



## **Insight #2: Terror Management Theory** **C.K. Rowland, Ph.D.**

Several of you have asked what effect the tragic events of September 11 are likely to have on juries, especially juries in personal-injury cases. In response to the inquiries, I re-examined a relatively obscure literature in social psychology known as “Terror Management Theory.”

### **Terror Management Theory**

The terror being managed in Terror Management Theory (TMT) is our universal fear of death. In a nutshell, TMT hypothesizes that:

- Human beings expend a great deal of subconscious psychological energy looking for ways to manage and deny the terror inherent in our awareness of our individual mortality.
- In order to manage and unconsciously deny our terror, we attach ourselves psychologically to state institutions and symbols that transcend our individual life spans.
- When we are reminded of our own mortality in ways that shatter even temporarily our institution-based illusion of immortality we become diffusely angry and much more punitive than we were before the reminder.
- Like our anger, our punitiveness is diffuse; it is aimed, not just at those directly responsible for our disillusionment, but also at anyone whose behavior is deemed worthy of punishment.

TMT has not been tested extensively. However, academic jury research has found that mock jurors who have been reminded of their own mortality in opening statements do indeed give harsher sentences in criminal cases (where, by definition, the defendant has threatened institutional norms) than do their counterparts who have not been exposed to such reminders.

### **Implications for Current Litigation Climate**

In the current climate, TMT would predict a distinct increase in the diffuse impulse to punish. Unfortunately, neither the theory nor empirical research speaks directly to the question of whether this diffuse impulse to punish will extend to civil defendants. However, although the empirical evidence is incomplete and indirect, our prediction is that for the next couple of months most jurors in personal injury cases will be significantly more prone to punish defendants who they perceive as behaving with wanton disregard for safety than was the case before September 11. Therefore, we believe that until some semblance of normalcy is established, it may make sense for corporate defendants in personal injury cases to buy time by proceeding more slowly and cautiously than would be the case in normal times.

To the extent possible, we will try to test this expectation by comparing national award trends before and after September 11, 2001. In the meanwhile, we would be interested in any thoughts and/or experiences you may have on this matter.