

Citizens' Juries in Australia: A Discussion about Protocols (8 February 2000)

Background

There have been a number of citizens' juries conducted in Australia recently and it has become obvious to a small group of practitioners¹ that variations have emerged: in methods of selection, in facilitation processes, in the structure of the jury and so on. Though protocols or guidelines for the operation of citizens' juries have been developed overseas (for example by the Jefferson Center in the US and IPPR in the UK), it is clear that Australians need to develop their own. This is considered important in order to ensure that the integrity of the citizens' jury method² is not lost and that consistency can be assured to both organisers and participants.

What is a citizens' jury?

A citizen's jury is convened to carefully consider evidence and various points of view about certain matters of interest to the general community. Jury members help commissioning authorities to make decisions concerning the allocation of resources and/or strategies to address particular issues.

A randomly selected group of typical citizens (usually 12-16) are recruited to be broadly representative of the wider population. Jury members (or jurors) are asked to address a question or questions on an important matter of policy or planning. They sit for up to four days and are assisted by independent facilitators. They are informed about the issue, cross-examine witnesses and discuss the matter fully. Their conclusions are compiled in a report that is submitted, subject to jurors' approval, to the commissioning body. The commissioning body is expected to publicise the jury's findings and to follow its recommendations or explain why they chose not to.

Citizens' juries originated in the United States and have been regularly used there and in Germany for over two decades (in Germany known as planning cells). Citizens' juries are being increasingly used in the United Kingdom and are proving to be well regarded as an alternative way of involving the public in key decisions. For this reason it is increasingly important that firm guidelines be established. The following standards are being proposed in order to stimulate discussion amongst practitioners, academics and participants. The list (below) has been categorised to

¹ Four practitioners met for the discussion which prompted the writing of this paper—Lyn Carson (Government and International Relations, University of Sydney), Lucy Cole-Edelstein (GHD Consulting), Max Hardy (Twyford Consulting) and Vivien Twyford (Twyford Consulting). Jo Manion (GHD Consulting) also participated in later discussions.

² The Jefferson Center has trademarked the name Citizens Jury in the U.S.

denote those procedures that must be adhered to, those that one should avoid, and those that are open to debate—or **Must Do, Mustn't Do** and **Maybes**.

Must Do

Participants must be randomly selected.

Random selection will lend more credibility to the process, in terms of fairness and representativeness. The more random the process, the more credible. Stratified sampling (or matching to a pre-determined population profile) is perfectly acceptable and is to be encouraged. It has been noted in Australia that randomly-selected participants are more likely to discuss issues in their role as a citizen than from a position of self-interest.

Facilitators must be involved in planning.

It is essential that the facilitator be involved early in the planning stage. A facilitator is not like a white board, to be hauled in for the day. Many a participatory process has failed because a facilitator has had to work with an unworkable plan. Independent, skilled facilitation will ensure that the jury works well—both in terms of the tasks to be completed and the wellbeing of the group.

The process must be flexible

The best-laid plans can fail. The client and the facilitator must both be positioned to change the plan at any time in order to take account of the jurors' needs. Citizens' juries are an experiment in small group democracy and inflexible plans deny participants their right to make decisions which affect them.

The link with final decisions must be clear

Accountability is important. It should be clear to participants how their actions will influence decision makers. Ideally a contract should be given to the jury, assuring jurors that their recommendations will be adhered to, and if they are not, how a public explanation will be made. An agreed public response to the jury's 'verdict' by the commissioning body is a transparent way of demonstrating their commitment to the process.

Information should be linked to the problem

The background information and the information presented by expert witnesses should be directly linked to the problem or the 'charge'. Offering information, for example, at a generalised or strategic level when participants need practical or operational information is not appropriate. One good strategy is to have witnesses distribute a simple one-page outline to jurors. Organisers therefore need to be very clear when briefing witnesses about the jury's information needs. Information must

be relevant and accessible. Participants should be alerted to information that is inconclusive or uncertain.

The jury must be owned by the jurors

The jury must own the citizens' jury process. Though led by the facilitator and convened by others, the jurors themselves should have maximum control of the process once it is underway.

There must be clarity of purpose

Participants should be given a clear introduction that outlines the purpose of the citizens' jury, the context within which it sits, the aims of the commissioning body, the roles of facilitator, jurors etc. It must be clear exactly how much of the process they will be able to influence.

Attention should be given to skills development

Facilitators should give some attention to developing participants' skills in relation to listening, note taking and questioning. Improving or being reminded of these skills will lead to heightened critical analysis and reflection.

Musn't Do

Clients must not control the process

Once the jury sits, the client must let go of the process. The client must not interfere with the activities of the jury and take it in a direction that is not determined by the jurors and the facilitator. However clients can assist greatly by acting on the jurors' needs for additional information and clarification of issues. The actions of the client during the sittings must show their respect for jurors and a willingness to help them with their important task.

Jurors' discomfort must not be ignored

Jurors may be unused to the tasks required. Some may feel intimidated by the process or unsure about how to proceed. A skilled facilitator will be aware of group members' discomfort and will have provided opportunities for the expression of any dissatisfaction. Group dynamics are as important as completion of the task. The maintenance of the group must not be swept aside so that the task can be completed. It has been noted that time for the group to interact alone is also important for the group's wellbeing.

Jurors must not be taken for granted

Jurors are usually voluntary or inadequately recompensed. They act out of an interest in the process and a belief in the importance of the issues. Jurors' needs are paramount. Disruptions should be minimised. Witnesses should not be treated with greater regard than jurors should.

Maybes

The jury can be open to the public

The commissioning body should establish the feasibility of opening the process to the general public—to allow for maximum scrutiny. The general public should act as observers only. Some witnesses have indicated that in some cases this could limit the extent to which they can be frank about sensitive issues. Some jurors have stated that being observed might influence their decision to serve as a juror.

The client might be involved as a witness

If the jurors own the jury process, a client can also take on the role of witness; this can work well. However, the client needs to be aware of the difference in roles in order for this to succeed and the two roles should be separated.

Adequate processing and deliberation time needs to be allocated so that jurors don't feel pressured to prematurely arrive at a verdict

Allocating inadequate time to process information and to deliberate conveys a lack of respect for the work being carried out by the jury. Client insistence on prematurely gaining a result tends to trivialize the jury's role. Sufficient time to process information can be built into the hearing days.

The momentum builds if days are consecutive

There is a strong argument that the jury should sit on consecutive days in order to maintain focus and to build momentum. Some jury sessions have been split (run over consecutive weekends for example) and this can work if reflection is built into the intervening days.

Information might be provided in advance

Minimum information is best provided in advance. It is important to find the balance between (a) offering adequate information on, say, the problem statement, the context, the commissioning body's intentions and so, and (b) offering too much information which could potentially intimidate or overwhelm jurors.

It can be helpful to develop a values statement

It is not essential but at least one jury has worked well when it developed a values statement. This statement of values can help to guide the jury's actions, the final verdict and the written recommendations.

There could be shared facilitation

Facilitation need not be limited to one person. Facilitation can be shared. If two facilitators are used, it is beneficial to split their duties and to inform jurors of the different roles. The ideal combination is to have one

facilitator responsible for process (i.e. task focussed), with the other responsible for the jurors' wellbeing (i.e. maintenance focussed).

A neutral witness can be used

The use of expert witnesses who are non-partisan can often be helpful. For example, such witnesses are useful for establishing the context, introducing creative speculation, addressing areas that more partisan witnesses might avoid.

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Comments

Comments on this discussion paper are encouraged as part of an ongoing dialogue and should be addressed to:

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