

“We’re Not in the 80s Anymore”

How Touchscreen Technology Has Made Jury Research Genuinely Useful

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Today’s technology makes it possible to harvest and apply the accurate voir dire intuitions of an entire trial team. A well designed jury research system will also isolate the life experiences and attitudes shared by private jurors who react negatively to a client’s case, telling a lawyer which potential jurors in a public trial are most likely to be dangerous. This gives litigants unprecedented insight into the most important and the least understood part of the trial process—jury selection.

Many experienced lawyers and claim handlers have had little or no experience with jury research.

If they have done a "focus group" it may have been conducted in an unsettling room with mirrors from floor to ceiling, led by a psychologist (who has never picked a jury) using lots of paper questionnaires. Some research firms may have equipped the jurors with wireless dials; this opinion-gathering technology, seen on TV for many years following Presidential debates, allows clients to see how an entire group of jurors answers certain questions as the research unfolds.

That was yesterday.

Today lawyers and claim handlers no longer need to use technology created to sell panty hose and politicians. Litigants now have research systems specifically created to answer litigation questions. It can help them in very practical ways, most especially in picking a jury.

To give the reader a concrete understanding of this technology we have departed from the typical white paper format; in the following pages you will see many screen shots from actual cases demonstrating the new technology working in the real world.



First, LOTS of Background Questions

Several days before a Private Jury Trial begins we send 18 potential jurors to a website we created just for them. They answer up to 50 background questions; the list of questions includes common demographic questions about their age, education and work experience, but it also includes more specific questions that might have a bearing on the particular case at hand. For example, in a legal malpractice case we will ask many questions about the importance of paperwork and the jurors' experiences with lawyers. In a trucking case we will ask them about the motor vehicle accidents and near accidents they have experienced, and how many speeding tickets they have received. All of this information goes into our database.

Have you or anyone close to you ever driven an 18 wheeler, dump truck or any sort of large commercial vehicle?

YES, I am close to a trucker

								
Jesse	Mikki	Calvin	John	George	Aldonia	Samantha	Jason	Brenda

No, I am not close to a trucker

										
Alex	Mark	Jamie	Suzanne	Tommy	Pam	Jesse	Kimberley	Ornetha	Linda	Victoria

Samantha: Family members

Next, See Them and Hear Them

On the day set for jury research, before we hear the Opening Statements from counsel we sit the jurors down and the moderator asks them to orally answer a few easy questions, e.g., *"Where were you born and raised?" "What is one of your pet peeves?" "What is one interesting thing about you?" "What is the first thing that comes to your mind when you see an 18 wheeler?"* Clients and lawyers are in the room with us, and see and hear Juror #1 respond to these discussion questions. This very short conversation mimics the short time constraints imposed on the voir dire process by judges in many courtrooms.

Judging the Jurors

At this point our lawyers will have digested a great deal of background information about Juror #1 which, again, was gathered days earlier from our website. And the lawyers will have seen how Juror #1 looks and how she talks. So we next give our trial team a moment to look over all their notes on Juror #1. And then the software asks everyone on the team to make two judgments about this juror:

First, **How Hostile Is She Likely To Be To Our Case?** The choices are: Strong Plaintiff, Weak Plaintiff, Weak Defense or Strong Defense.

Second, **How Much Of A Leader Is This Juror Likely To Be In The Deliberation Room?** Again everyone on the trial team rates this juror's likely leadership abilities on a scale of 1 to 4.

We then move on to have a short discussion with Juror #2, after which we judge that juror's Hostility and Leadership. And so on, through all 18 jurors.

These judgments, of course, are the "soft side" of voir dire. They are the gut feelings and intuitions that lawyers rely upon in striking jurors. These intuitions are all recorded by each member of the team in the **What I've Noticed About This Juror** section of the software.

The screenshot displays the software interface for juror evaluation. At the top, navigation buttons include 'VIEW ALL JURORS', '<- PREVIOUS', 'NEXT ->', and icons for camera, print, and close. The selected juror is '18. ALEX MATTHEWS', an African American male, 67 years old, with a high school education and white collar. His score is PL-68%. Below this, tabs for 'Voir Dire', 'Background', 'Multiple Choice Answers', and 'Juror's Notes' are visible. The 'Juror's Notes' tab is active, showing a text area for observations. To the right, a box labeled 'Team Notes and Judgments' has an arrow pointing to the evaluation section. The evaluation section contains two columns of sliders for 'HOSTILITY' and 'LEADERSHIP'. The 'HOSTILITY' column has sliders for 'Plaintiff' and 'Defense'. The 'LEADERSHIP' column has sliders for 'Follower' and 'Leader'. Below these are the names and notes for other jurors: Will Gardner, Michael g Liffing, Kevin, Mike E, Lisa C, and Theresa V. A 'Submit Evaluation' button is at the bottom.

VIEW ALL JURORS <- PREVIOUS NEXT -> [Camera] [Print] [Close]

18. ALEX MATTHEWS
African American 67 male High School whiteCollar
Score: PL-68%
Final: [Dropdown] Selected: [Dropdown]

Voir Dire Background Multiple Choice Answers **Juror's Notes**

What I've noticed about this juror...

Responsibility; hunter, family man seems conservative; security guard t/4 conservative; machinist, factory duggy, OTR truck driver; law enforcement and security officer

Team Notes and Judgments

HOSTILITY

Plaintiff Defense

LEADERSHIP

Follower Leader

Will Gardner

Michael g Liffing

Responsibility; hunter, family man seems conservative; security guard t/4 conservative; machinist, factory duggy, OTR truck driver; law enforcement and security officer

Kevin

Mike E

lee county, a machinist and trucker, probably union, which means a good plf juror

Lisa C

Son killed so will probably think about Ariel's injuries and find for plaintiff. Conservative and will be firm on decision.

Theresa V

Submit Evaluation

The Case Comes In

All of this discussion and judging takes about an hour. Then we try the case.




We start with Opening Statements from each side. After Openings, each juror will answer very specific feedback questions on their laptops, while the Openings are still fresh in their minds. No longer must clients wait for weeks to see how each specific juror answered – the answers of each juror *instantly* appear on all client laptops next to a picture of that juror. The feedback is extremely detailed and it is exactly what the clients want.

We encourage the jurors to make notes on their laptops during the trial. The notes are instantly fed to the client machines as well. Most clients are naturally riveted to their screens as this amazing data flows in front of their eyes. It like peeking over all the jurors shoulders, all at the same time.

ACTIVE BROOKLYN, NY Will Gardner (39947) SET AS LIVE
No stream







LIVE Juror comments Questions Jurors Graphs Admin Help

Imagine you could change the facts in this case. What new facts would it take for you to find no negligence on Acme? (If you already say no negligence on Acme, please explain why.)

 Charles	No contractual agreement for construction work to be done by them. In fact	51% DF
 Andrew	they did not hire R and B TO DO JOB.....	57% PL
	Acme had no contract that was for the construction portion. Only pre construction. It clearly says during this time they are not responsible for any safety issues.	58% PL

Next comes plaintiff's witnesses, who can appear in person, through an actor, by video or via written summaries. More feedback questions follow.

What is one word or phrase to describe Acme Safety Director, John Doe?

 Valquiria	Greasy	62%
 Vera	Reminds me of Rush Limbaugh	73%
 Amy	Knows his job; trying to be honest but clearly a "company man"	59%
 Cecilia	Mafia-type	62%
 Gary	unqualified- in way over his head	63%
 Sara	Slick, thinks he is sexy (he is, kinda!)	51%

Around noon we feed the jurors a quick lunch.

Then we present the defense witnesses. And ask more pointed feedback questions.

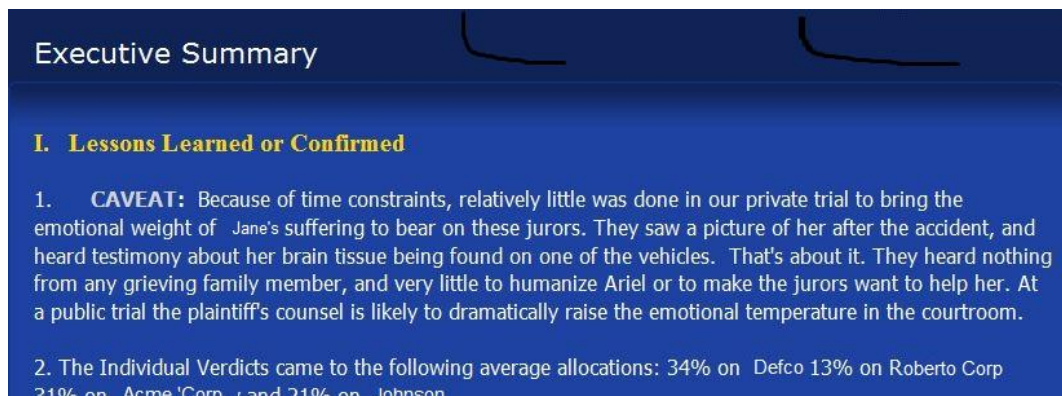


Around 4:00 we have short closing arguments. We then divide the 18 jurors into three groups, place them into three separate rooms, and ask them to deliberate to a verdict. Clients watch a live stream of the deliberations via a closed circuit TV feed.

Wow! Reports That Are Interactive.

Within three hours we place all of the graphs and notes and video for the day on a secure website. If the clients didn't get enough of the jurors during the ten hour trial day, all of the jurors will be available and waiting for them, on video, back at their office or hotel room!

Within 18 hours our team can have a full report available. Here is where the rubber meets the road. First, clients are able to see a 35,000 foot view of the case by reading a short Executive Summary that captures our key findings and creative ideas.



Next, all the feedback graphs are organized to answer the client's Critical Issues:

Critical Questions

1 Was Matt Anderson Negligent? Cause of injury?

Yes. These jurors placed negligence on Matt an average of 21% for the individual verdicts and an average of 36% for the three group verdicts. The most important part of her contributory negligence was her familiarity with the roadway and her awareness that trucks were entering the highway at this location. Also contributing to her fault was the fact that the dump truck is a slow moving, large and highly-visible vehicle that she rear ended.

click for supporting data

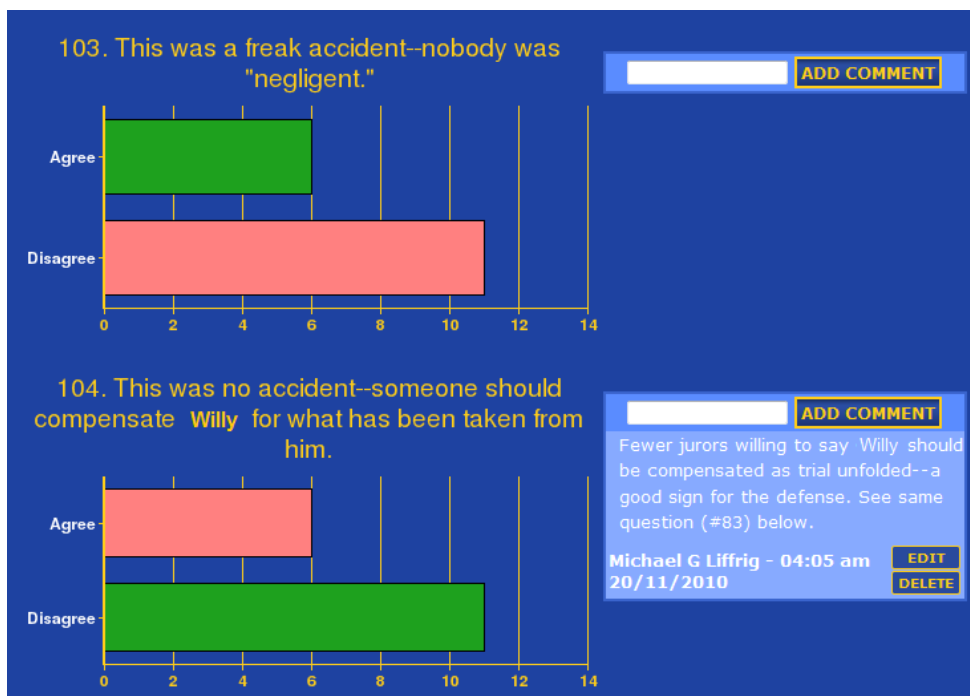
2 Was Weaver Corp. Negligent ? Cause of injury?

Yes. These jurors placed negligence on Weaver Boring an average of 31% for the individual verdicts and an average of 31% for the three group verdicts. The most important part of its liability was the failure to have a "truck entering" sign posted for the southbound traffic. The jurors felt WB should have "pushed" the State to add the sign. Weaver Boring was not perceived as a safety conscious company, and its corporate witnesses were not well received. Its failure to investigate this accident irritated the jurors. The "Captain of the Ship" argument did not gain much traction against Weaver. The fact that the State Inspector was on the site every day and did not complain about anything Weaver did was also an important strength for Weaver

click for supporting data

3 Specific Issue: Land and Road Design

Clients can see short summary answers to the each of the critical questions. They can drill down into the data to review the graphs they saw during the trial. If more detail is needed or wanted, clients simply drill down deeper.



Note that each member of the trial team is able to leave **Comments** next to each graph. This interactivity is an excellent way for a team to discuss the details of a case, especially with clients or claim handlers who may not be in the same city or region as counsel.

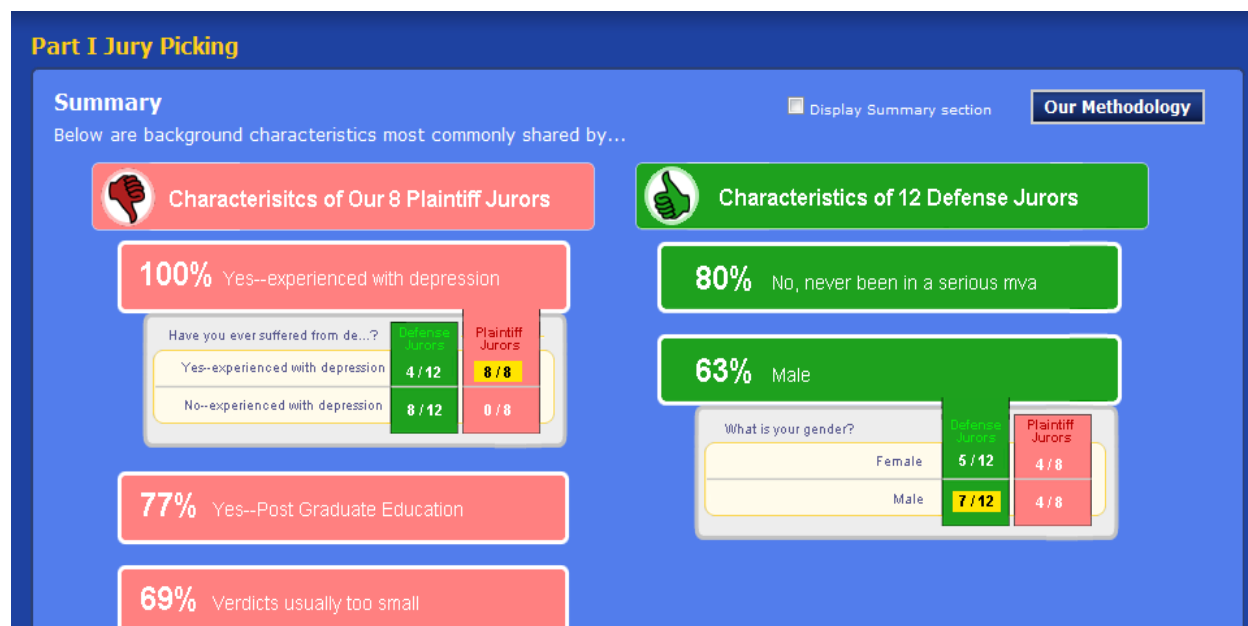
Clients may even drill down to see how each juror answered each question along with that juror's background information.

Jury Selection Help

Which brings us back to our main message: This technology is genuinely helpful in Jury Selection. Here's how:

Our software will “cross-tab” the answers from every substantive question to every background question. This allows you to see common background characteristics shared by all the jurors who hated you or your witnesses or your case. People who are similar to these hostile private jurors—who share their backgrounds and life experiences—are people you should consider striking from a public trial. They are high risk.

For example, in the case below our clients were, obviously, defendants. In this Report screenshot you can see three characteristics shared by jurors who were plaintiff-oriented, and two characteristics shared by jurors who favored the defense view of the case.



With the benefit of hindsight we can also look over all the accurate predictions made by our trial team during our pre-trial discussions with each of the jurors. What intuitions did we note about those jurors that allowed us to accurately predict their reaction to the case?

Those intuitions complement the more objective picture drawn by the cross tabs. The result is an extremely useful picture of people you should consider striking from a jury in your case.

Frequently Asked Questions

1. **What does this technology cost?** A full-day Private Jury Trial (18 jurors) at First Court costs \$38,000 in most jurisdictions. Our half-day RoundTable (6 jurors) costs \$12,000. (Note from the small sample size that the RoundTable is not intended to shed light on jury selection.) We can obviously tweak this pricing schedule as your needs dictate.
2. **Where do you get our jurors?** Jury selection is critically important, and we make sure you like the jurors we find. We confirm our demographic targets with local counsel, who tell us what a local jury should look like. Our local recruiters send potential jurors to our website. We interview those jurors and pay them. Clients are encouraged to review the potential jurors ahead of time and identify those who are unsuitable.
3. **What if we don't expect the case to go to trial?** We will skip the jury selection items in your agenda, and focus our time only on the issues (e.g. liability, damages, witnesses) you want to have evaluated.
4. **How long has First Court been doing jury research?** We started evaluating major lawsuits over 20 years ago. We have served clients in almost all of the lower 48 states.
5. **What if my case is venued in a small rural county?** Our technology is completely portable — *"Have Gavel, Will Travel."* In order to get the most useful feedback for you, we prefer to use jurors from your actual trial venue. However, this may pollute the jury for your public trial in a rural county; if that is a concern we will find a nearby county with similar demographics for your research venue.
6. **Have you done anything to make it easier to prepare for jury research?** Yes. We create a unique preparation website for each case. This site answers questions, and allows everyone on the team to see an Agenda, provides a To Do checklist, lists the questions to be asked, and witnesses to be called. It eliminates uncertainty and ensures that we can get the best out of everyone on the team.
7. **Do you recommend that we change the names of the parties?** Yes. This is a good idea, unless the exhibits you want to show the jurors will not allow it.
8. **How much lead time is required to schedule jury research?** We prefer to have three weeks, but have organized private trials in three days.