

HELPING TROUBLED DELIBERATING JURIES

Module #5: Respecting Juror Privacy & Responding to Their Stress [1 hour]

Learning Objectives:

After this session, the participants will be able to:

1. List major potential intrusions upon juror privacy during deliberations;
2. Identify major contributors to juror stress during trial and deliberations;
3. Describe how judicial practices can likely avert or minimize intrusions on juror privacy and occurrence of stress; and
4. Describe at least one new action the participant will undertake in the future as a way to respect juror privacy or address juror stress during deliberations.

Learning Activities:

1. **Opening:** The lead instructor begins by telling the story of a jury trial [preferably a real case involving terrorism or organized gang activity] which was lengthy, complex, highly publicized, required the presentation of emotionally disturbing evidence, included allegations of juror surveillance by interested parties, and jury deliberations extended over the course of days. (5 minutes)
2. **Lecture and discussion, Part I:** A faculty member together with at least two former jurors from the hosting jurisdiction will discuss common concerns expressed by former jurors with respect to their privacy, safety, and emotional well-being during trial, especially jury deliberations. (20 minutes)
3. **Lecture and discussion, Part II:** A faculty member, a legal journalist, and a jury trial consultant discuss the ethical and practical issues that pertain to media and jury-consultant scrutiny of jurors. Principles 7, 12, and 18 of the *ABA Principles for Juries & Jury Trials* are referenced as model practice guides. In jurisdictions where it is utilized, a jurist describes the advantages and disadvantages of sequestration. (20 minutes)
4. **Closing:** One or more instructors describe practical methods to accommodate juror privacy concerns and to respond to predictable juror stress. These include the use of “anonymous” jurors and post-verdict debriefing by the judge or mental health provider. (15 minutes).

Materials:

1. For use during class: illustrative real-life, jury trial story and Principles 7, 12, and 18 of the *ABA Principles for Juries & Jury Trials*.
2. Reference materials

- a. Annotated bibliography. Local instructor will add any state-specific reference materials that would be helpful for the participants (e.g., bench books, case law, statutes, court rules, etc.).
- b. Models for addressing juror stress. For example, tip sheets from:
 - (1) Chesapeake Circuit Court, Chesapeake, VA at http://www.chesapeake.va.us/services/depart/judges/pdf/Overcoming_the_Stress_of_Jury_Duty.pdf; and
 - (2) Maricopa County, AZ, Superior Court at <http://www.superiorcourt.maricopa.gov/JuryServices/GeneralInformation/coping.asp>

Bibliography

Core Documents

- AMERICAN BAR ASSOCIATION, PRINCIPLES FOR JURIES & JURY TRIALS (2005), http://www.abanet.org/jury/pdf/final%20commentary_july_1205.pdf.
- Paula Hannaford-Agor, *Safeguarding Juror Privacy: A New Framework for Court Policies and Procedures*, 85 JUDICATURE 18 (2001)

Journals/Periodicals

- Robert G. Boatright & Beth Murphy, *How Judges Can Help Deliberating Jurors: Using the Guide for Jury Deliberations*, 36 COURT REVIEW (1999).
- Charles M. Cork, III, *A Better Orientation for Jury Instructions*, 54 MERCER L. REV. 1 (2002-03).
- Bella M. DePaulo, *Nonverbal Behavior and Self-Presentation*, 111 Psychological Bulletin at 203-243 (1992).
- Mary R. Rose, *Juror's Views of Voir Dire Questions*, 85 JUDICATURE 10 (2001).
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- John Paul Stevens, *Foreword: Symposium on the Jury at a Crossroad: The American Experience*, 78 Chi. Kent L. Rev. at 907-908 (2003).
- Gerald T. Wetherington et al., *Preparing for the High Profiles Case: An Omnibus Treatment for Judges and Lawyers*, 51 Fla. L. Rev. at 425-488 (1999).
- Andrew J. Wistrich et al., *Can Judges Ignore Inadmissible Information? The Difficulty of Deliberately Disregarding*, 153 U. of Pa. L. Rev. at 1251-1345 (2005).
- Kimba M. Wood, *The 1995 Justice Lester W. Roth Lecture: Reexamining the Access Doctrine*, 69 S. CAL. L. REV. 1105, 1118-20 (1996).

Books and Other Works

- Elizabeth Aries, **Men and Women in Interaction: Reconsidering the Differences**, Oxford University Press (1996).
- Lee Epstein & Jack Knight, *The Blackwell Companion to Law and Society* at 170 – 194 (**Courts and Judges**), Blackwell Publishing (2004).
- Reid Hastie et al., **Inside the Jury**, Harvard University Press (1983).

G.Thomas Munsterman, Paula L. Hannaford-Agor & G.Marc Whitehead, **Jury Trial Innovations, 2nd Edition**, at 172-173 & Appendix 6, NATIONAL CENTER FOR STATE COURTS (2006).

Timothy R. Murphy et al., **Managing Notorious Cases**, NATIONAL CENTER FOR STATE COURTS, 94-97 (1998).

Seymour Sudman & Norman M. Bradburn, **Asking Questions**, Josey-Bass (1982).

Neil Vidmar & Valerie P. Hans, **American Juries**, Prometheus Books (2007).