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Shirking jury duty

CRIMINAL lawyer Greg Brodsky is quite right about the selection of juries in this province: It is far too easy for citizens to shirk jury duty. This fact vastly reduces the pool of potential jurors, diminishing the likelihood that an accused will be tried by a jury that reflects his community.

But Mr. Brodsky and his client are pushing for the wrong remedy to the fact juries are not reflecting a broader cross-section of society. Sydney Teerhuis, charged with murder, is aboriginal and believes a fair trial demands that aboriginal people serve on his jury, but believes that the odds are stacked against getting natives on a jury. Mr. Teerhuis

argues that is because a high proportion of aboriginal people have committed crimes, and those convicted of an indictable offence are banned from jury duty.

Manitoba prohibits a variety of other people from serving on a jury, including members of Parliament and the provincial legislature and those who work in the law or the courts. That leaves a fair number of citizens eligible, but reg-



ularly those tapped for jury duty are excused because they claim it would be a hardship. That is well illustrated by Mr. Teerhuis' case: Some 1,600 Winnipeggers received notice to appear for jury selection and more than 1,400 were excused, citing health issues, work obligations and financial concerns. Jurors receive a nominal per diem, but the courts do not compensate for lost wages. As the judge in the Teerhuis case noted, trials are getting longer. Being absent from work for months is a burden workers and employers bear. That, however, should not undermine the principles behind a trial by jury, which is to ensure justice is fair and transparent. A jury composed of varied perspectives is better set to make the determination of guilt "beyond reasonable doubt" a vigorous exercise.

Mr. Teerhuis says a fair trial requires there be aboriginal people on his jury. The Charter of Rights and Freedoms grants him only a right to a jury in "a fair and public hearing by an independent and impartial tribunal." Mr. Brodsky can argue that an aboriginal perspective is crucial to that process. Insisting the only way to get aboriginal jurors is to welcome those convicted of serious crime is absurd. Those who have been disrespectful of law should not be trusted to apply the law.

The best hope that a jury reflects a wide cross-section of the community is to select it from a large pool of people. Justice Minister Gord Mackintosh need only look at the numbers regularly excused from jury duty to see why juries might reflect a narrow demographic in the city — the elderly and the unemployed, Mr. Brodsky says. Mr. Mackintosh should lay down strict rules to ensure that anyone citing hardship must show it would be an unreasonable burden. Everyone else should be up for grabs.