

The Art of Jury Selection:

A Murder Trial Revisited

Forging New Paths

2023 CDLA Summer Conference • Steamboat Grand Hotel
Sunday–Tuesday, July 23–25, 2023

Dr. Christina Marinakis, Esq.

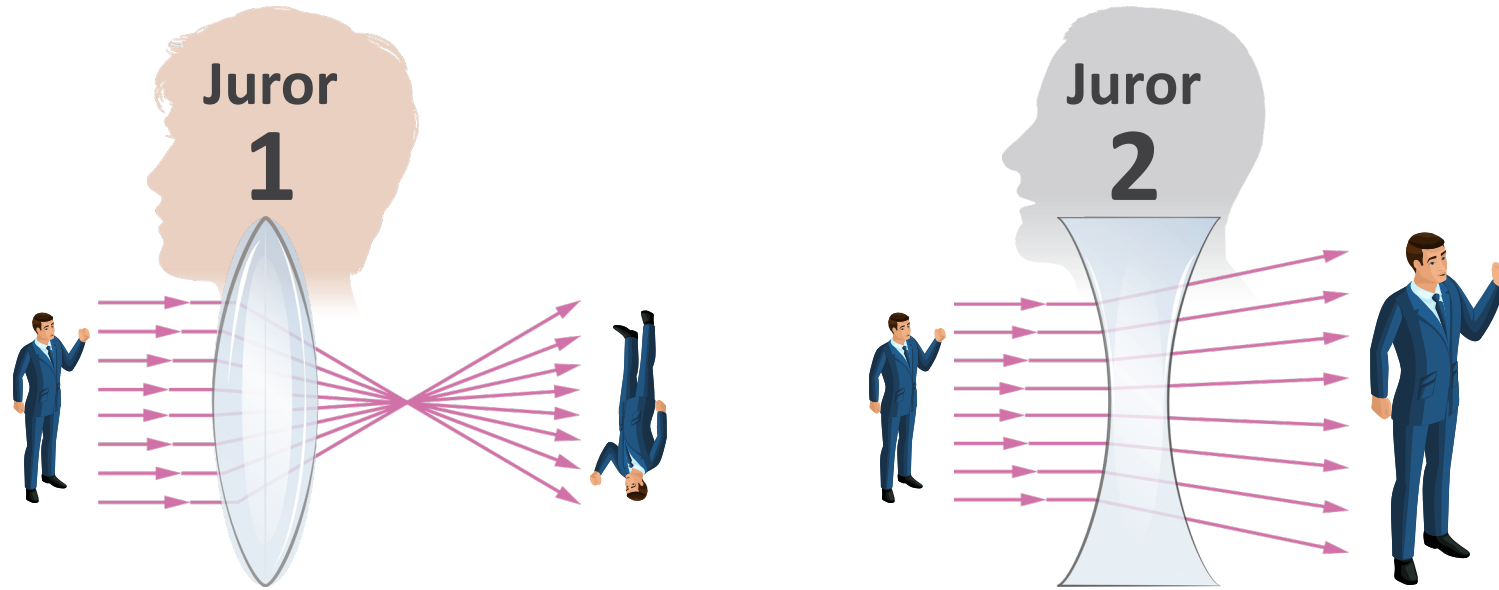
Jury Consulting & Strategy Advisor



Agenda

Foundations of Jury Selection Psychology
Preserving Your Best Jurors
Getting Jurors to Reveal Bias
Getting Jurors to Admit They Can't Be Fair
Selection Strategy

Jury Selection Psychology: It's All About Perspective

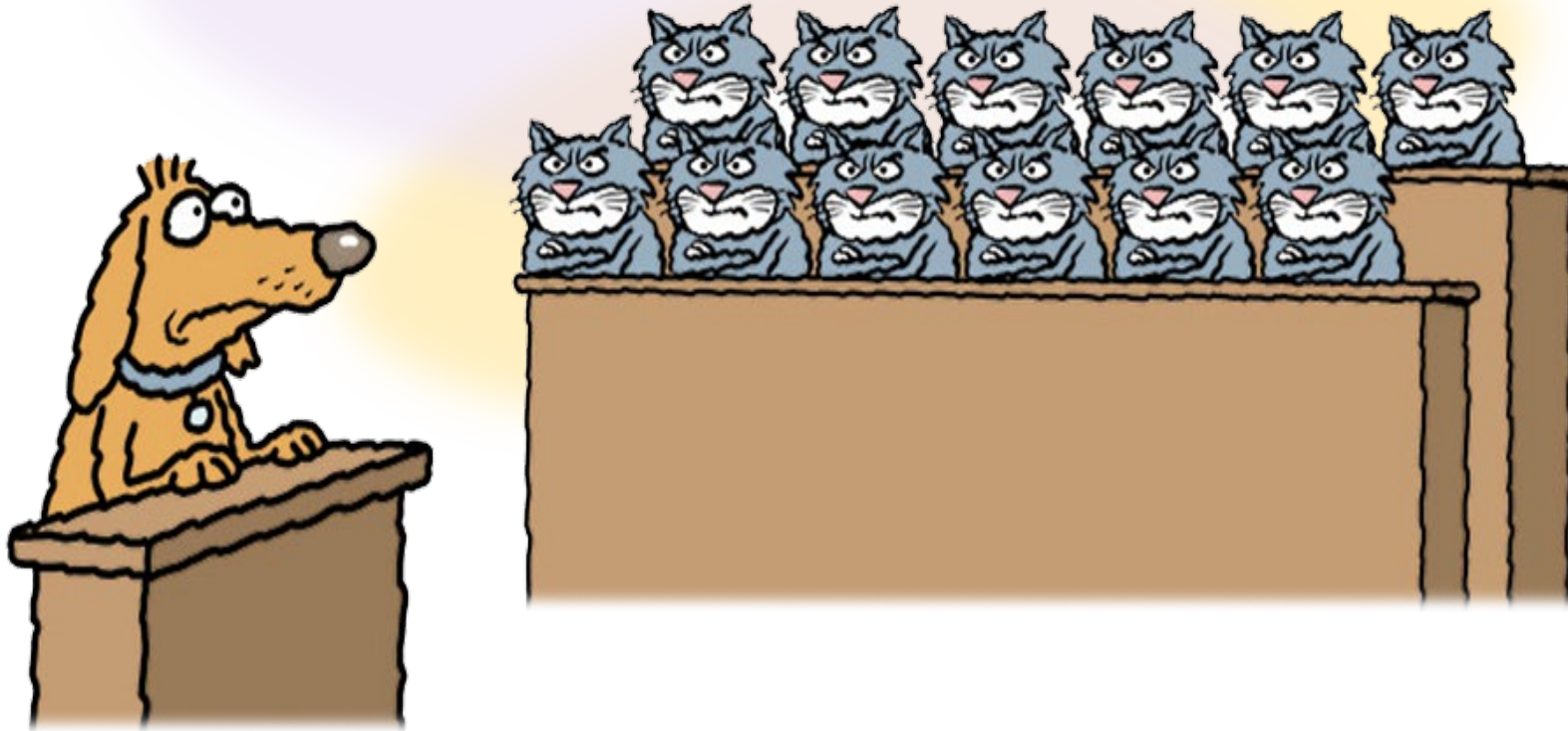


Confirmation Bias:

The tendency to interpret new evidence as confirmation of one's existing beliefs or theories.

- Jurors will filter evidence, interpret ambiguities, and fill in the gaps with their life experiences and attitudes.

Cause Challenges: Because You Can't Strike Them All...



Remember: Largest Predictive Factors for Verdict Outcomes

1. Attitudes/Opinions/Beliefs

...which tend to correlate with:

2. Experiences

...which sometimes correlate with:

3. Demographics

Juror Questionnaires

9. Please circle the choice that reflects your honest opinion:

		Strongly Agree	Somewhat Agree	No Opinion	Somewhat Disagree	Strongly Disagree
a.	Discrimination is not as bad as the media makes it out to be.	1	2	3	4	5
b.	Blacks and other minorities do not receive equal treatment as whites in the criminal justice system.	1	2	3	4	5
c.	Police in this country treat whites and blacks equally.	1	2	3	4	5
d.	Police in my community make me feel safe.	1	2	3	4	5
e.	I support defunding the Minneapolis Police Department.	1	2	3	4	5
f.	Minneapolis police officers are more likely to respond with force when confronting black suspects than when dealing with white suspects.	1	2	3	4	5
g.	Because law enforcement officers have such dangerous jobs, it is not right to second guess decisions they make while on duty.	1	2	3	4	5
h.	The criminal just system is biased against racial and ethnic minorities.	1	2	3	4	5
i.	I do not trust the police.	1	2	3	4	5
j.	People today do not give our law enforcement officers the respect they deserve.	1	2	3	4	5
k.	Local police departments try to cover up excessive force rather than correct it.	1	2	3	4	5
l.	I think that news reports about police brutality against racial minorities is only the tip of the iceberg.	1	2	3	4	5

Juror Summaries—Targets

- 5. Self/someone close victim of crime, police called: Yes; Explain: Our house was burglarized on vacation; Satisfaction w/ police response: Very satisfied
- 8. Been restrained/put in chokehold: No. I don't recall any formal training on chokeholds.
- 9a. Discrimination is not as bad as the media makes it out to be: Strongly agree
- 9b. Blacks and other minorities do not receive equal treatment as whites in the criminal justice system: Strongly disagree
- 9c. Police in this country treat whites and blacks equally: Strongly agree
- 9d. Police in my community make me feel safe: Strongly agree
- 9e. I support defunding the Minneapolis Police Dept: Strongly disagree
- 9g. Because law enforcement officers have such dangerous jobs, it is not right to second guess decisions they make while on duty: Somewhat disagree
- 9h. The criminal justice system is biased against racial and ethnic minorities: Strongly disagree
- 9i. I do not trust the police: Strongly disagree
- 9j. People today do not give our law enforcement officers the respect they deserve: Somewhat agree
- 9k. Local police departments try to cover up excessive force rather than correct it: Strongly disagree
- 9l. I think that news reports about police brutality against racial minorities is only the tip of the iceberg: Strongly disagree
- 11. Martial arts training/experience: No. Only training I have is defensive tactics training through work.
- 13. Opinion of Black Lives Matter: Somewhat unfavorable; Explain: This organization promotes anti-police rhetoric, and supports de-funding the police. I am a police officer. I believe all lives matter, including black lives, but I don't support the BLM organization.
- 14. Opinion of Blue Lives Matter: Very favorable; Explain: I am a police officer.

Part 4: Personal Background

- 6. Previous cities: Richfield (1 year), Shorewood, High School (5 years), Mound (1 year).

Juror Summaries—Saves

5. Listen or watch news: Less than once a week
6. Local Radio or TV News Station: Kare 11
7. Social media news: Every day
8. Social media platforms: Facebook, Twitter, Instagram

Part 3: Police Contacts

2. **Regular contact w/ law enforcement**: Yes; **Explain**: I am a teacher and I have a working relationship with our resource officer.
- 9a. Discrimination is not as bad as the media makes it out to be: Strongly disagree
- 9b. Blacks and other minorities do not receive equal treatment as whites in the criminal justice system: Strongly agree
- 9c. Police in this country treat whites and blacks equally: Somewhat disagree
- 9d. Police in my community make me feel safe: Somewhat agree
- 9g. Because law enforcement officers have such dangerous jobs, it is not right to second guess decisions they make while on duty: Somewhat disagree
- 9h. The criminal justice system is biased against racial and ethnic minorities: Somewhat agree
- 9k. Local police departments try to cover up excessive force rather than correct it: Somewhat agree
- 9l. I think that news reports about police brutality against racial minorities is only the tip of the iceberg: Somewhat agree
13. Opinion of Black Lives Matter: Very favorable **Explain**: I support the movement of Black Lives Matter. I believe there is racial inequality in our nation set up by the systems in place.
14. Opinion of Blue Lives Matter: Somewhat unfavorable; **Explain**: I do not believe in this movement. A police officer has the choice of their career while a person of color does not have a choice of their race.

Part 4: Personal Background

Voir Dire: Key Principles

1. Be a good representative

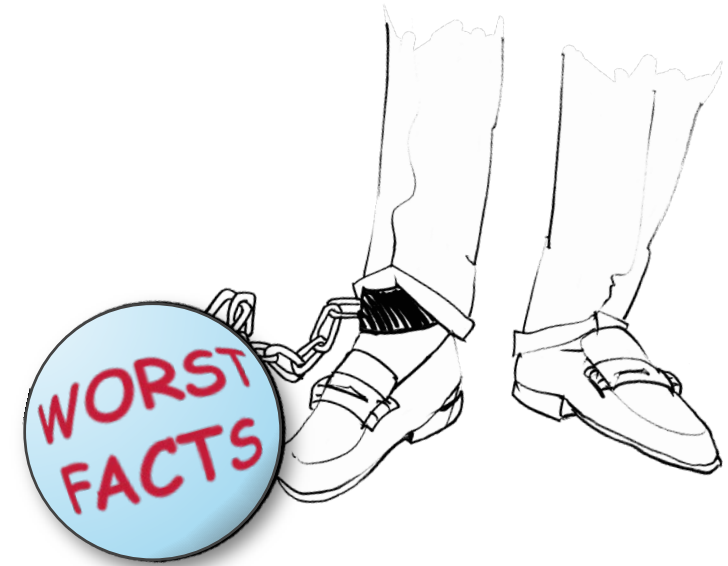


Voir Dire: Key Principles

1. Be a good representative

2. Preview weaknesses

- ✓ Put your worst facts out there
- ✓ Reserve your strong points
- ✓ “Throw” your mini-opening
- ✓ Vanilla statement of the case



Voir Dire: Key Principles

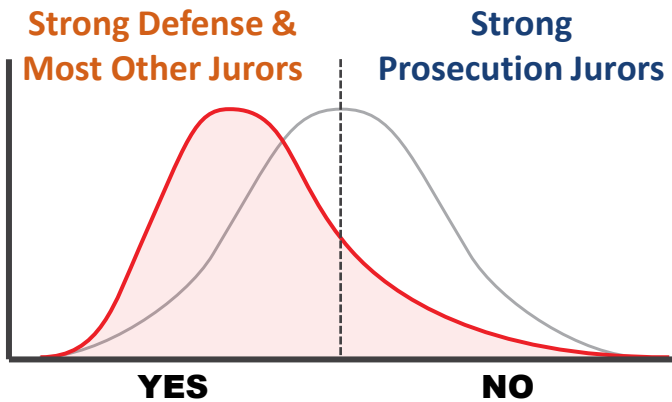
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2. Preview weaknesses
3. Ask the right questions – “Hide Your Keeps”



BAD

Question
Construction--

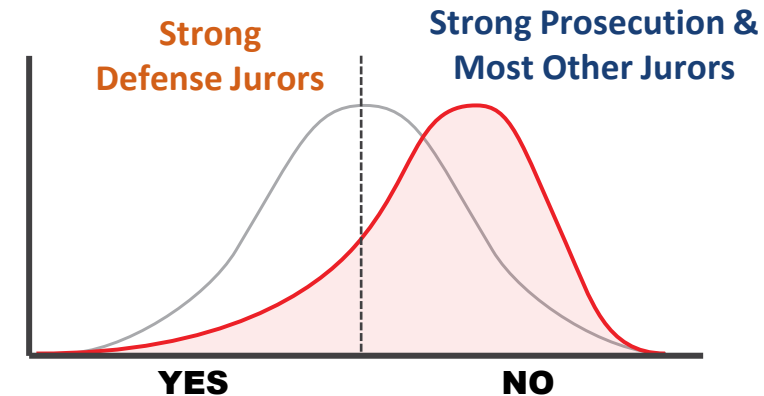
“Do you believe police officers
deserve respect from the communities
they serve?”



GOOD

Question
Construction--

“Do you believe police officers are unfairly
criticized in the communities they serve?”



Voir Dire: Key Principles

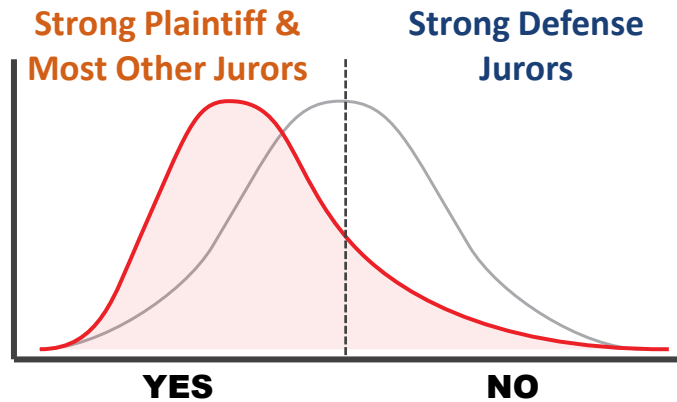
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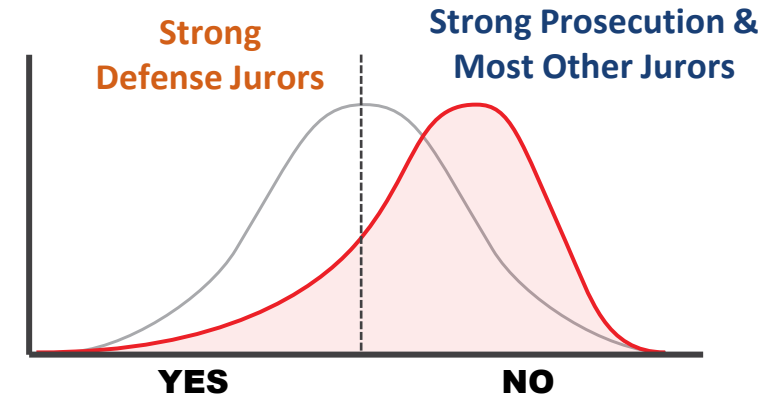
“Who here believes corporations
prioritize profits?”



GOOD

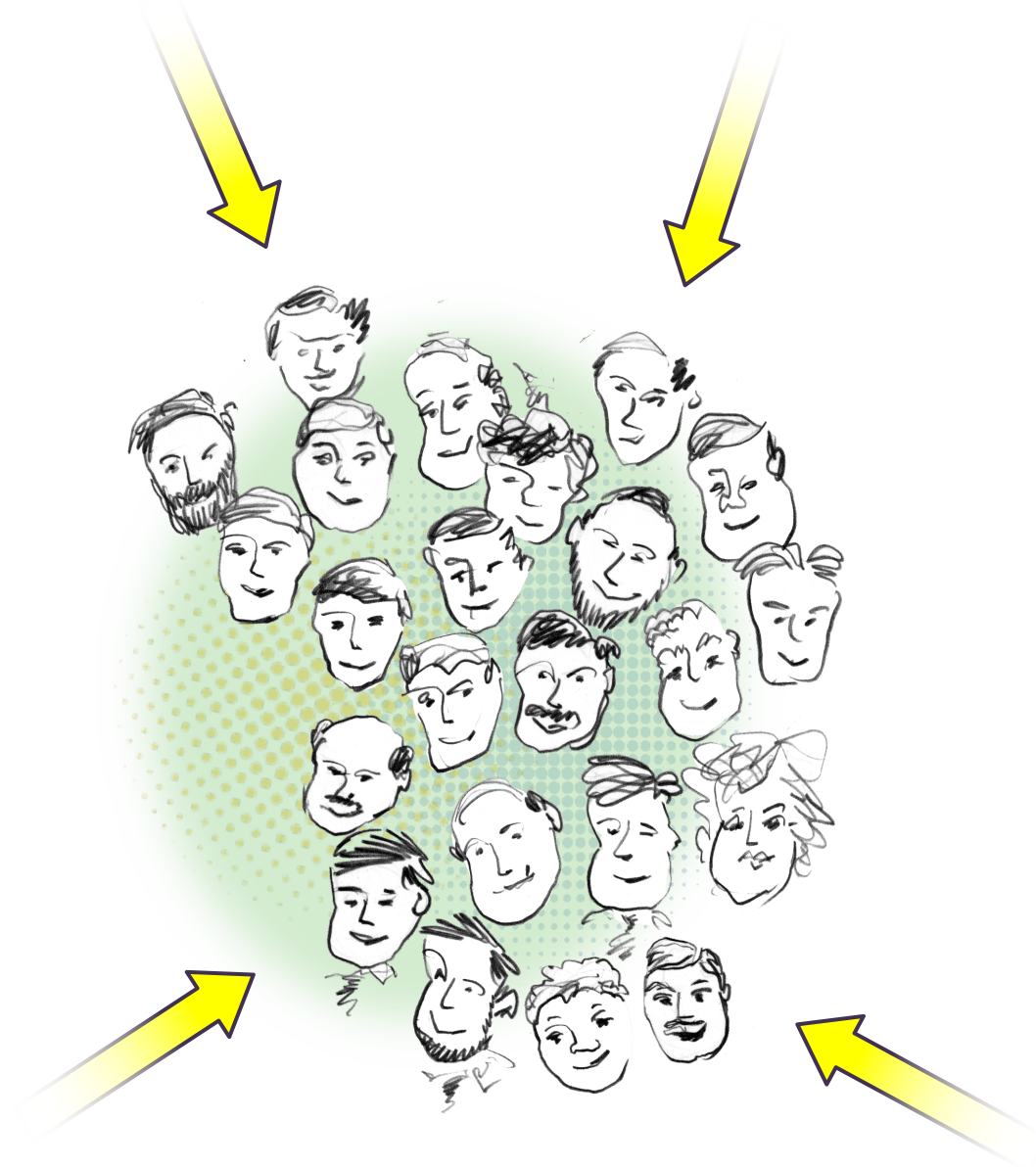
Question
Construction--

“Who here believes most corporations prioritize
profits over the health and safety of consumers?”



Voir Dire: Key Principles

1. Be a good representative
2. Preview weaknesses
3. Ask the right questions
- 4. Eliminate, then indoctrinate**



The Value of Preconditioning

- **Instill themes, plant your perspective, seek commitments**
- **Priming: The Power of Suggestion**
 - When the exposure to an argument or position influences a response



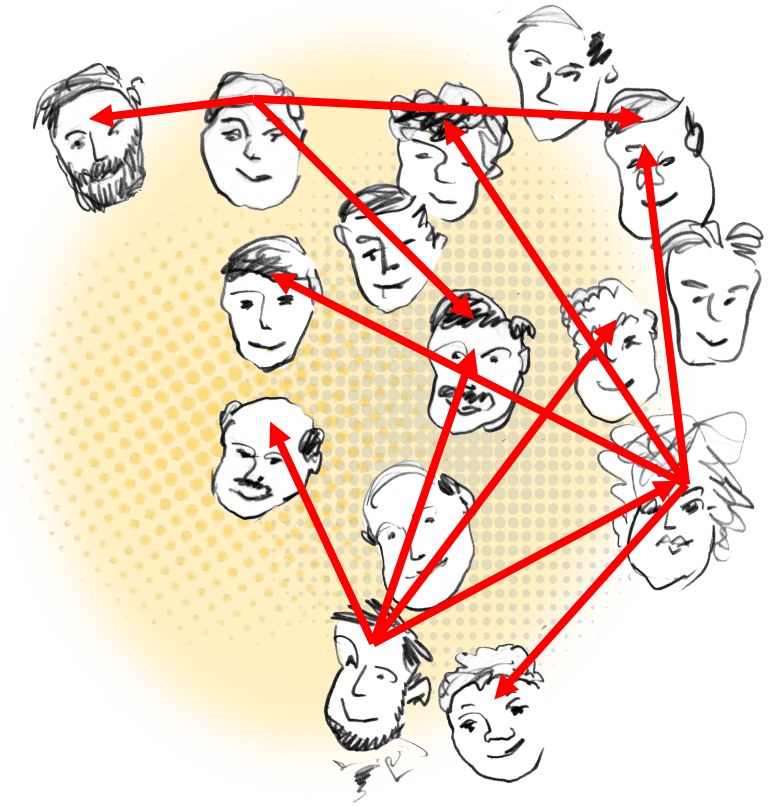
The Value of Preconditioning

- **Does it work on juries? . . . *Not really***
 - Jurors aren't invested at this stage
 - They don't know how your questions relate to the case
 - Effects of priming fade with time
 - It's hard to change someone's mind
 - Time is better spent elsewhere:
getting rid of your bad jurors



Voir Dire: Key Principles

1. Be a good representative
2. Preview weaknesses
3. Ask the right questions
4. Eliminate, then indoctrinate
- 5. Anticipate group dynamics**

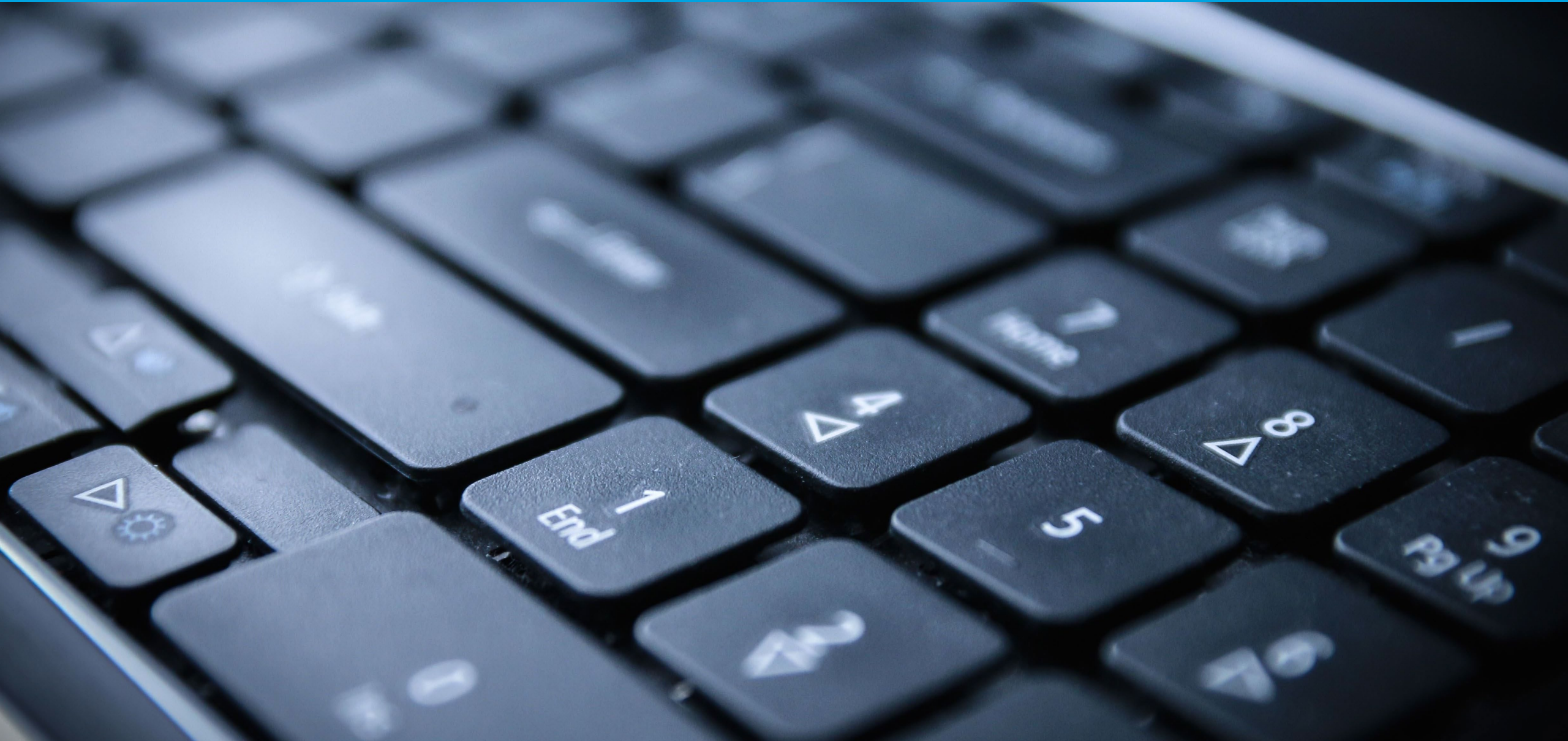


Voir Dire: Key Principles

1. Be a good representative
2. Preview weaknesses
3. Ask the right questions
4. Eliminate, then indoctrinate
5. Anticipate group dynamics
- 6. Do your research**



You Can Learn a Lot About People From Their Online Posts



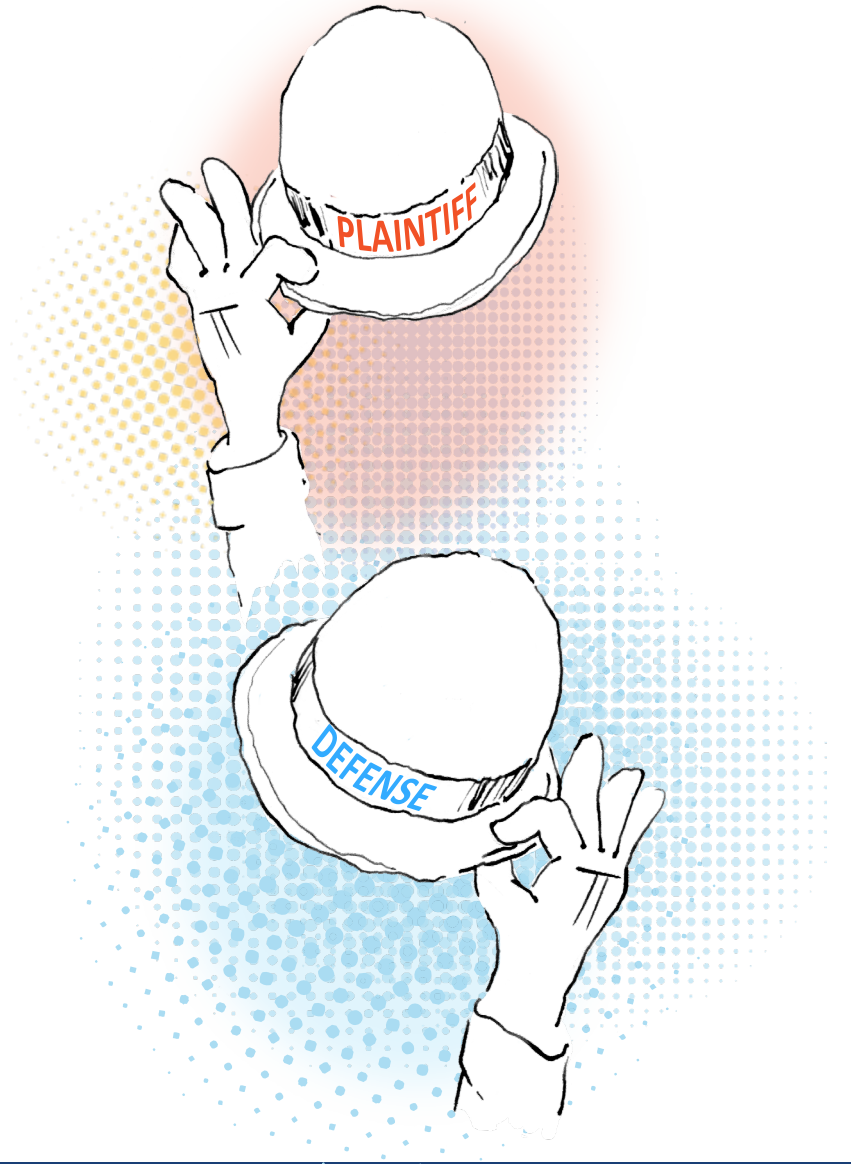
Generalized Juror Profiles

Plaintiff-leaning jurors tend to be:

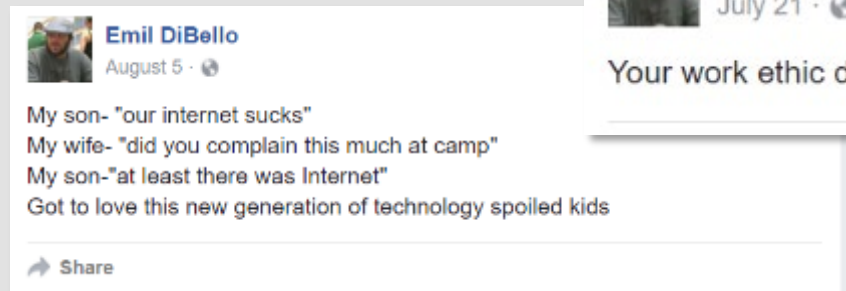
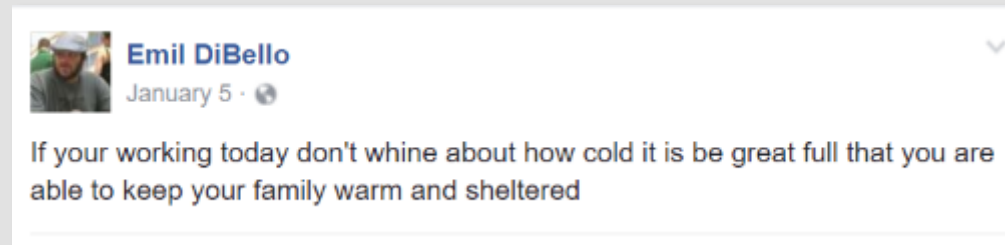
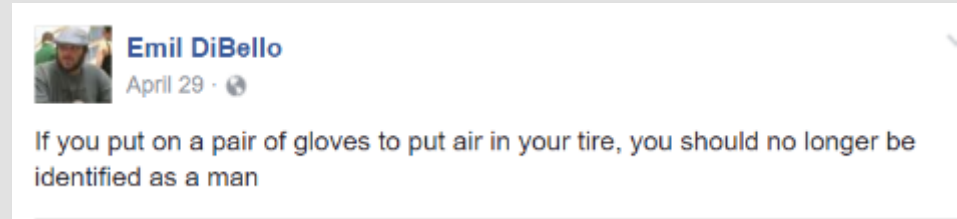
- Liberal (though Democrats can go either way)
- Education – liberal arts, humanities, performing arts
- Helping professions
- Idealistic – challenge the status quo
- External locus of control (environment determines outcome)
- Health/wellness conscious
- Entitled/complainers/resentful
- Fearful/worrisome/cautious
- Believe people need to help one another – seller be fair

Defense-leaning jurors tend to be:

- Republican/Conservative
- Education – hard sciences, business, finance
- Analyzing professions
- Practical, rule-followers, trust in government/regulations
- Internal locus of control (the individual determines the outcome)
- Hard workers/conscientious/grateful
- Cynical of most people
- Believe people need to look out for themselves – buyer beware



You Can Learn A Lot About People From What They Post Online:



You Can Learn A Lot About People From What They Post Online:

 **Ritt Maria** shared Ride or Die's photo.
4 hrs · 🌐

" Before you start to judge me, step into my shoes and walk the life I'm living and if you get as far as I am, just maybe you will see how strong I really am.

Unknown
Lesson Learned In Life



Ritt Maria

October 25 at 1:20pm · 🌐

Im so sick of being stressed, tired, pushed pulled arguing enough is just enough with this shit.



Sarah Pevner

October 7 at 3:54pm · 🌐

I got my feelings hurt hard this week, per usual (one of my million flaws is that my tough guy act is a serious Potempkin village), and then my friend Kate posted what might be the most elegant, startling sentence I've ever read:

"I match up well with people who guard themselves too closely because I'm basically a blade of weaponized vulnerability"

And again in that instant I was reminded we are better together than apart. May we always find ourselves in such beautiful company.



Sarah Pevner

2 hrs · 🌐

Who needs a compliment? Let's start a compliment thread.



Sarah Pevner

2 hrs · 🌐

Pretty much just lit up the teacher who called my kid "challenging," in front of her, because she's struggling during naptime.

Words matter, yall.



Ritt Maria shared Crazy Boss Bitches's photo.

45 mins · 🌐



Voir Dire: Key Principles

1. Be a good representative
2. Preview weaknesses
3. Ask the right questions
4. Eliminate, then Indoctrinate
5. Anticipate Group Dynamics
6. Do your research
- 7. Save your best jurors**



Voir Dire: Rehabilitation



Voir Dire: But what if they equivocate?



Voir Dire: Rehabilitation



Revealing Bias: Put Jurors at Ease

- Jurors hate public speaking
- **Make it personal**
 - The impartial parent referee



Practice Tip:

Revisit your example during individual follow-up:

- “Think it’d be a struggle to be a fair umpire in this case?”
- “Tempted to call balls and strikes in favor of the plaintiff?”

Revealing Bias: Put Jurors at Ease

- **Make it normal**
 - Doesn't mean you're not a fair person
 - Get jurors to give their own examples
- **Make it nonjudgmental**
 - We have thick skin
 - Keep the client out of the courtroom

Revealing Bias: Words Matter

- **Normalize the response:**
 - “How many of you believe...”
vs. “Does anyone believe...”
 - “Some people believe...”
- **Assume the response:**
“How difficult would it be for you to...”



Practice Tip:

Use “Anyone believe....” when preconditioning to emphasize that the belief is unacceptable

Practice Tip:

Pair this with “other people believe” to preview your themes without exposing your good jurors

Revealing Bias: Words Matter

- Ask open-ended questions or get the juror to rephrase in their own words
- The answer should be “Yes”
- Phrases to avoid:
“cannot,” “unable to,” “have a problem with.”



Practice Tip:
Use “difficulty
with” or “struggle
with” instead

Revealing Bias: Body-Language Matters

- **Monkey see, monkey do**
 - Raise hands
 - Nod along
- **Normalizes the response**
- **Empathize with the juror**



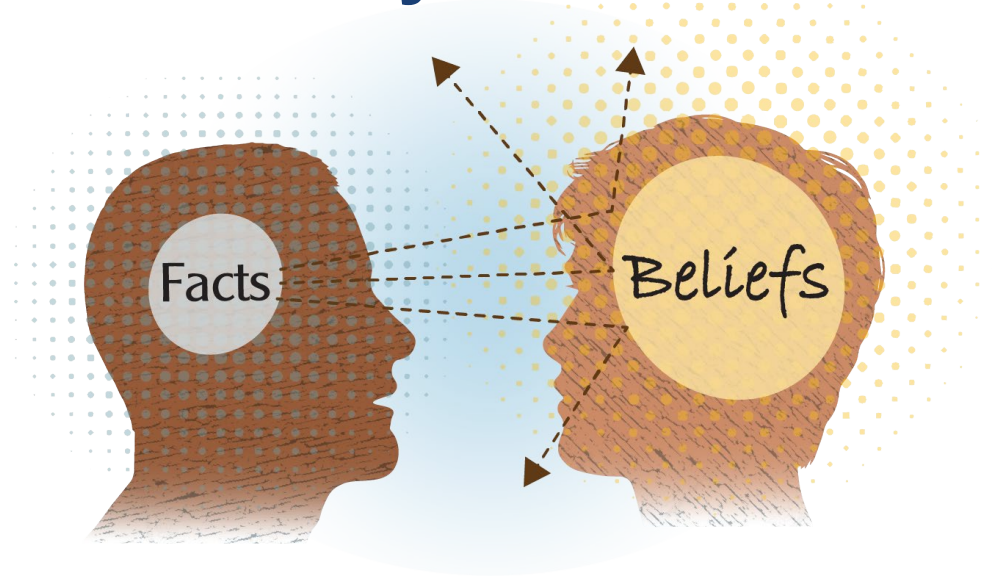
Practice Tip:
Asking for a raise of hands will get more responses than asking jurors to speak up



Practice Tip:
Show empathy by mirroring the juror's facial expressions

Revealing Bias: Don't Fear the Response

- Priming effects fade with time
- Beliefs are resistant to change
- An expression of unsupported belief will not change or influence others in any substantial way



Practice Tip:
If concerned about a juror revealing specific knowledge or inadmissible facts, preface questions with, "Without explaining why or what you've heard..."

Cause Sequencing: Getting the Horse to Drink



Step 1: Disarm the Juror

- **Start with the easy questions**
- **Get them talking about their positive qualities**



Practice Tip:

Target the jurors you want to get excused based on their previous responses or internet search results

Practice Tip:

Let them show off their good qualities by asking what makes them good at their job

Step 1: Disarm the Juror



Step 2: Remind the Juror

- Read back their responses
- Use the juror's exact language
- Establish and strengthen the record
- Force the juror to commit



Practice Tip:

Make sure to have a consultant or colleague next to you to record the jurors' responses verbatim so you can focus on connecting with jurors



Step 3: Ask for Elaboration

- **Strengthen the commitment**
 - “Tell me more about that.”
 - “What led you to develop that opinion?”
 - “How long have you held that belief?”
 - “How much were you affected by that experience?”



Practice Tip:
In a successful voir dire, the jurors should be talking more than the attorney; ask open-ended questions

Step 4: Acknowledge It Would Be Difficult to Change

- **Create *cognitive dissonance*:**

- Tendency to seek consistency between actions and beliefs
- When faced with inconsistency, people will be more likely to act consistently than fundamentally change the belief
- “How likely is it that you’re going to stick to you guns on this?”
- “How difficult would it be for me to change your mind about that?”



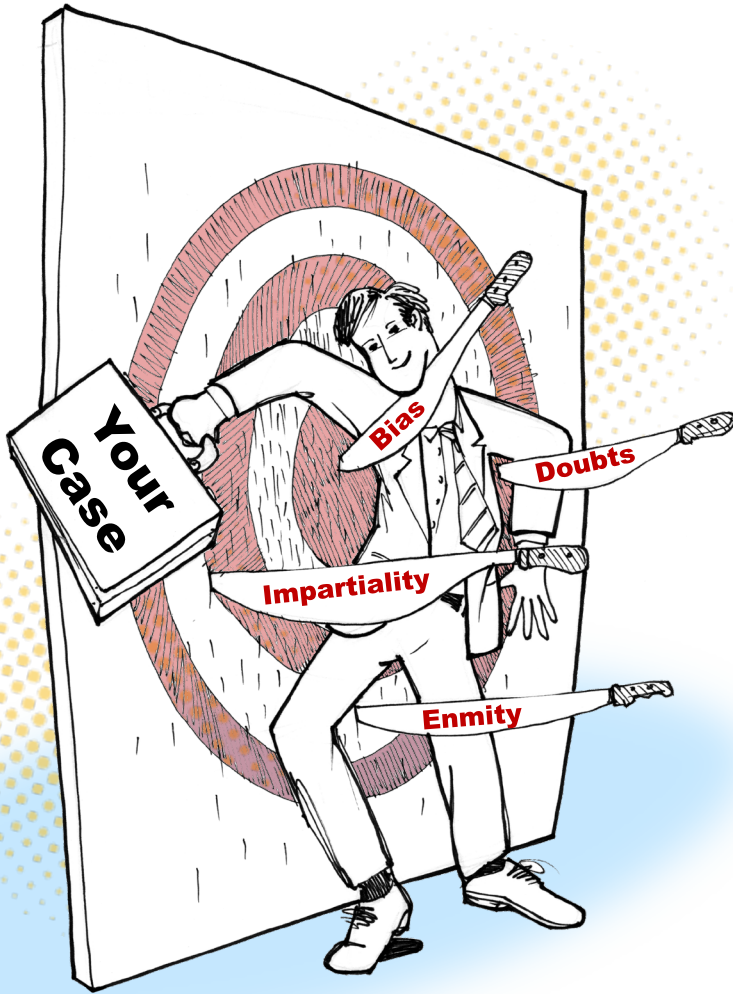
Practice Tip:
Jurors will take
greater ownership
if they use their own
words

Step 5: Throw Softballs



- **Ease them in with softer language**
- **Bring it home to this case**
 - “Could that experience color how you view the evidence in this case?”
 - “How difficult would it be for you to just set all of that aside and render a verdict solely on the evidence in this case?”
- **Remind them what they’ve said again:** “Given that you said....”

Step 6: Go In for the Kill



- Use the “magic words”
- Know the statutory language and case law
- Make sure to word the question so that the desired response is “Yes”



Practice Tip:
Don't rely solely on local counsel or assume the cause standard is the same in every jurisdiction

Step 6: Go In for the Kill

- “Would that terrible experience make it too difficult for you to be completely fair and impartial in this case?”
- “Will that experience influence your judgment in the case?”
- “Are you starting the case with some enmity or bias against the defendant?”
- “Do you have some doubts about your ability to be impartial?”
- “Is it fair to say that’s such a strong belief that you wouldn’t be able to set it aside?”

Voir Dire: But What if They “Try?”



Gaining a Competitive Advantage

Step 1: Disarm the Juror

Step 2: Remind the Juror

Step 3: Ask for Elaboration

Step 4: Acknowledge it Would be Difficult to Change

Step 5: Throw Softballs

Step 6: Go in for the Kill

Gaining a Competitive Advantage with Strategy



JURY SELECTION FOR THE TRIAL OF DEREK CHAUVIN

Strategy Board

Δ-III

π-III

001 [Redacted] (B-D+)
47HF, High School
PT Nursing Assistant

002 [Redacted] (B)
27WM, B.A. (Chemistry/Environmental)
Lab Analyst, Pace Analytical Services

004 [Redacted] (B+)
25AM, High School
Delivery Helper, McLane

005 [Redacted] (P)
69WM, B.A. (Business)
Ref. CEO, Twin City Out-Casting Co.

006 [Redacted] (C+)
24BW, [Redacted] (2yrs)
Unemployed Waitress/Barender

019 [Redacted] (C+)
30WM, M.S. (Accounting)
Audit Mgr, Ernst & Young

020 [Redacted] (C-)
36WM, M.B.A., B.S. (Management)
Manager of Sales & Operations, Eaton

021 [Redacted] (D)
68WF, B.A. (Psychology)
Data Manager, Principal Direct Inc.

022 [Redacted] (D+)
45AM, M.S. (Economics)
Market Analyst, The Morgan Company

023 [Redacted] (C-)
36BM, B.S. (Computer Science)
Mkt Dev Ops Engineer, Starkey Hearing

024 [Redacted] (B-D+)
38WF, J.D., B.A. (Communication)
Attorney, Smith Jady Johnson PLLC

025 [Redacted] (D)
27WM, B.A. (History)
Dir of Worship Arts, Prairie Lutheran Ch

026 [Redacted] (C-)
69WM, J.D.
Retired Personal Injury Attorney

027 [Redacted] (B-C+)
27AM, Some College
Route Driver, Carleton Compass Group

028 [Redacted] (B-D+)
69WM, B.A. (Religion)
Real Estate Agent, Edina Realty

029 [Redacted] (D)
38WF, J.D., B.A. (Communication)
Attorney, Smith Jady Johnson PLLC

030 [Redacted] (A-)
60WM, M.A. (Choral Conducting)
Adjunct Instructor, Saint Paul College

031 [Redacted] (C+)
32AF, M.S. (Biology)
Sr. Clinical Research, Francis Medical

032 [Redacted] (B)
39AM, B.S. (History)
Admin. Assist., Hennepin County Library

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Sr. Clinical Research, Francis Medical

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38WM, A.A.
Operations Manager, Trimble

036 [Redacted] (D+)
38WM, Some College
Delivery Driver, Papa John's

037 [Redacted] (C-)
23WF, M.A. Public Administration
Unemp. (CEO, Adoption & Family Svcs)

038 [Redacted] (B-C+)
22WF, B.A. (Marketing)
PT Intern, Weeping Willow (Duluth)

039 [Redacted] (A)
55WF, Masters Degree
HR/Employee Relations Supervisor

040 [Redacted] (A-B+)
31BM, Some College (2.5yrs)
Loan Specialist, US Bank

041 [Redacted] (B+)
29WM, M. Divinity
Retired Lutheran Pastor

042 [Redacted] (C)
53WF, A.A.
Executive Assistant, M. Physicians

043 [Redacted] (C-D+)
59WM, Unknown
Lead Technician, Raytheon

044 [Redacted] (A)
45WM, M. Ed
Teacher, Brock School

045 [Redacted] (C)
23AM, College student
Student

046 [Redacted] (B-C+)
45WM, B.A. (Elementary Education)
3rd Gr Teacher, Hopkins Public Schools

047 [Redacted] (D-D+)
22WF, B.S. (Elementary/Special Ed)
Part-Time Server

048 [Redacted] (C-D+)
28WM, High School
Software Engineer

049 [Redacted] (B+)
34WF, B.A. (Advertising & Business)
Web Developer, Windmill Strategy

050 [Redacted] (C-D+)
33WM, M.A. (Organizational Leadership)
Executive Director, JSAW (ActionSports)

051 [Redacted] (B-C+)
35WM, B.A. (Environment Design)
Landscape Designer, Univ. of MN

052 [Redacted] (A)
57WM, Some College
Real Estate, Self Employed

053 [Redacted] (C-)
46WM, M.B.A. (Marketing)
Unemployed Sales Contractor

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Maintenance Tech, Mave Company

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Maintenance Tech, Mave Company

Strategy Board – Looking ahead



The background features a repeating pattern of light gray question marks on a white background. A dark blue diagonal shape, resembling a stylized 'V' or a mountain peak, cuts across the lower half of the image. The question marks in the blue area are a darker shade of blue.

Questions?