



Juror Number One



By Marion Leff, MD

LAST FALL I HAD THE "OPPORTUNITY" to serve society in a manner quite different than that for which I trained. Many physicians have had their deposition taken or even sat on the witness stand to give expert testimony, but I recently spent five weeks as a juror on a murder trial. In the beginning I was embarrassed because everyone I knew who had ever been summoned managed to get out, and I had not.

At the time, I must confess (no pun intended) I was also curious about this whole process. From jury selection to sitting in jury seat number one in courtroom #33 of our Sacramento Courthouse, it was a cultural experience like no other I have known. Should you ever find yourself potentially spending time at the 7th and H street courthouse, let me describe the highlights that await you.

Having deferred jury service several times, I found that duty to patient care was not an adequate reason to be disqualified, so I sat in the large assembly room where all potential jurors have their first taste of waiting. The current "promise" the court gives to our citizens who are called to appear is "one day or one trial." Unfortunately, there is no limit to the length of time to serve if selected for that one trial.

The assembly room is like an airport waiting area with people dozing, reading, or talking too loud on cell phones. Everyone is ignoring the incessant educational video that plays over and over and over. Soon another film replaces this and it is replete with testimonials from jurors who have been inspired by their experience, encouraging us to think positively.

After being called to a courtroom for possible selection, I receive my first juror badge. The hallway of the 5th floor is crowded at 9 a.m. with people wearing a variety of colored badges. White is for potential juror, to be converted to a bolder color once among the chosen. In courtroom #33, the judge presents a preview of the case. It is to be a serious case, robbery and murder with multiple defendants each represented by a defense attorney in addition to a special defense attorney who will only focus on DNA evidence. The judge informs us we may be needed for up to 6 weeks. Suddenly my curiosity about experiencing a criminal trial is not so keen as I think about the disruption of my practice and the burden on my partners.

I am the first one called with the first group of 18 juror candidates who will be interviewed. Twelve regular and four alternate slots must be filled. We are each asked a sample of questions by the judge and all the attorneys have a crack at us. Some of the questions seem appropriate to the case to determine strong biases, such as asking if we had ever been a member of a pro or anti-gun organization, or a crime victim, but others are random.

For example, one attorney asks if any of us had ever had a letter to a newspaper published. I shot my hand up affirmatively for that one thinking to myself, "This will get me dismissed," but it was a meaningless question that went nowhere. In fact, the attorney remarked he always asked that question and no one had ever answered "yes" before.

Over the course of the next two days, folks are dismissed and new potential jurors are seated. As those of us still remaining are faced with the possibility that we might actually be chosen, a flurry of messages are sent to the judge via the bailiff requesting consideration of hardship. I am no exception.

The bailiff is the juror's link to the inner sanctum. All communication goes through the bailiff. He advises us on proper etiquette in the courtroom. When my turn comes, I plead my case, "I am a family doctor and this will be quite difficult, etcetera, etcetera." The judge is polite, a good listener and merely asks me if I can be attentive, even though there might be work distractions on my mind. I am cursed with the inability to lie adeptly, and I spend too much time pondering the question. This is it. I am well aware it depends on how I respond to this question. Juror seat number one now belongs to me!

My new best friends as I come to know my fellow jurors are a reasonable mix of our community: seven men, five women, ethnically diverse and all seem to have beyond a high school education. The panel includes another physician, two nurses, a couple of engineers, retired business manager, and a baker, just to name a few. We receive our yellow badges and have free parking in the designated lots for the duration of our duty.

I now have a new appreciation for the expression, "the wheels of justice move slow." The jurors' hours are strictly limited, nine to four with mandatory morning and afternoon breaks and a 90-minute lunch. Learning to accept this is a requirement to maintaining composure. Any number of unexpected variables can cause delays, and the juror can expect to get through a couple of books, many magazines, or carry on cell phone work. There is no wi-fi for internet access, however, anywhere in the public sector.

It is day number three when the opening statements begin. The prosecution opens by warning us that this will not be like "Law and Order" or "CSI." It was nonetheless dramatic. Sadly, there was a horrific crime committed by four youths, three of whom are defendants and one turned state witness. The fact that several different ethnic groups are involved adds to complexity of the tale.

The story is laid out by the prosecution outlining how these four youths, in an effort to get money, donned ski masks and gloves along with guns and at four in the morning, broke into the house of a young pot dealer who was asleep with his girlfriend in his home inhabited by several other family members including young children. In the chaos to rob the victim, guns were fired and a 21 year-old boy dies.

Defense has its opportunity and warns us not to trust the testimony of a lying snitch. I learn that circumstantial evidence from an accomplice cannot be accepted without corroborative evidence. Defense's job will be to plant doubt in our minds.

At the close of this day and each day's session the judge admonishes us: We may not discuss the case with anyone, not even to say if we are in a criminal or a civil case. We can't "google" the defendants, witnesses or anyone else, nor can we drive by any scenes described. Lots of evidence and lots of testimony is to follow.

As the trial really gets underway with witness testimony, a rhythm sets in. Each juror has a notepad for taking as many notes as she wishes. We become not only keen observers of the witnesses, but of all else that goes on in the courtroom: the attire of the lawyers, their unique style, the behavior of the defendants and the visitors representing the victim or the defendant and over all, our honorable presiding judge.

As jurors, we hear a Powerpoint mini lecture on DNA evidence, from how it is collected to how it might be interpreted, particularly when there may be multiple DNA "fingerprints" on evidence. We listen to wire-tapped phone conversations and see video testimony. Articles of evidence from the crime scene are brought forward repeatedly so that different expert witnesses can comment on the findings: finger prints, DNA profiles, and gun shot residue. This becomes so repetitive that we jurors are at risk of dozing off.

We drink a lot of coffee. While not physically taxing, this job of giving adequate attention is exhausting. Tearful family members of the victim testify and hostile witnesses create even more drama. I learn about a variety of weapons, that a grill is a fashion statement for the teeth in some neighborhoods and you can make a blunt by packing a cigar with marijuana and a "queen for a day" agreement is a sweet deal for a defendant turned witness for the prosecution.

One day, I almost got kicked off the jury because during a break in the cafeteria, the defense attorneys sat down near me and were conversing. They moved as soon as they recognized me as a juror. The bailiff called me in, and I was asked if I had heard anything. I still wonder if I had answered yes, would I have been dismissed? The husband of one juror came to court and for days observed in the visitor's section. When the judge learned of this, he was kicked out, but his wife remained a juror.

As the trial moved in to week four, we experienced cancelled days because of attorney illness that ultimately resulted in one of the three defendants being removed from the trial because his lawyer had not recovered adequately. During this time, I became very frustrated. Trying to see patients who were willing to be on a "will call" list, tending to messages most days during breaks and before 9 a.m. or late afternoon was trying. My patients were more understanding than I was, but were surprised that I was serving. After not one, but two more attempts to appeal to the judge that this duty had created a true hardship, I was finally dismissed, five weeks after I began.

While I cannot comment on the experience of sitting in a room with 11 other citizens to decide on the fate of these defendants, I did stay in touch with the foreman and learned the outcome of the trial. The verdict was guilty on both charges of robbery and murder. The material evidence and testimony, was from the start, overwhelming.

The defendants never took the stand, or had alibis to offer, and now these young men face life sentences. The crime was terrible and terrifying as we heard it unfold, and it is upsetting to know multiple lives are also wasted. Sadder still is the environment that allows young men to view robbery as a viable path to achieving the good life. This story was made even more complicated by the fact that it involved several different ethnic communities in a chronically struggling neighborhood.

With my curiosity now satisfied, I can rest assured I have at least 12 months before I can be called up again for this civic duty. My wise son who is the same age as the youngest defendant reminded me that this was only five weeks out of my life, while an entire lifetime was at stake for the defendants. A sad post script, I think.

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