

Supporting Heroes In mental health Foundational Training (SHIFT)

Judicial Guide

A Judge's Guide to Exposure to Child
Pornography for Court Personnel and Jurors



The most heinous crimes we face in our society today involve child sexual abuse images - crime scene images of children being raped and abused. Individuals who view child sexual abuse images at work experience stressors associated with their exposure to images or videos depicting child sexual abuse. Many of these stressors can be managed if negative effects are recognized in time and adequate support is provided. This guide will help judges and the juries they oversee understand the unique challenges exposed individuals face.

Child Pornography and Its Effects

People often think child pornography is just nude images of children in the bathtub or playing on the beach. In reality, however, child pornography consists of actual crime scene photos or films of children being sexually exploited, abused and tortured.

In fact, a study published in 2005 of child pornography collections seized by law enforcement showed that

83% had images of children between the ages of 6 and 12

39% had images of children between the ages of 3 and 6

19% had images of children under the age of 3

80% had images depicting sexual penetration

21% had images depicting rape or torture.

Studies show a strong correlation between the possession of child sexual abuse and torture images and the infliction of hands-on child sexual abuse. The Butner

The Purpose of this Guide is to:

- Educate judges, jurors and court personnel on child sexual abuse images and their effect
- Provide suggestions that will help exposed individuals in the workplace
- Understand the role of the mental health provider in the workplace
- Provide additional resources for assistance

Redux Study, conducted in Butner Federal Prison, North Carolina and published in 2006 involved 155 child pornography offenders who volunteered to undergo treatment. 75 hands-on offenses were attributed to these offenders by the justice system at the time of their child pornography convictions, an average of 1.88 per offender. However, during treatment:

85% admitted to having molested children

13% denied molesting children and then failed a polygraph, and

2% passed the polygraph but admitted that if given an opportunity, they would offend.

After treatment, it was found that these offenders had a total of 1,777 victims, an average of 13.56 victims per offender.

The National Center for Missing and Exploited Children estimated in 2003 that since 1997 the number of child pornography images available on the Internet had increased by 1500%ⁱ. Over 600,000 unique IP addresses have been tracked trading these images in the United States aloneⁱⁱ. The federal government responded to this overwhelming problem by creating Internet Crimes Against Children (ICAC) task forces. These specialized, multi-agency networks exist specifically to advance and expedite the prosecution of those who perpetrate sexual abuse crimes against children. The success of the ICAC task forces has resulted in more prosecutions and consequently more judges and jurors are being subjected to this disturbing material.

Special Considerations for Judges

Research shows that judges suffer stress in the normal course of their work due to the pressures involved with sentencing, judgments, decision making, and if in family court, the difficulty in determining custodyⁱⁱⁱ. Specifically, though, when hearing testimony or viewing child sexual abuse and torture images in the courtroom, judges must maintain an even and non-demonstrative countenance, despite any feelings of personal revulsion they may have. In addition, judges are often isolated from their former peers, and by the somewhat solitary nature of their work, may not have an immediately present peer group to lean on. Judges may also be reluctant to explain to their families the distress they have suffered. Finally, judges may want to help minimize the impact on jurors and court personnel who are also subject to hearing graphic testimony and viewing shocking images.

There are certain measures that can be taken to address these challenges. You may consider:

- 1) Developing a formal or informal peer support program with fellow judges exposed to child pornography,
- 2) Learning how to communicate to family and friends in a way that protects them from the details of the traumatic images yet allows them to understand your exposure and its effects,
- 3) Finding a mental health professional to whom you can speak about the emotions caused by viewing and hearing this disturbing material, and
- 4) Providing as much support to jurors and court personnel as possible through education and making mental health professional services available

The solitary nature of the judicial role coupled with the effects of viewing child sexual abuse and torture images can create a sense of isolation. One of the best means of defending against this is implementing a peer support program amongst fellow judges who are exposed to child pornography. A peer support program fosters the camaraderie and shared understanding that staves off isolation. Nowhere else can the true nature of your work and its effects be more accurately understood.

Peer support can be formalized by enrolling in a peer mentor training, but can also be informal. Social gatherings that are not related to work are highly recommended. Getting to know your peers on a personal level can often offer critical support in your work, and also may assist you to more accurately and quickly recognize the signs and symptoms of negative effects in yourself and others before they become permanent and/or severe.

The negative effects of viewing child sexual abuse images can manifest intrusively or subtly. It is important to be alert to any changes or disruptions in your daily life as the more subtle of these may not be easily identified as an effect of viewing disturbing material. Of course, mild fluctuations in these areas are a natural part of life. To the extent that such fluctuations are occasional and non-intrusive, they should be regarded as normal and no cause for alarm. However, if these fluctuations become even moderately persistent or bothersome, they should be heeded as a warning that exposure is having an effect on you. Symptoms that are fully persistent and intrusive should be cause for immediate action (reach out to family members, friends, a safe peer, or a mental health professional) on your part.

Signs and Symptoms:

- Changes in sleep or eating habits
- Loss of concentration and difficulty in making decisions
- Loss of sense of humor
- Decrease or loss of libido
- Excessive emotion
- Increased irritability with others
- Suppressed or increased anger
- Risk taking behavior

Communicating with Family and Friends

An individual's social support system is crucial for coping with the effects of viewing child sexual abuse images. Family and friends are often the first to notice the presence of the symptoms of negative effects associated with exposure to child pornography. For example, intimacy with your partner may suffer on the days you are required to view these images. Your partner may feel alienated or perplexed if you remain distant and do not explain the reason why. He or she may be inclined to think more than work is to blame for your disinterest, loss of sense of humor, changes in mood or energy level, etc.

A simple step to allay their fears and feelings of being shut out may be just to communicate how the day was difficult without relaying specific details about images or evidence. In addition, by giving them our guide entitled *Friends and Family* (www.shiftwellnes.org) they can gain a better understanding of the type of exposure you have just experienced.

In addition to communicating your experiences to your spouse/partner, it may be necessary to include your younger children in the discussion in an age-appropriate manner. After all, children pick up on tension, often blaming themselves for any disturbance in the family. You can address them directly when you arrive home, assuring them that they are not the reason for the troubles you're experiencing and that they've done nothing wrong. When they ask questions, you may consider inviting a discussion in which their questions are welcome and you can be honest about the emotions you're feeling (sadness, helplessness, anger, etc.) without sharing the specifics of what caused those emotions. For older children, a slight increase in the amount of detail shared may be appropriate as you see fit. The most important thing is that they know that there is an open door for their questions and concerns.

Using a Mental Health Professional

A qualified mental health professional can help by providing recommendations for self-care and stress management for both judges and court personnel; preparing jurors and new court personnel for their first exposure to disturbing material; offering support and other resources; and educating exposed individuals and their families about signs that may indicate exposure is affecting a colleague or loved one.

A mental health professional can deliver this information and support through group training, formal one-on-one sessions, and informal meetings. Normally, agencies setting up a wellness program may employ a mental health professional on a contract basis for several hours per month, or in some cases, a mental health professional employed by a governmental agency, such as clergy or a victim witness counselor, may agree to work with you at no cost.

Finding the right mental health provider for your requirements may not always be easy. Mental health professionals come from a variety of clinical backgrounds and in addition to clergy and victim witness counselors can include psychologists, psychiatrists, social workers and psychotherapists. More recently, doctors and nurses with an interest in mental health have undertaken specialist mental health training and, in some cases, may be able to provide an appropriate mental health service. In these situations it is particularly important to clarify their qualifications and experience in the mental health field, together with their experience in this subject.

Word of mouth may provide a good place to start when looking, however, mental health professionals can also be found through posting through local licensing and certification bodies. All good mental health providers should be happy to present their professional qualifications and experience, together with certification from the organization responsible for monitoring their work. Our guide entitled *Choosing a Mental Health Professional* outlines in detail the steps you may want

to consider taking when hiring a mental health professional and can be found on the www.shiftwellness.org website.

If your chosen mental health provider does not have experience in this specific area, consider arranging for them to attend a SHIFT training program. The most important consideration is that you and your court personnel should feel comfortable with your mental health provider, and feel able to establish a relationship which should combine a mutual respect and trust.

Below are some of the professional organizations that may be able to provide a list of mental health professionals for your area:

The International Society for Traumatic Stress Studies: www.istss.org/Home/htm

American Psychological Association: www.apa.org

Association for Psychological Science: www.psychologicalscience.org/about/

American Psychiatric Association: www.psych.org

American Counseling Association: www.counseling.org

American Psychotherapy Association: www.americanpsychotherapy.com

Preparation for Jurors

As more and more of these cases go to trial, jurors may also be severely affected. Research suggests that up to one third of jurors experience some form of stress from exposure to distressing images, hearing horrific testimony, witnessing the distress of the victim, being under oath not to talk about the case, and being required to decide a defendant's fate^{iv}. Several jurisdictions are working to develop juror support programs including Travis County, Texas (see Appendix A)

There they have reformed their Code of Criminal Procedure to afford jurors up to ten hours of post-trial counseling via the victim assistance coordinator or the crime victim liaison. They also have their assistant district attorneys inform jurors that they will be exposed to violent or otherwise disturbing images during the voir dire process, and again immediately before the presentation of an image. Since the presentation of redundant images also contributes to juror inattention, they set a limit on the quantity of images viewed as well. In addition, the judge holds a post-trial debriefing wherein a counselor-prepared information sheet with tips on the management of possible negative effects is distributed it. (Appendix B)

Finally, jurors are given a follow-up letter from the DA acknowledging jurors' service and offering the opportunity to speak with someone in the office about their experience, as well as providing the Victim Witness Division's contact information. To read more about the variety of juror resources available in Travis County, TX, please go to <http://www.tdcaa.com>.

For further information about other juror support programs around the world, please visit:

Samaritans-HM Courts Service (Bradford, UK):

http://www.samaritans.org/PDF/Supporting_you_through_Jury_Service_HMCS_with_Samaritans.pdf

Support After Crime Services (Ireland, UK): <http://www.supportaftercrimeservices.ie/>

CISD-trauma debriefing specialists (Australia): <http://www.trauma-pages.com/support.php>

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For more information and training dates see: <http://SHIFTWellness.org>

Fireside Chats for Judges: In two 90-minute webinars, Jane Stevenson, a mental health professional experienced in the field of child pornography exposure, details the effects of exposure especially relevant for judges and how best to prepare oneself and jurors for exposure. Dates: February 9 & 10, 2012 at 12 pm EST. Please look for these fireside chats online starting in March, 2012 at www.shiftwellness.org.

SHIFT for Individuals Exposed to Child Pornography: this course team taught by a mental health professional and a law enforcement officer will offer professionals who are exposed to child pornography, and who may be required to interact with pedophiles, the opportunity to learn about the causes and symptoms of negative effects that may occur as a result of their duties. Participants will learn how to develop effective coping strategies. In addition the exposed individual will be given the tools to help facilitate a supportive work environment for themselves, effectively understand and utilize mental health support, and solicit support through and for their families and peers.

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Leaving the jury box with a heavy burden

The Code of Criminal Procedure now allows victim coordinators to provide counseling for jurors post-trial, but the legislature set aside no money. Here's how Travis County helps jurors who endure graphic testimony and evidence in court.

By Stacy Miles-Thorpe, LCSW

Victim Witness Counselor in the District Attorney's Office in Austin, Texas

"The first day of the trial, I came home exhausted. The second day, I was so overwhelmed I couldn't even speak to my friends or my husband. By the third day, my husband confronted me by asking me what was wrong. I bit his head off, 'What do you think is wrong?!'"

That's what a juror from a recent punishment retrial told me after I ran into her in public. It was two months after the Laura Hall punishment trial in the summer of 2010. The defendant had been accused and found guilty of tampering with physical evidence in 2007 after she helped to dismember the body of a young woman, Jennifer Cave, who had been murdered. Upon appeal, her conviction was upheld, but the punishment was thrown out, resulting in a retrial of the punishment phase.

After some brief small talk, I asked how the juror was, and she told me about her reaction to the trial. It took three counseling sessions before she could tell her therapist about the images and the testimony she had been carrying with her since the trial. She said she kept it in because she didn't want to traumatize anyone else.

I had been in the courtroom for Hall's retrial too, and as I sat with Jennifer Cave's family, I also watched the jury, wondering about the emotional impact on them as they viewed graphic photos, heard gruesome testimony, and witnessed the pain of the family in the front row. I was interested in hearing about this juror's experience, and she was eager to share it.

Plenty of trauma to go around

Serving as a juror on a criminal trial is unlike any experience most jurors have had. As we all know, television's portrayal of crimes, investigations, and trials can be quite different from reality. Jurors are required to sit passively but remain attentive for up to eight hours a day over the course of a few or even many days. They may hear distressing or horrific information, be exposed to images that provoke strong emotional reactions, and are sworn to not discuss the case with anyone for the duration of the trial. They see the raw emotions of the victim or the victim's family, and they recognize the weight of their verdict and punishment decisions for both parties.

In Hall's trial, experienced Travis County prosecutors understood that bombarding the jury with multiple, repetitive images could be overwhelming and counter-productive. They included enough images and expert testimony to convey the full picture to the jury but were respectful in not leaving graphic images lingering on the monitor or showing a barrage of photos for shock value. Still, even the limited number of photos of this crime scene were horrific, and the agony of the parents' testimony about the night they found their child left indelible images in the minds of the jurors.

Juror counseling legislation

The mother of Jennifer Cave, Sharon Cave Sedwick, herself recognized the impact to jurors as she participated in the trials involving her daughter's murder. Ms. Sedwick felt tremendous gratitude for the jurors' service but also recognized that there was a gap in the system to serve them. Following the murder trial of defendant Colton Pitonyak in 2007, she worked with her local state representative to amend Code of Criminal Procedure Article 56.04 to allow the crime victim liaison or victim assistance coordinator to offer up to 10 hours of

post-trial counseling for jurors in trials involving certain offenses. The legislation is a step in the right direction, as it acknowledges the valuable contribution jurors make to the criminal justice system by establishing an avenue of support after difficult trials.

Why is this support necessary? According to a 1998 study of jurors and alternates from a wide range of civil and criminal cases, one-third of the 401 responding jurors experienced stress as a result of their jury duty¹. The sources of stress were varied, and stress levels were influenced by the type and length of trial. In another study conducted with jurors from three murder trials submitted to the Yukon Department of Justice, 89.5 percent of responding jurors said they felt stress as a result of their jury service, and up to 90 percent found some aspects of the trial moderately to extremely stressful².

Sources and symptoms of stress

Multiple surveys have been conducted with jurors in the U.S. and Canada to determine what aspects of their service induced the most stress. One obvious source is the nature of the evidence presented, particularly in trials involving violent crimes. While the photos and testimony were cited by jurors in these types of trials, more often jurors said that the weight of the decision around guilt-innocence and punishment most impacted them. In the Yukon Department of Justice study, researchers found the top three most stressful aspects of the murder trials (ranked by the jurors) were: 1) fear of making a mistake, 2) deciding on a verdict, and 3) the deliberations themselves.

Jeanne Robinson (not her real name), a juror who served on a Travis County jury, agrees with this assessment. She and other jurors heard a case involving assault-family violence, in which the defendant was found guilty and sentenced to prison. Jeanne found the testimony unsettling. "It was hard hearing about the conflict in the family directly from the family members," she says. "That kind of violence is outside my experience and is more removed when I read about it in the paper than when it's right there in front of me." She remembers feeling the weight of deciding the defendant's fate and continued to wonder weeks later if they made the right decision. Jeanne also recognized this stress in other jurors, manifested in the jury room as bickering and fear of making a final decision.

While the vast majority of jurors experience minimal stress symptoms, it is not uncommon for some to have lingering symptoms such as recurring thoughts about the crime, headaches, and fatigue. You could expect to find elevated symptoms after longer trials involving more violent crimes. Though uncommon, researchers found that jurors occasionally reported symptoms of moderate to severe distress such as nightmares, intrusive images, anxiety, and depression that interfered with their daily life. (See the Word document below, "Signs of Stress," for more info.)

Why should we care?

Prosecutors are public servants, and when a citizen serves on a jury, it is one of the only times members of the public witness and participate in our criminal justice system. We are asking them to do their civic duty, and we bear some responsibility in helping them integrate back into their professional and private lives after their service. Their experience as jurors can foster trust and confidence in our system—or it can contribute to their reluctance to serve, or worse, erode public confidence in our system.

Christopher Baugh, an assistant district attorney in Travis County, considers the emotional impact of a trial's evidence and testimony and factors it into his trial strategy. Mr. Baugh prepares jurors during voir dire for the fact that they will be presented with images of violence, then alerts them again before showing an image: "You want jurors paying attention to the testimony, so you can't throw a [graphic] picture at them and expect them to attend to your witness, because they get transfixed. They shut down and then can't do their job as a juror." The volume of evidence presented is also something he considers, and concedes that this awareness comes with years of practical experience. Jurors will reach a point of being overwhelmed seeing photo after photo depicting the same injury or scene and at that point may struggle to remain attentive.

Travis County's approach

Good jury management can alleviate sources of stress from the first contact with the jury panel, from limiting delays and wait time, to educating jurors on the voir dire and trial process. Travis County district judges take the time necessary to orient jurors, explain procedures and delays, and express a great deal of appreciation for their time and service, as advised in the American Bar Association's Standards Relating to Juror Use and

Management³.

Post-trial debriefing with the judge also helps jurors process their trial experience. Our district court judges may spend a considerable amount of time visiting with jurors once they are released, allowing them the opportunity to ask questions about the trial or about the criminal justice system. Both prosecutors and defense attorneys routinely visit with jurors as well. The impact of this time is immediately evident. Jurors often exit the courtroom after a trial visibly tense or exhausted. In the 147th District Court, now-retired Judge Wilford Flowers used to proceed to the jury room and spend up to 45 minutes talking with the panel. During that time, jurors would ask questions about the defendant's background, the law, and the judge's legal philosophy. More often than not, jurors eventually left the courthouse relaxed and smiling.

Within a week after the conclusion of the trial, the DA's office sends a follow-up letter to jurors. (A sample copy is below.) In this letter, we acknowledge that during their trial experience, they may have seen or heard disturbing information that may be affecting them. We offer our office's support if they need to talk with someone about their experience and provide the Victim Witness Division's phone number.

In a county our size, we regularly conduct trials that will impact jurors emotionally, including cases where a jury must decide whether to impose the death penalty. In these and other difficult trials when we can clearly see the distress in our jurors, our counselors will prepare a letter and information sheet on stress management to be handed to jurors immediately following the trial. In our experience, normalizing possible stress symptoms, encouraging self-care by providing specific ideas on stress management, and providing a resource for further support if needed can help them re-engage their support system and coping skills.

It is rare that we get calls from jurors needing to talk further, but it happens occasionally (four to six times a year on average). We have 10 counselors on staff who are prepared to debrief the jurors themselves and then to provide information and referrals if ongoing counseling is indicated. We're fortunate in Travis County to have many counseling centers that provide counseling on a sliding-fee scale if cost is prohibitive.

Suggestions for other counties

Unfortunately, Senate Bill 560, which provided for juror counseling, did not set aside funding for it. That is the next step for Sharon Cave Sedwick in her drive to support jurors in difficult cases. Without a system in place to pay for counseling or debriefing, counties are left to decide on their own how, or whether, to offer this support.

If your judges aren't currently following the ABA's Standards Relating to Juror Use and Management, particularly Standard 16 on juror orientation and instructions, doing so is a good place to start. It sets a tone of respect and inclusion in the process that helps put jurors at ease. Multiple articles on juror stress also recommend informal post-trial debriefing by the trial judge, as is conducted in Travis County.

Prosecutors' offices are also encouraged to develop a follow-up letter to jurors that specifically addresses stressors that may have impacted the panelists, along with information on stress management and a resource if further help is needed. Whether this is prepared for every trial or for particularly difficult ones, it's important to give your jurors an avenue for support.

If you practice in an area with limited resources, you may need to get creative in finding support for jurors. You don't necessarily need to think in terms of providing therapy to a juror who is distressed; often when people are traumatized on a secondary level, and a debriefing session can help normalize, process, and re-engage their coping skills. You may be able to partner with another victim service agency or non-profit that can provide formal debriefing. There may be a local therapist who could offer one free session or a series of sessions on a sliding-scale basis to jurors referred by your office. Some therapists may offer a phone consultation if the juror has transportation concerns. Lastly, there may be a local member of the clergy who could provide support or counseling.

For counties with access to trauma-debriefing specialists, some courts in the United States and Canada have successfully implemented formal critical incident stress debriefing (also known as CISD), offered to the jury panel as a group after traumatic trials⁴. While participation in the King County study of the debriefing program was voluntary, most jurors chose to participate and rated the value of the debriefing very high.

If you are interested in seeing a copy of the letter and information on stress management that our Victim Witness Division provides jurors, please visit www.tdcaa.com in the journal archive. Both are available as attachments.

As for the juror in Laura Hall's punishment retrial, she carried the heavy emotional burden of the trial for several weeks. I asked her what eventually helped, and she said that she worked through her feelings with her

therapist, who encouraged her to use her talent as an artist to help her heal. She used a large artist sketch pad to draw a particular image that remained with her from the trial and wrote out the lines of testimony that continued to haunt her. "Then I tore it to pieces, put it in an old coffee can, took a hammer and just beat the hell out of the coffee can. I threw it in the trash and even watched as the garbage truck hauled it off," she said with a laugh. She said that talking to her counselor, along with this symbolic act, had unburdened her and allowed her to move forward.

Endnotes

¹ Casey, Pamela. (1998) *Through the Eyes of the Juror: A Manual for Addressing Juror Stress*. Williamsburg, VA: National Center for State Courts. Available online at: www.ncsonline.org/WE/Publications/Res_Juries_JurorStressIndexPub.pdf.

² Bertrand, L.D., Paetsch, J.J. & Anand, S. (2008). *Juror Stress Debriefing: A Review of the Literature and an Evaluation of a Yukon Program*. Whitehorse, YK: Yukon Department of Justice.

³ Committee on Jury Standards, American Bar Association, *Standards Relating to Juror Use and Management*, vii (1993).

⁴ Rubio, D., Ventis, W.L., & Hannaford, P. (2000) *King County Superior Court Evaluation of the Jury Debriefing Program: Final Report*. Denver, CO: National Center for State Courts.

Editor's note: Chris Jenkins, victim assistance coordinator in Dallas County, was so kind as to send a flyer her office developed for jurors; it is a Word attachment ("juror flyer.22.doc") below. Thank you Chris!

Signs of Stress

The following symptoms are common reactions to stress:

Physical

Tension/muscle pain
Sleeplessness
Headache
Constipation or diarrhea
Upset stomach
Using alcohol as stress relief

Behavioral

Difficulty connecting with friends/family
Change in eating habits
Unexplained crying
Problems concentrating
Restlessness/agitation

Mental/Emotional

Fatigue
Numbness
Anger or irritability
Disturbing images
Fearfulness
Nightmares
Forgetfulness

If you notice any of these reactions in yourself over the next few days, the best response is self-care. Think about the means you typically use to manage stress and be intentional about trying some of the following:

Coping Strategies

Which of the following could you do over the next few days?

Spend time with loved ones
 Exercise
 Get extra rest
 Pray or meditate
 Meet with your spiritual leader
 Spend time in nature
 Use art as an outlet

Carve out alone time
 Eat well
 Talk with someone about the trial
 Attend church/synagogue/mosque
 Talk to a counselor
 Write in a journal
 Listen to music that moves you

Exercise is one of the more effective ways of reducing stress. When you experience stress, your body produces stress hormones (adrenaline, cortisol). Exercise helps your body process stress hormones and return to functioning.

Play basketball
 Rent a canoe
 Yoga/tai chi
 Go for a hike
 Swim

Run or walk
 Stretch
 Bike
 Walk your dog
 Use a punching bag

ⁱ http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&PageId=2191

ⁱⁱ ICAC data network

ⁱⁱⁱ Rogers, Freeman and LeSage 1991

^{iv} http://www.ncsonline.org/WC/Publications/Res_Juries_JurorStressIndexPub.pdf



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