

Court Perspectives: Architecture, Psychology and Law Reform in Western Australia

INTRODUCTION

Court buildings can be understood as living systems or cultural environments in which decisions are made about people's lives, property and rights. A court is not just a set of rooms, corridors and entrances; it is a social and emotional world. Court users' needs for psychological comfort and security can be addressed environmentally. If court procedures and practices are not felt by lay users to be just, what changes can be made to better meet user needs while preserving the integrity of the process? What messages are given to users of court services, the public and participants in the system by: the layout of waiting rooms or jury rooms; the way parties are seated in court rooms; or the differences in accommodation provided to judges, vulnerable witnesses, and prisoners? These are some of the issues this sub-section considers.

Winston Churchill believed the physical context of public life was important. He argued that democratic institutions required suitable architectural embodiment. 'We shape our buildings and afterwards our buildings shape us'.¹ Churchill's observation poses two questions for court design. What visions do court buildings embody? How do they 'shape us'? These questions draw on architectural, sociological and psychological experience to provide the general framework of this sub-section.

Submissions to the Law Reform Commission of Western Australia from the lay consumers, victims, witnesses, jurors and some litigants² reveal that many are disadvantaged and confused by insufficient information concerning court procedures and the process of litigation. Delays are common³. Increasing

numbers of litigants represent themselves, without adequate support.⁴ The costs involved prevent access to justice for some people. A number of submissions revealed that going to court is often frustrating, sometimes humiliating, and, for some, an ultimately unhelpful experience.⁵ Judges and magistrates appear remote, while lawyers questioning witnesses are considered intimidating and even rude according to some individuals interviewed in connection with this sub-section. Deliberating jurors tend to be confined to small rooms without natural light or an outside view. Some participants⁶ perceive the adversarial 'game' as being valued more by the system than truth and justice. A number of users find courts are uncomfortable and, sometimes, unsafe.

This sub-section approaches law reform from an architectural psychology perspective. It considers how the court 'environment', in the broadest sense,⁷ influences the experience people have of justice. The physical organisation of Court space gives social and psychological messages. The layout of waiting rooms and jury rooms, the way parties are seated in court, and the differences in accommodation provided to judges, witnesses and prisoners all communicate non-verbally to those using each space. The court environment is not just a set of rooms, corridors and entrances; it is a cultural, intellectual and emotional world. One focus of this sub-section is on how courts are designed, organised and operated and addresses the needs of court users for psychological comfort and security.

This sub-section suggests ways in which the public experience of the system of justice, both civil and criminal, in this State might be significantly improved by considering the psychological effects of both the physical architecture and the social environment in which justice is administered — principally, but not only, in courts. This perspective is a new one for law reform. In so far as the members of the Law Reform Commission of Western Australia are aware, no previous justice system review has included this topic. This approach was made possible by engaging consultants through the firm of Louise St John Kennedy & Associates Architects. Ms St John Kennedy is a specialist in architectural psychology,⁸ and Dr David Tait, a criminologist with a significant background in sociology.⁹

There is a surprising lack of reliable information about the impact of the architectural environment on court users' behaviour and experience of the process.¹⁰ Most courts are designed with detailed knowledge of the properties of the architectural materials, but almost no knowledge of users' experience within the architectural environment, or the effects of that environment on behaviour and access to justice.

As a preliminary step, this sub-section identifies some issues of architectural psychology relevant to court design. It develops some detailed propositions

about aspects of court architectural psychology and makes concrete proposals both for immediate consideration and for further investigation. As in any area of research, there are a variety of positions on any question. Some of the views expressed here may be widely held. Others may be plausible but misguided. Some may be contentious. Hopefully readers will treat this sub-section as an attempt to open discussion and guide debate rather than viewing it as an authoritative statement of the field.

LITERATURE REVIEW

There are many reports, studies, articles and books about the relationship between the design of public buildings and the way they are understood and experienced. This review highlights a limited number of these studies and provides an overview of others. Most sources, apart from a few about French courts, are not about courts at all. This review attempts to draw on works dealing with other types of public buildings to develop a basic understanding of the architectural psychology of courts.

The literature review considers procedural matters in relation to the adversarial character of trials. We examine the architectural and psychological aspects of inquisitorial procedures¹¹ in France and Italy in relation to two specific trials.¹² The University of Wollongong Department of Law hosted a conference in June 1998, which provided a range of perspectives on issues related to this sub-section.¹³ Speakers at the Wollongong Conference identified some of the shortcomings in the present system and produced suggestions which have been considered in the analysis and development of proposals for this paper. On the whole, however, this study found very little Australian (or, indeed, international) research on the issues covered. There is a need for this type of information in planning new courts and renovating older ones. This sub-section may provide a preliminary theoretical foundation for further research.

Civic buildings and the representation of authority

Public buildings express political values.¹⁴ Democratic regimes appear to have a preference for buildings with prominent windows and doors located in open spaces in the heart of the community they serve. More repressive regimes seem to prefer enclosed spaces, sometimes in inaccessible locations, built in an intimidating style.¹⁵

The link between politics and design has been studied systematically in the United States. Three quite distinct styles in city or town council chamber design exist according to political scientist, Charles Goodsell.¹⁶ Before the Civil War (1860-1865), councils often met in multi-use rooms where prominent citizens might be seen walking around art displays, sitting at council tables or, if deceased, lying in state.

Council chambers built between 1865 and 1920 illustrate 'imposed authority'.¹⁷ Rulers asserted power openly and the public knew its place. Chambers

were located upstairs and accessed via imposing staircases. Councillors sat facing the mayor, while the public, cramped onto benches, looked at the councillors' backs. Chambers were grand, symmetrical and well-lit. Those built between 1920 and 1960, are lower, longer and plainer than their predecessors. The public sat at the back, facing the decision-makers but cut off by symbolic barriers such as railings. Chambers built after 1960 suggest a 'joined authority' in which the 'very distinction between governors and the governed becomes clouded'.¹⁸ Spaces are more subtle, with greater use of curved and circular spaces creating a sense of intimacy and equality¹⁹. Seating is more comfortable for the public and there are less likely to be barriers between the council and the public. Contemporary chambers display two radically different patterns in relation to windows: some are very open, others are completely sealed off. However, chamber designs tend to segregate executive from administrative areas, and provide escape routes to protect the safety of councillors.

The study of United States council debating chambers provides a useful starting point for a study of courts. Practical aspects include: shape (rectangular, square, round); location of the formal courtroom and other facilities within the building and the use of staircases; placement of officials, flags, and public galleries. Issues include, but are not limited to: whether views of faces or backs are provided to the public; what symbols and artwork are used in the building; design of the chairs on which the participants sit; use of doors, windows and skylights, acoustics and lighting.

The value of the council chamber study is not merely its documentation of the physical details of civic design, but the way it links design to changing political views about the relationship between citizen and the state. Planners, in Winston Churchill's words 'shape our buildings'²⁰ according to three different political visions: imposed authority, confrontation, or inclusion. What visions shape or should shape court buildings in Western Australia? Is there a trend towards inclusiveness and democratic practices in the courts or should there be?²¹

It can be argued that courts are inherently hierarchical places and the integrity of justice might be compromised by attempts at intimacy or equality. At the Wollongong Conference Justice Michael Black, Chief Justice of the Federal Court of Australia, asserted that the key principle of court design should be reconciliation rather than majesty.²² Should this approach guide court design in the future? These various visions of court architecture and others could be explored in a public forum before any major court construction or renovation begins. Any discussion of appropriate architectural design for courts could explore the sort of authority to be represented, and the relationship between the legal system and the individual.

**Architecture in use:
ambiguous messages**

There are several works on courts in the Civil Code tradition which deal with issues of architectural psychology.²³ It should be noted that these courts operate largely within an inquisitorial tradition, considered in more detail in sub-section 1.2.

One of the most comprehensive and contemporary studies of this tradition is provided by the French judge and sociologist, Antoine Garapon.²⁴ He considers court architecture, furniture, costumes, judicial practice and language. Garapon argues that careful attention must be paid to court symbolism, appearances and design to ensure that justice is executed in an orderly and accountable way. He argues that today's legal decisions are given credibility by legitimate authority inherited from the past. This raises the question of 'communication'. What do particular aspects of court buildings, or the rituals that take place therein, 'say' about justice, access, truth, or authority? Whereas the onward march of progress towards democracy and citizen participation can be traced in the design of the council chambers, courts tend to be relatively conservative.²⁵

Art historian, Katherine Taylor, provides a detailed example of how architecture and court practice intersect.²⁶ She examines a single courtroom at one point in time, the *Palais de Justice* in Paris in 1869, and the trial of Troppmann, an Alsatian, accused of murdering an entire family to steal their savings. Unlike Garapon, she does not see the building and the trial as based on a single source of authority. Instead she identifies a clash between different principles. This places her at odds with the 'a building expresses a single vision' view (exemplified in the council chamber study); and takes her beyond the romantic view of the judiciary articulated by Garapon.

According to Taylor's analysis, in the France of the Second Empire, courts were caught between several loyalties. Under the Napoleonic Code the judge had a duty to enforce a universal impersonal standard, but he had sworn a personal oath of allegiance to the Emperor. The presence of the jury suggested sovereignty lay with the people, while the robes judges wore provided a direct link to the monarchy. The judges themselves (both presiding judge and prosecutor) were part of the imperial state machinery. Lavish ornamentation and murals indicated the aspirations of the Empire. There was a degree of 'ambivalence' about how to represent authority,²⁷ and 'the instability of the visual signs and social values at stake'.²⁸ These ambiguities in sources of court authority can similarly be identified in Australia.²⁹

How did the defendant 'read' the elaborate appearance of the courtroom? One contemporary critic observed of the *Palais de Justice*:

I confess that I myself have some difficulty with a criminal courtroom so grandiosely decorated. I conjure up a poor man, in the grip of poverty,

having been stupefied by ignorance, who is brought here in worker's clothing to account for a theft or murder, under these gilded ceilings, vermilioned and illustrated with splendid paintings. What will that poor man think of a society that spends so much money to condemn him and so little to instruct him?³⁰

This concern summarises a major issue faced as acutely by contemporary court planners: how can society provide a significant building which indicates to visitors the high value placed on justice without inviting a comparison with less-generously funded public services?

Court furniture placement also may have symbolic implications.³¹ Sitting the prosecutor alongside the defence lawyer at a bar table seems to indicate equality and a greater respect for the individual in the common law court, while placing the prosecution beside the presiding judge in the civil system may denote a lack of independence. Putting the judge on a raised podium in centre-stage may designate him or her as an 'impartial arbiter'.³²

While these are possible readings of the space, and admittedly the most obvious, they fail to go behind the surface reading.³³ To show how spaces are constituted, used, and contested requires further study. The Vichy judges also sat in centre stage, but they were not widely regarded as impartial. Alternatively, the French king in *the ancien régime*, when he attended the *parlements* to deliver justice, sat to the side at the front of the room. This was not an indication that he was a bystander or a suggestion that his deliberations were partial.

Searching for truth by systemic reforms

The influential French philosopher, Michel Foucault, makes a distinction between modern and pre-modern forms of truth.³⁴ *L'enquête* (investigation) was the sort of truth produced in a rational inquiry, in which anyone with the right disciplinary training would be likely to come up with the same result. *L'épreuve*, the ordeal, meanwhile produced truth through a ritual such as a duel or torture. Surviving the ordeal established truth. Foucault suggests that modern justice operates rationally within the terms of its own disciplinary framework. However, linguist Marco Jacquemet, in his study of the Cammora trials³⁵ in Naples, Italy in the 1980's, disputes this view. Jacquemet suggests trials are more akin to ordeals.

The characterization of a trial as an ordeal may also be closer to the experience of some witnesses.³⁶ Some sociologists consider the criminal trial as the quintessential case of a degradation ritual.³⁷ Others argue the process, rather than the formal sanction, is the real punishment.³⁸ In other words, the trial, perhaps even more than the sentencing process, can be understood as a punishing ordeal. If the trial is, indeed, an ordeal, then the 'needs' of witnesses may not only be for the 'rational' sorts of information about what the legislation says or where the toilets are, but also how to respond to questions

experienced as insults, interruptions, or distortions. In short, witnesses may need to know how to endure and survive an ordeal.³⁹

A leading Australian criminologist, John Braithwaite, takes the symbolic and emotional aspects of court procedures seriously, arguing that court ceremonies need to be re-configured.⁴⁰ He argues for 'reintegrative shaming'. It seems that Braithwaite accepts the nature of the trial as an ordeal: an emotional and, possibly transformative, confrontation to be examined in itself and not seen simply in terms of any decisions made. This correlates with a body of international literature on circle sentencing, family group conferences and mediation models.⁴¹

The possibility of diverting cases from civil and criminal courts⁴² raises various practical considerations as well as important architectural and psychological issues. Can, or should, trials be designed to minimise the humiliation experienced by some participants or is this inherent in the adversarial system? Can authority be shared by including victims and other interested parties into the decision-making process? Should justice and authority be represented in an inclusive way? Should traditional status be respected and acknowledged in the way courts are run and laid out? Should judges interrogate witnesses or suspects? In an Australian setting, should indigenous terms of respect and protocols be used in dealing with respected elders? What terms of address should be used? Practical issues are also brought into question such as whether defendants should be viewed by the jury in profile (the 'criminal' perspective)? Should witnesses be protected from badgering or hostile questioning and, if so, how?

The literature reviewed emphasises the interaction between court design, judicial practices and legal culture. However, there is no simple relationship between the way courts are laid out and the nature of the legal culture nor are there obvious links between particular practices and how participants in the trial process feel. What these studies suggest is that understandings are culturally specific and grounded within particular local contexts. They point to the need for local consumer surveys. Court processes and trial procedures should not be viewed simply as legislation being enforced, but as ordeals being endured by ordinary people in a variety of different conditions and contexts. The question is: must court proceedings be an ordeal? Can court processes be reformed to make them more intelligible and less stressful for lay users?

ARCHITECTURAL PSYCHOLOGY

This sub-section is not merely about the physical characteristics and features of the buildings, although these are clearly a crucial part of the investigation. It is about 'architecture in use': the way court users interact with space; how they utilise facilities and 'make sense of' or 'feel' in an environment. This sub-section draws on a range of sources and summarises what is known about

sociological and psychological issues in an architectural context. There is much written on nursing homes, hospitals, schools, shopping malls and many other public areas, but almost nothing on courts.

Buildings convey information

Court buildings convey information about justice. Good court design may communicate that justice is accessible; safety and privacy respected; and contributions to the process are welcomed. All too frequently, however, architecture may send out other messages: the court is isolated from its physical and cultural environment; people are not equals in the court; jury service is not valued; participants and the public are not entitled to understand the proceedings; and court management needs are more important than the time commitments of civilian or lay participants in the justice system.

There are several models within the Western Australian legal system which, in some ways, already appear to be providing environments conducive to justice by:

- Developing dignified and respectful practices;
- Responding seriously to user feedback;
- Transforming the physical environment as well as some aspects of judicial decision making; and
- Minimising stress and confusion in obtaining and giving evidence.

These models should be evaluated carefully to see to what extent, and in what form, their good practices and designs can be applied more generally in civil and criminal courts.⁴³

Court users unfamiliar with the justice system frequently find court processes unsatisfactory. Although many court users have negative experiences, all participants in the justice system should be treated with dignity and respect. Legal processes and trials can be alienating, frustrating, and humiliating for witnesses, victims, defendants and, particularly, self-represented litigants. Physical, psychological and social factors, in combination, influence these experiences. Issues include:

- Lack of privacy, comfort and safety in waiting areas;
- Delays in waiting for cases to get to court and poor scheduling on the day of court appearance;
- Isolation of victims and other particularly vulnerable witnesses from their support team (in the witness box, or in remote facilities for closed circuit television);
- Distances between speakers which may make some participants uncomfortable and unable to communicate effectively in court proceedings;
- Seating arrangements which result in many participants and members of the public viewing the backs of lawyers' heads;

- Lack of information about, and/or understanding of, legal proceedings; and
- The financial, emotional and psychological expense of litigation.

One assumption of this sub-section is that it is not possible to separate matters of physical or architectural space from the social environment. It is the combination of effects which determines how users experience legal proceedings and the justice system. Proposal 1, below, makes explicit this sub-section's assumption about the principal aim for the social psychology of the administration of justice.⁴⁴

If the psychological needs of court users are understood so they are treated with respect and consideration, users are more likely to feel they are being treated fairly and have confidence in a justice system which consistently treats them with dignity and respect. The Western Australian Court Services' Customer Service Charter commits the courts' staff to 'treat all our customers with courtesy, respect and dignity, by providing services which meet their needs'.⁴⁵ This statement accepts the relevance to successful court operations of meeting, to the extent possible, the emotional and psychological needs of court users.

Unfortunately, the Charter does not have a counterpart generally governing all professional participants in the justice system. The courts and all individuals acting within them including lawyers, judges, magistrates, court staff, police and other justice system workers should act, at all times, as the Charter requires. If procedures, processes, or attitudes conflict with the Charter, they should be reviewed.⁴⁶

Proposal 1

Court design and operations should encourage all professional participants in the justice system to treat each and every court user with courtesy, respect, and dignity. To the extent possible, courts should provide services to meet users' needs. Procedures, processes, and attitudes should be reviewed to ensure that all participants in the justice system deal with all users courteously, respectfully and fairly.

Why the architecture of public buildings matters

Architecture traditionally has been understood in terms of aesthetic responses to physical structures. 'Architecturally the emphasis throughout history has been on the aesthetic experience or mental associations that the built environment evokes rather than on the evocation of behaviour; with the image rather than the result'.⁴⁷ What sorts of spaces, designs, layouts and colours make users more or less likely to be relaxed, anxious, aggressive or

confused? As well as 'shaping' attitudes in a general cultural sense, how do the physical spaces of courts contribute to the behaviour, emotional wellbeing and experiences of court users?

External court architecture can inform the public about:

- Accessibility of justice;
- Status accorded to professionals in the justice system; and
- Link between law enforcement agencies and judicial authorities.

The architecture may also:

- Present images of sovereignty vested in a monarch or in popular will;
- Suggest an authority based on origins in classical antiquity; and
- Indicate contemporary power by use of strong lines and a strategic location in close proximity to the police station.

The word 'court' comes from an Old French word simply meaning 'an enclosed space'.⁴⁸ We think of 'courtyards' as open spaces enclosed by walls which are used for the purposes of leisure. Law courts display a myriad of approaches to space enclosures, courtroom layout, and circulation management. Many courts evoke classical themes with a strong infusion of hierarchy and clear delineation of space. The 'vision' many courts embody is one of authority, tradition and exclusion. The spaces are not just separated from the outside world. Each internal space is discrete; courtrooms, registry areas, galleries, chambers, jury box, deliberation room and in the courtroom itself the bench, the bar tables and the dock. The enclosing may be as much psychological as physical. Not only are there walls, railings and barriers; there are also language, traditions and rules. Courts are perhaps the most segregated and segregating public buildings in contemporary cities.

The counterpoint to 'enclosed' is 'open'. Are the courts open to the sky and air, to public complaint, scrutiny and accountability? Is court business conducted in a way which is 'accessible and audible to all participants'? 'Open' might also be regarded negatively as 'open' to terrorist threats, corruption and political interference. Openness can be seen as both a characteristic of architectural design and of the imagination of those who manage and occupy the space.

The German cultural critic, Walter Benjamin, commented that architecture was 'consummated by a collectivity in a state of distraction'.⁴⁹ Many court visitors are too distracted by the pressures of the moment to notice consciously the historical or political allusions of the court façade. Some courthouse visitors may regard the grand entrances merely as places to chat or wait anxiously. However, witnesses, defendants, victims and their supporters need

spaces to prepare, compose themselves, speak confidentially to lawyers, or just wait.

The characteristics of courthouse spaces tacitly inform users of their status before the law. Some courts inform citizens they have the same rights as others. Others inform citizens they must defer to their 'betters'. Still other design aspects and behaviours signal that an accused is 'criminal'. Court facilities and staff signal to parties and victims whether or not their claims are being taken seriously. Although users may not be conscious of 'reading' the environment in these terms, they may feel more or less comfortable in different court spaces and by the way they are treated by court staff and legal professionals.

Depending on their circumstances, various court users experience the facility differently. 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. Witnesses and victims may feel anxious not only about the present proceeding, but also the painful past the case causes them to re-live. For some, the courthouse may be a place of anxious waiting in a noisy corridor or a quiet corner, seated on a hard bench or a cold vinyl-covered chair.

Courts are the everyday work environment of judges. Judges are supported by more comfort and privacy than the defendants who appear before them. There are allusions to classical architectural forms in the court façades and fittings. Judges move along private corridors which may feature paintings of their predecessors. The value of judges' contributions to the justice system is reinforced. One of the many challenges for court architects is to take account of the disparate needs of users, yet attain some consistency in treatment and general appearance of internal spaces throughout the building.

Proposal 2

Careful psychological studies of the effects of court environments should be made prior to commencing any significant construction or renovation projects in order to determine user needs.

THE COURT IN THE COMMUNITY

In this part the sub-section takes a wide perspective and narrows the focus. It looks at the court in the community:

- Its location, physical presence and contribution to local heritage;
- The symbolic presence and role of the court;

- The relationship of the court to political authority;
- The court building (the external and internal architecture of the court building including its entrances, circulation patterns, public and private areas, art, other services and facilities); and
- The courtroom (shape, layout, lighting, acoustics, seating and furniture).

Very little literature directly addresses these issues.⁵⁰ Sketches and discussions of court facilities in Western Australia and other states illustrate some issues. However, a systematic analysis remains to be done with careful observations of all the various court operations in a variety of settings.⁵¹ In addition, where certain features are found to be unsatisfactory, a careful evaluation of the impact of proposed remedial changes should be undertaken.

Architectural symbolism

Courts are usually significant public buildings, positioned centrally, sometimes competing for the town's high spot with churches or the town hall. Some recently designed courts are in high rise buildings. This may reflect an attempt to retain prominence and centrality alongside the symbols of corporate power: office towers.⁵²

In addition to their judicial role, many courthouses are of aesthetic and historical interest. In smaller communities, courthouses may be marketed as a community asset,⁵³ or a tourist attraction.⁵⁴ In some towns a civic zone may incorporate the town hall, the court and the public library. In larger cities courts may be located near lawyers' chambers to constitute a legal precinct. Regardless of the size of community, courts usually declare by their location and visibility that they are a central part of the area's civic life.

A building can express authority by the use of solid materials. It gains an aura of permanence and, in many cases, the reality of longevity. In the past, the use of gargoyles, domes, triangulated pediments and pillars in court designs expressed authority and stability with classical resonances. These aspects of court buildings implicitly sought to remind users that the justice meted out within would not be arbitrary or capricious but based on a long and legitimate tradition with fairness as its objective.

Some modern courts attempt to express the power, importance and authority of the law through architecture. Architectural attempts to make new courts sensitive to tradition should not necessarily be seen as reflecting a reactionary inclination. Traditional court designs could well be part of the attempt to give the justice system credibility by grounding the court in the past. But are these designs effective? Why is so much emphasis placed on authority from the past? Understandably there is a reluctance to tie the credibility of judges to the mandate of the government which appointed them, but why do so many Australian courts appear to avoid architectural reference to popular sovereignty?

The Central Law Courts and the Family Court complexes in Perth clearly communicate the power and importance of the law without nostalgia or excessive historical allusion. The monumental size, strong geometry, limited window areas, and separation from the outside world, are the elements of this communication. The monolithic solidity of each building complex conveys a message of exclusion: the law is closed and inaccessible. Is this the most suitable message to give a public concerned about the seeming remoteness of the judicial system?⁵⁵

Arthur Erikson, architect of the Vancouver Law Courts in British Columbia, Canada, expressed the intent and philosophy which helped determine the form of his design.

The courts, in presenting the necessary dignity of the law, should not exclude or inhibit the true participation of the public... The courts are the servants of the society, reflecting its ideals in the basic premise of British justice, that a man (person) is innocent until proven guilty. The courts often unwittingly intimidate through their arrangement or architectural ponderousness, thereby effecting the opposite of their ideas. In most modern courthouses there is very little that offers reassurance to the distressed, or even basic amenities for the participants forced to spend long hours in the court precincts.⁵⁶

Erikson explicitly designed his court to be inclusive of the community in order to represent openness:

[T]he large glass-roofed gallery with indoor terraces promoting public participation and a sense of unrestricted movement, provides striking architectural spaces significant for their expression of the relationship of the community to the judicial process. The organisation of the public spaces was critical to the architects design concept. The north south pedestrian spine of Robinson Square passes under the four storey high glass roofed lobby. As a major civic space, it is intended to invite public awareness and involvement in the judicial process.⁵⁷

Erikson wanted to assert the importance of the law as well as to include the community. Instead of heaviness and size, he used openness, day-light, open space and community facilities including public gardens to emphasise that the courts are not isolated from life and the community:

The linear pools of water, cascading waterfalls, information centre, exhibition centre, restaurants, adjacent art gallery and conference centre, plazas, fountains, landscaping and pedestrian facilities, use of daylight and grand scale express the importance the law and of the users.⁵⁸

It could be illuminating to have public debate on the appropriate messages that court architecture in Western Australia should convey. The nature of proposed projects should dictate whether the debate is community — or region — specific or state-wide. Encouraging public discussion of how the

law should be represented architecturally prior to the commencement of major design projects and the expenditure of public funds could enhance a sense of public ownership of the courts and support for the justice system.⁵⁹

Proposal 3

Public input and discussion concerning the values expressed and the means of representing the law through architectural design should be encouraged prior to the commencement of significant architectural projects involving courts.

Accessibility and centrality

Centrally located buildings tend to be more accessible by public transport, although parking is more expensive and difficult. Proximity to public transit is relevant both for the large volume of occasional short-visit users of local courts and tribunals, and for the smaller numbers of longer-visit users of higher courts. The availability of and proximity to other relevant services is another aspect of accessibility. Does the frequent co-location of courts with police stations say something about the relationship between the two institutions?⁶⁰

The placement of courts adjacent to police stations visually implies judges and the police are part of the same team. From the perspective of an indigenous accused, the criminal justice system may appear to be a single homogeneous entity working harmoniously to process offenders. To counter this (mis)reading, courts are frequently made of different (usually more expensive) materials than the police station. The co-location is partly for practical reasons. It allows quick movement of persons in police custody into court without the need for holding cells in the courthouse. But the closeness of the two facilities can give rise to the assumption that the two institutions share common views.

Proposal 4

To demonstrate the independence of the courts from police, court and police buildings should be visually separate and clearly demarcated architecturally.

Transitions

Should courts simply blend into their urban skylines and environments, or should they stand out as symbols of order and justice turning back the forces of chaos and curbing corruption? Thus the question arises: how should

courts be integrated into the social and commercial life of the neighbourhood? A medical centre in the United States was designed to blend into its environment and connect residential and industrial parts of Boston:

The Tufts-New England Medical Centre Project adopted the strategy of seeking to mesh the complex with its surroundings at all edges, to become a part of the community. It was decided to let the normal neighbourhood life flow under the medical facilities by creating shopping plazas and pedestrian walkways connecting with the new station of the transit system.⁶¹

Instead of acting as a 'barrier', the medical centre became a gateway or transition between residential and industrial areas of the city.

Similar questions can be raised in relation to courts: should they be self-contained blocks or porous membranes soaking in the life of the surrounding city? Should they be integrated with shopping and leisure activities, eating facilities, social and health services, churches, schools and banks? Should they be integrated (as some already are in country towns) with other public services such as the local council and library?

The Family Court in Melbourne features a café where people can wait, prepare for hearings and consult with lawyers.⁶² When a party is represented, usually the lawyer monitors when the case is to be called. Clients relax in relative comfort awaiting the hearing. Spaces in the café are sufficiently private to avoid disputing parties overhearing each other's conversations or being in direct visual contact.

Proposal 5

Court planners should consider incorporating user friendly facilities including cafés or other eating facilities in court buildings.

COURT BUILDINGS AND SPACES

This part of the sub-section goes inside the court building to look at the way spaces are designed, used and experienced. How is access to justice facilitated or obstructed by interior court architecture? The following sections discuss how the various spaces in court buildings affect users' experiences of justice; their perceptions of whether they are treated fairly and respectfully; the ease with which people can participate in the legal process. We begin by examining briefly various psychological and hierarchical issues and then consider specific spaces, participants and elements of the justice system.

Psychological effects of court design

An important aspect of group psychology relevant to a court building is whether the layout encourages people to be more or less aggressive, communicative or stressed.⁶³ Studies of nursing homes suggest that careful design makes a considerable difference in levels of aggression, conversation and useful activity of elderly people.⁶⁴ Chairs grouped around tables adorned with fresh flowers produce less aggressive behaviour than chairs lined up around the wall. In hospitals and nursing homes physical appearances are important: 'colour, lights, sounds and smells can become active elements of therapy'.⁶⁵ Similar careful observational studies of ecological patterns should be applied to court layouts. If elderly people in nursing homes, lacking mobility and frequently sedated, can become more aggressive because of the design of living spaces, it is not unreasonable to suppose that court users may be similarly influenced.

Court users and those operating the justice system may not share the same design objectives. Staff focus on dealing with matters expeditiously. Criminal defence lawyers have different objectives than do prosecutors. Police want those they charge convicted while victims want justice, restitution, retribution or even revenge. Judges focus on applying the law and procedures fairly to those appearing before them. Even if all views are somehow balanced, there are also the needs of other users: the parties and their witnesses, friends and families, and members of the general public.

To address these diverse objectives effectively from an architectural design perspective, surveys and thoughtful study in the early planning stages could be beneficial and, moreover, it would be helpful. The ultimate goal would be to create a safe and comfortable environment for all participants by examining the psychological effects of design on the various users in the diverse spaces of court buildings.

Proposal 6

Prior to commencing significant renovations or new construction of court buildings, psychological research should be reviewed and appropriately tailored studies undertaken to consider the design variables which may influence aggressive behaviour and affect the safety of participants in the justice system.

Hierarchy

The importance and value of the various participants in the legal system is indicated by the quality and quantity of space each occupies. Courts can be 'read' consciously or unconsciously by various users according to location, access to natural light and/or views, and the cost and quality of furnishings. Traditionally the use of prestigious materials and finishes such as timber

panelling, classical detailing, marble and leather in combination with generous spaces indicated importance to the system. Thus visual clues denoted importance and power in the hierarchy of the courts.

In the Perth Central Law Courts judges and magistrates have comfortable offices on the top levels at the front of the building.⁶⁶ The facilities for children waiting to appear as witnesses in Perth are in a small, narrow room in a remote corner of the building. The provision of cuddly toys in the children's area is a supportive gesture. However, the journey through the building to the child witness area, with its location in the rear corner of the building, and the depressing fit-out in the child's witness box sends a non verbal message of the value of child witnesses in the system.⁶⁷

Consistent design standards throughout court buildings including courtrooms, judges' chambers, jury areas, registry offices, waiting areas, children's facilities and detention cells might visually indicate equality and help recognise the dignity of each participant in the justice system. Appropriate seating, lighting and safety measures are as much occupational or public health issues as matters of equity and aesthetics.

Proposal 7

In future design briefs for courts there should be consideration of the degree to which hierarchy should be reflected. As far as possible there should be consistent design standards and equality of furnishings and fittings throughout court buildings. Design should indicate to users that all participants in the justice system are seen to be equal and respected by providing facilities appropriate to their particular needs.

Foyers, registries, waiting areas and interview rooms

This part considers the public parts of a court building: the foyer, the registry, waiting areas, interview rooms, information areas, shared service areas and jury spaces. Spaces which serve the legal profession also deserve attention. However, as non-legal users have the least voice in the design of courts, it is their needs which are the focus of this paper.

Proposal 8

The design requirements and practical needs of all court users should be surveyed prior to developing or renovating future court facilities.

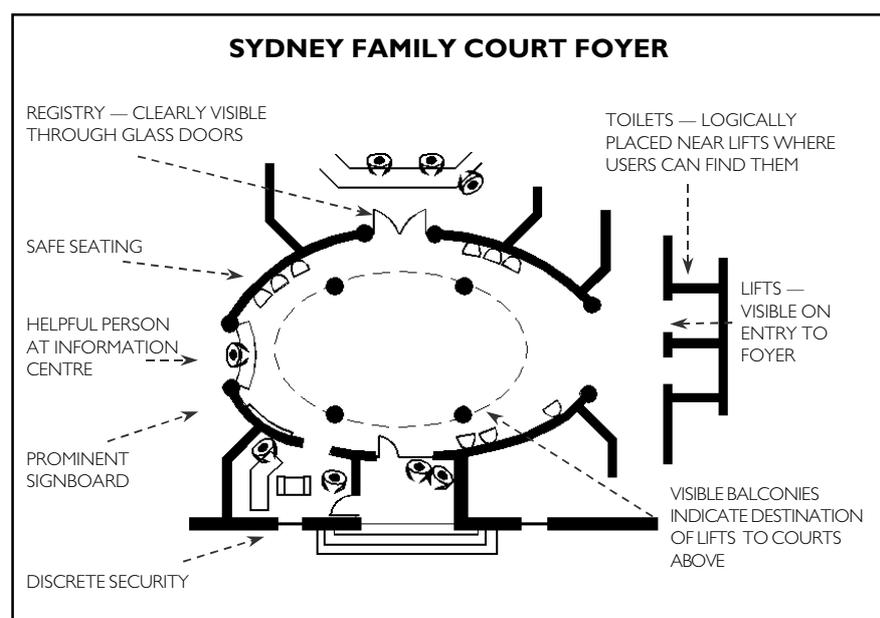
Foyers

Foyers are places where people enter the courthouse, orientate themselves, meet others, and access services such as the Registry. People also enter the 'culture' of the courts in the foyer. In some courts the entrance foyers are physically removed from the main waiting areas.⁶⁸ Waiting areas adjacent to court rooms serve both as places for people to wait for their cases to be called and as casual conference and negotiating areas. These spaces often are full of people who are anxious,⁶⁹ bored, impatient, angry and occasionally violent. Foyers and waiting areas pose particular problems for drug users.⁷⁰

Entering a court building may be stressful for some users. This has implications for communication both of basic information and more subtle, symbolic messages about access to justice and fairness. People in a state of distraction, on entering an unfamiliar court building, may not be able to take in signs, instructions and warnings.⁷¹ Visual cues in the architectural design can assist people to find their way. Visual support, through good design, may reduce stress and confusion. Staffed reception desks, with obvious, adjacent, clear listings boards assist by indicating that the system is concerned with the individual.⁷²

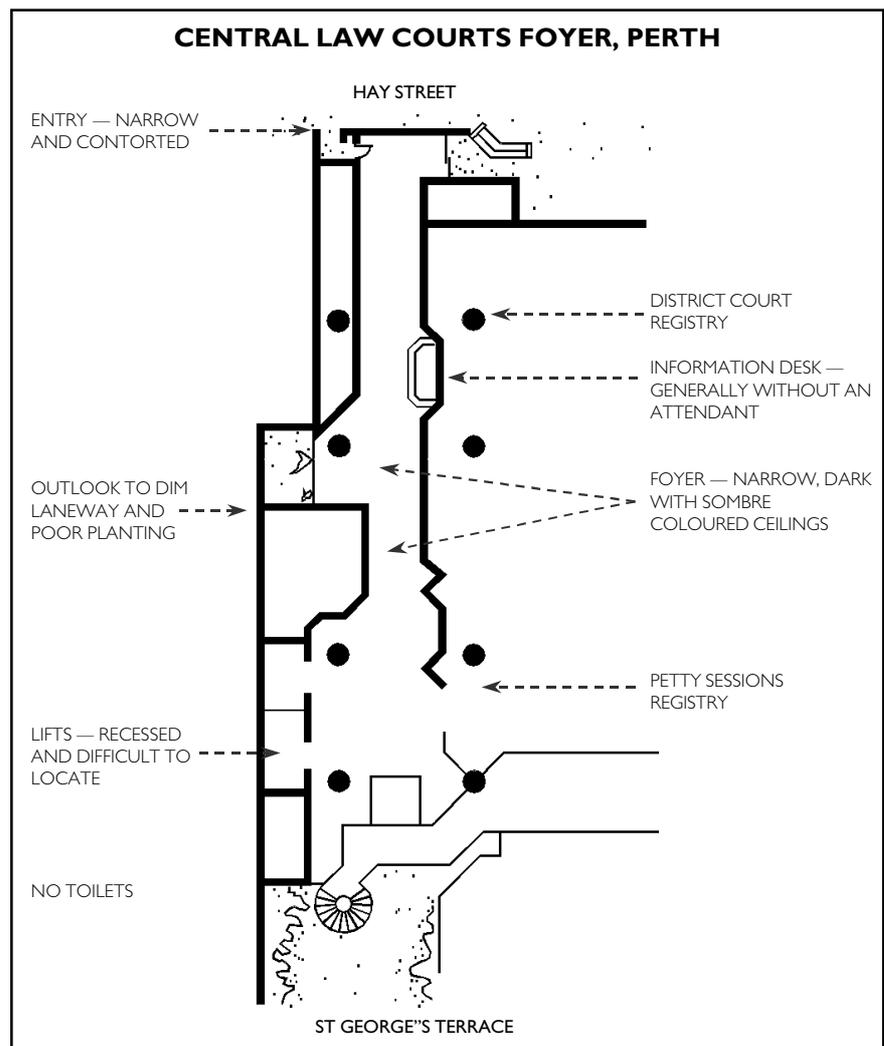
A crucial issue involving foyer spaces is the design and location of information services. In some cases, this can be provided in a central waiting area close to the entrance. If there are several foyers near the entrances to groups of courts, each area may require an information service.

The Family Court in Sydney has an excellent foyer. Courteous security staff usher users into a discrete security area, set off to the side so the security



equipment⁷³ does not detract from the open welcome indicated by the visible main entrance. A friendly staff person at an information desk values court users and signals their importance. By contrast, grand staircases inform users of the majesty of the law. Lifts, going up to the courtrooms, are clearly visible off to the side. There are toilet facilities located nearby with obvious signage. The Registry is clearly visible through glass doors. The architecture and design of the space reduces stress and seems to communicate the importance of the individual. The following diagram of the Sydney Family Court foyer illustrates these good design aspects by allowing easy access to required services and facilities.

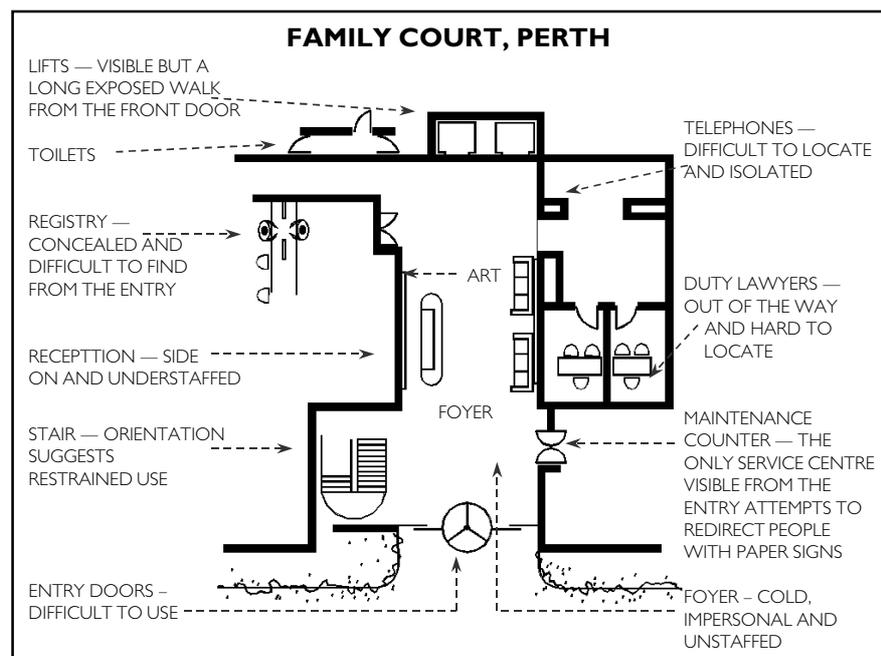
The foyer of the Perth Central Law Courts is a less successful way of addressing the building entry issue. There are two entries on different levels. The foyer is a long narrow thoroughfare running between two main city streets. The



thoroughfare through the building is a good concept however. It is dimly lit with comparatively low ceilings and somewhat depressing ambience. The design makes it difficult to find required destinations and services. The outlook to natural light is limited, overlooking a dingy laneway. The St George's terrace entry is through an inhospitable small plaza. The thoroughfare is accessed from a dim basement with lift buttons which are difficult to locate, or by a circular outside staircase which may be experienced by some users as uncomfortable to use. The Hay Street entry is indirect, narrow and not welcoming.

The Perth Central Law Courts foyer accesses two Registries which have separate functions. The two Registries are difficult to distinguish from one another. The lack of effective sign posting in the thoroughfare foyer makes each registry hard to find from the opposite entry. The information desk is not always staffed. The lifts are recessed at the end of the thoroughfare and the location of the courts is not clear to first time users. With better lighting the floor would appear more inviting. Public toilets are not provided on the two entry levels of the building and are not easy to find on the upper levels where the courtrooms are located.

The Family Court in Perth is a modern building with a marble floored foyer with good natural light. However, it has a cold and impersonal entry in contrast to the adjacent Federal Court entry which has floor rugs and softer interior architecture. As no staff or amenities are apparent when entering the foyer, first time Family Court users may feel the system is cold and impersonal



because the building is. It is difficult to find where to go when there are no indicators in the design. The services that people require such as telephones, the registry, listings, child care, counselling, security staff and the duty solicitor are not visible upon entry. The orientation of the staircase indicates it may be intended for use only by court personnel and lawyers and does not make clear its destination nor availability for public use.

The entry doors are not inviting. The revolving door is difficult for people with children, and people in wheelchairs. The automatic sliding door is not immediately apparent. Inside, the reception is not staffed.⁷⁴ The counter is isolated with one end facing the user on entry. There is no listings board. Instead pieces of paper lying on the counter highlight the names of the judges and magistrates. Listing information should be presented in a user-friendly format.

The only visibly staffed area on entry to the Western Australian Family Court building is the 'Maintenance' section. This office seems to receive unwanted questions from users because the walls in the area when visited feature an array of paper signs in an attempt to re-direct people to necessary services. The Registry door is concealed in a recess beyond the deserted reception counter. Another paper sign attempts to overcome the problem by pointing out that the Registry is nearby.

The telephones are difficult to locate in an isolated and potentially dangerous area away from the Registry and unseen by any staff. The duty lawyers are located in an alcove behind closed doors off the foyer with no indication of how to reach them. Although the lifts are central and visible in the foyer there is no indication that they lead to the courtrooms, childcare, counselling or other family court services. The entire foyer design does not assist in getting people to the information they require or to their destinations. There are, however, two lovely tapestries which provide a pleasant aspect to the environment.

Court registries

Court Registry staff are the first contact many people have with the civil and criminal justice system. They answer enquiries, accept or reject documents for filing, refer people to specialist services, and urge the unrepresented to obtain legal advice. Registry staff regularly deal with annoyed and angry users. Wide counters and glass screens may offer a degree of physical safety from people who become frustrated. The Ministry of Justice survey reported satisfaction with the level of service provided by Court Services staff but noted that there are insufficient numbers of staff and the amount of training staff receive is inadequate.⁷⁵ Training staff to deal with anger and abuse in such skills as active listening can provide some degree of psychological and workplace safety. However, providing information, assistance, and services may ultimately be a more effective way to reduce users' hostility.⁷⁶

A readily accessible area that looks safe and semi-private is needed in court registries. Some users are dealing with sensitive applications such as restraining orders. When attending in person, applicants require acoustic privacy and supportive staff.⁷⁷ A domestic violence victim seeking a restraining order reported leaving the registry unable to make an application because she felt uncomfortable about being overheard by other registry users.⁷⁸ Registry design problems are particularly acute in small country courthouses. At a public consultation meeting in Albany in connection with the justice system review one speaker observed that there is only one entrance at the Mt Barker courthouse so that anyone seeking a restraining order, for example, has no private means of entering the Registry at the court.

Private rooms are provided in the registries at the Western Australian Family Court, Central Law Courts in Perth and in the Geraldton Courts building. However, these are not offered to or visible to potential users or signposted to indicate availability. When not in use these spaces should be visible and designed to indicate ready availability for those who need privacy.⁷⁹

Waiting areas

Waiting areas are important for many users, particularly in courts where scheduling procedures designed around the court's convenience require lay participants to wait long periods for cases to be heard.⁸⁰ Waiting area design must cater for two conflicting possibilities: chosen contact or safe separation. Generally, waiting areas are immediately outside the court room to allow people to be called into the court when their case is to be heard. Opposing parties are likely to come into contact with one another in the waiting areas, lifts or access ways leading to these spaces. This can be a positive opportunity when it leads to last minute negotiation and settlement between the parties before going into court. However, victims of violent crimes may be subject to intimidation, distress or further violence by contact in the waiting area. Court users can experience stress and insecurity by unnecessary contact with the opposing party. Some victims need complete separation from alleged perpetrators. While some courts provide for separation of children and vulnerable witnesses, in others waiting facilities often place victims in inappropriate contact situations with perpetrators. Distress may be experienced by users denied this respect by court building layouts.

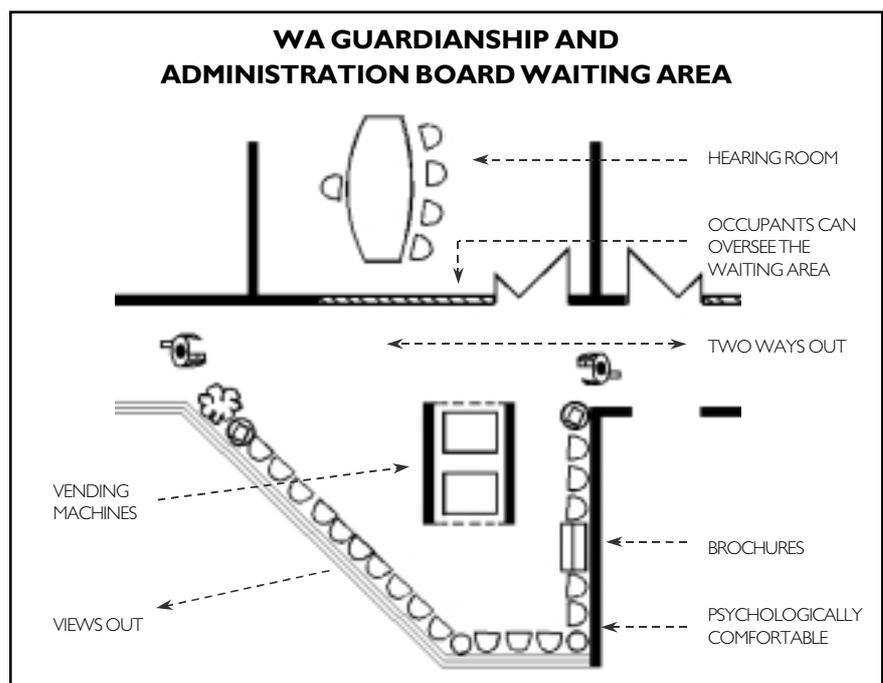
Appropriate design of seating can assist in providing physically comfortable and psychologically safe waiting areas. Clusters of comfortable chairs and couches are preferable to rows of hard institutional seats. Separations for acoustic privacy allow comfortable discussion to occur. Court staff should be positioned to oversee seating which helps people to feel secure and reduces the likelihood of physical violence. Alternate entrance and exit routes allow people to avoid coming face to face, particularly unexpectedly, with opposing parties or having to walk close to the other party. Some people

may be comfortable when the seating arrangement puts them opposite the other parties and eye contact is difficult to avoid. Anxiety may result if seats face away from entrances or windows or when seating positions do not permit people to see who is nearby or approaching from behind.

The circulation areas, lift areas and waiting areas are high use areas in the Perth Central Law Courts. This is particularly true for the Local Court and the Court of Petty Sessions. People are often forced into close contact with others.⁸¹ Users often come face to face with opposing parties when lift doors open onto corridor areas. Staircases are the only alternate avoidance routes.

Other design aspects of the waiting space can also assist users. Natural light and an outside view provide psychological relief. An alcove at a window area away from the main waiting area provides an emotional break from the intensity of proceedings or long waiting periods. Warm artificial lighting which varies in intensity rather than institutional lighting is more restful and calming. Some soft finishes rather than a predominance of hard, reflective or reverberating surfaces as well as artworks, information services and cafe facilities can also assist in making the waiting experience less tedious and stressful.

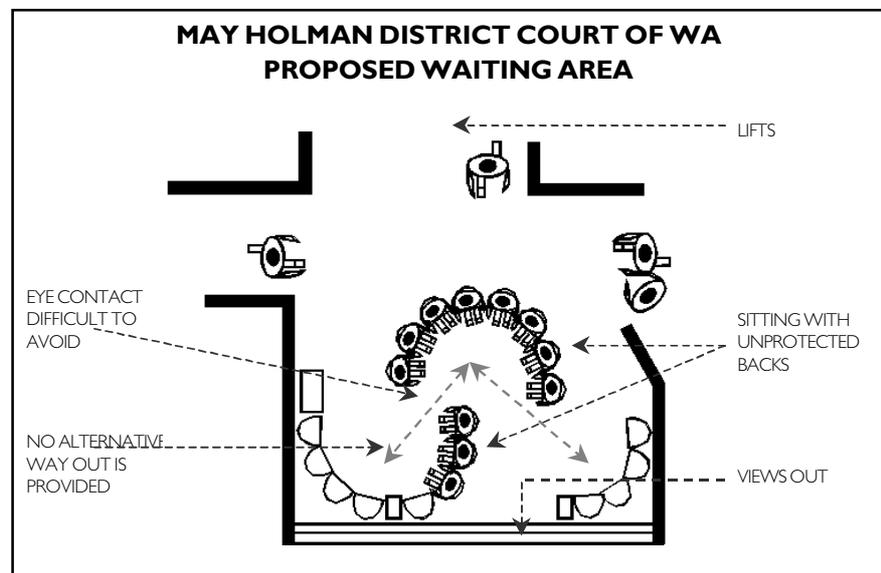
The Western Australian Guardianship and Administration Board waiting area has certain positive design aspects for the user's physical and psychological comfort. The waiting area has an exterior view. It feels safe for vulnerable users. It is overseen through louvre windows from an adjacent room. The waiting area has two ways out from any seat position to allow avoidance if required. It also provides areas which, while screened from each other, are



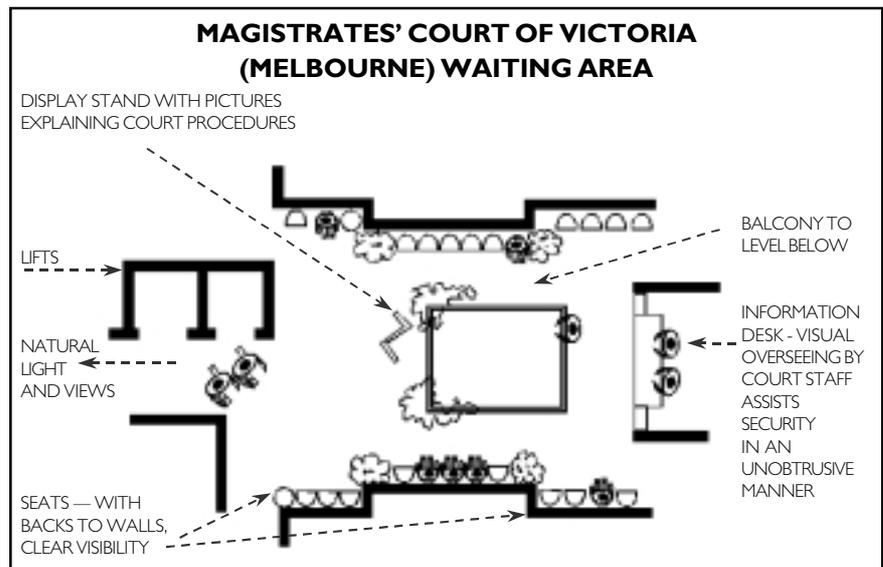
not hidden. The openness, natural light and visibility of the adjacent corridor provides a feeling of safety and comfort. A central island unit containing brochures and vending machines also provides screening to separate areas and prevents unavoidable eye contact. The area has a light, open, safe, and comfortable 'feel' to it.

The design of vending machine enclosures is an issue.⁸² In the Guardianship and Administration Board machines are placed back to back in the centre of the waiting area and are enclosed with projecting side panels to minimise their visual intrusion while providing ready access for users.

The proposed May Holman Courts indicate a well considered architectural design in many aspects. However, the seating in the waiting areas does not fully provide for users' psychological comfort. Chairs facing away from pedestrian traffic and other seats increase discomfort because peoples' backs are exposed. Users are not safely separated from those they wish to avoid nor can they escape unwelcome eye-contact when seats are directly opposite each other. Stress and tension between parties may be increased during waiting periods. While a separate room is provided adjacent to one of the courts for distressed witnesses, to access the room users must walk past the main seating area and other parties to reach the court. There are remote witness areas but only two of these have the benefit of natural light.



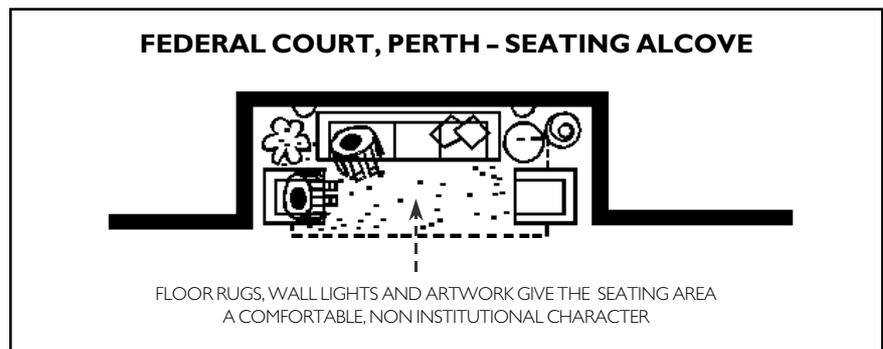
The Victorian Magistrates' Court in Melbourne provides open waiting areas with natural light, alternate avoidance routes, alcove seating areas with backs to walls and visual oversight by court staff to promote security. These factors



assist in creating a physically and psychologically safe waiting area. Display stands show photographs of the different 'players' in court proceedings and explain their roles. This is an effective way to communicate information and it gives people something useful to look at while waiting.

The Federal Court in Perth has a waiting area in an alcove opposite the ground floor lifts which also provides a good model for a discrete, yet open, waiting arrangement. The alcove has a couch and two comfortable chairs in a conversational grouping. There is a clear view out of the alcove. Wall lights provide varied lighting intensity. Together with a floor rug, the lighting and comfortable seating create a pleasant, non-institutional environment.

The Geraldton Court is an historic building with impressive court spaces and good quality natural light. However, the waiting areas on the upper level have hard chairs lined up along the edges of a corridor exposing users to unavoidable contact. There is no opportunity for opposing parties to wait in separated areas and this can increase tension.



Proposal 9

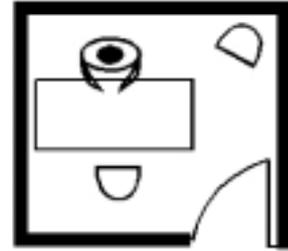
There should be user surveys as a basis for developing design guidelines for high traffic public access areas including foyers, registries and waiting areas. From the information received it should be possible to create protocols for the upgrading of existing, and design of new, court facilities.

Interview rooms

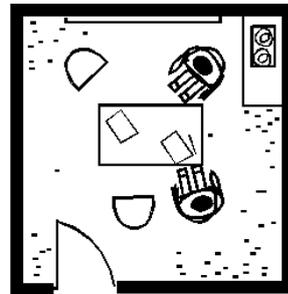
Corridors and waiting areas are often used to conduct aspects of legal proceedings. Parties may negotiate with lawyers. Judges can send parties outside the court room to discuss settlement. Many courts provide small interview rooms in the waiting areas for this purpose. The Family Courts in Australia provide facilities for this type of negotiation. The following reviews of various architectural configurations seen in Family Courts have relevance to civil and criminal courts.

The Family Court in Perth has small interview rooms, each filled with a table and chairs. There is no natural light, only a low level of artificial light. Solid doors have small peep holes. For some, these rooms may be depressing and isolating, like cells. Litigants can be left in these tiny spaces for lengthy periods without water or visual relief. This may unnecessarily increase the stress felt by users.

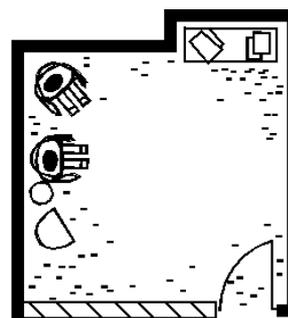
Other courts such as the Family Court in Sydney provide discrete seating alcoves within the waiting area. Seating alcoves provide a suitable degree of acoustic privacy and distance between

INTERVIEW ROOMS

CENTRAL LAW COURTS – PERTH, FAMILY COURT OF WA AND GERALDTON COURT — SMALL, DIMLY LIT, CELL-LIKE INTERVIEW ROOMS WITH NO NATURAL LIGHT OR VENTILATION, SPARSELY FURNISHED



ANTI-CORRUPTION COMMISSION OF WA — THE INTERVIEW ROOM HAS A MORE COMFORTABLE AND SPACIOUS FITOUT THAT WOULD BENEFIT FROM ARTWORK AND A GLASS WALL



ANTI-CORRUPTION COMMISSION OF WA — PRISONER INTERVIEW ROOM/ HOLDING CELL — THE WALL OF GLASS WITH LOUVRES AVOIDS AN ENCLOSED CELL-LIKE ATMOSPHERE; THE CARPET IS THE SAME AS IN THE DIRECTOR'S OFFICE; THE PRISONER'S CHAIR IN THE CORNER IS IN A PSYCHOLOGICALLY COMFORTABLE POSITION

parties. Users can partially see others and are not left feeling excluded and isolated during negotiations. The practice of lawyers negotiating out of the client's sight and hearing may protect their clients' interests, however, it may seem to some users that they are prevented from participating in their own cases.

Instead of enclosed interview rooms, courts should provide comfortable seating with work space in waiting areas, designed to allow privacy and separation of parties. There should be tables at working height in both open and 'defensible' locations.

In some circumstances, for reasons of anonymity or security, enclosed interview rooms are necessary. For example, the Anti-Corruption Commission of Western Australia provides comfortable, spacious, private interview rooms. The Anti-Corruption Commission also has a prisoner interview room/holding area which provides a model that courts might consider. A security glass wall prevents an enclosed cell-like atmosphere. The respect shown to prisoners by providing a pleasant yet secure environment may assist in reducing problem behaviour.

Communication facilitation

User feedback

Effective communication between busy governmental service providers and the citizens who utilise those services presents particular difficulties in the justice system. Being able to continuously obtain quality feedback from court users would enable the manager of court facilities to monitor the effects of changes implemented. Courts, like other public institutions, are now required to establish and meet performance objectives. In order to achieve a cycle of continuous improvement an effective feedback collection, evaluation and implementation scheme would be beneficial.

We believe communication between the users of the justice system, the legal profession and court staff could be improved by installing user feedback booths in every court waiting area. The Western Australian Ministry of Justice has a user feedback system of loose leaf forms placed in registries and waiting areas of the courts. This is potentially a positive and important way for the community to give constructive feedback so that the courts can understand and address users' needs. However, because the forms are in unobtrusive (though central) locations in the waiting and registry areas, many people are not aware of the forms. An informal survey elicited concerns about whether it would be safe to make a complaint while a case was in progress. Some users felt the forms were invisible to discourage use. Thus, the benefit of the court's innovation in providing for feedback was minimised due to the forms' design, placement and presentation in the physical environment.

The following are some ideas to be considered in developing an effective user feedback booth system:

- Placing the forms in a user-friendly context such as a 'booth' might encourage greater participation in the feedback collection process.
- The physical design of user feedback booths could encourage users to approach the booth, provide feedback, and feel comfortable using the service.
- Providing tea, coffee and water might encourage hesitant users to interact with booth staff and use the service.
- Booths should be staffed by well-trained volunteers and court officers representative of user groups⁸³ (including indigenous Australians, women and young people) trained to allow users to feel comfortable in seeking out information and discussing sensitive matters.
- Feedback booth staff should be pro-active and offer assistance rather than wait for enquiries.
- The feedback booths should provide referrals to other agencies, such as legal aid and victim support groups, and arrange appointments if required.
- Having a trained courts' representative with access to a telephone can maximise security and be helpful in emergency situations.
- A committee should regularly review information needs, user demands or complaints and recommend actions.

Proposal 10

Courts should consider providing user-friendly feedback booths in foyers, registries and waiting areas, staffed by suitably trained representatives of user groups to pro-actively seek feedback. Courts should introduce a review procedure to act on users' suggestions and make changes as appropriate.

Court communications

A significant part of the frustration people feel with the justice system seems to revolve around communication. The names of the courts are confusing to people in that the names do not communicate jurisdictional distinctions effectively. The tendency of justice system participants is to say 'people don't understand' when, in fact, sometimes the efforts at communication are ineffective because they are difficult to understand.⁸⁴

Courts provide various brochures describing legal procedures. There are three issues concerning brochures or information pamphlets: content, display and location. With respect to content, general brochures may not provide information which is detailed or specific enough to be helpful.⁸⁵ While some very relevant information may be provided, one court user complained the

content is 'what I'd need for a school project and not what I need to work out what's going on and what to do in court'.⁸⁶ Written information pamphlets should be in plain English and other languages covering key issues including options for parties without legal representation and suggestions for witnesses. For example, witnesses need to know how to operate in the court: how to ask and answer questions, what is acceptable as evidence and what is not. This type of information should be delivered to every witness concurrently with the summons to appear.

Brochures and information pamphlets are often displayed as a confusing array of similar looking documents in a display stand located in an entry foyer, the registry⁸⁷ or a waiting area. The Family Court of Western Australia has a brochure stand in an exposed entry area of the counselling foyer, distant from the seating area. Although very visible, the location requires deliberate rather than 'discrete' access. Discrete brochure placement encourages use so that people will not feel self-conscious perusing the brochures. The Guardianship and Administration Board in Perth has brochures in the seating area displayed adjacent to the chairs for casual and discrete access.

A fair and just system must respond to the need for information effectively. Some forms and communications which courts send to users are unintelligible to non-lawyers. Orders, judgments, notices and letters should as much as possible be able to be understood by people without the need for translation by lawyers.⁸⁸ Information sessions should be available to the public to attend at anytime in order to ask questions about court procedures. All courts in Western Australia should consider offering information sessions, similar to those provided by the Family Court.⁸⁹ An aspect which requires further investigation is whether to provide information on the life disruption and stress associated with legal proceedings and, if so, what information should be provided and how.⁹⁰

Proposal 11

Court communications and procedures should be simple, straight forward and clear enough to be understood by ordinary users.

Information services

For the law both to be, and to be perceived as, fair and just, all court users should be entitled to understand what is happening and to participate in an informed manner in their cases. The cost of accessing the justice system increasingly prevents ordinary users from being represented by lawyers. Currently many litigants who represent themselves report being disadvantaged and treated like hindrances.⁹¹ Some users feel they cannot receive a fair hearing without having a lawyer.

There are currently no statistics kept by the Ministry of Justice on the increasing numbers of people representing themselves. However, with limits on the availability of legal aid and a majority of the community unable to access legal aid in any event, it is necessary to acknowledge the phenomenon and deal with the psychological consequences of people who feel closed out of the justice system. Many people do not qualify for legal assistance or, they cannot afford or do not wish to spend money on lawyers. Because the court's language and procedures are so complex and the system cannot be understood or used without lawyers, people feel they are denied access to the courts. These people may feel resentful and abused because they must participate in a system they can neither understand nor afford. The psychological results are evident in the submissions received by the Law Reform Commission of Western Australia.⁹²

To address this problem consideration should be given to the development of information services,⁹³ with the object of communicating a sense of openness and accessibility of the justice system. The following is a list of ideas, not necessary exclusive or comprehensive, which might be considered when developing information materials and associated facilities.

Facilities:

- Access to computers, standardised forms and facilities for photocopying, faxing and telephone conferencing;⁹⁴
- Access to translating and interpreting services;
- Telephone connections to other agencies such as Legal Aid, the ALS, and other social services and organisations;
- Information sessions with mediators, lawyers and court personnel;
- Helpful, well-trained and understanding staff;
- Videos, guide books and audio tapes available for loan and on the internet to allow users to prepare documents away from the court;
- Cafés and eating areas in the centre, adjacent to it or nearby;
- Safe, affordable child care facilities; and
- Ready access to shop front legal advice.⁹⁵

To be effective these facilities must be visually accessible, safe and user-friendly.

Services:

User information needs should be determined after comprehensive studies,⁹⁶ particularly of the requirements of self-represented persons. This should

include enabling materials, 'how to do it yourself', in addition to information about the law in a variety of user friendly formats.⁹⁷

Content:

- Examples of how to prepare documents, mediate or negotiate, and, as a last resort, suggestions for 'how to do it' in court;
- Do-it-yourself checklists and guides;
- Case studies and examples of actual cases as well as simulation guides;
- Library facilities, including relevant law books, manuals and self-help discussion papers;
- Reports of past users' legal and life experiences with the justice system; and
- Computerised and Internet information.⁹⁸

These materials may already exist and be available from Community Law Centres, Legal Aid, the Australian Legal Service and other sources. The object would be to bring all materials together in one place at the Court.

Proposal 12

Courts should consider providing self-help centres to facilitate access to information and services for all users but particularly for self-represented litigants.

Special needs

There is a range of special needs for users which the justice system should accommodate.

Access for users with disabilities

Access for court users with disabilities should be convenient and respectful of their needs.⁹⁹ Rear service lifts, temporary ramps and wheel chairs placed in exposed positions in front of inaccessible witness boxes marginalise people with disabilities. Some counter space seating should be provided in Registries and at least one space should be at wheelchair height. The Supreme Court Registry and the Guardianship and Administration Board have wheelchair accessible counter space. Other courts should provide similar facilities for disabled people.

Most court designs prevent or limit access by people with disabilities to jury boxes, witness stands, defendants' docks, bar tables and judges' benches. The tradition of judges and juries being raised above the floor of the court causes these difficulties. Creating these different levels within court rooms is expensive, providing access to all court room facilities for disabled people is even more so.¹⁰⁰

Other people with special needs include the aged and frail, those with hearing or visual impairments, intellectual disabilities or psychiatric illnesses, and those who speak a language other than English as a first language. Australia, as a multicultural society, has many citizens who experience language barriers. It is necessary that interpreters be available and accessible before, during and after court proceedings. Some people have negative reactions to crowds, to enclosed spaces or to police officers walking around carrying guns. While not all needs can be fully met in all courts, court planning processes should avoid stigmatising or marginalising people with special needs.

Indigenous Australians and others

The scope of this study does not permit any significant examination of the needs of indigenous people nor those without English as a first language. Any systematic study of court consumers' needs should include full consultations with indigenous and migrant groups. Some research involving indigenous Australians has already identified architectural and psychological issues in court design.¹⁰¹ Concepts of space, cultural practices and the use of public art should be addressed in future research.

The justice system should consider alternative dispute resolution strategies specifically tailored to the cultural requirements of indigenous Australians and others.¹⁰² A circle is a traditional model of aboriginal dispute resolution. The elders are at one point; the 'plaintiff' with his or her family and supporters at another; and the 'defendant' and his or her family and support group at another. They make a triangle within the circle. The equal prominence and inclusion of all participants, the emotional support available for victims and defendants, and the equality of the elders provides a model which may be relevant for other users. Further research should be considered.¹⁰³

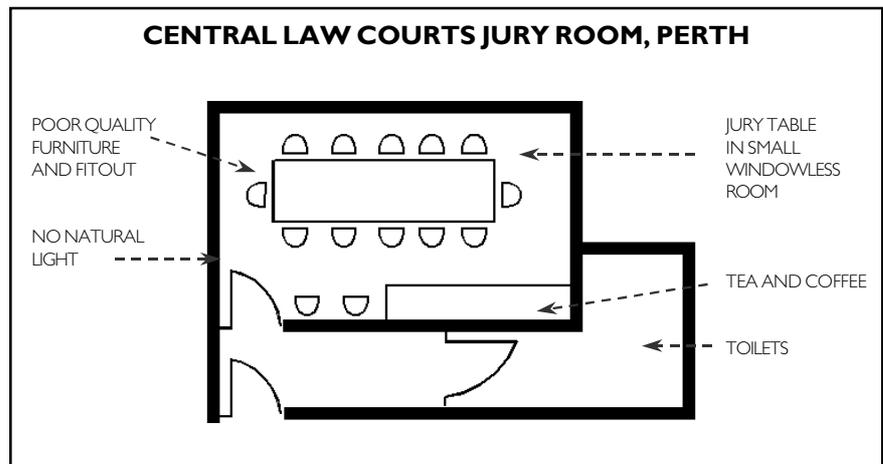
Proposal 13

A study of the involvement of indigenous Australians with the justice system, with particular emphasis on alternative dispute resolution and developing services and facilities which meet the needs of indigenous Australians and other population groups from non-English speaking backgrounds, should be considered.

Juries

Jury room design

The jury system depends on the support and good will of the community. Yet many jury rooms are cell like spaces with low quality fittings.¹⁰⁴ The design of jury rooms is often physically adequate but psychologically impoverished. Jurors, while doing a service for the community, are confined for long periods in small, dark, crowded rooms with no windows. Deliberations can be tense and the atmosphere stressful.¹⁰⁵ Jurors have to cope, generally unassisted, with the emotional stress and life disruption associated with jury service and exposure to traumatic details of cases.¹⁰⁶

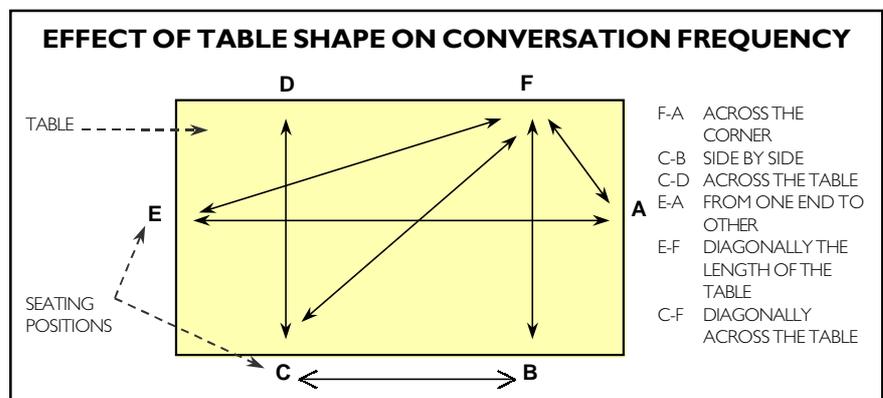


The disproportionately small allocation of architectural funds and space in existing courts by implication may indicate to jurors that they are not important. Respectful treatment would provide jurors with quality space and fittings comparable to that enjoyed by other participants in the justice system.

Natural light, an outside view that does not compromise jury isolation, comfortable furniture, art work and psychological withdrawal space, in which to retire for a break from tensions in the deliberation process, are necessities to be considered in future court design.

Jury tables: rectangular vs round

Tables in all jury rooms inspected were rectangular. Seating at rectangular as opposed to round tables has an impact on speaking patterns and deference behaviour.¹⁰⁷ More dominant jurors are likely to seat themselves at the head of the jury table. It is more likely that a person at the head of the table will be selected to be jury chairperson.¹⁰⁸ Round tables are more likely to accord equal status to all participants.¹⁰⁹



Women are often disadvantaged in conference table situations by the social habits of men who interrupt, raise their voices in discussions, and silence others by often unnoticed social dominance behaviours.¹¹⁰ Giving jurors written instructions about how to provide equal opportunities for all members to speak and be heard may be of some value.

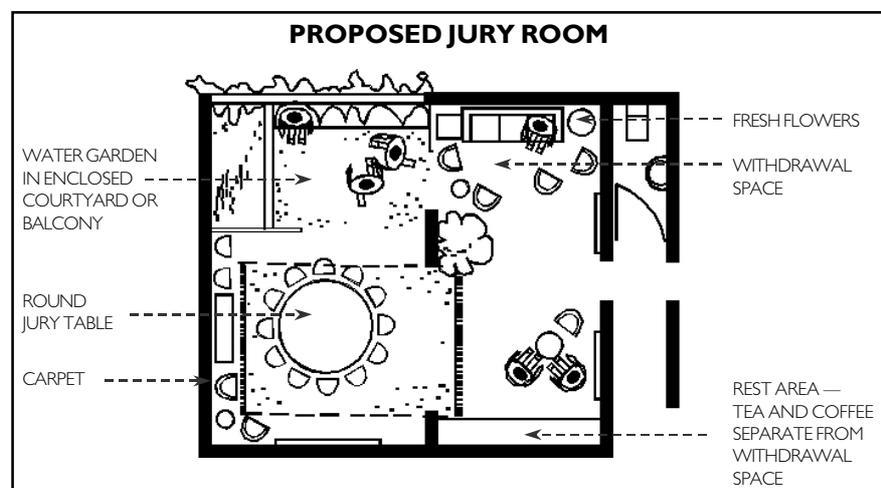
However, proper design messages should be considered.¹¹¹ No psychological distance or withdrawal space away from the jury table was available in the jury rooms observed in Western Australia. The possibility of a dominant personality or group controlling the jury increases without a withdrawal space. Particular jurors may feel that their psychological space is violated. This increases the possibility of stress related difficulties or distortions in the decision making process.

Courtroom contact

There are a number of unresolved issues about courtroom contact between jurors and other court participants. As there is little or no research on this topic, it is useful to identify some of the issues which merit further examination.

Some judges leave jurors in court when absent because it is preferable to confining jurors to small, windowless jury rooms. This practice raises a number of questions:

- Should jurors remain in the court room when the judge is absent if there is the potential to be influenced by the conduct of others in the court
- Should jurors see witnesses and families of victims and offenders without having the judge present?
- Given that courtroom architecture currently places jurors in contact with others, should the jury box have a screen or baffle to reduce contact between jurors and parties, witnesses and their families in the court room? Is contact desirable?
- Can a jury complex be designed to serve several court rooms?



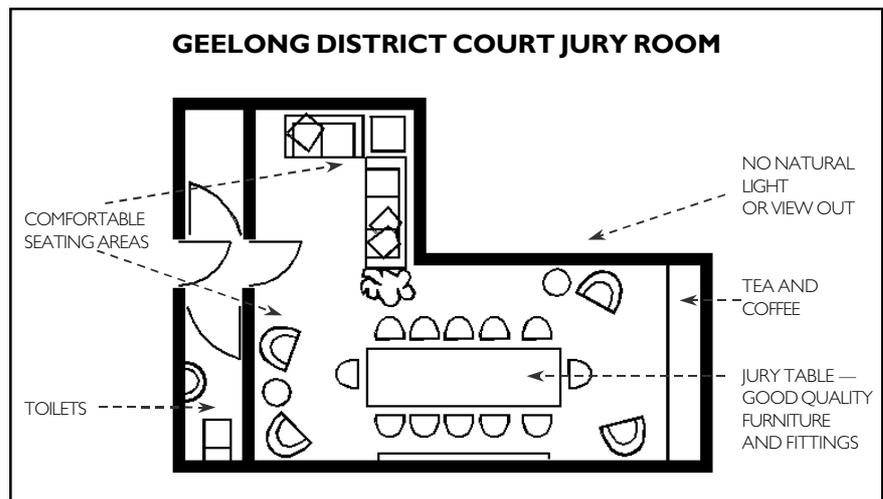
Emotional ties with parties, witnesses and their families may develop, particularly during long trials. Contact with the parties and their families permits jurors to see the other participants in the court room drama as people with whom they bond emotionally. In criminal cases, defendants and victims become real, not abstract, persons. Does that affect the likelihood of the defendant being found guilty? This is a complex area requiring further investigation.

Proposal 14

Research should be undertaken to develop instructions for juries to allow each juror an equal opportunity to speak and be heard during deliberations.

Good models

A jury room at Geelong Combined Courts in Victoria provides an alcove with comfortable couches and lounge chairs away from the jury table. Jurors are able to separate physically, and more importantly psychologically, from others. Withdrawal space can assist in reducing tension among jurors.¹¹² In long or difficult cases the opportunity to relieve stress or break an impasse, by withdrawing for a time, is particularly important.



Proposal 15

Jury service should be recognised by providing pleasant jury room facilities including round tables, natural light, outside views, withdrawal spaces, comfortable seating, and good quality fittings and furnishings.

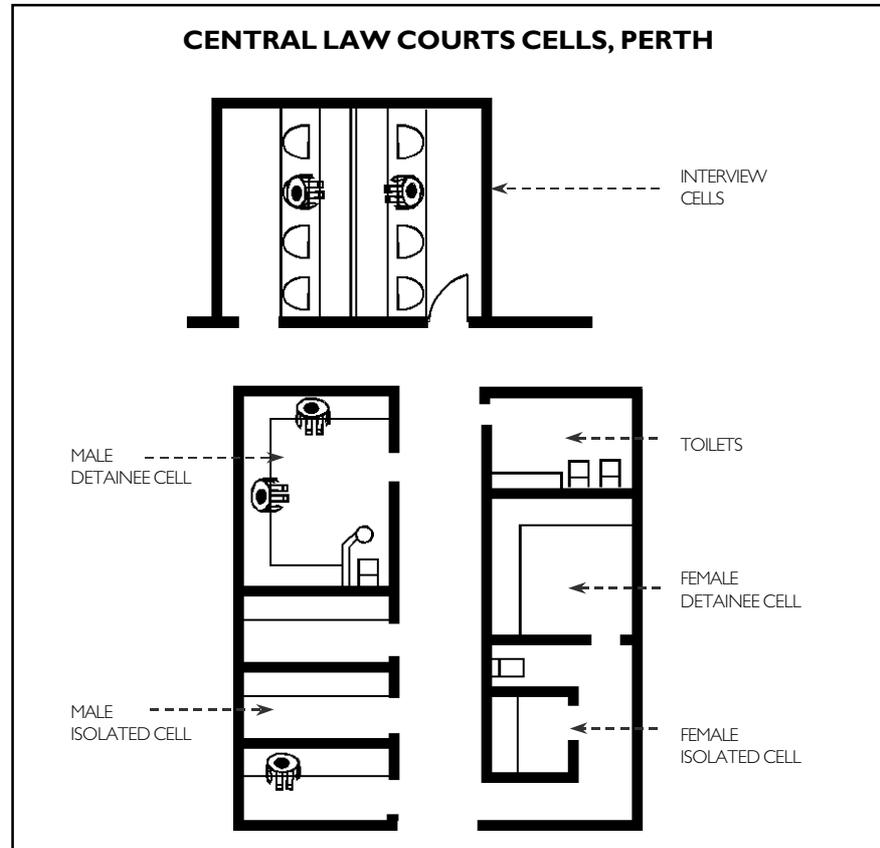
Security

This topic, perhaps more than any other noted in this sub-section, requires further in-depth study. The current power to provide adequate court security is limited and legislative change is required in order to enable proper security screening at courts in Western Australia. Security is more than providing locks, closed-circuit television and monitoring equipment. Good architectural design can help people feel safe. Moreover it is possible to make necessary security procedures discrete.¹¹³

Holding cells and detention areas

One might assume that the people experiencing the most stress on entering a court building arrive at court in a secure prison vehicle or from a police station. Some of these individuals may be aggressive or violent. The environment provided for their care is of utmost importance. Cells in all facilities inspected for this project except one¹¹⁴ had concrete floors, stark 'anti graffiti' painted walls, hard benches, and no natural light or outlook. These holding cells and detention facilities are psychologically deprivational. There is an absence of sensory stimulation which can cause immediate and depressing effect on users.¹¹⁵

Some believe this is appropriate accommodation for people in custody who have been charged, are unable to get bail or have been denied bail and are



awaiting court hearings. However, to hold individuals in demeaning conditions before their case has been heard merely because they cannot obtain bail, contradicts notions of justice, and signals that accuseds are considered guilty before their cases have been heard.¹¹⁶

From a simple design point of view, respectful waiting areas for accused people may reduce disrespectful or aggressive responses by them to furniture, fittings and officials. Studies indicate that environments of deprivation make residents devalue themselves and lose self-esteem and self-respect.¹¹⁷ A vicious cycle of damage, repair and ever greater damage is the inevitable result.¹¹⁸ Respectful design is likely to reduce maintenance costs and may reduce the level of hostility to which police and court staff are subjected.¹¹⁹ This area merits further research.

Some structures are capable of catering to heavy duty public use while at the same time providing a reasonable level of comfort appropriately respectful to users.¹²⁰ Respectful design does not preclude the safety requirements necessary for deaths in custody issues.¹²¹ Concrete terrazzo floors for example are durable, tough, easy to clean and provide visual relief. They permit simple artistic inlay patterns which can communicate to the user and provide some psychological relief during waiting periods. Similarly, walls can have detailing without compromising safety.

More importantly, respectful design of secure facilities may present a vision of equality before the law. This may be particularly relevant where users are from traditionally marginalised groups and have experienced hostility those associated with the justice system. Design improvements can also be achieved by holding the charged person in a secure waiting area with access to natural light and a secure garden or courtyard space.

Prisoner detention areas and interview rooms at the Anti-Corruption Commission are carpeted with the same carpet as is used in the Directors office. Prisoner areas are spacious. They have comfortable chairs and glass walls with louvres to allow an outside view. Current newspapers and magazines are available for prisoners to read while waiting. There are stringent security measures as high risk prisoners appear before the commission. The Chairman of the Anti-Corruption Commission, Mr O'Connor QC, has a policy of respectful and humane treatment of interviewees and prisoners. People are treated with respect and given a pleasant soothing environment to encourage them to return respect and reduce hostility and anger.

Just as the visible physical connection of the police buildings to the courts may reduce the community understanding of the courts as independent, a lack of clear distinction between police cells and court holding areas may have a similar message. When corridors connect police and court facilities,¹²²

a clear change in the architecture and interiors, design, surfaces, colours and finishes can visually indicate the independence of the courts from the police.

Work areas for police in courts are of a noticeably lower standard than those provided for some other users in court buildings. Improving the conditions of secure areas is not just for the benefit of prisoners. Security staff and police are essential participants in the court system. Their value to the justice system should be recognised by providing more pleasant working environments.

Art work

As well as being pleasing to the eye, art may also have a didactic function. It may symbolise justice, openness, fairness, protection, order and benefit society is accorded by the law. Some classical sculptors symbolised justice as a maiden holding scales who would evenhandedly adjudicate between the parties. German artists in the sixteenth century put a blindfold on the figure to indicate the corruption of the courts. Blindfolded *Justitia* became so well-known it is almost an artistic cliché. Ironically, the bandage which first indicated the folly of the law reversed its meaning and came to represent impartiality.

There are many individuals and events in Western Australia's legal and community history which could be celebrated, commemorated or recalled in shame, for example, women's franchise, stolen children, aboriginal citizenship and ownership, past judges and legal milestones. Any of these might make suitable themes for court art work, which could become part of a stock of publicly owned art. Temporary exhibitions reflecting anniversaries or issues of contemporary concern might also be considered.

Art can communicate belonging and inclusion to various user groups. Art values the diverse nature of the community. The Aboriginal Land Rights Tribunal in the Federal Court in Western Australia features traditional and modern indigenous art.

In addition to the symbolic aspect there is a less obvious role art and architecture can play in the courts. The physical surroundings and atmosphere of the courts may influence behaviour and impressions of legal proceedings. Surroundings which are experienced as 'institutional' and cold may communicate negative impressions, while considered surroundings may enhance respect for the justice system.

This can be done in a playful and even witty way. A painting hangs at the top of the stairs at Geelong Combined Courts in Victoria. It is of a youth casually sitting on an old stone set of steps leading up to the old courthouse. The new court stairs appear to continue into the painting. The very grand and serious staircase turns into a modest set of steps. The new leads into the old. And sitting at the top, looking down over all this pomp, is a teenager.

An art connoisseur might recall political engravings created during the peasant wars in Germany where the medieval pyramid of authority was subverted by placing a peasant at the top. To young people, all too frequent users of the courts, the painting might say that they belong, they're on top. To the general public, it communicates warmth and permission for comfortable behaviour in a formal setting. The grand staircase indicates the importance of the courts. The painting dismisses notions of intimidation and supports users comfortably participating in a grand experience. Formality and intimidation or informality and disrespectful behaviour are not the only options. Art can assist by communicating respectful celebration of the justice system and its relevance to communities and individuals. As most lay users spend considerable time in court buildings waiting: waiting for their case to be heard; waiting to be called; waiting for the jury to deliberate; waiting for the judge to come back from lunch. Art can help to make the time flow more easily and take the mind off court business.

Some courts have made a good attempt to integrate art. The Family Court of Western Australia has a good basic colour scheme and a collection of prints. The use of natural light and views in both the public waiting and court areas provides a positive background. However the prints are small and tend to disappear in the large spaces in which they are displayed. Symbols and sensory stimulation are minimised. According to a court counsellor, the overall atmosphere is perceived as somewhat sterile and bland by some users.

The Central Law Courts (Petty Sessions, Local and District Courts) have, as one person interviewed for this study commented, 'police station aesthetics'. This was perhaps unfair to some police stations which display constantly changing portrait galleries to brighten up their public waiting areas. The Central Law Courts, however, lack artistic or other community and legal symbols. If the Family Court is considered bland, the public entry and waiting areas of the Central Law Courts can be described as austere.

Tribunals sometimes are more innovative than courts. The Western Australian Guardianship and Administration Board is investigating the most appropriate type of art for its client group. The Board is considering the impact of art works on particular users who may have special mental states and perceptual sensitivities. For example, schizophrenics may have emotional reactions to certain shapes and colours. This issue is relevant in courts, where users may experience a range of emotions, including fear, hatred, anxiety, boredom and relief.

Appropriate design, together with appropriate art work, can symbolise the often important life events people experience in the courts. Art serves not just as something to look at, but a practical device to help people come to terms with the emotional, social and psychological experience of the court proceedings.

Proposal 16

Art should be integrated into courts to assist in making a respectful environment. This might include temporary exhibitions, works commissioned and integrated with architectural design, fittings, and gardens. Particular attention might be paid to works by local artists, diverse cultural representations or items of local or state significance.

COURTROOMS

Courtrooms are complex spaces. They require separate entrances and circulation systems for judges, prisoners, the public and, in some cases, juries. Courts use different height elevations for different participants. Courtrooms increasingly include security devices, computerised information systems and closed-circuit television systems. Separation, elevation, information; these pressures make the design of courtrooms a costly and difficult procedure.

These concepts are also being reviewed in light of new demands on the court system. Separation may be needed to protect vulnerable witnesses from alleged abusers, and estranged partners from each other. Prisoners are not the only ones who pose a security risk. Separation of prosecution and defence from a shared table may be useful to provide more effective participation by other court users. Elevation of judges has served to ensure that the tallest standing lawyer cannot look down on the shortest sitting judge. This practice may need to be rethought in relation to psychological evidence about how people experience space. The information needs of 'the court' (usually meaning the judge) are given precedence over the information needs of witnesses, self-represented litigants, and members of the general public.

Courtrooms in Australia have remained largely unchanged in their traditional configurations for at least a century, while new technology has been added around the existing shapes and spaces. Judges sit in the middle at the front on an elevated bench. Prosecution and defence lawyers sit side-by-side in the space below the bench facing the judge. Witness boxes are usually on one side, jury boxes on the other. Prisoners' docks are at the back in some criminal courtrooms, or on the side, opposite the witness box, in others and both are elevated. It can be argued that this layout has been so thoroughly tested over such a long period it would be unwise to tamper with it.

There are, however, some problems with traditional courtroom layouts.¹²³ There are also issues related to pressures of time and space and flexibility. Below we examine options for the three principles: separation, elevation and information.

Space and distance

Psychological researchers, pre-eminently Edward T Hall, have theories about the way distances are developed, maintained and experienced in social interactions.¹²⁴ Hall's study of the communication function of spatial behaviour focuses on what he calls proxemics or 'the interrelated observations and theories of man's use of space'. Not everyone experiences space in the same way. The variation is due to individual styles and diverse cultural constructs.

In Western culture, according to Hall, 'intimate' distance, from touch to 45cm, is for intimate exchanges between very close friends. Subjects of a personal nature can be discussed at this distance. In certain situations this intimate space is invaded unavoidably by strangers, for example, in a crowded lift. But, this situation is usually handled by avoiding eye contact and squeezing in stomachs. Insults delivered at this distance could be particularly threatening.

Personal distance, 45cm to 75cm, expresses a certain degree of familiarity. A whispered conversation between barrister and solicitor might occur at this distance. However if a violent prisoner was to pass this close to a vulnerable witness, it might be experienced as intimidation.

'Social distance', 1.2 metres to 4 metres, is suitable for impersonal business. People working together tend to use this distance. It is easier to talk informally, use overlapping speech, and adopt a casual pose when conversing over this distance. During conversations of any significant length it is more important to maintain visual contact at this distance than it is at closer distance. This is the distance participants are placed from each other in most tribunal settings and in some children's courts.

'Public' distance, 4 metres and over, is appropriate for declarations, speeches, and other formal exchanges. Normally a careful choice of words and phrasing of sentences as well as grammatical or syntactic shifts occur at this distance. The term 'formal style' is appropriately descriptive. This is the distance lawyers usually are from judges, a situation both find comfortable. There is cultural shaping of distance perceptions. However as this is also the distance witnesses and other trial participants are from judges and lawyers, the distance may cause discomfort, hesitation, and inability to speak in a natural or fluent manner and an inability to comprehend what is being said to due to the formal nature of the exchange.

Another elaboration of the relationship between space and psychology was provided by Sommer using the concept of 'personal space'.

Personal space refers to an area with invisible boundaries surrounding a person's body into which intruders may not come.¹²⁵ That is the 'territory' a person carries and regards as his or her own. It is an emotionally charged space which can evoke reactions if penetrated. It is also culturally constructed.

The personal space bubble can be conceived as an extension of 'self' that contracts and expands according to circumstances, culture and the person's own perception (conscious or unconscious) of how much protection the 'self' requires. The amount of protection required depends, in turn, on the degree of perceived threat and the degree to which some persons are perceived as persons more threatening than others.

The adversarial nature of cross-examination is an unfamiliar psychological experience for many people. It would not be surprising if research revealed that many women and members of some minority groups are not socialised to accept adversarial or aggressive questioning in a personally neutral way and this subject is one which merits further investigation. Hostile questioning can be interpreted as personally insulting and debilitating by court users expecting a 'level playing field' rather than a 'football field'.

Violations of culturally defined distance rules or boundaries of social space can cause a range of reactions: misunderstanding, discomfort, and feelings of violation, anger and hostility. These violations could be in either direction: inappropriate intimacy or excessive distancing. And, as noted above, it is probable that the distances will be experienced differently by people from various cultural, social or occupational groups. According to one study, schizophrenics try to retain a larger 'extension of self' 'personal space' than non-schizophrenics. Another report¹²⁶ found that the body buffer zone of a group of violent prisoners was generally larger when compared to a group of non-violent prisoners. Rear zones were generally larger than front zones in the violent group.

It is likely that court users represent many groups in society, including persons with a mental illness or those associated with violence. Research studies indicate it is important to consider the needs of court users when providing for and varying amounts of personal space. It might be useful in some situations to have some court facilities which permit a degree of flexibility in the distances between participants.

Audibility

As a general principle defendants should be able to hear and see the evidence presented against them. The design guide for Magistrates Courts in England and Wales¹²⁷ specifies that acoustic and environmental conditions in the dock should be the same as those prevailing in the body of the court.¹²⁸ Generally it is harder to make out what speakers are saying if the listener must look at the speaker's back. In many courts most participants including the victims, witnesses and defendants sit at the rear of the court separated by railings or barriers facing the backs of the lawyers.

The furniture layout, the distances involved, the exposed nature of the witness box, the lack of adjacent support people and the adversarial nature of the

questioning combined with the formality and lack of familiarity of the proceedings mean that most people may not be comfortable speaking in court. Unlike lawyers, most people are not trained to be verbally competent in the courtroom situation and are at a disadvantage.

Defendants are on the side of the courtroom and are able to see the lawyers' faces rather than the backs of the participants, however victims, family members and members of the public are usually treated to a row of backs. This makes it harder to decipher the proceedings. The distance of observers from witnesses, often at least twice the distance of the judge from the witness box, means that quietly spoken responses are frequently inaudible.

The other side of audibility is not being overheard in private conversations. Participants should be able to instruct their lawyers without being overheard. Thin partitions can make private interview rooms at the back of the prisoner's dock somewhat more private. Although solicitors and barristers are usually conveniently placed in relation to each other and can usually transact business confidentially, other participants in the trial process are less able or unable to communicate privately with their lawyers.

Audibility is a problem which many modern courts have overcome by microphones, carpeting and good acoustical design. Listening also involves seeing and interpreting non-verbal language such as raised eyebrows, mouth expressions, or nervous expressions. These are all signals which juries may take into account in weighing up the credibility of witnesses and defendants. Perhaps other parties should have a similar opportunity to be able to more effectively instruct or monitor their lawyers.

Other non-verbal gestures, including everyday facial expressions are used infrequently in the formal setting of the courtroom. Smiling and eye contact are more than social courtesies for many people. They provide cues indicating that it is acceptable to speak. Without these silent visual invitations, it is more stressful to answer questions in the witness box. For members of some cultural groups on the other hand, eye contact with superiors is rude. Thus issues of audibility, broadly defined, raise further issues of gender and culture and are not addressed merely by better acoustics.

Visibility

Visibility is both a security and an information issue. Surveillance over court users by security staff can help provide protection for participants. Increasingly surveillance is supplemented or replaced by cameras or electronic systems, monitored in a central location.

For those in the courtroom, appropriate visibility requires being able to see the faces of speakers. Judges, juries, witnesses in the box, and defendants in the dock (except where the dock is at the back of the courtroom) can usually see the speakers' faces. But others may be disadvantaged.

Visibility may signal being 'on display' or being an exhibit. In part this is a physical issue. Court designers sometimes build in modesty panels on witness boxes to shield witnesses legs from the viewing public and to maintain a degree of privacy. However, the court process itself may expose personal matters to scrutiny by outsiders. Sometimes a person may be shamed by the very fact that charges have been laid. In some cases applications may be made for the suppression of names, or for closed hearings. As with audibility, it may not be in the interests of justice for complete visibility to be achieved.

One aspect of visibility (or invisibility or concealment) relevant to the experience users may have of the courtroom is the judge. Not only is the judicial body shielded from public view by a robe and the bench, but the wig elaborately covers the hair. In a religious setting the covering of the legs and hair might indicate modesty. In the court room it denotes power and tradition. In the higher Western Australian courts, it is not only judges who wear purple or red gowns and cover their head. Barristers, similarly, wear wigs and gowns. Changes to these traditions are happening in Western Australia. In recent years magistrates have changed to wearing business clothing and lawyers appearing in the lower courts dress similarly.

Arguments to retain traditional legal attire include the reminder that judges are acting as impartial servants of the law, not as individuals. Judges in 'full attire' are treated with more respect. Plaintiffs and defendants feel that they are served by a 'real' judge during their 'day in court' if they receive the full ceremonial treatment. Judges are more anonymous and, perhaps, safer if concealed behind their traditional attire. These propositions are at best speculative. If judges need reminding to be impartial, surely magistrates need even more. Magistrates are not necessarily treated with less respect because of their lack of judicial robe, nor are Supreme Court judges sitting on Parole Boards. The 'day in court' argument might relate more to whether the judge listened to the person's story rather than what the judge was wearing.

This is not to suggest that there are not very real advantages in having the courtroom enhanced by handsomely-attired judicial officials. However, most of the arguments advanced for the visible displays of costume are not based on empirical research. As Garapon, the French judge and sociologist points out, ceremonial displays are important for every society.¹²⁹ The issue, however, is about the messages given and received by the use of judicial robes and wigs.

Flexibility

One of the few predictions that can be made with any certainty is that demands placed on courtrooms are likely to change in ways which cannot be foreseen. In such technologically evolving society, flexibility of furniture and layout are highly desirable. One common view amongst court officials is that only furniture bolted to the floor is strong, durable and able to withstand

abuse. However, careful design can ensure that flexible furniture is just as strong as permanently attached equivalents. Just as importantly, good design can reduce the risk of abuse. It is also reasonable to build in a budget for repair and replacement to ensure that the facilities are maintained in good condition.

New technologies require cabling and power connections. Flexible furniture needs to incorporate adaptable connection systems designed to suit the requirements of computer screens, video displays and microphones. Consideration should be given to integrating these facilities so they do not dominate the court environment.

Flexible court buildings, amenities and fittings will allow courts to respond more quickly to user needs. This flexibility may involve minimising the number of levels in courtrooms, circulation systems and layout styles. It may also permit greater use of court rooms for pre-hearing consultation or mediation sessions, smaller and less traditional court layouts, and more attention to comfort.

The table and layout used for the hearing can be re-arranged readily in both size and layout to suit different needs and types of cases. The table should be able to be separated to increase the distance from the judge in some cases where greater security is required.

The needs of judges and other court workers for actual and psychological security is an important consideration as it is for users and these needs should be examined further. Court models with flexible furniture and chairs not bolted to the ground may challenge traditional notions of a court. However, the ideas may provide significant opportunities to improve user participation, access to justice and community satisfaction while reducing construction costs of courts, providing flexibility, easing the difficulty and cost implications of predicting future court facility needs, and assisting in the reduction of case delays associated with inflexible court rooms.

Proposal 17

Prior to commencing significant renovations or construction of court buildings, new flexible models for civil and criminal courts should be researched, developed and trialled.¹³⁰

Support for participants

Court proceedings can be stressful experiences, particularly for those facing severe penalties, those who have been victims of serious crimes and those who are unfamiliar with the court setting. Some lawyers guide, protect and provide reassurance for their own clients and witnesses. But this is less realistic in the high-volume lower courts, and is not available for self-

represented litigants. Nor are lawyers necessarily the best qualified people to provide moral and emotional support. Many defendants, applicants, witnesses and other participants bring along their own support team of family members, friends, or colleagues.

Where should the support team sit in the court? Generally they sit at the back. If the participant is self-represented, he or she may be 'allowed' to sit at the bar table, but the supporters remain in the public seating area. In such a case, either the participant sits alone without support, or he or she has to turn around using unfamiliar poses to consult support group members.¹³¹

Witnesses are usually placed in a box removed from anyone in court who might provide support. This may be important in cases where contamination of witness evidence is considered a real possibility. But in other situations it may increase stress, both because of the social isolation produced and the imposition of a 'public distance' in questioning. The witness being placed in an exposed witness box, being looked down on by a robed and wigged figure, speaking across an unfamiliar distance, and subjected to unfamiliar scrutiny may enhance visibility but may also be experienced as something akin to abandonment and isolation.

Re-thinking time and space

Courts are bustling places, with people entering, being processed and leaving. This is particularly so in the lower courts. Despite the busyness of the court, registries and foyers, court rooms are empty a majority of the time. Most Western Australian courts operate between 10am and 1pm and from 2pm to 4pm giving an operational time of five hours per day. There are many reasons for the limited use of such costly public facilities given the delays many people experience.

Scheduling is obviously a complex administrative issue. Greater use of mediation for civil matters has reduced the number of cases settled 'on the steps' of the court which allows for better scheduling. Pre-trial conferences can reduce contested issues and produce better estimates of likely trial lengths. Not too much faith should be placed on such measures to reduce demands for court space. The most comprehensive study done in Australia on a 'sentencing indication scheme' (getting judges to indicate what the likely sentences would be if the case went to trial) suggested that it had no net effect, and should be abandoned. There are many positive reasons for encouraging mediation, pre-trial discussions and shortening trials. But it is unlikely that such measures will have a major impact on demand for court space.

Night courts and weekend courts are rare. The few trials of such arrangements in Australia¹³² were abandoned because of professional resistance and logistical difficulties for court staff. The experience in Prahran in Victoria reportedly suggested that it may have been used disproportionately by high-profile

people trying to avoid publicity. Nevertheless, the current hours of use do not cater to some users' convenience and mean more physical court space and cost is required.¹³³

Greater use of shared community facilities such as local authority council chambers and meeting rooms for community courts might alleviate some of the demands for space. As computer and video technology becomes more widespread it may also be possible that suitable spaces for court business could be shared with multi-media teaching laboratories, Internet cafés, or graphic design studios. More reliance on tribunals, mediation and other alternate dispute resolution facilities will also have an impact on demands for court space.

The use of 'virtual' courtrooms may be an appropriate strategy to relieve stresses on court space and time. To some extent, virtual courtrooms are currently used with regard to on-the-spot fines, and parking offences. In South Australia they are used for some drug use and possession offences, and speed camera infringements notified through the mail. Prisons and other spaces can be incorporated into a court hearing through the use of video linkage. This practice is now fully operational in Victoria, and allows more efficient remand and mentions hearings. Litigants can be separated physically, but brought together electronically in a single real courtroom. This is particularly effective for vulnerable witnesses, or offenders who are a potential threat to other participants. The various participants can be in the same court building or in different parts of the world.

There are a number of psychological and legal issues resulting from technological procedures which require further consideration. These include whether juries respond differently to witnesses appearing in person from those appearing via a television monitor, or whether remand hearings are more likely to result in refusal of bail if the suspect appears via closed-circuit television from a prison setting. These issues require further study¹³⁴.

Other factors affecting the perception of remote witnesses may include:

- The inability to make eye contact;
- Lighting: bright and clear or dark and shadowy;
- The camera angle: the accused's side profile or face on;
- The background: bland and striped or warm with dappled light;
- The distance from the camera: head and shoulders or full body shots;
- Scale and size references;
- Reverberation times of the voice recording; and
- The context or lack of context.

Lawyers regularly advise their clients on what colour and type of clothing to wear in court in the knowledge that it affects how they are perceived. This

raises issues of the control, choice, and knowledge people have about how they project themselves through visual media. How will outcomes and justice be affected by different projections? Who will have the opportunity to create these spaces? Further research is needed into the psychology of virtual architecture and its effect on legal outcomes and justice.

Increased use of video links might increase clear-up rate of cases where the suspect is in custody interstate. For persons pleading guilty, the use of video sentencing hearings could avoid costly transfers under secure conditions. For those pleading not guilty, mentions procedures and possibly even committals could be handled in this way. The issue relevant to this sub-section is that electronic technologies will be used in a variety of ways. By implication, the architectural and psychological implications should be examined.

The cost of sophisticated high-technology court facilities which can handle cases nation-wide or internationally is high. The technology is evolving so rapidly that the 'state of the art' is obsolete in a few years or, even months, in some cases. Telephone companies, computer vendors, translating and interpreting services and computer-assisted telephone interviewing services can operate their systems from a single place. Judges in Perth could hear cases about litigants in Broome using a 'virtual courtroom' located on a computer in Sydney, forensic tests analysed and entered in Adelaide, and witnesses called from Dublin.

Some suggest the evolving technology will mean increasingly fewer cases are heard in smaller regional and country courts, as more pressure is placed on the capital city courts to go 'high tech'. However there is another possibility, running counter to the centralising hypothesis, namely, that hand-held technologies will allow justice to be dispensed almost anywhere. Just as police are able to administer breath tests by the side of the road, so judicial officers could adjudicate on matters in dispersed locations with full access to on-line information. Rather than having one massive mega-court in Perth with expensive equipment, we could see a variety of small dispersed rooms used as courts, with magistrates and judges carrying around satellite phones linked to computers.

In Singapore, some persons charged with minor offences can already plead guilty electronically, and have their case adjudicated on-line by a (real) judge. The Family Court in Queensland has developed a simulation package to estimate the likely property settlement in divorce cases. It would require only one extra step for the parties to agree electronically to the proposed settlement. This could be seen as accepting the decision of a 'virtual judge'. Various civil matters could be similarly handled, although this might be conceptualised as an electronic equivalent of mediation rather than a transfer of real judicial business to cyber space.

Cyber technologies imply radical changes for users of the justice system.¹³⁵

Users may feel their cases will be prioritised or minimised, serviced like telephone customers or debited like on-line credit card users.

Court users who find the current legal process too anonymous may experience the impact of technological changes with increasing anxiety, fear or exclusion. These issues require thoughtful consideration.¹³⁶ Any changes made to the system as a result of technology and innovations should be monitored carefully. Cyber technologies may, in fact, exclude users from the justice system.

Alternative procedures

In this sub-section, 'courts' have been discussed as homogeneous units. Different courts, in fact, vary procedurally, in complexity and in psychological impact. Many judicial, quasi-judicial or administrative procedures attempt to resolve matters without entering a formal courtroom. One of the most promising of these, at least in juvenile matters, is the introduction of family group conferencing, offender-victim mediation and similar procedures. In Australia, a key theoretical aim is 'reintegrative shaming'. That is, attempting to bring offenders back into society by getting them to recognise the damage their actions have caused. This is a radical attempt to reshape the psychology of the court process by incorporating participants more fully into the punishment process and inviting them to share in responsibility decisions. If these experiments prove successful, greater demands will be placed on other parts of the judicial system to more effectively involve other participants.

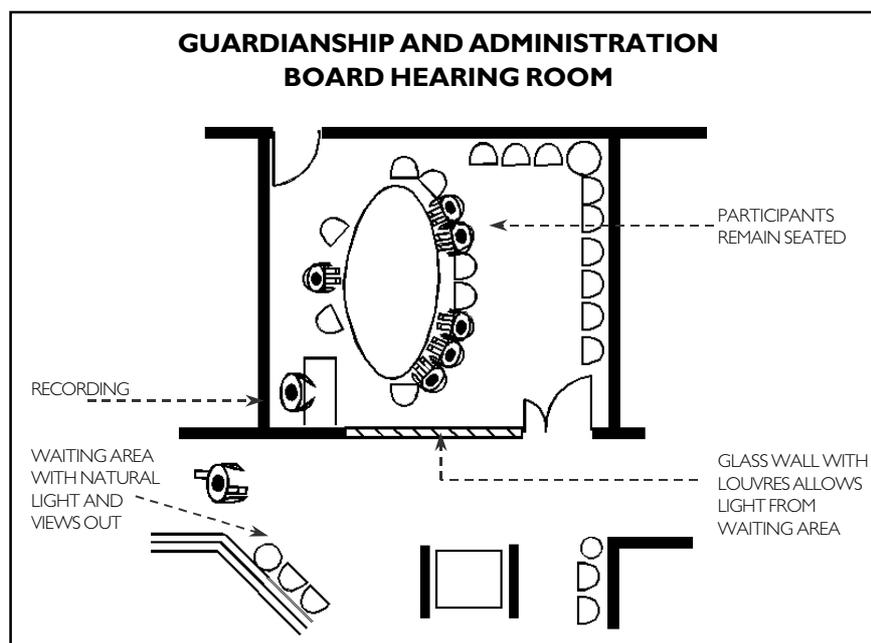
A greater degree of user participation and satisfaction has been reported by tribunals and the ombudsman. It may be that these procedures are newer and less formal and the satisfaction represents the energy associated with new organisations. Or the case types dealt with by these bodies may be easier.

It is often argued that it would be very hard to make changes in court design and rituals, because they are so well-established. However, it is useful to consider alternative ways of doing legal business. The following examples currently operate in Western Australia.

'Flexible' is a characteristic of the Western Australian Guardianship and Administration Board hearings. The Board may use whatever evidence is appropriate. In practice, this means that written evidence is usually supplemented and tested by oral evidence.

Guardianship and Administration Board

The medium-sized hearing rooms have one wall of glass with adjustable louvres bringing in borrowed natural light from adjacent windows. Some psychological relief is provided by the exterior view. Contact with the outside world expresses openness of the system. The tribunal chairperson or judge, sits in a central position in a comfortable chair. After other participants are

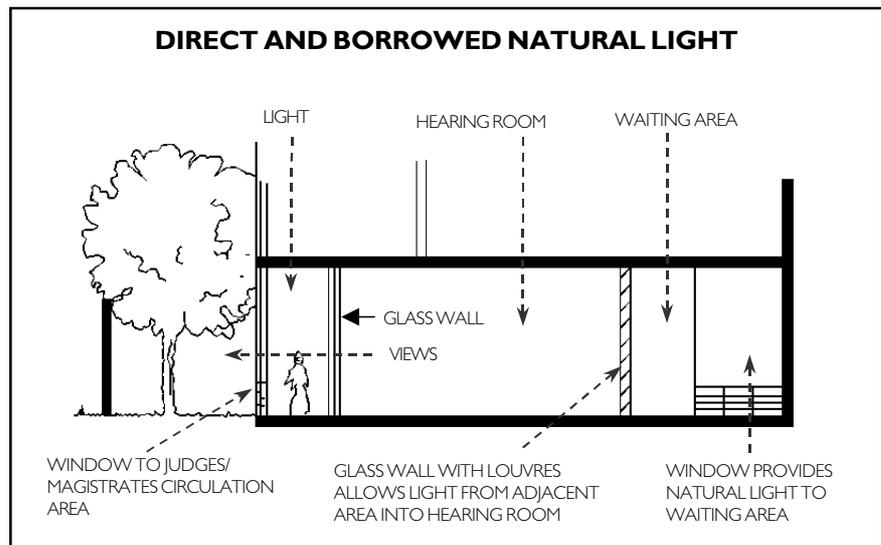


seated, proceedings follow formal entry rituals. This symbolises the importance of the law and the respect due to the tribunal member.

The hearing is conducted at a large oval timber table. A sophisticated series of sections with modesty panels elegantly fit together to produce an oval shaped table which can be adjusted to vary in size to suit different needs. The table can be readily separated to produce a space along its centre if, for security reasons, a greater separation is appropriate between the tribunal member and the other participants. Safety issues can be considered in arranging the seating and configuring the table. Planters block the space between the table and the walls to provide a discrete security system.

The person who is before the tribunal is seated opposite the tribunal member in a position that acknowledges his or her importance in the hearing. Family or other support persons sit alongside. Visitors sit along the adjacent wall. Participants are individually welcomed by name and can sit to speak. They are asked at various times in the proceedings if they have questions and are able to speak in their own words without interruption. They are accorded respect. The questioning is inquisitorial rather than adversarial and seeks to obtain relevant information. The Board may be assisted in its enquiries by an investigator from the Public Advocate's office, who can be asked to provide a report.

The tribunal is located in a building that is difficult to find and is separated from the other courts. Despite the positive and user friendly procedures



and design of the hearing rooms, a lack of openness to public scrutiny and difficult accessibility are relevant issues. Location of tribunals in the court buildings may preserve the openness and visibility of the legal process. On the other hand, court environments may contribute to an atmosphere of legalism and authority which the tribunals may not seek.

Tribunals appear to be more relaxed and participants are able to act in a more personal style. The lessons from tribunal practices cannot be simply applied to courts. The imaginative use of light and space in tribunals, however, could provide a useful model for incorporation into court designs and standard procedures.

Proposal 18

The models of the Guardianship and Administration Board and the Western Australian State Ombudsman should be evaluated carefully to determine to what extent, and in what form, their good practices, architectural psychology and designs can be applied more generally in civil and criminal courts.

Ombudsman

The Western Australian State Ombudsman provides another model of dispute resolution which may be suitable for some cases. Despite recent publicity there is reportedly a high level of user satisfaction due to a user friendly process. Factors contributing to this satisfaction include:

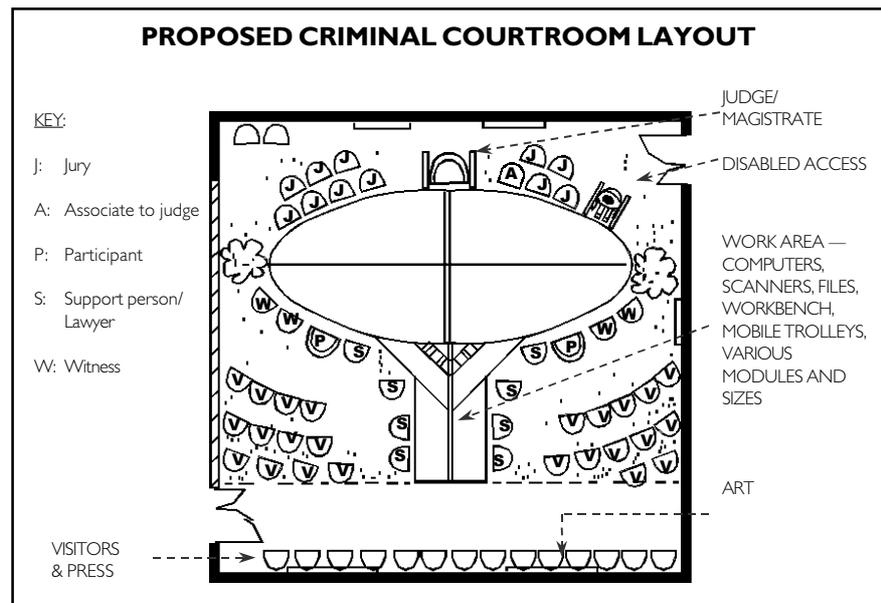
- Inquisitorial interactive approach;
- Telephone discussions, personal interviews, written submissions or a combination of communication methods;

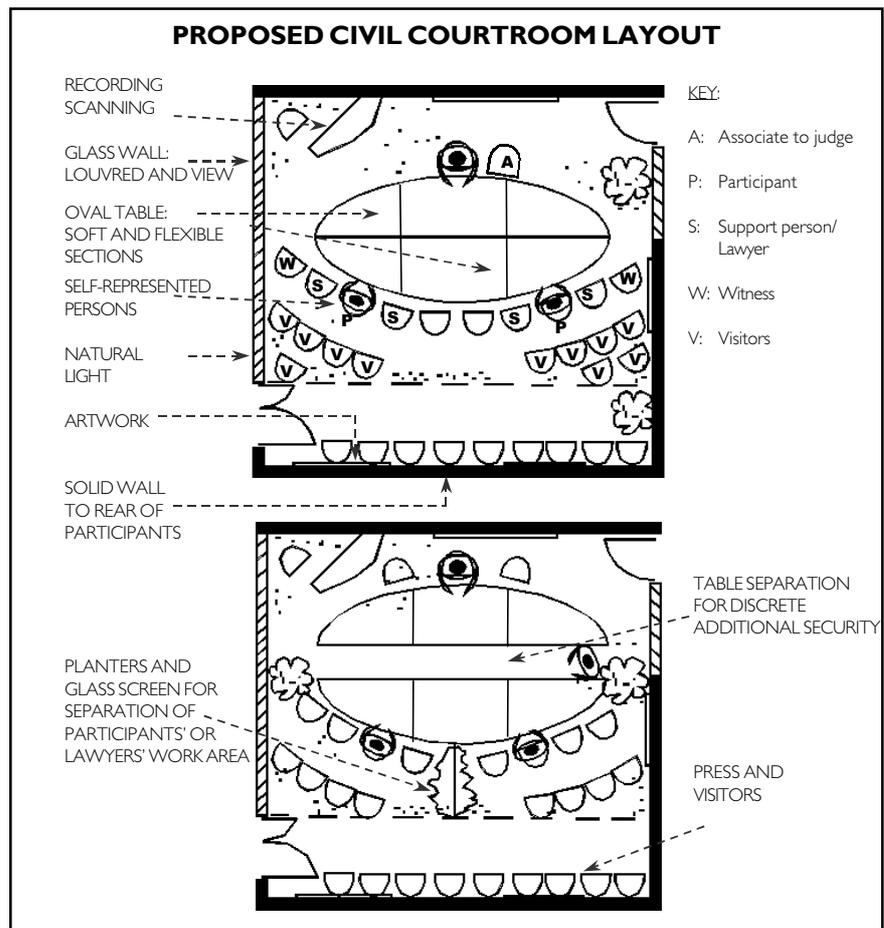
- Personal conversations are available;
- Ready access to the specific person who handles the complaint;
- Immediate feedback;
- Polite and respectful treatment of the complainant;
- Opportunity for complainants to tell their stories in their own words and to ask and answer questions in a normal manner;
- Provision of a clear understandable judgement with reasons and opportunity to discuss the judgment;
- Summary of the evidence; and
- Costs, time and stress to users are minimised by the process.

The ability of the ombudsman process to provide feedback to the government system in a general sense as opposed to the specific case is another positive aspect of the system.

Lessons from these case studies

Several features of these models could be relevant to courts more generally. The use of board-directed pre-trial or pre-hearing investigations similar to that used in Civil Code countries works effectively in the Guardianship and Administration Board to shorten and focus hearings. Similarly, the private investigative procedure of the Ombudsman allows most matters to be determined without the need for a hearing, through use of a cost effective technology, the telephone. These features might be investigated for use in other jurisdictions and may be compatible with the move towards case management being particularly suitable for civil matters.





This approach might be particularly helpful for civil and criminal matters involving self-represented persons. Possible architectural design concepts which might be suitable for consideration are included in the proposed courtroom layout diagrams above for both jury and non-jury hearings in criminal and civil hearings.

Alternative configurations of some court rooms and procedural changes in all jurisdictions should be investigated in order to facilitate more effective participation of lay users. These proposed layouts may suit some types of cases in particular jurisdictions, but further study will be required to determine if these would be effective.

CONCLUSION

Court architecture is conservative. Over the last century most public places and spaces have undergone dramatic change. Supermarket browsing aisles have replaced grocery shop counters. In primary schools, intimate table clusters have replaced rigid rows of desks. Post office queues converge on multiple service points. Transformations have taken place in hospital wards,

dental surgeries, hotel foyers, libraries, taverns, laboratories, concert halls, council chambers, and just about any public space one can think of except courtrooms.

Public expectations of the justice system and its services have changed in line with changes in other institutions. Yet, despite changes in the wider society, courtrooms largely follow the same layout they had a century ago. Courts still have elevated judges. Lawyers show their backs to the public. Docks are isolated. Boxes confine witnesses. Modern construction materials may be used, but the configuration of court rooms remains frozen in time.¹³⁷

This sub-section summarises briefly what is known about architectural psychology, drawing on a range of state, national and international sources. It addresses the fact that, although much is written about public medical buildings including hospitals and nursing homes, little has been written about the justice system and its courts.

Fictional courtroom drama has long fascinated the public imagination.¹³⁸ However, judges, lawyers, parties, witnesses and juries play out real human dramas of desire, greed, evil and hypocrisy. Judges and juries must interpret motive and responsibility, make sense of interactions and activities, and manage the process of allocating blame and apportioning punishment. Most studies of courtroom psychology focus on the mind of the alleged criminal and counsels' strategy.

This sub-section, by contrast, considers the less dramatic and often overlooked courtroom participants: the victims, witnesses, jurors, court staff, security personnel, and members of the public. Rather than the 'deep' psychology of guilt and responsibility, the focus here is on everyday social and psychological concerns in an architectural context, namely comfort, security, understanding and satisfaction. These issues have important implications for delivering credible justice. Without public confidence in the operation of the courts, there is a danger that the justice system will lose public support.

The following summarises the issues discussed and proposals made in this sub-section.

1. Court buildings convey information about justice

Good court design may communicate that justice is accessible safety and privacy is respected and contributions to the legal process are welcomed. All too frequently architecture sends other sociological and psychological messages: the court is isolated from its physical and cultural environment, people are not equal before the law, jury service is not valued, participants and the public are not entitled to understand the proceedings and court

management needs are more important than the time commitments of 'civilian' participants in the justice system.

Several models within the Western Australian justice system appear to be providing environments conducive to justice by:

- developing and implementing dignified and respectful practices;
- providing an architectural environment that facilitates user participation;
- responding seriously to user feedback;
- allowing participants to speak normally;
- modifying some aspects of judicial decision making and communicating decisions more effectively; and
- reducing the stress and confusion associated with obtaining and giving evidence.

These models should be evaluated carefully to determine to what extent, and in what form, good practices and designs can be applied more generally in civil and criminal courts.

2. Many court users have negative experiences, yet all participants in the justice system should be treated with dignity and respect

Court users unfamiliar with the legal profession frequently find court processes unsatisfactory. Legal processes and trials can be alienating, frustrating, and humiliating for witnesses, victims, defendants and, particularly self-represented litigants. Physical and social factors in combination influence these experiences. Issues include:

- Lack of privacy, comfort and safety in waiting and other public areas;
- Delays in waiting for cases to get to court and poor scheduling on the day;
- Isolation of victims and witnesses from their support team;
- Court layouts and the distances between speakers, making non-legal participants uncomfortable and unable to participate effectively in court proceedings;
- Seating arrangements causing many participants and members of the public to see only the backs of lawyers' heads and to feel excluded;
- Information, or the lack of it, about legal proceedings
- Emotional and psychological impacts including the costs, delay and the lack of certainty in the process and ultimate outcome; and
- The combination of the effects of architectural space and the social environment cannot be separated. These factors impact on users' psychological experience of legal proceedings and the justice system.¹³⁹

3. Ongoing feedback from and information for users

Courts could better understand and meet the needs of users if they developed more comprehensive information about users' experiences with court processes, information needs and perceived obstacles to achieving justice. User feedback might be obtained from an enhanced complaints system, supplemented by surveys and observations of procedures carried out by independent researchers.

Public perception can be measured by the collection and analysis of data (such as waiting times), or by surveying users and others who are affected by court procedures. Did the self-represented plaintiff *really* understand the judge's explanation?¹⁴⁰ More generally, how do the participants experience the spaces, the procedures and the decisions?

Court users need to have better access to information. Information centres and an effective system for gathering user feedback are proposed. Improved communication could enable people to participate more fully in the court process and promote positive community support for the justice system. The Supreme Court is making efforts in this regard with its pilot program of making sentencing decisions available in a simplified form. Perhaps all decisions by judges in all courts can be similarly simplified.

4. Technology will change the courts of the future

A major transformation of court facilities has already begun in response to technological change. However, little thought has been paid to how this transformation will affect people and how the environment of the justice system can assist or impede this transformation. Issues which should be considered include: the possibilities of making more effective use of less expensive telephone technology; providing better facilities for protected witnesses when closed circuit television is used; and monitoring the effect of evidence presented by television including psychological research analysing virtual space backgrounds, colour, light and the psychological effect of projecting images into the courtroom from remote locations. Court architecture is required which is flexible and adaptable to future unpredicted requirements of both technology and to the amount and type of court space.

5. The relevance of architectural psychology to law reform

Law reform reflects the hopes, fears and frustration of ordinary people whose experiences influence their acceptance of the 'justice system'. Whether or not people feel the system has given them a 'fair go' depends on whether they:

- are treated with respect and dignity;

- understand the processes and procedures;
- are kept appropriately informed;
- have their concerns dealt with expeditiously; and
- feel adequately protected from violence and intimidation.

Unaddressed court-related psychological and emotional issues can leave users feeling punished, dissatisfied and marginalised in the legal process irrespective of the outcome of the case in legal terms.

Court architecture, management, services and facilities need to reflect support, compassion, dignity and respect for people. A holistic approach to the needs of the whole person is required. People can suffer emotional distress, life disruption, family and social damage, career damage, depression and health damage as a result of their participation in the legal process, irrespective of any impact of the problem which gave rise to the hearing.

Changes to the law and the justice system procedures alone cannot solve people's often complex problems. However the system and the experience of going to court should not compound these problems. Courts should be sensitive to users' needs and adapt physical, social and psychological environments to better support all participants in the justice system.

SUMMARY OF PROPOSALS

- 1.** Court design and operations should encourage all professional participants in the justice system to treat each and every court user with courtesy, respect and dignity. To the extent possible, courts should provide services to meet users' needs. Procedures, processes, and attitudes should be reviewed to ensure that all participants in the justice system deal with all users courteously, respectfully and fairly.
- 2.** Careful psychological studies of the effects of court environments should be made prior to commencing any significant construction or renovation projects in order to determine user needs.
- 3.** Public input and discussion concerning the values expressed and the means of representing the law through architectural design should be encouraged prior to the commencement of significant architectural projects involving courts.
- 4.** To demonstrate the independence of the courts from police, court and police buildings should be visually separate and clearly demarcated architecturally.
- 5.** Court planners should consider incorporating user friendly facilities including cafés or other eating facilities in court buildings.

- 6.** Prior to commencing significant renovations or new construction of court buildings, psychological research should be reviewed and appropriately tailored studies undertaken to consider the design variables which may influence aggressive behaviour and affect the safety of participants in the justice system.
- 7.** In future design briefs for courts there should be consideration of the degree to which hierarchy should be reflected. As far as possible there should be consistent design standards and equality of furnishings and fittings throughout court buildings. Design should indicate to users that all participants in the justice system are seen to be equal and respected by providing facilities appropriate to their particular needs.
- 8.** The design requirements and practical needs of the legal profession as regular court facility users, and indeed all litigants, should be surveyed prior to developing or renovating future court facilities.
- 9.** There should be user surveys as a basis for developing design guidelines for high traffic public access areas including foyers, registries and waiting areas. From the information received it should be possible to create protocols for the upgrading of existing, and design of, new court facilities.
- 10.** Courts should consider providing user-friendly feedback booths in foyers, registries and waiting areas, staffed by suitably trained representatives of user groups to pro-actively seek feedback. Courts should introduce a review procedure to act on users' suggestions and make changes as appropriate.
- 11.** Court communications and procedures should be simple, straight forward and clear enough to be understood by ordinary users.
- 12.** Courts should consider providing self-help centres to facilitate access to information and services for all users but particularly for self-represented litigants.
- 13.** A study of the involvement of indigenous Australians with the justice system, with particular emphasis on alternative dispute resolution and developing services and facilities which meet the needs of indigenous Australians and other population groups from non-English speaking backgrounds, should be considered.
- 14.** Research should be undertaken to develop instructions for juries to allow each juror an equal opportunity to speak and be heard during deliberations.

15. Jury service should be recognised by providing pleasant jury room facilities including round tables with natural light, outside views, withdrawal spaces, comfortable seating, and good quality fittings and furnishings.

16. Art should be integrated into courts to assist in making a respectful environment. This might include temporary exhibitions, works commissioned and integrated with architectural design, fittings, and gardens. Particular attention might be paid to works by local artists, diverse cultural representations or items of local or State significance.

17. Prior to commencing significant renovations or construction of court buildings that new flexible models for civil and criminal courts should be researched, developed and trialled.

18. The models of the Guardianship and Administration Board and the Western Australian State Ombudsman should be evaluated carefully to determine to what extent, and in what form, their good practices, architectural psychology and designs can be applied more generally in civil and criminal courts.

ENDNOTES

- * The Law Reform Commission of Western Australia commissioned Louise St John Kennedy and Associates Architects to produce this sub-section. The project team consisted of: Louise St John Kennedy: B Arch University of Melbourne, B Sc (Psych) The University of Western Australia, ARIAA; and Dr David Tait, MA (Hons) (Political Science) University of Canterbury, PhD (Social Administration) London School of Economics, Senior Lecturer in Criminology at the University of Melbourne.; with editorial assistance from Marion Brewer, BA (Dist) (Communication) Stanford University, JD Georgetown University and LLM candidate (UWA), Administrative Officer of the Law Reform Commission of Western Australia. Ms Kennedy's drawings were formatted electronically by John Dicker of the Policy and Legislation Branch of the Ministry of Justice.
- 1 C Goodsell, *The Social Meaning of Civil Space: Studying Political Authority through Architecture* (1988) 5.
- 2 One judge's written submission to the Law Reform Commission of Western Australia (LRCWA) suggested the system of administering justice in Western Australia is in crisis noting that '[s]ome solutions must be found and practical solutions are likely to be radical.'
- 3 The LRCWA received 36 written and oral submissions from people attending public meetings complaining about delay.
- 4 More 20 submissions concerned the growing self-represented litigants phenomenon with many coming from stakeholders in the justice system. As one writer observed: 'Litigants in person ... are classed as the 'feral public', despised by the judiciary and legal profession alike. ... [t]hey ... demonstrate the idiocy of antiquated and inefficient practice, ... the system should respond to these people by abolishing the law of precedence, overhaul or abolish the majority of court rules ...and accept a simple form of submission for the case.'
- 5 As one submission writer complained '...the legal system has penalised my health, distracted me from pursuing my career and has consumed my finances. I have experienced intense frustration, disempowerment and abandonment by [the] ...system.'
- 6 A number of people attending public meetings held by the Law Reform Commission voiced this view.
- 7 The environment of the justice system consists of a combination of the physical with the social and psychological experience people have in the court setting. As an academic discipline architectural psychology examines the psychological and social experience people have in an environment.

This inseparable combination of the experience people have of the physical setting provides the fundamental framework for this sub-section.

- 8 Louise St John Kennedy is a practising architect with projects completed in Perth (Western Australia), Sydney, Melbourne and New York. She is the recipient of design awards for architecture from the Royal Australian Institute of Architects including the national Robin Boyd award. She has a B.Sc. in psychology from The University of Western Australia and a B. Architecture from the University of Melbourne. She was on the founding board of PICA the Perth Institute of Contemporary Arts. She was involved in designing user feedback studies for new Canberra suburbs in 1975/6; worked with the Danish architect Jahn Ghel on architecture and its implications for public use of civic spaces; and specialises in the relationship between architecture and psychology.
- 9 Dr David Tait is a senior lecturer in criminology at the University of Melbourne. He has an M.A. (Hons) in political science from the University of Canterbury. His Ph.D. in social administration from the London School of Economics looked at issues of space and justice. He conducted (with Dr Ken Polk) a study of the use of imprisonment by Victorian magistrates for the Starke Sentencing Committee in 1986-87, and carried out evaluations of guardianship tribunals in Victoria and NSW (with Professor Terry Carney). His most recent book is *The Adult Guardianship Experiment: Tribunals and Popular Justice* (with Terry Carney) which looked at how well guardianship tribunals met the needs of their users, promoted accessibility and balanced freedom and protection interests. He is currently working on a Criminology Research Council-funded project entitled the *Effectiveness of Sanctions*, with data from NSW local courts. He has written several papers on judicial rituals, court practices and the use of space, using a social psychological approach.
- 10 'Reliable' information is the critical issue. The authors reviewed submissions to the LRCWA and conducted an informal survey of 60 individuals who had personally participated in a court case either as a victim, party, an expert witness, a witness or a juror, as well as members of the community including women, indigenous Australians, and others for whom English is not a first language. Another 40 individuals were interviewed for this sub-section including a range of judges, magistrates, architects, lawyers, academics, tribunal members, court officers, security, property and other court staff. For various practical reasons there were some omissions in the range of people interviewed. Three important groups of court users were not interviewed in any significant number: victims, prisoners and criminal defendants. A comprehensive study of court users should sample these groups. Concurrently with concluding this sub-section the Ministry of Justice (WA) Court Services released an Executive Summary of a Customer Survey which considered satisfaction with court buildings. Their results are reasonably comparable with the authors' informal survey findings. See Appendix 2.
- 11 Two other sub-sections in this Review of the Criminal and Civil Justice System deal specifically with a comparison between the adversarial and inquisitorial systems: see sub-sections 1.2 and 1.3.
- 12 Two best practice models currently working in Western Australia are described below. Each has elements of the inquisitorial process, including non-public investigation procedures and the use of dossiers or investigation reports.
- 13 Papers presented at Representing Justice, An International Conference on Court Architecture in Practice and Theory, Wollongong, 26 -27 June 1998, <<http://www.uow.edu.au/law/repjustice/>>.
- 14 H Lasswell and M Fox, *The Signature of Power: Buildings, Communication, and Policy* (1970).
- 15 For a discussion of German architecture under Hitler see Goodsell, above n 1.
- 16 Ibid.
- 17 Ibid 53.
- 18 Ibid 142.
- 19 Ibid 159.
- 20 Ibid 5; discussed further below.
- 21 These issues are taken up for an earlier period by Robert Jacob, *Images de la justice. Essai sur l'iconographie judiciaire du Moyen Âge à l'Âge classique*, (1994) Le Leopard d'Or.
- 22 See above n 13 although Mr Justice Black's presentation is not included.
- 23 LRCWA *Reforming the Justice System : An Issues Paper* (Perth, 1998).
- 24 *Bien juger: essai sur le rituel judiciaire* (1997).
- 25 In one sense, Garapon's approach is more contemporary than the US study of city council chambers described above. The council building study was about the past. Garapon's court designs study is about the present. Courts are living spaces. The building, the practices and the core-shared values all contribute to the production of justice. The spatial and psychological environment of courts helps to shape the context within which consumers experience justice.
- 26 KF Taylor, *In the Theater of Criminal Justice* (1993).

- 27 Ibid 94.
- 28 Ibid 95.
- 29 Australian justice is similarly ambiguous in its images and rituals. The recitation of charges in terms of statutory provisions illustrates the supremacy of Parliament (the people's representatives) in the unwritten British Constitution from which Australia draws. Yet the use of the Common Law indicates a loyalty to something much older than the will of recent legislators. Judges frequently send messages to the community through their decisions. They refer to the importance of 'protecting the community' and respond to changing public sensibilities about particular crimes. This suggests an immediate and personal link between the judges and the people they serve. The use of juries in major criminal and civil trials indicates the faith placed in a popular body to make decisions about guilt or innocence.
- The robes, the hierarchy of judicial authority, the use of a flag incorporating the Union Jack, the terms 'Queens Counsel', and state insignia all suggest a grounding of authority in the monarch, however qualified this link may have become. On the other hand, the placing of the prosecutor (the representative of the state) at the same level as the defence lawyer suggests that the judge (and usually the jury) sitting above them are outside and beyond the prosecution power of the state. Thus the fact finders and decision makers can balance impartially the interests of the state and the individual citizen. In this view, the judge and jury are impervious to public opinion, clamours for vengeance and moral panic.
- 30 Taylor, above n 26, 100.
- 31 J Hazard, 'Furniture Arrangement as a Symbol of Judicial Roles' (1962) 19(2) *ETC* 181-188.
- 32 This is discussed in Goodsell, above n 1, 19.
- 33 As Taylor has done, above n 26.
- 34 M Foucault, *Discipline and Punish: the Birth of the Prison* (1997).
- 35 On trial were members, turned informers, of a crime syndicate, the Camorra. The presiding judge required the evidence of the informers to secure the convictions of other accused. The judge allowed the informers to present their evidence in their dialectal style based on codes of honour and the importance of patronage. Jacquemet noted that witnesses used 'elliptical and formulaic' expression to identify their status. The judge allowed witnesses to become more relaxed, confident and plausible in presenting their evidence. This in turn enhanced the credibility of the testimony and helped to secure some 800 convictions.
- 36 GM Matoesian, *Reproducing Rape: Domination Through Talk in the Courtroom*, (1993); H Beaman 'Abused Women and Legal Discourse: The Exclusionary Power of Legal Method' (1996) 1 *Canadian Journal of Law and Society* 125.
- 37 H Garfinkel, 'Conditions of Successful Degradation Ceremonies' (1965) 61 *American Journal of Sociology* 420-424; P Carlen, *Magistrates' Justice* (1976); D McBarnet, 'Two Tiers of Justice' in *Conviction: Law, the State and the Construction of Justice* (1981).
- 38 M Feeley, *The Process is the Punishment* (1979).
- 39 P Rock, 'Witnesses and space in a crown court' (1991) 31(3) *British Journal of Criminology* 266.
- 40 J Braithwaite, *Crime, Shame and Reintegration* (1989).
- 41 G Maxwell and A Morris, *Family, Victims and Culture: Youth Justice in New Zealand* (1993).
- 42 This issue is considered in other consultation drafts in this series dealing with alternative dispute resolution.
- 43 These models are discussed below.
- 44 Other Consultation Drafts in this series mention some of the social and psychological issues in the administration of justice. However, this sub-section address some topics covered elsewhere from a different perspective.
- 45 Ministry of Justice, *Western Australia Court Services Customer Service Charter* (Perth) <<http://www.justice.wa.gov.au>>.
- 46 Dozens of submissions received by the Law Reform Commission suggest that people feel abused by the treatment they have received from judges, lawyers and others involved in the justice system.
- 47 C Mercer, *Living in Cities: Psychology and the Urban Environment* (1975) 16.
- 48 The Oxford English Dictionary (1989)
- 49 W Benjamin, 'The Work of Art in the Age of Mechanical Reproduction', in *Illuminations* (1973) 241.
- 50 This sub-section attempts to collate material on somewhat related topics dealing with such other public facilities as the architecture of nursing homes, designs of civic chambers and furniture arrangements in psychiatric hospitals.

- 51 Further work on this project would involve systematic observations within courts and interviews with representative samples of court users. This would allow examination of how spaces are used by different users at different times and for different cases; how the spaces are experienced; and how court forms, procedures and practices use, transform and occupy the space. It is possible to describe the design features of the buildings based on site inspections but to understand the psychology of the courtroom experience, more observational and interview material is required.
- 52 An example of this is the Family Law Courts in Melbourne.
- 53 A major dilemma is that Australian court design reflects a stable past which is rarely the experience of many residents of the local community, whose backgrounds may include migration, isolation, dispossession or displacement. Colonial buildings represented colonial values and imperial majesty. Australian court buildings carry out tasks in the English Common Law tradition and the design of courtrooms reflects this tradition. So there may be something of a disjuncture between the contemporary ethos of a community (or at least part of the community) and the statements being asserted by the design of the courthouse. The clash between court architecture and contemporary expectations may be softened by treating the buildings as part-museum or preserved 'heritage' precisely because the values expressed may seem archaic. This 'recasting' may result in citizens feeling more warmly about the building. But regardless of the way historical memory can be re-shaped, many court buildings present as faintly archaic or even obsolete.
- 54 The Broome Courthouse in Western Australia hosts a regular Saturday market in its grounds.
- 55 US Circuit Court Judge Sandra Lynch observes 'Courthouses ought to look like the place people receive justice. The symbolic value of this building [the new Federal Court in Boston] is that it communicates the principles of American law rather than the principles of oppression. This building conveys all of the appropriate messages for a democracy. It is possible to do that and still build a secure building.' *The Third Branch*, 'The Courthouse as a Center of Civic Life' <<http://www.uscourts.gov/ttb/nov98ttb/interview.html>>.
- 56 The Harvard University Graduate School of Design considered Erikson's work at a Professional Development Program on The New American Courthouse, 21-23 July 1998.
- 57 Ibid.
- 58 Ibid.
- 59 The public support for the new federal court house in Boston, Massachusetts illustrates *The Third Branch*, 'The Courthouse as a Center of Civic Life', TTB interviewed Judge Sandra L Lynch (1st Cir) and Judge Douglas P Woodlock (D Mass) on the opening of the Boston, Massachusetts courthouse. <<http://www.uscourts.gov/ttb/nov98ttb/interview.html>>.
- 60 WH Auden commented on building juxtapositions in the Portugese colony, Macao: 'Churches beside the brothels testify that faith can pardon natural behaviour.'
- 61 A Saarinen, *Environment Planning, Perception and Behaviour* (1976) 62.
- 62 One QC interviewed for this study reported this facility is of enormous value and something which other courts seriously should consider. The NSW Guardianship Board includes a café in the building in its search criteria for a new building. There is a growing recognition that cafes or other eating facilities can contribute to making stressful encounters less so.
- 63 General layouts of buildings have been subject to a range of tests and experiments. One of the most interesting in this context was an experiment in hospital ward design according to Saarinen, above n 61. Three layouts were tried: a single corridor, a double corridor (with the service areas in between), and a radial design with all the rooms off a central hub. The radial design was not only more efficient in terms of travel time, it resulted in less absenteeism, fewer accidents and better patient care. This radial design has been applied to both older and newer courts, but usually without a strong service hub.
- A number of US courts have adopted this design, see D Hardenbergh, *Retrospective of Courtroom Design, 1980-1991 National Centre for State Courts* (1992). A primary school in Darwin NT reportedly also experienced success with the radial design.
- 64 Ibid 35.
- 65 Ibid 49.
- 66 Similarly the Western Australian Family Court judges have jarrah furniture and leather couches with arms. The spectacular views from top floor locations of the judges' chambers in the Perth Family Court indicate that judges are more important than the magistrates who have blond wood furniture and leather couches without arms in offices on lower levels with pleasant, but not magnificent, views.
- 67 While some believe the elegance of the accommodation afforded judges and magistrates is appropriate, the issue is equality. When television cameras capture impressive judicial chamber

- interiors during interviews, the visual contrast with other court facilities is readily apparent.
- 68 Both the Perth Central Law Courts and Western Australian Family Court feature waiting areas and courts located on floors above the foyer accessed by lifts and staircases.
- 69 Many people still smoke particularly in times of stress despite the exclusion of smokers from public buildings by law in Western Australia. Smokers must smoke outside the courts. From the viewpoint of public health the law is sensible and encouraging smoking is obviously inappropriate. It is important, however, to recognise smokers' needs. Providing appropriate exterior smoking areas and visible but suitably isolated and ventilated areas near waiting areas would reduce stress for smokers in difficult and often lengthy court situations.
- 70 The Sydney Downing Centre has a security check in the foyer which encourages needle disposal before entry into the court building. Some users dispose of needles unsafely in the nearby planter boxes and public bins. Safe needle disposal facilities are a contentious issue not unique to this Sydney court. If provided, a syringe disposal location needs careful design consideration and placement. Safe disposal would be encouraged if the bins were visually obvious to those looking for them and yet able to be used without being seen by others. Disposal bins should be discretely placed, in a recess off to one side of the external entry as opposed to in an open area in view of the entry.
- 71 This is significant given the inadequate signage and information weakness identified by the recent Western Australian Ministry of Justice survey: see Appendix 2.
- 72 Other weaknesses indicated by the Western Australian Ministry of Justice survey question concerning satisfaction with court buildings include 'inadequate facilities for the public', 'waiting rooms for litigants are not comfortable' and 'courts are not user-friendly': see Appendix 2.
- 73 Security facilities pose particular problems in Western Australia as noted below.
- 74 The Sydney Family Court reception design enables a staff member to be at the counter at all times in order to greet users and provide information. However, when no one needs assistance, the design allows the court staff member to carry on with other work thereby easing reception staffing costs and avoiding that deserted feeling in the foyer.
- 75 See Ministry of Justice Executive Summary, Appendix 2. This survey is a positive first step but it may have some defects which should be analysed before further survey work is undertaken.
- 76 This issue is particularly important when dealing with self-represented litigants and is discussed in greater detail below.
- 77 As suggested by Lord Woolf: 'The courts should provide reasonable facilities, preferably in private, for filling in forms'. *Access to Justice: Final Report to the Lord Chancellor on the Civil Justice System in England and Wales* (July 1996) 325.
- 78 Observation and interview, Court of Petty Sessions, Perth, Western Australia (June 1998).
- 79 These rooms should not be cell-like. An alcove, for example, with sliding doors and a clear table could indicate accessibility to users, whereas a room fitted out like a normal office or interview room communicates that permission is needed before entry. This may discourage some people.
- 80 The Executive Summary of the recent Ministry of Justice Survey (Appendix 2) noted that 'All customer groups were dissatisfied with the time it takes to get a case to court and the time spent waiting at the court. This was one area where dissatisfaction was higher in country courts.' The survey also observed at 7.1, as noted above, that '[w]aiting rooms for litigants are not comfortable' and there are '[i]nadequate facilities for the public.'
- 81 These waiting areas increase the possibility of violence according to staff interviewed.
- 82 A surprising number of judges interviewed expressed concern over the appearance of vending machines in court foyers and waiting areas. The suggestion of including cafes in court complexes discussed below could alleviate this problem to some degree.
- 83 Training for court staff and volunteers is critical so that they can be emotionally comfortable enough to give feedback on their court or legal experience. A distressed user may need to speak with a person who can listen with apparent understanding.
84. The names of some courts are confusing to most non lawyers — the Court of Petty Sessions, the Local Court, the District Court and Supreme Court are distinctions with jurisdictional significance only to members of the legal profession; only the name 'Family Court' is clear. If court names are meaningful to the public it could increase feelings that the justice system is accessible to ordinary people. The Court of Petty Sessions is a name as archaic as the layout of court rooms.
- 85 Appendix 3 shows a copy of a current Family Court brochure concerning an information session provided by the Court. Basically all of the session times listed have changed since the document was prepared so a small scrap of paper is stapled on top with new times effective since March 1998. The staples make it impossible to fully open the brochure without tearing it. Brochures should address the information needs of court users. A description of the system is not sufficient. Some people want to represent themselves or they want to better understand what is happening

- when they are represented by a lawyer or they are participating in court proceedings in another capacity. Brochure writers should approach the task from a user's 'need to know' perspective.
- 86 This is a particular problem for self-represented litigants: see sub-section 2.10. It is also an issue for people whose first language is not English or who require the services of an interpreter.
- 87 The Geraldton court, for example, has an old display stand in the Registry which required that the new brochures must be folded in order to fit in the old display stand. The folding ruined the cover design. The titles couldn't be read without removing each bundle of brochures from the stand. Thus the mismatch between brochure design and displays made the brochures visually and physically inaccessible.
- 88 Even the word 'subpoena' is not a simple, clear name. It does not explain by its name what its purpose is. As the Executive Summary confirms 'courts are not user-friendly' and with archaic terminology to describe the threshold invitation to attend court it is no wonder that users are confused.
- 89 The information sessions at the Family Court outline some aspects of court procedures and the Family Law Act. See Appendix 3.
- 90 Submissions to the LRCWA indicate that some users have horrific personal experiences with the justice system. At the Karratha public meeting one speaker observed there is no mechanism to address real or perceived injustice. Appeals may not be available or affordable either financially or emotionally. It is particularly frustrating to some who have lost cases that there is no way to communicate with decision makers in the justice system. There is no assistance in the form of counselling for people seeking to come to terms with a system they do not understand which has made decisions that have personally devastating financial, emotional or familial consequences. The following section on self-help centres offers some suggestions and the feedback booth concept noted above may assist in addressing these issues.
- 91 As one submission noted: '[L]itigants in person are regarded as fools.'
- 92 Frustration, anger and hostility towards the system and the lawyers who are seen to control it and benefit from its complexity are expressed repeatedly, as noted in the separate report on public submissions.
- 93 This could assist in addressing the weaknesses identified in the recent Ministry of Justice Court Services survey questions concerning court buildings and access to justice that courts and facilities are not 'user-friendly': see Appendix 2.
- 94 These should be provided at cost or on a subsidised basis.
- 95 Access to legal advice is financially difficult for many people. A shop front law service is available in Barrack Street, Perth. However, it is located away from the courts and many people never hear of this service. Shop front law services should be provided in the court foyers in visually accessible locations at an affordable cost with adjacent childcare and access to a self-help centre. The Perth office allocates half of each day to prior bookings and half a day for bookings made that on day. Scheduling caters for last minute urgent situations as well as situations known in advance. The cost is \$20 for 20 minutes.
- 96 This suggestion parallels Lord Woolf's recommendation no 284: Woolf, above n 77, 325.
- 97 These could include video and audio tapes, braille, and packages of paper forms and instructions in plain English and foreign languages.
- 98 Computer packages have been developed in some jurisdictions to help in preparing cases and to predict outcomes with specific legal problems. These ideas merit further investigation. Similar ideas are discussed in the Information and Technology paper prepared as part of this Review of the Justice System.
- 99 Being placed in unequal or unpleasant facilities before being allowed to participate instils a feeling that they are not as able as others to participate and are therefore not equal before the court.
- 100 The proposed new Ballarat Courts in Victoria have been designed with expensive floor slabs that change levels to facilitate disabled access and accommodate elevated judges. Maintaining judges in elevated positions in court rooms has significant cost implications and complex architectural implications.
- 101 Other issues to note are that indigenous litigants often require child care facilities. Separate legal services to assist women when ALS staff represent men in domestic and criminal matters are particularly needed.
- 102 The needs of migrants and others from non-English speaking backgrounds should also be considered.
- 103 The equality of elevation among participants and the enhanced communication resulting from the circular seating arrangement are concepts explored later in this paper in a discussion of jury tables in the following section and several proposals for more effective contemporary court room lay-outs in Part VII.
- 104 The jury rooms in the Perth Central Law Courts and the Supreme Court are small spaces with

- limited or no natural light, no outlook, minimal facilities, and basic fittings and furnishings. Oppressive surroundings show little respect for the contribution of jurors.
- I 05 For smokers these sessions can be particularly difficult when smoking is prohibited in court buildings. A separately ventilated or external smoking area could provide stress reduction for jurors to smoke in a manner that does not compromise others. A small recess with a cushioned bench, ash tray and something to look at, such as a painting or sculpture, in a corridor to the jury and toilet facility would be suitable where a balcony or other external space is not possible.
- I 06 Proper personal thanks by a judge after service and, when necessary, debriefing can assist with the stress and life disruption caused by jury service. The Ministry of Justice has facilitated counselling for jurors on an occasional basis following certain unusually stressful trials. Further consideration of this issue is suggested.
- I 07 Edward Hall *The Hidden Dimension* (1966), wherein Osmond observed seating dependent behaviours in female geriatric wards. Sommer observed people at a 36 × 72-inch rectangular table for 6 people in a hospital cafeteria. He found corner situations with people at right angles to each other produced six times as many conversations as face-to-face situations across the 36-inch span of the table, and twice as many as the side-by-side arrangement: at I 09. Fifty observations of conversations revealed that F-A (cross corner) conversations were twice as frequent as the C-B (side by side) type, which in turn were three times as frequent as those at C-D (across the table). No conversations were observed by Sommer for the other positions.
- I 08 Saarinen, above n 61.
- I 09 The legendary King Arthur pioneered the use of round tables for this purpose. Research or trials are needed to give conclusive information concerning the advantages of round jury tables. Oval tables are planned for the proposed May Holman Centre. The expectation is that some positions at an oval table would accord more speaking rights than others, but that the speakers at oval tables would be more likely to have an equal opportunity to speak compared to those at rectangular tables.
- I 10 Glenda Jackson and Carmen Lawrence, 'Share of Power' *Late Line* 20 September 1994.
- I 11 The Swedish parliament, for example, has a publication used by women politicians outlining the gender issues involved in speaking in committee situations and indicating the socialised habits that prevent women having equal opportunity to speak. It is unlikely that over a short jury deliberation such deep-seated customs will be overturned, however instructions to the jury chair can detail procedures to ensure more equality of input into the decision making process.
- I 12 Space for less assertive jurors to separate from others and engage in quiet discussions apart from the larger group can enable those who may otherwise feel silenced to gain the confidence to speak in the group situation. Some people (such as lawyers) generally are practiced in speaking out; others are not and require facilities to help them address the social imbalance in order to contribute to the jury process.
- I 13 The external bollards at the Perth Family Law Courts are a positive example as is the security at the Sydney Family Law Courts.
- I 14 The Anti-corruption Commission in WA offers a best practice model discussed below.
- I 15 Indeed, a number of the court staff and judiciary surveyed for this paper had never visited the facilities in which many people wait before entering court.
- I 16 While other court users might consume the public architecture in a 'state of distraction' (to recall Benjamin's words quoted above), people waiting in custody often have the time to contemplate their surroundings in a state of concentration. Physical surroundings are, perhaps, more important for them than any other single group of court users.
- I 17 Institutional spaces in public housing can communicate: 'the message is defiance, a physical challenge to those who do not wish to be contained to show that they are superior to their symbolic (in this case literal) prison walls': Oscar Newman *Design Guidelines for Creating Defensible Space* (1972).
- I 18 Ibid cited in Mercer, above n 47, 93.
- I 19 The recent problems at the Melbourne Magistrates Court may be considered in this respect.
- I 20 Sports facilities, airports etc.
- I 21 Hangings, 'crocodile rolls' etc.
- I 22 For example, as planned at Geraldton Courts.
- I 23 These are discussed below under the headings of Space and Distance, Audibility, Visibility, Flexibility and Support.
- I 24 Hall, above n 107.
- I 25 Ibid, 109.
- I 26 Kinzel (1971).
- I 27 Design Guide (1991).

- 128 Ibid 54.
- 129 Above n 24.
- 130 We suggest extensive user surveys based on architectural psychology. We recommend evaluation of the Western Australian Guardianship and Administration Board and the Ombudsman's facilities. Flexibility, technology and user participation should be relevant issues in the research.
- 131 The Western Australian Central Law Courts' positive programme of victim support service can provide volunteers to accompany and support some users in court. The inclusion of new technologies into the court room has significant implications for both design and planning of courts. Flexibility in architectural solutions will be increasingly relevant both to accommodate rapidly changing technologies and also to cater to the difficulties of predicting future requirements for court space and types. Technology, future needs, planning, cost considerations and user participation all indicate the desirability of court architecture which has flexible furniture layouts, readily adaptable spaces and level floors.
- 132 Eg in Bankstown in Sydney, New South Wales, and Prahran in Victoria.
- 133 Woolf recommends that '[t]he possibility of holding evening or weekend courts should be re-examined': above n 77, 325.
- 134 A juror interviewed for this paper had acted in a carnal knowledge case. A young girl's likelihood of being restrained by the defendant was in question. The girl had appeared much larger on the television screen than she did when the juror happened to see her in the corridor with her family. She was tiny. Seeing her in person affected the decision the juror made.
- 135 These concepts and others are explored in sub-section 5.3.
- 136 As one speaker at the Bunbury public meeting suggested: some pensioners prefer the old fashioned or familiar technology. 'People here know about a fishnet, not the internet! The elderly are battling to sign their names let alone to sign on to a computer.' High tech solutions may not help everyone access the justice system. Flexibility is essential.
- 137 An instructive comparison with churches can be made in terms of use of elevation and participants facing each other. Preachers used to be high up in pulpits; in many mainstream churches they are now down on the same level as their congregation, usually with a microphone. The Catholic Mass used to be intoned by the priest facing away from the congregation; now the priest faces the people.
- 138 Most recently through the medium of TV shows such as *Sea Change to Law and Order*: See J Brigham, 'Architectures of Justice: The Private and the Privatized', presented at Representing Justice Conference, Wollongong, 26 June 1998 < <http://www.uow.edu.au/law/repjustice/brigabs.html>>. Moreover there may appear to be a growing misconception about the WA justice system because increasingly Australian users are consumers of American court room drama and on television.
- 139 Proposal 1, in fact, makes explicit the assumption about the principal aim for the social psychology of the administration of justice. Some of the social psychological issues in the administration of justice are mentioned in other sub-sections of this Review. But, reflections on some topics covered elsewhere, such Self-represented Litigants (sub-section 2.10), also appear in this sub-section.
- 140 A development during the course of this Review is the trial program implemented by the Supreme Court to release plain English explanations of sentencing decisions.

TABLE OF AUTHORITIES

- Adelsward, V et al, 'The Unequal Distribution of Interactional Space: Dominance and Control in Courtroom Interaction' (1987) 7(4) 313-346.
- Adler, S, *Rape on Trial* (London: Routledge and Kegan Paul, 1987).
- Allen, T, Aikenhead, M and Widdison, R, *Computer Simulation of Judicial Behaviour* (Durham, 1998). <<http://webjcli.ncl.ac.uk/1998/issue3/allen3.html>>.
- Arendt, H, 'The House Of Justice' in *Eichmann in Jerusalem: A Report on the Banality of Evil* (London: Penguin 1994).
- Asma, David, 'Genuflecting at the Bench: Rituals of Power and Power of Rituals in American Courts' <<http://www.clc.cc.il.us/home/socabf/ascgig.htm>>.
- Atkinson, J and Drew, P, *Order in Court: The Organisation of Verbal Interaction in Judicial Settings* (Atlantic Highlands: Humanity Press, 1979).
- Auerbach, J, *Justice Without Law: Resolving Disputes without Lawyers* (New York: Oxford University Press, 1983).

- Bailey, F and Rothblatt, H, *Successful Techniques for Criminal Trials* (New York: The Lawyers Co-operative Publishing Co, 1971)
- Baird, G, *The Space of Appearance* (Cambridge: MIT Press, 1995).
- Baldwin, J and Bottomley, A, (eds), *Criminal Justice - Selected Readings* (London: Martin Robertson & Co, 1978).
- Banning, A, *Children as Witnesses in the Family Court* (Canberra: Australian Institute of Criminology, 1991).
- Bannister, S and Milovanovic, D, 'The Necessity Defense, Substantive Justice and Oppositional Linguistic Praxis' (1990) 18 *International Journal of the Sociology of Law* 179-198.
- Bartle, R, *Administering Justice: Crime and the New Magistrate* (Chichester: Larry Rose, 1985) 10-20.
- Beaman, H, 'Abused Women and Legal Discourse: The Exclusionary Power of Legal Method' (1996) 1(1) *Canadian Journal of Law and Society* 125-139.
- Beazer, M, *Access and Justice* (Victoria: Beazer Publishing Co, 1994).
- Benjamin, W, 'The Work of Art in the Age of Mechanical Reproduction' in *Illuminations* (1973).
- Bertone, A et al, *Témoins sous influences* (Grenoble: Presses Universitaires de Grenoble, 1995).
- Boedels, J, *Les Habits du pouvoir: La justice* (Paris: Antebi, 1992).
- Bonaf-Schmitt, J, *La Médiation: une justice douce* (Paris: Syros, 1992).
- Bottoms, A and McClean, J, *Defendants in the Criminal Process* (London: Routledge, 1976).
- Bottoms, A and McClean, J, 'The Defendant's Perspective' in Baldwin, J and Bottomley, A, (eds), *Criminal Justice - Selected Readings* (London: Martin Robertson & Co, 1978).
- Bove, L (directeur), *Justice et théâtre* (Paris: Ed Quinette, 1991).
- Braithwaite, J, *Crime, Shame and Reintegration* (New York: Cambridge University Press, 1989).
- Brandon, I, 'Vers un nouveau regime d'incapacit? Les interrogations d'une juge de paix' in Benoit, G, Brandon, I and Gillardin (eds), *Malades Mentaux et Incapables Majeurs: Emergence d'un Nouveau Statut Civil* (Brussels: Facults Universitaires Saint-Louis, 1994) 225-304.
- Brigham, J, 'Architectures of Justice: The Private and the Privatized' (Paper presented at Representing Justice Conference, Wollongong, 1998) <<http://www.uow.edu.au/law/repjustice/brigabs.ht>>.
- Brigham, J, 'Exploring the Attic: Courts and Communities in Material Life' in Mendelson, O and Maher, L (Eds), *Courts, Tribunals and New Approaches to Justice* (La Trobe University Press, 1995).
- Brigham, J, *The Cult of the Court* (Philadelphia: Temple University Press, 1987).
- Brown, S, *Magistrates at Work* (U.K: Open University Press, 1991).
- Brownlee, D, *The Law Courts: The Architecture of George Edmund Street* (Cambridge: MIT Press, 1984).
- Buckel, David, 'Delaware Judge Who Threw Lesbians Out of Court Accused of Bias' (Lambda Legal Defence and Education Fund) <<http://www.isomedia.com/homes/AABL/lldefny.txt>>.
- Bumiller, K, 'Rape as a Legal Symbol: an Essay on Sexual Violence and Racism' (1987) 42(1) *University of Miami Law Review* 75-91.
- Burney, E, Magistrate, *Court and Community* (London: Hutchinson, 1979).
- Cappelletti, M, *The Judicial Process in Comparative Perspective* (Oxford: Clarendon, 1989).
- Carlen, P, 'Control in a Magistrates' Court' in Campbell, C and Wiles, P (eds), *Law and Society* (Oxford: Martin Robertson & Co, 1979).
- Carlen, P, 'The Staging of Magistrates' Justice' in Baldwin, J and Bottomley, A (eds), *Criminal Justice: Selected Readings* (London: Martin Robertson & Co, 1978).
- Carlen, P, *Magistrates' Justice* (London: Martin Robertson, 1976).
- Carney, T and Tait, D, 'The Hearing Process as a Ceremonial Event' in *Balanced Accountability: An Evaluation of the Victorian Guardianship and Administration Board* (Melbourne: Office of the Public Advocate, 1992).
- Carney, T and Tait, D, *An Experiment in Popular Justice: Adult Guardianship in Australia* (Sydney: Federation, 1997).
- Casper, J D, 'Having their Day in Court: Defendant Evaluations of the Fairness of their Treatment' (1978) 12(2) *Law and Society Review* 237-251.
- Chief Architect of Victoria, *County Court Building* (Melbourne: Victorian Government).

- Cohen, R, 'Procedural Justice and Participation' (1985) 38 *Human Relations* 643-663.
- Commission on Trial Court Performance Standards, *Trial Court Performance Standards* (1990) 8.
- Conley, J and O'Barr, W, *Rules vs Relationships: the Ethnography of Legal Discourse* (Chicago: University of Chicago Press, 1990).
- 'Contempt in the Courtroom' <<http://www.nysba.org/cle/clepublications/contemptcourt.h>>.
- Cover, R, 'Violence and the World' in Minow, M, Ryan, M and Sarat, A (eds), *Narrative, Violence and the World: The Collected Essays of Robert Cover* (Michigan: Ann Arbor, University of Michigan Press, 1992).
- Danet, B, 'Language and Law: An Overview of 15 Years of Research' in Giles, H and Robinson, W (eds) *Handbook of Language and Social Psychology* (Chichester: Wiley, 1990).
- Danet, B, 'Language in the Legal Process' 14(3) *Law and Society Review*.
- Davis, N, *Fiction in the Archives: Pardon Tales and their Tellers in 16th Century France* (Stanford: Stanford University Press 1987).
- De Beauvoir, S, *The Second Sex* (Translated and Edited by Parshley H.M. Picador Classics, 1988).
- Douglas, R, 'Outsiders in Rural Courts: A Victorian Study' (1987) 18 *Australian and New Zealand Journal of Criminology* 269-285.
- Douty, H, 'The Influence of Clothing on the Perception of Persons' (1963) 55 *Journal of Home Economic*.
- Douzinas, C and Warrington, R, *Justice Miscarried. Ethics, Aesthetics and the Law* (New York: Harvester Wheatsheaf, 1994).
- Edwards, A and Heenan, M, 'Rape Trials in Victoria: Gender, Socio-Cultural factors and Justice' (1994) 27 *Australian and New Zealand Journal of Criminology* 213-235.
- Efran, M, 'The Effect of Physical Appearance on the Judgement of Guilt, Interpersonal Attraction, and Severity of Recommended Punishment in a Simulated Jury task' (1974) 8 *Journal of Research in Personality* 45-54.
- Ericson and Baranck, 'The Sacrificial Men' in Naffine, N (ed), *Law and the Sexes* (Sydney: Allen and Unwin, 1982) 125-135.
- Erlanger, H, Chambliss, E and Melli, M, 'Participation and flexibility in Informal Process: Cautions from the Divorce Context' (1987) 21 *Law and Society Review* 585-604.
- Favard, J, *Au coeur de Paris. Un palais pour la justice* (Paris: Gallimard, 1995).
- Federal Court of Australia, Library, 'The role of courts in society now, and over the 21st century' (Perth).
- Feeley, M, *The Process is the Punishment* (New York: Russell Sage Foundation, 1979).
- Ferridge, A, *The Varied Representations of Power Between Cross-Examining Lawyer and Testifying Witness During the Questioning Process* (Melbourne: University of Melbourne, 1997).
- Figueria-McDonough, J, 'Courts' Domain and Juvenile Justice Goals' (1980) 4(1) *Administration In Social Work* 55-70.
- Fontaine, G and Emily, C, 'Causal Attribution and Judicial Discretion: A Look at the Verbal Behavior of Municipal Court Judges' (1978) 2(4) *Law and Human Behavior* 323ff.
- Foucault, M, *Discipline and Punish: the Birth of the Prison* (New York: Pantheon, 1977).
- Frazier, C, 'Appearance, Demeanour and Backstage Negotiations: Basis of Discretion in a First Appearance Court' (1979) 7 *International Journal of the Sociology of Law* 197-209.
- Freud, S, 'The Expert Opinion in the Halsmann Case' 21 SE 251-253.
- Friedland, M (ed), *Courts and Trials: A Multidisciplinary Approach* (Toronto: University of Toronto Press, 1973).
- Friend, R and Vinson, M, 'Leaning Over Backwards: Jurors' Response to Defendant's Attractiveness' (1974) 24(3) *Journal of Communication* 124-129.
- Fuller, P, 'The Social Construction of Rape in Appeal Court Cases' (1995) 5(2) *Feminism and Psychology* 154-161.
- Garapon, A, *Bien Juger: essai sur le rituel judiciaire* (Paris: Editions Odile Jacob, 1997).
- Garfinkel, H, 'Conditions of Successful Degradation Ceremonies' (1965) 61 *American Journal of Sociology* 420 - 424.
- Garfinkel, H, *Studies in Ethnomethodology* (Englewood Cliffs, NJ, Prentice-Hall, 1967).
- Georgia Supreme Court, 'Gender and Justice in the Courts' <www2.state.ga.us/Courts/Supreme/>

- cetoc.htm>.
- Gerbas, K, 'Justice Needs a New Blindfold: a Review of Mock Jury Research' (1977) 84(2) *Psychological Bulletin* 323-345.
- Ghel, Jan, *Public Spaces and Public Life in Perth: A Report for the Government of Western Australia and the City Of Perth* (1994).
- Girard, R, *La Violence and le Sacré* (Paris: Grasset, 1973).
- Glasson, M, *Les Origines du Costumes de la Magistrature* (Paris: F in-Didot, 1882).
- Goddard, C, 'Abusing Children for a Living: Protecting Children from Abuse by Professionals: Part.1' (1993) 18(3) *Children Australia* 41 - 46.
- Goffman, E, *Interaction Ritual* (Middlesex: Penguin, 1967).
- Goffman, E, *Stigma* (New York: Simo and Schuster Inc, 1963).
- Goodman, R, *After the Planners* (Pelican, 1972).
- Goodsell, C, *The Social Meaning of Civil Space: Studying Political Authority through Architecture* (Lawrence, Kan, University of Kansas Press, 1988).
- Greenstone, J, 'Violence in the Courtroom: Culpability, Personal Responsibility, Sensitivity and Justice' (1994) 10(2) *Journal of Police and Criminal Psychology*.
- Griffin, M, 'Answer the Damn Question: One Witness's Story' (1996) 6 (31) *Australian Lawyer* 28-29.
- Guarnieri, C, *La Puissance de Juger* (Paris: Michalon 1996).
- Guidelines for the Media: Western Australia Supreme Court, District Court, Family Court, Children's Court and Magistrates' Court* (Perth, 1996).
- Hagan, J, 'Ceremonial Justice: Crime and Punishment in a Loosely Coupled System' (1979) 58 *Social Forces* 506-527.
- Hall, Edward, *The Hidden Dimension* (New York: Anchor Books, 1966).
- Haller, V and Muchura, S, 'Procedural Justice at German Courts as Seen by Defendants and Juvenile Prisoners (1995) 8 *Social Justice Research* 197-215.
- Harbinger, 'Courtroom-in-the-Round' (1972) *Courthouses and Courtrooms*.
- Harbinger, R, 'Trial by Drama' (1971) 55 *Judicature* 122-128.
- Hardenbergh, Don, *Retrospective of Courtroom Design: (1980 - 1991)* (United States: National Centre For State Courts, 1992).
- Hardenbergh, Don, Tobin, R and Chang - Ming Yeh, *The Courthouse: A Planning and Design Guide For Court Facilities* (United States: National Centre For State Courts, 1992).
- Harrington, C, *Shadow Justice: The Ideology and Institutionalization of Alternatives to Court* (Westport: Greenwood Press, 1985)
- Harris, S, 'Questions as a Mode of Control In Magistrates' Courts' (1984) 49 *International Journal of the Sociology of Language* xx-yy.
- Harvard University, Graduate School of Design, *The New American Courthouse: Professional Development Programme* (1998).
- Hazard, J, 'Furniture Arrangement as a Symbol of Judicial Roles' (1962) 19(2) *ETC* 181-188.
- Henry, S and Milovanovic, D, *Constitutive Criminology* (London: Sage, 1996).
- Home Office (England and Wales), *Magistrates Courts Design Guide* (London: HMSO, 1991).
- Home Office, 'Stopping Witnesses Being Scared into Silence' <<http://www.coi.gov.ut/coi/depts/GHO/coi9594.ok>>.
- Hooper, WE, *The Central Criminal Court of London* (London, 1909).
- Hutton, N, 'The Sociological Analysis of Courtroom Interaction: A Review Essay' (1987) 20 *Australian and New Zealand Journal of Criminology*.
- Izzett, R and Leginski, W, 'Group Discussion and the Influence of Defendant Characteristics in a Simulation Jury Setting' (1974) 93 *Journal of Social Psychology* 271-279.
- Jackson, B S, *Making Sense in Law: Linguistic, Psychological and Semiotic Perspectives* (Liverpool: Deborah Charles Publications, 1995).
- Jacob, R, *Images de la justice. Essai sur l'iconographie judiciaire du Moyen Âge a l'Âge classique* (Paris: Le Leopard d'Or, 1994).
- Jacobs, J, *The Death and Life of American Cities: The Failure of Town Planning* (Penguin, 1972).

- Jacquemet, M, *Credibility in Court: Communicative practices in the Camorra Trials* (1980).
- James, R, *Temples of Justice: County Courthouses of Nevada* (Reno: University of Nevada Press, 1994).
- Jette, P, 'Face to face Interaction with the Criminal Justice System: Differential Leverage Interaction Strategies' <<http://www.ci.sf.ca.us/courts/superior/dept3.1.htm>>.
- Judicial Council of Virginia, *Virginia Courthouse Facility Guidelines* (1997).
- Keeton, R E, *Trial Tactics and Methods* (Boston: Little Brown, 2nd ed, 1973).
- Kerr, N and Bray, R, *The Psychology of the Courtroom* (San Diego: Academic Press, 1982)
- Kessler, R, 'The Psychological Effects of the Judicial Robe' (1954) *American Imago*.
- King, M, *The Framework of Criminal Justice* (London: Croom Helm, 1981).
- King, M, 'Mad Dances and Magistrates' (1978) 45(832) *New Society* 564-566.
- Konradi, A, 'Preparing to Testify: Rape Survivors Negotiating the Criminal Justice Process' (1996) 10(4) *Gender and Society* 404-432.
- Lane, R, 'Procedural Goods in a Democracy: How One is Treated Versus What One Gets' (1988) 2 *Social Justice Research* 177-92.
- Lasswell, H D and Fox, M, *The Signature of Power: Buildings, Communication, and Policy*, (New Brunswick: Transaction Books, 1970).
- Late Line, *Share Of Power* (Video. ABC Australia, 1994)
- LaTour, S, 'Determinants of Participant and Observer Satisfaction with Adversary and Inquisitorial Models of Adjudication' (1978) 35 *Journal of Personality and Social Psychology* 1531-1545.
- Lawson, S, Jordan, F and Tunnicliff, R., 'Courthouse Design' (Paper presented at the First International Conference, 'The US Federal Courts, the American Institute of Architects Committee on Architecture for Justice and the National Centre for State Courts', 1992).
- Lee, J, 'Prologue: Talking Organization' in Button, G and Lee, J (eds), *Talk and Social Organizations* (Philadelphia: Multilingual Matters, 1987) 19-53.
- Lees, S, *Camal Knowledge: Rape on Trial* (London: Hamish Hamilton, 1988).
- Legendre, P, *Lecons VII: Le désir politique de dieu - Études sur les montages de État et du droit* (Paris: Fayard, 1988).
- 'Letters to the Editor', *The West Australian* (Perth, 27 October 1998), 12.
- Levi J and Walker, A, *Language in the Judicial Process* (New York: Plenum, 1990).
- Lévi-Bruhl, H, *La Preuve Judiciaire: Étude de Sociologie Juridique* (Paris: Marcel Rivière, 1964).
- Lévi-Bruhl, H, *Recherche Sur Les Actions De La Loi* (Paris: Sirey, 1960).
- Lieberman, K, 'Problems of Communication in Western Desert Courtrooms' (1988) 3(3) *Legal Service Bulletin* 94-96.
- Lipietz, M, 'Routine and Deviations: The Strength of The Courtroom Workgroup in a Misdemeanour Court' (1980) 8 *International Journal of the Sociology of Law* 47-60.
- Lord Chancellor, *Court Dress: A Consultation Paper Issued on Behalf of the Lord Chancellor and the Lord Chief Justice* (London: August, 1992).
- Loze, P, *Le Palais de Justice de Bruxelles* (Brussels: Vokaer, 1983).
- Malcolm, David AC, *Report of Chief Justice's Taskforce on Gender Bias* (1994).
- Matoesian, G M, *Reproducing Rape: Domination Through Talk in the Courtroom* (Oxford: Polity Press, 1993).
- Matoesian, G, 'Language, Law and Society: Policy Implications of the Kennedy Smith Rape Trial' (1995) 29(4) *Law and Society Review* 669-701.
- Maxwell, G and Morris, A, *Family, Victims and Culture: Youth Justice in New Zealand* (1993).
- Maza, Sarah, (1987), 'Le tribunal de la Nation: Les mémoires judiciaires et l'opinion publique à la fin de l'Ancien Régime' (Jan - Feb, 1987) *Annales ESC* 73-90.
- McBarnet, D J, 'Victim in the Witness Box: Confronting Victimology's Stereotype' (1983) 7 *Contemporary Crises* 293-303.
- McBarnet, D, 'Conviction' in Brown, D et al (eds), *Criminal Laws* (Sydney: Federation Press, 1981) vol 1.
- McBarnet, D, 'Two Tiers of Justice' in *Conviction: Law, the State and the Construction of Justice* (London: MacMillan Press, 1981).

- McEwen, C and Maiman, R, 'Mediation in Small Claims Court: Achieving Compliance Through Consent' (1984) 18 *Law and Society Review* 11-50.
- Mellinkoff, D, *The Language of the Law* (Boston: Little Brown, 1963).
- Mercer, C, *Living in Cities: Psychology and the Urban Environment* (Penguin, 1975) 16.
- Messmer, H, 'Victim-Offender Mediation in Germany' in David, G (ed), *Making Amends: Mediation and Reparation in Criminal Justice* (London: Routledge, 1992).
- Mileski, M, 'Courtroom Encounters: an Observational Study of a Lower Criminal Court' (1971) 5 *Law and Society Review* 473-538.
- Ministry of Justice, Western Australia Court Services Customer Service Charter (Perth) <<http://www.justice.wa.gov.au>> (reproduced at Appendix 2).
- Minow, M, Ryan, M and Sarat, A (eds), *Narrative, Violence and the Word: the Collected Essays of Robert Cover* (Michigan: University of Michigan Press, Ann Arbor, 1992).
- Morill, A E, *Trial Diplomacy* (Chicago: Court Practice Institute, 1971).
- National Institute of Law Enforcement and Criminal Justice, *Law Enforcement Assistance Administration* (United States: Department of Justice, 1976).
- National Victim Center, 'Special Provisions for Children in the Criminal Justice System' <<http://www.nvc.org/ddir/info58.htm>>.
- Naughton, T, *Places of Judgement New South Wales* (Sydney: Law Book, 1987).
- Newman, Oscar, *Design Guidelines for Creating Defensible Space* (1972).
- Nicholson, R D, 'The Courts, the Media and the Community' (1994) 3 *Journal of Judicial Administration*.
- Nicholson, R D, 'The Courts, the Media and the Community' (1995) 5 *Journal of Judicial Administration*.
- Nicholson, R, *Seats of Justice - Courthouses as Places of History* (Perth: Royal Western Australian Historical Society, 1964).
- O'Barr, W, *Linguistic Evidence: Language Power and Strategy in the Courtroom* (New York: Academic Press, 1982).
- O'Connor, I and Sweetapple, P, 'Court Room Players' in *Children in Justice* (Melbourne: Longman Cheshire, 1988).
- 'Old Boys Brief is to get Women at the Bar and Determined Lawyers Say they had a Case to Prove', *The West Australian* (Perth, 2 October 1998), 3.
- Ost, F, 'Judge pacificateur, judge-arbitre, judge entraîneur: Trois modèles de justice' in *Pouvoir Judiciaire et Fonction de Justice* (Brussels: Ed Des Facultés Saint-Louis, 1983) 1-71.
- Parker, S, *Courts and the Public* (Melbourne: Australian Institute of Judicial Administration, 1998).
- Passion, Luc, 'La politique du Second Empire en matière de criminalité: le'exemple de Paris' (1981) 16(11) *Bulletin de la Société D'Histoire Moderne* 12-21.
- Pederzol, P, 'Italy: A Case of Judicial Democracy' (1997) 49(2) *International Social Science Journal* 253-272.
- Pennington, N and Hastie, R, 'The Story Model for Juror Decision Making' in Hastie, R (ed), *Inside the Juror* (1994).
- Phillips, R, 'Unequal before the Law' in Zdenoeski, G; Ronalds, C and Richardson, M (eds), *The Criminal Justice System* (Australia: Pluto Press, 1987) vol 2.
- Préface de Robert Badinter (ed), *La Justice en ses temples, Regards sur l'architecture judiciaire en France* (Paris: Brissaud).
- Public Affairs Department, *Subordinate Courts*, (Video, Singapore: Caldecott Productions International Pte Ltd).
- Rappaport, J, *Community Psychology, Values, Research and Action* (USA: Holt Rinehart and Winston, 1977).
- Raymondis, L and Le Guern, M, *Le Langage de la Justice Pénale* (Paris: Ed du CNRS, 1976).
- Rivkin, J, 'Something Like: Alternative Dispute Resolution' (1994?) *Law and Society Review*.
- Rock, P, 'Witnesses and Space in a Crown Court' (1991) 31(3) *British Journal of Criminology* 266-279.
- Röhl, K and Machura, S (eds), *Procedural Justice* (Aldershot, Dartmouth: Oñati International Institute for the Sociology of Law, 1997).
- Rosen, L, 'The Dock: Should it be abolished?' (1966) 29 *Modern Law Review* 289-300.
- Saainen, A, *Environment Planning, Perception and Behaviour* (Boston: University of Arizona Press, 1976).

- Sacks, H, Schegloff, E and Jefferson, G, 'A Simplest Systematics for the Organization of Turn-taking for Conversation' in Schenken, S (ed), *Studies in Organization of Conversational Interaction* (New York: Academic, 1978) 7-55.
- Sarat A, *Law's Violence* (Michigan: Ann Arbor, University of Michigan, 1992).
- Schegloff, E, 'Discourse as an Interactional Achievement' in Tannen, D (ed), *Analyzing Discourse: Text and Talk* (Washington D C: Georgetown University Press, 1982) 71-93.
- Schnapper, B, 'Le jury francais aux XIX and XX siècles' in Schioppa, A (ed), *The Jury Trial in England, France, Germany, 1700-1900* (Berlin: Dunker and Humblot, 1987).
- Sevilla, C, *Disorder in the Court: Great Fractured Moments in Courtroom History* (1995).
- Shuy, R, *Language Crimes: The Use and Abuse of Evidence in the Courtroom* (London: Blackwell, 1996).
- Sigall, H and Ostgrove, N, 'Beautiful but Dangerous: Effects of Offender Attractiveness and Nature of the Crime on the Juridic Judgement' (1975) 31 *Journal of Personality and Social Psychology* 410-414.
- Smith J, 'Civility in the Courtroom from a Litigator's Perspective (May - June, 1997) *New York State Bar Journal* <<http://www.nhdd.com/hot/whzz.htm>>.
- Snel, B, 'Observation in the Courtroom' (1978) 14 *Netherlands Journal of Sociology* 173-190.
- Stewart, J, 'Defendant's Attractiveness as a Factor in the Outcome of Criminal Trials: an Observational study' (1980) 10(4) *Journal of Applied Social Psychology* 348-361.
- 'Survey Finds Public Unhappy with Courts', *The West Australian* (Perth, 5 September 1998), 39.
- Szwarc, J, *Improving the Court Environment: Discussion Group* (Canberra: Australian Institute of Criminology, 1991).
- Tait, D, 'Metaphor Wars in Evaluation Research: Reviewing Guardianship Boards in Two States' (1994) 21 *Journal of Law and Society* 238-252.
- Tait, D, Carney, T and Deane, K, 'Legal Regulation of Sterilization: The Role of Guardianship Tribunals in NSW and Victoria' (1993) 8 *Australian Journal of Family Law* 141-165.
- Taylor, K F, *In the Theater of Criminal Justice* (United States: Princeton University Press, 1993).
- Taylor, K F, *Modernizing the Palace of Justice: Architecture and Justice in Nineteenth Century* (Paris: MIT Press city, 1995).
- Teubner, G, *Law as an Autopoietic System* (Oxford: Blackwell 1993).
- Texas News: Victim Storms Out of Courtroom <<http://www.texnews.com/news/brookstrial051796.html>>.
- Third Branch, The, 'The Courthouse as a Centre of Civic Life' TTB interviewed Judge Sandra L Lynch (1st Cir) and Judge Douglas P Woodlock (D.Mass) on the opening of the Boston, Massachusetts, courthouse. <<http://www.uscourts.gov/ttb/nov98ttb/interview.html>>
- Toohey, John, *The High Court* (Video, Prism Film Productions Pty Ltd, 1996).
- Turner, V, *The Ritual Process: Structure and Anti-Structure* (Chicago: Aldine, 1969).
- Tyler, T, 'What Is Procedural Justice: Criteria used by Citizens to Assess the Fairness of Legal Procedures (1988) 2(2) *Law and Society Review* 103-135.
- Tyler, T, Rasinski, K and Griffin, E, 'Alternative Images of the Citizen: Implications for Public Policy' (1986) 41 *American Psychologist* 970-978.
- University of Wollongong, 'Court Architecture in Practice and Theory' (Papers presented at the Conference on Representing Justice, Wollongong 1998) <<http://www.uow.edu.au/law/repjustice/>>.
- Varaut, J, 'Lieu, Moment et Langage de la Justice Pénale: Esquisse d'une Phénoménologie de L'Audience' (1990) 5 *Gazette du Palais*.
- Vidmar, N, 'Procedural Justice and Alternative Dispute Resolution' in Röhl, K and Machura, S (eds), *Procedural Justice* (Aldershot, Dartmouth: Oñati International Institute for the Sociology of Law, 1997) 121-159.
- Vittoria, A, 'The Elderly Guardianship Hearing: A Socio-legal Encounter' (1992) 6(2) *Journal of Aging Studies* 165-190.
- Wagenaar, W, Koppen, P and Crombag, H, *Anchored Narratives: the Psychology of Criminal Evidence* (Hemel Hempstead: Harvester Wheatsheaf, 1993).
- Walklate, Sandra, *Victimology: The Victim and the Criminal Justice Process* (London: Unwin Hyman, 1989).

- Wassermann and Petersen, J (eds), *Recht und Sprache* (Heidelberg: Müller, 1983).
- Weait, M, 'Swans Reflecting Elephants: Imagery and the Law' (1982) 3(1) *Law and Critique*.
- Western Australian Ministry of Justice, Courts Services Division, 'Customer Survey, Executive Summary' (reproduced at Appendix 2).
- Western Australian Ministry of Justice, *Report of the review of Remission and Parole* (1998).
- White, S, 'Homilies in Sentencing' (1971) *Criminal Law Review*.
- Whitton, E, *Trial by Voodoo-Why the law defeats justice and democracy*, (Sydney, Random House, 1994)
The Cartel: Lawyers and Their Nine Magic Tricks (Sydney, Herwick, 1998)
- Whyte, William, *Rediscovering the Centre* (New York, Doubleday, 1988).
- Wilson J, *Discipline and Authority in Classroom and Courtroom* (1995).
- Winn, P, 'Legal Ritual' (1991) 2(2) *Law and Critique*.
- Wrightsmen, Lawrence, S (eds), *On the Witness Stand: Controversies in the Courtroom* (Newbury Park: Sage Publications, 1987).
- Zimmerman, D, 'On Conversation: The Conversation Analytic Perspective' in Anderson, J (ed), *Communication Yearbook* (Beverly Hills: Sage, 1988) vol. 2, 406-432.
-

Appendix I

Courts and Their Users

COURTS

Western Australian Courts relevant to this sub-section were:

- The Court of Petty Sessions - Criminal cases without juries.
- The Local Court - simple Civil cases
- The District Court - Criminal indictable offences and Civil disputes over \$250 000 and personal injury.
- The Family Court of WA - Family and child support cases.
- Supreme Court - Appeals and Life imprisonment criminal cases.
- Tribunals - special areas.
- The Country and regional Courts.

USERS

- Applicants - Self-represented or represented
- Respondents - Self-represented or represented
- Witnesses
- Charged people without bail
- Defendants - Self-represented or represented
- Prisoners
- Victims
- Women
- Children
- Aboriginies
- Cultural groups
- Expert witnesses
- Self-represented
- People with disabilities
- People with mental illness or mental disabilities or other special users
- Lawyers
- Judges
- Magistrates
- Counselling and Mediation staff
- Court officials and staff
- Security Personnel and Police
- Volunteers
- Press
- Visitors

Appendix 2

Customer Survey Executive Summary

Ministry of Justice, Court Services Division

EXECUTIVE SUMMARY

Driven by a commitment to customer service and continuous improvement, and an obligation under the Financial Administration and Audit Act 1985, the Court Services Division of the Ministry of Justice commissioned an independent study into the effectiveness of the services, which it provides.

The Customer Survey was to report on the effectiveness of the Court Services Division regarding services they provide to customers in two of four outputs related to the outcome 'Court Services that meet the needs of the judiciary and the community'. The two outputs put to the test were case processing and the enforcement of criminal and civil court orders.

The survey was not designed to cover the perceived effectiveness of the judiciary.

HOW THE RESEARCH WAS CONDUCTED

The research amongst the judiciary, practitioners, Fines Enforcement Registry (FER) clients, litigants and jurors comprised:

- In-depth interviews and/or group discussions were held with all groups to develop and pilot test the questionnaires.
- Quantitative surveys were carried out with:
 - 78 judiciary
 - 200 practitioners
 - 37 FER clients
 - 2558 litigants
 - 107 jurors
- Contact was made via an introductory letter from Court Services followed by a telephone interview, except with jurors, where contact was made in person during jury service on two consecutive Thursday mornings.

WHAT WE DISCOVERED

A question at the end of the survey acted as a barometer to determine overall satisfaction with services provided by Court Services. Responses were mostly positive with four out of five judiciary, three out of five practitioners and seven out of ten litigants saying they were satisfied. Jurors were not asked this question. See Table I for actual results.

Table I: Taking all things we have covered into consideration how satisfied or dissatisfied are you with the service provided by Court Services Division?

	Judiciary (78) %	Practitioners (200) %	Litigants (255) %
Very satisfied	29	6	24
Satisfied	55	57	48
Neither satisfied nor dissatisfied	10	26	13
Somewhat dissatisfied	3	11	11
Very dissatisfied	3	1	3
TOTAL satisfied	84	63	72
TOTAL dissatisfied	6	12	12

Trends

- Dissatisfaction with services provided by Court Services is low, particularly amongst the judiciary where only 6% indicated dissatisfaction.
- Justices of the Peace gave higher ratings than judges or magistrates.
- Country practitioners were more likely to be 'very satisfied' than metropolitan practitioners.
- Users of the Children's Court gave higher ratings than users of the Supreme, District and Magistrates Courts. 81 percent versus 73 percent and 70 percent.
- 'First time users' were more likely to be satisfied than 'subsequent users'.
- No significant differences in satisfaction can be observed between litigants who had 'won' or 'lost' their case or between those who were 'represented' and 'unrepresented'.
- Practitioners revealed that service from staff was the most influential factor in determining overall satisfaction. This was followed by satisfaction with listing, court buildings and management of case backlogs.
- Litigants also rated service from staff as the most influential factor in determining overall satisfaction. This was followed by satisfaction with case processing, waiting to be heard, ease of use without a solicitor and fair treatment of people using the courts.
- Between 25 and 40 percent of judiciary and practitioner respondents have seen an improvement in key focus areas identified in the Court

Services Strategic Plan such as partnership with the judiciary, case management, responsiveness, customer focus, planning and being proactive. No more than 10 percent said that the Division were declining in any of these areas.

CASE PROCESSING

Case Processing was one of two key areas placed under the spotlight in this survey. Respondents were asked to rate a number of individual aspects of Case Processing, and then taking all these aspects into account, give an overall satisfaction rating for Court Processing.

While ratings from judiciary, practitioners and jurors were strong, this area attracted higher levels of dissatisfaction than other service aspects from litigants. Note that jurors were only asked about their overall satisfaction with the jury process.

Table 2: Overall how satisfied or dissatisfied are you with how well the system worked at court?

	Judiciary (78) %	Practitioners (200) %	Litigants (255) %	Jurors (107) %
Very satisfied	39	6	15	15
Satisfied	52	63	49	66
Neither satisfied nor dissatisfied	4	22	11	16
Somewhat dissatisfied	1	9	14	1
Very dissatisfied	0	0	8	-
Unable to say	4	1	1	2
TOTAL satisfied	91	69	64	81
TOTAL dissatisfied	1	9	23	1

A number of strengths and weaknesses were identified by all customer groups.

Strengths

- The valuable role of the bench clerks was recognised by both practitioners and judiciary and high satisfaction with their service was recorded.
- Information at the court building about where to go was seen to be good.
- Courts were seen to run efficiently. However, dissatisfaction in this area was higher amongst 'subsequent users' than amongst 'first time users'.
- The jury process was seen to work well.
- Information about jury service and about how to behave in court was seen to be sufficient and good.

Weaknesses

- Registry problems focussed in the Local Court.
- Listing problems focussed in the Court of Petty Sessions.

- Problems with the speed at which transcripts are available and orders sent out. This problem is particularly acute in the county.
- Problems with the ability in listings to respond quickly to changed circumstances.
- All customer groups were dissatisfied with the time it takes to get a case to court and the time spent waiting at the court. This was one area where dissatisfaction was higher in country courts.
- There was concern with the order in which cases were called.
- The length of time spent by jurors in the assembly room.

Suggested future service initiatives

Future service initiative to reduce waiting times and backlogs and to improve case processing were put forward. Seen as high priorities are:

- Improved computing services.
- Staffing levels in listings, registry and secretarial support for judiciary.
- Assigning bench clerks to magistrates on more than a day to day basis.
- Ensuring defendants seek advice prior to their case being called.

ENFORCEMENT OF FINES

Many of the judiciary and practitioners were reluctant to comment on fines enforcement given their lesser involvement in this area. Corporate clients of the Fines Enforcement Registry also answered in relation to enforcement. In the case of litigants, the question about satisfaction with Enforcement of Fines was asked only of respondents who had a court order made for or against them — 73 per cent of litigants were interviewed on this question. The question was not asked of jurors.

Trends

- The judiciary and practitioners displayed a higher dissatisfaction with the enforcement of fines than with case processing.
- In contrast dissatisfaction amongst litigants is lower with enforcement of fines than case processing.

	Judiciary (78) %	Practitioners (200) %	FER Clients (37) %	Litigants (187) %
Very satisfied	11	4	27	14
Satisfied	44	34	41	58
Neither satisfied nor dissatisfied	6	23	24	11
Somewhat dissatisfied	7	12	0	5
Very dissatisfied	4	1	0	9
Unable to say	28	29	8	2
TOTAL satisfied	55	38	68	72
TOTAL dissatisfied	11	13	0	11

Table 3: How satisfied or dissatisfied are you that Court Services do all within their ability to ensure the production and service of court orders and the enforcement of criminal fines and penalties?

- Satisfaction was considerably higher amongst litigants who had had an order made against them, than those who had an order made for them.
- Practitioners were asked to provide detail when answering this question. This highlighted dissatisfaction with the effectiveness of the bailiff service and the speed at which fines are enforced.
- FER clients displayed very high levels of satisfaction about all aspects of the FER service, especially the helpfulness of staff and the speed to which they respond to queries.

COURT SERVICES STAFF

All customer groups rates Court Services staff very highly. The staff factor had the greatest influence when determining overall satisfaction.

Table 4: How satisfied or dissatisfied are you with the level of service provided to you by Court Services staff?

	Judiciary (78) %	Practitioners (200) %	Litigants (255) %	Jurors (107) %
Very satisfied	62	13	31	53
Satisfied	32	58	53	41
Neither satisfied nor dissatisfied	3	24	7	1
Somewhat dissatisfied	2	6	3	-
Very satisfied	-	0	2	1
Unable to say	1	1	3	3
Total satisfied	94	71	84	95
Total dissatisfied	2	6	5	1

Strengths

- Helpfulness.
- Friendliness and approachability.
- Ability to answer questions.
- Staff in District and Country courts were highly praised.
- Staff were seen to deal with people fairly.

Weaknesses

- Insufficient numbers of Staff.
- Amount of training received by staff.
- The telephone service.

COURT BUILDINGS

Respondents were asked to rate a number of specific aspects of the Court Buildings and to rate their overall satisfaction. The judiciary and practitioners voiced higher levels of dissatisfaction with court buildings than with any other service. In contrast litigants and jurors show high levels of satisfaction with court buildings. These results could reflect the limited frequency of contact that litigants and jurors have with the courts compared to the level of contact amongst practitioners and the judiciary.

Table 5: How satisfied or dissatisfied are you with the court buildings — this includes accommodation and furniture?

	Judiciary (78) %	Practitioners (200) %	Litigants (255) %	Jurors (107) %
Very satisfied	33	3	16	12
Satisfied	37	39	58	63
Neither satisfied nor dissatisfied	5	31	15	18
Somewhat dissatisfied	12	18	9	6
Very dissatisfied	12	11	2	1
Unable to say	-	-	-	1
TOTAL satisfied	33	42	74	75
TOTAL dissatisfied	25	29	11	7

Weaknesses

- Inadequate security.
- Courts are not user-friendly
- Inadequate pre-trial conference facilities and detention areas.
- Inadequate facilities in court such as VCRs and CCTV.
- Too few courts.
- Waiting rooms for litigants are not comfortable.
- Inadequate facilities for the public.
- Inadequate signage and information.

Priorities for improvement

- Security.
- A greater number of secure courts.
- Increasing 'user-friendliness' (this included more user-friendly signage and facilities and information for minority groups).

TRIAL COURT PERFORMANCE STANDARDS

The tentative Trial Court Performance Standard identify 22 performance standards which trial courts should aim to accomplish. These standards were developed by The National Centre for State Courts and the Bureau of Justice Assistance, United States Department of Justice in 1989. The 22 standards are grouped into five categories:

- Access to Justice;
- Expedition and timeliness;
- Equality, fairness and integrity;
- Independence and accountability; and
- Public trust and confidence.

Aspects of Court Services service were measured against these criteria.

Access to justice

Aspects measured: Accessibility of the buildings, effective participation, being treated with courtesy, responsiveness and respect and affordability, in terms of time and money.

Satisfaction with:

- customer service.

Concerned about:

- accessibility of buildings.
- 'user-friendliness' of facilities.
- sufficiency of resources.
- accessibility in terms of time and money, but especially time taken to get to court and time spent once at court.
- cost of transcripts.
- access for disabled people.

Expedition and timeliness

Aspects measured: Case processing and prompt implementation of laws and procedures.

Satisfied with:

- court processing as a whole (except timeliness: see weaknesses).
- prompt implementation of laws and procedures.

Concerned about:

- timeliness

Equality, fairness and integrity

Aspects measured: Fairness, equality, representativeness of juries, clarity of court decisions and the enforcement of orders.

Satisfied with:

- the extent to which juries are representative.
- everyone using the courts being treated fairly.
- everyone using the courts being treated equally.

Concerned about:

- the clarity of court decisions.
- the effectiveness of enforcement amongst practitioners and those with an order for them.

Independence and accountability

Aspects measured: Separation of powers, judicial independence, professional integrity and dignity of the courts. It was difficult to measure these aspects within the survey particularly amongst the general public for whom concepts such as the separation of powers and judicial independence are largely unfamiliar.

Satisfied with:

- the professional integrity and dignity of the courts.

Public trust and confidence

Concerned about:

- waiting times, adjournments, which may lead to disparity in procedure by the court.

Aspects measured: Many of these aspects relate to other standards in terms of ease of access to justice and fair and reliable court functions.

Satisfied with:

- courts being easy to use without a solicitor, increasing accessibility in terms of cost.
- courts being fair.

Concerned about:

- courts not always being accessible, given delays in getting to court and at court.



Appendix 3

Family Court Brochure

AS FROM 1 MARCH 1998 *INFORMATION SESSIONS*

WILL BE HELD EVERY THURSDAY AT 10.00AM

AND FRIDAY AT 2.00 PM.

(NOT WEDNESDAY AT 3.30PM AND

THURSDAY AT 10.00AM.)

INFORMATION SESSIONS FOR PROCEEDINGS

INVOLVING CHILDREN WHO ARE NOT CHILDREN

OF A MARRIAGE WILL STILL BE HELD

AT 2.00PM ON ALTERNATIVE WEDNESDAYS.

Note stapled to front page.

Front page



FAMILY COURT OF WESTERN AUSTRALIA

INFORMATION SESSION

COMPULSORY ATTENDANCE

All parties to applications before the Family Court **MUST** attend an ***Information Session***.

Friday 2pm

Thursday 10am

The Information Sessions are held every ~~Wednesday at 3.30pm and Thursday at 10.00am~~ at the Family Court and no appointment is necessary.

Compulsory attendance is required as the Court aims to encourage parties to resolve differences without the delay, expense, trauma and inconvenience of the matter proceeding to a hearing.

DETAILS OF SESSIONS OVERLEAF

Family Court Counselling Service:

9224 8248/1 800 199 228

Details on inside of Family Court brochure:

For parties to proceedings involving children *who are not children of a marriage*, Information Sessions will be held at 2.00 PM on **alternate Wednesday afternoons**.

Contact the Family Court Counselling Service on the telephone numbers opposite should you require session dates or any further information.

The sessions provide parties with information about:

- the formal procedure involved in an application before the Court
- the major principles of the law of parental responsibility, maintenance, child support and property settlement
- the role of the Counselling Service of the Family Court
- using the services of a lawyer.

TIMES: ~~Wednesday at 3.30pm or
Thursdays at 10.00am~~ *Friday 2pm*

DURATION: 1½ hours

VENUE: Family Court of Western Australia,
Information Session Room
Level 3, 150 Terrace Road, Perth
(Access via Concert Hall Concourse)

SPEAKERS: Qualified Legal Practitioner/Court Counsellor

NOTE:

- Attendance is compulsory for all parties to applications for parenting orders, property settlement and injunctions (not dissolution of marriage, summary maintenance or contravention of child order applications)
- Attendance must be, if possible, prior to the first hearing date of your matter at the Court
- The Information Sessions are a free service. Limited free child minding facilities are available at the Family Court during the Thursday morning session. Childminding facilities are NOT available to persons attending the 3.30pm Wednesday afternoon session
- A record of your attendance will be provided and should be retained by you
- Sessions are conducted at the Bunbury Court House once per month. For details telephone (08) 9224 8248 or 1 800 199 228
- Any concerns or queries about attendance at an Information Session can be discussed with a counsellor at the Family Court Counselling Service by telephoning the above numbers.