

陪審團

JURY

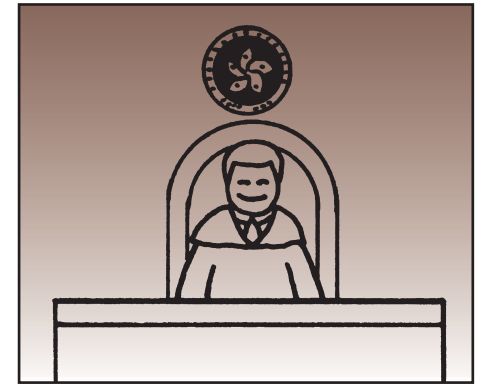


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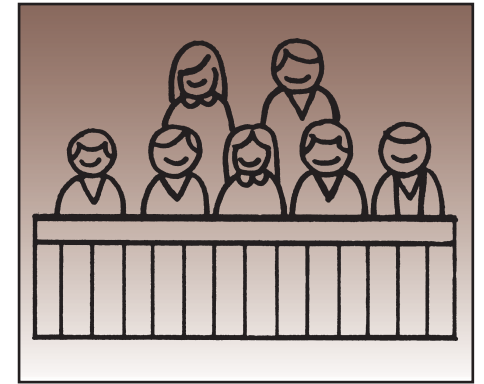
陪審團

陪審團制度是香港法律體制中最重要的特點之一，被告人會在法庭內由社會人士來審判。



陪審員是誰？其職責是甚麼？

陪審員由香港居民出任，他們宣誓後可參與刑事案件及某些民事案件的聆訊，並就案件作出裁決。陪審團退庭商議時，不會有其他人士在場，他們會根據在庭上聽取的證供而對案件的事實作出裁斷。



由於陪審員並非法律專才，所以主審法官會就法律論點向陪審團作清晰的指引。每位陪審員都有責任確保司法公正，這不單是陪審員對被告人應負上的責任，也是對被告人及陪審員同屬的社會應負上的責任。

審理刑事案件時，首席陪審員會在所有其他陪審團成員及被告人面前，公開地在庭上告知主審法官陪審團是裁定被告人有罪或無罪。

而在死因研訊中，陪審團則會裁定死者致死的原因及確定與事件有關的情況。

陪審團由多少名陪審員組成？

最嚴重的刑事案件（例如：謀殺、誤殺、強姦、持械行劫、某些涉及毒品和商業詐騙的案件），均由1位原訟法庭法官及7名陪審員聆訊。然而，法官也可下令將陪審員人數增至9名。

陪審員的資格

出任陪審員是每一位合乎資格的香港居民應盡的責任。

雖然出任陪審員有時會帶來不便，然而香港是一個法治社會，擁有透明度高的法律制度，陪審團所扮演的角色尤為重要，因此出任陪審員也是一種榮幸。

任何具備下列條件的香港居民，均有資格出任陪審員：

- 年滿21歲但未滿65歲；
- 精神健全而並無任何使其不能出任陪審員的情況如聽覺或視覺的損傷等；
- 品格良好，及
- 熟悉聆訊時所採用的語言——即中文或英文（視乎個別情況而定）

某些民事案件，例如涉及誹謗或惡意檢控等訴訟，案中任何一方均可選擇把有爭議的事實交由陪審團認定。

在死因裁判法庭進行的某些死因研訊也需要選任陪審團出席，但陪審團只須有5名成員。

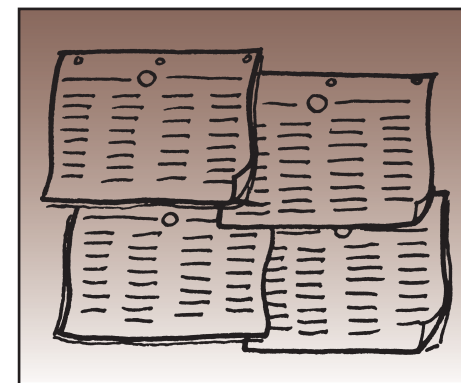


如何挑選陪審員？

若你符合出任陪審員的資格，人事登記處處長會把你的名字納入陪審員名單內，並由高等法院司法常務官發出通知，通知你將會把你列入陪審員名單內。

高等法院司法常務官每兩年編製一份陪審員臨時名單，該名單於十月或以前擬定，然後在翌年二月或以前確認。司法常務官亦可隨時增補該份名單。臨時名單或增補名單一經備妥，司法常務官會在憲報及報章刊登公告，說明該名單已可供查閱。

高等法院司法常務官每星期以隨機抽選的方式，從陪審員名



單內抽出若干數目的陪審員。若你被抽中，法庭會以掛號郵遞把傳票寄給你。一般會向你發出最少21天通知，並請你在指定日期前往高等法院或死因裁判法庭。

曾接受傳召而出席的陪審員，一般在兩年內不會再被傳召。

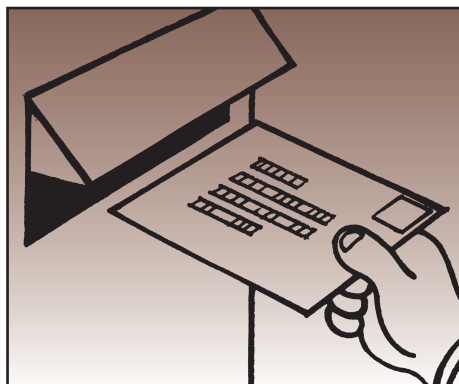
豁免出任陪審員

若你被傳召出任陪審員，你應先查看自己是否符合出任陪審員的資格，及是否屬於根據《陪審團條例》第4或第5條訂明的可獲豁免人士。

若你希望得到豁免，應在下列情況下：

- 當你收到司法常務官的通知，你將被納入陪審員名單時；
- 當陪審員臨時名單或增補名單已經備妥並可供查閱時；或
- 當你收到傳票，傳召你出任陪審員時

盡快致函高等法院司法常務官，詳述你的申請理由。



司法常務官考慮你的申請後，可予以批准或拒絕。豁免申請是不會輕易獲得批准的。以處理公事為理由而申請豁免出任陪審員，通常都不會獲准。

若司法常務官拒絕你的申請，你仍可在被抽籤選中為陪審員時，在法庭上向法官申請豁免。

到達高等法院後會有甚麼程序？

你應按傳票上指定的時間到達高等法院大樓一樓的陪審員集合處。

司法機構人員會在陪審員集合處查核你的身份和播放一段短片，讓你了解挑選陪審員的程序和在刑事審訊中陪審員的職責。



到達死因裁判法庭後會有甚麼程序？

你應按傳票上指定的時間到達香港西灣河太安街29號東區法院大樓十樓死因裁判法庭，或傳票上指定地點作為死因裁判法庭。

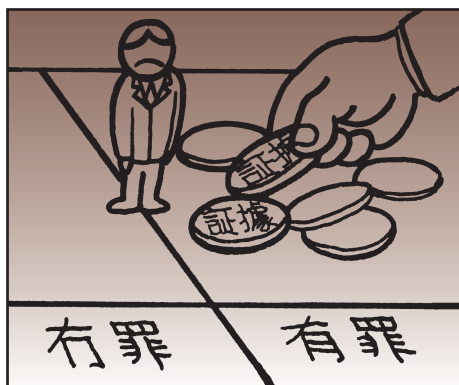
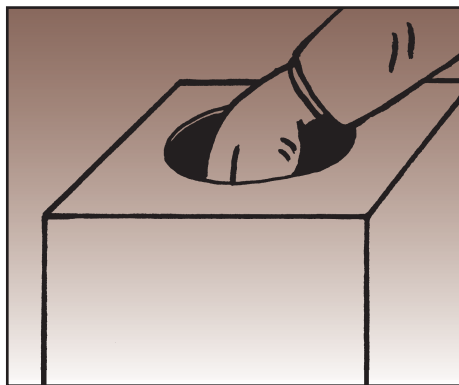
司法機構人員會查核你的身份，然後向你解釋挑選陪審員的程序和陪審員在死因研訊中的職責。



高等法院陪審團是如何選出的？

高等法院每宗有陪審團參與的審訊，在選任陪審團時，都是在公開法庭以抽籤方式，從被傳召出席的陪審員中選出。在刑事案件中，由於控辯雙方的代表律師可以反對某些人士出任陪審員，加上法庭亦可以即時批准豁免某些人士出任陪審員，因此被傳召出席的陪審員人數通常較實際所需的為多。

於第一輪抽籤中未被選中的人士，可能須於當天或者稍後日期，到其他法庭參加另一個陪審團的抽選。



陪審員的職責

在刑事案件審訊中，陪審員須根據案件中的事實，決定案中的被告人是否有罪。在死因研訊中，陪審員則須決定死者的致死原因及與死亡事件有關的情況。

審訊時，主審法官會決定陪審團可聆聽甚麼證供，然而在陪審團考慮裁決時，則由陪審團自行決定有關證供的重要性。

陪審團商議的內容須絕對保密。陪審員務須小心，切勿與陪審團成員以外的任何人士談論案件。

審訊或死因研訊需時多久？

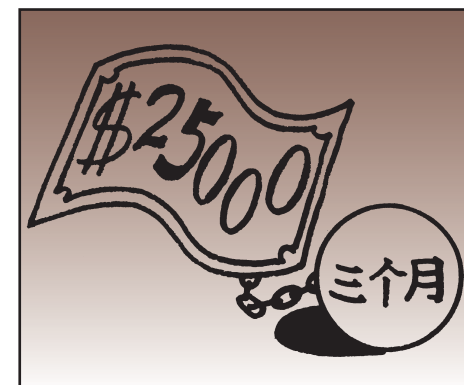
刑事案件審訊一般需時1至3個星期，死因研訊則需時數天。主審法官或死因裁判官會通知陪審團該案件的聆訊預計需時多久。



陪審員缺席與歧視陪審員

根據《陪審團條例》第32條，任何人士沒有按照陪審員傳票的規定出席法庭，即屬違法。

《陪審團條例》第33條規定，任何僱主因僱員出任陪審員而終止僱用或威脅終止僱用其僱員，或在任何方面歧視其僱員，即屬違法，一經定罪，最高可被判罰款\$25,000元及入獄3個月。



出任陪審員會否獲發津貼？

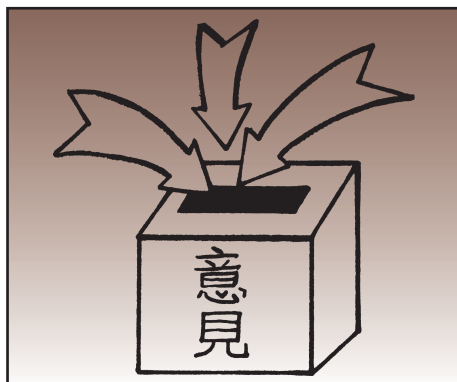
被挑選在案件審訊時出任為陪審員的人士，可根據《陪審團條例》第31(1)條獲發津貼。津貼按天計算，不足一天也作一天算。



意見及查詢

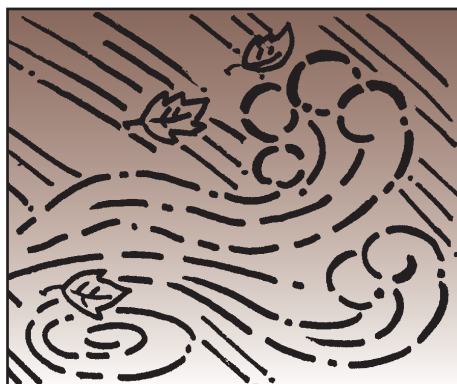
司法機構人員會盡可能即時回覆公眾人士的來信。無論如何我們會在接獲來信後10天內先作出簡覆，並在30天內給予詳盡回覆。

歡迎各方提出意見及建議，以改善我們的服務，來信請寄香港金鐘道38號高等法院司法機構政務長收。如有查詢，請致電2825 4668或函寄香港金鐘道38號高等法院，向主理陪審團事務書記查詢。



天氣惡劣時之安排

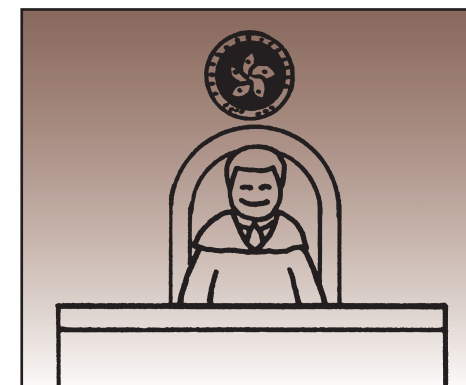
當發出八號或以上風球、或發出黑色暴雨警告信號時，所有法院將會休庭。這樣對陪審員是否須出席也有影響。你應留意電台及電視台有關法庭休庭及重開的報導。如有疑問，請致電熱線（電話：2523 2212）或進入司法機構網頁查詢(<http://www.judiciary.gov.hk>)。



司法機構
二〇〇八年十一月
(第六版)

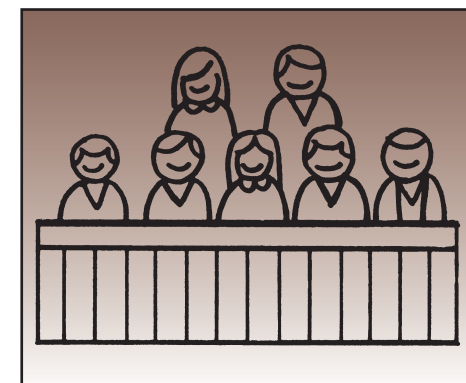
JURY SYSTEM

One of the most important features of Hong Kong's legal system is trial by jury, i.e. trial in court by fellow members of the community of the person on trial.



What are jurors and what is their duty?

Jurors are Hong Kong residents who have been sworn to hear and pass verdict on an accused person in a criminal case (and in some civil actions). Deliberating together and with no other persons present, they decide on the facts in a case on the basis of the evidence brought forward in court.



Jurors are not legal experts and so they are given clear directions on points of law by the trial judge. The personal responsibility of each juror is to ensure that justice is done. This responsibility extends not merely to the person on trial but also to the whole community of which they and the person on trial form part.

In a criminal case, the foreman of the jury informs the trial judge in open court, before all other members of the jury and in the presence of the accused, whether the jury has found the accused guilty or not guilty.

In a death inquest, the jury decides the cause of and the circumstances connected with a death.

How many jurors make up a jury?

The most serious criminal offences (such as murder, manslaughter, rape, armed robbery, certain drug offences and commercial fraud offences) are tried by a judge of the Court of First Instance, sitting with a jury of seven people or, where a judge so orders, nine.

Eligibility of jurors

Serving as a juror is an obligation of every resident of Hong Kong who is qualified to serve.

Serving as a juror can sometimes cause inconvenience. However, in a society such as Hong Kong where the rule of law is upheld and it enjoys a transparent legal system, the role and importance of the jury system make jury service a privilege.

A resident of Hong Kong is eligible to serve as a juror if he/she -

- has reached the age of 21 but is not yet 65;
- is of a sound mind and has no disabilities such as hearing or

In some civil cases, such as actions for defamation or malicious prosecution, a party may elect to have the issues of fact tried by a jury.

A jury is empanelled in some death inquests held by the Coroner's Court. In a coroner's inquest, a jury of five is appointed.



visual impairments that might prevent him / her from serving as a juror;

- is of good character, and
- has sufficient knowledge of the language of the court proceedings (Chinese or English as the case may be).

How are jurors selected?

The Commissioner of Registration will include your name in the list of jurors if you are considered eligible. The Registrar, High Court, will serve a notice on you, notifying that your name is about to be added to the list of jurors.

The Registrar, High Court, compiles a provisional list of jurors in or before October in each alternate year. This list is confirmed during or before the following February. The Registrar may compile additional lists from time to time. A notice is then published in the Government Gazette and in newspapers, stating that copies of the provisional list or the additional list of jurors are available for inspection.

The Registrar, High Court, each week draws at random a number of jurors from the list. If you are selected, a summons will be sent



to you by registered post requesting your presence in the High Court or the Coroner's Court on a certain date. You are usually given at least 21 days' notice of a call for jury service.

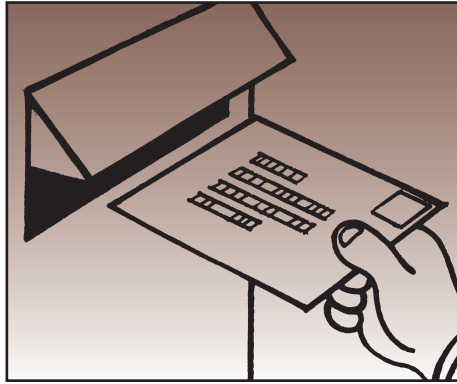
A juror who has attended in response to a jury summons will not normally be summoned again within 2 years.

Exemption from jury service

If you are summoned for jury service, you should check whether you meet all the eligibility requirements as a juror and whether you belong to the categories of persons who are exempted from jury service under section 4 or 5 of the Jury Ordinance.

If you wish to seek exemption from jury service, you should write to the Registrar, High Court, setting out the reasons in full as soon as possible after:

- you receive a notice from the Registrar that your name will be added to the list of jurors;
- copies of the provisional list or the additional list of jurors are available for inspection; or
- you receive the summons to appear as a juror.



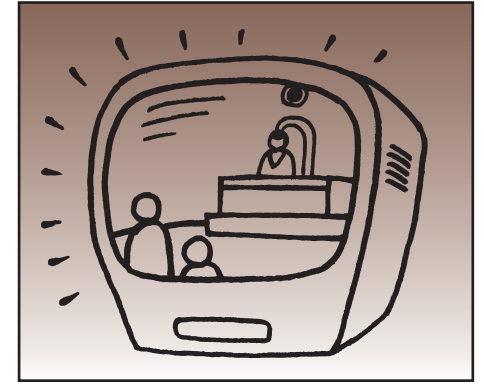
The Registrar will consider your application for exemption, and may either agree to or turn down your request. Exemptions are not lightly granted. Business commitments are not normally considered to be a sufficient reason for exemption from jury service.

If the Registrar refuses your application, you may still put the request to the trial judge if you are selected by ballot as a juror.

What happens on the day I appear in the High Court?

You should arrive at the High Court Building according to the time specified in the summons and go to the Jurors Assembly Room on the first floor.

The Judiciary staff will meet you at the Jurors Assembly Room and check your identity. You will be shown a video that clearly explains the selection procedure and what a juror in a criminal trial has to do.



What happens when I attend the Coroner's Court?

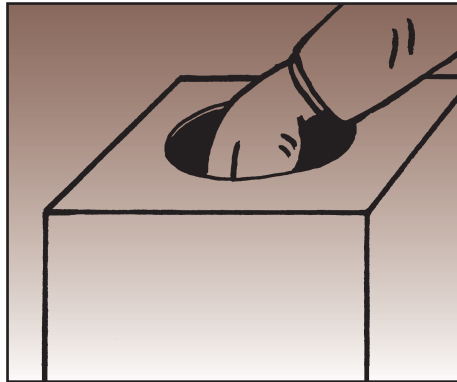
You should arrive at the Coroner's Court at 10/F Eastern Law Courts Building, 29 Tai On Street, Sai Wan Ho, Hong Kong or such place to be used as the Coroner's Court according to the time and place specified in the summons.

The Judiciary staff will check your identity, explain the selection procedure and tell you what a juror in a coroner's inquest has to do.



How is the jury for each different trial selected in the High Court?

The jury for each High Court trial is selected by ballot in open court from among those who have been summoned. Usually more jurors are summoned than are needed. This allows for those granted exemption. In criminal trials, this also allows for objections from the lawyers for the defence and the prosecution.

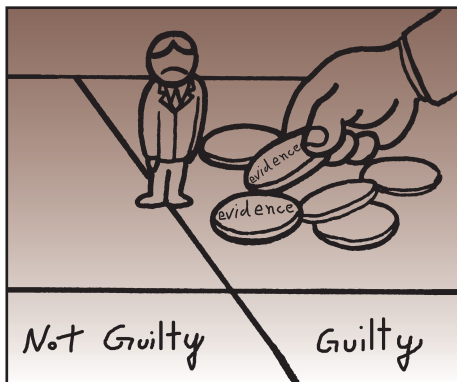


Members of the panel not selected on the first occasion in the court

may be required to attend another court for the selection of another jury on that day or on a later date.

Duties of a juror

In a criminal trial, jurors decide, based on the facts, whether the defendant is guilty or not guilty. In a death inquest, jurors decide the cause of and the circumstances connected with a death.



Although the trial judge decides which evidence the jury may hear, it is for the jury to decide the weight to attach to such evidence when considering their verdict.

should take great care never to discuss the case with anyone other than their fellow members.

The jury's deliberations are confidential. Members of the jury

How long will the trial or inquest last?

Criminal trials usually take one to three weeks and death inquests up to a few days. The trial judge or the coroner will inform members of the jury of the anticipated length of the case.



Non-attendance and Discrimination against a juror

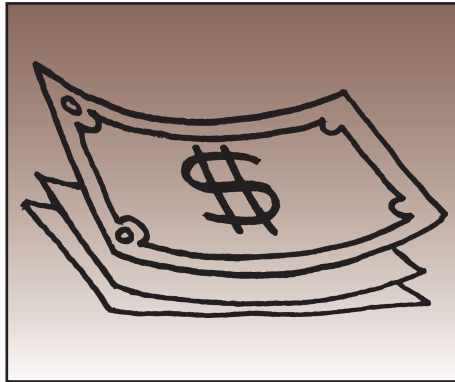
According to section 32 of the Jury Ordinance, failure to attend in response to a summons to juror is an offence.

Section 33 of the Jury Ordinance provides that an employer who terminates, threatens to terminate, the employment of, or in any way discriminates against, any person employed by him, for reasons in connection with jury service commits an offence and is liable upon conviction to a fine of \$25,000 and to imprisonment for 3 months.



Are jurors paid for their work?

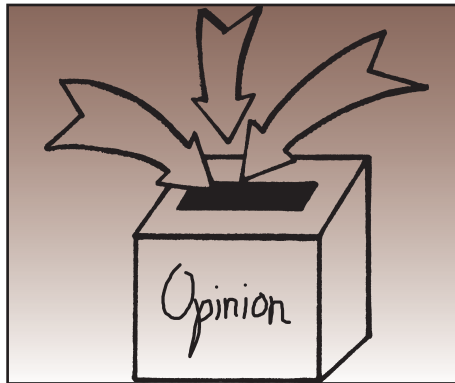
Once selected to serve as a member of the jury in a case, the juror will receive an allowance in accordance with section 31(1) of the Jury Ordinance for each day during the whole or part of which the juror serves.



Suggestions and enquiries

Wherever possible, Judiciary staff will reply at once to correspondence from members of the public. In any case, we will give you an interim reply within 10 days and a full response within 30 days of receiving a letter.

We welcome all comments and suggestions for improving our services. Please send them to the Judiciary Administrator at the High Court, 38 Queensway, Hong Kong.



For general enquiries, please call the Jury Clerk on 2825 4668 or write to him / her at the same address.

Arrangements during inclement weather

The Courts are adjourned when tropical cyclone signal No.8 or above, or a black rainstorm warning signal is issued. Since an adjournment may affect your attendance as a juror, you should therefore listen to announcements on the radio and television regarding adjournments and arrangements for re-opening of the Courts. For enquiries, please call the hotline at 2523 2212 or visit the Judiciary website at <http://www.judiciary.gov.hk>.

