

What the Crown Court Study tells us as to Whether Trial by Jury is Fit for Purpose

Michael Zander KC (Hon)*

Emeritus Professor, LSE

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The Crown Court Study, carried out for the Runciman Royal Commission on Criminal Justice some 30 years ago, has become accessible online. The unique study was based on long questionnaires answered by the participants in every completed case in every Crown Court over a two-week period, some 3,000 cases, including over 800 trials. The participants—judges, lawyers, police, jurors—were asked to assess the process. This article is about decision-making by juries.

Trial by jury is a topic that is always of general interest but especially so now since the government announced controversial proposals to significantly reduce its scope. Cases with a probable sentence of three years or less would be heard by a judge alone in newly-created “Swift Courts”.¹ Strong claims are rightly made as to the value of trial by jury, but there is a dearth of research based on evaluation of jury decisions on the evidence.

The *Crown Court Study*² which I conducted 34 years ago as a member of the Runciman Royal Commission on Criminal Justice³ has largely been forgotten. For years I have thought it would be in the public interest for the report of the study to be accessible online. Recently, I acquired a digitised copy⁴ and in October 2025 this was uploaded by LSE⁵ and UCL.⁶ It is therefore now freely accessible to all online.

No such study had (or has) ever been conducted in this country or, so far as I am aware, anywhere else. The study was based on every completed case in a two-week period in February 1992 in all the 90 or so Crown Courts in England

* Email: mandbzander@gmail.com.

¹ Ministry of Justice Press Release, “‘Swift and fair’ plan to get justice for victims”, <https://www.gov.uk/government/news/swift-and-fair-plan-to-get-justice-for-victims>. This is far more than was recommended by Sir Brian Leveson in his *Independent Review of the Criminal Courts: Part 1* (Ministry of Justice, July 2025), https://assets.publishing.service.gov.uk/media/686be85d81dd8f70f5de3c1f35.49_MOJ_Ind_Review_Criminal_Courts_v8b_FINAL_WEB.pdf.

² M. Zander and P. Henderson, *The Crown Court Study* (HMSO, 1993), Royal Commission on Criminal Justice, Research Study No.19. (Paul Henderson, a Home Office statistician, did the computer number-crunching.)

³ *Report of the Royal Commission on Criminal Justice* (HMSO, 1993), Cm 2263.

⁴ I am indebted for this to the remarkable American website, Internet Archive, which, surprisingly, had a copy but not in a format that could easily be used or that could be downloaded. I asked whether they might send me the file—which they very generously did.

⁵ M. Zander and P. Henderson, *Crown Court study* (1993), Research Study 19, Stationery Office, <https://eprints.lse.ac.uk/129889/>.

⁶ UCL Judicial Institute, Faculty of Laws

and Wales, except three courts used in the pilot. There were some 3,000 cases including over 800 trials.

Questionnaires were handed by court clerks to the judges, the prosecution and defence barristers, the CPS, the defence solicitors, the police, the jurors⁷ and the defendants. They were returned, as and when, in pre-stamped envelopes.

They were long questionnaires—viz judges (88 questions), prosecution and defence barristers (184 questions), CPS (87 questions), defence solicitors (95 questions), jurors (81 questions), court clerks (29 questions), defendants (85 questions).⁸

Doubt as to whether one could hope to achieve an acceptable response rate with such long questionnaires proved groundless. With the understandable exception of defendants (19%), the response rate was more than high enough to be statistically significant: jurors (85%), court clerks (84%), judges (77%), prosecution barristers (71%), defence barristers (66%), police (57%), defence solicitors (44%).

There were some 22,000 questionnaires for analysis, including more than 8,000 from jurors. It was estimated that we had responses from 96% of the 800 or so juries that sat during the two-week survey period and from an average of 10 jurors per jury.⁹ After the introduction, the report has eight chapters: Arrest to Trial; Preparation for Hearing; Evidence; Trial; Cracked Trials; Result of Case and Other Jury Matters; The Respondents; The Jury. This article focusses on the findings regarding juries and jurors.

Replies to questionnaires about the operation of the criminal justice trial system made over 30 years ago should still be of interest, but are they *relevant* to the circumstances of today? Unless the study were repeated, which must be regarded as unlikely, we will not know. My belief is that many, perhaps most, of the findings of the whole 274-page report are as relevant today as they were then. Certainly, in some respect such as delays, the condition of the criminal justice trial system has significantly worsened, but why would that affect the view of participants as to what they experienced in regard to a particular case?¹⁰

Improvements have been made in the administration of the jury system since the time of the study, but, again, why would that affect answers if the same questionnaires were administered today? Summoning is now done centrally by the Jury Central Summoning Bureau. For most people, responding to a jury summons is now done online (which has increased the rate of responding). The process of empanelling a jury is today done by computer random selection in each court for each trial.

There have also been changes in regard to juror eligibility. The Criminal Justice Act 2003, Sch.33 enlarged the jury pool by abolishing the categories of “ineligible” or “excused as of right”.¹¹ Professor Cheryl Thomas, Director of UCL’s Jury Project, investigated the impact of the changes made by the 2003 Act by looking

⁷ Permission to address questions to jurors was granted subject to the condition that the juror questionnaires could not be linked to answers given by others involved in that case.

⁸ The questionnaire went through multiple drafts, each involving the relevant national authority, Bar Council, Law Society, CPS etc. The process is described at p.260.

⁹ See Table 7, p.254.

¹⁰ The questionnaires were directed to that particular case. The last page allowed respondents to comment on any other matter they wished to draw to the Royal Commission’s attention.

¹¹ Under the Juries Act 1974 judges and others concerned with the administration of justice and the clergy were ineligible for jury service. Others such as members of the medical profession or the armed services were entitled to be excused as of right. They are all now in the same position as any other potential juror.

at jury composition before and after the introduction of the changes. She found that the changes resulted in an increase in the proportion of those serving (from 54% to 64%) and in those serving on the date for which they were summoned (from 35% to 47%). It resulted in disqualifications being reduced by a third and excusals falling by a quarter.¹² There seems no reason for thinking that these changes affect consideration of juror responses to the 1992 study—especially since the responses were so clear-cut.

Did the jury understand and remember the evidence?

Jurors overwhelmingly thought that they themselves understood the evidence,¹³ including scientific evidence.¹⁴ Jurors, including the foremen, overwhelmingly also thought that the jury as a whole understood the evidence.¹⁵

The great majority equally thought they could remember the evidence, though, unsurprisingly, the proportion who found it difficult was affected by the length of the trial. In cases lasting one day, the proportion who found it difficult was 5%; in cases lasting over a week it was 27%.¹⁶ Jurors were asked about the length of their case. In a quarter (26%) it was under one day; in a half (53%) it was two to three days. In a quarter (21%) it was over three days.¹⁷ In 1991, the average hearing time for contested Crown Court cases was 6.6 hours.¹⁸ Current statistics show hearing times that are almost double, but they appear to be calculated on a different basis.¹⁹ (The 2006 report into the collapse of the so-called Jubilee Line Case found that neither the length of the trial (22 months) nor the lapse of time after the end of the trial (three to four months) affected those jurors' recall of the evidence.²⁰)

Of course, the fact that jurors think that they understood and remembered the evidence does not mean that they did. But the lawyers in the *Crown Court Study* overwhelmingly said that the jurors would have had no difficulty in understanding or remembering the evidence. On understanding the evidence, those who answered that they thought the jury would have had no trouble ranged from prosecution barristers (94%) to CPS (85%). The proportion who said they thought the jury could remember the evidence ranged from prosecution barristers (97%) to CPS (91%).²¹ (Through an oversight this question was not put to the judges.)

¹² C. Thomas, *Diversity and Fairness in the Jury System* (2007), Ministry of Justice Research Series 2/07, 2007, pp.107–117.

¹³ 8.2.1, p.205.

¹⁴ 8.2.2, p.206.

¹⁵ 8.2.3, p.207.

¹⁶ 8.2.5, p.209.

¹⁷ In the estimated 831 jury cases there were 38 cases (4%) that lasted more than three weeks, 13 (0.5%) that lasted more than five weeks and 4 (0.3%) that lasted more than 11 weeks. (Table 8.22, p.224).

¹⁸ *Judicial Statistics*, 1991, p.60, para.21, Table 6.20, p.67. The table has a footnote stating that the time taken for lunchtime adjournments is not included. It seems reasonable to assume that if hearing times included pre-trial and post trial hearings that would also have been stated.

¹⁹ “The median hearing time of “for trial” cases where a not guilty plea was entered decreased by 8% on the previous year from 11.9 to 11.0 hours - the lowest reported value since 2017” (*Criminal Courts Statistics Quarterly July to September 2024*, s.3 “Average hearing times at the Crown Court”. (Pt.1, Ch.9, para.63). Criminal Statistics confirmed to the writer that the figures include ALL hearings—pre-trial, trial and post-trial and probably therefore include stages not included in the 1991 figures.

²⁰ In the report on the collapse of the case by Her Majesty's Crown Prosecution Service Inspectorate, Sir Stephen Wooler stated (para.1.40): “No responsibility for the inconclusive outcome of the case can properly be attributed to the capabilities or conduct of the jury. . . Collectively, they appeared even at the time of our interview with them to have a good grip of the evidence and the issues particularly allowing for the fact that many months had passed since they last heard any evidence.”

²¹ 6.2.7, p.176 and 6.2.9, p.177.

The jurors were asked how long they took to consider their verdict. Over three-fifths (62%) said they took under two hours and 87% that they took under four hours. Only 2% said they deliberated for more than eight hours.²² (Statistics on the length of jury deliberations are not collected nationally.) Unsurprisingly, the length of jury deliberation was closely associated with the length of the case. Where the case lasted less than a day, the jury were out for under two hours in 89% of cases. When the case lasted three to four days, the jurors were back within two hours in only 15% of cases. When it lasted more than two weeks, the jury required more than four hours in nearly three-quarters (69%) of the cases.²³

Were there jurors who could not cope?

Jurors were asked “Do you think there were any member(s) of the jury who could not really cope with the case?” Almost four-fifths of jurors (78%) thought that all members of the jury could cope. The proportion of jury foremen who agreed was the same (78%). Whereas the jurors generally were roughly equally male/female, foremen were disproportionately male—78%²⁴. By contrast, the age profile of foremen was not greatly different from that of the jurors generally. Over a quarter were under 34 and, surprisingly, a tenth were under 25.²⁵ Nine per cent of jurors and 11% of jury foremen thought some could not cope. The remaining 13% of all jurors and 10% of jury foremen were not sure.²⁶

According to the foremen, there were 18 jurors spread among 13 juries who could not understand English well enough, there were some 114 jurors spread among 41 cases who did not have the ability to understand the details of the particular case; and some 54 jurors spread among 35 cases who were did not have the ability to understand the details of *any* case.²⁷

The jury’s decision

A feature of the *Crown Court Study* was getting respondents to assess the work of other actors in the case. One of the surprises was how generally positive respondents—even convicted defendants—were. One such enquiry was “reaction to the jury’s verdict”. The judges, barristers, defence solicitors, CPS and the police were asked: “In your view, was the jury’s decision surprising in the light of the evidence?”²⁸ In most cases the response was “Not surprised”. The prosecution and defence barristers, the judges and defence solicitors said it was surprising in under a fifth of cases.²⁹ The police and the CPS thought it was surprising in around a quarter of cases.³⁰

These differences became more marked when the answers were related to whether the verdict was acquittal or conviction. Acquittals generated more surprise than convictions—though not for defence barristers or defence solicitors. The

²² 8.10.1, p.224.

²³ Table 8.24, p.225.

²⁴ 8.12.2, p.233.

²⁵ 8.12.3, p.233.

²⁶ Table 8.46, p.243.

²⁷ page 244

²⁸ Due to an error, in the police questionnaire, the words “in light of the evidence” were omitted.

²⁹ 15%, 14%, 14%, 18% respectively—Table 6.5, p.163.

³⁰ 25%, 27% respectively—Table 6.5, p.163.

judges found the verdict surprising in 4% of cases ending in conviction, but in 25% of cases ending in acquittal. (Importantly, this suggests that if the Government's reform proposals are implemented, there would be fewer acquittals.) Prosecution barristers, likewise, found it surprising in 3% of cases ending in conviction but in 26% ending in acquittal. For the police and the CPS, the difference was even greater—8% and 10% respectively in conviction cases compared with 47% and 44% respectively in acquittal cases.³¹

Regardless of their answer to the previous question, respondents (other than the CPS who were unfortunately omitted) were then asked: "Which of these comes closest to your view of the jury's decision?" Their responses are set out in the table below:³²

Table 1:

	Understandable in the light of the evidence%	Against the overall weight of the evidence, but explicable%	Against the judge's direction on law, but explicable%	Inexplicable%	N=
Judges	86	12	1	2	599
Prosecution barristers	83	12	0	4	495
Defence barristers	84	13	0.2	3	461
Defence solicitors	87	10	1	2	315
Police	78	13	1	8	450

What is most striking is the similarity of responses from each category of respondent. Overwhelmingly they all, including the police, thought the verdict was understandable in light of the evidence. A little over a 10th thought the decision was against the weight of the evidence but that that was explicable. A great variety of reasons were suggested: sympathy for the defendant; antipathy toward some feature of the prosecution's evidence; case too trivial or stale; misconduct by the police; evidential considerations such as lack of corroboration or evidence all being circumstantial; concern over possible sentence; quality or lack of quality of the respective barristers. Hardly any respondents thought the jury had ignored the judge's direction. Very few thought the verdict was inexplicable, though the police held that view more than the judges or the lawyers.

We looked at the breakdown in the minority of cases where respondents said they were surprised by the jury's decision. In the great majority of cases for each category of respondent, "surprised at the outcome" meant that the verdict was felt to be against the weight of the evidence or inexplicable.³³

We also looked at the replies by reference to the result of the case. Here there was a clear difference of view as between the judges, prosecution barristers and police on the one hand and the defence barristers and defence solicitors on the other. Where the jury's verdict was viewed by defence barristers and solicitors as

³¹ Table 6.6, p.164.

³² Table 6.7, p.165.

³³ Table 6.8, p.166.

“Understandable”, roughly half the cases had ended in acquittal. The comparable figure for the judges, prosecution barristers and police was just over a third.³⁴

This disparity was even more marked when the verdict was thought to have been against the weight of the evidence or “inexplicable”. Around 90% of the verdicts thought to be against the weight of the evidence by the judges, prosecution barristers and the police, were acquittals, compared with just over 40% by the defence team.

We looked also to see to what extent the police negative view of acquittal decisions was shared by other respondents. (“Negative view” here meant “Against the weight of the evidence”, “Against the judge’s direction” or “Inexplicable”.) There were 64 such cases. In almost half of these cases (31), the police negative view was the majority view; in 22 it was not the majority view, and in the other 11 cases there was no clear outcome.³⁵

Looking at the aggregate of agreement and disagreement, the judge disagreed with the police view in 56% of 50 cases, the prosecution barrister disagreed with the police view in 34% of 41 cases, the defence barristers disagreed with the police view in 78% of 41 cases and defence solicitors disagreed in 77% of 30 cases.³⁶

Problematic verdicts

The table below shows what the judges, the prosecution barristers and the defence barristers thought of the jury acquittals.

Table 2: Judges’ and barristers’ explanation of jury acquittals³⁷

	Judge %	Prosecution barrister %	Defence barrister %
Understandable in light of the evidence	71	68	84
Against weight of the evidence	25	25	13
Against the judge’s direction on the law	0.4	0	0
Inexplicable	4	6	3
n	221	185	185

What one might call “problematic jury acquittals” constituted 31% of all acquittals for prosecution barristers, 29% for the judges and 16% for defence barristers. Jury acquittals are a minority of all acquittals. On the figures in the 1991 Criminal Statistics, 43% of 17, 760 acquittals were “ordered acquittals” where the prosecution offered no evidence, 16% were “directed acquittals” by the judge, usually after a defence submission of “no case to answer”. Acquittals by the jury were 41% of the total. If “problematic acquittals” are taken at their highest, as say, 30% of the 41% of jury acquittals, they would represent 12% of all acquittals. (The

³⁴ Table 6.9, p.167.

³⁵ Page 168.

³⁶ Page 169

³⁷ Table 6.11, p.170.

current figures are collected but they are not published and can therefore only be accessed by way of an FOI request.)

There were far fewer “problematic convictions” than “problematic acquittals”, but the number and proportion was more than negligible. Even the police and the CPS were surprised by as many as 8% and 10% of convictions respectively.³⁸

Is trial by jury a good system?

The judges and the barristers were asked: “What do you think of the jury system in terms of generally getting a sensible result?” (Regrettably, that question was not put to the other respondents.)

Almost four-fifths of the judges (79%) thought the jury system was “Good” or “Very good”; 8% thought it was “Poor” or “Very Poor”. The rest were neutral. The barristers were even more positive—88% of prosecution barristers and 91% of defence barristers thought it a “Good” or “Very good” system and the proportion who thought it “Poor” or “Very poor” was 4% and 2% respectively.³⁹

We also asked jurors. Their view was essentially the same. Four-fifths (80%) of jurors rated the system “Very good” or “Good” with only 5% rating it “Poor” or “Very poor”. 15% were neutral.⁴⁰

When we compared the view of different age groups, there was a clear progression. All ages were very positive, but the older jurors were even more positive. Of jurors aged between 18–24 the proportion who rated the system “Good” or “Very good” was 73%. The proportion for jurors of all age groups above the age of 35 was over 80% with the oldest (65+) being the most positive (85%). The proportion of jurors who rated the system “Poor” or “Very poor” was absolutely steady for all age groups at 5 or 6%.⁴¹

The most significant findings

Since I was a member of the Royal Commission, it was required that I not express any views about the finding in the report at the time.

The most significant findings on juries seem to me to be those expressing views about the jury’s verdict. The judges, prosecution and defence barristers, the CPS, defence solicitors and the police were asked whether they found the jury’s verdict surprising. As has been seen, with slight variations they all agreed that in the great majority of cases it was not surprising. (The variation was a high of 86% to a low of 73%).

The minority who found the verdict surprising were asked whether they had a view as to the explanation for the verdict. Overwhelmingly each category of respondent thought the jury’s verdict was ‘understandable in light of the evidence’. (The variation was between a high of 87% and a low of 78%).

These two findings seem strong affirmation of the system of trial by jury.

³⁸ Page 170

³⁹ Table 6.13, p.172.

⁴⁰ Table 8.33, p.232.

⁴¹ Table 8.34, p.232.