Juror Stress in High Profile or Violent Crime Trials

by Deborah R. Gilg

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In Scottsbluff, Nebraska, investigators described how Adam, 3 years old, was chopped up by his mother’s boyfriend, and fed to the dog. Parts of the little boy were stored in the basement of the house and the freezer.¹

In Connecticut, two men tormented a family in an upscale neighborhood. The father was brutally beaten, the mother was sexually assaulted and strangled; the 11 year old and 17 year old daughters were strapped to their beds while the 11 year old was sexually assaulted; the children were doused with gasoline and then the house was set on fire and was reduced to ashes.²

In the District of Columbia and surrounding area, a beltway sniper shot and killed multiple random victims. At trial, the scene of death for one of the female victims was projected on a large screen, depicting the victim sprawled on her back with half of her face blown away. An audio tape of the 911 call by the husband calling police after his wife was shot was played to the jurors. His wailing voice was so tortured and high-pitched that at first the dispatcher mistook the former Marine for a woman.³

Fifteen percent of the American adult population is summoned to state or federal courts for jury duty annually.⁴ The United States Constitution guarantees the right to trial by jury.⁵ Jury duty, in addition to exercising the right to vote, is one of the most important civic responsibilities of all Americans.

Some Causes of Juror Stress

It’s not easy being a juror. It is burdensome and inconvenient. In addition to the disruption to a juror’s work and personal life, there are very long days in court, boredom and relatively little control over the course of a trial. The typical juror is an average citizen with little or no prior exposure or experience with the actual courtroom. The only context many have is from sitting in their living room watching “Law and Order” or “The Good Wife”. Many civil trials involve complex theories of law not to mention listening to conflicting expert witnesses expound on difficult scientific, technical or medical testimony. This can lead to difficulty and frustration in understanding the testimony which may affect the outcome of the trial.

The inability of jurors to discuss trial testimony with other jurors, their spouses or significant others during the course of a lengthy trial leads to a sense of emotional isolation by jurors. Sharing an experience with another person is one of the primary methods of relieving stress. The National Center for State Courts produced a 1993 study entitled “Through the Eyes of the Juror: A Manual for Addressing Juror Stress.” This study indicated that about one-third of jurors surveyed experienced some stress. More than half of the jurors thought “the other” jurors showed signs of stress.⁷
The Trauma of Graphic Evidence

In criminal trials, jurors may be exposed to gruesome, graphic crime scene visuals. Emotionally disturbing testimony by victims and witnesses may be heard. In high profile cases, this evidence combined with the intense media scrutiny can produce high levels of stress for jurors. Several judges in the study recommended that jurors be warned early in the proceedings that graphic photos will be shown. These judges felt that warning the jurors once or twice before the graphic evidence is shown or heard by the jurors helps to “desensitize” the jurors to the gruesome nature of the evidence. In the study, some judges viewed timing of this type of evidence an important factor in minimizing the juror shock. For example, the judge may call a recess after such evidence is presented or try to avoid having this type of evidence produced directly before or after the lunch break. Of course, in this author’s experience, the prosecutor usually tries to time this type of evidence so that it does leave a lasting impression on the jurors with the hope that such a lasting impression will lead to a guilty verdict. Obviously, there are competing interests at play here which a judge may or may not be able to anticipate and/or control effectively.

The infamous 1992 Jeffrey Dahmer trial in Milwaukee (murder of young boys, necrophilia and cannibalism) caused jurors “sleep disturbances, intrusive thoughts, restlessness, agitation and disturbing dreams.” A murder trial in Louisville, Kentucky in 1991 involved a defendant, a prominent teacher in the community, who fatally shot his wife and tried to hide the identity of the victim by decapitating her. In a bizarre twist, the defendant buried the head in a garden and tried to burn the rest of the body in a vacant house. In this case, the jurors saw a police videotape of the severed head being dug up from the garden and photos of the charred body remains.

In both of these cases, the jurors were debriefed after the trial by psychiatrists. A common thread between the two juries was the stress over viewing the graphic evidence. Jurors felt unprepared for what they saw and heard. Juror frustration and anger was vented towards the attorneys and the expert witnesses. Jurors felt the prosecution introduced too much graphic evidence, the defense attorneys tried to confuse the jurors and the expert psychological testimony from both sides was meaningless due to the excessive jargon. Interestingly, the jurors had strong positive feelings towards the judges in both cases because the judges were sensitive to the juror stress and the jurors felt the judges acknowledged that stress and supported them by having a post-trial debriefing.

Safety Issues and Shielding Jurors from the Media in the High Profile Trial

High profile trials can generate extensive media scrutiny. In
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The media attention can make jurors fearful for their safety and that of their family. Average citizens are not accustomed to dealing with violent crime or gang-related crime. Hearing about this type of crime in the jurors’ community can heighten a juror’s sense of anxiety for their own well-being and safety. After all, the juror is already feeling out of their normal sphere of daily living by being thrust into the gladiator arena with assertive prosecutors and defense counsel. Sitting in a courtroom a few feet away from a defendant on trial for a drive-by shooting, sexual assault or some other type of violent crime can cause a juror to fear that he or she may be the subject of retaliation by the defendant or the defendant’s family and friends.

Most court facilities are designed to protect jurors from interaction with the public, i.e. jury room with private door to the courthouse exit and private juror bathroom. However, in a rural state like Nebraska, this segregation is not always easily accomplished in the rural areas. The jurors may be taken to a public café for lunch or dinner and the jurors may share courthouse parking with witnesses, defendants and court personnel. Anonymity is difficult, if not impossible in these settings.

Similarly, many jurors are fearful of media attention. Even the high profile trials with extensive pre-trial coverage rarely generate more than a few media in the courtroom. Nevertheless, relieving jurors stress over media attention can be greatly enhanced by advising the jurors of the rules governing media coverage and that jurors do not have to talk to the media or even the attorneys when the trial is over. The National Center found that “Eighty percent of judges who took steps to shield jurors from the media found the strategy to be moderately to extremely effective for relieving juror stress.”¹¹ ABA Standard 16 (d)(i) and (ii) recommend that judges “release the jurors from their duty of confidentiality” and also “explain their rights regarding inquiries from counsel or the press.”¹² Again, providing the jurors with this information can go a long way in relieving juror anxiety.

State Court Approaches to Jury Stress

According to the National Center for State Courts, Center for Jury Studies, an estimated 70 percent of all jurors report some stress from jury service but less than 10 percent report high levels of stress.¹³

As of this writing, there are no available counseling services for Nebraska state court jurors.

In the Scottsbluff case mentioned in the beginning of the article, several local therapists in the community volunteered their services before the conclusion of the trial. Jurors were told of the time, location and availability of the counseling debriefing. Many of the jurors took advantage of the debriefing. This author attended the debriefing and observed that many of the jurors stated that they were shaken by the graphic testimony. One juror stated that the defendant always wore a certain type of popular cologne and that whenever she smelled that cologne, she thought of the defendant and images of the trial. The debriefing session afforded jurors an opportunity to discuss and share their emotional reaction to the trial in a non-judgmental setting. The therapists used the opportunity to describe symptoms commonly associated with juror stress and give recommendations on stress-management techniques. This ad hoc approach seemed to have helped some of the jurors as a follow-up survey weeks later with the group indicated that jurors felt relieved to know that others felt the same emotions as he/she did. Interestingly enough, the juror with the negative memory associated with the defendant’s cologne still reported that she would forever remember that trial whenever she smelled that particular cologne.

In the Connecticut trial, one of the jurors said his experience gave him nightmares of a child tied to a bed while burning up in a house fire. Despite the child’s cries for help, in the juror’s nightmare, the juror is unable to reach the child. The juror indicated he wasn’t prepared mentally for what he saw and heard during the trial. The State of Connecticut offered counseling to the jurors in a post-trial debriefing by a therapist. Nine of the twelve jurors attended the debriefing.¹⁴

It should also be noted that some jurors are not going to be interested in attending a debriefing session immediately following a high profile trial. They may be physically exhausted, worried about resuming their work and personal lives and feel a certain emotional numbness from the ordeal. Others are just uncomfortable with the whole idea of group debriefing and for some, the stress of the experience may not affect them until days or weeks later.

Federal Court Approaches to Juror Stress

In the federal system, two types of juries are impaneled: grand juries and petit juries. The basic purpose of the federal grand jury is to serve as an essential component of the enforcement of the criminal laws of the United States. The grand jurors determine whether is probable cause to believe that a crime has been committed and whether the individual charged in the indictment committed the crime. Grand juries are impaneled for a period of eighteen months and meet monthly at the federal courthouse in Omaha. Petit juries are used in civil and criminal jury trials and these juries are impaneled for a few days to several weeks, depending upon the complexity of the trial.
There is a certain amount of stress implicit in any jury setting whether for a few days or several months. The inconvenience of not being at home and traveling from across the state, often during adverse weather conditions, contribute to juror anxiety.

Fortunately, the federal system does provide counseling services to grand and petit jurors through the Employee Assistance Program (EAP), a component of the U.S. Public Health Service. The presiding judge can initiate counseling services or, in the case of a grand jury, the U.S. Attorney’s office can make a written request to the chief judge for consideration of counseling services. EAP counseling can be provided as long as grand jurors are serving and are limited to 6 sessions each. The counseling can either be off-site individual counseling or an on-site group debriefing. Unfortunately, once the jurors are excused from service, eligibility for counseling services is no longer available.

In actuality, it is unlikely that a federal juror is going to avail him/herself of counseling unless #1) they are made aware of the service and request counseling; or #2) a judge or attorney brings to the court’s attention that a juror member may need counseling. Even then, this author would suggest that most people will not voluntarily or openly seek counseling out of embarrassment or fear of being perceived “weak”. In the high profile trial, a juror-savvy judge may want to incorporate counseling in a mandatory group debriefing before the jurors are excused from service.

Our Duty to Citizen Jurors

All of us who participate in the justice system, judges and attorneys alike, have an obligation to be cognizant of the toll stress takes on our citizen jurors. A review of the various studies done on juror stress reveals that there are many causes of juror stress at each stage of the trial. This writer has not included all of the causes of juror stress as reflected in the studies but has chosen to focus on the more obvious causes. It is clear that our citizen jurors have not developed the ability to compartmentalize the harsh realities of life that law enforcement officials, first responders, prosecutors and defense attorneys have developed. Close cooperation is necessary between the judicial system and mental health professionals to assure the mental health wellness of jurors during and after a trial. The proper functioning of our system of justice demands it.

Endnotes
1 State of Nebraska vs. Raymond Mata, 266 Neb. 668 (2003)
5 U.S. Constitution Amendments VI and VII
7 Id., 4
8 Id., 31
12 American Bar Association Jury Standards
14 “Connecticut Offers Counseling to Traumatized Jurors in Home Invasion Trial” American Bar Association Journal, November, 2010