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The Anonymous Jury: Jury tampering by another name?

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The Anonymous Jury

Jury tampering by another name?

By EPHRAIM MARGOLIN and GERALD F. UELMEN

Growing use of anonymous juries in criminal trials presents a challenge to the fundamental values protected by the defendant's right to a jury trial: the presumption of innocence, and the requirement of proof of guilt beyond a reasonable doubt. It is important to understand the extent to which these fragile rights are burdened by jury anonymity so that effective safeguards can be developed.

Juror anonymity is an innovation that was unknown to the common law and to American jurisprudence in its first two centuries. Anonymity was first employed in federal prosecutions of organized crime in New York in the 1980s. Its use has spread more recently to widely publicized and volatile cases such as the federal prosecution of police officers accused of beating Rodney King; the
trial of African American defendants alleged to have beaten Reginald Denny, a white truck driver, during the riots after the first Rodney King verdict; and the trial of those accused of the fatal World Trade Center bombing in New York City.

In some of these cases, the defense offered no objection to use of an anonymous jury. This judgment, however, demands careful weighing of anonymity's potentially harmful impact on the defendant. The decision can be described as a "tactical judgment" only where the court allows open-ended voir dire sufficiently meaningful to permit an informed judgment call. Most often, the defense operates in a fog, and preservation of anonymity posttrial makes assessment of the process impossible.

Available evidence suggests that anonymity may impose substantial burdens on a jury's deliberative process. Nevertheless, courts have allowed prosecutors to use this radical innovation as a tactical ploy—despite the potentially increased chances of conviction—without balancing the frequently unproven assertions of the prosecution against the probability of harm for the defense and without requiring careful monitoring and cautious scrutiny of the process. A shroud of secrecy precludes any accumulation of data to assess the impact of anonymity.

The showing necessary to justify anonymity can be made routinely in any case to which a prosecutor affixes an "organized crime" or "terrorism" label and attributes allegations of prior jury tampering to the defendant by virtue of his or her alleged control over "organized crime" or "terrorist" affiliates.

There is an eerie parallel between attempts in Northern Ireland to restrict the right to a jury trial in cases where terrorist crimes are alleged and American use of juror anonymity in cases to which the "organized crime" or "terrorism" label is applied. In both situations, the label becomes a self-fulfilling prophecy, diminishing the procedural protections available to the accused before the label's accuracy has been determined.

An American tradition

The public nature of the jury trial has been recognized since its inception. As the Supreme Court noted in Press-Enterprise Co. v. Superior Court of California, 464 U.S. 501, 505 (1984):

The roots of open trials reach back to the days before the Norman Conquest when cases in England were brought before...
Attendance was virtually compulsory on the part of the freemen of the community.

Although the Supreme Court in Press-Enterprise did not rely explicitly on the Sixth Amendment right to a "speedy and public trial," the Court nonetheless stated that there has always been a "presumptive openness" of the jury selection process and that "how we allocate the 'right' to openness as between the accused and the public, or whether we view it as a component inherent in the system benefiting both, is not crucial."

The U.S. Court of Appeals for the Fourth Circuit, relying on Press-Enterprise and on the fact that historically "everybody knew everybody on the jury," rejected jury anonymity in In re Baltimore Sun, 841 F.2d 74, 76-77 (4th Cir. 1988):

We think it no more than application of what has always been the law to require a district court ... to release the names and addresses of those jurors who are sitting. ... We recognize the difficulties which may exist in highly publicized trials ... and the pressures upon jurors. But we think the risk of loss of confidence in the judicial process is too great to permit a criminal defendant to be tried by a jury whose members may maintain anonymity. If ... the attendant dangers of a highly publicized trial are too great, [the court] may always sequester the jury and change of venue is always possible.

The Fourth Circuit is not alone in having reached this conclusion. The Supreme Judicial Court of Massachusetts recently reversed an organized crime defendant's conviction for being an accessory to first-degree murder on the ground that he was deprived of his right to know the prospective jurors' names and addresses. (Commonwealth v. Angiulo, 415 Mass. 502 (1993)). Although the ruling was based on a statutory right to a jury list in capital cases (Mass. Gen. Laws Ann. ch. 277, § 66 (West 1990)), the court noted the common law origin of the requirement and the constitutional limitations on the use of anonymous juries even in noncapital cases.

A two-hundred-year-old federal statute requires the prosecution to furnish any defendant charged with a capital offense with "a list of the veniremen ... stating the place of abode of each venireman" at least three full days before the commencement of trial. (18 USC § 3432 (Supp. 1992)). One century ago, the U.S. Supreme Court declared that compliance with the statute's provisions is mandatory, even when the defendant is acquitted of a capital charge and convicted of a lesser offense. (Logan v. United States, 144 U.S. 263 (1892)).

More recent cases have declared that the right arises from the nature of the charges, even if the prosecution does not intend to seek the death penalty, and that failure to comply with the statutory requirement is "plain error." (Amsler v. United States, 381 F.2d 37 (9th Cir. 1967); United States v. Crowell, 442 F.2d 346 (5th Cir. 1971)). Thus, the empanelment of an anonymous jury is precluded in capital cases in federal court.

The primary justification for using an anonymous jury is to foreclose any opportunity for jury tampering by the defendant or the defendant's associates. The motivation for and risk of such behavior is at its height in capital cases, yet Congress has determined that alternatives other than anonymity must be employed to protect the jurors' safety and their deliberations in such cases.

The 1990 restoration of a federal death penalty creates a serious anomaly in cases that permit use of anonymous juries. Jurors' identities may be kept from an "organized crime" defendant accused of drug trafficking but not from a defendant accused of murdering a police officer who sought to arrest the defendant for drug trafficking.

Organized crime

The anonymous jury has become a hallmark of organized crime cases. In recent years, it has been transformed from a rare and unusual "last resort" into a standard tactical weapon in the prosecutorial quiver. The obvious effect of its employment was noted by John Markham, a former federal prosecutor: "[A]n anonymous jury ominously signals the jurors that you are so dangerous that you cannot even be trusted with their names." (28) California State Bar Bull. 1 (June 1992).

The prejudice that a defendant suffers when tried by an anonymous jury is not unlike the prejudice suffered by a defendant who is gagged and shackled in the courtroom. The cases upholding the use of courtroom restraints in the presence of a jury make it clear that the defendant's own personal courtroom conduct is the only trigger that can justify this burden on his or her rights.

In Illinois v. Allen, 397 U.S. 337 (1970), the Court conceded that the sight of shackles and a gag might have a significant effect on the jury's attitude toward the defendant, but it upheld the practice to control a disruptive defendant. As the Court later explained in Estelle v. Williams, 425 U.S. 501, 503 n.2 (1976): "The contumacious defendant brings this plight upon himself and presents the court with a limited range of alternatives. Obviously, a defendant cannot be allowed to abort a trial and frustrate the process of justice by his own acts."
Personal accountability for any danger to the jury should similarly be the linchpin to justify juror anonymity in any case, whether or not an "organized crime" connection can be made. As the court stated in United States v. Vario, 943 F.2d 236, 241 (2d Cir. 1991):

The invocation of the words "organized crime," "mob," or "Mafia," unless there is something more, does not warrant an anonymous jury. This "something more" can be a demonstrable history or likelihood of obstruction of justice on the part of the defendant or others acting on his behalf or a showing that trial evidence will depict a pattern of violence by the defendants and his associates such as would cause a juror to reasonably fear for his own safety.

Terrorism

There is a strong parallel between the use of anonymous juries in organized crime cases and their use in cases involving terrorism. The stated concern is to protect jurors from interference or retaliation by those who may be affiliated with the defendants.

Similar concerns, however, led to the complete abrogation of the right to a jury trial in Northern Ireland for those accused of terrorist activity. Under the Northern Ireland (Emergency Provisions) Act of 1973, "Diplock" courts were established to try such defendants without a jury. The fairness of Diplock courts has been called into question. Some have attributed the reduced acquittal rate to "case hardened" judges who hear a regular procession of cases alleging terrorism and to the frequency with which judges decide both the admissibility of confessions and the guilt or innocence of the defendant in the same case.

A proposal to restore the right to a jury trial in terrorist cases in Northern Ireland included a recommendation that jurors remain anonymous. It suggested that jurors could be transported to court in buses and concealed from public view behind a curtain or screen; neither defense nor prosecution lawyers would be given jurors' names or addresses.

In rejecting this proposal, the Standing Advisory Commission on Human Rights (a public body in Northern Ireland established to advise the government on criminal justice and human rights matters) concluded that it probably would be impossible to maintain anonymity during a lengthy trial. In addition, the commission felt that "it is important in any trial by jury for the defendant to be able to object to some members of the jury panel; this right could not be properly exercised without some information as to the jurors' identity."

Ironically, the commission concluded that no jury trial at all was preferable to using an anonymous jury. This conclusion underscores the uncertainty surrounding anonymity's effect on jury selection and deliberations. To what extent can a defendant's historical right to a jury trial be compromised before total elimination of the use of a jury becomes a preferable alternative?

Corrective jury instructions

The potential burden of jury anonymity on the defendant's presumption of innocence was conceded in United States v. Thomas, 757 F.2d 1359 (2d Cir. 1985). It was even recognized that the prejudicial impact on the defendant could not be eliminated totally.

In rejecting a per se rule against anonymity, the Thomas court underlined two essential prerequisites for use of an anonymous jury. First, there should be "strong reason to believe the jury needs protection," and second, reasonable precaution must be taken to minimize the negative effect of use of the anonymous jury "on the jurors' opinions of the defendants."

Unfortunately, the court also endorsed concealing from the jury the real reason for anonymity. The principal justification offered for anonymity was to prevent jury tampering, but the court approved an instruction that deliberately made no mention of that, only of the necessity to protect jurors from "unwanted and undesirable publicity and embarrassment and notoriety and any access to you which would interfere with preserving your sworn duty to fairly, impartially and independently serve as jurors."

Cases following Thomas have carried this skewing of motivation to even greater heights. In United States v. Scarfo, 850 F.2d 1015 (3d Cir. 1988), the court justified anonymity because evidence describing the defendant's organized crime connection might have led jurors to fear for their safety and that of their families. At the same time, the court approved a jury instruction as follows:

I want to emphasize very strongly that this in no way suggests that the defendant would ever have dreamed of interfering with you or your family. I have been a judge now for 27 years, and in all that time I have never heard of a case where any defendant ever tried to cause harm to a juror or a member of the juror's family.

The judge's recollection was accurate: Physical injury to a juror has been traced to a defendant in only one case, United States v. Bentvena, 319 F.2d 916 (2d Cir. 1963). It is nonetheless unrealistic to expect that jurors will avert their natural suspicion from the most obvious source of danger in the courtroom based on this admonishment.

Juries are well aware of the fact that anonymity is reserved for cases involving threats to their safety, and such threats are frequently attributed to "organized crime" defendants. As Judge Robert Gardner put it, "A juror is not some kind of dithering nincompoop, brought in from never-never land and exposed to the harsh realities of life for the first time in the jury box." (People v. Long, 38 Cal. App. 3d 687, 689 (1974).)

The Scarfo court conceded that a corrective instruction is a "subterfuge which conceal[s] the actual
reason for preserving anonymity." But it went on to say that "juries are not fooled by such subterfuge, and are actually more likely to draw prejudicial inferences about defendants from speculation as to the reasons for their anonymity than from actual knowledge of those reasons."

Alan Dershowitz of Harvard University has said more bluntly that "lying to the jury is contagious and does not fool anyone. Judges who lie to jurors undermine the system of justice more than does any fear of possible jury tampering." (Nat'l L. J. at 22, col. 4 (Nov. 2, 1987).)

Nothing corrodes the criminal justice system more than routine judicial sanctioning of jury instructions that the judges themselves have no evidence to support. Sanctified instructions to the jury cannot disguise the fact that anonymity is predicated on the real risk of jury tampering. It must be assumed that jurors recognize this risk and that it will ultimately affect their attitude toward the defendant and their deliberations regarding guilt or innocence.

Tell jurors the truth: There was evidence of jury tampering in some other organized crime cases and, while neither the attorney nor the defendant involved in those cases is the same as those involved in the present case, precautions are being taken to ensure the jurors' protection. Less harm will be done than if the jury is presented with false concerns about the media and left to speculate as to the horrendous crimes the defendant might have, but in fact had not, committed.

## Sequestration

Concerns that trial publicity might enhance the possibility of juror harassment can ordinarily be dealt with by means short of an anonymous jury. Sequestration of jurors, for example, may be justified, but sequestration and anonymity need not go hand in hand. If the real concern is to "ward off curiosity" and shelter the jurors from interference with performing their sworn duty, sequestration itself accomplishes these goals. Anonymity adds nothing.

Some prosecutors argue that sequestration will not protect a juror's family from threats. This argument has no factual predicate, because there simply is no recorded example of such threats ever being communicated to the family of a sequestered juror. Nonetheless, such conjecture will sound plausible in any case where a risk of jury tampering is held to be likely because of the defendant's alleged organized crime or terrorist affiliations.

To protect jurors from the impetuous media even after their jury service is concluded, courts can fashion protective orders that prohibit repeated interview requests and questioning about statements made by jurors other than the juror who has agreed to an interview. (See United States v. Antar, 839 F. Supp. 293 (D. N.J. 1993); Abraham S. Goldstein, Jury Secrecy and the Media: The Problem of Postverdict Interviews, U. Ill. L. Rev. 295 (1993).)

Notably, sequestration adds substantially to the aura of fear created by the use of an anonymous jury. It increases the risk that jurors will attribute the burdens imposed on them to threats made by the defendant. Courts must guard against an "ostensible display of unusual precaution which might have been interpreted as singling out the defendants as . . . particularly dangerous or guilty persons." (Hardee v. Kuhlman, 581 F.2d 330, 332 (2d Cir. 1978).)

In the federal trial of John Gotti, the order of sequestration imposed a security regimen on the jurors comparable to incarceration in Marion Federal Prison. Marshals were ordered to accompany jurors on visits to church, doctors' offices, barber or beauty shops, and stores. They monitored all telephone conversations between jurors and family members and censored all incoming mail. Even visits by jurors with their spouse or children were monitored by marshals.

Standard 19 of the American Bar Association Standards Relating to Juror Use and Management notes the risks of sequestration: reduced representativeness of the panel, an altered deliberative process, and jurors' resentment. This last risk, the standards emphasize, means that "neither the judge nor counsel should disclose to the jury which party requested sequestration." Where anonymity accompanies sequestration, it will of course be obvious to the juror who made sequestration necessary.

Juries were not sequestered in at least two Second Circuit cases employing anonymous juries where there was a substantial showing of risk of jury tampering. In United States v. Ferguson, 758 F.2d 843 (2d Cir. 1985), marshals drove the jurors home at night. In United States v. Persico, 832 F.2d 705 (2d Cir. 1987), marshals simply transported jurors to an undisclosed central location from which they departed for home.

Unlike anonymity, sequestration by itself can be explained plausibly to jurors as necessary to protect them from the media—from both improper attempts to contact them and accidental exposure to prejudicial news reports. That explanation is seriously undercut, however, when sequestration is accompanied by anonymity.

When the need to protect jurors from overly persistent media is obvious, a defendant may believe that an anonymous jury clearly is a preferable alternative to sequestration and that jurors will not assume the anonymity suggests that the defendant poses some danger to them. This apparently was the conclusion reached by the police officer defendants in the second Rodney King trial, given that the defense offered no objection to the use of an anonymous jury.

The circumstances under which a defendant would be willing to waive his or her right to learn the identities of the jurors are quite limited, however. Even when circumstances are right, the defense may want to suggest a compromise in which the jurors' identities are given only to the (Continued on page 60)

This all-inclusive, easily readable, practical, up-to-date, important text addresses cultural diversity, criminal justice, and criminology with such issues as gender, race, ethnicity, and sexuality. Types of crime, juvenile justice issues, training and college curricula are addressed. In recent years there has been greatly increasing attention to these themes which are represented here by twenty-one national scholars with a thorough expertise and unique perspective in bridging multiculturalism, criminal justice, and criminology. At times the authors seem to agree on topics and issues, while at other times the perspectives may seem divergent, adding significance to this work's emphasis on perspectives, to cover the gap between research and practice.

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been formally charged. The police are under no Fifth Amendment duty either to let the lawyer communicate with Desperado or to inform the suspect of the lawyer’s presence. Indeed, police may even stall in order to gain a tactical advantage, although this practice is not encouraged.

Under the Sixth Amendment, Desperado is not entitled to see counsel—without first requesting counsel—before he is formally charged. (Moran v. Burbine, 475 U.S. 412 (1986); Mitchell v. State, 816 S.W.2d 566 (Ark. 1991)). A caveat: Some states will suppress confessions when police refuse to cooperate with counsel under the foregoing scenario. (People v. Johnson, 570 N.E.2d 400 (Ill. App. 3d Dist. 1991).)

A Miranda meltdown?

The Miranda rules are complex. Ironically, the Supreme Court’s intent in promulgating the rules was to clarify judicial review guidelines. As the court recently commented:

"[T]he police do not need our assistance to establish...[interrogation guidelines]; they are free, if they wish, to adopt [guidelines] on their own. Of course it is our task to establish guidelines for judicial review. We like them to be "clear and unequivocal,"...but only when they guide sensibly, and in a direction we are authorized to go."

(McNeil v. Wisconsin, 111 S. Ct. at 2211 (emphasis in original; citation omitted).)

There clearly are a multitude of ways that the police and prosecutors may bend the rules. Given the Supreme Court’s desire for sensible directives, is Miranda headed for a meltdown? Before long, the sole clear and unequivocal judge-made guideline may revolve around the good faith of the police interrogator and the voluntariness of the suspect. This prognostication is not baseless. In Connelly, 479 U.S. at 166, the court arguably foreshadowed the application of good faith analysis to interrogations and confessions by citing to a prior good faith exception case (albeit in the search warrant context) and pointing out that the purpose of the Miranda exclusionary rule is to deter law enforcement misconduct.

It is even possible that 18 USC § 3501 (enacted as Title II of the Omnibus Safe Streets and Crime Control Act, 82 Stat. 197 (1968)) overrules Miranda, at least in federal court. (See U.S. v. Alvarez-Sanchez, 128 L. Ed. 2d 319 (1994), holding that § 3501 applies only to persons charged with federal crimes.) The statute appears to mandate that only involuntary confessions shall be excluded. Thus, the argument goes, Congress’s intent is that voluntary statements obtained in technical violation of Miranda are admissible. (See, e.g., Justice Antonin Scalia’s concurring opinion in Davis, 55 Crim. L. Rptr at 2209-10, lamenting the government’s failure to raise the argument; U.S. v. Robinson, 439 F.2d 553, 574 n.18 (D.C. Cir. 1970) (McGown, J., dissenting).)

Few commentators expected the Supreme Court’s adoption of the “threshold” standard in Davis. Justices Sandra Day O’Connor and Antonin Scalia seem interested in the apparent conflict between Miranda and § 3501. (See oral argument summary in Davis, 55 Crim. L. Rptr 3011 (1994).) Thus, the Supreme Court appears poised to retreat from the rigidity and confusion of the Miranda rules.

Given that the American public today is as familiar with the Miranda warnings as with the pledge of allegiance, the time has come to return to a voluntariness test—a test which, as espoused in § 3501, takes into consideration the suspect’s knowledge of his or her “rights” but does not render this knowledge (or lack thereof) conclusive on the issue of voluntariness or admissibility. C]

Anonymous Jury

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participating attorneys and not disclosed to the public or even to the defendants.

Application of a standard that equates and combines anonymity and sequestration poses grave risks to defendants. The courts should delineate clearly when sequestration is appropriate, when anonymity may be employed, and in what limited circumstances anonymity and sequestration may be combined.

Being an anonymous juror

Unquestionably, with the increasing use of anonymous juries, the courts are engaged in a “grand experiment” with the traditional safeguards of the American right to jury trial. A true experiment, however, requires careful measurement and assessment of this new variable’s impact on jury selection and deliberation. Ironically, the very protection provided by anonymity forecloses access to the most accurate means of assessing the experiment’s outcome: postverdict debriefing of the jurors themselves.

First impressions. The research of social psychologists and others who have studied jurors’ behavior strongly suggests that anonymity poses grave risks to some of the fundamental values that underlie trial by jury. Research confirms the powerful influence of each juror’s first impression of a defendant and the impact that the array of first opinions has on the jury’s subsequent evaluation of evidence and deliberations, thereby burdening the presumption of innocence. Jurors holding a minority view are more easily swayed toward the impressions held by the larger faction than vice versa. (Valerie P. Hans and Neil Vidmar, Judging the Jury 110 (Plenum, 1986).)

When the first impression is strongly negative, jurors may resolve
close issues of evidentiary dispute, such as the credibility of witnesses, much differently than they would have otherwise. The phenomenon was noted by Harry Kalven Jr. and Hans Zeisel in their classic study, *The American Jury* 114, 165 (Little, Brown, 1966):

The jury does not often consciously and explicitly yield to sentiment in the teeth of the law. Rather, it yields to sentiment in the apparent process of resolving doubts as to evidence. The jury, therefore, is able to conduct its revolt from the law within the etiquette of resolving issues of fact.

In an influential simulated jury study, it was found that characterizing the defendant as “a notorious gangster and syndicate boss who had been vying for power in the syndicate controlling the state’s underworld activities” made a significant difference in trial outcome compared to a case where identical evidence was presented against a more sympathetic defendant. (David Landy and Elliot Aronson, *The Influence of the Character of the Criminal and His Victim on the Decisions of Simulated Jurors*, 5 J. Experimental Soc. Psychology 141 (1969).)

Another simulation study revealed that the entire nature of the deliberative process was affected by revealing a defendant’s prior conviction, even when there was an instruction to disregard that fact except in assessing the defendant’s credibility. When a prior conviction was brought to the jurors’ attention, they were more likely to discuss matters that hurt the defendant’s case and more likely to think that the various pieces of evidence presented by the prosecution were strong. (Gordon Bermant, Charlan Nemeth, and Neil Vidmar, eds., *Psychology and the Law: Research Frontiers* 135, 142 (Lexington, 1976).)

Once the seeds of suspicion are planted by the use of juror anonymity, the jurors may attribute sinister implications to the defendant’s courtroom appearance and demeanor. In *Angiulo, supra*, the jurors, who had been impaneled anonymously, complained during the trial that the defendant was giving them the “whammy” or “evil eye” and was writing down information about them. There was no finding that the defendant attempted to intimidate jurors by unusual eye contact.

Jury instructions may do more harm than good. Reliance on jury instructions to dispel the prejudicial impression of the defendant created by anonymity may have a boomerang effect. Numerous experiments have shown that restrictive instructions may backfire by magnifying the influence of the very factors that jurors were exhorted to ignore.

One such study found that jurors deliberating in groups and then rendering individual judgments were harsher in convicting and sentencing after they were given specific instructions to “decide on the disputed facts without regard to [the unfavorable] non-evidential aspects of the defendant.” (Cheryl J. Oros and Donald Elman, *Impact of Judge’s Instructions upon Jurors’ Decisions: The “Cautionary Charge” in Rape Trials*, 10 Representative Research in Soc. Psych. 28 (1979).)

Hidden in the crowd. A second major concern arises from psychological research on “deindividuation,” a phenomenon described by Philip Zimbardo, a leading professor of psychology at Stanford University. According to Zimbardo, when an individual feels increasingly anonymous under conditions that serve to minimize self-observation and, particularly, concern over evaluation by others, he or she tends to behave in ways that reflect a lowered threshold of normally restrained behavior.” (Monte M. Page, ed., *Nebraska Symposium on Motivation: Personality, Current Theory, and Research*, 240, 251 (Univ. of Nebraska Press, 1983).)

The impact of this phenomenon on the deliberations of a jury produces the precise opposite of the rational, responsible decision making we strive for in our American system of justice:

 Virtually by definition, deindividuated behavior must have the property of being a high intensity manifestation of behavior which observers would agree is emotional, impulsive, irrational, regressive, or atypical for the person in the given situation.

(Id. at 251.)

Creating anonymity in laboratory experiments on small-group behavior (measuring subjects’ willingness to deliver electric shocks to innocent victims), Zimbardo documented that “[c]onditions which induce feelings of remoteness lead to lowered self-consciousness, less embarrassment, and reduced inhibitions about punishing the victim.” (Id. at 270.) Thus, by increasing the risk of emotional, impulsive, and irrational decision making, the “deindividuation” of anonymity may dilute the protection provided by requiring proof of guilt beyond a reasonable doubt.

Safeguards needed

Anonymity presents substantial risks to the traditional deliberative processes of American juries. The research of social psychologists suggests that these risks could include both an undermining of the presumption of innocence and a dilution of the proof standard. The combination of anonymity with sequestration simply compounds these risks.

The restoration of a federal death penalty in the face of a two-century-old statutory requirement that capital defendants receive the names and addresses of jury veniremen in advance creates a serious anomaly that cries out for reassessment of the costs and benefits of allowing juror anonymity. The use of anonymous juries should be suspended or carefully circumscribed until safeguards are devised to prevent these undesirable effects.