represented litigants may pose additional challenges, while some types of case may require extra protection for judges. Risks to judges are generally higher leaving court or at home than in the courtroom. The wellbeing of judicial officers may also be threatened by the stress of very large court lists.

RECOMMENDATIONS

- Enable peer learning among judicial officers to share strategies of how they use interpersonal skills to deescalate conflict
- Judicial officers may consider leaving the room to defuse conflict, even when they are not the direct target of attention
- Provide extra home security to judicial officers where there is a history or evidence of physical attack or intimidation

5.2 COURT STAFF

In terms of physical safety, court staff sometimes compare their situation to that of judicial officers. Associates and clerks in court tend to consider themselves less visible as targets than magistrates or prosecutors, although they are conscious that the environment itself contains some risk.

COURT CLERK: The little guy gets so angry and I thought he's going to kill somebody one day, whether it be here or elsewhere. He's done 10 years for armed robbery and he's only in his 30s. So he's the only one that – but me, personally, I'm just a person that sits behind a computer and types so I'm not of any interest at all to - - -

INTERVIEWER: Yeah. In that sense do you feel a little bit almost – I hate to use the word anonymous but it's like you don't figure in that?

COURT CLERK: No, that's right.

INTERVIEWER: And you feel safe because of that. Court clerk I'm not a magistrate making decisions, I'm not a prosecutor wanting them put away.

However support workers for domestic violence victims, social workers and family consultants may feel more exposed:

And I've attended various discussions from the DPU [Dignitary Protection Unit], but they won't protect us, they're there for the magistrates, they're not for us. That's probably why I have a gripe really is that the

magistrates who actually are protected by the very fact that they've got all these benches between them and don't have close contact with the clients get a lot more protection than say the family consultants do.

Counter staff also consider themselves in the front line. One registry officer had a snake thrown at him in a Northern Territory court:

RESPONDENT 1: So what happened to the snake?

RESPONDENT 2: [H]is daughter ... said, "don't be stupid, dad" and she grabbed the bag and grabbed the snake and threw it back in the bag. It was a kid's carpet python but hey, you know, I could've had a heart attack.

Some of the most relentless pressure is on counter staff who face long queues of anxious litigants, a pressure that can be exacerbated by being monitored by a clock that times each interaction. However, where there is a strong level of trust between staff and management, such as reflected in this comment from a Family Court of Australia registry officer, the pressure can be managed:

RESPONDENT 1: So as long as I'm not sitting there doing my knitting while I'm talking to you there is very much the allowance that it takes as long as it takes. We get stats on the percentage of clients that are served within 'X' timeframe, but it's never been



SANT BOI DE LLOBRAGAT COURTHOUSE

Upward pressure from clients may combine with downward pressure from managers to make the working conditions of court staff stressful. This can be exacerbated by having a backlog of cases, such as represented here in this Catalan courtroom in Sant Boi de Llobregat.

Architect: Jordi Badia

Photo: Frank Greene

held over our heads to say we're lagging behind we've got to pull our socks up on this.

RESPONDENT 2: They are using that to justify numbers though.

RESPONDENT 1: Yes I think it's more that the stats justify the number of people, rather than the time each person is spending on whatever that person is doing.

But it is not just 'upward stress', pressure from clients that makes the working lives of court staff difficult. It can also be 'downward stress', perceived lack of support from superiors. In the following exchange from registry staff in a family jurisdiction, the staff felt that their managers tended to side with professionals, such as solicitors, rather than taking their side:

INTERVIEWER: Is there a limitation to good quality service, still?

RESPONDENT 1: I think - we always get called in when there's a complaint. Whenever there's a problem we hear about it.

RESPONDENT 2: But we never get called in to say that seven people said you gave fantastic service.

RESPONDENT 1: And it's always very reactive as well, instead of being proactive about an issue.

On the other hand, an acting team leader reported

that senior management had supported her when a solicitor had attempted to go above her head to resolve an issue. Both examples show the way counter staff may feel pressure from several directions, but on the other hand may be able to better cope with some forms of stress by receiving support from others.

The pressures of the job may be reflected in absenteeism, which in the view of some registry workers should be taken more seriously:

RESPONDENT 1: [L]ike it's survival each day, and I said this to one of my managers. I don't know, from day to day we survive, but I don't know how we do it. Because a couple of months ago [it] was really bad, people were calling in sick and one day there was 11 people away and I thought, "What the hell is going on here?"

INTERVIEWER: Eleven out of how many?

RESPONDENT 1: There were 25 people in the section.

INTERVIEWER: Okay. So about 50 per cent of the staff didn't come in?

RESPONDENT 1: Yeah. And I was thinking, what's going on here, is it a cultural thing? Is it something that's gone on before?

INTERVIEWER: Is it a morale thing?

RESPONDENT 1: Morale. What's going on? And it's like these issues don't seem to be dealt with or



COMMONWEALTH LAW COURTS, MELBOURNE

Much of the work of courts takes place by office workers out of the public view. Efficient management of cases reduces stress elsewhere in the system. Meanwhile well-designed furniture, good filing systems and natural light contribute to a safer working environment, illustrated in this sketch of a clerk in the Federal Court of Australia.

Watercolour: Noëlle Herrenschmidt

looked at in close detail. We'll look at them, "Yeah, that's an issue." But what's behind it, what's really going on?

Sometimes workplace pressure even results in self-harm. Constant exposure to distressing cases takes its toll, as one court security manager reflected, drawing a lesson for staff training:

There's recently a case of a police officer here who committed suicide. It was a coronial inquest and his wife gave evidence that part of it was the stress of dealing with coronial-type cases, or people suiciding or whatever, and it just got him down eventually. The suicide story that didn't come out that way in the coronial inquest, but it was enough for her to say it, that the job contributed to it, and it was enough for the coroner to make a recommendation to the police that you should debrief your people at least once a year. So they're going to do that. So it'll be the same for court staff.

The nature of their work may also make some court staff more visible in public settings, requiring a level of prudence, according to one security manager:

The people who run the Fines Enforcement Registry but work out of this building, because they're all back-of-house, they wear shirts, like logo shirts, and you hear different stories. You see people walking to work in them and you see people going home

with them, and I've spoken to some of the people and they said, "Oh, I'd never get on a bus with that on because people, 'Oh, those pack of bastards', you know."... Sheriff, yeah, for Fines Enforcement Registry.

Court victim support staff may be at particular risk, being particularly visible in the community:

They are at risk within the community because they can be seen as the victim person. And in some cases they're even intimately linked within the community in as much as their partners are from the local Indigenous community and all of the family responsibility. It means that they're – that my workers are far more visible. The difference between victim support workers and the general court worker population is that the court very well works on seeing itself as independent. It puts a hell of a lot of effort into keeping that distance, impartiality and independent. We're not. We're quite unequivocally there for vulnerable witnesses, children, the people who perhaps in their own view are seen as those harmed against.

Case workers for children's matters may also be vulnerable, as one of these workers explained, recounting a threat made to his own safety – even in a courtroom:

I've had people threaten me in the – when I've been



The tipstaff is one of the members of the court team who keeps court processes running smoothly. These officers are also required to wait patiently for juries to return with their verdict, illustrated here in Melbourne's County Court.

Watercolour: Noëlle Herrenschmidt

in the witness box. One man said to me – didn't even know him, never had a session with him, I was doing a child related proceedings list. He said, "I'll get you." Because I'd said something to the court about – gave information to the court that – the reason why he shouldn't be having the child on his own and he said from – from down at the bar, he said, "I'll get you." Very threatening to me. ... I thought what if he's waiting for me outside? What if when I leave at night when it's dark – and I'm almost always the last person to leave here. What if I'm walking to the car park next door – I don't have a car park under here – and I'm walking to the car park next door and this person's waiting for me? There's been three I'm thinking of at least in the last three months who have threatened and said, "I'll be waiting for you. I'll get you."

For this social worker, the car park was now a dangerous place, as indeed it sometimes was for domestic violence victims and their advocates. Volunteers similarly reported threats to their safety:

There was three girls came in and they'd been beaten up by their father - it was a family violence situation. The father got to know and he threatened us all if we had any more to do with his girls, 'cause he told them what to do and what not to do. And he was very, very threatening; I'll find where you live and that sort of thing. Okay, you take it with a pinch of salt, but at the same time - at the time you think,

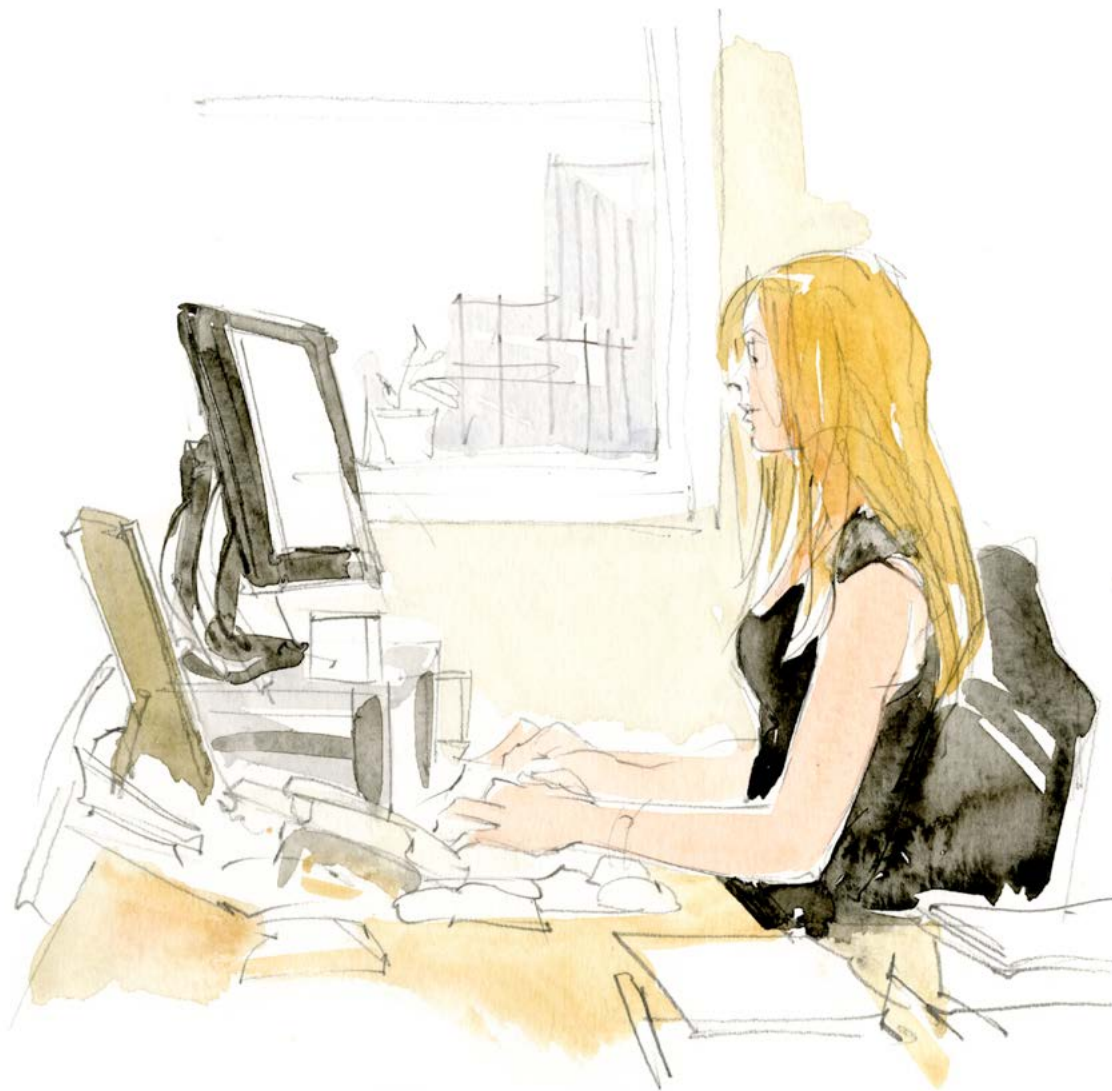
oh hang on, you know. We're only doing what we can; these girls were the victims, but yeah.

Volunteers play an important role in many courts in helping to provide information and minimize stress:

Here, in this building, you were talking about the volunteers. The volunteers make this building. There's a lady downstairs, amazed me, she's 88 not out and she's being doing it a few years and another lady we spoke to had been here 16 years. So there's something going for them on that aspect. Let's face it, if you can walk into a place, let the barriers drop a bit, then it makes it easier to communicate to other people. You walk into the Roma Mitchell building and the Family Law Courts, bang, it's businesslike. (South Australian focus group).

Senior members of Aboriginal communities may also play an invaluable role in supporting those who come to court, providing protection for some victims in the face of inadequate facilities and what she saw as unsupportive prosecution staff:

She's an incredibly senior powerful influence within the [region]. The kids all call her aunty. She emanates safety. You just have to be within her aura and you feel things will be all right. She also to my delight, I have to admit, I'll be honest as much to say that she upsets the DPP, tells them exactly what they should be bloody doing, this, that and the other



The efficiency of judicial officers relies in part on the quality of the staff who support them, both in court, and as illustrated here in the Federal Court of Australia, in chambers.

to the point where they actually say the things to me about it. So that's fine. But she still has nowhere to – she still has to run the gauntlet with them when she takes them into court 'cause there is no facility.

This story illustrates the way skilled staff can navigate their way both through unfriendly processes and poorly designed courthouses. The combination of well-trained staff and supportive volunteers can be a powerful combination:

I think a lot has to do with the – we then talk about the people in it. And the people in it I believe that just – the victim services need to be professional services, that the staff here are social workers and psychs and most importantly the people that are actually around these people for extended periods of time are trained, aware volunteers. And we are very proud of our volunteers and I'm sure most of the other states have the same experience. The volunteers create that sense of normality. I have volunteers that I've worked with over the years that I've actually sat in a room where I've walked in and they've walked in two or three minutes later and the whole stress level in that room you can almost feel it just drop.

SUMMARY

General court staff may be at risk but most are less visible than judicial officers and may feel protected by a sense of anonymity. While fear of attack may not be a primary concern, overwork and exposure to traumatic cases may put staff at risk. Some staff, including those working with fines enforcement or in victim support, may be more identifiable and at risk travelling to and from work. Volunteers minimize stress for those visiting the court both in a meet and greet and in highly trained victim support worker roles. However, volunteers may face risks particularly in a victim support role, and stress is compounded if those supporting victims have no dedicated safe space or facility in the courthouse.

RECOMMENDATIONS

- Put in place locally appropriate mechanisms to deal with the risk of staff overwork
- Provide staff counselling through an employee assistance program
- Hold periodic one-on-one debrief meetings with managers to enable all staff to discuss levels of work stress and coping strategies
- Identify and support those court staff particularly at risk of workload stress or antagonism from clients, such as fines enforcement or victim support staff
- Recruit, train and support meet-and-greet volunteers, who reduce the stress levels of visitors entering the court
- Recruit, train and support volunteer support workers, who can provide long-term, highly skilled assistance to court users and create a sense of safety
- Provide support worker staff and volunteers with dedicated safe space and entry and exit assistance if necessary

5.3 SECURITY STAFF

Persons with responsibility for security in courts come in a variety of forms and with a range of powers and responsibilities. Almost everyone from court executives to judicial officers has some role in creating a secure environment. The most obvious figures, however, are people dressed in uniforms in visible locations, particularly at screening stations. These are the people who come to mind for most respondents when they are asked about 'security staff'. With people in custody corrections officers and police may also be involved in escorting them to the court, delivering them to the courtroom and being present in court. In some circumstances special protection officers may have responsibility for the safety of judicial officers. Some security staff may be invisible, providing surveillance at a distance. The complexity of these arrangements was outlined by a senior court manager in Western Australia:

Because we have the five service providers, and the transport is undertaken by a couple of them, you have this situation where a person is, for example, arrested on a Saturday night in Perth, and perhaps they stay in the East Perth – East Perth lock up, watch house is what I'm trying to say, with the police, they'll be picked up from the watch house on Monday morning and transported to the District Court building by Serco, who will hand them over to G4S, who run security at the district court building, from the district court building, they're transferred to the Central Law Courts building, or sometimes

they're delivered directly to the Central Law Courts, but that's all G4S. They will then, after, if they get remanded in custody for example, they would be handed back over to Serco to be transported to a prison, where they'd be handed over to Corrective Services.

Even in the makeshift Christchurch court operating after the earthquake a court staff member described the multiple security agencies involved:

You've got four army guard guys and you have a Brooks security guy and then you've got police force.

One comparison that was made by several respondents was between regular court staff who also had security duties and contract security officers employed by a private security firm. This contrast was noted in Adelaide in a focus group of advocates between sheriff's officers in the state courts and private security guards in the Commonwealth courts:

Whereas, this building, even though it's kind of grotty and old and looks like it could do with a fresh coat of paint, I instantly felt much more at home, yeah. And it just feels more homely right from the creaking floorboards to the friendly lady at the – when you first come in an you go through a smaller security screening, which didn't feel so daunting, possibly because I'd already been through the bigger one before but, and then there was this lady with a smile



Central security stations allow security officers to monitor people throughout the building, such as in the Perth District Court. Having cameras watching every corner of a building may provide reassurance to some court users, while for others being watched constantly may raise privacy concerns. There is also a workplace safety issue for those whose necks are constantly upturned to monitor screens.

Photo: Tess Simpson

on her face who was very approachable. I thought ah that's a huge difference. Whereas the other one didn't seem to have anyone who was ready waiting to take your questions or someone to ask directions. They were the main contrasts between the two. (South Australian focus group)

South Australia had a policy of hiring sheriff's officers with a background in hospitality and sales rather than persons chosen for their physical prowess, many of whom are women. The two features that this advocate noted about the sheriff's officer was that she was 'approachable' and knowledgeable about the court and its operations. One court executive commented that this initial impression was critical in shaping the person's court experience that day. Having people at the door who were greeters rather than bouncers may have contributed to a safer environment by changing the way people behaved in response. As one South Australian magistrate wryly commented:

I do think the bouncer effect is a big one and personally I think they ought to put hundreds of little old ladies on the nightclub doors, you know, there'd probably be less fights.

Another perspective on the most suitable people for security work is presented by a security manager in Western Australia. He recognizes the ability of some

female security staff to anticipate problems and prevent them, but worries about the physical threat to them personally:

The men are just as good as the women in terms of their empathy but in terms of strength or ability I sometimes rather have the men. Some of the women are lovely but they're very small and I don't want them hurt and – but some have a very good sense of danger and what's happening and they can cut it off.

Whether in-house security is necessarily better is an issue on which opinions are divided. One court security manager offered a comparison of police and contract security staff:

A security provider, their staff are not as well trained as police are and depending on the security provider you have differing levels of training and it's not to a high – my observation is the training of court security staff by the service provider is not to a high level. You get people of varying competencies and you get people, I suppose, employed in the role that really aren't up to the role from whether it be lack of training or lack of ability or really a lack of thinking.

But there were examples of private security staff performing at a high level. A victim support manager commenting on what she saw as successful defusing of tension by security workers on contract:



Providing security in court is one important role played by security officers, such as this one in Melbourne's County Court, standing beside an accused person in the dock. Incidents in the courtroom are rare, but may undermine confidence in the justice system and generate bad publicity.

Even though they're an outsourced organisation which as a public servant we find – I think they're absolutely excellent. And I've seen – I've actually watched a couple of incidents 'cause of – not because they were my clients but because I was in the vicinity and the thing I liked was I knew that our workers would have explained what was going to happen but they actually explained it again. They go, "Hi, this is a wand, I'm just going to move it around the outside, this will just confirm that you're clear to go through to the other area," and people – most of the people I saw were smiling.

It is not just visitors to the court who felt reassured by the calming influence of suitable security staff, it made a difference also to other court staff. They knew if an issue arose, it would be dealt with:

I guess our sheriff's officers relieve anxiety. You feel safe with those people around. Most of them, I would say, take their job pretty seriously. They might seem to be casual and relaxed but they're pretty well on the ball when anything does happen. (SA court clerk).

In South Australia the powers enumerated by a sheriff's officer include:

Power to arrest, powers to search, body search if necessary if we have some suspicion. Yeah, I guess, and powers to remove the patron when they

come in if they don't wish to open their bag, empty their pockets, show me what's in your bag because there's a suspicious item that's gone through the radar. We have the powers to, "Well, if you don't want to do that, see ya later."

Private security staff on the other hand tend to have fewer powers than sheriff's officers employed directly by the court.

Security here are very – very good in the sense that if you call them they will be here, but they can't actually do anything as such; touch the client or stop the client. So if the client was strangling me then that would be – that would be something that I'd be really concerned about 'cause they can't physically touch them, we'd have to wait for the police to come. (West Australian team leader).

Other security staff in Western Australia agreed about the legal constraints on action but took a different view about how to respond to a violent incident:

Unless there is actual physical threat, there is not much – we are limited to what we can do. I mean, I could knock anybody out – well I can't anymore, anyway, but I could – I mean, I would have to be physically threatened before I hit – knock someone out, to put it nicely. So, as I said, there are certain – we have quite severe limitations on our – on what we

can and what we can't do.

While security staff may not have as many formal powers as they might like, they may have enough presence – assisted by a uniform – to enforce their authority. As one Western Australian security officer explained:

There is – in this case there has not been so much physical intimidation as verbal intimidation – refuse to listen to the magistrate, refuse to take directions, and refuse to sit down. I've been told to order them from the court. They have complied. I'm reasonably authoritative and, but I do rely on the fact that I'm wearing a uniform and I have badges, et cetera, et cetera. But in those cases they were all males who tended to be a lot bigger and younger than me. But, as I said, I do have the security of knowing that I'm in a contained environment with help readily available. Police know to respond to any requests from the court fairly quickly, which they do.

However, according to a country magistrate security presence does not always guarantee safety:

I'll give you another example of Bunbury. The police got the word that – that an accused person was going to get beaten up by the bikies. All right. They sent all these police officers over to the – the little criminal court – that court number 1 up there – up

the stairs – up the top there – a big waiting area, everyone sitting around watching TV in the middle of summer when there's no court on, they're all up there with their feet on the bench watching the cricket. so there's 20 police officers there, they followed all these bikies into – into the courtroom and sat with them. In the meantime a man came up in a nice suit with a short cut hair and a brief case and walked up to the bloke, belt the daylights out of him and then disappeared down the stairs 'cause the police thought that bikies are only people with scruffy long hair and suits and this guy's lying in a pool of blood in the – in the waiting area and there's 20 police officers sitting in the thing. So that's what goes on.

In some courts security staff are reported to be limited to screening duties and monitoring CCTV. In other courts, roving security staff are reported to be particularly important for defusing potentially tricky situations.

Sheriffs, as they walk past, coming from out the front, if they hear someone, they'll sort of wander past and check if we're okay, which is nice. So, or they'll just sort of hover, so you can sort of see them around, but they're not interfering with your client. (South Australian fines counter staff).

One way to identify the value of security staff is to document the experience of court users when they

are not present. One magistrate commented on how unsure he felt in managing civil matters where no security was present:

The most insecure I feel in a court or the most vulnerable I feel in a court is not in crime, is in civil and family law and that's the time when generally don't have security people in there. [I]n the country they were only contracted for criminal matters and then they'd desert us and they'd be a JSO and me sitting in court dealing with two people who passionately hate one another because they've had an ongoing dispute about \$2,000 and insults that were traded over the telephone and they're sitting two feet away from one another.

Security cameras are not always a guarantee against incidents; indeed, in a Christchurch courtroom a security camera was stolen. However, in that case the incident was caught on other cameras, and the number plate of the offender captured.

Focusing resources on security screening sometimes meant that resources were not available for security staff to move around the building. As a court staff member in Christchurch commented:

Like for example before the earthquake and stuff happened, they were focusing on scanning. You obviously would've heard that. But all their resources

were into that, so there was no-one roaming around.

This might have been something of an over-statement: when a member of the team visited the Christchurch courthouse before the earthquake there was no scanning that day and the staff were in fact roaming around identifying potential issues and defusing them. Like many of the comments received for this study, this one reflects the perspective of the particular staff member.

Anticipating potential issues was something that security staff could do more effectively when they were able to monitor all parts of the building and move resources to where they were required. This was why they had radios to connect front counter staff with roving staff.

Courts also may call on specialist security staff to manage particular types of threat. One such risk is to judicial officers, where liaison with a range of different security agencies may be required:

Because of the nature of the organisation there is always the threat or a perceived threat to the judicial officer so that would be – that would cause us to engage the services of the Police Dignitary Protection Unit. Often with their – obviously they have their own intelligence, they contact us first about a matter saying that they are aware of this and they wish to be present to provide security for the

judicial officer. So in the example of this particular matter so there's two accused from an outlaw motorcycle gang ... [extra security was required] because of a threat to them [judicial officers] from the outlaw motorcycle gang.

TABLE 5.3.1

*Incidents involving security officers separately itemised, Victorian courts
15 month period, 2008-9*

PSO – *Protective services officer*

GSL officer assaulted by a male. Police attended.
Reported by GSL.

Off duty police officer assaulted by a male outside main
foyer.

Violent struggle in foyer between male & PSO.
Capsicum spray used. Police attended.

PSO's assaulted by male outside Court.

Two persons verbally abused PSO's & refused to
provide details. Police called. Parties warned by Police.

PSO assaulted by female. Handcuffed, arrested &
released on summons.

Male subdued by OC spray due to assault to PSO.
Police called and removed offender.

PSO's attempted to remove male from counter.
Attending GSL officer injured calf muscle.

GSL officer assaulted by a male. Police attended.
Reported by GSL.

Off duty police officer assaulted by a male outside main
foyer

Violent struggle in foyer between male & PSO.
Capsicum spray used. Police attended.

PSO's assaulted by male outside Court

Two persons verbally abused PSO's & refused to
provide details. Police called. Parties warned by Police.

SUMMARY

Many share the role of maintaining court security including sheriffs, private security guards, corrections staff, police, special protection officers, army personnel and undercover surveillance staff. Uniform-clad security staff visible in prominent locations remain the 'face' of court security and set the tone for a visitor's experience of the court. Staff skilled at greeting those entering reduce stress, and this may make eruptions of conflict less likely. Whether public staff or private contractors, security staff should be approachable, knowledgeable, and sensitive to court users (e.g. when performing body screening on crime victims), and at least one jurisdiction saw benefit in hiring staff with customer service experience. The need for physical intervention can be avoided by conveying an authoritative presence (helped by a uniform), and backed up by both the physical ability and legal power to intervene. A sense of safety may be created for court staff and vulnerable users by having roving security guards who can 'hover' where an incident may be unfolding and use communications technology to call for backup if necessary.

RECOMMENDATIONS

- Provide staff located at screening or entry point with training in customer relations
- Where security staff have no legal powers to arrest, search or remove persons, provide them with ways to call for backup personnel who have powers to do so
- Ensure that security staff are visibly recognisable as such (e.g. through uniform)
- Provide staff conducting body searches or metal detecting wands with training in how to conduct searches sensitively with a variety of court users, including court users with disabilities, victims of sexual violence, and members of cultural minority groups.
- Equip security staff with walkie talkies and/or microphones to enable communication and calls for backup

5.4. PROFESSIONALS

Lawyers are one of the most visible groups who help lay participants navigate their way through the legal system. This might include providing representation in court processes, or it may mean getting legal advice to assist people appear unrepresented. In either case a level of trust or confidence needs to be developed. One way to begin this process, in the view of two disability advocates in a focus group, is to smile:

Another thing I noticed, and I know it must be difficult, but the Legal Aid lady and the staff that I saw, they was all very sombre, nobody smiled. When they got new people, they didn't, she didn't sort of smile at them. She was very – and I suppose it must be difficult for them, but surely, you can smile at somebody. You might cut somebody's head off, yeah but at least, but do you know what I mean? It's just all so - - -

RESPONDENT: Sets a tone, doesn't it?

RESPONDENT: Yeah, I just – it's a bad enough place to have to be, but when people are so – what's the word? Austere. I don't know, but straight, no expression whatsoever, I just find that very strange.

In the view of several magistrates, lawyers play an invaluable role in helping identify the issues in the case, ensuring the client puts their story across in an effective way, explain the process to clients

(their official role), but more significantly in many situations help to manage the emotions of their clients. Unrepresented litigants by contrast take more court time, and are more likely to get frustrated and agitated.

Seen from another point of view, that of registry staff, lawyers may themselves increase stress and make working conditions more difficult. As a registry staff officer in a family jurisdiction explained:

There's also a culture out there of the solicitors who just think that they can just walk in here and they want this and they want it now, and they don't want it any other way. And you go get me the registrar, you go get me this. So they've got no respect for us from beyond that, but they expect us to give it to them.

TABLE 5.4.1

Incidents involving professionals and support workers separately itemised, Victorian courts 15 month period, 2008-9

PSO – Protective services officer

DHS – (state) Department of Human Services



As service organisations, courts spend much time and effort meeting the needs of their clients, staff and the public. One institution that plays a key decision-making role in courts – but is entirely composed of lay people – is the jury. The management of juries however is a highly professional task, with Victoria priding itself on some of the lowest ‘juror wastage’ rates in the world.

Watercolour: Noëlle Herrenschmidt

Window of Legal Aid Solicitor’s car smashed. Thought to be unrelated to Court business.

Male ejected after refusing to cease making threats to DHS staff.

Abusive female threatened DHS staff. Assaulted PSO’s. Police alerted.

Alleged assault against DHS worker. Admissions by suspect.

Female aggressively approached DHS officer on two occasions. PSO’s alerted.

Female threatened DHS worker with knife. PSO’s & Police intervened.

Verbal threat made by male to a DHS staff member. PSO’s & police intervened.

Child became abusive to DHS staff & damaged court property. Police responded.

Male person became loud & abusive. AW feared for safety.

Verbal altercation between male & support worker. Male told to leave, police intercepted male.

PSO’s witnessed assault to Secure Welfare Worker. Police attended.

Salvation Army Officer threatened by male who was refused financial assistance



Lawyers play a critical role in ensuring that relevant evidence is produced and correct procedures followed. They may also address emotional or physical needs. In this image the artist reports that 'the hearing was interrupted – the defence lawyer had to console the accused; the prosecutor took the opportunity to have a nap'.

Watercolour: Noëlle Herrenschmidt

SUMMARY

Lawyers assist participants navigate their way through the legal system and can build trust by being approachable. Lawyers assist courts by identifying the issues of a case, and advocating for the best outcome for their client, but can also help clients to manage their emotions. Poor relations between lawyers and court staff can exacerbate stress, while improving communication between court staff, as well as between lawyers themselves, may reduce the need for unnecessary appearances and increase efficiency.

RECOMMENDATIONS

- Work with lawyers' professional associations or similar bodies to extend training in customer service, managing client emotions or similar to solicitors
- Find locally appropriate ways to improve relations between lawyers and court staff

5.5 LAY PARTICIPANTS

The clientele of courts are not a representative sample of the population. As one family consultant put it:

We have a higher proportion of clients who are suffering high levels of stress, mental illness, drug and alcohol problems and family violence. Those problems are over-represented in our client group.

The clients of many courts are also disproportionately unhappy and uncertain. Some of them are angry about their case, the person they are in dispute with, the police, the judiciary, the person who assaulted them or took their money, the staff they are dealing with, or the decisions that have been, or might be made. As a court manager in a family jurisdiction noted ‘everyone who walks in that door is pissed off’. Because court users are frequently in a stressed state, they are likely to respond negatively to unexpected situations, or to noise. As one member of a focus group in a WA town put it:

A lot of people who come to court are still on the effects of drug and alcohol, and especially if it's particularly around amphetamines and stuff. So a baby crying can be very irritating to someone who's not eaten for three days and has to appear in court otherwise they get an arrest warrant. So they still come on the back end of whatever they've taken and so it puts those type of families in a little bit

of danger I think, you know, "Shut the kid up," or somebody is starting to tick a little bit more and get a bit aggressive because of this noise, and it's not the children's fault, they're there with family. There's no kind of area for them to be in.

The clientele of different courts varies considerably, depending on the populations of the areas they serve and the nature of the matters that come to them. One advocate commented on feeling safer in the Commonwealth law courts than at the Melbourne Magistrates' Court building both because of what he saw as a better class of clientele and the lack of disturbing incidents:

RESPONDENT: He was abusive and suddenly there was this conflict going on which if someone had provoked it a little bit further, except for the fact that there were police around, could have got out of hand. There was nothing like that in this building whatsoever. There's nobody walking around with Mohawks. There's no criminal looking guys walking around in this building. And I can understand that there is that difference in the building here. But I felt more – because of the – this conflict, this minor conflict that went on and because of other people that you saw in the court down there, I felt much more uncomfortable down there than here. In here I could walk around and, okay, get lost and I don't know where I'm going but I felt much, much, much more secure in here because there just wasn't the



Lawyers play an important role in providing access to the law for lay participants. However cuts in legal aid budgets have meant that increasing numbers of litigants represent themselves. This tends to require more patience and time for the court and better information provision from court staff.

Watercolour: Noëlle Herrenschmidt

seedy characters in this building where there were down at the other one.

Managing difficult clients can pose a challenge for judicial officers, court staff and support workers. There are different challenges at different levels of court, for different types of client and between criminal, family and civil courts.

Managing difficult clients is also a challenge for registry staff, who may find it difficult to put the case behind them when they leave for the day:

And then you might go home thinking, "Shit, well, that was a really crap day", because I had to deal with that person and I didn't really get to discuss it with anyone or really sit down and how that felt.

New staff in particular may find dealing with clients challenging:

I had a client here that rang me up on the first week I was here and said he was going to kill his wife and bury her alive and he was going to come down to the court and shoot us all. And I just freaked out thinking, what the hell have I got myself in for.

However, reporting incidents may escalate situations in a way that may not be helpful, so some verbal abuse may not be reported. As one registry officer

explained:

Can I just say, it's not that I don't care, but when people are there sometimes I don't want to open up a can of worms. Sometimes I've pretended I haven't heard things because if I hear that I have to take some action and do a security report and all that. I've actually said to people, "I didn't hear that." And that's not very good. I have, I'm being honest, because it opens up a can of worms that I don't want to deal with because then all this other work is going to come my way that I don't want to deal with.

A registry officer in another state explained a similar practice of non-reporting as a strategy to avoid escalating the interaction:

Lots of clients say to me, "Thank you for talking to me I feel much better now." Because you're sitting in your cubicle crying and you just try to sort of level it out a bit and just make them feel not so agitated. I mean not all people you can do that to because I had one scream at me the other day because he was just angry. He told me to fuck myself, but he was just angry with the court, not me personally. So I didn't really let it worry me.

Cooperation between the different players is important, as well as having a backup form of security when required:



One of the most terrifying experiences for witnesses in criminal trials is standing up in the witness box and testifying. This is particularly the case in intermediate courts such as Melbourne's County Court where many of the offences involve alleged sexual assault or armed robbery. Unlike American courts, Australian lawyers tend to stand at a lectern on the Bar table at a 'social distance' from the witness—close enough to allow a free flow of question and answer but not too close that the witness feels their personal space is violated.

Watercolour: Noëlle Herrenschmidt

TABLE 5.5.1

Incidents involving persons, New Zealand courts 2000-2013

	Average Incidents	Per year	%
Self-Harm			
Self Harm	0.6	0%	
Suicide	0.1	0%	
Suicide Attempted	2.6	0%	
Suicide Threatened	10.8	0%	
Total	14.1	0%	
Physical Incidents			
Assault	48.9	22%	
Assault Aggravated	1.0	0%	
Assault Court Security Officer	1.1	1%	
Fighting	8.0	4%	
Assault With Weapon	1.6	1%	
Total	60.7	28%	
Verbal Incidents and Intimidation			
Intimidation	7.6	3%	
Verbal Abuse (Not A Threat)	52.6	24%	
Threat To Harm Person Phone	14.4	7%	
Threat To Harm Person Verbal	61.9	28%	
Contempt	9.4	4%	
Total	145.8	66%	
Incidents Involving Persons	220.6	100%	

I can tell you I had a client (who) absolutely lost it up there.... (S)he called the magistrate like every name under the sun, stormed out of the courtroom, was throwing her bags around and – and security were going towards her and I thought oh no, and I stopped it and said no, no, just leave it to me. I was in one of those rooms and felt incredibly safe because it was all glass but just knowing that they could see everything that was happening in that room made me feel safer, as a worker. (Family violence worker).

Other court participants may require special protection, including being kept out of court:

There was – one example was a fellow in Bunbury, one of our towns down south, the Police brought him over and asked if we could do an assessment because – and he was six foot four, a couple of hundred kilos, covered in tats and was an active member of a bikie gang. He was special witness status because his life was under significant threat and it was granted. So he gave his evidence through CCTV and the Police were able to find a way to get him in and out of that environment without exposure.

Just as domestic violence victims are generally at greater risk at home or in a car park than in the court building, so clients at drug courts may also face similar risks:

INTERVIEWER: Are there any court users that are at greater risk from others?

RESPONDENT: No, I don't think so. We've had a recent situation where one of our clients was put in the boot of a car and driven around. Because he owed drug money was put in the boot of the car. Now, the person driving the car was also on the program, so, then we had to manage that. There was just an awkwardness between these two.

Many conflicts in court precincts went beyond such 'awkwardness'. There may also be a conflict between the interests of security staff and accused persons. As one New Zealand court staff member commented on security docks in a court he had visited in Sydney:

One court has eight defendants or something. Yeah. But again, that's probably great for Correction Services and stuff like that for security reasons..... . But again, [for] juries, seeing people behind glass, and do they automatically think, are you guilty or things like that. So that's their perception.

However, security officers in states that used glass docks generally approved of them, arguing that it improved security and reduced the chance of people jumping the dock.

SUMMARY

The courthouse is a public space for the display of emotion about crime by both the justice system and individual members of the public. Lay participants may be stressed by unfamiliar surroundings or processes, as well as hunger, drug use or mental health issues. 'Supporters' of a victim or accused person sometimes present a greater risk of incident than the central parties themselves. Where people, places and processes minimise stress for lay users, the likelihood of outbursts may be avoided and access to justice improved. When an incident is imminent, people, places and processes can all be effectively employed to avoid escalation. Individuals skilled at deescalating the situation interpersonally are backed up by intelligence staff who have identified individuals at risk as well as a physical environment conducive to safety, such as glass walls on rooms. High security courtrooms with a glassed in dock may provide protection but defendants may appear 'on show' as guilty.

RECOMMENDATIONS

- Train court staff in ways to respond to challenging clients, in particular those with mental illness and drug and alcohol addiction, to minimise the chance of outbursts
- Ensure that court staff have access to employee assistance programs and regularly scheduled debrief meetings about employee wellbeing
- Provide mechanisms apart from formal incident reporting to assist staff dealing with verbal abuse as some incidents may go unreported
- Design meeting rooms adjacent to public areas with glass walls as visibility can enhance feelings of safety
- Use remote witness technology to enable individuals identified as risky to participate in court processes

5.6 FAMILIES AND SUPPORTERS

Families and supporters are important for supporting victims, facilitating rehabilitation of an offender, and testing the transparency of the justice process. But they may also provide challenges for court management. This may start outside the courthouse itself, as one magistrate explained:

Sometimes, I've had riots outside the courthouse in Northam where feuding families start hitting one another and throwing rocks and stones and sticks. ... But it happens when any town there's feuding families there is no way you can stop it, it just happens.

Inside the courtroom supporters can also provide challenges, in this case to witnesses:

You get a witness sitting up in the witness box and the family of the – of the accused would all sit straight in line with them and eyeball them. So how are you going to give evidence? You're not going to give evidence, you're just going to sit there in fear and say – and hope that you survive when you go out the one door that you can come in and out of when you walk out.

The comment illustrates the way families and supporters can undermine the willingness of witnesses to testify, by increasing uncertainty and fear. As a security official reports, supporters of the victim can similarly cause disorder in the court:

I don't think – people say, "Oh, we're there because we're supporting." I think it's a load of crap a lot of the time. I think they're there because they don't know how to deal with their emotions and that's their outlet to vent and they are there for no other reason than they want to intimidate and display and voice their feelings at the accused. ... And they're there for one reason ... they were there for the opportunity to chase, harass, yell, yell abuse, vent at him, chased him out to the car... they're not supporters, who are they supporting when they're there? They're just angry people.

Bringing children to court can create extra difficulties for all involved. For judicial officers, having a child inside a court hearing can pose both a control issue and a psychological safety issue for the child. One magistrate describes how she sometimes invites children to sit with her:

I have often had kids sitting on my lap because they crawl around and I say, "It's okay, you can sit up with me, let's do drawing while mummy tells me something," and I do that because it makes them more comfortable.

Another magistrate described how, even uninvited, children would sometimes approach the Bench:

[B]ecause the waiting room had been taken over by



PORT AUGUSTA, SOUTH AUSTRALIA

Families and supporters sometimes come along to court to provide moral support for defendants, litigants or witnesses. Aboriginal groups in Port Augusta, South Australia, sometimes wait outside the building but remain in visual contact with their colleagues inside. The elegantly designed stools in the foreground can be stretched to accommodate different group configurations, although court staff worry they can also accidentally crush small fingers.

Architect: Denis Harrison, South Australian Department for Transport, Energy and Infrastructure

Photo: Diane Jones

legal aid and kids had nowhere to wait, they would sometimes run into the courtroom and hide under the magistrate's bench if they were fighting.

The first magistrate reported above argues that it is particularly inappropriate for children to listen in court to details of domestic violence. In the absence of proper childcare facilities, court staff may be asked to take on the role of child carer.

The first thing they're going to be worried about is where are my kids, can I bring them into the courtroom and because it's a closed court, restraint orders anyway, that's fine, but I said to one woman recently, she had a four year old, and I said, "Do you want him to listen to what you're going to tell me?" And she said, "I never even thought about that. No, I suppose I don't." So - our orderly was lovely, I said, "Have you got any lollies?" And she said, "Yeah, I've got some," and I thought good, because she gives me lollies, and so she took the little boy outside and played with him and afterwards she said, "Thank you so much, I never even thought about it. He's witnessed it." And I said, "Yes, but he doesn't need to relive it," because there should be child minding but we don't have child minding in the courts and people can't just drop their kids at somewhere and come to court, that's the most difficult thing. ...

My concern is, you know, why should children be brought into a courtroom?

SUMMARY

The courthouse is a public space for the display of emotion about crime by both the justice system and individual members of the public. 'Supporters' of a victim or accused person can present a greater risk of incident than the central parties themselves, with incidents breaking out outside the courthouse between warring factions, intimidation or 'eyeballing' of witnesses within the courtroom, or harassment of the accused. Many participants reported children attending court. While some judges find ways to accommodate children, or court staff may look after them, they may disrupt proceedings or be stressed or psychologically harmed by exposure to proceedings.

RECOMMENDATIONS

- Local processes where participants prepare to attend court should incorporate discussions with participants about whether they have children, their childcare plans for the court visit and the availability of both onsite and offsite childcare facilities
- Enable sharing among court professionals about how they respond sensitively when children are brought into the courtroom to minimize fear or disruption

CONCLUSION

A COMPREHENSIVE PERSPECTIVE ON SECURITY

Keeping people, buildings and processes safe is an important responsibility of any justice system, as indeed it is for any public service. The level of security awareness has affected the design of court buildings and the organisation of justice processes. Indeed, in the view of some of those interviewed for this study, 'security' (in a narrow sense) has become something of an obsession, resulting in unnecessarily expensive buildings and fearful court users.

On the other hand as many of the participants in this study identified, 'security' is far more than barriers, uniformed guards and screening stations. The typology used in this study, drawn from the work of Frederic Gros, offers a way of thinking about security that more accurately reflects the emerging understandings of those who operate and support courts in Australia and New Zealand.

SECURE SOCIETY

Helping to create a safe and orderly society is a key objective of any proper justice system. Citizens should be able to live their lives without fear, undertake transactions confidently and exercise their basic rights to education, jobs and family. In terms of the issues reviewed in this report, a secure society is promoted when matters of domestic violence and child protection are taken seriously and handled expeditiously, when indigenous people are treated fairly, and when litigants are provided with an accessible process to resolve their disputes. An underlying principle of a criminal justice system is that it must be sufficiently credible to avoid people taking the law into their own hands - such as happened on the steps of the court on several occasions reported in this report. Whether offenders will desist from committing crime or civil disputants become less litigious is largely beyond the control of courts; but if the processes are timely and seen to be fair, and participants are treated respectfully during their experience with the justice system, participants may tend to accept the verdicts even if they disagree with them. This is not just an individual matter: the overall performance of the justice system may help to create or undermine trust in social institutions more generally and promote respect for the rule of law.

The design of court buildings and provision of appropriate services may also communicate messages about the role of courts in promoting rights and contributing to a safer society. Courts that occupy buildings integrated into the urban streetscape, such as Collingwood's Neighbourhood Justice Centre, can be thought of as embedding justice within the community. Court buildings that are surrounded by native vegetation, such as the new Port Augusta courthouse, may contribute to a justice system that reflects, to some extent at least, indigenous values. Building courts alongside police stations however may suggest that courts are simply an extension of the police; to avoid this reading some court buildings (such as in Geelong) distinguish themselves by using different building materials. The 'guillotine' outside Melbourne's County Court may be read as threatening swift and certain punishment, or merely protecting users from inclement weather. Courts that are indistinguishable from other high-rise office blocks nearby may invite the interpretation that justice is just 'business as usual'. Any of these interpretations can be disputed, and messages intended by architects not picked up by anxious court users. But they do recall the symbolic function of justice institutions in the community to provide protection from violence and lawlessness, and opportunities for redress and reconciliation.



COOK COUNTY COURTHOUSE, CHICAGO

A vulnerable court participant may feel less anxious and alone when accompanied by a support person. In this watercolour, in Chicago's Cook County Court, a juvenile charged with a drive-by murder as part of a gang war is supported by his lawyer as they walk away.

Watercolour: Noëlle Herrenschmidt

SECURE PERSON

While the first dimension of security considered society as a whole, the second focuses on the individual citizen. A secure person, in Gros's terms, is someone who is able to carry out their duty freely and without fear; a citizen who has the self-assurance to exercise his or her rights. Court policies that enable individuals to participate freely without fear are thus 'security' policies in this second sense. So too are programs that respect cultural difference, and contribute to fast-track dispute resolution processes. The self-assurance of individuals may be enhanced by individual safety plans, good intelligence that avoids foreseeable confrontations and support from social workers or other professional staff. Having quiet spaces to reflect, and generous spaces that bring in natural light may contribute to the calm deliberation necessary for self-assured action.

On the other hand, processes or spaces that undermine the self-confidence of court users may undermine individual security. These could include registry counters where private conversations can be overheard, parking areas where a victim of violence can be threatened by their alleged assailant, or court hearings where a participant may be threatened with violence in the form of a taser to control their behaviour.

Judicial officers, court staff, other professionals, support workers and jurors also need to be able to carry out their tasks freely and without fear. The report has reviewed the range of workplaces, training and support structures that either support or undermine the ability of these groups to discharge their duties effectively. Supportive management, regular training, comfortable sit-down registry areas and good intelligence may all contribute to promoting individual security for the providers of justice services. Indigenous courts can provide a setting in which both professionals and ordinary court users tend to feel recognised and valued.

SECURE ENVIRONMENT

The third dimension of security focuses on minimising incidents of violence, danger or conflict. It is based on managing risk, identifying threats and avoiding danger. This approach to security has generated metrics to assist planning, allocate resources and measure performance. It might be argued that this is the 'hard' side of security, the dimension most closely aligned with target-hardening and physical security measures.

However the technology of surveillance and prediction that underlies this 'risk-based' approach to security also facilitates less interventionist approaches for low-risk matters. Careful calculation of risk encourages registry areas to be placed outside security screening, as in Perth's District Court. It supports bringing magistrates down from the Bench to a shared table in indigenous courts. From the point of view of court staff, knowing that court users do not carry knives allows them to feel more confident in carrying out their responsibilities. So a risk management approach can help participants in justice processes to act as more 'secure' people. Further to the extent that risks are minimised successfully, justice processes are more likely to contribute to the development of a secure society. The most obvious example of this is in protection of people within justice precincts – if someone is assassinated at court, regardless of

whether they are a judge or a victim of domestic violence, the promise that courts will deliver a safer society is shown to be hollow.

SECURE PROCESS

The fourth dimension of security is involves managing flux or flows. Gros was focusing on matters like food security, where regular flows of quality-controlled food was essential for a society to be secure, or energy where interruptions could lead to disruption of hospital services or industry. In the court context, queues waiting for security screening provide one potential bottleneck, similarly waiting areas and lines in fines payment counters and domestic violence registries may increase risk and reduce the self-assurance of court users. Victims who have to wait too long for their day in court may feel that the process is ineffective in providing protection, so case management processes may be seen to have an important security dimension, in this fourth sense. Effective case planning can filter out out matters that can be dealt with in a simpler process, such as a tribunal or mediation hearing, prioritising matters where urgency is required to address a situation of immediate danger, and shifting resources to areas where urgency is identified. It may also mean providing different tracks for particular types of case, such as drug courts, mental health lists or indigenous courts. To make such resource decisions, information about risks and incidents is highly relevant. Meanwhile using specialised approaches to managing flows of particular types of person, such as drug offender or small claims litigant, may reduce the problem

represented by the group of participants. Innovative approaches to security can be found in courts like the Collingwood Justice Centre in Melbourne, or the courts that reflect indigenous needs and values in Kalgoorlie or Port Augusta. In these examples visitors feel safe because of the presence of well-designed waiting areas and adjudication spaces, roving staff who kept an eye on what was happening in the building and symbolism and spaces that are culturally appropriate. Other buildings are regarded as unsafe because warring parties must share common waiting areas, registry areas are crowded and noisy or there are no quiet places to meet and wait.

SECURITY POLICY PART OF WIDER CHANGES IN COURT POLICY

Increased interest in security has accompanied two other major changes in the organisation of justice.

- Courts and tribunals have increasingly become service organisations. The people who access justice processes are no longer simply seen as litigants, they have become clients, citizens exercising their rights and service users. Cultural diversity may be recognised in the way services are offered. The needs and comforts of court users, at least in principle, help shape the delivery of services, with consumer satisfaction one of the outcomes measured. Keeping court users safe, enabling timely resolutions of issues, and providing clean and comfortable environments – these are service as well as security issues. Indeed to the extent that ‘security’ is understood in the multi-dimensional way outlined above, security is a service issue.
- Justice processes are increasingly using digital technologies for information and communication. Documents can be filed and accessed electronically, participants communicate by video link, parties display evidence from digital devices and decisions recorded in databases. Such technologies allow justice processes to reduce unwanted face-to-face interactions or high-risk movements. Digital technologies may also screen cases, predict trouble and allocate resources to minimize risk.

The combination of increased attention to security, a stronger service orientation and greater use of digital technology has led to a complex set of changes to court environments. Instead of people flowing into the building from several sides – such as the Montreal *Palais de Justice* – they congregate in a confined space preparing for security screening, creating an additional point of vulnerability. An apparently private space may be under video surveillance, while personal information about individuals used to develop safety plans and provide assistance. To access services potential clients may complete an on-line form, and be followed up by email and text; the security of this information requires protection. Court processes may be replaced in part by video interactions or participation in on-line forums supported by intelligent systems. Punishing drug offenders with prison has been increasingly replaced by treatment programs, based on risk assessment matrices, sometimes aided by electronic monitoring.

Critics of these trends might see evidence of the surveillance state keeping track of citizens, using technology to manage people more effectively and hiding the sometimes repressive side of justice by using the language of consumerism. Supporters of these changes could use the same evidence to point to safer processes for vulnerable court users, better-informed decisions and increased respect for the dignity of the individual. Regardless of the

position one takes, there can be little doubt that changes in the security environment of courts is closely associated with the other two major shifts in court governance, in use of technology and towards a service provision framework.



COOK COUNTY COURTHOUSE, CHICAGO

Sometimes an accused person is kept behind glass in the courtroom. If the risk assessment process shows that danger is more likely to come from the gallery, the audience may be confined behind a screen, such as in international criminal tribunals and here in a courtroom in Cook County Court. The case involved alleged murder of a child.

Watercolour: Noëlle Herrenschmidt

SEPARATIONS AND SEGREGATIONS: HAVE THEY GONE TOO FAR?

One key principle used in managing security, in all its forms, is separation. Separations may be made by space, time or nature of process. Warring parties are kept away from each other whenever possible. Children's matters are heard in different places from those involving adults. Domestic violence or drug issues may be heard in special lists. Vulnerable participants may take part from remote locations. Modern courthouses have up to five separate circulation zones, making them perhaps the most segregated buildings in contemporary society. Witnesses, defendants, jurors, judges and the public are frequently kept apart from each other in the in corridors and lifts, in waiting areas and in the courtroom. Indeed courtrooms are organised around a series of separate zones for the different participants. In most Australian and New Zealand courts, clients are even kept away from their lawyers, a practice that was abandoned in the US about a century ago. Some courts keep accused people in a glass dock, resulting in criticism from lawyers and judges that this may interfere with rights to a fair trial. Maintaining so many separations is costly, and those interviewed for this project were divided about whether the costs could be justified.

Court processes are also frequently designed to bring people together – to sit and deliberate as a jury, attempt reconciliation in family or civil disputes, negotiate about care of children, confront defendants with evidence against them and bring court users

together with support workers and advocates. Even sentencing hearings can be seen as a process in which offenders and victims brought together and encouraged to accept the decision of the court as being the end of the matter and not just another step in an ongoing feud.

Is it really necessary to have such elaborate circulation systems in contemporary court buildings? Or to put this in financial terms, is it a more appropriate use of scarce public funds to build multiple corridors and lifts rather than more office spaces for support services, and more generous rooms for remote witnesses? In Melbourne many argue for one high security facility that could be used by all the relevant jurisdictions. For many civil and minor criminal matters, it may be sufficient to have a professional and a public zone. Vulnerable participants and support people could where necessary use the professional area, accompanied by a staff member. Some areas, like cafeterias can be shared, as they are in Sydney's Downing Centre and Queens Square courts, in Perth's District Court and the ACT Magistrates' Court.

The key issue here is flexibility – having the capacity to use higher or lower levels of segregation when required. Bikie trials is one type of case where most of the jurisdictions surveyed required higher levels of security. To achieve this flexibility, good intelligence is necessary, something Western Australia has



COOK COUNTY COURTHOUSE, CHICAGO

Court processes are increasingly taking place over video links, such as this bond hearing in the Cook County Courthouse in Chicago. Not only is the subject of the hearing, the person on remand, remote from the court, the Spanish interpreter (in the courtroom) is remote from the remand prisoner.

Watercolour: Noëlle Herrenschmidt

developed the most comprehensively. Safety plans identify clients for whom additional support is required, allowing resources to be targeted more efficiently. Scanning equipment that can be folded away when not required – such as used in Sydney’s King St courts – allows entrance security procedures to be scaled up or down according to estimated risk. As suggested above, a major consequence of well-developed risk management procedures is that more intrusive forms of security can be relaxed for low risk activities.

Separations are increasingly being managed by use of remote video links, whether to prisons, other court buildings or even protected witness facilities within the same building. This is particularly useful for mediation, pre-trial and procedural matters, although video links are also being used to improve timeliness of hearings by clearing backlogs in one court by a magistrate with spare capacity in another. Preliminary hearings in magistrates’ courts may occasionally experience disruption when a person is under the influence of drugs or experiencing a manic episode and there has not been time to identify the risk. In such situations, video links might be considered, rather than increasing the security presence in the courtroom. Online services and call centres also reduce the need for in-person visits to courthouses. Some court officials fear that something may be lost if people do not have their ‘day in court’, but for some the chance to get their

complaint heard without having the risk of being verbally or physically attacked by their alleged assailant reduces their anxiety.

Courts are likely to undergo as radical a transformation in the next twenty years as they have over the last two decades. Security issues will undoubtedly be high on the agenda, both because of fear generated by incidents and duty of care concerns for court users. Assisted by smarter technologies, it is likely that security practices will be increasingly intelligence-led, involve extensive use of on-line and remote communications and be more closely integrated into the responsibilities of all court staff. More speculatively, we expect that the elaborate segregations that characterise many courts will be replaced by a judicious mix of high security courts, open courts and flexible spaces that are modified to meet a variety of needs.