



PROGRAM MATERIALS

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The Twelfth Juror: Lessons on Jury Selection from a Trial Lawyer's Novel and a Trial Consultant's Experience

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The Twelfth Juror

What a Trial Lawyer's Novel Knew About Jury Selection That the Data Still Hasn't Caught Up To

A CLE Reflection for Trial Lawyers and Jury Consultants

My father, Harold M. Willcox, Jr., was a Philadelphia native educated at St. Paul's School, Yale, and Harvard Law School, graduating from Yale in 1946, one of the classes whose college years were interrupted, and in a real sense defined, by the Second World War, and from Harvard Law in 1951, having won the Ames Moot Court Competition. He spent the rest of his professional life in courtrooms and was later elected a Fellow of the American College of Trial Lawyers, an honor the College limits to a small fraction of the practicing bar and reserves for trial lawyers judged to have met the highest standards of skill, experience, and ethics.

In December 1962, at thirty-seven, he was named General Counsel to the newly formed Massachusetts Crime Commission, appointed by Governor John A. Volpe to head the commission's legal work and help supervise its investigations.¹ A newspaper profile of him from around that time, comparing him — not entirely favorably — to the more theatrical congressional-probe lawyers of the McCarthy and Kennedy era, concluded that he lacked “the fire of the crusader” or “the ferocity of the fanatic,” and instead brought “a public image of competence and confidence, the cool, keen mind of analytical depth and thrust” to the job of, as the reporter described it, stitching together “the bits and pieces of information and contradiction that may reveal a pattern of corrosive corruption.”² He went on, in that role and afterward, to try a great many jury cases, including prosecutions that grew directly out of the commission's own findings.

He also, at some point in a life that had very little spare time in it, wrote a novel. It is called *Wedlock*, and it follows one man from young adulthood to its early end. I will say only this about its autobiographical content: any suggestion that its account of a man who left a very wealthy woman for the woman he actually loved bears some resemblance to my father's own life is speculation I will neither confirm nor encourage. The same goes for any rumor that his mother

and sister never entirely forgave him for it. I raise the question only because someone always does, and I would rather get there first.

What I want to write about here is not the romance, though. It is the trial near the end of the book — a criminal prosecution for adultery that, so far as I know, never happened to anyone, anywhere, in the real world. It is invented from beginning to end: the statute, the courtroom, the jurors, the verdict. And yet it is, in my reading, one of the more useful things I have ever come across on the subject of jury selection, more useful in places than a good deal of what gets written about it under a more scholarly heading. That is because my father did not write it as a thought experiment. He wrote it as a man who had picked juries for a living, and it shows.

A Trial That Never Happened

The setup is simple enough for a novel. Andrew Barnes and his sister-in-law, referred to throughout as Sid, are charged with adultery under “Section 14 of Chapter 272 of the General Laws” — a statute of the author's invention, though it will sound entirely plausible to anyone who has spent time in a New England courthouse. Sid's father-in-law, a prominent local businessman, has pushed for the prosecution. The defense is handled by a lawyer named Eldredge and his associate Quinn. The prosecution is handled by a district attorney named Canton. None of this happened. What did happen, over and over, in real courtrooms my father actually stood in, was jury selection — and it is jury selection, not the romance or the crime, where the novel earns its place in a discussion for lawyers and jury consultants.

Reading the Panel

The empanelling scene in *Wedlock* is, among other things, a small anthology of every heuristic a trial lawyer reaches for when a stranger's name is called and there are perhaps ninety seconds to decide whether to keep or strike. The novel walks through the panel juror by juror, and Eldredge and Quinn narrate their reasoning as they go. Here is juror number one:

Eldredge looked at the information supplied on a mimeographed sheet distributed by the clerk. He saw this entry: “Stennis, Edward, 39 Tapelo Street. Occupation: machine operator. Employer: Drysdale Jute Bag Company.”

Eldredge turned to Quinn: “I can't see any reason to challenge him. We have three peremptory challenges for each of the defendants, but about all we will succeed in doing if we start challenging is to make the others think we have something to be worried about. Can you see anything about him that would make you want to get him off the jury?”

“No,” was the reply.

Nothing to profile, so nothing to do — which is itself a kind of decision, and a defensible one. Juror number two gets a fuller workup, because there is more surface to read:

A young woman came forward. She was almost a girl, wearing a tightly fitted yellow dress with a broad matching hair ribbon. Her hips swung as she walked, and she was plainly aware that everyone in the courtroom was watching her.

“Dronsky, Margaret. 14 Rock Ridge Road. Occupation: Housewife. Husband's Occupation: Salesman. Husband's Employer: National Steel Wire Company.”

“What do you think,” he whispered to Quinn.

“She looks as if she'd understand the charges. I don't know about her. What's a swinger going to do for us—be sympathetic or hang us to make up for guilt.”

“Jesus, I don't know,” answered Eldredge, “it's too much of a crap game for me. Maybe all that makeup means she isn't a swinger but wishes she were, and I don't know what that does to us. I'm afraid we'd better think about getting her the hell off. It's just too uncertain. Put a question mark, and we'll see.”

She is struck, on the strength of a dress and a hair ribbon. Juror three, a housepainter with ruddy cheeks, gets the opposite treatment for a different unverifiable reason:

“Even money says he's an alcoholic,” said Quinn.

“Who's to guess,” answered Eldredge. “There are times where you can run down the whole jury panel with investigators, at least if you have enough money, but this session just opened and there wasn't any way to find out who they were. He looks harmless.”

By the time the box is filled, the lawyers have sorted the rest of the panel into tidy, confident categories with barely a question asked of any of them: four housewives are assumed to be “tolerant”; two unmarried secretaries are written off as “no hanging vote”; an accountant living in a fashionable waterfront building is debated as a probable bachelor “who gets around”; a giant of a man who turns out to be a bandleader is marked as an automatic defense vote and struck by the prosecution on sight; and a young television executive is welcomed with open arms:

Juror twelve was named Johnson and was employed as an executive for the city's television station.

“He looks good.”

“Yeah. He should take a pretty balanced view. Let's hope Canton leaves him alone.”

...

"Looks pretty good. That young television executive ought to swing them to their senses. I don't see anyone else strong enough to take charge. Maybe the judge will make him foreman."

Every one of these predictions is built from the same raw material a real trial lawyer works with in the same ninety seconds: dress, address, occupation, marital status, the make of a necktie. None of it is unreasonable as a starting point. All of it, the novel is about to show, is close to worthless.

Two moments in that sequence are worth flagging now, because they set up the second half of today's program. The first is Eldredge's aside about the housepainter: there are times, he says, when you can "run down the whole jury panel with investigators, at least if you have enough money," but this session had just opened and there was no way to find out who anyone was. That is the 1960s version of a problem Faye Honig will take up directly: the three ways we now gather background on a venire — written questionnaires, online research, and oral voir dire. Eldredge had none of them. He had a mimeographed sheet and his own eyes. The second is the pattern itself, which Faye will give its proper names. Dronsky is struck because one vivid trait — a yellow dress — colors everything else about her; psychologists call that the horns effect. Johnson, the television executive, is embraced because one attractive trait — a respectable job title — does the same thing in the other direction: the halo effect. Neither lawyer would have described it that way. Both were doing it.

The Juror Both Sides Agreed On

The first crack in the lawyers' confidence comes from something no amount of demographic profiling could have anticipated. Just before opening statements, the judge asks the panel a routine question about acquaintance with counsel — and the ideal juror, the television executive both sides were counting on, discloses that he once hired the prosecutor as his own lawyer. He is excused on the spot, over Eldredge's muttered "Damn," and the clerk spins the barrel again.

What comes out of the barrel is the character who will decide the case, though nobody in the room has the faintest idea of it yet:

At the back of the courtroom rose a funny bulky woman. She was fat in the stomach. Her pile of false hair made her absurd. She had pennies appended to her ears. She wore an unusual expression on her face, an expression which could be interpreted as vindictive. She walked forward to the jury box.

"The prosecution is content with the jury," said Canton quickly.

"Strike her," whispered Quinn, "she has a convicting look."

Eldredge looked down at the information sheet; she lived in a section of the city which verged on poverty. The list showed that she was married to a delivery man for one of the larger milk companies.

As he looked at her he weighed the risk of antagonizing the women on the jury against the fear that she might be the one to press for a conviction. He had already struck one woman from the jury, and there were six still left.

"Jesus," he said to Quinn, "these are the choices that tear you up. The next one may be worse, and I hate to appear afraid of the jurors."

He looked at her again. She looked reliable.

He rose quickly. "The defendants are content with the jury."

What follows is the single most useful passage in the whole scene, because it shows the prosecutor — not just the defense — making exactly the same demographic bet, with just as much confidence, from the opposite direction:

"I thought sure you would strike that last juror. I'll bet she goes to Mass every day in the week. Did you see what part of town she lives in. Old country Polish Catholic. I've campaigned down there. I was holding my breath. They still wear chastity belts in the old country. Your clients haven't got a shot with her on the jury."

Notice what has happened. Two experienced trial lawyers, on opposite sides of the case, working from the same handful of visible facts — neighborhood, ethnicity, presumed religious observance, class, even the pennies in her ears — have arrived independently at the identical conclusion: this woman is a lock to convict. There is no daylight between the defense's fear and the prosecution's confidence. If demographic profiling worked the way both lawyers assumed it did, this would be the most predictable juror in the box. In the vocabulary of the second half of this course, this is confirmation bias at work: each lawyer forms an impression the moment she stands up, and every additional fact — the neighborhood, the presumed parish, the pennies — is filed as proof rather than tested. And notice where Canton's certainty comes from: "I've campaigned down there." A handful of encounters on the campaign trail have become, in his mind, a reliable profile of an entire neighborhood. Faye will describe the same trap in modern mock-jury work — drawing a conclusion about a whole category of juror from the one person in a small exercise who happened to fit it. As she puts it, that is a focus group of one. Canton's was a campaign of one.

The Verdict Nobody Predicted

The trial runs its course — witnesses, cross-examination, a defense argument that the statute itself is an antique embarrassment, a charge from the judge. The jury deliberates and returns. The

foreman announces a guilty verdict on both defendants. Eldredge, out of options, asks to have the jury polled — the small, almost ceremonial safeguard by which each juror is asked, one at a time, to personally affirm the verdict on the record.

“Mr. Foreman, how did you find the defendant Erdman.”

“Guilty.”

“How did you find the defendant Barnes.”

“Guilty.”

“Juror number two, how did you find the defendant Erdman.”

“Guilty.”

“How did you find the defendant Barnes.”

“Guilty.”

And so it went through twelve. Almost through twelve, but not quite. The twelfth one didn't stick.

The twelfth juror is, of course, the woman both lawyers had already convicted the moment she stood up in the back of the courtroom:

She was the hefty woman with the wig, a sort of pile of hair on top of her head, perhaps to increase her self-esteem. She was the one who showed on the jurors' list as a machinist inspector, married to the delivery man for a milk company.

She muttered something in answer to the clerk's interrogatory.

“I didn't hear her answer,” said the judge, “ask her again.”

“What say you juror number twelve to the question of the court. How do you find the defendant Erdman. Guilty or not guilty.”

“Well, she could have done it,” said juror twelve, “but I don't know who cares.”

“You must,” said the clerk, “answer according to the form of the law. Is she guilty or not guilty. You have heard the case. You must give your verdict.”

She was standing with all the other jurors watching her. She was fat, and her wig was absurd. She looked as if decision were not easy, one against eleven. But she had enjoyed twenty good years with a milkman, and there was that to be grateful for. Happiness does not comfortably do harm.

"To hell with it," she said, "the others talked me into it, and I am not going that way."

"There is no guilt."

The judge looked up.

"Thank God for good sense," he said.

"Mistrial is declared."

The woman, both sides agreed, was the surest conviction on the panel is the one who hangs the jury and, in effect, ends the case. And the novel is careful to tell us why, in a single quiet line buried in the middle of the passage: she had "enjoyed twenty good years with a milkman, and there was that to be grateful for." Her own marriage, her own private twenty years of happiness, is what she brings into the jury room — not her parish, not her zip code, not her husband's occupation. Nobody could have put that on a jury questionnaire, and nobody did. Faye will make the point in the second half that no juror is just one thing — that decisions are driven by life experiences and value beliefs, not by any single demographic box. Juror twelve is the proof. She was working-class, presumably Catholic, Polish, and married to a milkman, and the only one of those facts that mattered was the last — and not for any reason either lawyer could have guessed. Faye will also talk about the "low-grade fever" that every case carries: the underlying human theme jurors respond to, whatever the legal elements. In an adultery prosecution, the low-grade fever is marriage itself. The one juror whose own life spoke most directly to that theme was the one nobody thought to ask about it.

The Jurors Nobody Noticed

A confession is in order before going further. The novel's title promises twelve jurors, and the clerk duly polls twelve. But count the people the empanelling scene actually puts in the box and you get nine: Stennis, the housepainter, the four housewives, the two secretaries, and the woman who replaced Johnson. The accountant is debated but never kept or struck. Dronsky and the bandleader are struck, and no one is ever called to take their seats. The manuscript was never vetted, and I suspect my father simply ran out of writing space.

I would not fix it even if I could, because the flaw makes the point better than I can. The author's attention went exactly where a trial lawyer's attention goes in voir dire: to the vivid jurors — the

yellow dress, the bandleader, the television executive. The quiet ones got “nothing to profile” and were waved through, and two or three of them vanished from the book entirely. In a real courtroom, the jurors nobody reads are still voting. Nor is there much reason to think the reading pays off. In a well-known experiment in a federal district court, Hans Zeisel and Shari Seidman Diamond kept the struck jurors in the courtroom to hear the case and vote as shadow juries, and found that the lawyers’ peremptory challenges had only a modest, and very uneven, effect on verdicts.³ That is one reason the second half of today’s program puts so much weight on sample size. A lawyer’s memory of the vivid juror, like an author’s, is a poor dataset. Faye will explain why mock-jury exercises with forty-eight to a hundred participants produce far more reliable deselection profiles than the anecdotes any of us carry out of a single trial.

Fiction, and the Research That Came After It

I don't know exactly when my father wrote *Wedlock*, but I do know that the empirical study of jury behavior as a field — the studies that jury consultants now cite in pitch decks — mostly came later, or developed alongside it. What strikes me, rereading the trial section against that later literature, is how precisely the novel's punchline anticipates what decades of research would go on to establish with survey instruments and regression models.

The consistent finding, across a large body of work, is that demographic characteristics are weak and unreliable predictors of how an individual juror will vote. One frequently cited estimate puts the predictive power of demographic variables alone at as little as two percent of the variance in verdicts.⁴ A separate, widely cited study of real jurors found that only about 5.4 percent of the difference in verdicts could be explained by jurors' demographic characteristics.⁵ Broader reviews of the scientific jury selection literature generally place the combined predictive value of demographic and personality variables somewhere between 5 and 15 percent of verdict variance — leaving the overwhelming majority of the outcome to be explained by the strength of the evidence itself and by factors no lawyer can see across a courtroom.⁶ As one much-quoted summary of that literature puts it, “when the evidence is strong, nothing else matters much.”⁷

Attitudinal measures — what a juror actually believes about the legal system, about personal responsibility, about the kind of conduct at issue in the case — tend to outperform demographics, but even attitudes are, in the words of one review, “not very useful predictors, accounting for only a small proportion of the variance in verdict choices.”⁸ The consistent villain in the research is exactly the shortcut Eldredge, Quinn, and Canton all reach for in the novel: treating a visible, easily observed trait — occupation, neighborhood, presumed religion, a dress, a necktie — as a stand-in for the invisible, case-specific personal history that will actually govern the vote. Faye will show you what attitude-based *voir dire* questions look like in practice — for example, “Who here feels that because the government decides to bring charges against

someone, that person is probably guilty of something?” Imagine Eldredge putting a single question of that kind to his panel about the adultery statute: does anyone think the government has any business prosecuting what two adults do in private? Juror twelve might well have told him, in open court, what she later told the clerk. Of course, Canton would then have struck her. Good questions cut both ways; that is the point of asking them.

None of this means jury selection is pointless, and the novel does not suggest that either. Eldredge's decision to strike Dronsky may well have been the right call for reasons that had nothing to do with her dress; Quinn's suspicion of the housepainter may have been shrewd. The point the trial makes — and the point the research bears out — is narrower and, I think, more useful: confidence in a demographic read is almost never justified by the read itself. The surest juror on the panel, agreed upon by both sides independently, was the one who blew the case up.

What This Means at the Table

My father spent his working life doing this for real, including the years he spent as general counsel to the Massachusetts Crime Commission and, afterward, selecting juries in the corruption prosecutions that grew out of the commission's own investigations — cases where the defendants were often prominent, well-represented, and entirely capable of hiring exactly the kind of jury consultant that did not yet fully exist as an industry. I never asked him whether Wedlock's twelfth juror was drawn from a real case or an amalgam of several, and now I cannot. But I have never doubted that he had sat across the courtroom from someone very much like her — someone who did not vote the way her address, her parish, or her husband's paycheck said she was supposed to.

For lawyers and jury consultants working today, with far more sophisticated tools than a mimeographed sheet and a clerk's barrel — social media profiling, mock juries, shadow juries, increasingly algorithmic juror-analytics platforms — the underlying lesson has not moved as far as the technology has. A few practical takeaways follow directly from it:

- Treat demographic and occupational data as a starting question, not an answer. It can suggest what to ask about in voir dire; it should not substitute for asking.
- Spend the limited time and questions available on attitudes and personal experience — views on personal responsibility, on the legal system, on the specific conduct at issue — rather than on the traits a questionnaire can already tell you. Faye's voir dire examples show how a single open-ended question can bring out a disqualifying attitude that no questionnaire box would have revealed.

- Be especially suspicious of consensus. When both sides of a case independently agree that a given juror is a lock in one direction, as Eldredge and Canton did, that is a signal to probe harder, not a reason to relax.
- Remember that the strongest driver of a verdict, in the research and in the novel alike, is the evidence itself and the way it is presented — not the composition of the box it is presented to. Case strategy should be built to persuade individual human beings, not categories of them.
- Hold every profile — your own or a consultant's — with some humility. Twelve strangers each carry a private history no questionnaire will fully surface, and any one of them may be the twelfth juror.
- Always poll the jury. In the novel, the safeguard everyone treated as a formality is the one that saves the case: the twelfth juror went along in the jury room and broke only when asked, alone and on the record, to own the verdict. Under Federal Rule of Criminal Procedure 31(d), if a poll reveals a lack of unanimity, the court may direct further deliberation or declare a mistrial.

The trial in *Wedlock* never happened. But I suspect that is exactly why it is worth reading: my father was not defending a verdict he had actually lost, or explaining away a juror he had actually misjudged. He was free to write the case however he wanted, and what he chose to write was a courtroom in which the two most experienced people in the room agreed with total confidence about a stranger, and were both entirely wrong. A man who tried as many juries as he did would not have invented that scene by accident.

Passing the Baton

Which brings me to the second half of this program. Eldredge, Quinn, and Canton had a mimeographed sheet, a clerk's barrel, about ninety seconds per juror, and their instincts. Those instincts were not foolish. They were the accumulated experience of men who had picked a great many juries. But they were untested. Every read was a sample of one, and nobody ever went back to check which reads had been right.

What has changed since my father wrote that scene is not human nature. Jurors still carry their own twenty good years, or their own bad ones, into the deliberation room. What has changed is that we can now test our instincts before we rely on them. Faye Honig, Managing Director of Jury Research at DRC, has spent her career doing exactly that: running mock juries large enough to tell a real pattern from a coincidence, building deselection profiles from combinations of attitudes and experiences rather than single traits, and designing questionnaires, online research, and voir dire aimed at the things that actually drive a verdict.

You will notice that some of the profiles Faye shows you include variables like age, gender, and political affiliation. That is not a contradiction of what I have just said. The research does not say demographics carry no information. It says that a single demographic read, made on sight and held with confidence, carries very little. Faye's approach is the opposite of Canton's: many jurors rather than one remembered neighborhood, combinations rather than single traits, and conclusions that are checked rather than assumed.

She will also walk through the cognitive biases — the halo and horns effects, confirmation bias, in-group bias, and others — that shaped every decision you just watched Eldredge and Canton make. Those biases are not peculiar to lawyers. They operate on jurors, and on all of us in this room. So as Faye takes you through them, I would ask you to keep one person in mind: the woman with the pennies in her ears, rising at the back of the courtroom, whom both sides had already decided they understood.

Faye.

Notes

1. "Counsel Harold Willcox [Named] by State Crime Board — Local Attorney Appointed As Chief Legal Counsel," Ipswich Chronicle (Ipswich, Mass.), Dec. 13, 1962, reporting that Town Counsel Harold M. Willcox was named general counsel for Governor John A. Volpe's new Massachusetts Crime Commission, to head the commission's legal work and assist in supervising its investigations. (Family archives.)
2. James F. Droney, "Crime Probe Counsel 'Got to Be Sold,'" contemporary newspaper profile of Harold M. Willcox as general counsel to the Massachusetts Crime Commission, describing his education at St. Paul's School, Yale, and Harvard Law, and his approach to the commission's corruption inquiries. (Family archives.)
3. Hans Zeisel & Shari Seidman Diamond, "The Effect of Peremptory Challenges on Jury and Verdict: An Experiment in a Federal District Court," 30 Stan. L. Rev. 491 (1978).
4. Femke B. Oostinga & Lewis A. Willmott, "The Practice and Ethics of Jury Selection," citing Abbott & Batt (1999) on demographic factors accurately predicting as little as 2% of trial verdicts: [https://e-space.mmu.ac.uk/625338/1/Oostinga%20&%20Willmott%20\(2017\)%20Scientific%20Jury%20Selection.pdf](https://e-space.mmu.ac.uk/625338/1/Oostinga%20&%20Willmott%20(2017)%20Scientific%20Jury%20Selection.pdf)
5. Summary of Shari Seidman Diamond and colleagues' finding that 5.4% of the difference in verdicts was explainable by jurors' demographic characteristics: <https://kkcomcon.com/OJRU/ROJR0508-1.htm>
6. Wikipedia, "Scientific jury selection," summarizing the research consensus that demographic composition of a jury typically causes only a 5%–15% variance in verdicts: https://en.wikipedia.org/wiki/Scientific_jury_selection ; see also the Villanova CONCEPT review citing Fulero & Penrod (1990) on the same 5–15% range: <https://concept.journals.villanova.edu/index.php/concept/article/download/255/219/254>
7. Kressel & Kressel, as summarized in "Scientific jury selection," Wikipedia: https://en.wikipedia.org/wiki/Scientific_jury_selection
8. Phoebe C. Ellsworth, "Some Steps Between Attitudes and Verdicts," University of Michigan Law School Scholarship Repository: https://repository.law.umich.edu/book_chapters/52/

9. On the limited predictive value of trial-consultant profiling generally and the 5–16% variance figure from studies of real jurors, see Courtroom Sciences, “Can Demographics Predict Juror Decisions?”:

<https://www.courtroomsciences.com/litigation-consulting-1/can-demographics-predict-juror-decisions-763/>

All passages quoted from Wedlock are drawn from an unpublished manuscript by Harold M. Willcox, Jr., and are quoted here as fiction, not as an account of any actual case or client.



A CLE REFLECTION FOR TRIAL LAWYERS AND JURY CONSULTANTS

The Twelfth Juror

What a trial lawyer's novel knew about jury selection that the data still hasn't caught up to.

Based on an unpublished manuscript, *Wedlock*, by Harold M. Willcox, Jr.





BEFORE WEDLOCK

My Father, the Trial Lawyer

Harold M. Willcox, Jr. was a Philadelphia native educated at St. Paul's School, Yale (1946), and Harvard Law School (1951), where he won the Moot Court Competition. He spent his professional life in courtrooms and was later elected a Fellow of the American College of Trial Lawyers — an honor reserved for a small fraction of the practicing bar.

In December 1962, at thirty-seven, he was named General Counsel to the newly formed Massachusetts Crime Commission by Governor John A. Volpe, heading its legal work and supervising its investigations. A contemporary newspaper profile credited him with “the cool, keen mind of analytical depth and thrust” needed to stitch together “the bits and pieces of information and contradiction that may reveal a pattern of corrosive corruption.”

ST. PAUL'S · YALE '46 · HARVARD LAW '51

*“...the cool, keen mind of
analytical depth and thrust.”*

— Ipswich Chronicle profile,
Dec. 1962



AND HE WROTE A NOVEL

Wedlock

At some point in a life with very little spare time in it, he also wrote a novel. It follows one man from young adulthood to its early end. Any suggestion that its account of a man who left a very wealthy woman for the woman he actually loved bears some resemblance to the author's own life is speculation this author will neither confirm nor encourage.

What I want to write about is not the romance, though. It is the trial near the end of the book — a criminal prosecution for adultery that, so far as anyone knows, never happened to anyone, anywhere, in the real world. Invented from beginning to end: the statute, the courtroom, the jurors, the verdict.

*He wrote it as a man who had picked juries for a living, **and it shows.***



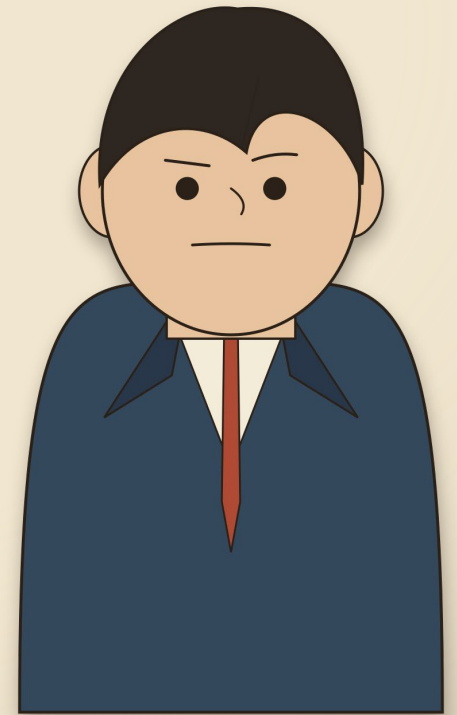
A TRIAL THAT NEVER HAPPENED

The Setup

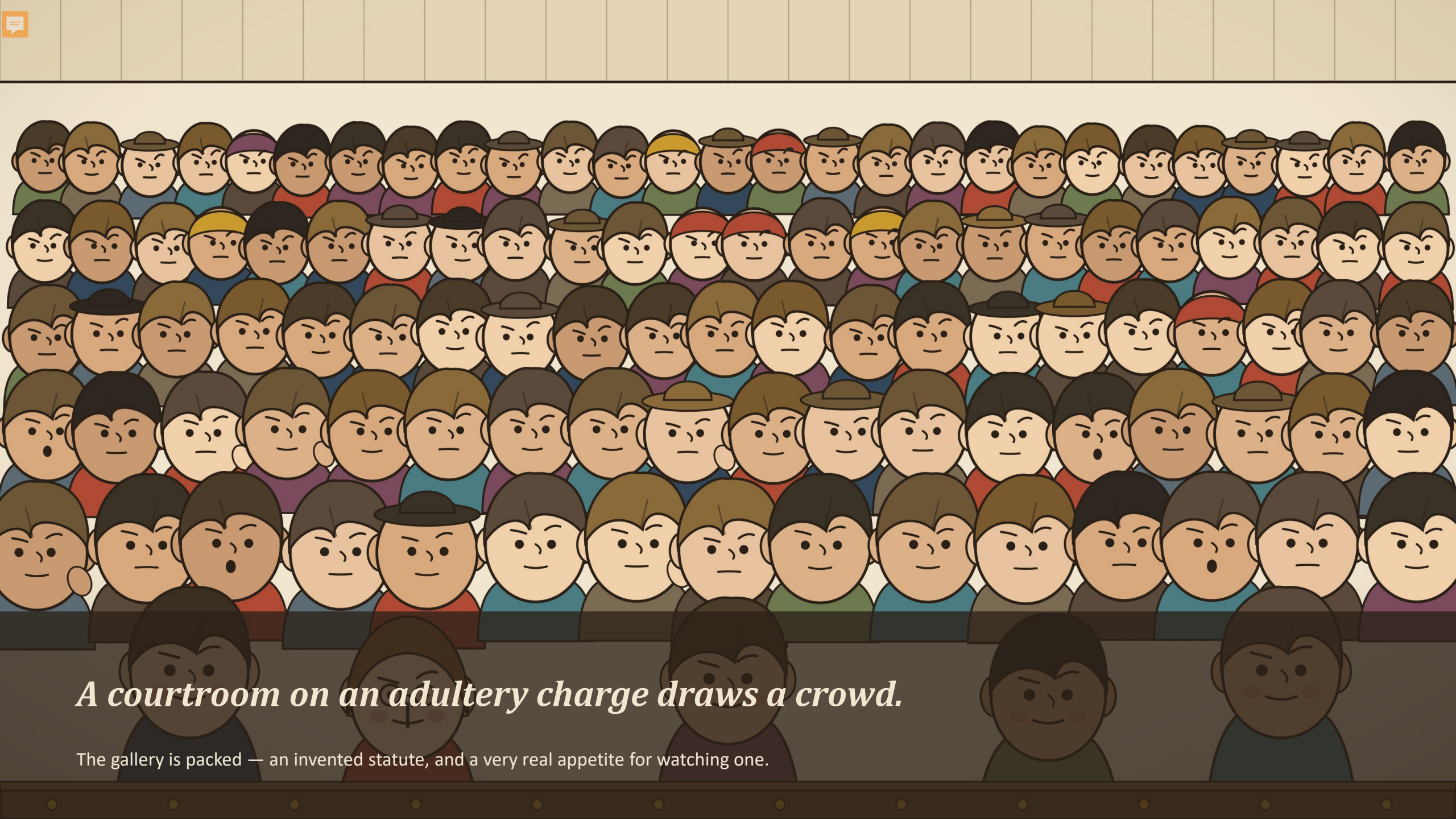
- Andrew Barnes and his sister-in-law — called “Sid” throughout — are charged with adultery under an invented statute, “Section 14 of Chapter 272 of the General Laws.”
- Sid’s father-in-law, a prominent local businessman, has pushed for the prosecution.
- The defense is handled by a lawyer named Eldredge and his associate, Quinn.
- The prosecution is handled by a district attorney named Canton.



ANDREW BARNES *the defendant*



ELDREDGE *defense counsel*



A courtroom on an adultery charge draws a crowd.

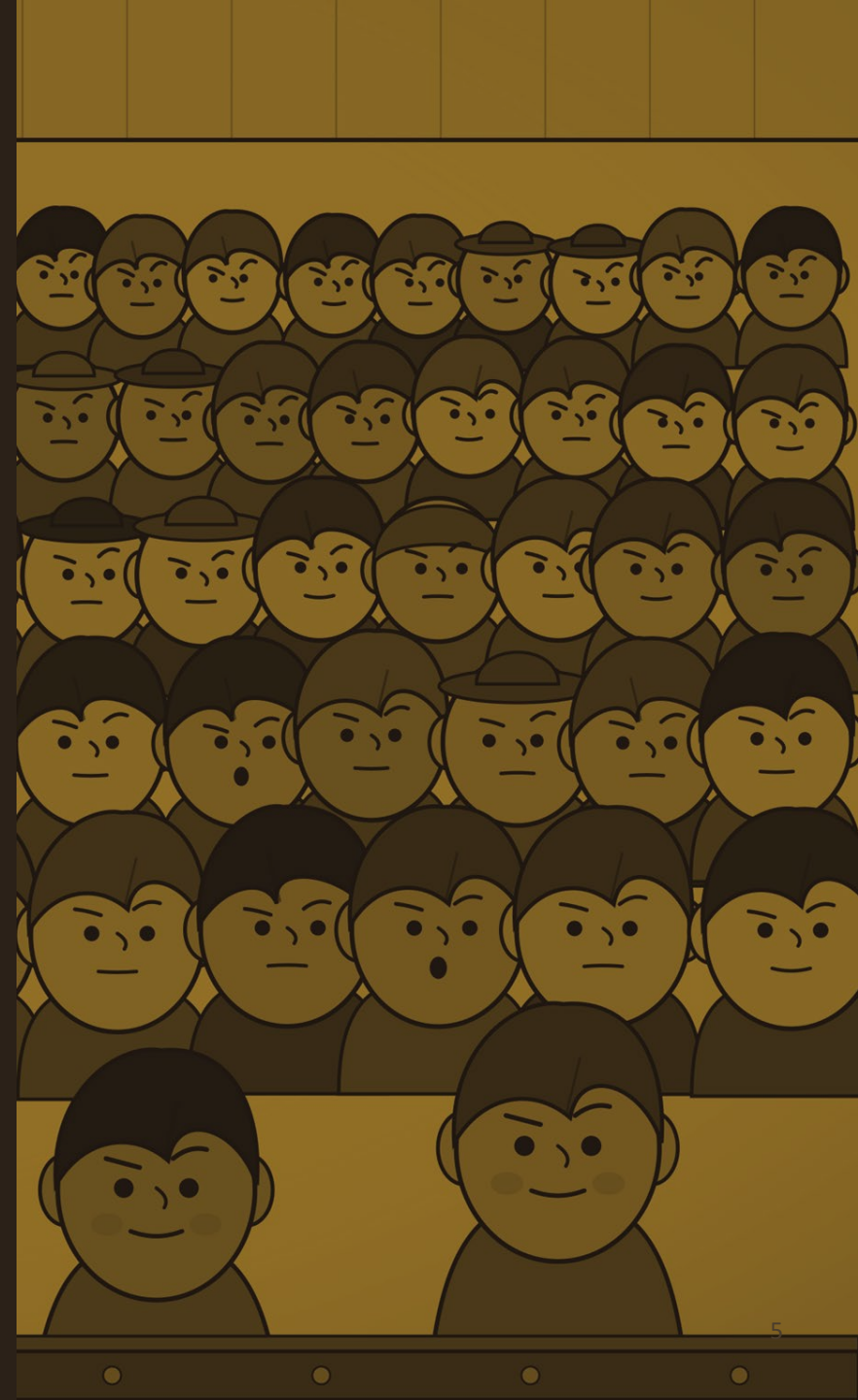
The gallery is packed — an invented statute, and a very real appetite for watching one.



I.

Reading the Panel

Ninety seconds to decide whether to keep or strike — and a small anthology of every heuristic a trial lawyer reaches for when a stranger's name is called.





JUROR NUMBER ONE

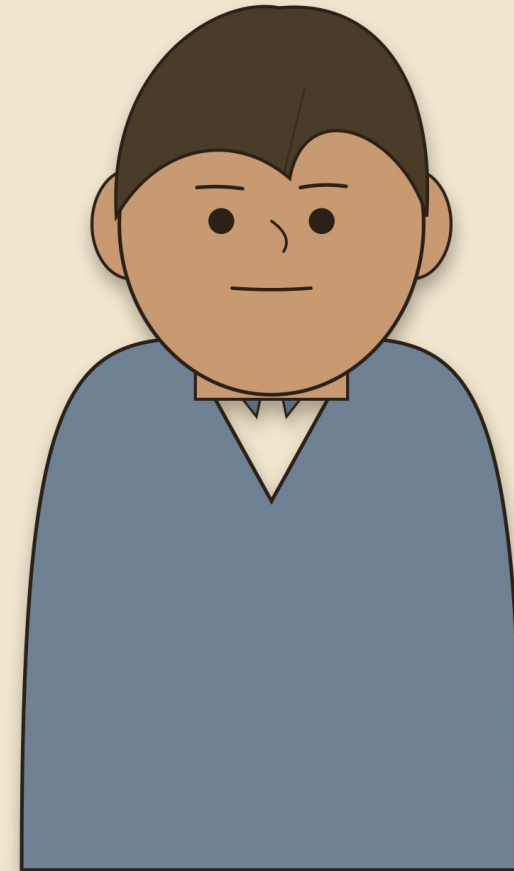
Stennis

Machine operator · Drysdale Jute Bag Company

Eldredge: *"I can't see any reason to challenge him. ... Can you see anything about him that would make you want to get him off the jury?"*

Quinn: *"No."*

Nothing to profile, so nothing to do — which is itself a kind of decision, and a defensible one.



STENNIS juror no. 1



JUROR NUMBER TWO

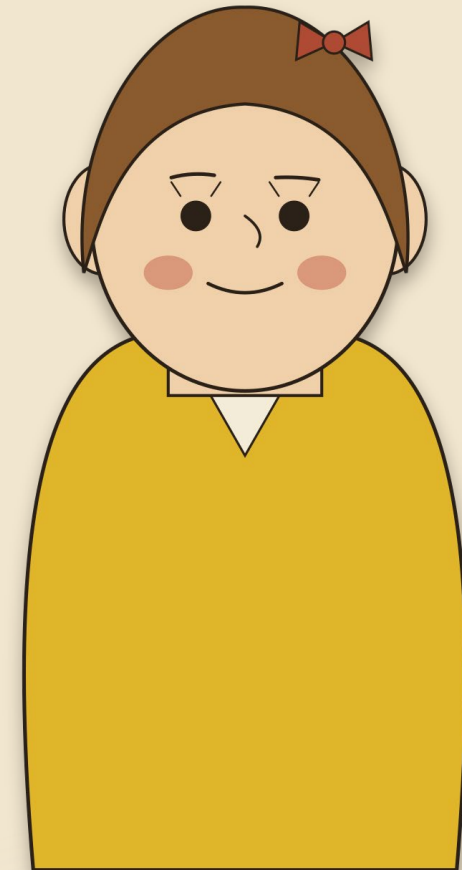
Dronsky

Housewife · husband a salesman for National Steel Wire Co.

Quinn: *“She looks as if she’d understand the charges. ... What’s a swinger going to do for us — be sympathetic or hang us to make up for guilt.”*

Eldredge: *“Maybe all that makeup means she isn’t a swinger but wishes she were... Put a question mark, and we’ll see.”*

She is struck, on the strength of a dress and a hair ribbon.



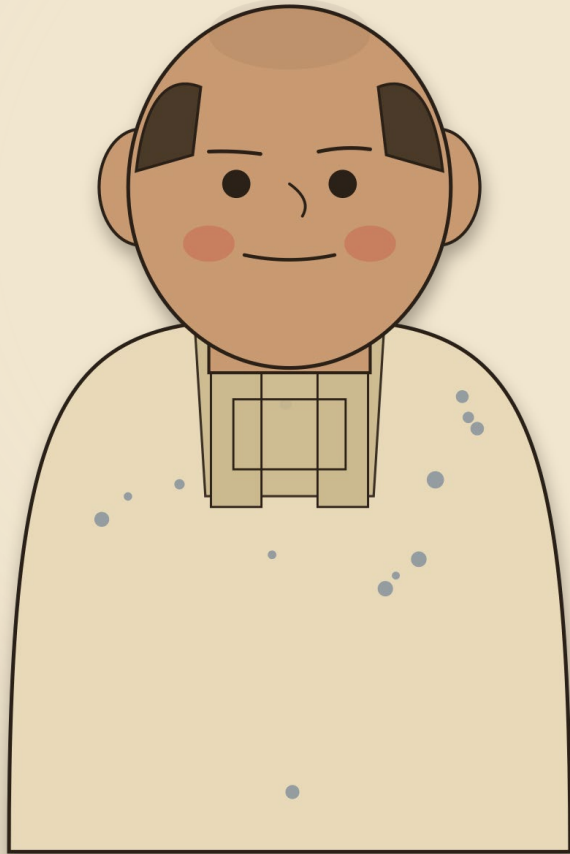
DRONSKY juror no. 2



JUROR NUMBER THREE

The Housepainter

Occupation: painter



RUDDY CHEEKS, *no name given*

Quinn: *“Even money says he’s an alcoholic.”*

Eldredge: *“Who’s to guess. ... this session just opened and there wasn’t any way to find out who they were. He looks harmless.”*

The opposite verdict, from the opposite kind of guess — kept, on no more evidence than Dronsky was struck.

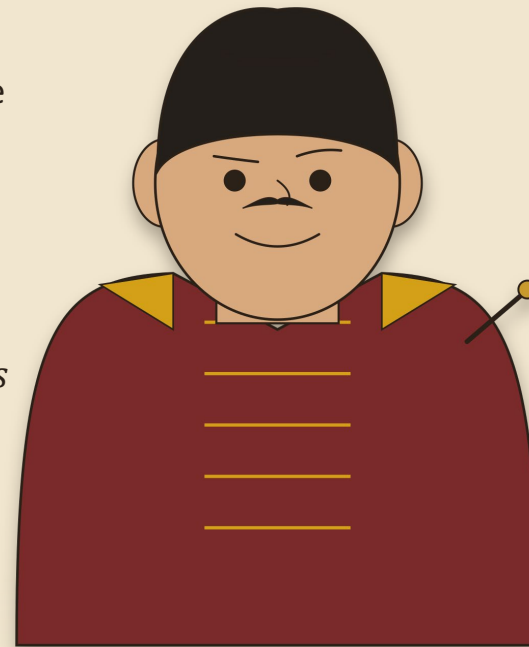


THE REST OF THE PANEL

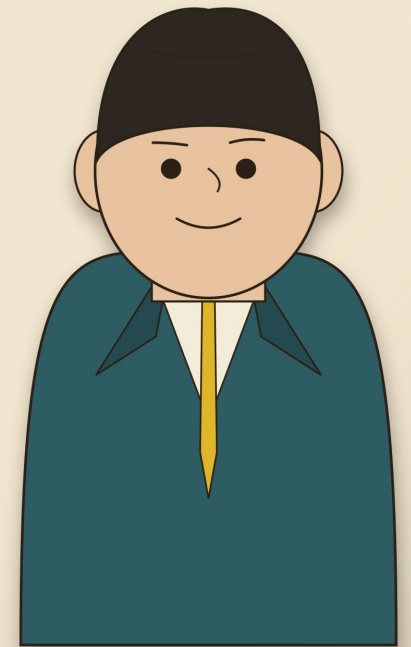
Sorted in a Breath

- Four housewives, assumed “tolerant.”
- Two unmarried secretaries, written off as “no hanging vote.”
- An accountant in a fashionable waterfront building, debated as a bachelor “who gets around.”
- A giant of a man, a bandleader, marked an automatic defense vote — struck by the prosecution on sight.

“He looks good. ... He should take a pretty balanced view. Let’s hope Canton leaves him alone.”



THE BANDLEADER juror — struck



JOHNSON TV executive, juror 12

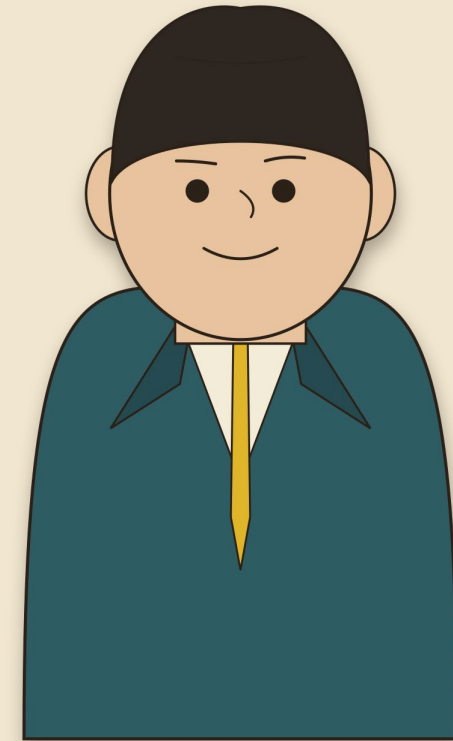


THE FIRST CRACK

The Ideal Juror, Excused

Just before opening statements, the judge asks the panel a routine question about acquaintance with counsel. The ideal juror — the television executive both sides were counting on to swing the panel — discloses that he once hired the prosecutor as his own lawyer.

He is excused on the spot, over Eldredge's muttered "Damn." The clerk spins the barrel again. What comes out of it will decide the case, though nobody in the room has the faintest idea of it yet.



JOHNSON *excused — knew the D.A.*



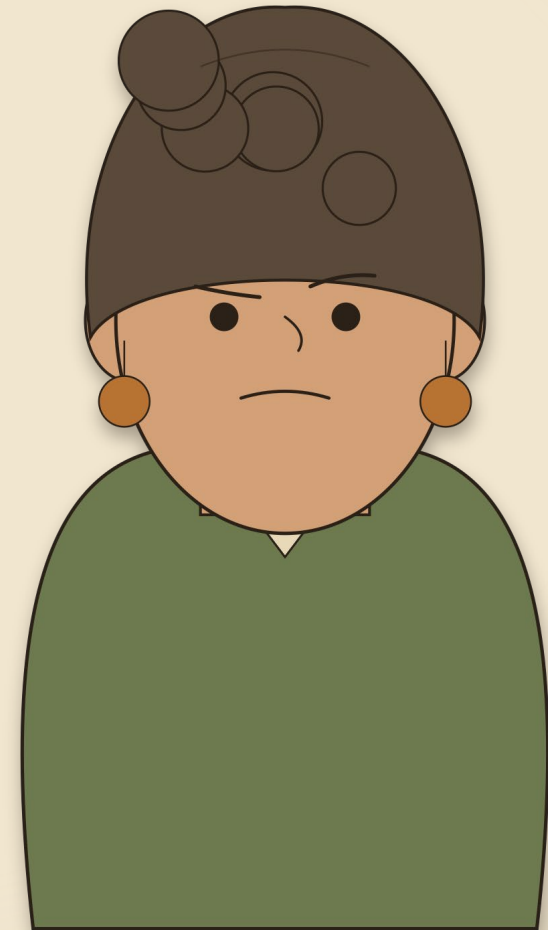
THE JUROR BOTH SIDES AGREED ON

“Strike Her — She Has a Convicting Look.”

At the back of the courtroom rose a funny bulky woman. She was fat in the stomach. Her pile of false hair made her absurd. She had pennies appended to her ears.

Quinn: *“Strike her, she has a convicting look.”*

Eldredge (to himself): *“He looked at her again. She looked reliable.” — “The defendants are content with the jury.”*



JUROR NO. 12 *unnamed — as first seen*



THE SAME BET, FROM THE OTHER SIDE

The Prosecutor Agreed Too



CANTON district attorney

"I thought sure you would strike that last juror. I'll bet she goes to Mass every day in the week. Did you see what part of town she lives in. Old country Polish Catholic. I've campaigned down there. I was holding my breath. They still wear chastity belts in the old country. Your clients haven't got a shot with her on the jury."

Two experienced lawyers, opposite sides, one shared conclusion from neighborhood, ethnicity, and a pair of pennies on her ears — and both entirely wrong.



The Verdict Nobody Predicted

Witnesses, cross-examination, a defense argument that the statute itself is an antique embarrassment, a charge from the judge. The jury deliberates and returns. The foreman announces a guilty verdict on both defendants.

Eldredge, out of options, asks to have the jury polled — the small, almost ceremonial safeguard by which each juror is asked, one at a time, to personally affirm the verdict on the record.

Polling the jury is a formality. Nobody in the room expects it to change anything.



POLLING THE JURY

“Guilty. ... Guilty.”

“Mr. Foreman, how did you find the defendant Erdman.” — “Guilty.”

“How did you find the defendant Barnes.” — “Guilty.”

“Juror number two, how did you find the defendant Erdman.” — “Guilty.”

“How did you find the defendant Barnes.” — “Guilty.”

And so it went through twelve.

Almost through twelve, but not quite.



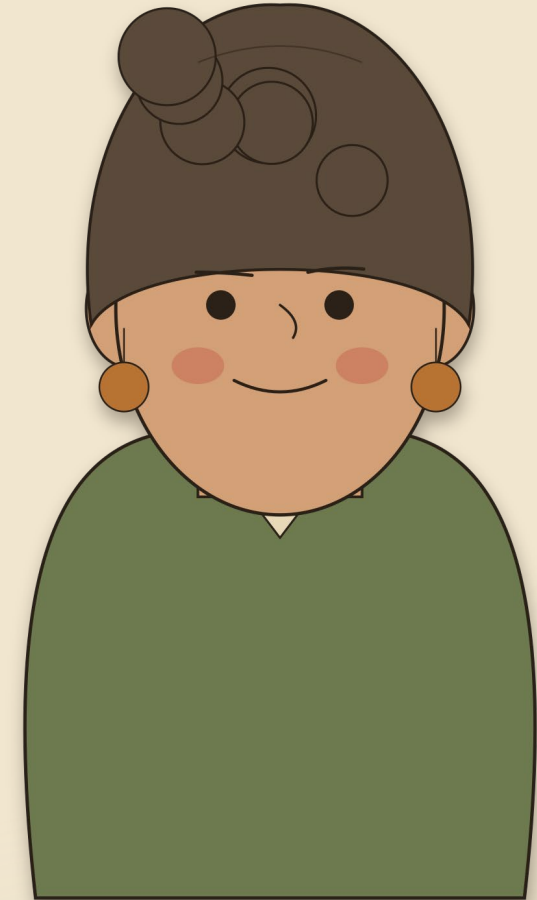
THE TWELFTH JUROR

“To Hell With It.”

Juror 12: *“Well, she could have done it, but I don’t know who cares.”*

Juror 12: *“To hell with it, the others talked me into it, and I am not going that way.”*

The Judge: *“Thank God for good sense. ... Mistrial is declared.”*

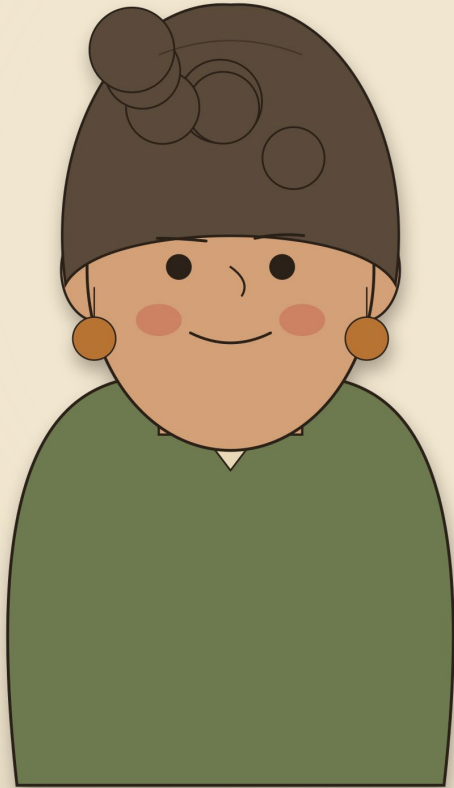


JUROR NO. 12 *the one who wouldn't*



WHAT NOBODY COULD HAVE ASKED

Why She Voted That Way



She had “enjoyed twenty good years with a milkman, and there was that to be grateful for.”

Her own marriage — her own private twenty years of happiness — is what she brings into the jury room. Not her parish. Not her zip code. Not her husband’s occupation.

Nobody could have put that on a jury questionnaire. And nobody did.



A CONFESSION ABOUT THE COUNT

The Jurors Nobody Noticed

The novel is called The Twelfth Juror. Count the jurors it actually puts in the box.

12 seats in the box — and a juror the clerk calls “number twelve” The title	9 seated: Stennis, the housepainter, four housewives, two secretaries, and Juror 12 The text	3 never accounted for: an accountant debated but never resolved, and no replacements for the two struck The gap
--	---	--

Even the author lost track of them. In your courtroom, they are still voting.

Struck: Dronsky (defense) and the bandleader (prosecution). Excused: Johnson. Their replacements never appear.

Voir dire attention goes to the vivid jurors — the yellow dress, the bandleader, the TV executive. The quiet ones get “nothing to profile” and are waved through. Zeisel & Diamond (1978) found lawyers’ peremptory strikes had only a modest, uneven effect on verdicts.



II.

Fiction, and the Research That Came After It

The empirical study of jury behavior mostly came later, or developed alongside Wedlock — and it validates the novel’s punchline almost exactly.

2%

of verdict variance explained by
demographic factors alone

Abbott & Batt (1999)

5.4%

of verdict differences explained by
demographics, in a study of real jurors

Diamond et al.

5–15%

combined predictive value of
demographics and personality, across the
literature

Fulero & Penrod (1990)

“When the evidence is strong, nothing else matters much.”

— Kressel & Kressel, as summarized in “Scientific jury selection,” Wikipedia

Attitudinal measures — beliefs about personal responsibility and the legal system — tend to outperform demographics, but are still, in the words of one review, “not very useful predictors.”



WHAT THIS MEANS AT THE TABLE

Six Practical Takeaways

1

Treat demographics as a question, not an answer.

It can suggest what to ask about in voir dire; it should not substitute for asking.

2

Spend your limited time on attitudes and experience.

Views on personal responsibility, the legal system, and the conduct at issue outperform occupation and zip code.

3

Be especially suspicious of consensus.

When both sides independently agree a juror is a lock, as Eldredge and Canton did — that's a signal to probe harder, not relax.

4

Remember the evidence is the strongest driver.

Case strategy should be built to persuade individual human beings, not categories of them.

5

Hold every profile with humility.

Twelve strangers each carry a private history no questionnaire will fully surface — and any one of them may be the twelfth juror.

6

Always poll the jury.

Juror 12 agreed in the jury room and broke only when asked alone, on the record. Polling is not a formality — Fed. R. Crim. P. 31(d).



He was free to write the case however he wanted — and what he chose to write was a courtroom in which the two most experienced people in the room agreed, with total confidence, about a stranger. And were both entirely wrong.

A man who tried as many juries as he did would not have invented that scene by accident.

Thank you.





References

1. “Counsel Harold Willcox [Named] by State Crime Board,” Ipswich Chronicle (Ipswich, Mass.), Dec. 13, 1962. (Family archives.)

2. James F. Droney, “Crime Probe Counsel ‘Got to Be Sold,’” contemporary newspaper profile of Harold M. Willcox. (Family archives.)

3. Oostinga & Willmott, “The Practice and Ethics of Jury Selection,” citing Abbott & Batt (1999) on demographic factors predicting as little as 2% of verdicts.

4. Shari Seidman Diamond et al., finding that 5.4% of verdict differences were explainable by jurors’ demographic characteristics.

5. Wikipedia, “Scientific jury selection”; see also Fulero & Penrod (1990), Villanova CONCEPT review, on the 5–15% range.

6. Kressel & Kressel, as summarized in “Scientific jury selection,” Wikipedia.

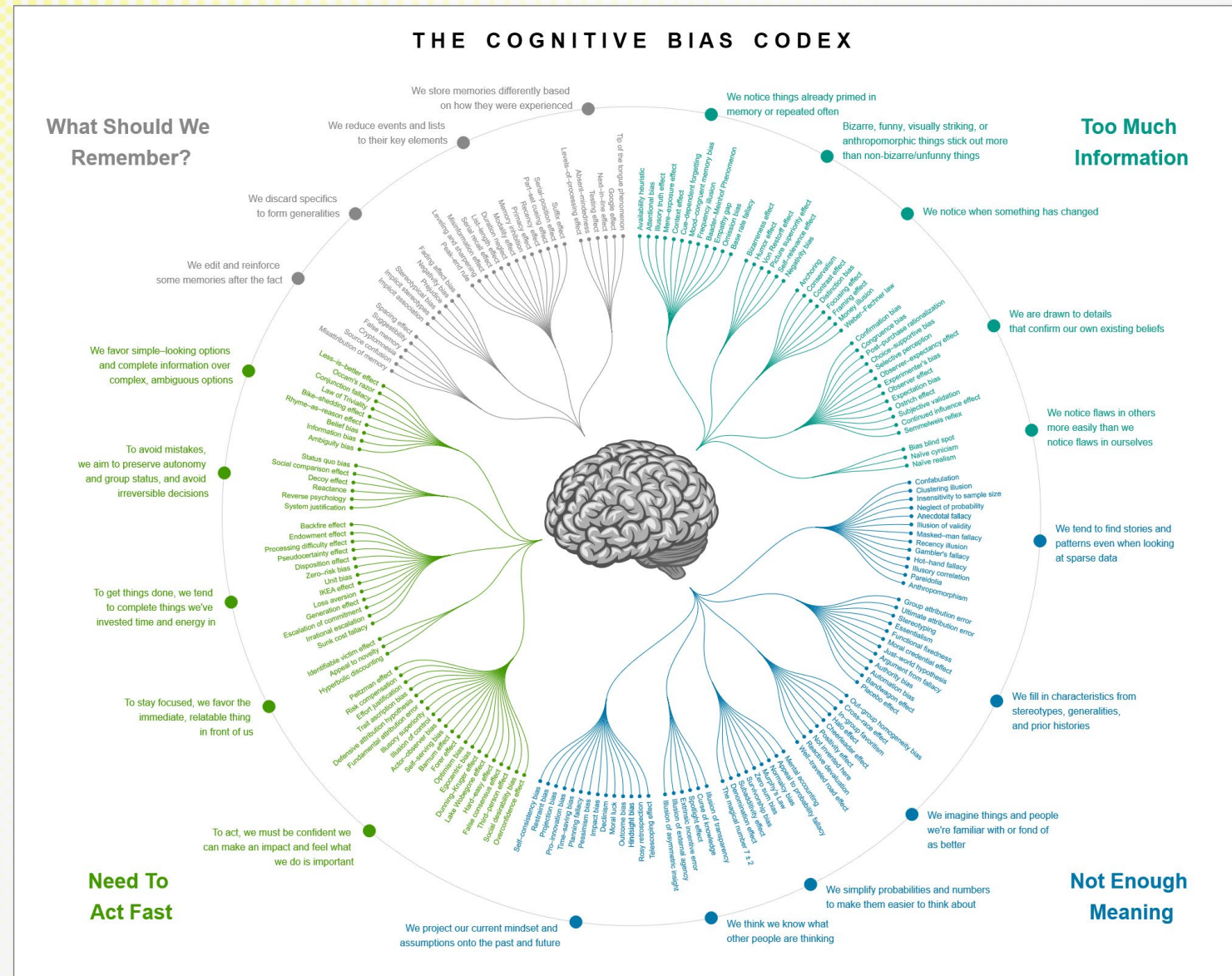
7. Phoebe C. Ellsworth, “Some Steps Between Attitudes and Verdicts,” University of Michigan Law School Scholarship Repository.

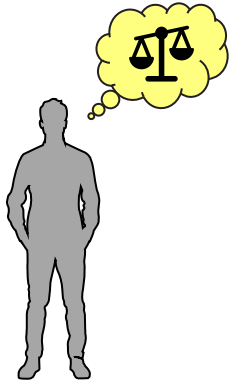
8. Courtroom Sciences, “Can Demographics Predict Juror Decisions?” on the 5–16% variance figure from studies of real jurors.

9. Hans Zeisel & Shari Seidman Diamond, “The Effect of Peremptory Challenges on Jury and Verdict: An Experiment in a Federal District Court,” 30 Stan. L. Rev. 491 (1978).

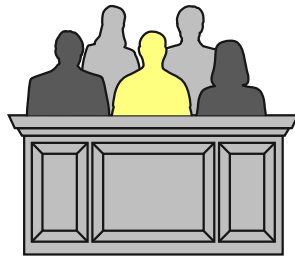
10. Fed. R. Crim. P. 31(d) (polling the jury; if the poll shows a lack of unanimity, the court may direct further deliberation or declare a mistrial).

IDENTIFYING & DESELECTING BIAS

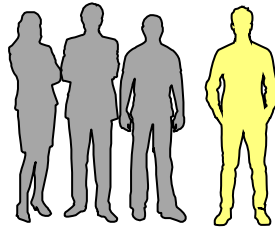




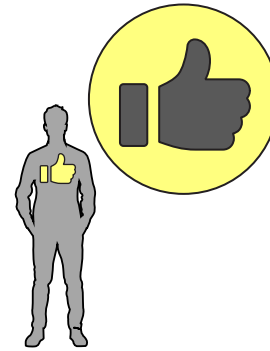
**IMPLICIT
BIAS**



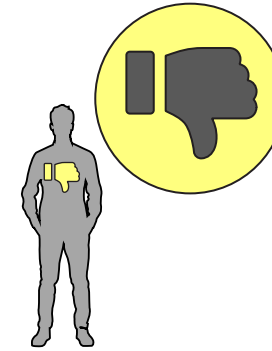
**INGROUP
BIAS**



**BLACK
SHEEP
EFFECT**



**HALO
EFFECT**

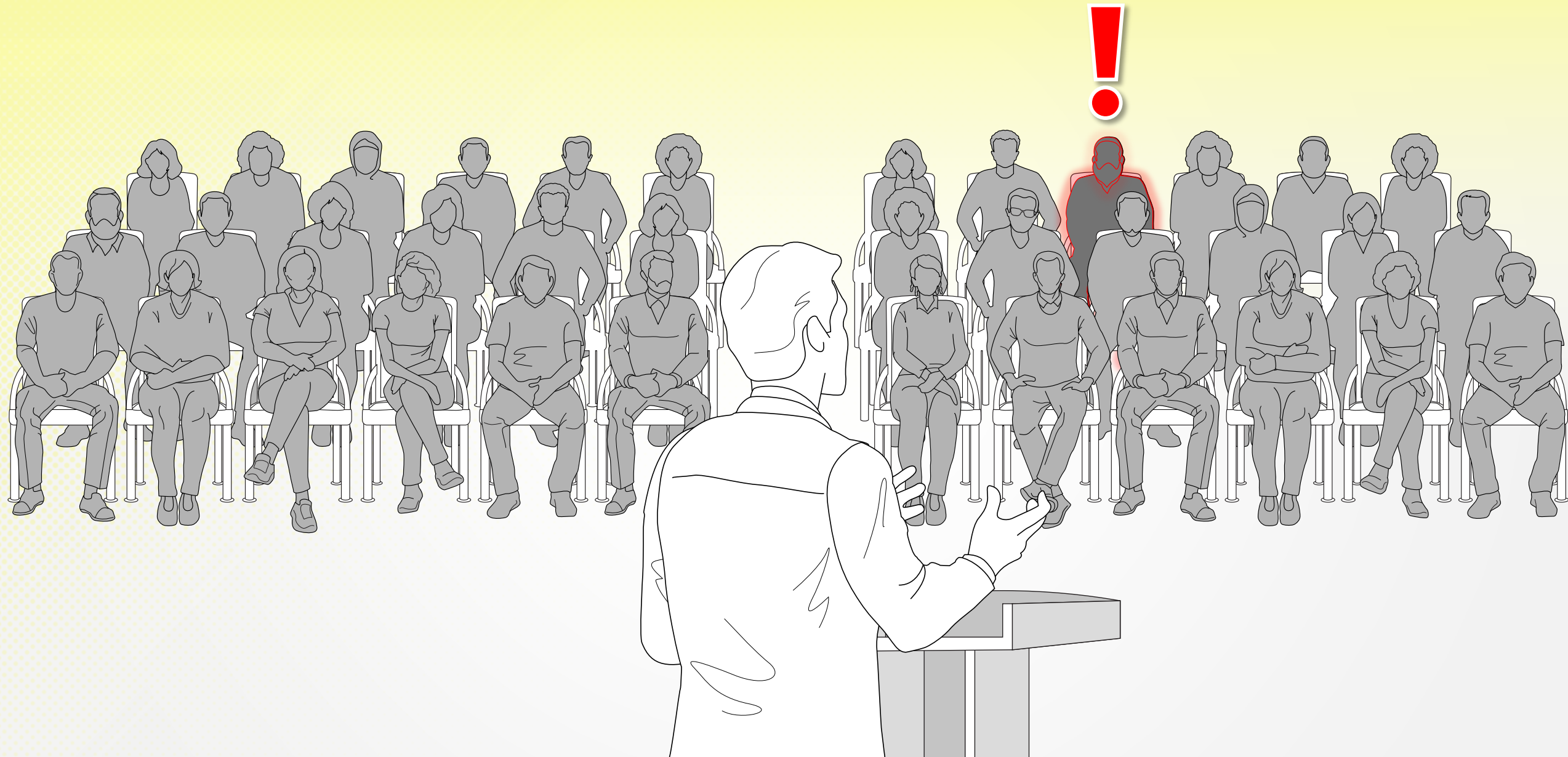


**HORNS
EFFECT**

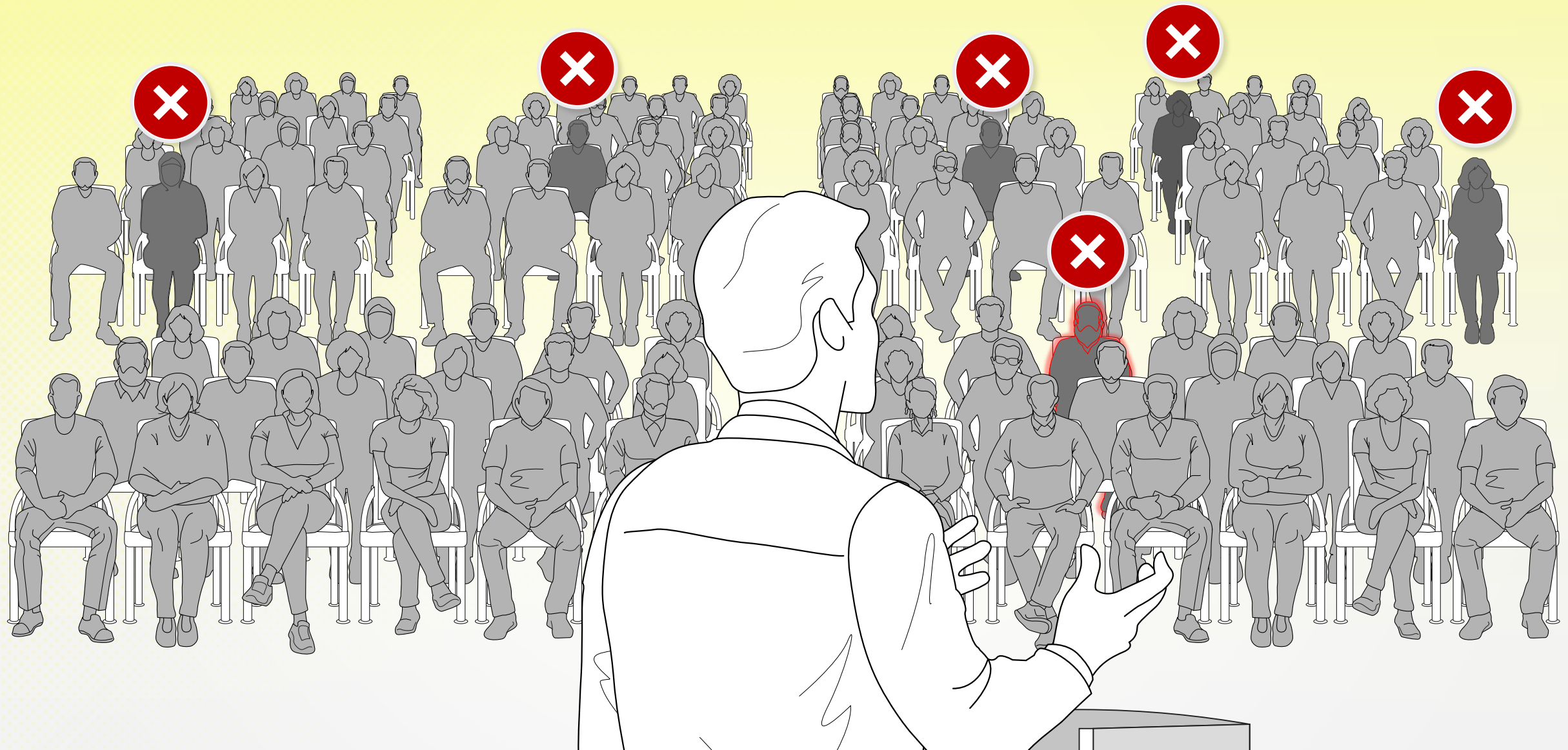


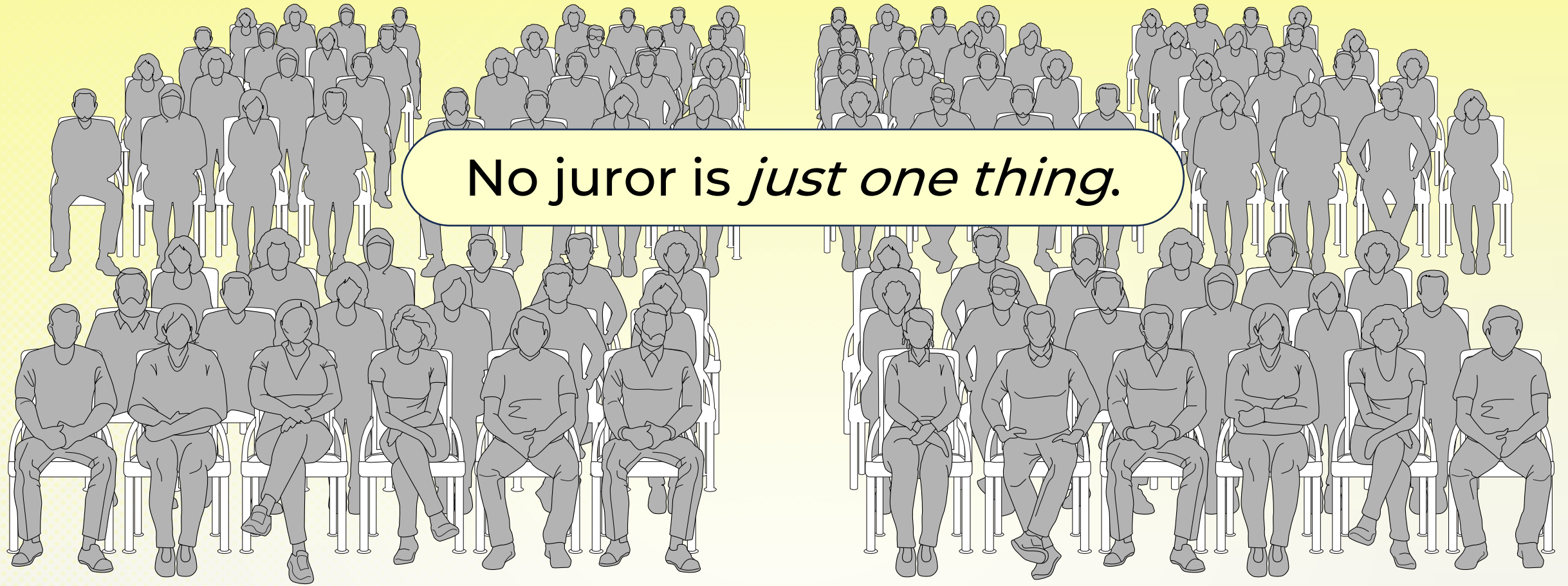
**CONFIRMATION
BIAS**

TARGETED DATA ANALYSIS



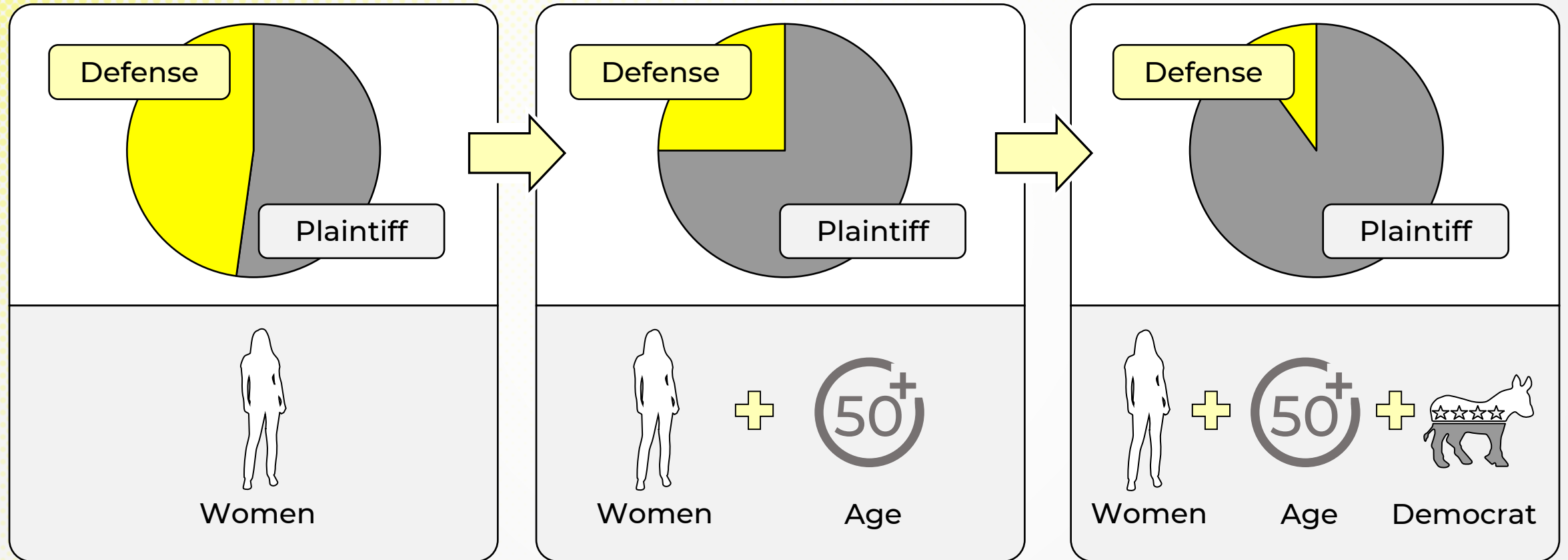
48-100 JURORS PROVIDES MUCH MORE RELIABLE DATA





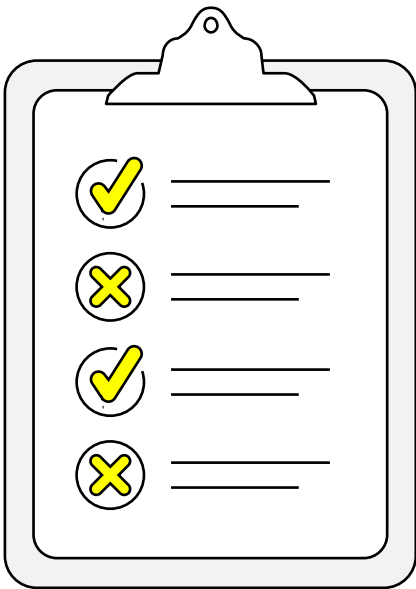
Profiles are based on multiple combinations of characteristics

EXAMPLE:

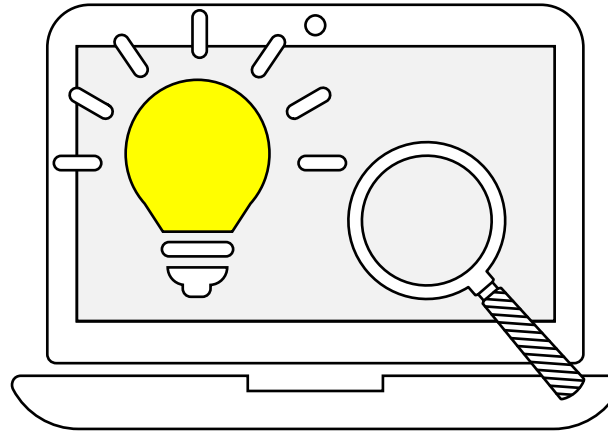


JURY SELECTION

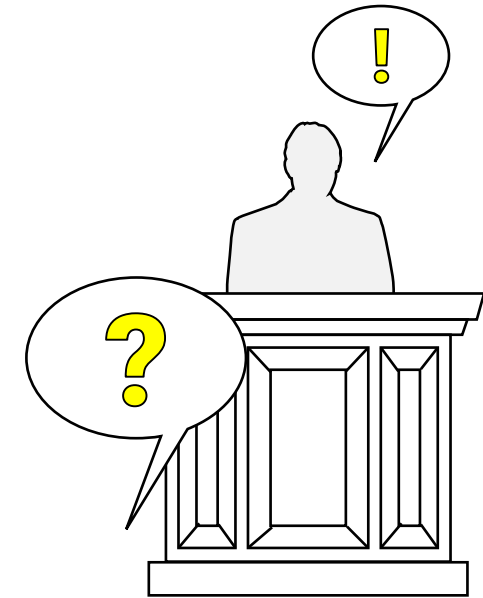
Methods of Obtaining Background Information



WRITTEN
QUESTIONNAIRE



ONLINE RESEARCH



ORAL VOIR DIRE

Groundwater Contamination Case (Defense Client)

THE CASE

This is a class action case about alleged groundwater and soil contamination involving chemicals called TCE (trichloroethylene) and PCE (perchloroethylene). Plaintiffs allege the TCE and PCE contamination in this case was caused in the late 1960s to early 1970s by [REDACTED] the legal predecessors of Defendants. Plaintiffs allege that the [REDACTED] entities owned and operated the commercial property at 8020 Deering Avenue to manufacture printed circuit boards. Plaintiffs claim that TCE and PCE have spread from the commercial property, forming a groundwater plume approximately 2.5 miles long and 0.75 miles wide at its widest. Plaintiffs allege that this plume has affected over 3,200 homes in the Los Angeles neighborhoods of Canoga Park and Winnetka. Plaintiffs also allege that Defendants have mishandled the investigation and remediation of the contamination. In general, Plaintiffs claim the presence of the alleged contamination has caused property values to decrease and that affected homes require the installation of mitigation measures to prevent contamination in vapor form from entering the homes.

→ fuckin' incompetent liars
Defendants deny these allegations and contend, among other things, that they are not responsible for any alleged contamination, that there is no evidence of any loss of property value, that there is no evidence of the presence of contamination from [REDACTED] operations in any homes—or of any measurable risk that such contamination will ever be present in any homes—and that there is no evidence of any need for mitigation measures at any property.

24. Have you read, seen, or heard anything about this case? ☐ Yes ☒ No

If “Yes,” what have you read, seen, or heard about this case? _____

25. How familiar or knowledgeable are you about each of the following?

	Very Knowledgeable	Somewhat Knowledgeable	Not too Knowledgeable	Not at all Knowledgeable
TCE or PCE contamination in the San Fernando Valley, Canoga Park, Winnetka, or Reseda areas	☐	☐	☐	☒
Environmental issues in your community	☐	☐	☐	☒

well that sucks, that's where i grew up. Can i get money? kinda broke nam sayin.

factors outside of your control, such as construction, crime, environmental issues, or a neighboring property				
Received disclosures or notices about environmental contamination in connection with the purchase or sale of a home	☐	☐	☒	
Backed out of buying a home—or had a buyer back out—because of concerns about the property or the surrounding area	☐	☐	☒	
Felt misled by environmental consultants, real estate agents, or companies about environmental conditions	☒	☐	☐	<i>companies are full of shit. And the government will cover it up</i>
Felt that a government safety standard or safety regulation was too strict, unnecessary, or unfair to businesses	☒	☐	☐	<i>just corrupt i guess</i>

MISCELLANEOUS

31. Any reason you are unwilling or unable to serve as a juror? ☒ Yes ☐ No

If “Yes,” please explain: *HAVE YOU SEEN THE EPSTEIN FILES?!?! also I have a life and a job*

32. Is there anything this questionnaire does not address that you think might be important for the attorneys and the judge to know? ☐ Yes ☒ No

If “Yes,” please explain: _____

Signature: _____

Date: *3/18/26*

END OF QUESTIONNAIRE

If this lawsuit gives anyone compensation, there are thousands more that it has affected that will never be compensated. So fuck this, fuck that.

Wire Fraud & Financial Conspiracy (Defense Client)

JUROR # 377

**PART VI: PERSONAL EXPERIENCES AND
VIEWS RELATED TO CASE-SPECIFIC MATTERS**

57. Do you have views regarding any of the following that might influence your ability to be fair and impartial in this case?

a. Large technology companies

Yes 1 No

i. If yes, please explain your views and what they are based on:

i think tech coops as a whole
are predator ya tech runs wild & they try
to monetize everything.

48. Have you or anyone close to you ever had any legal action or dispute with the federal, state or local government (including any government agency)?

Yes ✓ No

a. If yes, please explain:

wife was hit by a speeding police vehicle on way to
work, lawsuit still pending

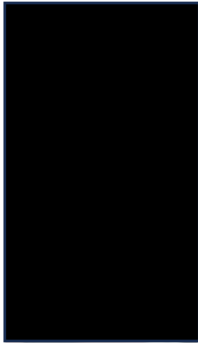
45. Have you or anyone close to you ever been a victim of a crime (whether reported or not)?

Yes ✓ No AM

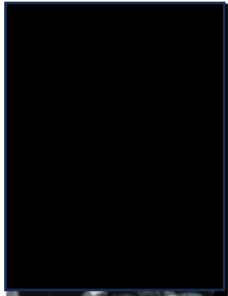
a. If yes, please explain:

my brother was falsely reported to brandish a gun at
my house, cops conducted a no knock force entry & destroyed our
basement bedroom in search.

Wrongful Conviction Trial (Plaintiff Client)

List #	Name	Edu & Employment	Social Media
10	Name: [REDACTED]  (Facebook, 2010) Age: 54 y/o City: Levittown	Edu: Florida International University and Island Trees High School (FB) Occupation: Carpenter for a restaurant (VD) LinkedIn: https://www.linkedin.com/in/[REDACTED] Experience: - Mgr at Canz Restaurant Poli Aff: None Declared (Westlaw) Instagram: https://www.instagram.com/[REDACTED] - Posts are pictures of drum sets - Follows: Long Island pages, therealdonaldtrump, potus, melaniatrump, flotus45, all Trump kids, donaldtrump.hq, students4trump, teamtrump, donaldtrump.2024, republican.army, republicanforlife72, stay.right.politics, nassaucountypd	Facebook: https://www.facebook.com/[REDACTED] - Profile picture of him with a giant fish - Studied at Florida International University and Island Trees High School - Likes pages for Tucker Carlson, MAHA Center, The White House, Ron Paul, Young Americans for Liberty, Conservative Network Battlefield of Ideas, Kayleigh McEnany, Newsmax, Nassau County Police Department, We're Taking America Back, Conservative Politics Today, New York Republican State Committee, United Deplorables of America (MAGA! With guns as pro-pic), Donald Trump Jr., Keep American Great, The Trump Republicans, Crush Liberalism, NOT a Liberal, One Angry Conservative, Red Pill Latina, G.O.P., I am Republican, Rudy W. Giuliani, Matt Gaetz, Trump Train 2020, Liberal Cancer, OAN, and many more - Posted death metal remix video making fun of ant-Trump protesters in 2017 - Reposted Breitbart's video in 2017 about border issues and the "heroin epidemic" - Reposted Donald Trump for President's post "Can we all agree Hillary is mentally unfit, physically unfit, morally unfit" in 2016 - Reposted "whole world is Pokemon go and racism. I'm just over here like 'how can I make this snare sound better'" in 2016 - Says "blue pill" people called the cops and Fire Marshall on him. "lots of people have not taken the red pill yet lol." Speaking negatively about Democrats

Gender and Pregnancy Discrimination Case (Defense Client)

List #	Name	Edu & Employment	Social Media
20	Name: [REDACTED]  (Facebook 2021) Age: Unknown City/Town: Rosemead, CA (Voir Dire) Spouse / Significant Other / Children: in a relationship, children in high school (Voir Dire) Jury Service: None (Voir Dire)	Edu: Unknown Occupation: Furniture tech at Macys for 20 years (Voir Dire) LinkedIn: https://www.linkedin.com/in/[REDACTED] Experience: Furniture Tech at Macy's (Jul 2006 – Present) Interests: Data-Tech, Specialized in Managed IT Security, Ercol Furniture, Ltd., Macy's Poli Aff: Unknown	Facebook: https://www.facebook.com/[REDACTED] - Lives in Rosemead, CA - From East LA, CA - In a relationship since 2020 - May have 3 children in middle school/high school – 2 older sons and 1 youngest daughter - Liked pages include soft porn, news networks (FOX), anime, beer and “man’s man” promotions, general heavy notes of misogyny, including: https://www.facebook.com/JoinNOMAAM bio: “Home of The National Organization of Men Against Amazonian Masterhood.” Political Goals: are to fight the increasing power of women all over society” Other Web Presence: https://www.facebook.com/[REDACTED] - His partner, [REDACTED] - Many pictures with her chihuahua - Has children – 2 sons and a daughter, middle-school aged - Made a post about Adan saying “You are the one who stepped up to be a dad to my kids and you go above and beyond for them” - Post saying “When your manager tells you that you can't wear your Raiders to work cuz some of your co-workers might get offended but you still walk in on this wonderful Friday morning sporting your team like, what's up bitches!

List	Name	Edu & Employment	Social Media
3	Name: [REDACTED] Age: 33 y/o City/Town: West Adams (GQ) Spouse / Significant Other / Children: Wife, she is a scientist – psychologist, no children (GQ) Jury Service: None (GQ)	Edu: PhD in Physical Chemistry from University of Southern California (2015 –2020); B.S in Chemistry/Physics from University of Wisconsin-Eau Claire (2011 –2015) (LinkedIn) Occupation: Surface Scientist – Contamination Researcher at The Aerospace Corporation (LinkedIn) Scientist; prior occupation was post doc and grad student (GQ) LinkedIn: https://www.linkedin.com/in/[REDACTED] Bio: Experienced researcher trained in vacuum, cryogenic, and laser technologies. My current position focuses on contamination control of spacecraft and launch vehicles. I apply ASTM and IEST standards and lead research projects that further the understanding of this critical field which is applicable to the aerospace, medical, and semi-conductor industries. Experience: - Surface Scientist – Contamination Researcher at The Aerospace Corporation (2022 – Present) - Postdoc Researcher at U of Miami School of Marine and Atmospheric Science (2021 – 2022) - Graduate Research Assistant at U of Southern California (2015 – 2021) - Research Assistant at U of Wisconsin-Eau Claire (2012 – 2015) - Bicycle Mechanic (2012 – 2015) Skills: - Research, critical thinking, public speaking, spectroscopy, data analysis, teaching Interests: - AccelDev, The Aerospace Corporation, Microscape Inc, UWEC Dept of Chemistrv and Biochem	Facebook: None found Instagram: https://www.instagram.com/[REDACTED] - Private profile - Bio: "I have a Ph.D., do improv, and generally try my best. See me rage: @ [REDACTED]" Twitter: None found Other Web Presence:

JUROR 3: No. I think that, again, I view corporations as maybe not breaking the law necessarily by the letter of the law, but I think they go against what I view as morally just and correct. I think I have a hard time separating those two things.

Do you believe the person at the top of a company should be held responsible for everything that happens inside it?

If a business ends up in bankruptcy, do you think that's usually a sign the people running it mismanaged the money?

How many of you have a negative opinion of wealthy people?

Who here feels that because the government decides to bring charges against someone, that person is probably guilty of something?

How many of you have a negative opinion of finance professionals / Wall Street?

Who here thinks that big tech companies are not honest about the risks of use?

How many of you think that people can sometimes exaggerate their injuries to benefit themselves?