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This
JUST IN

The Gorilla in the Courtroom

EGGLESTON JURORS KEPT IN THE DARK ABOUT CRUCIAL FACTS
By Frank Driscoll

Much of what transpires in Brian Eggleston's third trial for killing a Pierce County Sheriff's Deputy in October 1995 will never be known

by the jury charged with deciding his fate.

Two or three times a day, every day, one side or the other asks to be heard outside the >>

» presence of the jury. Whenever that happens, Superior Court Judge Stephanie Arend banishes the 16-member panel to the jury room to cool their heels—wondering, no doubt, what the hell is going on.

Sidebars (conferences among the judge and counsel for either side, which the jury sees but cannot hear) are even more frequent.

That's because Eggleston III is a legal minefield—for the prosecution, for the defense and for the court. Everyone is tiptoeing around, trying to avoid mentioning a laundry list of items that seems to get longer every day. Among them:

- The fact that Eggleston has already been tried, twice, for first-degree aggravated murder.
- The fact that he was convicted of assault and several drug-related offenses at his first trial (in 1997).
- The fact that Eggleston was re-tried in 1998 and convicted of second-degree murder—which means he was *acquitted* of first-degree murder.
- The fact that the Washington Court of Appeals reversed Eggleston's murder and assault convictions in September 2001, citing juror misconduct, improper jury instructions and illegally seized evidence.
- The fact that the Pierce County Sheriff's Department changed its raid procedures after the Eggleston incident. Deputies serving search warrants no longer wear masks, for example, nor do they dress up like ninja warriors. Thanks to Brian Eggleston, citizens can expect a uniformed police officer to be the first person through their kicked-in doors.

Haiku NEWS

**New study claims that
One out of ten rams is gay.
(Don't tell St. Louis.)**

**CIA drone plane
attack in Yemen kills six
al-Qaeda members.**

**Live TV ghost hunt
interrupted by porn film
in Britain. Hot damn. ☹**

- Deputy Bananola's daughter's lawsuit against the county, alleging negligence on the part of the Sheriff's Department. It was settled out of court for \$250,000.

- Eggleston's mother's two lawsuits against Pierce County. One was recently settled out of court for \$100,000 and the other is pending before the Washington Supreme Court.

- Various items of evidence the Washington Court of Appeals suppressed when it vacated Eggleston's murder and assault convictions.

- The fact that Eggleston took prescribed medications for colitis 25 minutes before the raid. The medications included a tranquilizer—chlordiazepoxide, or Librium.

It just goes on and on. What the jury does *not* know is the 800-pound gorilla in the courtroom that no one is permitted to mention.

It gets tricky out on the front lines of the drug war. Arend has already admonished the defense for referring to transcripts from Eggleston's first and second trials—outside the presence of the jury, of course. A prosecution witness has testified that she did *not* testify at Eggleston's two previous trials. And a juror told Arend that she'd heard someone talk about Eggleston's re-trial at a bus stop one morning as she was headed for court.

The Eggleston case is one of a kind, and there's no getting around it. Jurors would have to be denser than lead to miss this point. It's been seven long, painful years, and members of the jury simply have to be wondering what in the world is going on.

For starters, how do you kill a police officer—in Pierce County, no less—and only get charged with second-degree murder?

And what is everybody whispering about? ☹

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