The Impact of Jury Constitution on Deliberations

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A wealth of research has examined the extent to which jurors' demographics relate (or not) to verdict preferences in various case types. It is difficult to discern how useful these findings are for trial lawyers or jury consultants, but based upon our experience, demographics tell you very little about what might happen with your jury.

One reason demographics are unreliable is the often incorrect assumption that people of similar demographics have similar attitudes and experiences. You and your law school classmates have a lot in common, but a reliably consistent attitude about a variety of topics is probably not one of them.

A second reason, which is the focus of this article, is that these studies adopt an individual focus while the outcome of jury deliberations is often a product of the group dynamic. In other words, there are common personality types that emerge in a deliberation setting and these personality types can significantly alter the group's final verdict.

We often conduct mock trials with anywhere from three to six groups of deliberating mock jurors. It is rare for all juries to reach the same verdict across the board despite the fact that all groups viewed the same presentations and evidence. Often, the conflicting outcomes can be attributed to the social dynamic of deliberations.

Yet, there is little to no research that has examined the personality types that emerge within the jury deliberation environment. This is surprising and highlights one of the common oversights as attorneys prepare for trial. It is easy to focus on the simple concern of whether your argument is persuasive, but the burden does not end there. It is critical to craft a presentation strategy that best situates your advocates on the jury to exert influence during deliberations. Sometimes the case presentation influences the personality type that your advocates take on during deliberations.

One of the challenges of conducting research on this issue may be the lack of methodological designs that would lend scientific validity to the findings, which is certainly a shortcoming of this piece. However, we have more than two decades of experience watching and interviewing thousands of mock jurors, shadow jurors and actual jurors, and the list below, while not exhaustive, represents the most common personality types we have seen emerge in deliberations that can influence the final verdict.

**Armed and Dangerous:** This is your ideal advocate. An armed and dangerous juror possesses both the motivation to advocate on your client's behalf and the tools to be an effective advocate during deliberations. In other words, this juror can credibly and persuasively argue your case in the jury room. This juror is the most influential juror in most deliberation settings.

**Dangerously Unarmed:** This juror has the passion, but lacks the tools, which can put your client in a dangerous position. Jurors who lack confidence in their ability to rearticulate key arguments often remain silent, which accomplishes nothing for your client. But sometimes, silence is preferable.

When one of your advocates advances the wrong argument, incorrectly cites evidence or testimony in deliberations, or simply fails to adequately rearticulate a key argument, it allows advocates for your opponent to win an issue, creating momentum for the opposing party in deliberations. Even worse, a motivated, but unarmed juror may continuously offer inadequate or unpersuasive arguments for your client, which can undermine your entire case over the course of the deliberations.

**The Lazy Ace:** This is a frustrating juror. He gets your argument and has the tools to take control of deliberations and drive a verdict in your client's favor, but lacks the motivation to take on a leadership role in deliberations. This juror sits back and votes as he feels, sometimes facilitating others to see the evidence accurately, but makes little to no effort to convince jurors to agree with him.

**The Mop:** This juror tends to focus on a singular issue that strikes a chord as a matter of principle ("mop") because it speaks to a transcendent value they hold dearly. This juror cannot set the principle aside; everything comes back to the principle and he or she simply cannot get over it.

For example, this juror might be deeply offended by a perception that the plaintiff is not accepting any responsibility for how his or her choices led to the injury in question. It may only be one fact or statement that evoked this focus, but that is all it takes. This juror's mind is made up. They use the mop to wipe clean every other piece of evidence that may contradict their transcendent principle.

**The Non-Testifying Expert:** This juror can be extremely dangerous, particularly if the questions in question involve some sort of specialized knowledge outside the scope of the average person, which leads the other jurors to defer to his expertise.

Sometimes this juror actually is an expert. Sometimes this juror is nothing of the sort, but cites some sort of seemingly relevant background or experience that leads other jurors to accept him as a credible expert. The end result is that this expertise becomes a filter for the evidence and testimony, and his contributions to deliberations carry more weight than other jurors'.

**The Armchair Psychologist:** This juror knows little to nothing about psychology, but does not hesitate to offer his or her psychological insights about the actions or behavior of a party or key witness. This juror can detect a "lie" by closely assessing the body language and tone of the party or witness. He or she will draw conclusions about the case based upon psychological analysis of why a key witness spoke or acted in a certain way.

**The Uncle Charlie:** Everyone has their version of the uncle who is fairly competent, but manages to offer his opinions in a way that makes him seem either a little crazy or a little offensive. This juror could exert significant influence in deliberations, but for his or her lack of social graces.

This juror is at his or her worst when strongly motivated to advocate for your client. The lack of social etiquette risks alienating other potential advocates. In other words, jurors move away from your client's position simply because they do not want to be associated with Uncle Charlie.

**The Sheep:** For one reason or another, whether due to a general lack of confidence, competence or comfort, this juror just wants things to be over and done. He will contribute almost nothing to the discussion and vote with the majority. When asked about his opinions, he will recite something another juror said or say something that makes little sense and contributes almost nothing to the discussion.

**The Analogue:** This juror seems only to be able to make sense of the world through comparisons to something familiar (though, in many instances, it is a comparison to something familiar only to him or her). This juror's analogies often break down or go awry long before he or she realizes it.

This presents a crossroads where he or she will either push forward with the broken analogy or start over with an

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