

**THE SEVERITY OF MENTAL HEALTH EFFECTS ON  
CAPITAL TRIAL JURORS**

**BY**

**ROBIN A. HAWKINS MARAS**

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## **DEDICATION**

I dedicate this research to my mother and father, who always supported my educational dreams. Further, I dedicate it to my amazing fiancé, daughter, classmates, and friends. Your love, patience, and encouragement to go back to college and complete my Master of Arts degree will never be forgotten.

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**ABSTRACT OF THE THESIS**

The Severity of Mental Health Effects on Capital Trial Jurors

by

Robin A. Hawkins Maras

School of Behavioral Sciences

Death qualified jurors, selected to serve on capital trials, hold an unparalleled role in the criminal justice system. Despite data suggesting that serving as a death qualified juror may be extremely stressful, studies exploring the severity of the mental health effects of capital jury duty are limited. This study, utilizing a qualitative content analysis, addresses the question of whether the severity of capital jurors' mental health symptoms rises to clinically significant levels and thus, warrants intervening action by the criminal justice system. Through the analysis of six prior studies, this research examined the mental health effects triggered by excessive stress in capital jurors and identified twelve predominant themes. The prior studies determined that the clinical significance of major depression in capital jurors ranges from 0 to 19%, and the clinical significance of posttraumatic stress disorder ranges from 0 to 26%. Thus, while prior research confirms that capital jurors may experience negative mental health effects, the severity of the effects, as well as the length of time the effects impact each juror, varies to the extent that a definitive conclusion regarding the need for intervening action by the criminal justice system cannot be determined.

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## Chapter 1

### **THE PROBLEM STATEMENT**

At the close of Dzhokhar Tsarnaev's trial, the prosecutor laid out the belongings of eight-year old victim, Martin Richard. Piece by piece, the last fragments of the young boy's life were presented in agonizing detail to the jury – shorts melted from the heat of the bomb, a bloodstained jersey, splinters of wood and metal, and the destructive shrapnel that stripped away the joyful child's last breath. The jurors, common citizens undertaking an extraordinary obligation, visibly wept in the jury box (Ferguson, 2015). While the details of the Boston Marathon bombing trial were more disturbing than those observed in most criminal trials, facing traumatizing injury, shocking loss, and violent death remains a standard part of the jury experience in the American jury system.

#### **Introduction**

The right to a jury trial has been profoundly entrenched in American jurisprudence for over 200 years (Siegel, 1995). A trial by jury in a criminal case was among the few guarantees of individual rights specified in the United States Constitution, as well as the sole guarantee to appear in both the Constitution and Bill of Rights (Alschuler & Deiss, 1994.) The Fifth and Sixth Amendments to the Constitution guarantee the right to a trial by jury in all criminal cases (Hans & Vidmar, 1986). Specifically, the Sixth Amendment ensures that every federal criminal defendant is entitled to a trial by an impartial jury of the state and district where the crime was committed (Alschuler & Deiss, 1994.) The Constitutions of every American state also

guarantee the right to a jury trial, and approximately 80% of all jury trials occurring worldwide take place in America's state courts (Hans & Vidmar, 1986).

Per the State-of-the-States Survey of Jury Improvement Efforts, issued by the National Center for State Courts (NCSC), approximately 148,500 jury trials occur annually in state courts (2007). Additionally, some 5,400 jury trials are conducted in federal courts every year. Of these jury trials, roughly 47% involve felony cases and 19% misdemeanor cases (NCSC, 2007). To ensure the courts have sufficient jurors available to hear these criminal trials, approximately 31.8 million jury summonses are mailed by state courts each year, equating to approximately 15% of the adult population in the United States. A sizeable amount of the jurors summoned for jury service are ultimately not needed; despite the large number of summonses, only about 1.5 million American citizens are impaneled annually to serve on a jury in a criminal trial (NCSC, 2007).

### **Criminal Trial Process**

Criminal trials occur to prosecute acts prohibited under state or federal laws that are punishable by fines, probation, imprisonment, or in some cases death (Arizona Supreme Court, 2016). While each state has latitude to utilize its own criminal trial process (American Bar Association [ABA], 2016), many states elect to mirror the Federal Rules of Criminal Procedure, which have been in effect since March, 1946 (Temchenko, 2016).

To begin the criminal trial process, an individual is first arrested by law enforcement (Arizona Supreme Court, 2016). After the arrest, the attorney acting on

behalf of the government (prosecutor) determines whether a charge should be filed against that individual and, if so, whether the charge(s) fall under a misdemeanor or felony classification (Judicial Council of California [JCC], 2016b). If charges are filed, an initial court appearance by the defendant follows (ABA, 2016). At this appearance (arraignment), the judge obtains initial information, reads the charge(s), and informs the defendant of his or her Constitutional rights (ABA, 2016).

During the arraignment, the defendant generally enters a formal plea in response to the criminal charge(s) filed (JCC, 2016b). Generally, the pleas are either not guilty, guilty, or nolo contendere (no contest). A no contest plea essentially functions in the same way as a guilty plea; however, the defendant is not directly admitting his or her guilt. If a guilty or nolo contendere plea is accepted by the court, the defendant proceeds directly to the sentencing phase of the criminal process (JCC, 2016b). If a defendant formally enters a not guilty plea, the criminal process continues.

In many states, a preliminary hearing is then held in felony cases, at which witnesses provide testimony and evidence to the judge to determine if enough evidence exists to presume the defendant likely perpetrated the crime (Arizona Supreme Court, 2016). If the judge decides there is not sufficient evidence, he or she dismisses the case. If the judge finds that sufficient evidence exists, the case is transferred to trial court and a trial date is set (ABA, 2016).

Once in trial court, the defendant decides if he or she desires a jury trial (JCC, 2016b). There are some instances in which an attorney will suggest a court trial with no jury. Generally, however, the defendant, on recommendation from the defense attorney,

will choose a trial by jury, so a panel of his or her peers can hear the evidence to determine a verdict (JCC, 2016b).

Per 28 U.S. Code §1865(b), to legally qualify as a federal juror, an individual must: (1) be a United States citizen; (2) be at least 18 years of age; (3) reside primarily in the judicial district for one year; (4) be able to read, write, and understand the English language sufficiently to complete the juror qualification form; (5) have no disqualifying mental or physical conditions; and (6) have no charges pending for the commission of, or conviction in a court of record of, a crime punishable by imprisonment for more than one year without his or her civil rights having been restored (Qualifications for Jury Service, 2000). State qualifications for jury service vary per state, though generally follow similar requirements. In the current jury system, jurors are commonly selected in a random manner from driver license and state identification records, as well as from voter registration databases (Siegel, 1995).

If a jury trial is chosen, a random selection of potential jurors, referred to as a venire, is requested by the judge and seated in the courtroom (Streicker, n.d.). After the trial judge gives a perjury admonishment, requiring potential jurors to tell the truth when answering questions, the process of “voir dire” commences (Judicial Council of California [JCC], 2016a). The judge begins voir dire by confirming that potential jurors are legally qualified to serve on a jury, and the service would not create an undue hardship (Streicker, n.d.). Inquiries are then made to determine if any prospective jurors have personal knowledge of or interest in a case, as well as to uncover any biases or prejudices (Administrative Office of the United States Courts [AOUSC], 2012). The

attorneys for both the prosecution and defense can request the judge dismiss a juror if the answers provided during voir dire suggests a juror may be prejudiced about a case. The judge may excuse a juror based on these requests if the cause presented by the attorneys is adequate. There is no set limit on the number of challenges for cause that can be made by either party (AOUSC, 2012).

In addition to the challenges for cause, each attorney has a right to a number of challenges for which no cause is required (AOUSC, 2012). These peremptory challenges, in effect, allow an attorney to excuse a potential juror due to the opinion that the juror will not serve the best interests of the attorney's client (Streicker, n.d.). While the peremptory challenge is thought to provide both the prosecution and defense with a choice in the make-up of the impaneled jury, these challenges cannot be used to exclude potential jurors based on gender, ethnicity, or race (Streicker, n.d.).

After the jury is impaneled, the attorneys for both the prosecution and defense will offer opening statements to the court. Opening statements provide jurors with an overview of the facts of the case but cannot be argumentative (Arizona Supreme Court, 2016). Since the prosecution bears the burden of proof in a criminal trial, the trial continues with the prosecutor presenting witnesses and evidence (ABA, 2016). Once the prosecutor concludes questioning a witness, the defense is then permitted to cross-examine that witness. After the prosecutor has presented all the evidence and witnesses for his or her side of a case, the prosecution rests. At this point, the defense may begin presenting witness testimony and evidence, should he or she choose to do so (Arizona Supreme Court, 2016).

After presenting all the evidence for both sides of a case, attorneys may then give their closing arguments (Arizona Supreme Court, 2016). Directly following the closing arguments, the judge provides instructions to the jurors regarding the relevant laws that apply to the case. Jurors are required to determine the outcome of a case based solely upon the law and evidence provided at trial; each juror needs to be aware that the law is as the presiding trial judge declares it to be, and not what a juror believes it to be (AOUSC, 2012). In other words, it is the jury's responsibility to interpret the facts in accordance with the principles of law, and jury members should only consider the testimony and exhibits admitted into evidence to reach their conclusion (AOUSC, 2012).

In an overwhelming majority of American states, the verdict in criminal trials must be unanimous (Schwartzbach, n.d.). There is no Constitutional right to a unanimous verdict, however, and the United States Supreme Court has previously upheld state laws that require less than complete agreement for conviction (Schwartzbach, n.d.).

### **Trial Verdicts**

The decision in a criminal trial may result in three potential outcomes; not guilty, guilty, or a mistrial (JCC, 2016b). If a jury finds the defendant not guilty, the defendant is immediately released from custody. Alternatively, if the jury finds the defendant guilty, a sentencing date is set. While the guilty defendant waits for sentencing, he or she may either remain in custody or be released, depending on the nature of the crime and decision of the judge (Arizona Supreme Court, 2016).

The third outcome, declaration of a mistrial (hung jury), may occur if there are insufficient jurors voting for either a not guilty or a guilty verdict (ABA, 2016). When

this occurs, the judge may direct the jurors to continue deliberations; however, if a verdict remains unreachable, the judge will declare a mistrial. A mistrial does not convict or acquit the defendant, but instead, provides the option for the prosecution to either retry or dismiss the case (ABA, 2016).

### **Sentencing Options**

When the outcome of a criminal case is a guilty verdict, the judge hears arguments from both the prosecution and defense regarding the punishment each side believes should be imposed on the defendant (Arizona Supreme Court, 2016). The sentencing options may include fines, probation, imprisonment, or a combination of any or all of these (Temchenko, 2016). An additional sentencing option, reserved for certain violent crimes, is the death penalty.

While trial judges in most state and federal courts determine the ultimate sentence imposed upon a defendant, the United States Supreme Court in the 2002 case of *Ring v. Arizona* construed the Constitution as a safeguard of the right to a jury sentencing trial for any defendant who may be sentenced to death (Temchenko, 2016). In the *Ring* case, the court held that capital defendants were entitled to a jury determination of sentencing based on the requirements of the Sixth Amendment (*Ring v. Arizona*, 2002). Thus, in capital punishment trials, it is the jury and not the judge who decides if the defendant will receive a death sentence (Arizona Supreme Court, 2016).

### **Capital Punishment Law**

A controversial area in the law is the sentence of death for defendants found guilty of capital crimes (Watson, Eth, & Leong, 2012). The legitimacy of the death

penalty as a justified form of punishment has been debated worldwide for centuries, with death penalty laws recognized as far back as the 18<sup>th</sup> Century B.C. (Death Penalty Information Center [DPIC], 2016b).

In Britain, death by hanging became the customary method of execution in the 10th Century A.D., and by the 16th Century, King Henry VIII was believed to have executed as many as 72,000 people (DPIC, 2016b). Britain greatly influenced America's use of the death penalty; the first documented execution in America occurred in 1608 when Captain George Kendall was put to death for being a Spanish spy (DPIC, 2016b).

Looking ahead to the 20th Century, the United States Supreme Court's decision in *Furman v. Georgia* (1972) led to a moratorium on capital punishment in America (Watson et al., 2012). In the *Furman* case, the court held that the imposition of the death penalty in Georgia, which bestowed complete sentencing discretion to the jury, could result in arbitrary sentencing; thus, the death penalty, as applied, constituted cruel and unusual punishment and the process was declared unconstitutional (*Furman v. Georgia*, 1972).

Subsequently, due to legislative efforts modifying the legal procedures regulating the death penalty, the court once again cleared the way for capital punishment's reapplication in the case of *Gregg v. Georgia* (1976). The landmark case of *Gregg* held that under the 8th and 14th Amendments, the imposition of the death penalty itself, for the crime of murder, was not unconstitutional per se (Watson et al., 2012).

Between the time of the *Gregg v. Georgia* ruling in 1976 and July 2016, there were approximately 1,437 executions in the United States (Death Penalty Information



Center [DPIC], 2016a). Currently, 31 states retain the death penalty as a sentencing option for certain crimes. As of January 1, 2016, there were 2,943 death row inmates in the United States, with the largest number, 743, in California (DPIC, 2016a).

### **Capital Punishment Crimes**

Sentencing a defendant to death is reserved almost exclusively for the crime of murder in the United States (Snell, 2011). Some state statutes, however, include the death penalty for crimes that do not involve death to a victim, such as sabotage, treason, espionage, or other crimes considered to be against the 'State' (Snell, 2011). It is not clear that these cases for non-death related crimes fulfill the requirements for a death sentence. For example, in the case of *Kennedy v. Louisiana*, the United States Supreme Court held that the Louisiana state statute, allowing a death sentence for the rape of a child where the victim did not die, to be unconstitutional (2008).

In the states continuing to offer the death penalty as a sentencing option, the most common crimes warranting a death sentence involve death to a victim, including intentional, first-degree, felony, or capital murder, perjury causing execution of an innocent person, or first-degree kidnapping resulting in death (Snell, 2011). Federal laws that provide an option for the death penalty include a much broader set of offenses. For instance, as of 2010, 41 federal crimes could warrant a death sentence (Snell, 2011). These federal crimes include, but are not limited to, murder related to the smuggling of aliens, civil rights offenses resulting in death, espionage, genocide, bank robbery-related murder or kidnapping, or murder using a weapon of mass destruction. Per the United States Department of Justice, as of December 31, 2010, 58 prisoners were under a

sentence of death by the federal government, which was a much smaller number than the approximately 3,100 prisoners under a sentence of death by state courts during the same period (Snell, 2011).

### **Capital Trial Jury Selection**

For capital trials, the process of selecting jurors is quite different from non-capital trials, as the process of voir dire is more extensive and the goal is to achieve a “death qualified” jury (Butler & Wasserman, 2006). Death qualification occurs after potential jurors are queried about their opinions and attitudes regarding capital punishment. For a juror to be considered death qualified, he or she must be capable of considering all possible sentencing options, including life imprisonment without the possibility of parole, as well as death (Butler & Wasserman, 2006). The qualification process assists with the exclusion of potential jurors whose beliefs about the death penalty render them incapable of impartial sentencing (Butler & Moran, 2007). The current legal standard regarding death qualification arose from the case of *Wainwright v. Witt* (1985). In *Wainwright*, the court held that if a prospective juror believes so intensely about capital punishment that his or her belief would “prevent or substantially impair the performance of his duties as a juror,” then that juror should be dismissed for cause (*Wainwright v. Witt*, 1985, p. 852).

### **Problem Statement**

Death qualified jurors, selected to serve on capital trials, hold an unparalleled role in the criminal justice system. The decision of whether a defendant’s punishment should be death falls directly on the shoulders of these jurors. Despite data suggesting that serving as a capital juror can be an extremely stressful event, methodical research

studying the specific mental health effects of capital jury duty remains limited, with even less reported on the actual severity of the psychological impact of death penalty cases on capital jurors. Due to the number of capital cases that still occur in the United States, as well as the sparse literature on the potential link between juror stress and capital trials, further examination is warranted into the severity of the psychological impact on jurors' mental and emotional health.

### **Purpose of the Study**

The purpose of this study is to: (1) identify potential capital trial elements that trigger excessive stress and cause mental health effects in death qualified jurors; (2) analytically categorize any patterns, trends, or themes from existing studies, which examine the significance of capital juror stress triggers and their related mental health effects; and (3) evaluate any identified patterns, trends, and/or themes to ascertain the actual severity of the mental health impact of these stress triggers on capital jurors.

To the extent that the criminal justice system is responsible for assisting capital jurors with the integration back into their private and professional lives without lingering negative mental health effects, this research will be valuable to those individuals who interact with capital jurors, such as judges, prosecutors, defense attorneys, etc.

Ascertaining the severity of the mental health impact of capital trials on jurors can assist the criminal justice system with determining what intervening actions, if any, should be taken on behalf of capital jurors to lessen any significant mental health effects resulting from capital jury service.

**Research Question/Hypothesis**

This study seeks to ascertain the severity of the mental health effects of juror stress experienced while serving as a juror on a capital trial. The research question asks whether the severity of jurors' mental health symptoms rise to clinically significant levels and thus, warrant intervening action by the criminal justice system on behalf of capital jurors. The hypothesis for this study proposes that while capital jurors may unquestionably experience negative mental health effects from serving on capital trial juries, these mental health effects are not severe or long-lasting; therefore, do not rise to the level of clinical significance requiring intervening action from the criminal justice system.

**Delimitations**

The emphasis of this research was to ascertain the scope of the literature on the severity of mental health effects of capital jury duty; thus, studies that only documented potential triggers of juror stress and did not consider mental health effects were excluded. If the qualitative studies reviewed did not communicate descriptive mental health outcomes, such as symptoms of depression or posttraumatic stress, they were also excluded. Additionally, research that did not provide sufficient data regarding the study design or type of analysis were excluded.

**Assumptions**

This research makes two assumptions. The first is that jurors do not wish to suffer severe or long-term negative mental health effects due to stress experienced by serving on a capital trial jury. The second assumption is that individuals who interact

with or are responsible for capital trial jurors in the criminal justice system are willing to intervene on behalf of those jurors, if necessary, so jurors may successfully complete their jury service without a severe or lingering mental health impact.

### **Definition of Key Terms**

#### *Acute Stress Disorder:*

The clinical presentation of acute stress disorder may vary by individual but typically involves an anxiety response that includes some form of reexperiencing of or reactivity to a traumatic event. In some individuals, a dissociative or detached presentation can predominate, although these individuals typically will also display strong emotional or physiological reactivity in response to trauma reminders. The diagnostic criterion includes:

- A. Exposure to actual or threatened death, serious injury, or sexual violation in one (or more) of the following ways:
  - 1. Directly witnessing the traumatic event(s).
  - 2. Witnessing, in person, the event(s) as it occurred to others.
  - 3. Learning that the event(s) occurred to a close family member or close friend.
  - 4. Experiencing repeated or extreme exposure to aversive details or the traumatic event(s) (e.g., first responders collecting human remains, police officers repeatedly exposed to details of child abuse).
  
- B. Presence of nine (or more) of the following symptoms from any of the five categories of intrusion, negative mood, dissociation, avoidance, and arousal, beginning or worsening after the traumatic event(s) occurred.

### Intrusion Symptoms

1. Recurrent, involuntary, and intrusive distressing memories of the traumatic event(s).
2. Recurrent distressing dreams in which the content and/or affect of the dream are related to the event(s).
3. Dissociative reactions (e.g., flashbacks) in which the individual feels or acts as if the traumatic event(s) were recurring.
4. Intense or prolonged psychological distress or marked physiological reactions in response to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).

### Negative Mood

5. Persistent inability to experience positive emotions (e.g., inability to experience happiness, satisfaction, or loving feelings).

### Dissociative Symptoms

6. An altered sense of the reality of one's surroundings or oneself (e.g., seeing oneself from another's perspective, being in a daze, time slowing).
7. Inability to remember an important aspect of the traumatic event(s).

### Avoidance Symptoms

8. Efforts to avoid distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).
9. Efforts to avoid external reminders (people, places, conversations, activities, objects, situations) that arouse distressing memories, thoughts, or feelings

about or closely related with the traumatic event(s).

#### Arousal Symptoms

10. Sleep disturbance (e.g., difficulty falling or staying asleep, restless sleep).

11. Irritable behavior and angry outbursts (with little or no provocation), typically expressed as verbal or physical aggression toward people or objects.

12. Hypervigilance.

13. Problems with concentration.

14. Exaggerated startle response.

C. Duration of the disturbance (symptoms in Criterion B) is three days to one month after trauma exposure.

D. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.

E. The disturbance is not attributable to the physiological effects of a substance (e.g., medication or alcohol) or another medical condition (e.g., mild traumatic brain injury) and is not better explained by brief psychotic disorder (American Psychiatric Association, 2013).

#### *Anxiety (Generalized Anxiety Disorder):*

The essential feature of generalized anxiety disorder is excessive anxiety and worry (apprehensive expectation) about a number of events or activities. The individual finds it difficult to control the worry and to keep worrisome thoughts from interfering with attention to tasks at hand. The diagnostic criterion includes:

A. Excessive anxiety and worry (apprehensive expectation), occurring more days

than not for at least six months, about a number of events or activities (such as work or school performance).

- B. The individual finds it difficult to control the worry.
- C. The anxiety and worry are associated with three (or more) of the following six symptoms (with at least some symptoms having been present for more days than not for the past six months):
  1. Restlessness or feeling keyed up or on edge.
  2. Being easily fatigued.
  3. Difficulty concentrating or mind going blank.
  4. Irritability.
  5. Muscle tension.
  6. Sleep disturbance (difficulty falling or staying asleep, or restless unsatisfying sleep.)
- D. The anxiety, worry, or physical symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of function.
- E. The disturbance is not attributable to the physiological effects of a substance or another medical condition (e.g., hyperthyroidism).
- F. The disturbance is not better explained by another mental disorder (American Psychiatric Association, 2013).

*Challenge for Cause:*

A challenge that seeks to exclude a potential juror for some specified reason.

Typical reasons include prejudice, bias, or prior familiarity with a case that would



prevent the impartial assessment of the testimony or evidence presented in court  
(*Wex Legal Dictionary*, n.d.).

*Depression (Major Depressive Disorder):*

The symptoms of major depressive disorder are characterized by an overwhelming feeling of sadness, isolation, and despair that lasts two weeks or longer at a time. A person who suffers from a major depressive disorder must either have a depressed mood or a loss of interest or pleasure in daily activities consistently for at least a two-week period. The depressed mood must represent a significant change from the person's normal mood. The diagnostic criterion includes:

- A. Five (or more) of the following symptoms have been present during the same two-week period and represent a change from previous functioning; at least one of the symptoms is either (1) depressed mood or (2) loss of interest or pleasure.
  - 1. Depressed mood most of the day, nearly every day, as indicated by either subjective report (e.g., feels sad, empty, hopeless) or observation made by others (e.g., appears tearful).
  - 2. Markedly diminished interest or pleasure in all, or almost all, activities most of the day, nearly every day (as indicated by either subjective account or observation).
  - 3. Significant weight loss when not dieting or weight gain (e.g., a change of more than 5% of body weight in a month), or decrease or increase in appetite nearly every day.

4. Insomnia or hypersomnia nearly every day.
  5. Psychomotor agitation or retardation nearly every day (observable by others, not merely subjective feelings of restlessness or being slowed down).
  6. Fatigue or loss of energy nearly every day.
  7. Feelings of worthlessness or excessive or inappropriate guilt (which may be delusional) nearly every day (not merely self-reproach or guilt about being sick).
  8. Diminished ability to concentrate or indecisiveness, nearly every day (either by subjective account or as observed by others).
  9. Recurrent thoughts of death (not just fear of dying), recurrent suicidal ideation without a specific plan, or a suicide attempt or a specific plan for committing suicide.
- B. The symptoms cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- C. The episode is not attributable to the physiological effects of a substance or to another medical condition.
- D. The occurrence of the major depressive episode is not better explained by schizoaffective disorder, schizophrenia, schizophreniform disorder, delusional disorder, or other specified and unspecified schizophrenia spectrum and other psychotic disorders.
- E. There has never been a manic episode or a hypomanic episode (American

Psychiatric Association, 2013).

*Peremptory Challenge:*

One of a limited number of jury challenges provided to each side in a case prior to the start of trial. The challenge results in the exclusion of a potential juror without the need to state a reason, unless the opposing party presents an irrefutable argument that the challenge was used to discriminate on the basis of gender, race, or ethnicity (*Wex Legal Dictionary*, n.d.).

*Posttraumatic Stress Disorder:*

Posttraumatic stress disorder (PTSD) is the development of certain distinctive symptoms after exposure to one or more traumatic events. The clinical presentation of PTSD varies. In some individuals, fear-based reexperiencing, emotional, and behavioral symptoms may predominate. In others, anhedonic or dysphoric mood states and negative cognitions may be most distressing. The diagnostic criterion includes:

- A. Exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways:
  1. Directly experiencing the traumatic event(s).
  2. Witnessing, in person, the event(s) as it occurred to others.
  3. Learning that the traumatic event(s) occurred to a close family member or close friend. In cases of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental.
  4. Experiencing repeated or extreme exposure to aversive details of the traumatic event(s) (e.g., first responders collecting human remains; police officers

repeatedly exposed to details of child abuse).

B. Presence of one (or more) of the following intrusion symptoms associated with the traumatic event(s), beginning after the traumatic event(s) occurred:

1. Recurrent, involuntary, and intrusive distressing memories of the traumatic event(s).
2. Recurrent distressing dreams in which the content and/or effect of the dream are related to the traumatic event(s).
3. Dissociative reactions (e.g., flashbacks) in which the individual feels or acts as if the traumatic event(s) were recurring. (Such reactions may occur on a continuum, with the most extreme expression being a complete loss of awareness of present surroundings).
4. Intense or prolonged psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).
5. Marked physiological reactions to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).

C. Persistent avoidance of stimuli associated with the traumatic event(s), beginning after the traumatic event(s) occurred, as evidenced by one or both of the following:

1. Avoidance of or efforts to avoid distressing memories, thoughts, or feelings about or closely related with the traumatic event(s).
2. Avoidance of or efforts to avoid external reminders (people, places, conversations, activities, objects, situations) that arouse distressing memories,

thoughts, or feelings about or closely associated with the traumatic event(s).

D. Negative alterations in cognitions and mood associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:

1. Inability to remember an important aspect of the traumatic event(s) (typically due to dissociative amnesia and not to other factors such as head injury, alcohol, or drugs).
2. Persistent and exaggerated negative beliefs or expectations about oneself, others, or the world (e.g., “I am bad,” “No one can be trusted,” “The world is completely dangerous,” “My whole nervous system is permanently ruined.”)
3. Persistent, distorted cognitions about the cause or consequences of the traumatic event(s) that lead the individual to blame himself/herself or others.
4. Persistent negative emotional state (e.g., fear, horror, anger, guilt, or shame).
5. Markedly diminished interest or participation in significant activities.
6. Feelings of detachment or estrangement from others.
7. Persistent inability to experience positive emotions (e.g., inability to experience happiness, satisfaction, or loving feelings).

E. Marked alterations in arousal and reactivity associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:

1. Irritable behavior and angry outbursts (with little or no provocation) typically expressed as verbal or physical aggression toward people or objects.

2. Reckless or self-destructive behavior.
  3. Hypervigilance.
  4. Exaggerated startle response.
  5. Problems with concentration.
  6. Sleep disturbance (e.g., difficulty falling or staying asleep or restless sleep)  
(American Psychiatric Association, 2013).
- F. Duration of the disturbance (Criteria B, C, D, and E) is more than 1 month.
- G. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- H. The disturbance is not attributable to the physiological effects of a substance (e.g., medication, alcohol) or another medical condition (American Psychiatric Association, 2013).

*Secondary Trauma:*

The impact of “second injuries” or the re-experiencing of an event, which propel the survivor back into crisis, generally caused by external forces that were activated by the initial trauma. The re-experiencing of an event due to traumatic memories can be as disturbing as the original experience (Young, 2002).

*Sequestration:*

A sequestered jury is commonly housed together in a hotel and banned from contacting anyone other than court officers. Sequestration occurs infrequently and may be used to keep media away from jurors during a high-profile trial where extensive news coverage might potentially impact a juror’s decision (Judicial

Council of California, 2016c).

*Severe:*

An effect that is substantial and persistent, as differentiated from insignificant or transitory. For example, “severe emotional distress” is defined as distress being of such significant quantity or persistent quality that no reasonable person in a cultured society should be required to endure it. In determining the severity of a psychological impact, significance is given to its intensity and length (Smith, 2015).

*Traumatic Stress:*

Any psychological experience that is emotionally distressing or traumatizing, which may result in long-term physical or mental effects. Often referred to as "emotional harm", it is the natural reaction to an extreme event (National Organization for Victims Assistance, 2002).

*Venire:*

A panel of prospective jurors, from which a jury is ultimately chosen (*Wex Legal Dictionary*, n.d.).

*Voir Dire:*

French, “To speak the truth.” The process through which potential jurors from the venire are questioned by either the judge or a lawyer to determine their suitability for jury service (*Wex Legal Dictionary*, n.d.).

## Chapter 2

### **REVIEW OF THE LITERATURE**

Serving on a jury in a criminal trial is a civic responsibility encountered by over 1.5 million Americans each year (National Center for State Courts, 2007). While countless United States citizens describe jury duty as a privilege, jurors do not always take pleasure in the experience. Representing the community on a criminal jury trial, especially for extremely heinous crimes such as child abuse, rape, or murder is typically very different from any experience a juror has ever faced (Miles-Thorpe, 2011).

Criminal trials that involve cases of capital murder are thought to be particularly arduous and stressful for jurors, since upon the determination of guilt, a juror may also have to decide between a sentence of either life imprisonment or death (Cusack, 1999). While capital jurors play a fundamental role in the criminal trial process, the stress from serving on a capital jury may trigger negative mental health effects in jurors that can potentially persist for weeks, months, or even years after particularly disturbing criminal trials (Goleman, 1991).

The stress-related symptoms experienced by some capital jurors include, but are not limited to, depression, anxiety, nightmares, irritability, fear, and paranoia (Antonio, 2006; Goleman, 1991). These psychological symptoms may be triggered by several trial-related factors, including gruesome or shocking crime scene photographs, an intrusive voir dire process, or the process of reaching a unanimous verdict of life imprisonment or death in capital trials (Feldmann & Bell, 1993; Hannaford-Agor, 2011). The focus of this



study is to explore the stress triggers and mental health effects experienced by capital jurors as a result of the stress and trauma of capital trials.

### **Effects of Stress and Trauma**

Stress is frequently explained as the feeling of being troubled, overwhelmed, or wearied (American Psychological Association [APA], 2016). A common definition of stress suggests that it is any distressing emotional occurrence accompanied by physiological, behavioral, and/or biological changes. Stress is thought to be made up of an individual's circumstances and characteristics, reflecting both external and internal forces (Butler, 1993). Per the APA, stress can affect individuals of any age, gender, or condition, and bring about physical as well as psychological health concerns (2016).

While stress is thought to be caused by situations or circumstances directly encountered by individuals, an alternative means of experiencing stress is through secondary exposure. Stressors can result from any occurrence or incident where pressures overwhelm a person's ability to sustain emotional and psychological equilibrium (Lazarus, 1998). For example, being a bystander at a tragic event, listening to graphic descriptions of traumatic events, or obtaining detailed knowledge about a distressing event may cause varying degrees of significant stress (Lerias & Byrne, 2003). This type of secondary trauma exposure, often referred to as vicarious traumatization, was defined in a 2003 study as "the response of those persons who have witnessed, been subject to explicit knowledge of or, had the responsibility to intervene in, a seriously distressing or tragic event" (Lerias & Byrne, 2003, p. 130). Any individual that construes an incident as personally intimidating, or for whom the incident triggers fearful memories

of prior threatening events, can be identified as a vicarious witness. These individuals may undergo the same quantity and quality of traumatic reactions and stressors as a person experiencing an actual external threat (National Organization for Victims Assistance, 2002).

In recent years, substantial research has focused on identifying the effects of secondary trauma on an individual's mental health (Robertson, Davies, & Nettleingham, 2009). Studies have recognized that trauma is not only limited to the victims of disturbing events, but can also affect those interacting with the victims. Thus, vicarious traumatization may also occur within such populations as mental health counselors working with trauma survivors, health care workers, disaster relief volunteers, and law enforcement officers (Lerias & Byrne, 2003).

A study by Steed and Downing (1998) found that both non-victims and non-witnesses of a traumatic incident may actually "re-experience" the incident. For instance, listening to a graphic description of a horrendous event can trigger the listener to commiserate with the victim, as well as allow the listener to experience feelings similar to those of the victim. A listener may create an internal image of the event in his or her memory, producing a re-experience of that event when specifically reminded of the victim (Steed & Downing, 1998). Studies also link vicarious experience with trauma to intrusive memories and symptoms of dissociation, affirming that while these symptoms are not as significant as for the individuals directly exposed to a trauma, the symptoms remain appreciably stressful (Lerias & Byrne, 2003).

### **Juror-related Stress Research**

Research has addressed the question of whether populations such as criminal trial jurors can suffer from vicarious traumatization through their exposure to particularly distressing elements of a trial (Robertson et al., 2009). Criminal trial jurors who are exposed to graphic evidence and distressing testimony for weeks or even months during particularly lengthy trials may arguably become vicariously traumatized. A study by Baird and Kracen (2006) found that vicarious traumatization caused a disruption to an individual's cognitive schemas in such areas as safety, intimacy, trust, esteem, and control, each of which signifies a psychological need. For example, individuals are found to possess schemas that perceive the world as secure, believing that people are reasonably safe from harm by others. However, depending on such factors as the nature of the criminal trial and the gruesomeness of the evidence, jurors' schemas may be disrupted temporarily or permanently during and after serving on a criminal jury (Baird & Kracen, 2006).

Additionally, research about juror-related stress identified potential hindrances that may occur when a group experiences and operates under a high amount of stress. A study by Krummel (2009) found that the capacity of a group to manage difficult tasks that demand extremely focused attention decreased under periods of intense stress. Since serving as a juror requires intense focus on details throughout the course of a trial, this decrease in attention may be potentially detrimental to the trial process (Krummel, 2009).

Research has also shown that the greater the stress experienced, the more likely a group is to make impulsive choices from available alternatives (Krummel, 2009). Again,

this may be detrimental to the trial process, especially in death penalty cases where the defendant's life is in the hands of the jury. Moreover, under increasing levels of stress, group members have been shown to experience a reduction in productive thoughts and an increase in distracting thoughts. Whether the stress is actual or merely perceived by the group members, only their immediate survival goals are considered, making long-range considerations more readily sacrificed (Krummel, 2009). Therefore, if a jury member has been involved in a lengthy trial, especially if sequestered from family and friends, the juror may make a rash decision as to a sentence recommendation so as to put an end to his or her jury service.

### **Triggers of Juror Stress**

#### **Kaplan Study**

The earliest published research regarding juror stress triggers involved interviews with a death penalty jury in the state of Ohio. This research, conducted by Stanley Kaplan began in 1985 and studied jurors who had sentenced a defendant to death for the rape and aggravated murder of a 19-year-old woman by a 'salesman' who was in her home (Bertrand, Paetsch, & Anand, 2008). Per the defendant's testimony, when "he accidentally brushed against her breast in the bathroom, she screamed and didn't stop until he had badly beaten her and slashed her throat" (Cusack, 1999, p. 31).

During the trial, the jury viewed distressing evidence, including graphic photographs of the victim's mutilated body, her bloodstained clothes, and the knife that was determined to be the murder weapon. The jury also took an on-site tour of the murder scene. In addition, the jury heard testimony regarding the defendant's traumatic

personal history of extensive physical abuse inflicted by his stepfather (Bertrand et al., 2008). Defense witnesses testified that the defendant had been violently beaten as a child, forced to take ice water baths, and zipped into a duffel bag with only his head uncovered at night (Cusack, 1999). In that capital case, the court sequestered the jury in a hotel for five nights during deliberations before they rendered a guilty verdict (DeLipsey, 1994).

The idea for Kaplan's (1985) study purportedly came after he overheard a juror from the trial describe her experience as "traumatic" to the media (Lonergan, Leclerc, Descamps, Pigeon, & Brunet, 2016). His study began two months after the trial ended and consisted of gathering information through three group interview sessions with jurors (Bertrand et al., 2008). Kaplan's study involved 16 jurors, including alternates, which consisted of five men and 11 women, ranging in age from 19 to 67 (Cusack, 1999). All 16 jurors attended the first interview session, which concentrated on the emotional impact of the trial experience. The second interview session included 15 jurors and focused on the influence of the trial experience on juror's personal lives. The third interview session, which was a follow-up conducted four months after the previous two interviews, included 10 remaining jurors (Bertrand et al., 2008).

Kaplan's (1985) research began the task of identifying various elements of a criminal trial that may potentially produce juror stress (DeLipsey, 1994). Kaplan found that the following elements triggered stress for the capital trial jurors:

1. Viewing graphic victim photographs;
2. Listening to the emotions of witnesses and explicit descriptions of the crime;

3. Visiting the crime scene;
4. Fearing an occurrence of courtroom violence from the defendant;
5. Being sequestered during deliberations;
6. Signing the death penalty verdict; and
7. Affirming their agreement with the verdict in open court (Bertrand et al., 2008).

By extrapolating from juror interviews, Kaplan also surmised that another probable juror stress element was a lengthy trial in which the jury had problems agreeing on a verdict of guilt or innocence (DeLipsey, 1994).

While Kaplan's (1985) study helped to articulate various elements of a capital trial that may potentially trigger juror stress, the study had limitations. For example, the study utilized the data from only one jury panel from one trial (Cusack, 1999). Also, the study's methodology made it problematic to generalize the results to other juries, because due to the nature of the research, Kaplan was unable to utilize a control group and did not control for potential confounding variables, such as pre-existing stress conditions within the jurors (Bertrand et al, 2008). By failing to incorporate a control group, the study can draw no causal connections between the independent variables (potential triggers of stress) and the dependent variable (juror stress) (Bertrand et al, 2008).

### **National Center for State Courts Study**

A decade after the completion of Kaplan's (1985) study, a landmark research study was published by the National Center for State Courts (NCSC, 1998). The 1998 NCSC study was completed in conjunction with the College of William and Mary's Psychology Department and funded by the State Justice Institute. The purpose of the

study, which is considered the most comprehensive research study on jury stress in the United States, was to ascertain the nature, basis, significance, and duration of juror stress while serving on criminal trials (NCSC, 1998).

The NCSC (1998) researchers collected data from judges and juries, as well as from those summoned for jury duty but not selected to serve, in six demographically and geographically distinct state trial courts, including Arizona, California, Pennsylvania, Tennessee, and two districts in Minnesota (NCSC, 1998). A total of 401 jurors or juror alternates participated in the study, along with 453 unassigned members of the jury panel, which were used as a control group. Additionally, 441 judges completed a preliminary survey concerning jury stress, and 118 of those judges completed a more comprehensive follow-up survey (Bertrand et al., 2008).

The NCSC (1998) study utilized numerous psychological assessment tools adapted specifically for the project (Bertrand et al., 2008). For example, the Jury Duty Survey (NCSC, 1998), a modified form of the Horowitz Impact of Event Scale (Horowitz, Wilner, & Alvarez, 1979), was redesigned to reflect juror's opinions of their jury experience and potential stress-related symptoms. This scale contained 20 *yes or no* statements, such as *I am more tense than I was before jury duty*, and *Something should have been done to reduce our stress levels* (NCSC, 1998).

The Jury Duty Stress Scale (NCSC, 1998), also used with jurors, contained 50 questions related to elements of the juror experience. For example, jurors were asked to rate on a five-point scale, the stressfulness of such items as viewing disturbing and grisly evidence, and being openly acknowledged as a juror in the courtroom (Bertrand et al.,

2008). Juror responses represented both criminal and civil cases, including 60% who served on criminal trials such as robbery, assault, drunk driving, rape, manslaughter, and murder. Of these criminal cases, capital punishment crimes accounted for 16% (NCSC, 1998).

For the participating judges, a preliminary survey was sent, seeking their thoughts on the occurrence and possible triggers of juror stress (Bertrand et al., 2008). A follow-up questionnaire was later sent, asking the judges to rate the stressfulness of 49 potential triggers on a five-point scale. The judges were also requested to specify the top five sources that they believed triggered stress in their jurors (Bertrand et al., 2008).

The NCSC (1998) study established that jurors encounter various sources of stress at each phase of jury duty, starting at the beginning with receipt of the jury summons. Several major triggers of juror stress identified by the NCSC for non-death penalty cases were as follows:

1. Disruption of daily schedules;
2. Prolonged waits with little communication, frequently in unpleasant surroundings;
3. Anxiety from voir dire questioning;
4. Tension from filtering through opposing versions of facts and unknown legal concepts;
5. Discord among jurors during deliberations; and
6. Isolation after the verdict and discharge from jury service (NCSC, 1998).

The NCSC study also identified additional elements of a criminal trial that may



trigger juror stress. These elements included the stress of serving on a trial where the victim was a child, and having to speak in front of people during voir dire and jury deliberations (NCSC, 1998). While capital jurors serving on death penalty cases reported comparable triggers, additional stress arose from deciding whether to deliver a sentence of death. The NCSC study likewise found that trials lasting between 11 and 20 days, of which 73% were death penalty cases, were two to three times more likely to trigger a large amount of juror stress when compared to shorter trials (Bertrand et al., 2008).

Regarding the judicial perceptions of juror stress triggers, the judges determined the following to be the most stress inducing:

1. Crimes involving children;
2. Violent or sexually-based crimes;
3. Determining whether to award the death penalty;
4. Distressing or horrific evidence;
5. Sequestration for an entire trial;
6. Mistrials or hung juries;
7. Lengthy trials; and
8. Evidence or events with personal meaning for jurors (NSCS, 1998).

### **Additional Research on Juror Stress Triggers**

Sonia Chopra conducted additional research into potential triggers of juror stress in 2002 (Bertrand et al., 2008). Chopra's study examined the Canadian juror experience by utilizing methods previously employed in studies of American juror stress, and featured semi-structured interviews with 80 prior criminal trial jurors to identify and

analyze major sources of jury stress (Chopra, 2002).

Similar to the NCSC study conducted in 1998, Chopra's research adapted psychological scales to measure juror stress (Chopra, 2002). The study utilized revised versions of the Jury Duty Survey (NCSC, 1998), Jury Duty Stress Scale (NCSC, 1998), and Impact of Events Scale (Horowitz et al., 1979). Of the 80 jurors interviewed for the study, the majority served on trials concerning crimes against persons, with 41% serving on murder trials (Bertrand et al., 2008).

Chopra's (2002) study identified ten major triggers of juror stress reported by the Canadian jurors. These triggers, which were similar to those established in the American studies, included:

1. Determining a verdict;
2. Deadlocked jury;
3. Jury deliberations and discussions;
4. The nature of the offense;
5. Discord among jurors;
6. Fear of making an error;
7. Distressing or horrific evidence;
8. Sequestration throughout deliberations;
9. Prohibition on revealing the case to family or friends; and
10. Representing a minority stance during jury deliberations (Chopra, 2002).

Chopra's (2002) study also identified some jurors who reported significant stress from possible encounters with the defendant or his or her family, both during and after

the trial, as well as concerns about retaliation for their verdict (Chopra, 2002).

Additionally, considerable stress was triggered when serving on high-profile cases or cases involving certain criminal organizations. Although rare, Chopra (2002) found that high-profile cases can bring an increased level of publicity to the courtroom as well as heightened security, adding to the level of juror stress.

Similar to prior research, Chopra's (2002) study experienced limitations comparable to those found in American studies (Bertrand et al., 2008). For example, as with Kaplan's (1985) research, Chopra's study failed to utilize a control group. There were also multiple interviewers administering different formats of the interviews, potentially influencing outcomes. Moreover, due to the small sample size and a limited geographical area from which the sample originated, the results were not especially generalizable (Bertrand et al., 2008).

Another study examining potential triggers of juror stress was published in 2005. This study, conducted by Bornstein, Miller, Nemeth, Page, and Musil (2005), focused on 19 civil and nine criminal trials from state and county courts in Nebraska. The nine criminal trials represented nine different crimes including, but not limited to, assault with a weapon, child sexual abuse, manslaughter, and child abuse/homicide. Of the 159 jurors who took part in the study, approximately 95% were Caucasian and 56% were female (Bornstein et al., 2005).

After delivering their verdicts, each of the 159 jurors completed a post-trial survey, rating 25 potential stress triggers on a five-point scale (Bornstein et al., 2005). The triggers were classified into stressor categories, such as evidence variables, process

variables, juror interactions, and decision consequences. The jurors completed a follow-up survey one month after the completion of their trials. The survey required them to rate the same potential stress triggers (Bornstein et al., 2005).

The results from the Bornstein et al. (2005) study were primarily consistent with the previous research regarding jury stress. Researchers found that jurors believed the most stressful factors of serving on a jury were associated with the decision-making process required in deliberations, the complex nature of the trial, and the interruption of jurors' day-to-day schedules. In addition, the study found that jurors experienced significantly more stress from jury service when required to serve on lengthy trials (Bornstein et al., 2005).

One limitation of the Bornstein et al. (2005) study was a lack of racial diversity, as the majority of the sample consisted of Caucasian jurors. Therefore, the sample did not allow for generalizability of the study into geographic areas that may not have a similar social structure. Also, it was possible that the participating jurors were not characteristic of the group of jurors as a whole; specifically, the jurors not willing to be included in the study may have suffered less or more stress than that described by the given sample (Bornstein et al., 2005).

### **Mental Health Effects from Juror Stress**

Researchers have consistently recognized that serving on a criminal trial jury can potentially trigger juror stress (Chopra, 2004; NCSC, 1998). The stress experienced from being a juror in a criminal trial may become apparent through a myriad of physiological and psychological symptoms (Miller, Flores, & Dolezilek, 2007). In some instances, the

literature reports that the psychological symptoms can be intense, much like those experienced by depressed individuals and crime victims. Also, jurors' stress symptoms are often described as being like those demonstrated by individuals diagnosed with anxiety disorders. These symptoms experienced by jurors do not always become evident during the trial, but may develop weeks or even months after a trial is completed (Miller et al., 2007).

Common symptoms associated with the trauma of serving as a criminal trial juror have reportedly included sleep difficulties, intrusive thoughts of the trial, disturbing or recurring nightmares, and feelings of agitation or restlessness (Feldmann & Bell, 1993). Jurors have also complained of phobic reactions, nervousness and tension, anorexia, increased alcohol usage, anxiety, and sexual inhibition (Kaplan & Winget, 1992). In addition, more serious and yet still common complaints from capital trial jurors included symptoms of major depressive disorder and PTSD, consisting of recurrent or intrusive memories of the trial, flashbacks, inability to concentrate, and hypervigilance (Antonio, 2008).

Unlike the trauma symptoms reported, less data has been collected on the severity of the mental health effects experienced by jurors. To evaluate the severity of the psychological impact, significance must be given to both the intensity and length of the symptoms. For example, the clinical diagnoses of major depressive disorder and PTSD each contain duration requirements. For the mental health effects to clinically qualify as major depressive disorder, the symptoms must be present most of the day, nearly every day, during the same two-week period (American Psychiatric Association, 2013). For a

PTSD diagnosis, the duration of the disturbance (which must include symptoms of intrusion, avoidance, negative alterations in cognition and mood, and marked alterations in arousal and reactivity) must be more than one month (American Psychiatric Association, 2013). Per the Diagnostic and Statistical Manual of Mental Disorders – 5<sup>th</sup> Edition, duration of the symptoms of PTSD can vary, with approximately one-half of adults experiencing a complete recovery within three months. Other individuals with PTSD may remain symptomatic for longer than one year and sometimes for more than 50 years (American Psychiatric Association, 2013).

In addition to the focus on duration, both diagnoses of major depressive disorder and PTSD share similar criterion in order to qualify for a diagnosis; the disorders must elicit clinically significant impairment or distress in social, occupational, or other principal areas of functioning (American Psychiatric Association, 2013). For instance, the symptoms of PTSD must lead to impaired functioning across either some or most of the following domains: developmental, social, educational, interpersonal, occupational, and physical health (American Psychiatric Association, 2013). If the symptoms exhibited by capital jurors do not meet the qualifications for PTSD, the juror may instead qualify for the diagnosis of acute stress disorder. Acute stress disorder is differentiated from PTSD in terms of duration, as the symptom pattern, while similar, is restricted to a duration of three days to one month following exposure to the traumatic event (American Psychiatric Association, 2013).

### **Kaplan Study**

The 1985 study by Stanley Kaplan supported the presumption that many jurors

suffer stress responses both throughout and after criminal trials (Cusack, 1999). Each of Kaplan's 16 study participants reported the trial to be a 'significant life event', especially because capital punishment was a sentencing option. The participants described varying symptoms of stress from the trial, including recurring and intense nightmares, repetitive thoughts, persistent anxiety necessitating medication, and impaired memory (Cusack, 1999; DeLipsey, 1994).

Several female jurors in Kaplan's (1985) study reported a hypervigilance about strangers and their surroundings after the trial (Cusack, 1999). Many participants described intrusive thoughts, which they guarded against by withholding or isolating themselves. Several jurors reported feeling numb after the trial and complained that external stimuli such as stories of other trials, television programs with aggressive content, viewing a knife, being alone in a restroom, as well as other reminders of the trial, stirred unwelcomed and intrusive thoughts and emotions (Cusack, 1999).

One juror described a phobic response to restrooms after visiting the crime scene and seeing pictures of the deceased victim on the restroom floor (Cusack, 1999). Other jurors reported physiological symptoms such as headaches, nausea, loss of appetite, faintness, trembling, sleeplessness, and fatigue. Additionally, two jurors were found to be increasingly affected by the trial, experiencing negative mental health effects. The study found that one female juror suffered a flashback, allegedly causing her to uncontrollably shake her daughter after realizing the girl had spoken with a door-to-door salesman. Another female juror apparently sent her children away, moved to a new area, and began consuming higher quantities of alcohol (Cusack, 1999).

Kaplan's 1985 study was limited in scope and not generalizable, as it utilized a limited juror source (Cusack, 1999). Also, there was a loss of follow-up with the jurors, as only 10 of the original 16 jurors completed the final interviews. Despite these limitations, the information uncovered in the pioneering study has been confirmed through later research (Cusack, 1999).

### **Shuman, Hamilton, and Daley Study**

A study conducted by Shuman, Hamilton, and Daley (1994) utilized a quantitative review of 152 jurors from Dallas County, Texas who had served on 26 different criminal cases. The purpose of their study was to compare and examine juror stress levels in criminal cases comprised of traumatic versus non-traumatic subject matter (Shuman et al., 1994). The researchers' initial assumption was that stress symptoms would not be identical among jurors. For example, they theorized that jurors who served on "traumatic" criminal trials, such as those for aggravated kidnapping, rape, child abuse, murder, and/or death penalty cases, were more likely to experience differing levels of mental health effects than jurors who served on "non-traumatic" criminal trials, such as for crimes as burglary or drug possession (Shuman et al., 1994). The Shuman et al. (1994) study also anticipated a greater occurrence of anxiety and depression symptoms affecting jurors serving on traumatic trials.

For the study, jurors were provided with a list of potential symptoms that indicated the diagnostic criteria for both anxiety and depression, along with additional symptoms suggested by available stress literature (Shuman et al., 1994). They were asked to specify if they had suffered from any such symptoms during the trial,



deliberations, or after the trial ended.

Jurors who served in traumatic criminal trials were found by Shuman et al. (1994) to experience significantly more intense stress, as well as approximately three times the number of stress symptoms, than jurors who served in non-traumatic trials. The study determined that stress factors occurring during deliberations, as opposed to stress encountered during the trial itself, had longer lasting mental health effects. Additionally, Shuman et al. (1994) found that minority jurors reported trauma symptoms more often than Caucasian jurors, and female jurors reported anxiety-based symptoms more frequently than male jurors. Male jurors who served in traumatic criminal trials reported that their stress symptoms continued longer after the trials ended than male jurors in non-traumatic trials (Shuman et al., 1994).

### **National Center for State Courts Study**

The NCSC study from 1998 concluded that the highest levels of juror stress occurred both during and after trials for death penalty cases (NCSC, 1998). The research included 37 individuals who had served on death-qualified juries, with approximately 86% of these jurors reporting stress as a direct result of jury service. Likewise, 92% of death qualified jurors believed that fellow jurors also experienced stress as a direct result of jury service, with 46% supporting the notion that their jury service experience would trigger emotional problems in most people (NCSC, 1998).

Regarding identifiable reactions to jury service, death penalty jurors in the NCSC (1998) study reported distressing memories of their jury service and more tension than prior to their jury service. Also, jurors described having pent up emotions due to the trial,

with numerous jurors reporting they felt numb and disconnected (NCSC, 1998). An interesting aspect of the study was the discovery that jurors who were summoned to jury duty, yet not selected as jurors, also reportedly suffered stress much like the jurors who served on a jury. An evaluation of the responses from these individuals indicated that the stress non-selected jurors encountered likely developed from the frustration of being “on call,” waiting around to see if they were to be chosen, and having to reschedule their daily activities, without achieving the closure that comes from serving on a trial (NCSC, 1998).

### **Additional Research on Juror Mental Health Symptoms**

Additional research into potential psychological symptoms, triggered by juror stress, was conducted in Canada in 2002 (Chopra, 2002). Chopra’s study, featuring semi-structured interviews with 80 Canadian criminal trial jurors, indicated that 66% of the jurors reported stress symptoms as a direct result of their jury service. Additionally, 21% of the jurors disclosed that they had distressing memories related to their jury duty, with almost 28% of the jurors articulating the opinion that their involvement with jury duty would trigger emotional or stressful symptoms in most people (Chopra, 2002).

Borstein et al. (2005) conducted another American study that examined the psychological symptoms of juror stress. The research, conducted in Nebraska, identified that approximately 39% of the 159 jurors in the study had suffered from at least some stress due to their jury service (Bornstein et al., 2005). This finding was consistent with previous American studies, such as the NCSC study from 1998, which reported 33% of jurors as having experienced stress from jury service.

### **Ongoing Research on Juror Stress**

The Capital Jury Project (CJP) (Bowers, 1995) is an ongoing national program of research, that addresses how jurors who serve in capital cases make life or death sentencing decisions (Antonio, 2006). With support from the National Science Foundation, a consortium of university-based researchers from the School of Criminal Justice at the University of Albany, State University of New York, conducts the project. The research initially began in 1990 and included eight death penalty states. As the project developed, an additional six states were added (Antonio, 2008). The CJP sample is ultimately made up of jurors from Florida, Missouri, Alabama, Indiana, California, Kentucky, Georgia, Texas, Louisiana, North Carolina, South Carolina, Pennsylvania, Virginia, and Tennessee. These 14 states were chosen for the study as they embody principal distinctions between capital statutes, with several states having carried out the greatest number of executions (Antonio, 2008).

Reviewing the comprehensive personal interviews conducted by the CJP, 1,198 jurors participated from 353 capital trials in the 14 states (Antonio, 2008). Within each state, 20 to 30 capital trials were chosen and samples of three or four jurors from each trial were randomly selected to participate in interviews. The interviews, which lasted from three to four hours, asked both structured and open-ended questions, and recorded the data for about 700 variables regarding the juror's decision-making process and experiences throughout the progression of the trial (Antonio, 2008). During the interviews, each juror was asked two specific questions: *Did you find the experience emotionally upsetting?* and *During the trial or right after it, did you have any trouble*

*sleeping, any bad dreams or nightmares, or lose your appetite?* (Antonio, 2006). The jurors were requested to respond either yes or no, and could further expound upon their answers.

A total of 534 jurors explained, with differing amounts of detail, how emotionally troubling and stressful their capital jury experiences had been (Antonio, 2006). In addition, 327 jurors expounded upon specific problems they developed both during and after trial. A significant majority of jurors reported their jury experience negatively, describing their service on a capital jury as “emotionally upsetting” (Antonio, 2008). However, a much lower number of jurors reported problems eating or sleeping during or after the trial. The research also indicated that more female jurors reported being emotionally upset due to serving on a capital trial, as well as experiencing problems with eating and sleeping, than male jurors (Antonio, 2008). Interestingly, jurors whose capital trials resulted in a sentence of death for the defendant were only marginally more likely to suggest the experience was emotionally upsetting when compared to jurors whose cases resulted in life sentences. In addition, despite whether the case resulted in the death penalty or a sentence of life imprisonment, there was little reported impact on juror’s experience with problems eating or sleeping (Antonio, 2008).

The findings from the interviews conducted by the CJP suggested that all jurors, not only those who serve in capital trials, may experience substantial emotional obstacles and extreme stress due to jury service (Antonio, 2008). A variety of patterns appeared from juror’s narratives, with many of the patterns involving feelings or thoughts that developed long after the completion of the trial. Numerous jurors described long-term

effects, such as lingering emotional or physical problems, as well as troubles relating to family and friends, which appeared in the weeks or months after the trial. Per the CJP, female jurors experienced long-term effects more often than male jurors. Likewise, more female jurors than males revealed a fear of retaliation from the defendant, the defendant's family or friends, or the victim's family or friends (Antonio, 2008). Additionally, both female and male jurors expressed the opinion that if they were ever asked to serve as a capital juror in the future, they would refuse to do so (Antonio, 2008).

In general, the CJP concluded in their study that all criminal jury trials may include the possibility of viewing evidence that jurors may find distressing (Antonio, 2006). Disturbing cases that involve harm or death to victims may facilitate negative psychological reactions, which can affect both female and male jurors. The research indicated that female and male jurors who serve on capital trials may experience tremendous stress and emotional impediments. As substantiated by the narrative interviews in the CJP, a significant percentage of jurors in capital trials were found to be negatively affected by what happens inside the courtroom during a trial, and certain factors appear to affect female jurors more than male jurors (Antonio, 2006).

### **Summary**

The research cited in this literature review indicates that criminal trial jurors may experience substantial stress and become emotionally distressed both during and after serving on capital trials. The prior studies have provided data to suggest that the nature of the crime, presentation of testimony and evidence during trial, and sentencing options, may significantly contribute to juror stress. This current study will attempt to ascertain

and understand the severity of the mental health effects stemming from stress triggers, which may occur while serving as a juror on a capital trial.

### Chapter 3

## **METHOD**

### **Design**

A qualitative content analysis was conducted for this study. Content analysis research is an effective means of systematically describing spoken, visual, or written communication, and is an unobtrusive means of analyzing narratives or interactions (Zhang & Wildemuth, n.d.). Qualitative content analysis is arguably more than merely separating factual content from texts to explore patterns, trends, or themes. This type of research technique allows the researcher to make replicable and valid inferences by interpreting textual materials through inductive reasoning, as well as distinguishing patterns and themes from the data by continuous comparison (Zhang & Wildemuth, n.d.).

For this study, the content analysis of the severity of mental health effects on capital trial jurors examined the patterns, trends, or themes identified from previous studies to increase the understanding of the phenomena and help inform practical actions. The analysis included a detailed examination of both primary and secondary sources. While this study utilized prior data instead of interviewing current or recent capital jurors, primarily due to legal constraints regarding juror privacy, the results of this study are relevant and available to interested judges, prosecutors, defense attorneys and others,

such as mental health counselors, who interact with capital trial jurors both during and after capital trials.

### **Procedures**

The procedures for this research study followed a traditional approach for searching academic literature. Utilizing a research database portal, searches were initiated through the following databases: ProQuest Dissertations and Theses Global, Academic Search Premier, PsycINFO, LexisNexis Academic, and Criminal Justice Abstracts. The following keywords were used in various combinations to search the databases: anxiety, capital jurors, capital punishment, capital trials, criminal, depressed, depression, generalized anxiety disorder, graphic evidence, graphic testimony, juries, juror, jurors, juror stress, major depression, mental health, psychological effects, posttraumatic stress disorder, PTSD, and violence. Additionally, sources outside of the noted research databases included Google Scholar, ResearchGate, the Social Science Research Network, and various .edu, .gov, .org, and .com websites, employing similar and related search terms.

After conducting the applicable searches and removing duplicates, the titles and/or abstracts were scrutinized per the following inclusion standards: (1) peer-reviewed and academic studies, (2) original research studies examining criminal trial jurors, especially those serving on capital trials, and (3) original research studies reporting mental health effects of juror stress. The articles and/or studies that met these inclusion standards were read and evaluated in their entirety, determining their validity for inclusiveness in this research study.

## **Data Analysis**

The data analysis for this research followed a standard progression for a content analysis, including: (1) identifying and creating a record of patterns, trends, or themes involving capital trial elements that trigger stress and/or cause juror mental health effects, using information gathered from the prior studies noted in the literature review; (2) categorizing the record of possible patterns, trends, or themes to include those relevant to the research purpose; and (3) analyzing the patterns, trends, or themes to establish a response to the research question, as well as an evaluation of the veracity of the hypothesis.

The prior research examined in the literature review provided ample data for the categorization of multiple themes. For this study, the researcher identified and evaluated the findings from each of the prior studies regarding the potential triggers of juror's stress. These findings were then categorized into themes. A similar process of identifying the findings and categorizing them into themes was also performed for the studies examining the mental health effects of capital jury service. After the categorization was completed, the themes were then merged or linked together through the consideration of their fit and relevance to the current topic.

## Chapter 4

### **RESULTS**

Identification and evaluation of capital trial elements that potentially trigger excessive stress and negative mental health effects in death qualified jurors were explored



through existing literature. The studies analyzed were chosen from such databases as the ProQuest Dissertations and Theses Global, Academic Search Premier, PsycINFO, LexisNexis Academic, and Criminal Justice Abstracts, using such keywords as anxiety, capital jurors, capital punishment, capital trials, criminal, depressed, depression, generalized anxiety disorder, graphic evidence, graphic testimony, juries, juror, jurors, juror stress, major depression, mental health, psychological effects, posttraumatic stress disorder, PTSD, and violence. Also, additional sources outside of available databases included Google Scholar, ResearchGate, the Social Science Research Network, and various .edu, .gov, .org. and .com websites, employing similar and related search terms.

From the studies chosen, themes were categorized and analyzed to ascertain the severity of the mental health impact of these stress triggers on capital trial jurors.

### **Categorization of Juror Stress Trigger Themes**

Results revealed five predominate themes of juror stress triggers. These themes were categorized as distinct groups, with potential overlap. The five themes identified were:

1. Crime scene evidence variables;
2. Heinous or emotionally charged crimes;
3. Fear of retaliatory violence;
4. Juror functions and interactions; and
5. Decision consequences.

### **Crime Scene Evidence Variables**

The first theme identified in the literature, crime scene evidence variables,

included the following five categories of stress triggers:

- A. Graphic victim or crime scene photos or videos;
- B. Handling victim clothing or murder weapons;
- C. Explicit descriptions of the crime;
- D. Visiting the crime scene; and
- E. Distressing or horrific evidence.

Examples of stress trigger variables in this first theme were identified in the studies as viewing explicit photographs of the victim's severely beaten, shot, stabbed, or otherwise mutilated body, handling a victim's bloodstained clothing and/or the murder weapon, and making on-site visits of the crime scenes (Chopra, 2002; Kaplan & Winget, 1992; NCSC, 2007). Chopra's (2002) study quoted a juror as stating, "The graphic evidence sickened me...the murder weapon was a butcher knife...everyone has one, my knife reminded me, and that was a source of stress" (p. 58). Jurors in Kaplan's (1985) study reported, "I thought I was going to pass out when they were going to show the pictures (of the brutalized victim)" and "So at night, I went home ill (after looking at the pictures). I couldn't eat for three days...Your body would feel numb" (Kaplan & Winget, 1992, p. 328). In addition, a juror from the CJP (1995) study remarked,

Part of the trial, when they presented the evidence, they had a slide show and they had this one slide of...showed the one victim, her eyes open. You thought for a minute that it was her at some time in her life when she was alive, but then they tell you, no, this is a morgue shot. You don't think of these things when you see a dead body on TV or in the movies or whatever. You usually don't see them with

their eyes open, you see them closed. Here is this lifelike looking face, looking at you, but this person is dead. That kinda bothered me. (Antonio, 2008, p. 403)

A juror from the NCSC (1998) study also reported, “There were crime scene photographs of bodies not found for two weeks projected on a large screen – very sickening and not necessary” (p. 30).

### **Heinous or Emotionally Charged Crimes**

The second theme, heinous or emotionally charged crimes, included the following four categories:

- A. Child victims of violent crime;
- B. Sexually-based crimes;
- C. Emotional testimony of witnesses; and
- D. Evidence or events with personal meaning to jurors.

An example of a stress trigger variable in this second theme was identified in the literature as dealing with the emotional testimony of witnesses. One juror in the Chopra (2002) study reported, “[There was] some very intense, emotional testimony...afterwards there would be times when I couldn’t get it off my mind, some days I couldn’t get to work because of the emotional and intellectual stress from being on the jury” (p. 58).

Another juror experienced emotional witness testimony and reported,

The pathologist was talking about the victim’s skull cracking like an egg, it was everyday stuff for him...the last day we got evidence from the pathologist which was more troubling, the spoken word of the injuries...the distraught family in the galley is my strongest memory, some of the women had to be helped out.

(Chopra, 2002, p. 58)

Another stress variable identified included any events discussed during trial that had personal meaning to jurors, an example of which was experienced by a juror from Kaplan's (1985) study who compared the defendant's life to her own. The juror stated, "I think about him and his family. He has six children...He was about a year younger than I. I'm from a poor background too...There were six of us then..." (Kaplan & Winget, 1992, p. 331).

### **Fear of Retaliatory Violence**

The third theme identified in the literature, fear of retaliatory violence, included the following five categories of stress triggers:

- A. Fear of courtroom violence from the defendant;
- B. Fear of encounters with the defendant or defendant's family outside of the courtroom during or after the trial;
- C. Retaliation for a death sentence;
- D. Unwanted publicity from high-profile cases; and
- E. Cases involving members of gangs or organized crime.

An example of a stress trigger variable in this third theme was categorized as concern about being called by name in open court. A juror in the Chopra (2002) study stated, "I was taken aback that our names were called out [during jury selection], so anyone would know who we were, especially the accused" (p. 56). Another juror voiced his worry and annoyance at what he deemed an uncalled-for identification,

For a moment I thought the guy would come after me, I was actually standing

next to him during the selection...then, one day I was five minutes late and they announced my name over the P.A., I was angry when they did it. (Chopra, 2002, p. 56)

A juror in the NCSC (1998) study expressed similar concerns and stated,

I don't think the defendant and his friends and family have to know what my name is, where I live and where I work. We could have kept some of that information confidential. This information was all given to anyone in that courtroom. (p. 18)

In the CJP (1995) study, a female juror commented about the defendant,

It upset me that he was allowed to have pen and paper during jury selection. That he knew I had a nine-year-old daughter. That was scary to me that the defendant is allowed, while they're questioning the jurors, to write stuff down. That was kind of scary, because you have to give your name and address. That kind of hit home. The lady next to me was a bit concerned with that, too. (Antonio, 2008, p. 404)

Another stress trigger variable was feeling anxious about definite or possible encounters with the defendant(s) and/or their families, as one juror reported,

As a safety issue it was very unnerving to be dealing with the family of the accused, we parked in the same area as them and would get dirty looks...out in the community we could run into them, I hope there is no revenge...his family was very upset at the verdict. (Chopra, 2002, p. 56)

Another juror from Chopra's (2002) study also commented,

Seeing the accused outside of the courtroom and within the hallway [was a source of stress], I wanted to make a point of avoiding crossing paths and to make sure the male jurors didn't go the washroom at the same time as him. (p. 56)

Also, jurors in Chopra's (2002) study reported experiencing stress when serving on notorious or highly publicized cases, or cases involving criminal organizations. One juror expressed fear "because of the possibility of convicting a Hell's Angel who knew what I looked like" (Chopra, 2002, p. 57). Another juror also recounted,

There were lots of cameras trying to take our pictures...there was a time [when I felt fear] because I was concerned that I would be identified...I would look out the door when I heard a noise, but [she] is in jail for five years before she's paroled, so I don't know if she'd come after us because she would go back to jail.

(Chopra, 2002, p. 57)

A juror from the NCSC (1998) study felt the same and commented, "Stressed from deliberation and verdict, didn't want to have to explain to reporters" (p. 53).

### **Juror Functions and Interactions**

The fourth theme, juror functions and interactions, included the following 11 categories:

- A. Being sequestered during all or part of a trial;
- B. Lengthy trials (generally lasting 11 to 20 days or more);
- C. Disruption of daily schedules;
- D. Prolonged waits with little communication;
- E. Unpleasant surroundings in court houses and jury rooms;

- F. Intrusive voir dire questioning;
- G. Speaking in front of people during voir dire and deliberations;
- H. Managing opposing facts during the trial;
- I. Understanding and applying unknown legal concepts;
- J. Isolation after the verdict and discharge from service; and
- K. Prohibition to discuss the case with anyone outside of deliberations.

An example of a stress trigger variable in this fourth theme was identified as feeling isolated due to sequestration during the trial or deliberations. One juror from the Chopra (2002) study stated, “During sequestration I was stressed...afterwards, I felt detached from society, like my spirit was floating above or apart from the world...it was an isolating experience...” (p. 59). Another juror from Chopra’s (2002) study commented on the isolation by stating,

It’s an important process and decision...I’d like to have been able to talk with my spouse...it’s hard to live through it for a month and completely internalize it...you can’t tie up loose ends, it’s a solo experience and you live with it alone for the rest of your life. (p. 59)

A juror from the CJP (1995) study described the loneliness of being sequestered, ...after the trial you know we would just have to go to our rooms and lock, you know, we were told to go in our rooms and lock the door. There wasn’t any kind of recreation or any way for us to vent any of what we were going through. I mean a couple of us asked, you know, could we go down to the pool for a couple of hours. That wasn’t feasible...We could not leave the room. If we were in the

hallway we were asked to step into our room. We were not allowed to visit with one another, we were discouraged. (Antonio, 2008, p. 405)

Additionally, a female juror in the CJP (1995) study described sequestration,

First of all being sequestered is like prison. The juror is in prison. A very padded and nice prison, but nevertheless a prison. It's very upsetting to have all contact with the outside world shut off. All the people that you care about, no connection with them. (Antonio, 2008, p. 405)

Another stress trigger was dealing with unpleasant surroundings in court houses and jury rooms. A juror in the NCSC (1998) study stated, "Perhaps someone could have made us feel a little more human – at times I felt like rats in a cage" (p. 1). Another juror stated, "Provide a nicer, more comfortable waiting area and refreshments. We are going out of our way for this service" (NCSC, 1998, p. 11).

Also, confusion about the voir dire questioning was found to be a stress variable. In one example from the NCSC (1998) study, a juror remarked, "I couldn't understand the voir dire process; I spent two days trying to figure it out" (p. 16).

Additionally, jurors felt stress from not being allowed to discuss the case with anyone during the trial. Juror comments included, "I think it's unnatural to go through an experience as stressful and complex and involved as this and not be able to unwind and express your feelings" and "Discussion was not allowed, so I just cried and prayed...the whole thing was quite stressful" (Chopra, 2002, p. 59). Another juror from the Chopra (2002) study remarked that the communication ban was "the hardest thing...you're ripped out of your real life, you hear mind blowing revelations and you can't share them



with the people you care about” (p. 58).

### **Decision Consequences**

The fifth and final theme ascertained in the literature, decision consequences, included the following seven categories of stress triggers:

- A. Juror discord during deliberations;
- B. Fear of errors in the verdict or sentencing;
- C. Holding a minority position during deliberations;
- D. Not able to agree on a verdict during deliberations (hung jury or mistrial);
- E. Determining whether to issue a death sentence;
- F. Signing a death penalty verdict; and
- G. Affirming a death penalty verdict in open court.

An example of a stress trigger variable in this fifth theme was identified as feeling guilty from being on a hung jury. One juror in Chopra’s (2002) study reported, “I think it’s really difficult, the most difficult part was deliberations and not reaching a verdict – that was very frustrating, that’s the worst part of it” (p. 55).

Another stress variable arose from the difficulties of the deliberation process, as one juror reported, “Conflicts in the deliberation room and the length of time exacerbated everyone’s stress and made things difficult” (Chopra, 2002, p. 52). Another juror from Chopra’s (2002) study stated,

Group dynamics should be allowed to be discussed, the hardest part was to come to a decision without being pressured by someone else. I was just appalled with the jury, if there is a weak link, that’s where it was...[stress] wasn’t because of

the trial, it was because of the other jurors...infighting with the jury was my only source of stress. (p. 52)

Two jurors in the NCSC (1998) study also had similar feelings about the deliberation process and commented, “There should be more guidelines on what is expected of jurors; don’t really understand responsibilities...No one knows how to go about it” and “No plan or instructions on how to deliberate was very stressful; no guidelines on juror conduct” (p. 43).

### **Categorization of Mental Health Effects Themes**

The research examined in the literature review revealed seven predominate themes of mental health effects from juror stress. Like the stress trigger variables identified in the prior studies, the mental health effects were categorized into distinct groups, with some potential overlap. The seven themes were identified as:

1. Repetitive or intrusive thoughts;
2. Memory issues;
3. Hypervigilance or phobias;
4. Eating or sleeping difficulties;
5. Feeling numb, detached, or emotionally strained;
6. Increased use of medication or substances; and
7. Relational or life implications.

### **Repetitive or Intrusive Thoughts**

The first theme identified in the literature, repetitive or intrusive thoughts, included the following three categories of mental health effects:

- A. Frequent rumination on certain aspects of the trial;
- B. External reminders causing invasive or recurring thoughts; and
- C. Flashbacks (to the entire trial or certain aspects of the trial).

An example of the mental health effects in this first theme was identified as external reminders causing invasive thoughts. One juror from the Kaplan (1985) study reported she had flashbacks about the crime scene photos,

...every so often. Her lying in the morgue or the bathroom. I couldn't understand why he had to cut her throat and step on her. So cruel...Not so often now. It's over a month. I'm beginning to feel like my old self; but when someone brings it up, I get nervous, unstable feelings inside. (Kaplan & Winget, 1992, p. 332)

### **Memory Issues**

The second theme, memory issues, included the following two categories:

- A. Impaired memory function; and
- B. Distressing memories.

An example of a mental health effect in this second theme was identified in the Kaplan study as experiencing distressing memories. One older male juror was noticeably traumatized when he connected the crime scene photographs with events he experienced on Okinawa during World War II where he witnessed the bodies of his dead military companions. This juror was very emotional and distressed by his memories, and was powerless to speak for several minutes (Kaplan & Winget, 1992).

### **Hypervigilance or Phobias**

The third theme detected in the literature, hypervigilance or phobias, included the

following three categories of mental health effects:

- A. Hypervigilance about strangers;
- B. Hypervigilance about surroundings; and
- C. Phobic responses to everyday occurrences.

An example of the mental health effects in this third theme was identified as a hypervigilance about strangers. One juror from Kaplan's (1985) study reported, "I'm paranoid. I can't shake it. I went to the Smoky Mountains and twice I ran into a fellow who looked like him. I flipped out. I got hysterical, shook, and just ran..." (Kaplan & Winget, 1992, p. 330).

Another example is experiencing phobic responses after the trial, including one juror from the Kaplan (1985) study that acquired a transitory phobia of bathrooms due to viewing the crime scene. The juror stated, "When I'd go to bathrooms, especially strange people's bathrooms, I'd freak out. I can't explain it. I'd picture her (the victim) lying on the bathroom floor" (Kaplan & Winglet, 1992, p. 329). This same juror in Kaplan's (1995) study also commented,

I used to be scared to death to go to bathrooms. For a while, I'd make someone go with me – my sister – in a public bathroom. But now I'm not scared, but a little nervous. Just if I'm in a strange place. (p. 329)

### **Eating or Sleeping Difficulties**

The fourth theme, eating or sleeping difficulties, included the following categories:

- A. Intense and/or recurring nightmares;

- B. Inability to sleep during or after the trial;
- C. Eating too much during or after the trial; and
- D. Losing appetite during or after the trial.

An example of the mental health effects in this fourth theme was identified as an inability to sleep, as one juror from Kaplan's (1985) study remarked, "For the first week, I couldn't sleep at all. It was very difficult. Even for a week after it was over, I couldn't sleep" (Kaplan & Winget, 1992, p. 328).

Additionally, jurors complained about experiencing intense and/or recurring nightmares, such as the dream of one juror in which the defendant threatened to cut her throat. Another juror in Kaplan's (1985) study complained about nightmares and stated, "I dreamed he broke into my apartment on several occasions. Same dream over and over of E. standing there with that smirking look on his face. I'd wake up in a cold sweat" (Kaplan & Winget, 1992, p. 330). Also, concerning dreams, a juror in Kaplan's (1985) study reported,

Oh, I still have those. I'd wake up and go through all of it again. I could see E. (the defendant) sitting there, and I'd see the girl in my sleep. All the gory pictures...I still wake up twice or three times at night. So it has affected me that way. I can't erase it from my mind. (Kaplan & Winget, 1992, p. 332)

A juror from the NCSC (1998) study reacted to the crime scene photographs and stated, "The photo showed the victim's dead, nude body – a total lack of respect for the dead. I had nightmares about it. I called out in my sleep, but I couldn't tell my husband what was wrong. It was very disturbing..." (p. 32)

Another NCSC (1998) juror stated, “I still have nightmares about what I heard. It was after the trial that I was bothered the most – no nightmares during the trial” (p. 53).

Also, the CJP (1995) study identified jurors who reported a loss of appetite during the trial. One female juror reported that her “loss of appetite was in the guilt phase because of the difficulty in deciding” and another female juror stated, “I also had a loss of appetite. It was just all of the emotions – stress” (Antonio, 2008, p. 403).

### **Feeling Numb, Detached, or Emotionally Strained**

The fifth theme identified in the literature, feeling numb, detached, or emotionally strained, included the following five categories of mental health effects:

- A. Feeling numb or disconnected during normal activities;
- B. Withdrawing or isolating from people after the trial;
- C. Feeling more tense after the trial;
- D. Experiencing pent-up emotions due to the trial; and
- E. Feeling emotionally upset during and after the trial.

An example of a mental health effect in this fifth theme was identified as feeling emotionally upset or depressed after a trial. A juror in Kaplan’s (1995) study reported, “If I’m sitting at home on the sofa, I fall asleep at 9 or 9:30...I’ve probably lost some of my enthusiasm. Well, I guess you can say (I’m) depressed...Like I’m working on my real estate license. I was enthused about it. Now, I haven’t opened up the book to study for the exam. (Kaplan & Winget, 1992, p. 332)

### **Increased Use of Medication or Substances**

The sixth theme, increased use of medication or substances, included the

following three categories:

- A. Anxiety symptoms treated with prescribed medication;
- B. Consuming new or larger quantities of alcohol after the trial; and
- C. Consuming new or larger quantities of illegal substances after the trial.

Examples of mental health effects in this sixth theme were identified in the Kaplan (1985) study by one juror who experienced such disabling symptoms during the trial that her doctor prescribed her Ascenden and Valium (Kaplan & Winget, 1992). This same juror reported a substantial increase in alcohol usage, which continued for some time after the trial (Kaplan & Winget, 1992).

Also, the CJP (1995) study identified a handful of jurors who engaged in smoking or drinking during and/or after the trial or were prescribed medication by a physician. For example, two female jurors from separate life sentences trials “started smoking again” and “drank more. I know sometimes I just couldn’t wait to come home and have a drink. It was a terrible experience” (Antonio, 2008, p. 403).

### **Relational or Life Implications**

The seventh and final theme identified in the literature, relational or life implications, included the following three categories of mental health effects:

- A. Difficulties relating to family and friends after the trial;
- B. Experiencing fear from potential retaliation; and
- C. Unwillingness to serve on another capital jury.

An example of the mental health effects in this seventh theme was identified as difficulties relating to family and friends after the completion of the trial. One juror in

the Kaplan (1985) study ended a long relationship with her boyfriend because he could not comprehend why she was so distraught. Another juror experienced problems with sexual intimacy with her husband after a trial. She stated, “When I came home, I didn’t even want my husband to touch me” (Kaplan & Winget, 1992, p. 331).

The CJP (1995) study identified another mental health effect through a juror who suffered fear from potential retaliation when she realized that her coworkers knew the victim’s family. The juror declared,

I mean I have to go back to work and I did not realize the people that I worked with knew the (victim’s family), they went to church with them. I was afraid to tell them I was on the case and that I made the decision not to electrocute him. I couldn’t talk about it if somebody asked me, I would say ‘I cannot talk about it. I’ll tell you in a few weeks whenever I get to feeling better.’ I mean somebody said ‘boo’ and I just broke down. I was just a nervous wreck. I was totally wacked out. (Antonio, 2008, p. 404)

In addition, jurors expressed a desire never to serve on a capital trial again. One juror from the Kaplan (1985) study commented, “It was terrible and I’m still shaken. I just hope I never have to go through something like that again” (Kaplan & Winget, 1992, p. 332). A juror from the NCSC (1998) study also stated, “They’d have to handcuff me to be a juror again” (p. 2).

## **Summary**

The research discussed in this study’s literature review, and analyzed by the research method of qualitative content analysis, demonstrated that every type of criminal



trial for which individuals may serve as a juror, especially a capital trial involving a potential death sentence, has the capacity to provide evidence and testimony that some jurors may find stressful (Antonio, 2008). However, the severity of the stress from a capital trial, as well as the length of time a juror is affected by such stress, varies with each juror. For example, beginning with the 1985 Kaplan study, Kaplan determined that most of the jurors in his study had suffered post-trauma stress symptoms from reliving the stressful elements of the trial (DeLipsey, 1994).

Kaplan's (1985) research revealed serious adverse mental health effects in jurors, as 19% of his study participants exhibited characteristics of clinical major depressive disorder, based on the Diagnostic and Statistical Manual of Mental Disorders, 3<sup>rd</sup> ed. (DSM-III) (American Psychiatric Association, 1980). Additionally, while most participants exhibited some symptoms of PTSD, Kaplan concluded that four of his study participants, or 26%, met the full diagnostic criteria of PTSD, per the DSM-III (DeLipsey, 1994).

Kaplan's (1985) study also established that although the majority of jurors met several of the criterion for PTSD, their symptoms did not rise to a clinically diagnosable level (Bertrand et al., 2008). Three study jurors were found to suffer from the mental health effects of depression and one acquired a phobic reaction to bathrooms after the trial. Other jurors reportedly suffered from anxiety, with one juror prescribed a tranquilizer and antidepressant medication by her physician when the trial was over (Bertrand et al., 2008).

The 1994 study by Shuman et al. predicted a larger occurrence of PTSD, as

defined by the DSM-III, affecting jurors serving on “traumatic” criminal trials, as opposed to “non-traumatic” trials (Shuman et al., 1994). As defined previously, traumatic trials are those that involve such crimes as aggravated kidnapping, rape, child abuse, murder; thus, would be much more likely to be prosecuted as death penalty cases. While the research by Shuman et al. (1994) found no verification for a clinical diagnosis of PTSD in all of the study participants reviewed, it did determine that traumatic criminal trials can have significant negative short-term mental health consequences. For instance, despite all jurors not demonstrating adequate trauma to meet the criteria for a clinical PTSD diagnosis, several jurors did express that they had suffered from PTSD symptoms, and one juror was actually found to qualify for a clinical PTSD diagnosis (Shuman et al., 1994).

The Shuman et al. (1994) study also determined that jurors in both traumatic and non-traumatic trials experienced a more significant intensity of major depressive symptoms than observed in the general population during the time of their study. Traumatic trial jurors were determined to be about six times more likely than non-traumatic trial jurors to meet the diagnostic criteria of major depression, as supported by approximately 12% of jurors from traumatic trials describing symptoms of depression during the trial, 7% during jury deliberations, and about 2% after the trial concluded (Shuman et al., 1994). Also, since stress can be a significant risk factor in the development of depression, Shuman et al. (1994) determined that criminal trials triggering stress substantially influenced juror temperament and operating levels both during and after a capital trial.

Finally, the Shuman et al. (1994) study determined that stress-related elements which arose during the deliberation process, as opposed to those elements experienced during the trial, appeared to have a longer lasting effect on the juror's mental health (Bertrand et al., 2008). Research also demonstrated that female study jurors reported more stress symptoms during both the trial and deliberations than did male jurors; however, more male jurors described stress symptoms after the trial than did female jurors. Although the Shuman et al. (1994) study determined that juror stress and mental health effects occurred at all phases of the trial, especially in those trials classified as traumatic, the researchers ultimately concluded that there was less cause for concern than had initially been predicted (Bertrand et al., 2008).

The NCSC (1998) study established similar outcomes to the Shuman et al. (1994) study. The NCSC (1998) research indicated that jurors who served on lengthy, person-centered trials suffered the highest amounts of stress (Bertrand et al., 2008). While the effects of stress discovered in the NCSC (1998) study did not qualify jurors for a formal clinical diagnosis of PTSD or major depressive disorder, the mental health effects were demonstrated to exist at substantial sub-clinical levels. It was determined that these sub-clinical levels were most prevalent in death penalty trials, as approximately 50% of the jurors recounted disturbing memories and about 33% reported feeling detached and numb, with some effects lasting for months after the trial was completed (NCSC, 1998).

The Canadian study conducted in 2002 by Sonia Chopra did not specifically examine death qualified jurors, as Canada has been a fully abolitionist country since 1998; however, the research did examine the mental health effects of serving as a

criminal trial juror and the severity of stress symptoms (Chopra, 2002). Chopra's research found that nearly 66% of participating jurors endured stress as a result of their jury service, with 21% experiencing disturbing memories of the trial (Bertrand et al., 2008).

With respect to diagnosable mental health effects, approximately nine of the 80 jurors in Chopra's study, or about 11%, met the full criteria for a clinical diagnosis of PTSD, based on the standards of the Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> ed. (DSM-IV) (American Psychiatric Association, 1994), which was applicable at the time of the study (Chopra, 2002). Also, 22 jurors, or about 28% of the sample, met two of the criteria for PTSD. This percentage increased to 34% when considering those jurors who met at least one of the criterion for PTSD. While Chopra's research identified that only 11% of the Canadian jurors interviewed met the complete criteria for PTSD as required by the DSM-IV, epidemiological studies suggested that the lifetime prevalence rate of PTSD in the Canadian population was approximately 0.5 to 1.3% during the period of the study (Chopra, 2002).

The 2005 study by Bornstein et al. established findings that were consistent with prior American studies, with approximately 39% of participants reporting at least some stress either during or after jury service, with certain elements of the jury experience proving more stressful than others (Bornstein et al., 2005). Research by Bornstein et al. (2005) evaluated jurors for substantial levels of stress, using depression and anxiety scales, and determined that the jurors participating in the research experienced stress levels that fell short of the criterion for clinically significant major depressive disorder or

PTSD (Bornstein et al., 2005).

The CJP (1995) study determined that over 60% of participating jurors described their service on a capital trial as emotionally stressful, with more female jurors (71%) being stressed during and after their jury service than male jurors (50%) (Antonio, 2008). Also, while 36% of participating jurors reported trouble with eating or sleeping during the trial, females (48%) mentioned these difficulties more often than males (24%). Female jurors (89%) were similarly more likely than male jurors (11%) to disclose their difficulties faced during the trial, including the stress related to sequestration (Antonio, 2008).

Per the CJP (1995) study, themes regarding juror's reactions to serving on a capital trial involved negative mental health effects that developed after the completion of the trial (Antonio, 2008). Many participating jurors described long-term side effects, occurring days, weeks, or even months after the trial, which included persistent emotional struggles and problems relating to friends and family. The CJP (1995) study noted that more female jurors (76%) than male jurors (24%) reported these long-term side effects. In addition, more females (77%) than males (23%) recounted a fear of retaliation from the defendant, his or her friends and family, or the victim's friends and family. Jurors in the CJP (1995) also conveyed that if they were summoned to jury duty for a future capital trial, they would refuse to participate (80% response for female jurors and 20% response for male jurors) (Antonio, 2008).

The study conducted by the CJP (1995) established that jurors who served on capital trials resulting in death sentences (63%) were only marginally more likely to

declare that the trial was emotionally stressful compared to those who served in trials that elicited life sentences (Antonio, 2008). Upon the completion of their trials, many jurors reportedly ruminated on their decisions of life or death sentences, with male jurors (54%) found to be more satisfied with their decisions than female jurors (46%). Accordingly, it was found that more female jurors (68%) than male jurors (32%) articulated a need for or pursued counseling after their trials in an effort to manage their stress (Antonio, 2008).

Finally, the CJP (1995) study established that 44% of juror interviews contained complaints of distressing dreams and nightmares concerning what they heard or saw in the courtroom during the trial, with females (63%) recounting this more often than males (38%) (Antonio, 2008). Additionally, a few of the jurors commented that the emotional stress of the capital trial was so intense that they returned to smoking, drinking, or prescription drugs to manage their stress (71% for females and 29% for males). The CJP (1995) study outcomes implied that all capital jurors, not only those whose trials ended in a death sentence, may potentially suffer severe emotional hindrances due to significant stress arising from their capital jury service (Antonio, 2008).

## Chapter 5

### **DISCUSSION**

An evaluation of the research identifying juror stress triggers and mental health effects from capital trials established twelve predominate themes. The five themes recognized for juror stress triggers, included:

1. Crime scene evidence variables;

2. Heinous or emotionally charged crimes;
3. Fear of retaliatory violence;
4. Juror functions and interactions; and
5. Decision consequences.

The additional seven themes recognized for mental health effects of juror stress, included:

1. Repetitive or intrusive thoughts;
2. Memory issues;
3. Hypervigilance or phobias;
4. Eating or sleeping difficulties;
5. Feeling numb, detached, or emotionally strained;
6. Increased use of medication or substances; and
7. Relational or life implications.

These themes concerning capital trial stress triggers and mental health effects, identified in the literature and established through this content analysis, will support the response to this study's research question, as well as assist in an evaluation of the veracity of the hypothesis.

### **Prior Study Outcome Summary**

As shown in Table 1, the prior study outcomes are summarized as followed: In Kaplan's (1985) study, 19% of jurors exhibited characteristics of major depressive disorder, while 26% met the full diagnostic criteria of PTSD (DeLipsey, 1994). However, Kaplan's (1985) study only included 16 participants and the study

methodology made it problematic to generalize the results to other jurors, as Kaplan did not utilize a control group and did not control for potential impacting variables (Bertrand et al, 2008). Because of Kaplan's research limitations, this current study can draw no valid causal connections between the triggers of jurors' stress and the severity of mental health effects on jurors.

In the study by Shuman et al. (1994), 12% of jurors described symptoms of major depressive disorder, while only one juror was found to meet the criterion for a clinical diagnosis of PTSD. The study determined that traumatic criminal trials, like those considering life or death as sentencing options, can have significant negative short-term mental health effects on jurors (Shuman et al., 1994). However, the researchers ultimately concluded that there was less cause for concern over the severity of the mental health effects than originally predicted by their hypothesis (Bertrand et al., 2008).

The NCSC (1998) study determined that no participating jurors experienced severe enough mental health effects to qualify for formal clinical diagnoses of major depressive disorder or PTSD. The jurors examined in that study were determined to have experienced psychological symptoms at sub-clinical levels (Bertrand et al., 2008).

The 2002 Canadian study by Chopra, while not specifically studying death qualified jurors, determined that 11% of the participating jurors met the full criterion for a clinical diagnosis of PTSD (Chopra, 2002). However, similar to the Kaplan (1985) study, Chopra's (2002) study failed to utilize a control group. Also, there were multiple interviewers and differing interview formats, potentially biasing the outcomes. Furthermore, due to a small sample size and limited geographical area from which the



sample originated, Chopra's results were not particularly generalizable (Bertrand et al., 2008).

In the Bornstein et al. (2005) study, 39% of participating jurors reported at least some stress, which was consistent with prior studies. However, the jurors in that study were found to have only experienced stress levels that did not meet the criterion for clinically significant major depressive disorder or PTSD (Bornstein et al., 2005).

Finally, the study by the CJP (1995) determined that over 60% of participating jurors described their capital jury service as emotionally stressful, with female jurors being emotionally upset to a greater degree than male jurors (Antonio, 2008). However, no analysis was made by the researchers in that study as to whether the stress from capital trials was severe enough to qualify for clinical diagnosis.

## **Conclusions**

The literature examining stress triggers and mental health effects experienced by capital trial jurors suggests that a variety of variables contribute to their perceived psychological distress. Prior research has identified such elements as crime scene evidence, heinous or emotionally charged crimes, fear of retaliatory violence, juror functions and interactions, and decision consequences to be stress triggers for capital jurors. Additionally, such mental health effects as repetitive or intrusive thoughts, memory issues, hypervigilance or phobias, eating or sleeping difficulties, feeling numb or emotionally strained, increased use of medication or substances, and relational or life implications have been found to effect capital trial jurors.

The purpose of this present research was to: (1) identify capital trial elements

which trigger excessive stress and mental health effects in death qualified jurors; (2) analytically categorize any patterns, trends, or themes from existing studies which examine the significance of capital juror stress triggers and their related mental health effects; and (3) evaluate any identified patterns, trends, and/or themes to ascertain the severity of the mental health impact of these stress triggers on capital jurors. The results of this study indicate that while previous research unquestionably confirms that mental health effects are suffered by capital trial jurors, the severity of the stress from capital trials, as well as the length of time that each juror is impacted by such stress, varies to such an extent that no definitive conclusions can be established; thus, the hypothesis cannot be substantiated.

### **Limitations**

There were several limitations to this research study. Since the researcher did not have direct access to recent or current capital jurors, due to privacy restrictions on juror information, up-to-date viewpoints were not ascertained. Therefore, this study was based on a purely qualitative descriptive method, illustrating what has already been revealed in the literature, but not divulging new data.

Also, research studying the mental health effects of capital jury duty is scarce, with even fewer studies on the severity of the psychological impact on capital jurors. Thus, this study was limited by the availability of research data, rendering it less generalizable to the entire capital juror pool. In addition, this study did not examine whether counseling services or jury debriefing after a trial would lessen the severity of mental health effects experienced; therefore, offering limited experimental clarification.

## **Future Research**

The connection between capital juror stress triggers and their resulting mental health effects arguably inspire additional research. This qualitative content analysis demonstrates that to determine whether the negative mental health effects experienced by capital trial jurors are severe enough to require intervention from the criminal justice system, further studies with recent or current jurors should be conducted. Future studies in this area should explore such concepts as gender differences in mental health effects, the frequency with which jurors seek mental health services after serving on a capital trial, the pros and cons of post-trial debriefing or counseling services, and possible legal or procedural changes to lessen the identified stress triggers from capital trials. Future research should also include quantitative studies to differentiate the areas of identified stress triggers that strongly contribute to negative mental health effects.

In addition, future research should also expand the studied population to include defense and prosecuting attorneys, as well as court clerks, bailiffs, court reporters, and judges, to determine if they, too, are experiencing any negative mental health effects from working in the capital trial environment. Researchers should determine if their repeated presence in the courtroom during capital trials has a cumulative stress effect or alternatively, desensitizes them.

Finally, future research regarding the stress caused by serving as a juror in capital murder trial, much like the reflection regarding the death penalty in general, may help provide a deeper understanding to the notion of social justice. While social scientists are the individuals able to explore the mental health effects of capital jury service, the trial

court judges have the opportunity to defend not only the law, but capital jurors, as well. Thus, future research studies can provide members of the criminal justice system with critical information by which they may guard their communities through modifying jury statutes that disagree with fundamental human mental health attributes.

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Table 1

*Prior Study Outcome Summary*

Research study	Mental health effects – Level of clinical significance	
	Major depression	PTSD
Kaplan	19%	26%
Shuman et al.	12%	.007%
NCSC	0%	0%
Chopra	N/A	11%
Bornstein et al.	0%	0%
Capital Jury Project	N/A	N/A