Social and Psychological issues:

- Do particular conditions of jury service place jurors under special risk of stress and contribute to the need of attention for debriefing? (will also refer to an evaluation of the Juror Support Program in NSW 2001, which provides some limited empirical evidence)

The vast majority of research in the area of jurors (including stress and administrative and environmental conditions affecting that stress) has been conducted overseas, primarily in the U.S., and has to some extent a limited application in Australia. The lack of research in Australia, particularly examining jurors within their own social context and the effects of local social conditions on jurors, is exemplified in the case of trials being conducted in small communities (Israel 1998). Given that the premise of the jury system is that jurors come from and represent the community in which they live, they therefore will interact to reflect the values and moral codes of that community to bear in the jury room. The particular demographics, social make-up of a community and the administrative system of the state or territory will impact on the dynamics of the jury.

An example of administrative procedure affecting the conditions of serving on a jury is exemplified by the N.S.W. Jury Act which provides for jurors in N.S.W., who live within a 56km radius of a courthouse, to be summoned for jury service. By this archaic measurement (originally established as a reasonable distance a horse could travel and return in a day), communities, which in colloquial context are considered reasonably close to a town or centre, are exempted from inclusion on a jury roll. Therefore, in rural parts of N.S.W., large communities are excluded, who may by choice, economic or for cultural reasons, live outside this 56km radius. This administrative process therefore means that the community conscience of the district is not represented, rather the areas closest to the courthouse, usually located within the town, which may have a different cultural, economic and socio-political perspective than the entire district or territory at large, is over-represented. It further contributes to the case of ‘repeat’ jurors within a small radius in rural and regional communities-compounding the stress of serving on a jury for some, creating the ‘expert’ juror and causing further administrative problems in creating jury panels from an ever decreasing pool of potential jurors. In the wider community, the repeated use of a small pool of jurors may also have an economic influence on local businesses, repeatedly releasing staff to undertake service, as well as affecting good-will towards the justice system and administration.

The interpersonal dynamics of the rural jury are also in contrast to the anonymous jurors of the metropolitan areas. Research involving rural communities has demonstrated some jurors to have known either the accused, victim(s) and their
families and that they experience feelings of sympathy for the parties (Feldman & Bell, 1991). Jurors have reported, 'No matter what verdict they arrived at, they felt some party would be offended' (id). This anxiety would be exacerbated by serving in a small community wherein jurors may know or be acquainted with any or all of the parties.

The reaction of a community to a verdict is another external variable that may impact on the stress of a jury and is particular to the broader social context of that community or country. The well publicised case of Rodney King in the U.S., which involved the acquittal of four white police officers of assault, is perhaps an extreme example of the social reaction a community may exert on the justice system. It is also an example of how the administration of a jury system may bias justice or be perceived to do so and thereby create social unrest, which may be aimed at the jury. In that trial, in an effort to address the zealous reaction of the African-American district and therefore potential bias of jurors, the jury were selected from a community outside of the location where the incident had taken place. This community happened to contain predominantly white middle class residents with coincidently a high number of police officer retirees. No African-Americans were on the jury despite the incident having taken place within an African-American district and the victim being a black civilian. The riots that followed the verdict left 58 people dead and costs millions in economic damage (Israel, 1999). The message to the jury and the legal system from the community about the administration of the jury system and the subsequent verdict was in little doubt.

In 2001 the University of New South Wales and the Justice Research Centre (Law & Justice Foundation, Chesterman, Chan & Hampton) published a report examining the impact of 'prejudicial publicity' on jurors. Although outside the scope of the project's specific research questions, jurors identified management and physical issues as contributing to their stress:

- Frustration over the process (time delays, not all information provided, not allowed out at request etc.)
- Frustration at capital concerns, - time, conditions of accommodation, food etc.

The above was corroborated in another study from New Zealand prepared by Professor Warren Young1 in 1999, on behalf of the New Zealand Law Commission. The matter of the trial is also a variable shown to affect stress amongst jurors. While the severity of stress experienced varies according to the ability of individuals to respond to and manage degrees of stress, it is predictable that jurors on difficult trials will be subject to more anxiety. Research demonstrates that 'traumatic' (usually highly visible in the media) trials are six times more likely to manifest symptoms associated with depression than jurors serving on non traumatic trials (Shuman, Hamilton & Daley, 1994). Further, for lengthy trials wherein individuals are subjected to prolonged extreme stress, according to Horowitz (1986), jurors invariably develop symptoms of neurosis.

While the trial 'matter' affects stress, demonstrated in a study by the National Centre for State Courts (1998) concluding that, 'notorious trials place different and magnified strains on the jury', numerous research studies have identified several factors that

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1 See Juries in Criminal Trials, Part two: A summary of the Research Finding(Law Commission of New Zealand)
contribute to stress reactions for jurors, such as -presentation of gruesome or graphic evidence (Hafemeister in Munsteman, Hannaford & Whitehead 1997), media attention (Hafemeister & Ventis, 1994; fear of retribution by the defendant (Nordgren & Thelan 1999), sequestration (Strauss 1996), length of trial, community response, including lack of anonymity for rural locations (Feldman & Bell 1991), personalities and group dynamics of the jury (Shuman, Hamilton & Daley 1994) and sense of community responsibility (Dabbs, 1992). Chesterman et al identified physical environment as a factor affecting jurors, including size of rooms, no natural light, access to outside areas, time away from each other, management by court staff (eg allowed smoke breaks etc) etc.

In New South Wales an evaluation of the Juror Support Program (JSP)\(^2\), established in 2000, was conducted in 2001. This report goes some way to assessing the significance and prevalence of stress amongst jurors and may provide some information on the causes of this stress. However, the aim of the evaluation was to examine the appropriateness of the JSP, the efficacy of its administration and its effectiveness in meeting the needs of jurors against the aims of the program. It was not intended as an exploration of the prevalence of stress amongst jurors or to examine the significance of interpersonal dynamics or physical conditions of serving on a jury as causal factors in that stress.

To date, informal reporting of jurors' experiences concur with the above studies\(^3\). Since commencement of the program, jurors have anecdotally reported feelings of anxiety and distress directly to the N.S.W. JSP Coordinator and N.S.W. Sheriffs officers, following discharge from jury service. Commonly observed by N.S.W. court officers who work with jurors\(^4\) is the 'quick exit' on discharge. This was also noted by Chesteman et al, “…[jurors] want to go home immediately... [after being discharged]”. Therefore it is common that feelings of anxiety may emerge some time after leaving the courthouse, making it even more difficult to assess the nature and extent of juror stress and to identify the factors that contribute to that stress.

Some of the issues identified by NSW jurors (from the JSP Evaluation NSW 2001) included:

9% were worried about the verdict & its impact. 3% were anxious for the victim/accused/family.

9% were upset about jury room dynamics.

7% were concerned about the jury's decision.

15% were frustrated by the legal process.

12% were curious about sentencing/appeal

49% were satisfied they'd played their part. 38% felt good about the overall experience.

More Likely to Report feeling good/satisfied

- Older people

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\(^2\) The Office of the Sheriff NSW established a Juror Support Program in August 2000 which is made available to all jurors who are empanelled and subsequently discharged from N.S.W courts (criminal, civil and coronial). Debriefing notes are also read to jurors immediately on discharge addressing immediate reactions and encouraging jurors to attend counselling with registered psychologists, available 24hr/7days


\(^4\) NSW Sheriff's office – informal reporting mechanisms.
• Men
• People from English Speaking Backgrounds
  • 1st time jurors (80% of respondents were 151 time jurors)

Less Likely to Report feeling good/ satisfied
• Jurors discharged before verdict
• Juries that did not agree

More Likely to Report Feeling Upset or Concerned about Jury Dynamics or Decision
• Juries that did not agree
• Jurors passing a guilty verdict -Women
• Supreme Court Jurors
• Jurors on murder trials

Less Likely to Report Feeling Upset or Concerned about Jury Dynamics or Decision
• Jurors discharged before verdict

References:


Israel, Mark (1999), 'Juries Race & Construction of Community', Law in Context, Vol 17, No 1


New Zealand Law Commission (1999), 'Juries in Criminal Trials, Part Two: A summary of the research Findings'.

