

CRIMINAL LAW JOURNAL

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This article compares the provisions on the defence of insanity contained in the Criminal Code (Cth) and the Statute of the International Criminal Court with a view to improving them by noting their similarities and critically evaluating their differences.	7
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Juror misconduct, secret jury business and the exclusionary rule – Dorne Boniface

This article focuses upon the juror investigator. It uses a methodology of inputs and outputs of juror misconduct. The inputs concern the history of the jury and its self-informing role that has evolved to make self-informing a criminal offence. A discussion of the motivations for jurors to self-inform is undertaken, and measures to encourage resistance to this temptation are briefly canvassed. The outputs of juror misconduct are miscarriages of justice. However, the exclusionary rule prevents disclosure of conduct considered intrinsic to jury deliberations. A close analysis of cases considering the exclusionary rule reveals that it has uncertain application because it relies on drawing a line between matters considered extrinsic and intrinsic to jury deliberation. This line is so blurred that it operates not as a defining element of when jurors' communications and actions can be treated as securely confidential, but instead necessitates that challenges to juror conduct be addressed on a case-by-case basis. This article examines how best to balance the needs of secrecy with the needs of common law justice. To this end, recently enacted New Zealand legislation offers some useful food for thought, employing an approach that combines flexibility with guidance from specified principles.	18
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Funding Aboriginal and Torres Strait Islander Legal Services: Issues of equity and access – Professor Chris Cunneen and Melanie Schwartz

Aboriginal and Torres Strait Islander Legal Services (ATSILS) play a crucial role in the representation of Indigenous defendants. Given the fraught relationship of Aboriginal people with the criminal justice system and the legal system in general, and the ever-deepening crisis of over-representation, adequate resourcing of these services is an extremely important administration of justice issue. This article looks at the nature of the demands and extent of the workload of ATSILS, especially in comparison to Legal Aid Commissions. It argues that the static funding environment that ATSILS operate in results in compromised capacity to provide adequate services to the sector of the population that arguably needs the best possible quality legal services.	38
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