How To Create A Unique Jury Profile For Every Case

By **Ken Broda-Bahm** (March 13, 2025)

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Next month, jury selection will begin in the retrial of Harvey Weinstein, whose 2020 rape and sexual assault conviction was overturned due to evidentiary issues.

In this case, a number of factors will come into play, including juror attitudes about gender, the #MeToo movement, Hollywood, prosecutors and politics. The specific mix of factors will most likely be unique to the case, the venue and the current climate.

Of all the areas of legal lore, perhaps none are more loaded with mystique than jury selection. Attorneys with long experience tend to develop some pretty solid views over the course of their careers, and those habits regarding who they're looking to seat and who they're looking to strike can create a baked-in preference independent of the case or the venue.

For example, some defense counsel confidently express that older, conservative men are great for their cases, and younger, liberal women are terrible for their cases.

Though some may think these associations are inevitable, they aren't necessarily going to be valid or the best guide in every case.

As an alternative to basing selections on these broad habits, attorneys will also often rely on their gut, operating from an implied belief that they can look into someone's eyes and know their soul, or at least how they'll react to the case and the client. Those impressions aren't reliable either.

But it is not just a choice between broad stereotypes on the one hand, or tea leaves and astrology on the other. Jury selection should be seen as a rational and systematic process, and that process begins with a risk profile: a detailed road map on what features of potential jurors — experience, attitudes and, to a minor extent, demographics — are most likely to help or hurt your case.

The emphasis should be on the unfavorable factors that may hurt your case, since you are striking the potential jurors you don't want, not picking those you do. In short, the risk profile identifies the kinds of jurors you would want to strike or challenge for cause.

This article discusses how to create a unique jury profile for every case.

Three Sources for Your Profile

A jury selection profile should be customized to address three unique factors: the national climate, the case and the venue.

1. The National Climate

Larger national issues serve as a backdrop to your case, so assess where we are in the national conversation.

The recent upheavals as a new president has taken power, for example, provide a good reminder that the climate matters, with both sides of the political spectrum seeming a little uneasy, being distrustful of powerful institutions and seeking a return to some kind of safety.

When you are developing a profile for your case, it helps to spend some time on the question of what issues are on the public's mind. When forming your profile, take a look at the recent verdicts, issues and controversies being covered in the local news. And look at the jury pool's social media — look at what they're talking about.

2. The Case

You also need to take a clearheaded look at the unique weaknesses and strengths of your case. Starting with the question, "If we were to lose, how would we lose?" you can identify the views and experiences that would make a juror more susceptible to those weaknesses.

In forming this worst case scenario, you should consider the types of arguments that could hurt your case, and the types of people who would gravitate toward these arguments, in your profile.

You can also look at past cases that were similar, and ideally you should draw from your own case-specific research — any focus groups, mock trials or community attitude surveys you may have done — in order to develop a customized and reliable risk profile.

3. The Venue

Where your case is being tried matters a great deal, of course. Much attention has recently been focused on nuclear verdicts[1] as outliers that can lead to verdicts well in excess of documented damages, and there are well-studied factors relating to venue that will influence jurors' leanings on both liability and damages.

While most Americans get their news from national rather than local sources these days, it still helps to devote your attention to what may be unique in the venue, and devote some attention and research to learning what is going on in the specific community.

Even something as simple as talking to your cab and Uber drivers can help you get a better feel for the venue.

Putting It All Together

Practically, the profile you develop should include a bulleted list of your potential jurors' observable features that will inform your decisions about which jurors are higher risk and lower risk.

One method is to create a table with two columns: one listing the unfavorable attitudes and experiences that would increase a juror's risk to your case, and the other column listing the favorable factors that would reduce risk.

You can divide these factors into categories as well — e.g., lawsuit views and experiences, disposition toward large companies, safety-related background and opinions, etc.

In each case, you will have to make a judgment about whether favorable features outweigh unfavorable features, or vice versa, and seeing the factors laid out in one place will help you

make that choice as it applies to each juror.

Ultimately, your jury profile won't be a guaranteed predictor of who is good and bad for your case, but it will be a useful guide when thinking about risk and bias on your panel.

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[1] https://yourtrialmessage.com/profile-your-nuclear-juror-based-on-the-research/.