



THE MODERN JURY

# WHEN THE TRIAL ISN'T OVER

## *Counseling Services for Jurors*

BY JOHN G. BROWNING

They were images Paul Baker\* just couldn't get out of his head. The vivid close-ups of a young girl brutally beaten, assaulted, and murdered; the jarring depictions of the grisly crime scene; and charred remains after the killers had torched the place to cover their tracks — all of it kept playing on a seemingly endless loop in his brain. And at night, Paul's sleep was broken when he dreamed he heard the girl crying out for help. "I can't reach her," he says.

Paul is not a police officer who investigated the case, a first responder who arrived at the scene, or even a witness to the crime. He is a juror. Along with 11 other people picked at random, for two months Paul heard graphic testimony and viewed disturbing evidence in a capital murder case that drew national attention. One terrifying night in the sleepy New Haven suburb of Cheshire, Conn., the Petit family was attacked and tormented in a home invasion by Steven Hayes and Joshua Komisarjevsky. Dr. William Petit was severely beaten and left with permanent injuries, but survived. His wife Jennifer was sexually assaulted and strangled. Their two daughters, ages 11 and 17, were also assaulted, tied to their beds with pillowcases covering their heads, doused with gasoline, and left to die in the fire set by their attackers.

\*a pseudonym

The jury sat through weeks of graphic and at times sexually explicit testimony, viewed autopsy photos of the three victims, and inspected photographs of the ransacked rooms, charred beds, torn clothing, and rope. After finding Steven Hayes guilty (Komisarjevsky was tried and convicted in fall of 2011 in front of a different jury), jurors then bore the responsibility of deciding whether Hayes should be put to death (the answer: a resounding yes). But when their civic duty was concluded, the shell-shocked jurors were offered counseling services by Connecticut's judicial branch. Under a pilot program in its infancy, Connecticut jurors can receive professional help in coping with

photos and heartrending testimony. According to Paula Hannaford-Agor, director of the Center for Jury Studies at the National Center for State Courts, about 70 percent of jurors report some stress in any type of jury trial.<sup>1</sup> Yet despite this, few states offer any type of post-trial counseling for jurors. Arizona, California, Florida, Minnesota, Ohio, Oregon, and Wisconsin are among this handful of states. In New Jersey, judges can provide jurors with an informal session in which to decompress, but state judicial authorities don't track the frequency or success of such efforts. In Michigan's Oakland County (a suburb of Detroit), a pilot program was started at the Common Ground

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the stress of having endured horrific trial testimony and viewing grisly photos and crime scene evidence. Not all cases qualify; in fact, the Hayes trial jurors were the first to be offered such "debriefings." Valerie Hans, a Cornell Law School professor who has studied juries, applauds the decision to provide jurors who serve on traumatic cases with counseling, much like returning soldiers. Hans says, "Jury duty isn't combat, but to the extent they are working on our behalf to resolve difficult issues, if they encounter problems, I would like to see them get the support they need."

Millie Legenhausen of Hamden, Conn., believes it's about time. Six years ago, she served on a jury deliberating the fate of Jonathan Mills, who stabbed a Guilford, Conn., mother and her two small children to death. For days, the cherubic faces of the 4-year-old and 6-year-old victims stared back at Legenhausen and her fellow jurors from blowups of school photos prosecutors displayed in the courtroom — all while the jury absorbed the details of gruesome crime scene photos and chilling witness testimony. Legenhausen was shocked at how abruptly the process ended and says, "It was a good six months before I let go [of the graphic images]; it was almost like post-traumatic stress disorder had set in." She believes that post-trial juror counseling could have assisted her and her fellow jurors in processing feelings of grief, depression, anxiety, and anger brought on by their trial service.

A number of studies have documented the emotional toll that jury duty can exert, particularly in cases featuring grisly

Sanctuary, a psychiatric facility, to make post-trial counseling available for jurors. The longest-running program in the country began in 1998 in Seattle, Wash. Using funding from the King County self-insured risk management pool, counselors there provide interested jurors with group therapy after a verdict. Court operations personnel estimate that this program is used six to eight times a year. Other states, including North Carolina, have considered legislation that would allow jurors state-funded counseling services. But as government budgets have tightened with the recession, support for post-trial juror counseling has withered for lack of funding, according to Greg Hurley of the National Center for State Courts.<sup>2</sup>

Texas has such a program, thanks to Sharon Cave Sedwick. Her 21-year-old daughter Jennifer was brutally murdered in August 2005 by a friend, 24-year-old University of Texas student Colton Pitonyak. Jennifer's body was discovered in the bathtub of Pitonyak's Austin apartment, partially dismembered and mutilated by multiple stab wounds. Pitonyak would eventually be convicted and sentenced to 55 years in prison for Jennifer's murder. Sedwick couldn't bring herself to look at the horrific crime scene photos, and it was agonizing to listen to the circumstances of her daughter's slaying being recounted in excruciating detail. Yet in the midst of her pain, she was also worried about the toll the case was taking on the jurors. Four of the 14 jurors (12 active, two alternates) were in their 20s like Jennifer; one young woman spent an entire day of the trial crying softly to herself. "We have come to take jurors for granted,"

says Sedwick. "They saw the pictures over and over again, pictures I have never seen. I asked 14 people to take my pain and the hell that doctors and psychologists and friends have begged me not to look at. I watched as the days went on and I began to see people who had not slept, people with dark circles and pallor, people with nervous twitching."

Sedwick turned to then State Rep. Juan Garcia for help, and the Corpus Christi legislator succeeded in drafting legislation that would offer up to 10 hours of counseling for jurors in cases like Jennifer Cave's. House Bill 608, which allows counties to offer counseling to jurors who say they are traumatized by

old defendant ultimately received six life sentences.

In these tough economic times, counties throughout Texas are keeping a close eye on their already strained budgets. Regardless, it is hoped that help will increasingly become available for jurors who sit on the most serious and graphic cases. These jurors are asked to put their lives on hold and be subjected to a bombardment of crime scene photos and graphic testimony. They are prohibited from discussing the evidence with anyone, including emotionally supportive family members. Once it has ended, they then go back to their everyday lives, but, for many, the trial isn't really over.

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graphic evidence in murder, child sexual assault, and other trials, was signed into law on Sept. 1, 2007. The law was amended in 2009 to encompass other crimes, including those with evidence of physical abuse of children, but leaves the issue in local hands, authorizing county commissioners courts to approve such counseling programs where appropriate. The law provides for no state funding.

Without being mandatory or funded, juror counseling programs have only been offered in a few Texas counties. Travis County was one of the first. It uses existing victim assistance employees to counsel jurors who request help, and the county provides pamphlets (which list stress symptoms and reassure jurors that their feelings are normal) to judges to distribute during disturbing trials. Dallas County also distributes such brochures and its victim assistance professionals contract with a private agency to counsel jurors one-on-one or in group sessions (up to 10 hours of counseling are available). Tarrant County's victim assistance program recently received its first request for juror counseling, after the 2010 capital murder trial of Eric Acevedo. Acevedo was convicted in the 2008 stabbing death of his girlfriend, after a two-week trial that featured gruesome photos of the victim's wounds and a dramatic 911 audio recording of her screaming while Acevedo stabbed her repeatedly. Nueces County made counseling available to jurors sickened by the graphic, disturbing footage in the 2009 child sexual abuse trial of Parker Sharp, who had videotaped himself committing sexual acts with children aged 6 to 9. The 44-year-

### NOTES

1. According to the National Center for State Courts, jury counseling or "debriefing" has been used in such high-profile cases as the trial of serial killer Jeffrey Dahmer and the trial of Oklahoma City bomber Timothy McVeigh. However, there is no institutionalized system at the federal court level.
2. In some states, resistance to juror-counseling programs isn't always based solely on financial and budgetary concerns. For example, Tennessee Criminal Court Judge Chris Craft believes that offering counseling to jurors could possibly taint a guilty verdict as being "the product of trauma or emotional damage," thus making such a verdict more vulnerable to being overturned on appeal.



### JOHN G. BROWNING

is a partner in Lewis, Brisbois, Bisgaard & Smith, L.L.P. in Dallas. He is author of the syndicated newspaper column "Legally Speaking" and serves on the *Texas Bar Journal* Board of Editors.

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