

Time To Trust Jurors and Journalists On Contempt?

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[New evidence](#) supports my hunch that jurors are better at their job than you might think if you watch TV crime series. This might imply that we should allow greater freedom to journalists to report cases, too.

The study for the Ministry of Justice indicates that some jurors do need more written guidance to understand cases. However, the overall picture is of a system that works very well. The researchers suggest that written help from the judge will overcome any confusion and clear guidance will help jurors remove prejudicial ideas from their minds.

Of course, jurors might get that information from other places apart from mainstream media. The Internet has in effect destroyed the principle behind contempt laws which were designed to allow memories of coverage of the original crime to fade. But the study seems to show that the public are pretty good at putting that out of their heads if the judge instructs them clearly – although I think we need more research that looks directly at juror’s experience of the Internet.

I think we have to face up to the reality of a judicial environment with total access to information right up to the moment when the jury is selected. So perhaps we should consider reducing the period – if not abandoning it – where mainstream media is prohibited from repeating certain details that might prejudice a trial? Whether there is any virtue in going over to the complete disclosure situation of America is another matter. I am tempted. American juries seem just as effective as ours and there appear to be no more miscarriages of justice. But it might be that culturally and constitutionally we are not ready yet and there is no compelling reason to do so. This is the ‘if it ain’t broke’ argument for legislative inertia, and sometimes it is valid.

But [Polis research](#) work with lawyers and media practitioners shows that there is tremendous confusion around contempt and a danger that journalists are not reporting issues fully because of the fear of ruining a trial. This recent research suggests to me that on balance we should face up to the reality of the Internet and embrace the possibility of trusting jurors – and journalists – more.

If you are interested in the wider issues around defamation online, then please read this [paper](#) by Andy Scott of LSE Law written with Polis.

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