

**JUROR STRESS DEBRIEFING:  
A REVIEW OF THE LITERATURE AND AN  
EVALUATION OF A YUKON PROGRAM**

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The views expressed in this report are those of the authors and do not necessarily represent the views of Yukon Justice or the Canadian Research Institute for Law and the Family.

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# EXECUTIVE SUMMARY

## Background

In 2005, the Yukon Department of Justice received funding from Justice Canada to set up a pilot project to research the jury experience in the Yukon during the course of homicide trials that were expected to take place during the following two years. The intent of the project was to evaluate the effectiveness of providing jury debriefing sessions in mitigating stress that jurors may experience as a result of serving on these juries. The study would contribute to the modernization of the justice system in the north and in small communities by providing valuable information about the impact on jurors of the experience of being involved in long and complex trials.

The project examined the stresses that Canadian jurors experience when they sit on trials that are lengthy, complex and that contain large volumes of information that may often be disturbing. It considered what kinds of assistance might be appropriate to debrief juries so that they could deal effectively with emotionally distressing information to which they were exposed during the course of the trial.

The project also examined the particular stresses that inhabitants of small communities with a significant Aboriginal population experience as a result of sitting on juries in those communities. A further aspect of the project was to look at the limits of doing research on juries in Canada given the restrictions set out in s. 649 of the *Criminal Code of Canada*.

## Purpose of the Study

The purpose of this project was to determine the extent to which the delivery of debriefing services to jurors responds to their mental health needs and improves the administration of justice. The project had three major components: (1) a review of the literature on jury stress; (2) the development and implementation of a model for the delivery of counseling services to jurors; and (3) an evaluation of the implementation of the model.

The specific research questions to be addressed were:

- (1) What literature is available on the effects on jurors of sitting on trials that deal with disturbing subject matter?
- (2) What literature is available on the various means of dealing with juror stress?
- (3) To what extent was the Yukon program implemented as intended?
- (4) What were the effects on jurors of serving on murder trials in the Yukon? Did they experience critical incident stress? Did this stress decrease over time?

- (5) Did the debriefing services assist jurors in dealing with any critical incident stress they experienced? Did jurors seek out any additional services, e.g., counseling?
- (6) Were any effects attributable to living in a small Northern community? What were they?

## **Survey Methodology**

Three murder trials were held in the Yukon during the time period of this study. Three instruments were developed for data collection: (1) a post-trial survey administered prior to the debriefing session; (2) a post-debriefing session survey administered after completion of the debriefing session; and (3) a follow-up telephone interview conducted three-months following the trial. All jurors who attended the debriefing sessions (N=21) agreed to participate in the evaluation.

## **Conclusions**

The first two research questions were addressed by the literature review. It concluded that, if juries are to continue to play a role in the administration of criminal justice, the impact of trials on jurors cannot continue to be largely ignored. Stronger methodological studies must be conducted on the sources, prevalence and severity of juror stress and on the efficacy of methods to prevent and reduce juror stress. When approaches are shown to be effective at combating juror stress they should be implemented, whether that entails amending federal legislation or changing the practices of courthouse staff.

The third research question addressed the extent to which the Yukon program was implemented as intended. For the most part, the debriefing session was implemented as planned.

- All three debriefing sessions were held within the specified time period following the trial, i.e., within 24-72 hours after the post-trial briefing by the judge.
- All three debriefing sessions lasted 2 hours, and were conducted by two psychologists.
- Handouts were distributed to jurors on stress management and referral information for further support.
- While it was anticipated that the briefing by the judge would occur in private, in one trial it occurred in open court, which caused discomfort for some jurors.
- It is unknown if the judges followed the suggested briefing notes provided to them by CRILF; however, several jurors commented that they appreciated the comments made by the judge following the trial.

The fourth research question explored the effects on jurors of serving on murder trials in the Yukon. It assessed the extent to which they experienced critical incident stress and whether the stress decreased over time. The findings related to these research questions are presented below.

- While all jurors reported experiencing some stress immediately following the trial, there was a wide range in the level of stress reported by jurors.
- The average level of stress reported by jurors immediately following the trial was categorized as “A little bit” to “Moderate.”
- Female jurors reported considerably higher levels of stress immediately following the trial than male jurors.
- The most stressful aspects of the trial reported by jurors were: “Fear of making a mistake”; “Deciding on a verdict”; and “Jury deliberations and discussions.”
- Three months after the trial, the overall levels of stress reported by jurors were considerably less, and were categorized as “Not at all” to “A little bit.” However, there was still a wide variability in the levels of individual stress reported by jurors.
- While stress levels decreased for both male and female jurors three months after the trial, female jurors still reported higher levels of stress than male jurors.
- Items on the *Impact of Events Scale – Revised* that were most upsetting for jurors immediately following the trial were: “I had waves of strong feelings about the trial”; “I thought about the trial when I didn’t mean to”; and “Pictures about the trial popped into my mind.” Average stress ratings on each of these items were in the “Moderate” to “Quite a bit” range.
- Three months after the trial, these items were considerably less upsetting to jurors, who rated them as “A little bit” stressful.
- Three months after the trial, all jurors agreed that other jurors felt stress during jury duty, and most agreed that they felt stress during jury duty.
- Juror’s opinions of their experience three months after the trial were very positive. All jurors agreed that they met some interesting people during jury duty, and most were proud of the work they did as a juror.
- When jurors were asked during the follow-up telephone interview if they had any additional comments regarding their experience as a juror, the most common responses were that they needed more breaks/fresh air during the deliberations, that they found jury duty a very positive experience, that they found jury duty a stressful/very powerful experience, and that it would have reduced their stress to know more about the process beforehand.

The fifth research question explored whether the debriefing services assisted jurors in dealing with any critical incident stress they experienced, and whether they sought out any additional services, e.g., counseling. The findings related to this research questions are presented below.

- Jurors were overwhelmingly positive about the debriefing session immediately after attending it. All participants thought the information they received was clearly presented, and agreed that they were provided with information about support services in their community.
- All participating jurors said they would recommend that other jurors attend a debriefing session.
- Almost all jurors thought the information they received was easy to understand and would be useful to them in the future.
- Almost all of the jurors thought that the debriefing session was held at a convenient time.
- Three months after the trial, jurors were still very positive about the debriefing session. Almost three-quarters of the participants said that it was either extremely or quite a bit helpful.
- When asked three months after the trial if they felt the need to seek out other services such as counseling, approximately one-fifth of the participating jurors said they had. None of the jurors reported that services were not available in their community.

The sixth research question was intended to explore whether any effects were attributable to living in a small Northern community. Data to address this question were limited because there were only three murder trials during the time period of the study. Further, while two of the murders occurred in small communities, the venue for the murder trials was moved to Whitehorse to ensure the accused received fair trials. Nevertheless, a few questions in the follow-up telephone interview did provide data relevant to this question.

- None of the jurors reported that they knew either the accused or the victim prior to the trial.
- Almost half of the participants said that they knew at least one of the other jurors prior to the trial. One-half of these participants said that knowing other jurors did not affect their stress levels at all.
- Only one juror reported that they had met up with the victim's family since the trial. This person indicated that this affected their level of stress moderately.
- Only one juror reported that they had met up with the accused's family since the trial. This person indicated that this affected their level of stress moderately.

## **Recommendations**

The findings from the jurors' surveys and follow-up telephone interviews are very consistent with the literature on juror stress and juror stress debriefing. The following recommendations are based on information from the data collected for this project and information contained in the literature.

### **Recommendations Regarding the Trial Process**

*Recommendation # 1:* Jurors should be apprised of the trial and deliberation process beforehand to reduce the stress caused by going into an unknown situation.

*Recommendation # 2:* In order to provide input during the trial process, jurors should be informed of their right to pose questions to the witnesses.

*Recommendation # 3:* When upcoming evidence is particularly gruesome or disturbing, judges should warn jurors in advance.

*Recommendation # 4:* More instruction about the decision-making process should be provided to jurors.

*Recommendation # 5:* In order to reduce feelings of confusion and stress, judges should consider providing written instructions to jurors prior to beginning deliberations.

*Recommendation # 6:* Small practical changes to increase jurors' comfort levels during the trial and deliberations could reduce stress and should be considered. These might include: nicer jury rooms; fresh air breaks; smoking breaks; and clocks in hotel rooms.

### **Recommendations Regarding the Debriefing Process**

*Recommendation # 7:* There should be an opportunity for jurors to meet with the judge following the trial. A protocol should be established for conducting the judge's briefing and informing jurors about the debriefing session.

*Recommendation # 8:* The judge's briefing should be conducted in private rather than in open court.

*Recommendation # 9:* The materials handed out at the debriefing session should include a handout for family members to inform them how they can help jurors deal with the stress they may experience.

*Recommendation # 10:* Consideration should be given to offering individual debriefing sessions for jurors who aren't comfortable attending a group session.

*Recommendation # 11:* Given the extremely positive response of the jurors to the debriefing session, Yukon Justice should consider continuing this program for future trials in which disturbing evidence may be presented.

### **Recommendation Regarding Legislation**

*Recommendation # 12:* Section 649 of the *Criminal Code* should be reviewed by Justice Canada to determine whether amendments are necessary.



# 1.0 INTRODUCTION

## 1.1 Background

In 2005, the Yukon Department of Justice received funding from Justice Canada to set up a pilot project to research the jury experience in the Yukon during the course of homicide trials that were expected to take place during the following two years. The intent of the project was to evaluate the effectiveness of providing jury debriefing sessions in mitigating stress that jurors may experience as a result of serving on these juries. The study would contribute to the modernization of the justice system in the north and in small communities by providing valuable information about the impact on jurors of the experience of being involved in long and complex trials.

The project examined the stresses that Canadian jurors experience when they sit on trials that are lengthy, complex and that contain large volumes of information that may often be disturbing. It considered what kinds of assistance might be appropriate to debrief juries so that they could deal effectively with emotionally distressing information to which they were exposed during the course of the trial.

The project also examined the particular stresses that inhabitants of small communities with a significant Aboriginal population experience as a result of sitting on juries in those communities. A further aspect of the project was to look at the limits of doing research on juries in Canada given the restrictions set out in s. 649 of the *Criminal Code of Canada*.

### 1.1.1 Project Components

The goal of the project was to determine the extent to which the delivery of debriefing services to jurors responds to their mental health needs and improves the administration of justice. The project had three major components: (1) a review of the literature on jury stress; (2) the development and implementation of a model for the delivery of counseling services to jurors; and (3) an evaluation of the implementation of the model.

The first component was conducted by Dr. Sanjeev Anand, Professor of Law, University of Alberta. Dr. Anand reviewed the current information on the effect of trials on jurors, and on current practices in Canada and other countries to deal with the impacts on jurors of sitting on long, complex and well-publicized trials that deal with what is often disturbing subject matter. Dr. Anand's paper, *Stress and the Canadian Criminal Trial Jury: A Critical Review of the Literature and the Options for Dealing with Juror Stress*, was submitted on April 1, 2005. Dr. Anand was further subcontracted to update the literature review, which is contained in Chapter 2.0 of this report.

The second component of the project was conducted by Alberta Rooney, Chartered Psychologist. Ms Rooney developed and delivered the debriefing services to jurors. A summary of the debriefing service is provided in Section 3.2.



The Canadian Research Institute for Law and the Family (CRILF) was contracted to conduct the third component, which was to: (1) develop a framework to evaluate the delivery of jury debriefing services to jurors in seven murder trials set to be held in the Yukon in 2005/2006; (2) document the program, implement the framework, and collect data in coordination with the psychologist; and (3) prepare a report on the debriefing exercise that includes recommendations on how to make the jury experience less stressful for jurors, and on the most effective type of debriefing services for jurors.

Over the course of the first two years of the project, however, five of the seven jury trials were cancelled. In four cases, the accused pled guilty, and in the fifth the accused elected to be tried by judge alone. The original contract with CRILF was extended by a year (to March 31, 2007) to be able to include trials scheduled for the 2006/07 fiscal year. During this time period, however, only one more murder trial was held. Yukon Justice then started to negotiate with their counterparts in Manitoba to discuss including some of their trials in the jury debriefing project, and the project was further extended to September 2007. Ultimately, Manitoba courts were not prepared to participate in this project, and the decision was made to conclude the project based on the three murder trials held in the Yukon, and to submit a final report by March 31, 2008.

## **1.2 Purpose of the Study**

As mentioned above, the goal of the project was to determine the extent to which the delivery of debriefing services to jurors responds to their mental health needs and improves the administration of justice. The specific research questions to be addressed were:

- (1) What literature is available on the effects on jurors of sitting on trials that deal with disturbing subject matter?
- (2) What literature is available on the various means of dealing with juror stress?
- (3) To what extent was the Yukon program implemented as intended?
- (4) What were the effects on jurors of serving on murder trials in the Yukon? Did they experience critical incident stress? Did this stress decrease over time?
- (5) Did the debriefing services assist jurors in dealing with any critical incident stress they experienced? Did jurors seek out any additional services, e.g., counseling?
- (6) Were any effects attributable to living in a small Northern community? What were they?

## **1.3 Organization of the Report**

Chapter 2.0 contains a review of the literature on juror stress and juror stress debriefing. Chapter 3.0 contains a summary of the trials included in this project and the methodology employed for data collection. Chapter 4.0 contains the findings related to the debriefing session and the results pertaining to juror stress. Conclusions and recommendations are discussed in Chapter 5.0.

## 2.0 A CRITICAL REVIEW OF THE LITERATURE AND THE OPTIONS FOR DEALING WITH JUROR STRESS<sup>1</sup>

### 2.1 Introduction

It is only relatively recently that the impact upon jurors of sitting on criminal trials has garnered the attention of judges, government officials, and academics in Canada. In 1995 after the infamous murder trial of Paul Bernardo, in which jurors were exposed to videotapes of the accused and his wife sexually assaulting two teenage school girls, trial judge Patrick LeSage became one of the first jurists in this country to hire psychologists to counsel the jurors after their deliberations.<sup>2</sup> Within the last few years, jurors in Manitoba and the Yukon have been “debriefed” after rendering their verdicts in murder trials containing extremely graphic evidence.<sup>3</sup> Based partly on the positive feedback given by the jurors who participated in these debriefings, the provincial government of Manitoba has decided to launch a more permanent jury debriefing program and the territorial government of the Yukon is seriously considering a similar course of action.<sup>4</sup> Although there are no published studies pertaining to the incidence of stress in Canadian jurors or the efficacy of coping strategies for them, there is one published account that makes the case for the need for such research and identifies impediments to conducting it posed by Canadian criminal law.<sup>5</sup>

However, research pertaining to juror stress does exist. There are numerous studies that describe the stress that American jurors feel as a result of sitting on criminal trials. Other scholars have outlined the approaches that have been or could be undertaken to help jurors cope with that stress. In addition, there is one unpublished study that assesses the sources and severity of Canadian juror stress. All of this literature will be analyzed with a view to ascertaining what, if any, types of practices should be initiated in Canada to help reduce and combat jury stress.

This chapter addresses the first two research questions outlined in Section 1.2. The chapter is divided into two parts. The first part explores what is known about juror stress while the second part examines the various means of dealing with juror stress.

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<sup>1</sup> This chapter was written by Sanjeev Anand, Professor, Faculty of Law, University of Alberta. The author thanks his research assistant, Heather Manweiller, for her tireless efforts.

<sup>2</sup> Kirk Makin, “Judges live in torment, study finds” *The Globe and Mail* (14 August 2002) A1, Juliet R. Guichon, “Harsh judgment” *The Globe and Mail* (19 August 2002) A12, and Tana Dineen, “Sorry, Gillian: We musn’t cast jurors as victims” *The Vancouver Sun* (2 February 2001) A7.

<sup>3</sup> Interview of Marston Grindey, Executive Director, Regional Courts, Brandon, Manitoba (14 March 2005) and Interview of Mr. Justice Veale of the Supreme Court of the Yukon (23 March 2005).

<sup>4</sup> Graeme Smith, “Manitoba aims to soothe pained jurors” *The Globe and Mail* (7 December 2004) A1 and A7, Manitoba, Courts Division Department of Justice, *Planning Document: Jury Debriefing Program* (February 2005) [unpublished], and Interview of Dennis Cooley, Deputy Minister of Justice, Yukon Territory (4 February 2005).

<sup>5</sup> See Sonia R. Chopra & James R.P. Ogloff, “Evaluating Jury Secrecy: Implications for Academic Research and Juror Stress” (2001) 44 *Criminal Law Quarterly* 190.

The body of literature suggests that at least some American and Canadian jurors find jury service stressful. However, due to various methodological deficiencies in the existing studies, it is impossible to ascertain the sources, prevalence, and severity of juror stress to a high degree of certainty. Nonetheless there are indications that juror stress can be traced to, among other things, the deliberation process and the hearing of grisly evidence. Moreover there is evidence of a correlation between trial length and juror stress. Yet caution must be used in extrapolating from studies of American juries into the Canadian context because of differences in the law governing the selection and behavior of juries in the two countries. In addition, despite the fact that there are numerous studies that describe actual debriefing sessions and the process of jury debriefing in great detail, none of these accounts yield empirical data that support the efficacy of debriefing in actually reducing juror stress. But this does not necessarily mean that jury debriefing is ineffective. Different approaches to jury debriefing can be accommodated within the current legal framework governing the Canadian criminal trial jury. The proscription contained in s.649 of the *Criminal Code*<sup>6</sup> would not be infringed by open court jury debriefings in which jurors are allowed to discuss the nature and content of their deliberations. Jurors would also not run afoul of the section if they participated in closed door jury debriefings in which the jurors are admonished not to disclose anything pertaining to their deliberations. The former, more novel, approach to jury debriefing has certain advantages and disadvantages associated with it compared to the latter, more orthodox procedure. Finally there are methods, other than juror debriefing, that show promise at reducing and preventing juror stress.

## 2.2 The Sources, Prevalence and Severity of Juror Stress

### 2.2.1 Case Studies

The earliest published work in the area of jury stress is a 1985 article penned by professor of psychiatry, Stanley Kaplan.<sup>7</sup> Kaplan interviewed the jurors and alternates who sat on the trial of David Steffen, which took place in Cincinnati, Ohio. He was charged with the murder of a 19-year-old woman who he beat, raped, and stabbed in her bathroom. He had gained entry into her house by posing as a salesman. The jury convicted Steffen of murder and recommended imposing the death penalty.

Disturbing evidence was presented to the jury. Jurors handled the blood stained clothes of the victim and saw explicit photographs of her body.<sup>8</sup> The jury also heard evidence of the extreme physical abuse that Steffen had suffered at the hands of his stepfather.<sup>9</sup>

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<sup>6</sup> R.S.C. 1985, c.C-46 [hereinafter *Criminal Code*]. Section 649 states

Every member of a jury, and every person providing technical, personal, interpretative or other support services to a juror with a physical disability, who except for the purposes of  
(a) an investigation of an alleged offence under subsection 139(2) [obstructing justice] in relation to a juror, or  
(b) giving evidence in criminal proceedings in relation to such an offence, discloses any information relating to the proceedings of the jury when it was absent from the courtroom that was not subsequently disclosed in open court is guilty of an offence punishable on summary conviction.

<sup>7</sup> Stanley M. Kaplan, "Death, So Say We All" (1985) 17 *Psychology Today* 48.

<sup>8</sup> *Ibid.* at 50.

<sup>9</sup> *Ibid.* at 48.

Kaplan proceeded with his study two months after the conclusion of the trial. First he requested permission from the trial judge to contact jurors for the purpose of studying what, if any, stress reactions they had as a result of their jury service. He was provided with the names of all the jurors and alternates and he conducted three group interviews with those who chose to participate in the study. All 16 jurors and alternates attended the first interview, 15 jurors and alternates attended the second interview, and 10 jurors and alternates attended the third interview.<sup>10</sup> Interestingly, Kaplan noted that there were no significant differences in stress reactions to the trial between the jurors and the alternates. The first interview conducted by Kaplan focused on the trial experience and its emotional impact on jurors while the second interview concentrated on the impact of the experience upon jurors' personal lives. The third interview was a follow-up conducted four months after the previous two interviews.

The results of this study were startling. Four of the jurors fit all the standard psychiatric criteria for the diagnosis of Post-Traumatic Stress Disorder (PTSD).<sup>11</sup> Most of the other jurors satisfied several of the criteria but not enough for a diagnosis of PTSD.<sup>12</sup> Three other jurors suffered from depression and one developed a phobic reaction to bathrooms.<sup>13</sup> Other jurors suffered from anxiety.<sup>14</sup> One juror sought medical assistance after the trial, and she was put on a tranquilizer and given antidepressant medication.<sup>15</sup> A number of jurors also reported suffering from intense physiological reactions including nausea, heart palpitations, shakiness, faintness, headaches, weight gain, and sleeplessness.<sup>16</sup>

Kaplan canvassed the sources of stress with the jurors. They found various elements of the trial troubling, such as visiting the scene of the crime, viewing the grisly photographs of the victim's badly beaten and deeply cut body, listening to vivid descriptions of the crime and the impassioned feelings of the witnesses, handling the victim's blood-stained clothes, being sequestered in a hotel for five days during deliberations, fearing an outbreak of courtroom violence from the accused, signing the guilty verdict and the death sentence, and having to stand up individually to assert they agreed with the verdict and the sentence.<sup>17</sup>

Although Kaplan's study reveals a glimpse of the types of stress that this jury may have suffered, the methodology employed in it, like many other studies of jury stress, makes it impossible to generalize the findings to other juries or even be completely confident in the findings pertaining to the jury studied. The Kaplan study fails to include a control group and neither does it control for numerous possible impacting variables. When a research design fails to incorporate a control

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<sup>10</sup> *Ibid.* at 50.

<sup>11</sup> *Ibid.* Kaplan describes an abbreviated form of the criteria for PTSD as the "existence of a recognizable stressor, reexperiencing the trauma in some way, numbing of responsiveness to the external world and suffering at least two of six other specified symptoms, such as disturbed sleep or impaired memory." (*Ibid.*) For a more up-to-date, authoritative, and comprehensive definition of PTSD and the criteria for its diagnosis as well as the criteria for all recognized mental disorders, see American Psychiatric Association, *Diagnosis and Statistical Manual of Mental Disorders*, 4<sup>th</sup> ed. (Washington, D.C.: American Psychiatric Association, 1994).

<sup>12</sup> Kaplan, *supra* note 7 at 50.

<sup>13</sup> *Ibid.* at 50 and 53.

<sup>14</sup> *Ibid.* at 51.

<sup>15</sup> *Ibid.* at 52.

<sup>16</sup> *Ibid.* at 51.

<sup>17</sup> *Ibid.* at 50.

group in its methodology, no causal conclusions can be drawn between the dependent variable (the variable to be measured, in this case juror stress) and independent variables (the variables to be manipulated, for example, the type of trial heard, the nature of the evidence, whether the jury was sequestered for the entire trial or just during the deliberations, the length of the trial, the length of the deliberations, whether there was a heavy media presence, etc). The Kaplan study tells us nothing about the stress reported by jurors trying particularly difficult cases compared with the stress reported by jurors trying less difficult matters. Kaplan also did not adequately attempt to isolate stress suffered by jurors as a result of jury service from the stress they were exposed to as a result of other current or previous life experiences.

Differing laws and practices governing criminal trial juries in Canada and the United States make it problematic to assume that the sources, prevalence, and severity of American juror stress is identical to Canadian juror stress. For example, prospective jurors in the United States usually face fairly invasive and extensive questioning by counsel in open court prior to being selected or rejected for the jury,<sup>18</sup> whereas in Canada questioning of prospective jurors occurs in a minority of cases, and when it does, the questioning that is allowed tends to be quite limited.<sup>19</sup> In addition, more juries are sequestered for the entire length of the trial in the United States in order to ensure that jurors' views are not tainted by the extensive media coverage of trials that American law allows. By contrast, few juries in Canada are sequestered except during their deliberations, and Canadian media are more constrained in what it can reveal during the course of a trial. Finally and perhaps most importantly, there are no legislative prohibitions against jurors revealing details of their deliberations after rendering their verdicts in the United States. However, in

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<sup>18</sup> For more information on the scope of pretrial questioning of prospective jurors that is allowed in the United States and other interesting aspects of the American criminal trial jury, see Nancy Jean King, "The American Criminal Trial Jury" in Neil Vidmar, ed., *World Jury Systems* (New York: Oxford University Press, 2000) 93.

<sup>19</sup> Pursuant to s.638 of the *Criminal Code*, a prosecutor or an accused can challenge a juror for cause on the ground that, among other things, a juror is not indifferent between the Queen and the accused. Before jurors can be challenged for cause, the party wishing to do so must satisfy the judge that there is an "air of reality" to the basis for the challenge. It can be argued that visible minority accused can more readily challenge prospective jurors for cause in Canada since the Supreme Court rendered its decision in *R. v. Williams* [1988] 1 S.C.R. 1128. In this case, the court stated that accused can establish a realistic potential for partiality among prospective jurors and thus be allowed to question them on whether they are prejudiced if the accused can prove widespread racial prejudice in the community against persons of the accused's race. The court elaborated by stating that widespread social prejudice could sometimes be established by judicial notice and once a finding of fact of widespread prejudice in the community was made, judges in subsequent cases could take judicial notice of the fact. Absent evidence to the contrary, where widespread prejudice against people of the accused's race is demonstrated at a national or provincial level, it will often be reasonable to infer that such prejudice is replicated at the community level. Moreover, prejudice less than widespread might in some circumstances allow for a challenge for cause. The high court held that the evidence in this case established widespread racial prejudice against aboriginals and that prejudice established a realistic potential for partiality such that the trial judge should have exercised his discretion to allow the challenge for cause. But the court noted that to ensure that the length and costs of trials would not increase significantly, the questions posed to prospective jurors must be limited. For developments in the law on racial prejudice-based claims to challenge for cause post-*Williams*, see *R. v. Spence* (2004) 24 C.R. (6<sup>th</sup>) 108 (Ont. C.A.). Despite the court's generous approach to allowing challenges for cause on the basis of racial prejudice, it has rejected a right to offence-based challenges for cause. In *R. v. Find* [2001] 1 S.C.R. 863, the court ruled that charges of sexual assault against children per se do not raise a realistic possibility of juror partiality entitling an accused to question prospective jurors pursuant to a challenge for cause procedure. For more information on the selection of jurors in Canadian criminal matters, see David M. Tanovich, David M. Paciocco & Steven Skurka, *Jury Selection in Criminal Trials* (Concord: Irwin Law, 1997). For a comprehensive, yet dated, account of the law governing all aspects of criminal trial by jury in Canada, see Christopher Granger, *The Criminal Jury Trial in Canada*, 2d ed. (Toronto: Carswell, 1996).

Canada it is a criminal offence proscribed by s.649 of the *Criminal Code* for jurors to reveal aspects of their deliberations that are not subsequently disclosed in open court unless the revelations pertain to an investigation or prosecution of a charge of obstruction of justice in relation to a juror. Having delineated some of the key differences between trial by jury in Canada and the United States,<sup>20</sup> it must be emphasized that there are more similarities than differences. As a result, studies of stress suffered by American jurors are suggestive of what some Canadian jurors may be experiencing.

Several years later, Kaplan and his colleague Carolyn Winget examined the degree of stress experienced by jurors hearing four distinct criminal matters all arising in the United States.<sup>21</sup> The first criminal matter was the Steffen murder trial previously discussed. The second trial was a domestic murder in which the accused alcoholic shot and killed his former girlfriend and her new suitor. The jury returned verdicts of guilt and recommended the accused be put to death by electric chair after a lengthy hold-out by one juror. The third trial dealt with charges of child abuse laid against three adults accused of sexually molesting children in a summer camp program. Despite the fact that Kaplan indicated that the jurors were visibly upset during the proceedings, all three of the accused were found not guilty. An obscenity charge formed the subject matter of the fourth trial. The allegations were that the owner of a video store was renting out obscene video-tapes. The jury did not return a unanimous verdict, splitting six to two in favor of acquittal.

The data from all four of these trials were collapsed into one sample. Of the 40 jurors who participated in the study, 27 were reported to have one or more physical and/or psychological symptoms that could be related to jury duty.<sup>22</sup> Seven jurors developed significant illnesses, three of whom required the care of a physician.<sup>23</sup> Sleeplessness was the most frequently reported symptom of stress reported by 13 of the 40 jurors, followed by nervousness and tension reported by 12 jurors, nausea reported by 10 jurors, headaches reported by 6 jurors, heart palpitations reported by 4 jurors, transient sexual inhibitions reported by 4 jurors, depression reported by 4 jurors, anorexic symptoms reported by 4 jurors, and faintness reported by 2 jurors.<sup>24</sup> Physical complaints made by individual jurors included chest pain, ulcer pain, increased blood pressure, and hives.<sup>25</sup>

Kaplan and Winget made statements about the incidence and sources of stress symptoms pertaining to each jury but they did not substantiate these statements by reciting any data. According to the authors, the first murder trial evoked the greatest incidence of symptoms in the jurors.<sup>26</sup> Kaplan and Winget attribute this high level of stress to the brutal nature of the crime, the

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<sup>20</sup> For a more thorough discussion of the differences between trial by jury in Canada and the United States, see Sonia R. Chopra, *Juror Stress: Sources, Severity, and Solutions* (Ph.D. Thesis, Department of Psychology, Simon Fraser University, 2002) [unpublished] at 28-35.

<sup>21</sup> Stanley M. Kaplan & Carolyn Winget, "The Occupational Hazards of Jury Duty" (1992) 20 *Bulletin of the American Academy of Psychiatry and Law* 325.

<sup>22</sup> *Ibid.* at 327.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* at 328.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.* at 327.

explicit evidence presented, and the fact that the death penalty was a possible option.<sup>27</sup> The main source of stress for the jurors sitting on the obscenity trial was said to be the sexually explicit films that the jurors were forced to watch.<sup>28</sup> Similarly the perverse nature of the alleged activity of the accused was a main cause of stress for jurors who sat on the child abuse trial. An added source of stress for these jurors was the empathy they felt for the alleged victims, young children who became upset while testifying.<sup>29</sup> Finally, the authors argue that the stress of the domestic murder trial was related mainly to the lengthy sequestration that was caused by the lone holdout juror.<sup>30</sup>

This study suffers from even more methodological problems than Kaplan's previous one. As observed by DeLipsey:

[A] little over half of the [participating] jurors . . . sat on capital murder cases and may account for most of the more severe symptoms reported . . . Little information was reported regarding jurors who were contacted and declined to participate in the research study. Kaplan indicated there were ten non-responders with one from the rape murder case and none from the obscenity case leaving nine from the domestic murder and child abuse cases. Kaplan remarked that the domestic murder case had the highest non-response rate. Information from jurors who participated in the research indicated they believed some of the non-responders were the most affected by the trials. Financial incentive was offered to all jurors, excluding those from the domestic murder trial. Since the financial incentive variable was not held constant across groups, important data may have been unavailable to the researchers. Also, the effects of the incentive upon the information given or gained from the subjects, if present, were not held constant. Though the data from the interviews was combined, the protocol for data collection varied between trials mixing open questions, structured questions, and therapeutic intervention. Information from most jurors was gained from personal, unstructured interviews . . . The obscenity trial interviews were more structured than others . . . Targeting specific areas of interest for a portion of the sample may have elicited information from this set of jurors not drawn from others by the more open ended interviews. Likewise, the more structured interview style could have also missed relevant information that was captured by the open interview method. Therapeutic intervention clearly was provided for the jurors on the rape-murder trial but probably not for the jurors who sat on the obscenity trial . . . Such intervention could have affected reported symptoms by alleviating or highlighting jurors' levels of distress. . . Kaplan indicated that he conducted all of the interviews on the rape-murder trial and some of the interviews on the other trials. He alluded to the use of other interviewers but provided no information about them. Differences between interviewers, their skill levels, expectations, or therapeutic interventions coupled with the mixed interview protocols further increases the possibility that data were influenced by research procedures . . . No information regarding the length of trials and little information regarding the time lapse between the trial and interviews was provided.<sup>31</sup>

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<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> Jan Marie DeLipsey, *Stress in Jurors: The Experience of Serving Jury Duty on Murder Trials* (Ph.D. Thesis, College of Education, Texas Woman's University, 1994) [unpublished] at 10-13.



Professors Feldmann and Bell have conducted a number of studies pertaining to juror stress. The first of these studies occurred in 1991 when they were asked to debrief jurors serving on a case involving one of the worst alcohol-related traffic accidents in American history, involving a pick-up truck and a school bus, which resulted in 27 fatalities, most of them consisting of school children.<sup>32</sup> The accused, Larry Mahoney, was the driver of the truck and he was drunk at the time of the commission of the offence. Ultimately he was convicted of multiple counts of manslaughter and sentenced to 16 years in prison.

There were a number of interesting aspects of this trial. Graphic pictures of the children killed in the fire were introduced into evidence, as was a computer recreation of the accident. The trial took place in a small rural community, Carrollton, Kentucky. As a result, many of the jurors knew the accused and/or his family. However the victims were from a community nearly eighty miles away. In addition, the trial was lengthy with extensive media coverage.

Immediately after the sentencing, Feldmann and Bell conducted a two-hour debriefing session with the judge, the bailiff, the jailor, the court reporter and eleven of the jurors. During the debriefing session, the authors shared information with the jurors about common stress response syndromes to help the jurors normalize their experience. Then jurors were encouraged to share their thoughts and feelings about the trial.<sup>33</sup> Surprisingly, concern about community reaction and fears of community isolation were perceived by the jurors as even more stressful than the graphic nature of the evidence the jurors had been exposed to<sup>34</sup> – this may be something that policy makers, judges and court officials in Canada should keep in mind when dealing with juries sitting on trials in small communities. Jurors reported sleeplessness as well as feeling anger towards the legal system. Intrusive thoughts of the victims were also reported along with the emotions of helplessness and powerlessness.<sup>35</sup> Feldmann and Bell observed that “[a]lthough none of the jurors had been involved in the accident, their reaction was as intense as that of rescue workers and law enforcement officers we have worked with.”<sup>36</sup>

There is one particularly glaring problem with the methodology utilized by Feldmann and Bell in this study, and it plagues their subsequent studies on juror stress as well. By first describing what jurors may feel as a result of their jury service and then asking jurors to report on the impact the trial has had on them, individuals who were not adversely affected by the trial may then have perceived the opposite. Thus, the debriefing procedure may impact the findings on juror stress and may even harm jurors through its pathologizing of their experiences.<sup>37</sup>

Feldmann and Bell conducted a follow-up session with 9 of the 11 jurors 18 months after the initial debriefing session.<sup>38</sup> The follow-up session revealed that many jurors had experienced

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<sup>32</sup> Theodore B. Feldmann & Roger A. Bell, “Crisis Debriefing of a Jury Following a Murder Trial” (1991) 42 *Hospital and Community Psychiatry* 79.

<sup>33</sup> *Ibid.* at 80.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.* at 81.

<sup>36</sup> *Ibid.*

<sup>37</sup> For more on this phenomenon, see M. Bowman, *Individual Differences in Posttraumatic Response: Problems With the Adversity-Distress Connection* (Mahwah, New Jersey: Lawrence Erlbaum Associates, 1997).

<sup>38</sup> Theodore B. Feldmann & Roger A. Bell, “Crisis Debriefing of Juries: A Follow-up” (1992) 4 *American Journal of Preventive Psychiatry and Neurology* 2.



intrusive thoughts of the trial, feelings of restlessness and agitation, sleep difficulties and disturbing dreams even after the initial debriefing.<sup>39</sup> While some jurors indicated that these symptoms dissipated several weeks after the trial, others stated that these problems lingered for several months. Although several jurors occasionally were still bothered by the trial, none had sought therapeutic treatment.<sup>40</sup>

In their last study, Feldmann and Bell describe their debriefing sessions with two additional juries, along with their debriefing of the jurors from the Carrollton trial.<sup>41</sup> One of the two other juries was the jury that sat on the trial of Jeffrey Dahmer in Milwaukee. This was a trial of an individual who had committed a number of serial murders. Dahmer's victims tended to be minority group members and/or members of the gay community. It was an emotionally charged trial because the families of the victims often attended court proceedings and displayed significant outward emotional reactions.<sup>42</sup> The trial attracted a large amount of media attention and it contained graphic evidence of necrophilia, mutilation, and cannibalism.<sup>43</sup> In addition, the jurors were sequestered for approximately three and a half weeks during the trial. The only question that the jury had to answer pertained to the sanity of the accused, and to assist them with this question a great deal of expert psychological and psychiatric evidence was presented.<sup>44</sup> In the end, the jury found Dahmer sane and he was sentenced to 15 consecutive life sentences.

The third trial jury that Feldmann and Bell debriefed was one that heard a murder trial in Louisville, Kentucky. The accused, a well-respected teacher in the community, was charged with murdering his wife. He alleged that his son had committed the murder and that he, in an effort to protect his son, disposed of her body. The jurors were subjected to a videotape of the victim's decapitated head being dug out from a garden as well as photographs of the burned remains of the body.<sup>45</sup> Complicated and contradictory expert psychological evidence was presented, and the relationship between defence counsel and the prosecuting attorney was acrimonious.<sup>46</sup> Because of the bizarre nature of the trial, media coverage was extensive.<sup>47</sup> The jury found the accused guilty and he was sentenced to 65 years in prison.

Although the initial debriefing procedure used with all three juries was the same, namely, the debriefers would give an account of common stress reactions jurors could expect and then the jurors would be asked to relate their thoughts, feelings, and symptoms to the debriefers, there were some significant differences that should be noted. First, only the Carrollton jury received a follow-up visit after the initial debriefing. Second, the timing of the debriefings varied among the three groups of juries, as did the participation rate of the jurors. The school bus accident trial jury was debriefed immediately after the offender was sentenced and 11 jurors participated, the Louisville jury was debriefed three days after the trial ended and 7 jurors attended, and the

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<sup>39</sup> *Ibid.* at 2.

<sup>40</sup> *Ibid.* at 6.

<sup>41</sup> Theodore B. Feldmann & Roger A. Bell, "Juror Stress: Identification and Intervention" (1993) 21 *Bulletin of the American Academy of Psychiatry and the Law* 409.

<sup>42</sup> *Ibid.* at 411.

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

Milwaukee jury was debriefed immediately after the verdict was rendered with all 12 jurors, two alternates and two officers of the court attending it.<sup>48</sup> Third, it appears as if only the Milwaukee jury was sequestered during trial.

Strikingly, despite all three juries differing demographically and geographically, the jurors were reported to have had “almost identical emotional and cognitive reactions to the trial.”<sup>49</sup> Intrusive thoughts of the trial, sleep disturbances, including disturbing dreams, and feelings of restlessness and agitation were experienced by all of the jurors who participated in the debriefings.<sup>50</sup> Common sources of stress included the presentation of graphic evidence with little or no foreknowledge of what was about to be seen or heard and the adversarial nature of the trial process whereby jurors were relegated to passive observers of the proceedings with no power to provide input during the process.<sup>51</sup> It was also noted that the instructions given to jurors not to discuss the case amongst themselves or with others during the trial prevented any type of emotional release or processing of the disturbing material.<sup>52</sup> Because of these common findings, the authors concluded that “the stress of serving on a jury cuts across a number of sociocultural lines.”<sup>53</sup>

### 2.2.2 Other Investigations of Juror Stress

While the preceding studies consisted of post-trial interviews of jurors by clinicians using open interview methods, the remaining compelling body of literature on jury stress consists of more directed questions delivered to jurors, and sometimes judges, by way of survey instruments.<sup>54</sup> As well as providing a more structured assessment of stress-related symptomology, these latter studies tend to incorporate larger samples of jurors and trial types.

In 1993 Seventh Judicial District of Iowa Judge James Kelley conducted a study into the severity of juror stress.<sup>55</sup> The survey he utilized was completed by a large number of jurors who had served on different juries. He sent questionnaires to 528 jurors who served on 44 murder trials in Iowa from January 1, 1989 to January 30, 1991. A total of 350 responses were received.

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<sup>48</sup> *Ibid.* at 410, 411, and 412.

<sup>49</sup> *Ibid.* at 412.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.* at 412-413.

<sup>52</sup> *Ibid.* at 412.

<sup>53</sup> *Ibid.*

<sup>54</sup> There are authors who have reviewed media accounts of juror stress. See, for example, Thomas L. Hafemeister & W. Larry Ventis, “Juror Stress: What Burden Have We Placed on Our Juries?” (1992) 16 *State Court Journal* 35, Thomas L. Hafemeister & W. Larry Ventis, “Juror Stress: Sources and Implications” (1994) *Trial* (October 1994) 68, and Thomas L. Hafemeister, “Juror Stress” (1993) 8 *Violence and Victims* 177. The reason that this body of work is not considered compelling evidence pertaining to juror stress is aptly explained by Marder:

Juror interviews in newspapers and magazines are necessarily mediated by the press. Although a juror’s actual words may be used in an article, often they are not. Even when jurors are actually quoted, the quotations usually constitute only a small portion of the article and may be out of context. Thus, it is the journalist who decides which words to include from the interview, the framework in which to place those words, and which points to highlight about the jury experience. (Nancy S. Marder, “Deliberations and Disclosures: A Study of Post-Verdict Interviews of Jurors” 82 (1996) *Iowa Law Review* 465 at 476.)

<sup>55</sup> James E. Kelley, “Addressing Juror Stress: A Trial Judge’s Perspective” (1994) 43 *Drake Law Review* 97.

The survey utilized a unique methodology. It asked jurors to check a box which most accurately described how frequently specific comments were true for them since the completion of their jury service. The survey stated

You were a juror in a trial concerning a serious crime. Below is a list of comments made by people after observing evidence of similar crimes. Please check the one box next to each item that most closely describes how frequently these comments were true for you since the trial. If they did not occur, please mark the “Not at all” box.<sup>56</sup>

Four response boxes were provided: “Not at all,” “Seldom experienced,” “Sometimes experienced,” and “Often experienced.”<sup>57</sup> The 15 statements that the jurors were asked to respond to were adapted from the Impact of Events Scale produced by the stress researcher Mardi J. Horowitz.<sup>58</sup> The statements included items such as, “I thought about it when I didn’t mean to,” “I had trouble falling asleep or staying asleep,” “I tried to remove it from memory,” and “I had dreams about it.”<sup>59</sup> By ranking the questionnaire responses of the jurors, Kelley was able to assess the total stress experienced by them. A value of “0” was assigned to the “Not at all” answer, “1” to the “Seldom experienced” answer, “3” to the “Sometimes experienced” answer, and “5” to the “Often experienced” answer.<sup>60</sup> Using this methodology, a total score of 15 or less meant that the juror experienced very little stress as a result of his or her jury experience, while a score of 60 or over indicated a very high level of stress.<sup>61</sup> The total stress scores ranged from 0 to 73, with 44% of jurors having total stress scores of 15 or lower and less than 1% having a stress score of 60 or higher.<sup>62</sup> The mean total stress score was 19.48, a score that suggests a relatively low level of stress arising from jury duty even in these trials of serious violent offences.<sup>63</sup> Kelley also found a gender effect, with females reporting statistically significant higher stress levels than men.<sup>64</sup> One explanation put forward for this finding by Kelley was that women may be more likely to admit experiencing stress symptoms than men, indeed this has often been reported in the psychiatric literature. Alternatively, women may feel more stress sitting on juries than men.<sup>65</sup>

There are serious limitations to Kelley’s study, namely that the jurors were all drawn from the same state during a relatively narrow time period, all of them sat only on murder trials, and there was little attempt at distinguishing stress arising from aspects of jury service from stress stemming from other life events of the jurors. However, the study does suggest that juror stress may not be as severe as some may think. In fact, Kelley’s study may actually overestimate the severity of juror stress because some of those jurors who chose to participate may be demonstrating a self-reporting bias. In other words, many jurors who were not particularly

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<sup>56</sup> *Ibid.* at 109.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.* at 113.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.* at 114.

<sup>65</sup> *Ibid.*

impacted by the trials they sat on may have not been motivated to respond to the survey instrument, while some others who were particularly impacted may have chosen to respond.

Daniel Shuman and his colleagues' inquiry into the health effects of jury service employed a superior methodology to that utilized by Kelley.<sup>66</sup> In 1992, they sent questionnaires to 312 jurors serving on 26 Dallas County District Court trials over the preceding four to six months and 152 jurors responded. The respondent jurors were divided into those who sat on "traumatic" trials and those who sat on "non-traumatic" trials. "Traumatic" trials were those involving charges of murder, aggravated kidnapping, aggravated sexual assault, and child abuse, whereas "non-traumatic" trials were those that dealt with allegations of burglary, robbery, trafficking in and possession of controlled substances, credit card fraud, and unauthorized use of a motor vehicle.<sup>67</sup> The authors did not define the offence of robbery, but if it was defined as theft coupled with violence as it is in Canada, the decision to place robbery in the non-traumatic category may be questionable. Nevertheless, the authors commendably attempted to provide some type of control group in order to ascertain what, if any, effect traumatic versus non-traumatic trials had on juror stress. Moreover the respondents in both groups were demographically similar, and they seemed fairly representative of Dallas State Court District jurors.<sup>68</sup> A total of 79 jurors were placed in the traumatic group and 73 responding jurors were placed in the non-traumatic group.<sup>69</sup> The questionnaire surveyed the health of the jurors as well as the sources and severity of stress experienced before, during, and after the trials in order to isolate the stress experienced as a result of jury duty from other extraneous stressors. For example, jurors were asked about medication taken and the number of doctor visits before, during, and after the trial, and the jurors were asked to respond to a list of possible life changes prior to and following the trial such as whether they had suffered a divorce, loss of employment, or a death in the family.<sup>70</sup> In addition, jurors were given a list of stress symptoms, including the ones comprising the diagnostic criteria for Major Depression<sup>71</sup> and PTSD, and they were asked whether or not they had experienced any of these symptoms during the trial, during the deliberations, and/or post-trial.<sup>72</sup> Finally, the survey incorporated questions pertaining to, among other things, juror demographics, the length of the trial, the amount of publicity the trial received, whether or not the presented evidence was graphic, and how much stress was associated with juror relations.<sup>73</sup>

Albeit Shuman and his colleagues anticipated some of the results of the study, others came as a complete surprise. The data supported their hypothesis that jurors who sit on traumatic trials suffer more stress than those who sit on non-traumatic trials. Indeed jurors in the traumatic group reported experiencing nearly three times as many stress symptoms during the trial as well as

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<sup>66</sup> Daniel W. Shuman *et al.*, "The Health Effects of Jury Service" (1994) 18 *Law & Psychology Review* 267.

<sup>67</sup> *Ibid.* at 285.

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.* at 288-289.

<sup>71</sup> The essential feature of Major Depression was defined as either depressed mood or loss of interest or pleasure in all, or almost all, activities, and associated symptoms, for a period of at least two weeks. Symptoms were not attributed to Major Depression if they were the result of an established organic disorder or a normal reaction to the death of a loved one, or delusions or hallucinations in the absence of prominent mood symptoms (*ibid.* at 273).

<sup>72</sup> *Ibid.* at 288-289.

<sup>73</sup> *Ibid.*

during the deliberations than did jurors in the non-traumatic group.<sup>74</sup> Moreover a higher number of jurors in the traumatic group reported symptoms than did jurors in the non-traumatic group post-trial.<sup>75</sup> What the researchers were unprepared for was the finding that only one juror reported symptoms consistent with a diagnosis of PTSD and that juror belonged to the non-traumatic group.<sup>76</sup> As a result, Shuman and his colleagues concluded that the nature of most trials may be insufficient to qualify as a stressor of the magnitude to trigger PTSD.<sup>77</sup> While this result came as a pleasant surprise, the results regarding a diagnosis of Major Depression were more alarming. Jurors who served on traumatic trials were nearly six times more likely than jurors who served on non-traumatic trials to meet the diagnostic criteria for Major Depression, with 12.3% of jurors from the traumatic group meeting the criteria during the trial compared to 2.6% of jurors from the non-traumatic group.<sup>78</sup> This distinction persisted during the deliberations, with 7% of jurors from the traumatic group meeting the criteria compared to 1.3% of the jurors from the non-traumatic group and the distinction even remained after the trial concluded with 1.4% of jurors from the traumatic group meeting the criteria compared to 0% of the non-traumatic group.<sup>79</sup> These figures pertaining to the degree of Major Depression experienced by jurors, especially those who serve on traumatic trials, deserve attention given the fact that the population base-rate of depression is only 4-5%.<sup>80</sup>

There were a number of other interesting findings that emanate from this study. The authors noted that stress-related factors that arose during the deliberations, as opposed to the evidence presented during the trial, seemed to have a more lasting effect on juror health.<sup>81</sup> The authors also found that women tend to report more symptoms of stress during the trial and during the deliberations than men, but that more men reported symptoms of stress after the trial than did women.<sup>82</sup> Although the researchers uncovered evidence of juror stress and health problems occurring at all phases of the trial,<sup>83</sup> particularly in relation to those jurors serving on traumatic trials, they concluded that there was less cause for concern than they had originally anticipated.

In 1998, the National Center for State Courts (NCSC) reported results from the most comprehensive investigation of jury stress ever conducted in the United States.<sup>84</sup> The NCSC researchers surveyed judges across America and collected data from jurors and those summoned for jury duty but not called upon to serve as jurors in six geographically and demographically diverse state trial courts with varying docket sizes and jurisdictional case types.<sup>85</sup> A total of 401 jurors/juror alternates completed the study as did 453 unassigned members of the jury panel.<sup>86</sup> A

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<sup>74</sup> *Ibid.* at 292 and 294.

<sup>75</sup> *Ibid.* at 295.

<sup>76</sup> *Ibid.* at 291 and 299. It should be noted, however, that many jurors did report some symptoms of PTSD.

<sup>77</sup> *Ibid.* at 298.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.* at 295.

<sup>82</sup> *Ibid.* at 293 and 296.

<sup>83</sup> *Ibid.* at 296-297.

<sup>84</sup> National Center for State Courts, *Through the Eyes of the Juror: A Manual for Addressing Juror Stress* (Williamsburg, VA: NCSC, 1998).

<sup>85</sup> *Ibid.* at 57.

<sup>86</sup> *Ibid.* at 58.

total of 441 judges completed an initial survey pertaining to jury stress and 118 completed a more detailed, follow-up study.<sup>87</sup>

The questionnaire packets that the jurors and juror alternates were given consisted of several psychological assessment tools that had been adapted by the researchers for this project. Among the assessment tools utilized were the Jury Duty Survey and the Jury Duty Stress Scale.<sup>88</sup> The Jury Duty Survey was adapted from Horowitz's Impact of Event Scale used for assessing responses to trauma. The Jury Duty Survey consisted of 20 "yes or no" statements which were designed to reflect jurors' impressions of their jury service and possible stress-related symptoms they experienced. Some of the statements consisted of the following: "I believe that my experience with jury duty would cause emotional problems in most people" and "I think stress had an effect on the decisions of some jurors."<sup>89</sup> The Jury Duty Stress Scale was comprised of 50 items related to events or characteristics of the juror experience such as "Being publicly identified as a juror" and "Disturbing/grisly evidence."<sup>90</sup> Jurors were asked to rate the stressfulness of each item on a five-point scale with response options being "not at all stressful," "a little bit stressful," "moderately stressful," "quite a bit stressful," or "extremely stressful."<sup>91</sup>

A number of different instruments were used in relation to the judge participants as well. The initial survey mailed to judges asked for, among other things, their opinions on the existence of juror stress and potential sources of juror stress.<sup>92</sup> The follow-up questionnaire provided a list of 49 possible sources of stress, and it asked judges to rate the stressfulness of each item for their jurors in general on a five-point scale from "0 = not at all stressful to 4 = extremely stressful."<sup>93</sup> In addition, judges were asked to list in order the five sources that most often cause stress in their jurors.<sup>94</sup>

The data pertaining to jurors yielded some intriguing results. Of the 401 jurors and juror alternates, 60% sat on criminal trials while 40% sat on civil cases.<sup>95</sup> Jurors who sat on lengthy trials and on criminal, person-centered trials experienced the greatest amount of stress. These jurors had the greatest tendency to indicate that their fellow jury members also experienced stress.<sup>96</sup> More specifically, jurors serving on trials lasting 11 days or longer reported the existence of more stress, and they tended to perceive the stress associated with jury duty as having affected fellow jurors' thinking and decision-making more than jurors who served on shorter trials.<sup>97</sup> Although the majority of jurors did not experience levels of stress high enough to produce physical or emotional symptoms, close to half of the jurors from trials lasting 11 days or longer reported having disturbing memories, and one third reported feeling numb and detached.<sup>98</sup>

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<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.* at 60.

<sup>89</sup> *Ibid.* at 85.

<sup>90</sup> *Ibid.* at 86.

<sup>91</sup> *Ibid.* at 86-88.

<sup>92</sup> *Ibid.* at 59.

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.* at 58-59.

<sup>96</sup> *Ibid.* at 63.

<sup>97</sup> *Ibid.* at 67.

<sup>98</sup> *Ibid.*

Of the jurors, alternates and unassigned jurors, 14% believed that their experiences with jury duty would cause emotional problems in most people, 33% experienced stress as a result of their jury duty, 50% thought that other jurors experienced stress during jury duty, 34% thought stress had an effect on the thinking of some jurors, while 37% thought that stress had an effect on the decisions of some jurors.<sup>99</sup> Finally, the strongest sources of stress reported by jurors on non-death penalty cases were deciding on a verdict, jury deliberations and discussions, disruptions to daily routine, fear of making a mistake, violent crimes, jury selection, crimes against children, answering questions in front of other people, and dissension or differences among jurors.<sup>100</sup>

The data pertaining to judicial perceptions of juror stress was also revealing. 30% of judges reported that, in their opinion, none of their jurors had experienced high levels of stress as a result of jury duty.<sup>101</sup> Almost all (92%) judges stated that 10% or less of their trials had one or more jurors who experienced high levels of stress;<sup>102</sup> 92% of judges also reported that jurors experienced moderate to low levels of stress.<sup>103</sup> The strongest sources of juror stress as recounted by judges were deciding whether to give the death penalty, sequestration for the entire trial, crimes against children or sexual or violent crimes, disturbing or grisly evidence, long or boring trials, hung juries, and issues or evidence with a personal impact or meaning for the juror. Of those judges who responded to the initial questionnaire, 29% indicated a belief that high levels of stress might have affected the abilities of one or more jurors to effectively participate in the jury process, and 65% thought individuals avoided jury duty because they feared they might experience high levels of juror stress.<sup>104</sup>

Although the next study of jury stress focused on Canadian jurors, it utilized methods that have been incorporated in previous examinations of stress in American jurors. Chopra examined the Canadian juror experience through semi-structured interviews with 80 former criminal trial jurors from the greater Vancouver area.<sup>105</sup> Four-fifths (80%) of the respondents had finished their jury service within two years of completing the interview, and none had served longer than nine years from the date of the interview.<sup>106</sup> Three psychological scales were used in this study to measure stress: modified versions of the Jury Duty Survey, the Jury Duty Stress Scale, and the Impact of Events Scale.<sup>107</sup> The jurors were also told, prior to being interviewed, of the proscription contained in s.649 of the *Criminal Code*. Interviews were conducted in person or over the telephone or both and were variable in length, with the mean interview being 80 minutes long.<sup>108</sup> In addition, in some instances the interviews were conducted on two separate occasions by two different researchers.<sup>109</sup> The majority of jurors interviewed served on cases involving crimes against persons, with the largest proportion of jurors, 41.3%, having sat on murder

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<sup>99</sup> *Ibid.* at 85.

<sup>100</sup> *Ibid.* at 71.

<sup>101</sup> *Ibid.* at 61.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.*

<sup>104</sup> *Ibid.* at 75.

<sup>105</sup> Sonia R. Chopra, *Juror Stress: Sources, Severity, and Solutions* (Ph.D. Thesis, Department of Psychology, Simon Fraser University, 2002) [unpublished] at 38.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid.* at 43.

<sup>109</sup> *Ibid.*



trials.<sup>110</sup> Less than 12.5% of interviewed jurors sat on non-person centered trials dealing with, for example, theft and drug matters.<sup>111</sup> In terms of length of service, 50% of jurors completed their jury service within two weeks or less, 18.8% participated in trials lasting between 11 and 15 days, 11.3% were on trials lasting one month, 11.3% sat on trials that were five to eight weeks in length, and 8.8% endured jury duty for a trial that was longer than nine weeks.<sup>112</sup> Two-fifths (41.3%) of jurors participated in jury deliberations that lasted one day or less, 37.5% were involved in jury deliberations that lasted two days, and only 5% of jurors had to deliberate longer than a week.<sup>113</sup>

Chopra's study suffers from many of the methodological problems identified with the American studies that preceded it. For example, there is the real prospect of a response bias, the study fails to use a control group, and it makes little attempt at distinguishing stress arising from aspects of jury service from stress stemming from other life events. There is also the prospect of the different interviewers and the varying format of the interviews influencing the results. Moreover the small sample size and the limited geographical bounds within which the sample originates may mean that the results are not representative of the sources, prevalence and severity of stress faced by most Canadian criminal trial jurors.

Nevertheless, Chopra's study is the first one to reveal a glimpse into the stress faced by some Canadian jurors. Two-thirds (66.3%) of jurors indicated that they experienced stress as a result of their jury duty, 83.8% thought others jurors experienced stress during jury duty, 62.5% believed that stress had an effect on the thinking of other jurors, and 47.5% felt that stress had an effect on the decisions of some jurors.<sup>114</sup> One-fifth (21.3%) of jurors indicated that they had disturbing memories associated with their jury duty, and 27.5% of jurors expressed the belief that their experience with jury duty would cause emotional problems in most people.<sup>115</sup> The top sources of stress reported by jurors were serving as the jury foreperson, specifically the lack of guidance given on how the foreperson should go about his or her duties, and the unwanted surprise at having to make recommendations about parole eligibility after second degree murder convictions are entered.<sup>116</sup> The top ten most stressful aspects of jury service, excluding serving as a jury foreperson and making parole eligibility recommendations for the accused, in descending order, are: deciding on a verdict, a hung jury, jury deliberations and discussions, the nature or characteristics of the crime, dissension/differences among jurors, fear of making a mistake, disturbing/grisly evidence, sequestration during deliberations, the ban on discussing the case with family and friends, and being in a minority position during jury deliberations.<sup>117</sup> Seven of these latter ten top sources of juror stress are related to reaching a verdict and the deliberation process. Some jurors also commented that the following were significant stressors for them: fear of retribution or reprisal for a verdict, actual or potential encounters with the accused and/or his or her family during and after the trial, and notorious cases, especially those involving certain

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<sup>110</sup> *Ibid.* at 44.

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.* at 44-45.

<sup>113</sup> *Ibid.* at 45.

<sup>114</sup> *Ibid.* at 45-46.

<sup>115</sup> *Ibid.* at 47.

<sup>116</sup> *Ibid.* at 49-51.

<sup>117</sup> *Ibid.* at 52.



criminal organizations.<sup>118</sup> With respect to diagnosable psychiatric illnesses, 11.3% of jurors met the strict diagnostic criteria for PTSD.<sup>119</sup> Surprisingly, jurors serving on person-centered trials did not report experiencing more stress than jurors serving on non-person-centered trials.<sup>120</sup> Consistent with previous studies on jury stress, this study found that women were more likely to report adverse affects from jury service than men.<sup>121</sup> Finally, 87.5% of jurors serving on trials lasting 21 days or longer indicated that they had experienced stress as a result of their jury duty as compared to 50% of jurors serving on trials lasting one week or less. Yet there is no consistent evidence of increased juror stress resulting from longer trials between these two time periods.<sup>122</sup>

Using the psychological assessment tools utilized by the NCSC researchers, a jury stress study was conducted in Yamhill County, Oregon and it yielded some interesting results. A total of 101 jurors who served on child sexual abuse or homicide cases were asked to participate in the study and 55 jurors responded.<sup>123</sup> Overall, 45% of participants indicated that they experienced some stress from their trials, while 28% of participants reported that they were not at all affected.<sup>124</sup> Given the nature of the trials, it is not surprising that often graphic evidence was presented. One-half (50%) of responding jurors indicated that visual evidence (photos and other materials) were the most disturbing aspects of their trials but 48% were more disturbed by the verbal descriptions of the crimes.<sup>125</sup> Over 40% of the Yamhill County jurors reported that they sometimes saw, heard, or dreamed about things that reminded them of their trials.<sup>126</sup> For some, these reminders lasted a prolonged period of time. One juror reported feeling the effects one month after his trial ended, two jurors stated they felt the effects two months after their trials terminated, six jurors indicated that they experienced effects six to twelve months after the end of their trials, and three jurors reported after-effects up to a year following their jury duty.<sup>127</sup>

There exists one study that specifically measured posttraumatic symptoms of jurors who served on criminal trials in an attempt to understand the variables involved in the development of PTSD symptoms. The participants in the study were jurors who served on selected felony criminal trials in three suburban court districts of a large American city in the Rocky Mountain region.<sup>128</sup> The study consisted of three phases. Phase I of the study involved the jurors, immediately after rendering their verdicts, completing a short demographic survey and a Posttraumatic Stress Diagnostic Scale (PDS), which is a widely used assessment instrument developed to measure PTSD and PTSD symptoms.<sup>129</sup> In Phase II of the study, jurors were contacted by mail one month after the trial on which they served ended. The jurors were sent a PDS and a Crisis Support Scale

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<sup>118</sup> *Ibid.* at 55-57.

<sup>119</sup> *Ibid.* at 61.

<sup>120</sup> *Ibid.* at 65.

<sup>121</sup> *Ibid.* at 76.

<sup>122</sup> *Ibid.* at 67.

<sup>123</sup> Roi Holt, Janvier Slick & Amy Rayborn, "Understanding Jurors: Jury Debriefing in Yamhill County" (2003) 63 Oregon State Bar Bulletin 17 at 17.

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid.* at 18.

<sup>126</sup> *Ibid.* at 19.

<sup>127</sup> *Ibid.*

<sup>128</sup> Elizabeth A. Palmer, *Variables Influencing the Vicarious Trauma of Jurors in Criminal Cases* (Ph.D. Thesis, College of Education and Behavioral Sciences, Division of Professional Psychology, University of Northern Colorado, 2005) [unpublished] at 58.

<sup>129</sup> *Ibid.* at 51-52 and 58.

(CSS), which is an assessment instrument used to measure social support following a crisis or trauma.<sup>130</sup> Jurors were asked to complete those instruments and mail them back. Phase III of the study, which was conducted three months after the jurors' trials, involved the participants completing and mailing back another PDS.<sup>131</sup> The total number of jurors who participated in Phase I was 201, in Phase II was 126, and in Phase III was 62.<sup>132</sup>

A surprisingly large percentage of the participants reported symptoms consistent with a PTSD diagnosis. Over one-third (35%) of the participants in Phase I, 14% of the participants in Phase II, and 27% of the participants in Phase III had symptoms consistent with a PTSD diagnosis.<sup>133</sup> There were not significant demographic differences between the jurors who responded at each phase, but the jurors who responded to the three month follow-up had significantly higher PTSD symptoms just after the trial and one month after the trial than the jurors who did not respond to the three month follow-up.<sup>134</sup>

While certain specific variables concerning the jurors were linked to higher PTSD symptoms, others were not. Across all three phases of data collection, women reported a consistently higher number of symptoms and had higher symptom severity scores than men.<sup>135</sup> However, there were no significant correlations found between juror age and the number of PTSD symptoms endorsed or the symptom severity scores at any phase of data collection.<sup>136</sup> In Phase I of the study only, Hispanic jurors reported higher levels of symptom severity compared to the other, predominantly White, jurors.<sup>137</sup> The only significant correlation between juror level of education and PTSD symptoms was a significant positive correlation between level of education and the number of PTSD symptoms reported just after trial. No other correlations were significant.<sup>138</sup> Nevertheless, this finding was unexpected because education is often thought to be a protective factor for exposure to trauma.<sup>139</sup> Social support at the time of the trial and one month after the trial had significant negative correlations with the number of PTSD symptoms reported and the symptom severity scores, except that the level of social support at the time of the trial was not significantly correlated with the symptom severity score three months after the trial.<sup>140</sup> Finally, there were no differences in the number of PTSD symptoms or the symptoms severity ratings at any time during the study between people who reported being exposed to prior trauma and people who reported never being exposed to prior trauma.<sup>141</sup> This result is also somewhat surprising because it is commonly understood that prior history of victimization or exposure to trauma is predictive of more severe reactions following new trauma.<sup>142</sup>

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<sup>130</sup> *Ibid.* at 53 and 61.

<sup>131</sup> *Ibid.* at 61.

<sup>132</sup> *Ibid.* at 61-62.

<sup>133</sup> *Ibid.* at 87, 88 and 89.

<sup>134</sup> *Ibid.* at 175.

<sup>135</sup> *Ibid.* at 152.

<sup>136</sup> *Ibid.* at 154.

<sup>137</sup> *Ibid.* at 156.

<sup>138</sup> *Ibid.* at 158.

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.* at 159.

<sup>141</sup> *Ibid.* at 161.

<sup>142</sup> *Ibid.*

Variables concerning the trial had a larger influence on PTSD symptoms than did variables concerning the jurors. Jurors on cases with child victims endorsed more PTSD symptoms and had higher symptom severity scores than jurors on cases with adult victims, but only just after the trial ended.<sup>143</sup> There were no significant differences between these two groups at Phases II or III of the study. In addition, jurors on homicide cases consistently endorsed higher PTSD symptoms and had higher symptom severity scores than jurors who served on non-homicide cases.<sup>144</sup> In Phases I and III, jurors who sat on trials of crimes allegedly committed by household members of the victim reported the highest number of PTSD symptoms and the highest symptom severity scores, but, inexplicably, the relationship between the victim and the alleged perpetrator did not have a significant impact on the number or severity of PTSD symptoms for jurors in Phase II.<sup>145</sup> As predicted, longer trials and longer deliberations were associated with more PTSD symptoms and higher symptom severity scores across all three phases of the study.<sup>146</sup>

Like the multi-phased study just described, the most recent published work on juror reactions to jury duty addresses the influence of demographic variables and the effects of the passage of time on juror stress. The authors chose 19 civil and 9 criminal trials from state and county courts in a single mid-sized county in an American Midwestern state for the study.<sup>147</sup> All nine criminal trials involved different offences.<sup>148</sup> Of the 159 jurors that participated in the study, 151 were Caucasian and 56% of the total number of participants were female.<sup>149</sup> Participants' ages ranged from 20 to 80, with a mean of 43.2 years.<sup>150</sup> After delivering a verdict, jurors were asked to participate in a post-trial survey, which consisted of 25 possible stress factors that were to be rated by participants on a five-point Likert scale ranging from "not at all upsetting/stressful" to "extremely upsetting/stressful."<sup>151</sup> The survey also included two additional measures of mood/affect: the Center for Epidemiological Studies Depression Scale (CESDS) and the State component of the State-Trait Anxiety Inventory (STAI).<sup>152</sup> The survey ended with 19 questions concerning juror demographics.<sup>153</sup> One month after the jurors' trials ended, participants were asked to complete a second survey that also required them to rate the same stress factors and complete the same two measures of mood/affect as before.<sup>154</sup>

The results emanating from the initial post-trial survey are remarkably consistent with much of the prior research conducted on jury stress. Overall, jurors reported low levels of stress (the mean for all factors ranged from 1.18 to 2.02 on a five-point scale with a rating of 5 being the most stressful).<sup>155</sup> Jurors indicated that the most stressful elements of jury duty were related to the complexity of the trial, the decision-making involved in the trial, and the disruption to jurors'

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<sup>143</sup> *Ibid.* at 164.

<sup>144</sup> *Ibid.*

<sup>145</sup> *Ibid.* at 166-167.

<sup>146</sup> *Ibid.* at 169 and 170.

<sup>147</sup> Brian H. Bornstein *et al.*, "Juror Reactions to Jury Duty: Perceptions of the System and Potential Stressors" (2005) 23 *Behav. Sci. Law* 321 at 326.

<sup>148</sup> *Ibid.* The criminal trials consisted of matters that ranged in severity from homicides to driving offences.

<sup>149</sup> *Ibid.* at 327.

<sup>150</sup> *Ibid.*

<sup>151</sup> *Ibid.* at 328.

<sup>152</sup> *Ibid.*

<sup>153</sup> *Ibid.*

<sup>154</sup> *Ibid.* at 330.

<sup>155</sup> *Ibid.* at 331.

daily routine.<sup>156</sup> Criminal trial jurors reported being significantly more jumpy or easily startled than jurors in civil trials.<sup>157</sup> Women jurors reported significantly more stress, across trial types, than male jurors.<sup>158</sup> Specifically, women reported having more upsetting thoughts, feeling more distant or cut off, and feeling more emotionally numb than men.<sup>159</sup> However, with the exception of sex differences, there were no statistically significant results that could be attributed to demographic factors. Jurors in longer trials experienced more stress than jurors in shorter trials.<sup>160</sup> Although only 38.5% of jurors agreed that they had experienced stress as a result of their jury duty, 57.8% of jurors believed other jurors had experienced stress as a result of their jury duty.<sup>161</sup> Finally, the clinical indicia of stress as measured through the depression and anxiety scales showed that the jurors' stress levels fell short of clinical significance.<sup>162</sup>

Contrary to what one would expect, this study suggests that the passage of time has a negligent effect on juror stress levels. Although at the one month follow-up, participants reported somewhat lower levels of anxiety and depression, these reductions did not reach statistical significance.<sup>163</sup> The authors of the study postulate that one reason for the relatively stable time course of stress could be the low level of initial stress experienced by the jurors.<sup>164</sup> In other words, if participants did not experience much distress initially, then it is unlikely that researchers would record large reductions in levels of stress over time.

## 2.3 Combating and Preventing Juror Stress

### 2.3.1 The Debriefing Literature

Throughout this chapter, the term “debriefing” has appeared. But what is it? Nordgren and Thelen provide the answer to this question by differentiating counseling and therapy from debriefing.<sup>165</sup> They assert that counseling and therapy tends to be provided to those who have a significant impairment in their daily functioning or those who suffer from a psychopathology, whereas debriefing is an intervention that is applicable to those exposed to significant stressors which may or may not be severe enough or traumatic enough to cause such impairments or illnesses.<sup>166</sup> The authors describe debriefing as a carefully structured group discussion led by a debriefer who helps individuals who have been exposed to a substantial amount of stress readjust to normalcy.<sup>167</sup> Debriefing works by providing support and education about stress responses and by identifying individuals who have particularly severe stress reactions so that appropriate therapeutic intervention can take place.<sup>168</sup> Debriefing is a technique that is often utilized with

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<sup>156</sup> *Ibid.* at 335-336.

<sup>157</sup> *Ibid.* at 333.

<sup>158</sup> *Ibid.* at 332.

<sup>159</sup> *Ibid.* at 333.

<sup>160</sup> *Ibid.* at 332.

<sup>161</sup> *Ibid.*

<sup>162</sup> *Ibid.* at 336.

<sup>163</sup> *Ibid.* at 336.

<sup>164</sup> *Ibid.*

<sup>165</sup> J. Chris Nordgren & Matthew W. Thelen, “Helping Jurors Manage Stress: A Multilevel Approach” (1999) 82 *Judicature* 256.

<sup>166</sup> *Ibid.*

<sup>167</sup> *Ibid.* at 261.

<sup>168</sup> *Ibid.*

individuals who have been involved in natural disasters, accidents, and violent acts as well as those who have witnessed such events or who have been called in to rescue or otherwise provide assistance to those involved in such events and who may experience secondary trauma from their involvement.

The theory behind the need for jury debriefing is a simple one. As eloquently stated by Dabbs,

It is human nature for an individual to empathize with one who is visibly experiencing pain and grief and who is forced to relive the painful experience before that individual. It is unnatural and extremely difficult to thwart one's natural reactions. Yet, that is exactly what the legal system compels a juror to do. Those natural feelings and emotions must be expressed and dealt with appropriately or they can have a devastating effect on the health and well-being of the person involved and those with whom the person is associated and intimate.<sup>169</sup>

Nordgren and Thelen outline certain characteristics of good jury debriefing practice. First, they maintain that only mental health professionals should lead jury debriefing because only such professionals have been trained to recognize those individuals who may be in need of counseling and therapy.<sup>170</sup> In addition, the authors argue that only jurors and debriefers should attend debriefing sessions because juror experiences of the trial will differ significantly from those of judges and court staff due to differences in these groups' roles and responsibilities and prior experience with the court system.<sup>171</sup> If needed, judges and court staff should have a separate debriefing process.

Nordgren and Thelen do not advocate the use of jury debriefing with all juries. Instead they recommend a program entitled Graduated Jury Stress Management (GJSM), a multi-level stress intervention protocol tailored to meet the needs of jurors and courts.<sup>172</sup> Essentially this protocol recognizes that most jurors will require either no or minimal intervention and only a minority will require a high level of services. The first level of intervention, which should be undertaken with all jurors, is the distribution of written stress management materials after the completion of the trial. This material should deal with common stress reactions from jury service as well as a list of practical coping strategies and steps to take if jurors require additional assistance.<sup>173</sup> If a judge determines that a jury is experiencing mild stress, he can provide an opportunity for the jury to meet with him or her on a voluntary basis as soon as practicable after the return of the verdict in order to, among other things, provide jurors with an opportunity to ask the judge questions and allow the judge to thank the jurors for the duty they performed.<sup>174</sup> If a judge observes moderate symptoms of juror stress during the trial or during the post-trial meeting with the jury (if one is conducted), it is suggested that the judge engage in "flexible defusing" of the jury in which he or she attempts to obtain a limited disclosure of any distress that jurors might be

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<sup>169</sup> Marjorie O. Dabbs, "Jury Traumatization in High Profile Criminal Trials: A Case for Crisis Debriefing?" (1992) 16 Law & Psychology Review 201 at 214.

<sup>170</sup> J. Chris Nordgren & Matthew W. Thelen, *supra* note 123 at 261 and 262.

<sup>171</sup> *Ibid.* at 261.

<sup>172</sup> *Ibid.* at 259.

<sup>173</sup> *Ibid.*

<sup>174</sup> *Ibid.* at 259-260.

feeling as a result of the trial process.<sup>175</sup> If the judge deems it appropriate, based on the juror responses to the flexible defusing process, he or she may order a jury debriefing to commence and provide the jury with a brief orientation to the debriefing process. The debriefing process itself consists of a number of levels, including a preparatory stage in which debriefers gather specific critical information about the trial and the expected stress levels of the jurors, an orientation phase, a feedback stage in which jurors relate their thoughts and feelings to the debriefers, a coping strategies phase, and a closure stage.<sup>176</sup> The final stage in the GJSM occurs after the debriefing is completed, and it consists of referring any jurors who require individual attention to qualified mental health therapists.<sup>177</sup>

There is a problem with Nordgren and Thelen's GJSM protocol. It is questionable whether a judge charged with maintaining courtroom proceedings and addressing a myriad of legal issues during a trial, a person who lacks training in psychology or psychiatry, is capable of identifying symptoms of stress in a jury let alone distinguishing mild from moderate symptoms of stress or ascertaining when a jury will need to undergo the debriefing process.

Feldmann and Bell began all of their debriefing sessions with jurors in the same manner. The authors educated the jurors on common symptoms of stress that arise as a result of jury service, and then the jurors were given an opportunity to discuss their concerns and reactions to the trials.<sup>178</sup> There was consensus from jurors that this information was beneficial, and they indicated that knowing what to expect following the trials was reassuring.<sup>179</sup>

As a result of their experiences, Feldmann and Bell proposed a model for jury debriefing. The model begins with an introductory phase in which jurors are told why the debriefing is being conducted. This explanation will help jurors overcome the fears associated with being labeled as sick or crazy and will assist them in overcoming their initial resistance to discussing their concerns and feeling about their experience. The goal of this phase is to review each juror's perceptions of the event, not to reach a common group consensus.<sup>180</sup> During the next reflective phase, personal and emotional reactions to the trial are examined and careful attention is paid to the emotional reactions of each of the jurors to the evidence and the legal system. In addition, concerns about community reaction to the verdict are explored.<sup>181</sup> During the next phase, the reactive phase, jurors are asked to discuss aspects of the experience that they found the most troubling and stress reactions. At this point, the debriefers will encourage the acknowledgment of the relationships that have developed among the jurors so that group dynamics can be used to foster mutual support and understanding.<sup>182</sup> The final step in the proposed debriefing process is the integrative phase, which involves transitioning jurors back to their daily lives by suggesting the use of certain coping strategies for stress.<sup>183</sup>

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<sup>175</sup> *Ibid.* at 261.

<sup>176</sup> *Ibid.* at 261-262.

<sup>177</sup> *Ibid.* at 261.

<sup>178</sup> Theodore B. Feldmann & Roger A. Bell, "Juror Stress: Identification and Intervention" (1993) 21 *Bulletin of the American Academy of Psychiatry and the Law* 409 at 412.

<sup>179</sup> *Ibid.*

<sup>180</sup> *Ibid.* at 415.

<sup>181</sup> *Ibid.*

<sup>182</sup> *Ibid.*

<sup>183</sup> *Ibid.*

Hafemeister and Ventis have also formulated their own model for jury debriefing, one that is very similar to that suggested by Feldmann and Bell. Their protocol begins with providing jurors with an understanding of why debriefing after a particularly lengthy or complex or disturbing trial is deemed by professionals to be necessary.<sup>184</sup> This stage is followed by a review with the jurors of the normal reactions to stressful situations, and then a session in which jurors are encouraged to discuss their reactions to the trial.<sup>185</sup> Finally group cohesion is assessed in order to foster mutual support and understanding between jurors, and concrete suggestions are provided to jurors regarding their return to normalcy.<sup>186</sup>

The authors also warn against the practice of informing jurors before the trial begins that they will be offered debriefing services. Defence counsel may believe that jurors who know in advance that they will be provided with debriefing may develop an allegiance to the prosecutor since it is the State that is ultimately responsible for paying for the debriefing.<sup>187</sup> Moreover, jurors could view the provision of debriefing as a signal that there is strong evidence against the accused.<sup>188</sup>

A number of authors have addressed the question of whether judges should be involved in jury debriefing. Hafemeister and Ventis observed that many mental health professionals who have conducted jury debriefings remark that judicial cooperation is one of the keys to the success of the debriefing, but that this does not necessarily mean that judges should attend the debriefing – simply that judges should express support for the debriefing process to the jurors.<sup>189</sup> Kaplan found that even when judges extended invitations to jurors to meet with them after trials were completed, many were reluctant to take the time of someone they perceived to be so important and busy. Instead these jurors found comfort in discussing the distressing aspects of their trials with individuals trained in psychiatry.<sup>190</sup> Although Kelley maintained that jury debriefing conducted by judges under certain circumstances has benefit, even he reserved for mental health professionals the task of debriefing jurors in cases of sequestration during the trial, high publicity, unusually lengthy or difficult trials, or when the jury has a sentencing function.<sup>191</sup> Albeit that Kelley's rationales for allowing judges to conduct some jury debriefings seem logical, namely that judges are able to conduct such debriefings because of their background as active listeners, and judges are best able to answer juror questions about the trial process, and the information that judges receive as a result of conducting the debriefings may lead to improvements in jury instructions from the bench,<sup>192</sup> the data collected by him revealed no statistically significant difference in the aggregate mean stress level reported by jurors debriefed

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<sup>184</sup> Thomas L. Hafemeister & W. Larry Ventis, "Juror Stress: What Burden Have We Placed on Our Juries?" (1992) 16 State Court Journal 35 at 41.

<sup>185</sup> *Ibid.*

<sup>186</sup> *Ibid.*

<sup>187</sup> *Ibid.* at 42.

<sup>188</sup> *Ibid.*

<sup>189</sup> *Ibid.* at 41.

<sup>190</sup> Stanley M. Kaplan, "Death, So Say We All" (1985) 17 Psychology Today 48 at 53.

<sup>191</sup> James E. Kelley, "Addressing Juror Stress: A Trial Judge's Perspective" (1994) 43 Drake Law Review 97 at 122 and 124.

<sup>192</sup> *Ibid.* at 116, 118-119, and 120-121.



by judges and those who were not debriefed at all.<sup>193</sup> This finding suggests that juror stress response was neither decreased nor increased by post-verdict judicial debriefing and that, perhaps, all debriefing should be left to mental health professionals. Even with debriefings conducted by mental health professionals, Kelley argued that the presiding judge should be debriefed with the jurors as the judge's participation will encourage juror attendance through validation of the process by an authority figure.<sup>194</sup> Whether there is any value added to having the judge actually attend the jury debriefing as opposed to having him or her simply endorse the jury debriefing process is questionable.

Aside from Kelley's work, there exist two other empirical studies pertaining to the efficacy of jury debriefing. The first one involved the participants of the Yamhill County jury stress study.<sup>195</sup> Although some of these participants attended jury debriefings conducted by individuals who had prior experience working with various forms of post-traumatic stress, the authors of the study fail to specify how many participants attended the jury debriefings. What is clear is that there were no reported significant differences in levels of jury stress between those jurors who attended debriefings and those who did not.<sup>196</sup> This finding remained constant even with the passage of time.<sup>197</sup> The second study concerning the efficacy of jury debriefing has also been previously discussed. It involved the jurors in 19 civil and 9 criminal trials that occurred in a Midwestern American state.<sup>198</sup> A total of 49 of the 159 participants were debriefed by a Ph.D. level psychologist.<sup>199</sup> Although there were no overall significant differences found between pre-debriefing and post-debriefing levels of anxiety and depression, the participants reported a subjective impression that the debriefing sessions were beneficial, with 73.5% of the debriefed participants reporting that talking about their experience was moderately, very, or extremely helpful.<sup>200</sup> Yet it should be noted that despite the fact that the debriefing was perceived positively at the time it took place, the passage of time significantly decreased this perception.<sup>201</sup>

Nevertheless, the lack of empirical support for the efficacy of jury debriefing in these two studies does not necessarily mean that jury debriefing is ineffective at reducing juror stress in some cases. The later study found that participants experienced low levels of stress as a result of their jury duty and the former study had a large proportion of participants who indicated that their stress levels were not at all influenced by their jury duty. Consequently, it is possible that these two studies failed to validate the effectiveness of jury debriefing because the participants were involved in trials that did not induce large amounts of stress. What may be needed to demonstrate the efficacy of jury debriefing is a study involving participants in trials that possess many stress-inducing features. Perhaps for those individuals who experience great distress as a

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<sup>193</sup> *Ibid.* at 112.

<sup>194</sup> *Ibid.* at 124.

<sup>195</sup> Roi Holt, Janvier Slick & Amy Rayborn, "Understanding Jurors: Jury Debriefing in Yamhill County" (2003) 63 Oregon State Bar Bulletin 17.

<sup>196</sup> *Ibid.* at 20.

<sup>197</sup> *Ibid.*

<sup>198</sup> Brian H. Bornstein *et al.*, "Juror Reactions to Jury Duty: Perceptions of the System and Potential Stressors" (2005) 23 Behav. Sci. Law 321 at 326.

<sup>199</sup> *Ibid.* at 329.

<sup>200</sup> *Ibid.* at 333.

<sup>201</sup> *Ibid.* at 335.



result of their jury duty, debriefing sessions would result in significant and measurable reductions of stress levels.

The question of how prevalent jury debriefing is in America and who tends to conduct these debriefings has been partially addressed by two studies. Kelley found that only 12 of the 44 juries that responded to his survey were debriefed and all of these debriefings were performed by the presiding judges.<sup>202</sup> However, in the larger more recent study conducted by the NCSC, 74% of the judges that responded to the second survey reported conducting judicial debriefings, and 15% of the judges that participated in the second survey reported the use of a mental health expert in conducting a post-trial debriefing.<sup>203</sup>

In another article, Hafemeister made a cogent point about the timing of jury debriefings. He suggested that it may be optimal to reconvene jurors the day following the verdict rather than immediately after it is rendered in order to give jurors time to rest and collect their thoughts as well as an opportunity to consider whether they wish to participate in the debriefing.<sup>204</sup> By timing the debriefing in this manner, the impression that jurors are being forced to participate in it is avoided but Hafemeister acknowledges that loss of data may occur as jurors may feel more inclined not to return for the debriefing. In addition, memories of the experience for those jurors who return for the debriefing may have already begun to fade.<sup>205</sup>

The only existing study pertaining to Canadian juror stress suggests that there may be a need for jury debriefing in this country and that this need is currently not being addressed. Chopra's study, like all the preceding ones pertaining to American jurors, cannot be cited as evidence that jury debriefing works at reducing juror stress. Nevertheless, 40% of the respondent jurors in Chopra's study thought that something should have been done to reduce juror stress levels, including post-trial debriefing.<sup>206</sup> Of the jurors meeting all of the criteria for PTSD, 90.9% felt the need to talk to someone about their experience post-trial compared to 73.7% of non-PTSD jurors.<sup>207</sup> In addition, 92.9% of PTSD jurors and 85.7% of non-PTSD jurors who did speak to someone about their experience reported it as being beneficial.<sup>208</sup> Almost all (94.1%) of the high stress jurors felt the need to talk to someone post-verdict compared to 66.7% of low stress jurors and a majority of both high and low stress jurors found such discussions helpful.<sup>209</sup> Four-fifths (79.3%) of high stress and 55% of low stress jurors expressed a desire to debrief with the judge post-trial.<sup>210</sup> Yet, the majority of jurors had no post-trial contact with the judge, other than to receive thanks for their service. Indeed only 12.5% of jurors reported any post-trial contact with their presiding judges, and none of these jurors were fully debriefed by the judge (the most that occurred was that jurors were thanked for their time, were told counseling was available if

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<sup>202</sup> James E. Kelley, "Addressing Juror Stress: A Trial Judge's Perspective" (1994) 43 Drake Law Review 97 at 112.

<sup>203</sup> National Center for State Courts, *Through the Eyes of the Juror: A Manual for Addressing Juror Stress* (Williamsburg, VA: NCSC, 1998) at 49.

<sup>204</sup> Thomas L. Hafemeister, "Juror Stress" (1993) 8 Violence and Victims 177 at 183.

<sup>205</sup> *Ibid.*

<sup>206</sup> Sonia R. Chopra, *Juror Stress: Sources, Severity, and Solutions* (Ph.D. Thesis, Department of Psychology, Simon Fraser University, 2002) [unpublished] at 46.

<sup>207</sup> *Ibid.* at 69.

<sup>208</sup> *Ibid.*

<sup>209</sup> *Ibid.*

<sup>210</sup> *Ibid.* at 74.

needed, and were directed to the Sheriff to obtain contact numbers pertaining to mental health resources).<sup>211</sup> It also appears as if mental health professionals debriefed none of the jurors in the Canadian study.

### 2.3.2 Jury Debriefing in Canada

As Chopra's study of Canadian juror stress demonstrates, jury debriefing has not often been resorted to in Canada. However, there have been developments since that study was completed. In the Yukon, a provincial court judge suffered nightmares due to his exposure to graphic evidence presented at the preliminary inquiry of a man accused of murdering and raping a woman. This provincial court judge related his experience to Justice Veale of the Supreme Court of the Yukon. Justice Veale was assigned to preside over the jury trial of this matter. Armed with the knowledge of the effect that the graphic evidence presented at the preliminary inquiry had on his colleague, Justice Veale arranged for the debriefing of the jurors sitting on this case by a psychologist after the verdict was rendered.<sup>212</sup> Immediately after the verdict was read in open court, the jury retired to the jury room and Justice Veale met with them there. He advised them of the arrangements he had made concerning jury debriefing with the psychologist and told them that they could attend the debriefing if they so desired. He also emphasized that they were not allowed to disclose any details of their deliberations during the debriefing pursuant to s.649 of the *Criminal Code*. A few days later, the psychologist met with the four to six jurors who decided to attend, and the debriefing was conducted.<sup>213</sup> As a result of this initial experience, the Yukon Territorial government instituted a pilot project of jury debriefing along with a rigorous evaluation of the efficacy of this intervention in reducing juror stress.<sup>214</sup>

The province of Manitoba is poised to become the first jurisdiction in Canada to have a larger, more permanent jury debriefing program. There were a number of catalysts for the Manitoba initiative. In two jury surveys that were conducted in Manitoba in 1996 and 1998, many jurors made unsolicited comments pertaining to the emotional toll that jury service had entailed for them and some jurors expressed the desire to have a means of venting their emotions after the trial was completed.<sup>215</sup> As a result, government officials began preparation on a jury debriefing format. However it was not until June 2003 that the format was completed in anticipation of jury debriefing being required in a high profile murder trial. Following reports from sheriff officers of some jury members being visibly upset and crying during the trial, the trial judge, after consulting with the trial lawyers, authorized the debriefing.<sup>216</sup> When the jury was being thanked for their duties and was being dismissed, the trial judge advised them that they had the option to attend a jury debriefing that was going to be held later. The positive feedback garnered from this jury debriefing convinced government officials to launch their more extensive jury debriefing program.

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<sup>211</sup> *Ibid.* at 71.

<sup>212</sup> Interview of Mr. Justice Veale of the Supreme Court of the Yukon (23 March 2005).

<sup>213</sup> *Ibid.*

<sup>214</sup> Interview of Dennis Cooley, Deputy Minister of Justice, Yukon Territory (4 February 2005).

<sup>215</sup> Manitoba, Courts Division Department of Justice, *Planning Document: Jury Debriefing Program* (February 2005) [unpublished] at 4.

<sup>216</sup> *Ibid.*

The jury debriefing commenced a few days after the trial ended behind the closed doors of a hotel room. The debriefing team, which consisted of a social worker and his female administrative assistant (it was felt that the debriefing team should be made up of individuals from both sexes) then met for four hours with all 12 jurors and the Sheriff/Jury Monitor. The Sheriff/Jury Monitor was not debriefed but he attended the session to show support and encouragement to the jurors. The various aspects of the debriefing consisted of introductions, an explanation of the purpose of the debriefing session, a cautionary note pertaining to non-disclosure of jury discussions, and information about post-trial trauma, signs and symptoms, and mental health resources for jurors.<sup>217</sup> After this information was exchanged, the jurors were asked about their overall experience, the emotions that they were feeling right now, if they were stressed and, if so, how they were coping and what, if anything, that they needed.<sup>218</sup> An evaluation of the session was completed by the jurors immediately following the session and they were contacted three months later and asked specific questions on how they were managing. All of the jurors expressed that they felt that the debriefing session had a beneficial effect. Moreover, on the follow-up session involving 10 of the 12 jurors, none of the 10 jurors expressed experiencing any post-traumatic stress resulting from their role as jury members.<sup>219</sup>

Most of the elements of Manitoba's jury debriefing program have been finalized. Although it was anticipated that by June 2005, the province would have a staff of eight debriefers who possessed mental health or social work backgrounds and completed a two-day workshop on post-traumatic stress disorder, stress symptoms, and facilitation skills,<sup>220</sup> the province only recently completed the training for their eight debriefers.<sup>221</sup> Manitoba's program also includes training for all Sheriffs/Jury Monitors in the province. These individuals have also recently completed their mandatory one-day workshops on recognizing stress symptoms in jurors.<sup>222</sup> The idea is that Sheriffs/Jury Monitors will, in most cases, identify the juries that are in need of debriefing. Given the fact that these court officials have the greatest contact with jurors during the trial and deliberation process, it makes sense to train them to recognize stress symptoms so that they can alert the trial judge as to the need for debriefing. Ultimately, however, it is judges who must authorize the debriefing to commence. In 2004, Manitoba's then Justice Minister, Gord Mackintosh, stated that the jury debriefing program will probably focus on murder trials at first but that it may possibly grow to include other types of cases.<sup>223</sup> In fact, the first three juries that were debriefed as part of Manitoba's program all sat on murder trials.<sup>224</sup>

Although the province of Manitoba should be commended for being the first jurisdiction to take such extensive steps to protect jurors' health, there are problems with the program. The most glaring problem concerns the training and background of both the Sheriffs/Jury Monitors and the jury debriefers. It is unlikely that one-day training sessions will enable Sheriffs/Jury Monitors, most of whom have no background in psychology or psychiatry, to effectively pick up on the

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<sup>217</sup> *Ibid.* at 4-5.

<sup>218</sup> *Ibid.* at 5.

<sup>219</sup> *Ibid.* at 5.

<sup>220</sup> *Ibid.* at 6 and Interview with Marston Grindey, Executive Director, Regional Courts, Brandon, Manitoba (14 March 2005).

<sup>221</sup> Interview with Daren Tripp, Executive Director, Regional Courts, Brandon, Manitoba (27 February 2008).

<sup>222</sup> Interview with Daren Tripp, Executive Director, Regional Courts, Brandon, Manitoba (27 February 2008).

<sup>223</sup> Graeme Smith, "Manitoba aims to soothe pained jurors" *Globe and Mail* (7 December 2004) A1 and A7 at A7.

<sup>224</sup> Interview with Daren Tripp, Executive Director, Regional Courts, Brandon, Manitoba (27 February 2008).

sometimes subtle signs that indicate jurors may be in need of a debriefing. Although some jury debriefers will possess a background in psychology or psychiatry that would enable them, during a jury debriefing, to identify which jurors are in need of further therapeutic care, others may be in need of more extensive supplemental education pertaining to the signs of mental illness than the two-day training session provides.

The two recent examples of Canadian jury debriefing that have been discussed share something in common. The debriefers chose the same manner of conducting the debriefing so as to avoid the prospect of jurors infringing s.649 of the *Criminal Code*. Because the jurors in the Yukon and in Manitoba were debriefed in hotel rooms behind closed doors, they had to be told not to discuss any details pertaining to their deliberations. If any of the jurors had revealed any details of their deliberations during these debriefing sessions, they would be infringing the criminal law.

But there is another method of conducting jury debriefings under Canadian law. After the jury renders its verdict, jurors could be asked to reconvene for the debriefing, which would occur in open court. Jurors are not precluded by s.649 from revealing, in open court, information relating to the proceedings of the jury. Therefore, jurors who are debriefed in open court can reveal everything about their experiences, including details of their deliberations.

There are advantages and disadvantages related to both procedures. The key advantage of the more orthodox procedure is that the private setting may promote full participation and candour of the jurors in and during the debriefing process, whereas jurors may be very reluctant to engage with debriefers and be forthright with them in an open courtroom with the accused and members of the public present. The participation of jurors in a debriefing that occurs in open court may be further impeded if a publication ban pertaining to the debriefing proceedings is not ordered by the court. Yet it is questionable whether the court could use its common law jurisdiction to order such a publication ban.<sup>225</sup> A major disadvantage to the more orthodox procedure to jury debriefing is that, when jurors are engaged in this process, they cannot discuss their deliberations. And yet some of the studies recounted earlier in this chapter found that stress-related factors that arose during the deliberations had a more lasting effect on juror health than other stressors, that one of the strongest sources of stress reported by jurors was related to jury deliberations, and that many of the jurors' identified top stressors were related to reaching a verdict and the deliberation process.

One factor that should not be taken into account when assessing the merits of open court debriefing is the need to ensure the finality of verdicts. Even if evidence of juror improprieties, misconduct or error are disclosed during an open court jury debriefing, the common law jury secrecy rule prevents courts from receiving evidence of matters intrinsic to the deliberation process for the purpose of impeaching a verdict.<sup>226</sup>

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<sup>225</sup> Pursuant to *R. v. Mentuck* [2001] 3 S.C.R. 442, a publication ban should only be ordered when such an order is necessary to prevent a serious risk to the proper administration of justice, because reasonable alternative measures will not prevent the risk, and when the salutary effects of the publication ban outweigh the deleterious effects on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the accused to a fair and public trial, and the efficacy of the administration of justice.

<sup>226</sup> *R. v. Pan; R. v. Sawyer* [2001] 2 S.C.R. 344 [hereinafter *Pan*]. Although jurors may testify as to whether or not they were exposed to extrinsic evidence in the course of their deliberations for the purpose of impeaching a verdict, courts should not admit evidence as to what effect such information had upon the jurors' deliberations (*Pan, supra*

The ideal approach to jury debriefing would entail amending or repealing s.649 of the *Criminal Code* so that jurors could be debriefed about their full jury duty experiences, including deliberations, in a closed-door, private setting with the assurance that everything they reveal to the debriefers would remain confidential. Indeed academic commentators and the Supreme Court of Canada itself has questioned Parliament's wisdom in retaining s.649, at least in its present highly restrictive form.<sup>227</sup> Whether the most laudable course of action would be the repeal of s.649 or its amendment is uncertain and is a question beyond the scope of this project. However there is no indication that the repeal or amendment of s.649 will be dealt with by Parliament any time soon. Indeed it is unlikely that jury stress is viewed as a high priority in Ottawa.

### 2.3.3 Other Methods of Preventing and Ameliorating Juror Stress

Fortunately, there are a number of methods that show promise at preventing and/or ameliorating juror stress, other than jury debriefing, which would not necessitate amending the criminal laws of this nation. Recall that some studies have found that jurors have attributed some of their stress to the fact that they are passive observers of the proceedings with no power to provide input during the trial process. One way to make jurors more active participants would be to encourage them to ask questions of the witnesses by having the trial judge pose juror questions to the witnesses. Despite the fact that there is no authority in Canada that prohibits jurors from asking questions of the witnesses,<sup>228</sup> and that the Ontario Specimen Jury Instructions (Criminal) include a section on how judges could advise jurors of their right to question witnesses,<sup>229</sup> few jurors in Canada are ever advised of this right and, as a result, they do not avail themselves of it. When Chopra asked Canadian jurors what could have been done to reduce their stress levels they responded by suggesting improving juror conditions such as maintaining nicer jury rooms,

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note 226 at para 59). In *Pan*, the Supreme Court acknowledged the difficulty in sometimes determining whether a matter was intrinsic to the deliberation process and hence not to be revealed and extrinsic matters which would be admissible without infringing the common law jury secrecy rule:

The line . . . might not always be evident. For example, if a juror shares with his fellow jurors his detailed familiarity with the location where the crime was alleged to have been committed, this may be viewed as an intrinsic matter protected by the [common law jury] secrecy rule. If the same juror, however, went on a visit to the site, took photographs and brought them back to the jury room to support his interpretation of the facts at issue, this may be extrinsic, outside information that falls outside the [common law jury] secrecy rule. In my view, the limits of the secrecy rule as it exists at common law are properly expressed by the distinction between intrinsic and extrinsic evidence even though that distinction itself is at times difficult to discern. (*Pan*, *supra* note 226 at para 62.)

<sup>227</sup> For academic commentary suggesting the need to amend or repeal s.649, see Paul Quinlan, "Secrecy of Jury Deliberations: Is the Cost Too High?" (1993) 22 Criminal Reports (4<sup>th</sup>) 127 and Sonia R. Chopra & James R.P. Ogloff, "Evaluating Jury Secrecy: Implications for Academic Research and Juror Stress" (2001) 44 Criminal Law Quarterly 190. For the Supreme Court of Canada's comments on the wisdom of Parliament retaining s.649 in its present form, see *Pan*, *supra* note 226 at para 100-108. It should be noted that the Supreme Court seemed solely concerned with the impact of s.649 on academic research pertaining to the jury in Canada. Nothing in the court's reasons in *Pan* demonstrated the high court's awareness of the prospect that s.649 may impede efforts at reducing and preventing juror stress. It should also be noted that, although the Supreme Court in *Pan* questioned whether Parliament should amend s.649, in this case the high court also upheld the constitutionality of the section as well as the common law jury secrecy rule.

<sup>228</sup> See *R. v. Andrade* (1985), 18 C.C.C. (3d) 41 at 59 (Ont. C.A.)

<sup>229</sup> See David Watt, *Ontario Specimen Jury Instructions (Criminal)* (Toronto: Carswell, 2002) at 28-29.

allowing for more breaks during the trial, providing more instruction about the decision making task (such as giving guidance on how to structure the deliberation process), and providing some, even minimal, post-trial contact with the trial judge in order to bring closure to the experience (such as the judge offering thanks to the jurors for their service).<sup>230</sup>

The NCSC manual for addressing juror stress is the most valuable resource for those who are searching for ways, other than debriefing, to reduce juror stress. The manual suggests that the intricacies and formalities of the trial process may be confusing and intimidating to many jurors. Therefore one strategy to minimize juror stress would be to explain the trial process to jurors before the trial begins.<sup>231</sup> Juror stress could arise when jurors are thrust into situations in which they have little control. One method of increasing jurors' sense of control is for the courts to give them a choice about when to serve as opposed to the current system in which jurors must be exempted or excused for specific formal reasons or serve on the date they are called.<sup>232</sup> Courts could also respond to jurors' concerns about personal safety by making sure jurors are released before sundown or by ensuring that jurors are escorted to parking areas or public transportation stops.<sup>233</sup> Being unprepared to see or hear gruesome evidence can exacerbate the sense of shock and stress experienced by jurors. Thus having judges warn jurors about the nature of upcoming evidence may prove beneficial.<sup>234</sup> Limiting the volume of gruesome evidence may be an even more effective technique for reducing the emotional effect on jurors.<sup>235</sup> In addition, because unclear jury instructions can contribute to jurors' overall feelings of confusion and stress, judges should consider giving jurors written instructions as opposed to the traditional oral charge to the jury.<sup>236</sup>

## 2.4 Conclusion

In the past, juries served as one of the few effective checks on the power of the State. In the present, juries inject community values into the formal legal process. However if juries are to continue to play a role in the administration of criminal justice, the impact of trials on jurors cannot continue to be largely ignored. Stronger methodological studies must be conducted on the sources, prevalence and severity of juror stress and on the efficacy of methods to prevent and reduce juror stress. When approaches are shown to be effective at combating juror stress they should be implemented, whether that entails amending federal legislation or changing the practices of courthouse staff. Over 50 years ago, Lord Devlin described the jury as “the lamp that shows that freedom lives.”<sup>237</sup> It may be time to begin servicing that lamp to ensure that it continues to shine into the future.

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<sup>230</sup> Sonia R. Chopra, *Juror Stress: Sources, Severity, and Solutions* (Ph.D. Thesis, Department of Psychology, Simon Fraser University, 2002) [unpublished] at 46, 58, and 71-73.

<sup>231</sup> National Center for State Courts, *Through the Eyes of the Juror: A Manual for Addressing Juror Stress* (Williamsburg, VA: NCSC, 1998) at 28.

<sup>232</sup> *Ibid.* at 8.

<sup>233</sup> *Ibid.* at 13.

<sup>234</sup> *Ibid.* at 31.

<sup>235</sup> *Ibid.*

<sup>236</sup> In 2002, the Ontario Court of Appeal reversed a centuries-old prohibition against supplying jurors with written instructions on the law. See *R. v. Poitras* (2002), 57 O.R. (3d) 538 (C.A.) and Kirk Makin, “Court backs written instructions to jury” *The Globe and Mail* (12 January 2002) A9.

<sup>237</sup> Patrick Devlin, *Trial by Jury* (London, Stevens, 1956) at 164.





## 3.0 AN EVALUATION OF JUROR STRESS DEBRIEFING IN THE YUKON

In order to address the last four research questions outlined in Section 1.2, an evaluation of Yukon Justice's juror stress debriefing program was conducted. This chapter provides a summary of the three murder trials that took place in the Yukon during the time period of this study. In addition, the methodology adopted for the evaluation is described, including the sample, data collection instruments and the procedures used for data collection. The chapter concludes with a discussion of the limitations of the project.

### 3.1 Summary of the Trials<sup>238</sup>

#### 3.1.1 Daunt Trial<sup>239</sup>

Kieran Daunt, a 50-year-old Dawson City placer miner was charged with the second degree murder of Robert Truswell on August 28, 2003. Mr. Truswell, a 53-year old sometime placer miner, was known to behave erratically and had previously threatened, harassed and assaulted some residents of Dawson City. He filed a written complaint about Mr. Daunt to the RCMP earlier that year. Mr. Truswell was shot twice while in his vehicle, after which he drove away and was later found dead in the vehicle near Gold Hill, a placer mining area outside Dawson City. Mr. Daunt reported the shooting to a friend, who called the RCMP. It was his information that led police to find Mr. Truswell.

Mr. Daunt stated that he had feared for his life when he approached the victim. He claimed that Truswell was a bully who had beaten up an old man, and that he should have been put away a long time ago. Mr. Daunt and Mr. Truswell had an ongoing dispute over a number of placer claims; Mr. Daunt stated that, in the past, Mr. Truswell had threatened to kill members of Mr. Daunt's family because they had stolen a stereo from him 20 years earlier. Mr. Daunt claimed that Mr. Truswell appeared to have a gun in his arms during the course of a heated argument and that he feared for his life. He stated that he fired a warning shot with his shotgun in the direction of Mr. Truswell's vehicle to get him to leave.

Mr. Daunt was a well-respected member of the Dawson City community and received a lot of public support after he was charged and throughout the trial. The victim, on the other hand, had upset a lot of people and was not well-regarded by many in the community. There was some popular opinion that "someone had to do it," meaning to kill Mr. Truswell. Initially the trial was scheduled to be held in Dawson City, a town with a population of 1,800, but the venue was later moved to Whitehorse, a city of over 22,000 people where it was felt that Mr. Daunt would be more likely to get a fair trial. The case was well-publicized in both local and national media and both the victim and the accused were well-known to the Dawson City community.

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<sup>238</sup> The summaries of the trials contained in this section were provided by Catherine Simpson, Manager, Court Administration, Yukon Justice.

<sup>239</sup> *R. v. Daunt*, 2007 YKCA 14.



The jury in this case convicted Mr. Daunt of second degree murder. A minimum sentence of 10 years was imposed. Mr. Daunt subsequently appealed his conviction to the Yukon Court of Appeal on the grounds that: (1) there was impropriety and unfairness in the closing address of Crown counsel to the jury which prejudiced his right to make full answer and defence; (2) the trial judge erred when instructing the jury on the mental state required for murder; and (3) there was a post-trial discovery of fresh evidence. However, the Court of Appeal dismissed the appeal.

The trial took place between May 2 and 26, 2005.

### **3.1.2 Rodrigue Trial<sup>240</sup>**

Karen Rodrigue, a 36-year-old woman, was charged with second degree murder in the stabbing death of 65-year-old Gerald Dawson in his home on June 17, 2004. There were no witnesses to the murder. Ms Rodrigue was a known drug user whom the Crown claimed had killed Mr. Dawson in an argument over money. Ms Rodrigue admitted after her arrest that she was guilty of stabbing Mr. Dawson after he sexually assaulted her, but that she didn't mean to kill the man. The defence was prepared to admit the lesser crime of manslaughter but prosecutors rejected her guilty plea to that charge and pursued a second degree murder conviction.

The body of Mr. Dawson was not discovered until 10 days after the death, when his daughter Shirley Dawson testified that a friend reported seeing her father's car on downtown streets. She had almost daily contact with her father and grew increasingly worried when he didn't return calls on Father's Day. When they visited his home they found the front door boarded, and a note that was not in her father's handwriting saying he was away for two weeks attending a funeral in BC. The normally tidy kitchen was a shambles. Police confirmed that Mr. Dawson lay dead in his bedroom. Days later while going through her father's financial papers, Shirley Dawson found a suspicious midnight bank withdrawal that she reported to police. Defence lawyers suggested Gerald Dawson had an ongoing sexual relationship with the accused.

Ms Rodrigue wrote a letter of apology that was read in Supreme Court, in which she admitted to killing Mr. Dawson but she says she did so after he sexually assaulted her. Ms Rodrigue's common-law partner says that he and she went on a ten-day binge of booze and drugs after she came home one morning with the victim's car.

During the trial, evidence was given about Ms Rodrigue's conduct after the stabbing, including her apparent indifference to the deceased's condition, destruction of evidence, and use of the deceased's property. This, and other evidence, reflected poorly on the appellant's character. There was also evidence as to the deceased's good character, including the absence of any history of prior sexual misconduct, and his assistance to the appellant and other women with similar substance abuse issues.

The jury found Ms Rodrigue guilty of second degree murder and recommended a minimum sentence of 10 years. Ms Rodrigue appealed to the Yukon Court of Appeal for a new trial on the grounds that the trial judge failed to give any, or adequate, instructions as to the use the jury

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<sup>240</sup> *R. v. Rodrigue*, 2007 YKCA 9.

could make of the appellant's post-event conduct, and the evidence of the deceased's good character and the appellant's bad character. The appeal also contended that the charge on intent for murder was inadequate and misleading in the circumstances of this case. The appeal was allowed, and the matter referred back to the trial court for a new trial.

In this case, the accused was a First Nation woman, but there were no First Nation jurors. The trial took place between October 12 and 25, 2005.

### **3.1.3 Lange and Boucher Trial<sup>241</sup>**

Two men, 30-year-old Mark Lange and 32-year-old Dean Johns, also known as Dean Boucher, were charged with second degree murder in the homicide of Robert Olsen, owner of the Caribou Hotel in Carcross, a village of about 400 people an hour's drive away from Whitehorse. The murder occurred in the early morning of December 24, 2004. The trial venue was set as Whitehorse in order to ensure a fair trial for the accused.

Mr. Olsen's body was found in a Whitehorse subdivision a couple of days after Christmas. Soon after, Boucher was arrested and Lange turned himself in. Boucher was originally charged with being an accessory to the killing, but that was upgraded to second degree murder after the RCMP talked to Lange. The two were tried at the same time as co-accused.

Crown prosecutors said that Bob Olsen was beaten and robbed at the Caribou Hotel in what was described during the trial as a horrific beating. Police were called to the scene after a Carcross resident found the door to the Caribou Hotel bar open, and stated that there was blood all over the bar. Police stated that Boucher and Lange went to visit Olsen at the Caribou Hotel just before midnight on December 23<sup>rd</sup> of 2004. The hotel was closed, but Olsen lived there and let the men in. Soon after, Boucher and Lange severely beat the 64-year-old man and robbed him. They also stole art work from the walls of the hotel and threw everything, including the dying hotelier, into the back of Olsen's pick-up truck, and drove to Whitehorse. Sometime along the way the pair determined Olsen had died. They pulled into the Wolf Creek subdivision south of town and dumped the body, but managed to get the truck stuck in the ditch. They were seen later that night walking into a gas station not far from where the body was found.

Lange and Boucher's lawyers stated that the pair was willing to plead guilty to the lesser charge of manslaughter, but the Crown remained firm on the murder charge. The two accused said they were there when Mr. Olsen died, but neither accepted the blame. In sworn statements made to the RCMP, each accused said the other was responsible for the death of the deceased. According to witnesses, both had been drinking before they went to Carcross. Boucher admitted he was high on cocaine, but said that Olsen attacked first so the murder charge against him should be reduced. He stated that Lange had killed Olsen. Lange did not testify in his own defence, but admitted to police that he feared for his own life after Olsen died. The judge allowed evidence to be introduced that suggested that Lange was dishonest and had a tendency towards violence and that Boucher had a past criminal record that included acts of violence.

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<sup>241</sup> *R. v. D.E.B. and Lange*, 2006 YKSC 36.

Both Lange and Boucher were convicted of second degree murder. Boucher was sentenced to 18 years in jail and Lange to 10 years. Those sentences are currently under appeal to the Yukon Court of Appeal.

In this case, the accused were both First Nation men, but there were no First Nation jurors. The trial took place between May 15 and June 9, 2006.

## 3.2 The Debriefing Services

The debriefing for jurors in murder trials in the Yukon consisted of the following two stages: (1) a post-trial briefing by the judge; and (2) a critical incident stress debriefing (CISD) session.

### 3.2.1 Post-trial Briefing by Judge

The post-trial briefing by the judge included the judge thanking the jury and introducing the debriefing process. In addition, the judge was asked to explain that an evaluation was being conducted that would involve signing a consent form, filling out a post-trial survey, filling out a post-debriefing session survey, and participating in a follow-up telephone interview three months later. The following suggested briefing notes (adapted from Kelley, 1994)<sup>242</sup> were provided to the judge:

*Now that you have concluded your service on this case, I thank you for your patience and conscientious attention to your duty as jurors. You have not only fulfilled your civic duty, but you have also made a personal contribution to the ideal of equal justice for all people.*

*[Judge's additional comments regarding trial]*

*Because of the nature of some of the evidence you were exposed to during the trial, the Court is providing you with the opportunity to attend a debriefing session with a chartered psychologist. This session will last approximately three hours, and will be held [location and time]. The purpose of this session is to inform you about possible effects that you might experience because of the trial. I think you will find this session very helpful, and I encourage you to attend.*

*Since these debriefing sessions are relatively new, we are very interested in finding out how useful they are to jurors. The Canadian Research Institute for Law and the Family is doing an evaluation to look at how effective these sessions are, and we would very much like you to participate in this evaluation. While your participation is voluntary, your cooperation would be appreciated. The evaluation involves completing a brief survey prior to the debriefing session, a brief survey following the debriefing session, and then participating in a telephone interview three months later. If you agree to participate, please sign this consent form. [Judge to distribute consent forms.]*

*Again, I thank you for your willingness to give of your time away from your accustomed pursuits, and faithfully discharge your duty as jurors. You are now excused.*

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<sup>242</sup> J.E. Kelley, "Addressing Juror Stress: A Trial Judge's Perspective" (1994) 43 Drake Law Review 97-125.

### **3.2.2 Critical Incident Stress Debriefing (CISD) Session**

A two-hour debriefing session was held 24-72 hours after the post-trial briefing by the judge. This voluntary group debriefing session was conducted by two psychologists, and followed the following critical incident stress debriefing format developed by Alberta Rooney:

*This is a group meeting or discussion designed to allow jury members to discuss the impact of being a juror in a murder trial. The meeting takes 2.5 – 3 hours to complete.*

*After you introduce yourselves to the meeting leader, she will set out the ground rules for the meeting. You will be instructed that all information in the session will be confidential, and that everyone has the right to choose to speak if they wish to. Following that, the leader will explain what is meant by a critical incident.*

*You will then be given an opportunity to discuss questions about your thoughts and feelings about the trial and other reactions you may be experiencing.*

*The leader will provide information about normal reactions to stressful events and will suggest ways to bring closure to these events. Participants will be encouraged to make plans for self-care.*

*Handouts which provide useful information about stress management as well as referral information for further support will be distributed.*

*After the meeting, the leader will invite participants to stay for refreshments to give them a chance to complete a short evaluation of the debriefing and to say their goodbyes to their fellow jurors.*

*A summary of the meeting will be provided.*

A copy of the handout that was given to jurors listing common traumatic stress reactions is contained in Appendix A.

## **3.3 Survey Methodology**

### **3.3.1 Sample**

Following the post-trial briefing by the judge, jurors were informed about the evaluation and asked if they would be willing to participate. Jurors who indicated their willingness were provided with a consent form by the judge that they were requested to sign (see Appendix B). In addition, they were asked to provide their telephone number for purposes of the three-month follow-up telephone interview. Nine jurors from the Daunt trial (four males and five females) attended the debriefing session, and all nine agreed to participate in the project. These jurors ranged in age from 36 to 58 years (mean age = 47.9 years). All of these jurors completed both the post-trial and post-debriefing surveys. Seven of these jurors (three males and four females; mean age = 48 years) also completed the follow-up telephone interview.

Six jurors from the Rodrigue trial (one male and five females) attended the debriefing session, and all six agreed to participate in the evaluation. These jurors ranged in age from 30 to 54 years (mean age = 42.3 years). All of these jurors participated in each component of the project and completed the post-trial and post-debriefing surveys and the follow-up telephone interview.

Six jurors from the Lange and Boucher trial (two males and four females) attended the debriefing session, and all six agreed to participate in the evaluation. These jurors ranged in age from 29 to 64 years (mean age = 44 years). All of these jurors participated in each component of the project.

Out of the possible 36 jurors who sat on the three murders trials, 21 attended the debriefing sessions and all agreed to participate in the evaluation. The total sample for the study, therefore, consisted of 21 jurors who completed both the post-trial and post-debriefing surveys (7 males and 14 females; mean age = 45 years). Nineteen of these jurors also completed the follow-up telephone interview (6 males and 13 females; mean age = 45 years).

### **3.3.2 Data Collection Instruments and Procedures**

#### **3.3.2.1 Post-trial Survey**

At the beginning of the critical incident stress debriefing (CISD) session jurors who had consented to participate in the evaluation were given a post-trial survey by the psychologists who were conducting the session (see Appendix C). They were requested to complete the survey prior to the start of the CISD session. While the surveys were completed anonymously, participants were asked to indicate their gender and date of birth to allow their post-trial survey to be matched with their post-debriefing survey and follow-up telephone interview. The primary goal of the post-trial survey was to collect information on the extent to which various aspects of the trial caused them to experience stress. The survey consisted of two questionnaires. The *Impact of Event Scale – Revised* developed by Weiss and Marmar<sup>243</sup> is intended to assess the extent to which respondents experience posttraumatic stress disorder following a specific incident. The *Jury Duty Stress Scale*, developed by the National Center for State Courts,<sup>244</sup> measures the stress of specific aspects and tasks associated with a trial and jury duty. After completing the survey, jurors were asked to place it in an envelope provided, seal it, and return it to the psychologist prior to the start of the debriefing session.

#### **3.3.2.2 Post-debriefing Session Survey**

At the end of the CISD session, jurors who had consented to participate in the evaluation were given a post-debriefing session survey (see Appendix D). The purpose of this short survey was to assess what respondents thought about the debriefing session itself, including logistical information (e.g., timing and length of the session), whether they understood the information presented, and how useful they thought the information would be to them. Participants were

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<sup>243</sup> D.S. Weiss & C.R. Marmar, “The Impact of Event Scale – Revised” in J.P. Wilson & T.M. Keane, Eds., *Assessing Psychological Trauma and PTSD* (New York: Guilford Press, 1997).

<sup>244</sup> National Center for State Courts, *Through the Eyes of the Juror: A Manual for Addressing Juror Stress* (2002). Available online at: [http://www.ncsconline.org/WC/Publications/Res\\_Juries\\_JurorStressIndexPub.pdf](http://www.ncsconline.org/WC/Publications/Res_Juries_JurorStressIndexPub.pdf) (last accessed December 13, 2007).

asked to provide their gender and date of birth to allow for subsequent matching of the data collection instruments. Upon completion of the survey, participants were asked to place it in an envelope provided, seal it, and return it to the psychologists before leaving the debriefing session. Completed consent forms, post-trial surveys, and post-debriefing surveys were given to Yukon Justice by the psychologists for subsequent forwarding to CRILF.

### **3.3.2.3 Follow-up Telephone Interviews**

Three months following the debriefing sessions, follow-up telephone interviews (see Appendix E) were conducted with jurors who had provided their consent and contact information at the end of the trial. Two jurors from the Daunt trial who had consented to participate could not be contacted and were not interviewed. Interviews were conducted by CRILF staff members. Male participants were interviewed by a male researcher and female participants were interviewed by a female researcher.

The follow-up telephone interview consisted of three questionnaires. The first was a repeat of the *Impact of Event Scale – Revised*<sup>245</sup> used in the post-trial survey. This allowed for an examination of changes in the level of stress caused by the trial over time. The second questionnaire was the *Jury Duty Survey*, which was adapted from a general scale developed by Horowitz et al.<sup>246</sup> by the National Center for State Courts.<sup>247</sup> This instrument assesses responses to trauma, and is targeted towards jury duty in particular. In addition, the follow-up telephone interview included questions designed to evaluate the effectiveness of the debriefing session and to explore what impact living in a small, Northern community had on jurors. Participants were asked to provide their gender and date of birth to allow for subsequent matching of the data collection instruments.

### **3.3.3 Limitations**

Several limitations to this evaluation should be acknowledged. First, since participation in both the debriefing session and the evaluation were voluntary, the sample was self-selected and, thus, results cannot be generalized to all jurors who served on these trials. Second, the small sample size did not allow the data to be analyzed separately for each trial; therefore, any differences in the levels of stress attributed to the different trials cannot be examined. Finally, since it was not possible to have a control or comparison group, it could not be determined whether improvements in the level of stress that jurors experienced were due to the debriefing session or the passage of time.

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<sup>245</sup> *Supra*, note 243.

<sup>246</sup> M. Horowitz, et al., “Impact of Event Scale: A Measure of Subjective Stress” (1979) 41 *Psychosomatic Medicine* 209.

<sup>247</sup> *Supra*, note 244.



# 4.0 EVALUATION RESULTS

## 4.1 Findings: Debriefing Session

### 4.1.1 Introduction

In order to evaluate the post-debriefing session, two instruments were used. As described in the methodology, at the end of the CISD session, jurors who had consented to participate in the evaluation were given a post-debriefing session survey. The purpose of this short survey was to assess what respondents thought about the debriefing session itself, including logistical information (e.g., timing and length of the session), whether they understood the information presented, and how useful they thought the information would be to them. Three months later, the follow-up telephone interview schedule included questions on how helpful the debriefing session was, as well as any other comments respondents wished to make regarding the debriefing session.

### 4.1.2 Findings Immediately Following Debriefing Session

As indicated in Table 4.1, jurors were overwhelmingly positive about the debriefing session. All participants thought the information they received was clearly presented, and agreed that they were provided with information about support services in their community. Most telling, all participating jurors said they would recommend that other jurors attend a debriefing session. Almost all of the jurors who attended the debriefing session (95.2%) thought the debriefing session was held at a convenient time. Almost all (95.2%) also thought the information they received was easy to understand, and would be useful to them in the future.

**Table 4.1: Percentage of Respondents Agreeing with the Following Statements Regarding the Debriefing Session**

Items	Yes	
	n	%
The debriefing session was held at a convenient time for me.	20	95.2
The debriefing session was the right length.	19	90.5
Was the information you received clearly presented?	21	100.0
Was the information you received easy to understand?	20	95.2
Were you provided with information about support services in your community?	21	100.0
Do you think the information you received will be useful to you?	20	95.2
Would you recommend that other jurors attend a debriefing session?	21	100.0

Source of data: Post-debriefing Session Survey

Total N=21



The last question in the post-debriefing session survey asked participants if there were any other comments they would like to make about the debriefing session. A total of 15 jurors made 16 comments about the debriefing session (see Table 4.2). The most common comment (made by five jurors) was that it was very helpful to the jurors to be able to talk about their feelings and experiences with the other jurors. Three jurors also specifically mentioned how much they appreciated the judge’s comments. Two jurors commented that the debriefing session helped them to relieve their stress and reduce their guilt, and two jurors suggested that a handout for their partners on how to help would have been useful.

**Table 4.2: Respondents' General Comments Immediately Following Debriefing Session**

Comments	n	% of Respondents
It was helpful to talk with other jurors about feelings/experiences.	5	33.3
Appreciated judge's comments.	3	20.0
It was very helpful to relieve stress and reduce guilt.	2	13.3
Need handout for partners of jurors so they know how to help.	2	13.3
Jurors should be prepped before trial.	1	6.7
Debriefing sessions should be mandatory for murder trials.	1	6.7
Ongoing debriefings should be available.	1	6.7
Well presented and sensitively handled	1	6.7

Source of data: Post-debriefing Session Survey  
 Total Respondents = 15; Total Comments = 16

### 4.1.3 Findings Three Months Post Trial

In the follow-up telephone interview that was conducted three months after the trial, jurors who had attended the post-debriefing session were asked how helpful they found the debriefing session. Almost three-quarters of the participants said the debriefing session was either extremely helpful (36.8%) or quite a bit helpful (36.8%). Three jurors said it was moderately helpful (15.8%), one said it helped a little bit (5.3%), and one said it wasn’t at all helpful (5.3%).

Participants were again asked if they had any other comments regarding the debriefing session, and 18 jurors made 46 comments. As shown in Table 4.3, the most common comment (made by 16 jurors) was that the debriefing session was very helpful. One third of the jurors appreciated the opportunity to meet with others in a relaxed or safe setting, and five jurors thought the presenters offered good suggestions for coping with the stress after the trial. Four participants said they would have liked follow-up support and three said they would have liked individual sessions. Three jurors also commented that the debriefing session should not be an opportunity to complain about other jurors.

**Table 4.3: Respondents' Additional Comments Regarding Debriefing Session Three Months Later**

Comments	n	% of Respondents
Debriefing session was very helpful.	16	88.9
Good to meet with others in relaxed/safe setting.	6	33.3
Presenters offered good suggestions for coping.	5	27.8
Would like follow-up support.	4	22.2
Would like individual session.	3	16.7
Shouldn't be opportunity to complain about other jurors.	3	16.7
Debriefing session should have occurred sooner after trial ended.	1	5.6
Was good that debriefing session was 2 days later.	1	5.6
Debriefing session could have been longer.	1	5.6
Debriefing session was right length.	1	5.6
Needed a break.	1	5.6
Judge shouldn't have announced time and place of debriefing session in open court.	1	5.6
Debriefing session was well organized.	1	5.6
Debriefing session brought closure.	1	5.6
Would have liked to be able to comment on jury process.	1	5.6

Source of data: Follow-up Telephone Interview  
 Total Respondents = 18; Total Comments = 46

## 4.2 Findings: Juror Stress

### 4.2.1 Stress at the Time of Trial

In order to assess the amount of stress associated with various components of the trial and jury process, the *Jury Duty Stress Scale*, developed by the National Center for State Courts,<sup>248</sup> was administered to jurors as part of the post-trial survey. This 28-item scale measures the stress of specific aspects and tasks associated with a trial and jury duty.

Jurors were asked to indicate the extent to which each aspect of the trial or jury duty had caused stress to them during their jury duty on a five-point scale: “Not at all” (0 points), “A little bit” (1 point), “Moderately” (2 points), “Quite a bit” (3 points), and “Extremely” (4 points). The total score on the scale ranges from 0 to 112. The scores on the scale of jurors who completed all of the items (n=13) ranged from 13 to 83, indicating a wide range of stress levels. The mean score was 43.9, indicating overall stress levels of “A little bit” to “Moderately” stressful.

Table 4.4 presents jurors’ responses to the individual items on the scale. Aspects of the trial that jurors found most stressful by indicating “Quite a bit” or “Extremely” were “Fear of making a mistake” (85%), “Deciding on a verdict” (75%), and “Jury deliberations and discussions” (75%). Aspects of the trial that jurors reported as being least stressful by indicating “Not at all” or “A little bit” were “Juror pay while not at work” (90.5%), “Medical or psychological problems from before the trial” (90.5%), and “Boring trial” (85%).

<sup>248</sup> *Supra*, note 244.

**Table 4.4: Respondents' Ratings of the Degree of Stress Caused by Various Aspects of the Trial**

Item	Not at all		A little bit		Moderately		Quite a bit		Extremely	
	n	%	n	%	n	%	n	%	n	%
Receiving the summons to jury duty.	8	40.0	6	30.0	3	15.0	2	10.0	1	5.0
Reporting for jury duty.	6	28.6	8	38.1	4	19.0	2	9.5	1	4.8
Jury selection.	3	15.0	8	40.0	3	15.0	5	25.0	1	5.0
Answering questions in front of other people.	4	20.0	4	20.0	5	25.0	4	20.0	3	15.0
Juror pay while not at work.	17	81.0	2	9.5	0	0.0	1	4.8	1	4.8
Changes to daily routine.	5	23.8	5	23.8	6	28.6	4	19.0	1	4.8
Medical or psychological problems from before the trial.	17	81.0	2	9.5	1	4.8	1	4.8	0	0.0
Troubles at home or work during jury duty.	9	45.0	4	20.0	3	15.0	4	20.0	0	0.0
Limits on what I could do during jury duty.	2	10.5	6	31.6	4	21.1	6	31.6	1	5.3
Fear of being attacked for being a juror/concerns for my safety.	7	35.0	8	40.0	3	15.0	1	5.0	1	5.0
Crime against a child.	11	78.6	0	0.0	1	7.1	2	14.3	0	0.0
Issues/evidence that had a personal impact/meaning.	7	36.8	2	10.5	5	26.3	3	15.8	2	10.5
Disturbing/grisly evidence.	3	15.0	7	35.0	4	20.0	2	10.0	4	20.0
Complex or technical evidence.	5	25.0	8	40.0	5	25.0	1	5.0	1	5.0
Expert testimony.	9	47.4	4	21.1	4	21.1	2	10.5	0	0.0
Long trial.	3	15.8	4	21.1	5	26.3	4	21.1	3	15.8
Boring trial.	12	60.0	5	25.0	1	5.0	1	5.0	1	5.0
Trial interruptions/delays.	2	10.5	7	36.8	5	26.3	4	21.1	1	5.3
Ban on discussing case with jurors during trial.	7	38.9	4	22.2	2	11.1	4	22.2	1	5.6
Ban on discussing case with family/friends.	4	20.0	7	35.0	3	15.0	2	10.0	4	20.0
Deciding on a verdict.	0	0.0	2	10.0	3	15.0	5	25.0	10	50.0
Jury deliberations and discussions.	1	5.0	2	10.0	2	10.0	7	35.0	8	40.0
Fear of making a mistake.	2	10.0	0	0.0	2	10.0	3	15.0	13	65.0
Disagreement/differences among jurors.	4	20.0	3	15.0	3	15.0	5	25.0	5	25.0
Being in a minority position during jury deliberations.	8	40.0	4	20.0	2	10.0	2	10.0	4	20.0
Hung jury (i.e., unable to reach verdict).	5	26.3	3	15.8	4	21.1	2	10.5	5	26.3
Being sequestered (i.e., isolated from outside contacts).	4	20.0	3	15.0	5	25.0	3	15.0	5	25.0
Concerns about community reactions.	5	25.0	6	30.0	2	10.0	2	10.0	5	25.0

Source of data: Post-trial Survey

Total N = 21

#### 4.2.2 Stress Three Months Post-trial

During the follow-up telephone interview, jurors were administered the *Jury Duty Survey*, which was adapted from a general scale developed by Horowitz et al.<sup>249</sup> by the National Center for State Courts.<sup>250</sup> This instrument assesses responses to trauma, and is targeted towards jury duty in particular. Respondents were read a series of statements and were asked to respond “Yes” or “No” depending on whether the statement applied to their experience. The percentage of participants who responded “Yes” to each statement is presented in Table 4.5.

**Table 4.5: Percentage of Respondents who Agreed with the Following Statements Three Months After Trial**

Items	Yes	
	n	%
I am proud of the work I did as a juror.	16	88.9
I found jury duty to be relatively routine.	5	26.3
I met some interesting people during jury duty.	19	100.0
I will look back on my jury duty with fondness.	6	31.6
I would volunteer again for jury duty.	11	57.9
Jury duty was annoying and irritating.	4	21.1
Jury duty was a waste of my time.	1	5.3
I believe that my experience with jury duty would cause emotional problems in most people.	10	55.6
I felt stress as a result of my jury duty.	17	89.5
I needed to talk to others about distressing aspects of my jury duty.	16	84.2
My jury duty left me feeling more fearful than I was before.	6	31.6
I have disturbing memories of my jury duty.	10	52.6
Jury duty left me feeling numb and detached.	6	31.6
I am more tense than I was before jury duty.	3	15.8
I am likely to avoid doing things that remind me of my jury duty.	3	15.8
Something more should have been done to reduce our stress levels.	10	52.6
There are emotions resulting from jury duty that I have bottled up inside.	2	10.5
I think other jurors felt stress during jury duty.	18	100.0
I think stress had an effect on the thinking of some jurors.	14	77.8
I think stress had an effect on the decisions of some jurors.	7	46.7

Source of data: Follow-up Telephone Interview

Total N = 19

Statements that jurors were most likely to agree with included: “I met some interesting people during jury duty” (100%); “I think other jurors felt stress during jury duty” (100%); “I felt stress as a result of my jury duty” (89.5%); and “I am proud of the work I did as a juror” (88.9%). Statements that participants were least likely to agree with included: “Jury duty was a waste of my time” (5.3%); “There are emotions resulting from jury duty that I have bottled up inside” (10.5%); “I am more tense than I was before jury duty” (15.8%); and “I am likely to avoid doing things that remind me of my jury duty” (15.8%).

<sup>249</sup> *Supra*, note 246.

<sup>250</sup> *Supra*, note 244.

In order to assess the possible impact of living in a small Northern community on jurors, participants were asked a series of questions regarding their experiences following the trial. The percentage of jurors who indicated that they had these experiences is presented in Table 4.6. None of the jurors reported that they knew either the accused or the victim prior to the trial. Almost one-half (42.1%) of the participants said that they knew at least one of the other jurors prior to the trial. When asked the extent to which knowing other jurors affected the level of stress they experienced, half of the respondents stated “Not at all.” One-quarter of the jurors said that this affected their stress levels “A little bit,” and one juror each reported that it affected their stress “Moderately” or “Quite a bit.” It should be noted, however, that it cannot be determined whether this had a positive or negative effect on their levels of stress.

**Table 4.6: Percentage of Respondents who Reported Having the Following Experiences in Their Community**

Questions	Yes	
	n	%
Did you know the accused before the trial?	0	0.0
Did you know the victim?	0	0.0
Did you know any of the other jurors prior to the trial?	8	42.1
Have you met up with the victim's family since the trial?	1	5.3
Have you met up with the accused's family since the trial?	1	5.3
Did you feel the need to seek out other services, e.g., counselling, after the trial?	4	21.1

Source of data: Follow-up Telephone Interview

Total N = 19

Only one juror indicated that they had met up with the victim’s family since the trial, and this person indicated that this affected their level of stress “Moderately.” Similarly, only one juror stated that they had met up with the accused’s family since the trial, and this person stated that this affected their level of stress “Moderately.” Approximately one-fifth (21.1%) of the respondents stated that they had felt the need to seek out other services such as counselling since the trial. None of the jurors reported that services were not available in their community.

Jurors were asked during the follow-up telephone interview if they had any additional comments regarding their experience as a juror and 18 jurors provided 41 comments. The most frequently made comments are presented in Table 4.7. The most common responses were that they needed more breaks/fresh air during the deliberations (27.8% of respondents), that they found jury duty a very positive experience (22.2%), that they found jury duty a stressful/very powerful experience (22.2%), and that it would have reduced their stress to know more about the process beforehand (16.7%).

**Table 4.7: Respondents' Comments Regarding Their Experience as a Juror**

Comments	n	% of Respondents
Need breaks/fresh air.	5	27.8
Thought it was very positive experience.	4	22.2
Stressful/very powerful experience.	4	22.2
Would have reduced stress to know process beforehand.	3	16.7
Deliberation day too long.	2	11.1
Apprehensive about others' opinions afterward.	2	11.1
Feel differently about community where it happened.	2	11.1
Greater appreciation for judges/legal system.	2	11.1
Everybody should be a juror once.	2	11.1
Was an honour to be a juror.	2	11.1
Concerned that no First Nations juror.	2	11.1

Source of data: Follow-up Telephone Interview  
 Total Respondents = 18; Total Comments = 41

### 4.2.3 Pre- and Post-comparison of Jurors' Reactions to the Trial

In order to assess changes in the level of stress experienced by jurors, two instruments contained identical scales. At the beginning of the post-debriefing session following the trial, participants were given the post-trial survey, which contained a list of 22 reactions people sometimes have after stressful life events, such as serving as a juror on a murder trial. This list of 22 items was based on the *Impact of Events Scale – Revised*.<sup>251</sup> Jurors were given this same scale again three months following the trial during the follow-up telephone interview.

Jurors were asked to indicate how upsetting each of the 22 items has been for them based on the following five-point scale: “Not at all” (0 points), “A little bit” (1 point), “Moderately” (2 points), “Quite a bit” (3 points), and “Extremely” (4 points). The scale thus yields a total score ranging from 0 to 88. Immediately following the trial, the mean score of jurors on this scale was 34.9, indicating overall stress levels of “A little bit upsetting” to “Moderately upsetting.” However, the scores ranged from 5 to 72, indicating a wide variability in the individual stress level. Female jurors reported higher levels of stress (mean = 40.9) than male jurors (mean = 23). Three months following the trial, the mean score of jurors on this scale dropped to 17.4 (“Not at all” to “A little bit”), and the range was 0 to 63. Females continued to report higher levels of stress (mean = 20) than males (mean = 11.8) three months post trial.

Subscale scores can also be calculated for Intrusion, Avoidance, and Hyperarousal subscales. These subscales are based on the criteria necessary for a diagnosis of Posttraumatic Stress Disorder in the *Diagnostic and Statistical Manual of Mental Disorders* (fourth edition) (DSM-IV).<sup>252</sup> According to DSM-IV, the characteristic symptoms resulting from exposure to extreme trauma include persistent re-experiencing of the traumatic event, persistent avoidance of stimuli

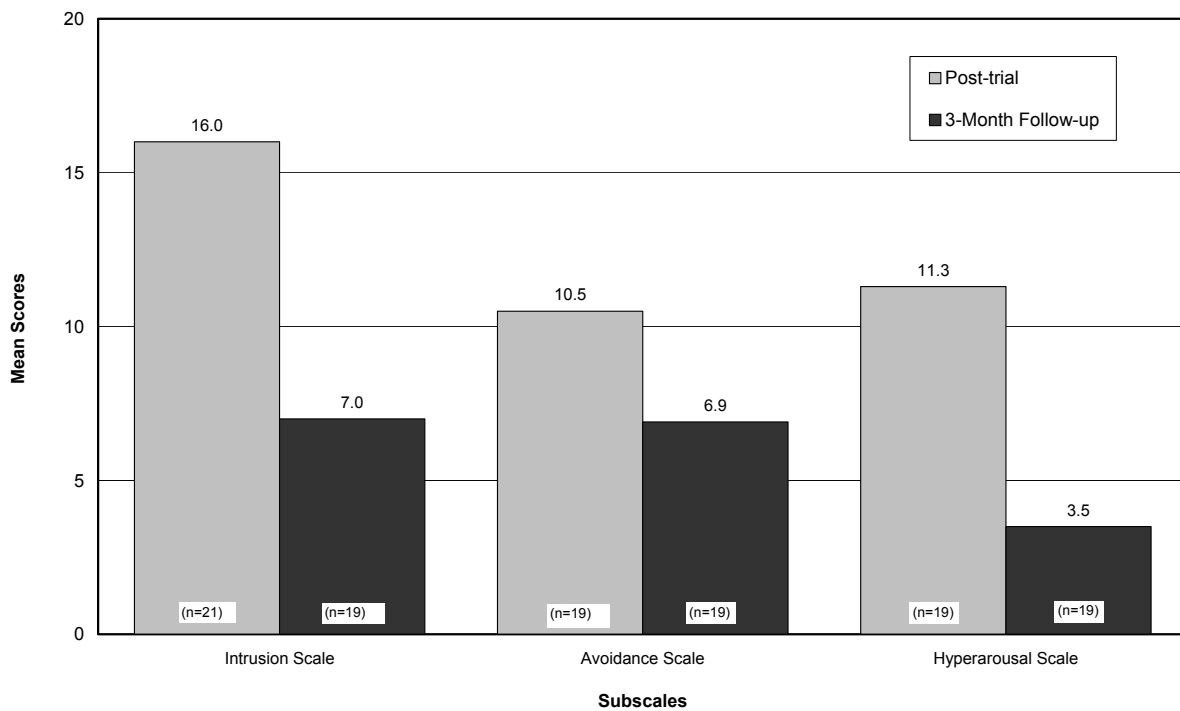
<sup>251</sup> *Supra*, note 243.

<sup>252</sup> American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (Fourth Edition) (Washington, DC: American Psychiatric Association, 1994).

associated with the trauma and numbing of general responsiveness, and persistent symptoms of increased arousal.

Figure 4.1 presents the mean subscale scores on the *Impact of Events Scale – Revised* immediately following the trial and three months later. For all three subscales, the mean scores decreased, indicating lower levels of stress after three months had passed. Jurors had the highest mean score on the Intrusion subscale both at the time of the trial (mean = 16) and three months later (mean = 7). The largest decrease in mean scores occurred on the Hyperarousal subscale, which dropped from 11.3 at post trial to 3.5 three months later.

**Figure 4.1: Mean Subscale Scores on the Impact of Event Scale (Revised) Immediately Following Trial and Three Months Later**



Source of data: Post-trial Survey and Follow-up Telephone Interview

The results for each of the items making up the three subscales are presented in more detail below. Table 4.8 presents the mean scores for the seven items making up the Intrusion subscale following the trial and three months later. Each of these mean scores can range from 0 (“Not at all upsetting”) to 4 (“Extremely upsetting”). The items with the highest mean scores immediately following the trial were: “I had waves of strong feelings about the trial” (mean = 2.6); “I thought about the trial when I didn’t mean to” (mean = 2.5); and “Pictures about the trial popped into my mind” (mean = 2.5). The mean score of these items decreased to 1.1 or 1.2 three months later, indicating they were no longer as upsetting to jurors as they were initially. The lowest mean

score on the Intrusion subscale occurred for the item, “I had dreams about the trial.” The mean score for this item decreased from 1.5 at post trial to 0.5 three months later.

**Table 4.8: Mean Responses on the Intrusion Subscale Items Immediately Following Trial and Three Months Later**

Scale Items	Post-trial		3-Month Follow-up	
	Mean	n	Mean	n
Any reminder brought back feelings about the trial.	2.3	21	1.4	19
I had trouble staying asleep.	2.3	21	0.6	19
Other things kept making me think about the trial.	2.3	21	1.1	19
I thought about the trial when I didn't mean to.	2.5	21	1.1	19
Pictures about the trial popped into my mind.	2.5	21	1.2	19
I had waves of strong feelings about the trial.	2.6	21	1.2	19
I had dreams about the trial.	1.5	21	0.5	19

Source of data: Post-trial Survey and Follow-up Telephone Interview  
 Mean scores range from 0 ("Not at all upsetting") to 4 ("Extremely upsetting")

Table 4.9 presents the mean responses on the eight items making up the Avoidance subscale immediately following the trial and three months later. The three items that were most upsetting for jurors were: “I was aware that I still had a lot of feelings about the trial, but I didn’t deal with them” (mean = 2.1); “I tried not to get upset when I thought about the trial or was reminded of it” (mean = 1.9); and “I tried not to think about the trial” (mean = 1.9). Three months after the trial, the mean score for each of these items decreased to the “Not at all” to “A little bit” range. The lowest mean score on the Avoidance subscale occurred for the item, “I stayed away from reminders about the trial” (mean = 0.5). Interestingly, however, this item was the only statement that resulted in a slightly higher score three months post-trial, increasing to 0.7.

**Table 4.9: Mean Responses on the Avoidance Subscale Items Immediately Following Trial and Three Months Later**

Scale Items	Post-trial		3-Month Follow-up	
	Mean	n	Mean	n
I tried not to get upset when I thought about the trial or was reminded of it.	1.9	21	1.0	19
I felt as if the trial hadn't happened or wasn't real.	1.0	21	0.6	19
I stayed away from reminders about the trial.	0.5	19	0.7	19
I tried not to think about the trial.	1.9	21	1.0	19
I was aware that I still had a lot of feelings about the trial, but I didn't deal with them.	2.1	21	0.5	19
My feelings about the trial were kind of numb.	1.5	20	0.9	19
I tried to remove the trial from my memory.	1.4	21	0.7	19
I tried not to talk about the trial.	1.7	21	1.5	19

Source of data: Post-trial Survey and Follow-up Telephone Interview  
 Mean scores range from 0 ("Not at all upsetting") to 4 ("Extremely upsetting")



The mean responses on the seven items making up the Hyperarousal subscale are presented in Table 4.10. Immediately following the trial, the three items that were most upsetting to the jurors were: “I had trouble falling asleep” (mean = 2.3); “I had trouble concentrating” (mean = 2.0); and “I felt watchful and on guard” (mean = 1.9). The mean scores on each of these items dropped to the 0.5 to 0.7 range three months following the trial. The two items that received the lowest mean scores on the Hyperarousal subscale were: “I was jumpy and easily startled” (mean = 1.3) and “Reminders of the trial caused me to feel unwell (sweating, trouble breathing, nausea, or a pounding heart)” (mean = 1.4). The mean scores on both of these items dropped to 0.3 three months later.

**Table 4.10: Mean Responses on the Hyperarousal Subscale Items Immediately Following Trial and Three Months Later**

Scale Items	Post-trial		3-Month Follow-up	
	Mean	n	Mean	n
I felt bad-tempered and angry.	1.5	21	0.7	19
I was jumpy and easily startled.	1.3	20	0.3	19
I found myself acting or feeling like I was back at that time.	1.7	20	0.3	19
I had trouble falling asleep.	2.3	21	0.7	19
I had trouble concentrating.	2.0	21	0.5	19
Reminders of the trial caused me to feel unwell (sweating, trouble breathing, nausea, or a pounding heart).	1.4	21	0.3	19
I felt watchful and on guard.	1.9	21	0.7	19

Source of data: Post-trial Survey and Follow-up Telephone Interview  
Mean scores range from 0 ("Not at all upsetting") to 4 ("Extremely upsetting")

## 5.0 CONCLUSIONS AND RECOMMENDATIONS

The purpose of this project was to determine the extent to which the delivery of debriefing services to jurors responds to their mental health needs and improves the administration of justice. The project had three major components: (1) a review of the literature on jury stress; (2) the development and implementation of a model for the delivery of counseling services to jurors; and (3) an evaluation of the implementation of the model.

The Canadian Research Institute for Law and the Family (CRILF) was contracted to conduct the third component. The project was designed to address the following research questions:

- ((1) What literature is available on the effects on jurors of sitting on trials that deal with disturbing subject matter?
- (2) What literature is available on the various means of dealing with juror stress?
- (3) To what extent was the Yukon program implemented as intended?
- (4) What were the effects on jurors of serving on murder trials in the Yukon? Did they experience critical incident stress? Did this stress decrease over time?
- (5) Did the debriefing services assist jurors in dealing with any critical incident stress they experienced? Did jurors seek out any additional services, e.g., counseling?
- (6) Were any effects attributable to living in a small Northern community? What were they?

The following section presents conclusions as they relate to each research question. The final section proposes recommendations on how to make the jury experience less stressful for jurors. These recommendations are based on both the literature review and the data collected for this project.

### 5.1 Conclusions

The first two research questions were addressed by the literature review. It concluded that, if juries are to continue to play a role in the administration of criminal justice, the impact of trials on jurors cannot continue to be largely ignored. Stronger methodological studies must be conducted on the sources, prevalence and severity of juror stress and on the efficacy of methods to prevent and reduce juror stress. When approaches are shown to be effective at combating juror stress they should be implemented, whether that entails amending federal legislation or changing the practices of courthouse staff.

The third research question addressed the extent to which the Yukon program was implemented as intended. For the most part, the debriefing session was implemented as planned.

- All three debriefing sessions were held within the specified time period following the trial, i.e., within 24-72 hours after the post-trial briefing by the judge.
- All three debriefing sessions lasted 2 hours, and were conducted by two psychologists.
- Handouts were distributed to jurors on stress management and referral information for further support.
- While it was anticipated that the briefing by the judge would occur in private, in one trial it occurred in open court, which caused discomfort for some jurors.
- It is unknown if the judges followed the suggested briefing notes provided to them by CRILF; however, several jurors commented that they appreciated the comments made by the judge following the trial.

The fourth research question explored the effects on jurors of serving on murder trials in the Yukon. It assessed the extent to which they experienced critical incident stress and whether the stress decreased over time. The findings related to these research questions are presented below.

- While all jurors reported experiencing some stress immediately following the trial, there was a wide range in the level of stress reported by jurors.
- The average level of stress reported by jurors immediately following the trial was categorized as “A little bit” to “Moderate.”
- Female jurors reported considerably higher levels of stress immediately following the trial than male jurors.
- The most stressful aspects of the trial reported by jurors were: “Fear of making a mistake”; “Deciding on a verdict”; and “Jury deliberations and discussions.”
- Three months after the trial, the overall levels of stress reported by jurors were considerably less, and were categorized as “Not at all” to “A little bit.” However, there was still a wide variability in the levels of individual stress reported by jurors.
- While stress levels decreased for both male and female jurors three months after the trial, female jurors still reported higher levels of stress than male jurors.
- Items on the *Impact of Events Scale – Revised* that were most upsetting for jurors immediately following the trial were: “I had waves of strong feelings about the trial”; “I thought about the trial when I didn’t mean to”; and “Pictures about the trial popped into my mind.” Average stress ratings on each of these items were in the “Moderate” to “Quite a bit” range.
- Three months after the trial, these items were considerably less upsetting to jurors, who rated them as “A little bit” stressful.

- Three months after the trial, all jurors agreed that other jurors felt stress during jury duty, and most agreed that they felt stress during jury duty.
- Juror's opinions of their experience three months after the trial were very positive. All jurors agreed that they met some interesting people during jury duty, and most were proud of the work they did as a juror.
- When jurors were asked during the follow-up telephone interview if they had any additional comments regarding their experience as a juror, the most common responses were that they needed more breaks/fresh air during the deliberations, that they found jury duty a very positive experience, that they found jury duty a stressful/very powerful experience, and that it would have reduced their stress to know more about the process beforehand.

The fifth research question explored whether the debriefing services assisted jurors in dealing with any critical incident stress they experienced, and whether they sought out any additional services, e.g., counseling. The findings related to this research questions are presented below.

- Jurors were overwhelmingly positive about the debriefing session immediately after attending it. All participants thought the information they received was clearly presented, and agreed that they were provided with information about support services in their community.
- All participating jurors said they would recommend that other jurors attend a debriefing session.
- Almost all jurors thought the information they received was easy to understand and would be useful to them in the future.
- Almost all of the jurors thought that the debriefing session was held at a convenient time.
- Three months after the trial, jurors were still very positive about the debriefing session. Almost three-quarters of the participants said that it was either extremely or quite a bit helpful.
- When asked three months after the trial if they felt the need to seek out other services such as counseling, approximately one-fifth of the participating jurors said they had. None of the jurors reported that services were not available in their community.

The sixth research question was intended to explore whether any effects were attributable to living in a small Northern community. Data to address this question were limited because there were only three murder trials during the time period of the study. Further, while two of the murders occurred in small communities, the venue for the murder trials was moved to Whitehorse to ensure the accused received fair trials. Nevertheless, a few questions in the follow-up telephone interview did provide data relevant to this question.

- None of the jurors reported that they knew either the accused or the victim prior to the trial.
- Almost half of the participants said that they knew at least one of the other jurors prior to the trial. One-half of these participants said that knowing other jurors did not affect their stress levels at all.
- Only one juror reported that they had met up with the victim's family since the trial. This person indicated that this affected their level of stress moderately.
- Only one juror reported that they had met up with the accused's family since the trial. This person indicated that this affected their level of stress moderately.

## **5.2 Recommendations**

The findings from the jurors' surveys and follow-up telephone interviews are very consistent with the literature on juror stress and juror stress debriefing. The following recommendations are based on information from the data collected for this project and information contained in the literature.

### **5.2.1 Recommendations Regarding the Trial Process**

*Recommendation # 1:* Jurors should be apprised of the trial and deliberation process beforehand to reduce the stress caused by going into an unknown situation.

*Recommendation # 2:* In order to provide input during the trial process, jurors should be informed of their right to pose questions to the witnesses.

*Recommendation # 3:* When upcoming evidence is particularly gruesome or disturbing, judges should warn jurors in advance.

*Recommendation # 4:* More instruction about the decision-making process should be provided to jurors.

*Recommendation # 5:* In order to reduce feelings of confusion and stress, judges should consider providing written instructions to jurors prior to beginning deliberations.

*Recommendation # 6:* Small practical changes to increase jurors' comfort levels during the trial and deliberations could reduce stress and should be considered. These might include: nicer jury rooms; fresh air breaks; smoking breaks; and clocks in hotel rooms.

## **5.2.2 Recommendations Regarding the Debriefing Process**

*Recommendation # 7:* There should be an opportunity for jurors to meet with the judge following the trial. A protocol should be established for conducting the judge's briefing and informing jurors about the debriefing session.

*Recommendation # 8:* The judge's briefing should be conducted in private rather than in open court.

*Recommendation # 9:* The materials handed out at the debriefing session should include a handout for family members to inform them how they can help jurors deal with the stress they may experience.

*Recommendation # 10:* Consideration should be given to offering individual debriefing sessions for jurors who aren't comfortable attending a group session.

*Recommendation # 11:* Given the extremely positive response of the jurors to the debriefing session, Yukon Justice should consider continuing this program for future trials in which disturbing evidence may be presented.

## **5.2.3 Recommendation Regarding Legislation**

*Recommendation # 12:* Section 649 of the *Criminal Code* should be reviewed by Justice Canada to determine whether amendments are necessary.



## **APPENDIX A**

### **DEBRIEFING SESSION HANDOUT ON STRESS REACTIONS TO TRAUMA**





## Stress Reactions to Trauma

People who undergo extremely stressful or disturbing experiences (known as trauma) may experience a range of physical, mental, emotional or behavioural reactions. People that hear or see stories or images of traumatic events may also find that they suffer from some kinds of traumatic reactions that can appear suddenly. These stress reactions may appear a few hours or days after the event, or even as long as weeks or months afterwards. They may last a few days, weeks or months depending on the severity of the event.

You may hear and/or see some disturbing information presented during the course of the trial on which you are a juror. You should be aware that you may experience some of the stress reactions listed below, and that they may last for varying periods of time. If you are concerned about how you are feeling, thinking or reacting, you should be aware that what you are undergoing is normal. If you find that you cannot deal with these reactions by yourself and need to seek professional help from a doctor or counselor, this does not mean that you are going crazy – the information may be too powerful for you to manage on your own.

Common traumatic stress reactions include:

<i>Physical</i>	<i>Mental</i>	<i>Emotional</i>	<i>Behavioural</i>
Chills	Confusion	Fear	Becoming withdrawn or isolated from others
Thirst	Nightmares	Guilt	Easily startled
Fatigue	Poor concentration	Sadness	Avoiding places or situations
Headaches	Poor memory	Depression	Becoming confrontational or aggressive
Sleep disturbance	“Spaced-out” feeling	Anger	Changes in eating habits
Nausea	Poor problem solving	Panic	Losing or gaining weight
Vomiting	Problems making decisions	Anxiety	Restlessness
Stomach/intestinal problems	Intrusive images	Irritability	Change in sexual activity
Change in appetite	Suspiciousness	Numbness or lack of feelings	Increase in substance use
Joint or muscle problems	Heightened or lowered awareness of surroundings	Inability to enjoy anything	
Fainting	Changes in how you think about yourself, others or the world	Feeling empty	
Twitching		Loss of trust	
Dizziness		Loss of self-esteem	
Weakness		Feeling overwhelmed	
Chest pain		Loss of emotional control	
Higher blood pressure			
Rapid heart rate			
Muscle tremors			
Shock symptoms			
Teeth grinding			
Sweating			
Breathing problems			

Source materials provided by Alberta Rooney, Chartered Psychologist, including “Critical Incident Stress Information” (International Critical Incident Stress Foundation Inc. 1998) and [Life After Trauma](#), Dena Rosenbloom and Mary Beth Williams (1999).



**APPENDIX B**

**CONSENT FORM**



## CONSENT FORM

The Canadian Research Institute for Law and the Family (CRILF) is doing an evaluation to look at how effective the debriefing sessions are, and we would very much like you to participate in this evaluation. You may choose not to participate in this evaluation study, or to withdraw at any point. You and your specific answers will not be identified. We are collecting this information about you to determine the effectiveness of the debriefing sessions.

Here is what we are going to ask you to do:

- Complete a survey before the debriefing session begins. This survey asks about feelings you might have had during and after the trial. The survey will take about 5 to 10 minutes to complete. You are free to leave blank any questions you do not want to answer.
- Complete a survey after the debriefing session ends. This survey asks about what you thought about the debriefing session. The survey will take about 5 minutes to complete. You are free to leave blank any questions you do not want to answer.
- Provide us with your name and phone number at the bottom of this page. In about three months we would like to call you for a short follow-up telephone interview. The questions we ask you then will help us understand how well the debriefing session helped you deal with any difficulties you faced following the trial. This interview will also be completely confidential.

If have any questions about the evaluation or your participation, please contact CRILF. We can be reached toll-free at 1-888-881-4273. If you are willing to participate in this evaluation, please fill in the blanks shown below and give this form to the judge.

\* \* \* \* \*

*I have read and understand the conditions outlined above, and any questions I had have been answered to my satisfaction. I also understand that I do not have to participate in the evaluation in order to attend the debriefing session.*

Name: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_  
(please print)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Thank you for your help**



## **APPENDIX C**

### **POST-TRIAL SURVEY**





## POST-TRIAL SURVEY

Date (yyyy/mm/dd): \_\_\_\_\_

Are you:      male      female

Birthdate (yyyy/mm/dd): \_\_\_\_\_

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Below is a list of reactions people sometimes have after stressful life events, such as serving as a juror on a murder trial. Please read each item, and then answer how upsetting each one has been for you.

	Not at all	A little bit	Moderately	Quite a bit	Extremely
1. Any reminder brought back feelings about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. I had trouble staying asleep.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Other things kept making me think about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. I felt bad-tempered and angry.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. I tried not to get upset when I thought about the trial or was reminded of it.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. I thought about the trial when I didn't mean to.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. I felt as if the trial hadn't happened or wasn't real.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. I stayed away from reminders about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Pictures about the trial popped into my mind.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. I was jumpy and easily startled.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. I tried not to think about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. I was aware that I still had a lot of feelings about the trial, but I didn't deal with them.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Not at all	A little bit	Moderately	Quite a bit	Extremely
13. My feelings about the trial were kind of numb.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. I found myself acting or feeling like I was back at that time.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. I had trouble falling asleep.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. I had waves of strong feelings about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. I tried to remove the trial from my memory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. I had trouble concentrating.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Reminders of the trial caused me to feel unwell (sweating, trouble breathing, nausea, or a pounding heart).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. I had dreams about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. I felt watchful and on guard.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. I tried not to talk about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

---

For the following aspects of jury duty, please indicate how much stress each of these items has caused you during your jury duty.

	Not at all	A little bit	Moderately	Quite a bit	Extremely
23. Receiving the summons to jury duty.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24. Reporting for jury duty.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25. Jury selection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26. Answering questions in front of other people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Juror pay while not at work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Changes to daily routine.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29. Medical or psychological problems from before the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Not at all	A little bit	Moderately	Quite a bit	Extremely
30. Troubles at home or work during jury duty.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31. Limits on what I could do during jury duty.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32. Fear of being attacked for being a juror/concerns for my safety.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33. Crime against a child.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Issues/evidence that had a personal impact/meaning.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35. Disturbing/grisly evidence.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36. Complex or technical evidence.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37. Expert testimony.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38. Long trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39. Boring trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40. Trial interruptions/delays.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41. Ban on discussing case with jurors during trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42. Ban on discussing case with family/friends.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43. Deciding on a verdict.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44. Jury deliberations and discussions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45. Fear of making a mistake.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
46. Disagreement/differences among jurors.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47. Being in a minority position during jury deliberations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48. Hung jury (i.e., unable to reach verdict).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49. Being sequestered (i.e. isolated from outside contacts).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
50. Concerns about community reactions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Thank you for completing this survey.*



## **APPENDIX D**

### **POST-DEBRIEFING SESSION SURVEY**



## POST-DEBRIEFING SESSION SURVEY

Date (yyyy/mm/dd): \_\_\_\_\_

Are you:      male      female

Birthdate (yyyy/mm/dd): \_\_\_\_\_

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Below are some questions about the debriefing session you have just attended. Please read each question, and then indicate your response.

1. The debriefing session was held at a convenient time for me.

yes

no. If no, what would have been a better time for you?

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2. The debriefing session was the right length (i.e., not too short and not too long).

yes

no. If no, please explain.

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3. Was the information you received clearly presented?

yes

no

Comments:

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4. Was the information you received easy to understand?

yes

no

Comments:

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5. Were you provided with information about support services in your community?

yes

no

6. Do you think the information you received will be useful to you?

yes

no

Comments:

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7. Would you recommend that other jurors attend a debriefing session?

yes

no

Comments:

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8. Are there any other comments that you would like to make about the debriefing session?

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*Thank you for completing this survey.*



## **APPENDIX E**

### **FOLLOW-UP TELEPHONE INTERVIEW SCHEDULE**



## FOLLOW-UP TELEPHONE INTERVIEW SCHEDULE

Hello. My name is \_\_\_\_\_ and I am calling from the Canadian Research Institute for Law and the Family. You may recall that following your jury duty about three months ago, you attended a debriefing session and agreed to take part in an evaluation. The last part of this evaluation is a follow-up telephone interview and that is why I am calling you today. The interview will take about 15 minutes. Is this a good time to do the interview? [If no, arrange mutually convenient time.]

---

Date (yyyy/mm/dd): \_\_\_\_\_

Respondent's gender:       male       female

Birthdate (yyyy/mm/dd): \_\_\_\_\_

---

*I'd like to begin by repeating some of the questions you were asked in the survey you completed prior to the debriefing session. This will tell us if there have been any changes over time in how you felt about your jury experience.*

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*I am going to read you a number of statements about reactions people sometimes have after stressful life events, such as serving as a juror on a murder trial. For each item, I would like you to tell me how upsetting each one has been for you since the trial. To do this, I would like you to use the following five options: not at all, a little bit, moderately, quite a bit, extremely.*

	Not at all	A little bit	Moderately	Quite a bit	Extremely
1. Any reminder brought back feelings about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. I had trouble staying asleep.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Other things kept making me think about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. I felt bad-tempered and angry.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. I tried not to get upset when I thought about the trial or was reminded of it.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. I thought about the trial when I didn't mean to.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. I felt as if the trial hadn't happened or wasn't real.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Not at all	A little bit	Moderately	Quite a bit	Extremely
8. I stayed away from reminders about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Pictures about the trial popped into my mind.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. I was jumpy and easily startled.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. I tried not to think about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. I was aware that I still had a lot of feelings about the trial, but I didn't deal with them.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. My feelings about the trial were kind of numb.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. I found myself acting or feeling like I was back at that time.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. I had trouble falling asleep.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. I had waves of strong feelings about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. I tried to remove the trial from my memory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. I had trouble concentrating.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Reminders of the trial caused me to feel unwell (sweating, trouble breathing, nausea, or a pounding heart).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. I had dreams about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. I felt watchful and on guard.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. I tried not to talk about the trial.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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*For the next set of questions, please answer yes or no.*

	Yes	No
23. I am proud of the work I did as a juror.	<input type="checkbox"/>	<input type="checkbox"/>
24. I found jury duty to be relatively routine.	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No
25. I met some interesting people during jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
26. I will look back on my jury duty with fondness.	<input type="checkbox"/>	<input type="checkbox"/>
27. I would volunteer again for jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
28. Jury duty was annoying and irritating.	<input type="checkbox"/>	<input type="checkbox"/>
29. Jury duty was a waste of my time.	<input type="checkbox"/>	<input type="checkbox"/>
30. I believe that my experience with jury duty would cause emotional problems in most people.	<input type="checkbox"/>	<input type="checkbox"/>
31. I felt stress as a result of my jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
32. I needed to talk to others about distressing aspects of my jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
33. My jury duty left me feeling more fearful than I was before.	<input type="checkbox"/>	<input type="checkbox"/>
34. I have disturbing memories of my jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
35. Jury duty left me feeling numb and detached.	<input type="checkbox"/>	<input type="checkbox"/>
36. I am more tense than I was before jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
37. I am likely to avoid doing things that remind me of my jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
38. Something more should have been done to reduce our stress levels.	<input type="checkbox"/>	<input type="checkbox"/>
39. There are emotions resulting from jury duty that I have bottled up inside.	<input type="checkbox"/>	<input type="checkbox"/>
40. I think other jurors felt stress during jury duty.	<input type="checkbox"/>	<input type="checkbox"/>
41. I think stress had an effect on the thinking of some jurors.	<input type="checkbox"/>	<input type="checkbox"/>
42. I think stress had an effect on the decisions of some jurors.	<input type="checkbox"/>	<input type="checkbox"/>

*Now I would like to ask you a few questions about any experiences you may have had in your community since the trial.*

43. Did you know the accused before the trial?

yes       no

	Not at all	A little bit	Moderately	Quite a bit	Extremely
If yes, to what extent did this affect the level of stress you felt?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



44. Did you know the victim?

yes       no

	Not at all	A little bit	Moderately	Quite a bit	Extremely
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If yes, to what extent did this affect the level of stress you felt?

45. Did you know any of the other jurors prior to the trial?

yes       no

	Not at all	A little bit	Moderately	Quite a bit	Extremely
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If yes, to what extent did this affect the level of stress you felt?

46. Have you met up with the victim's family since the trial?

yes       no

	Not at all	A little bit	Moderately	Quite a bit	Extremely
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If yes, to what extent did this affect the level of stress you felt?

47. Have you met up with the accused's family since the trial?

yes       no

	Not at all	A little bit	Moderately	Quite a bit	Extremely
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If yes, to what extent did this affect the level of stress you felt?

48. [If accused was acquitted] Have you met up with the accused since the trial?

yes       no

	Not at all	A little bit	Moderately	Quite a bit	Extremely
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If yes, to what extent did this affect the level of stress you felt?



51. Do you have any other comments regarding the debriefing session?

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52. Do you have any other comments regarding your experience as a juror?

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*Thank you for your time.*

