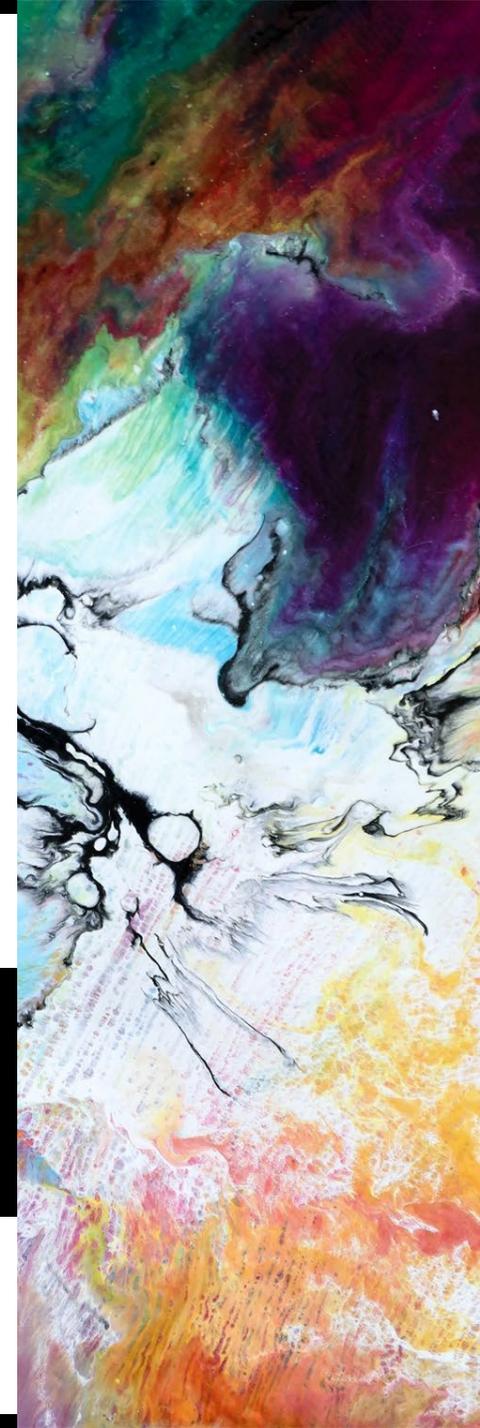


IT'S NOT JURY SELECTION IT'S
JURY
DESELECTION

How Voir Dire is Like

Speed Dating



JURY RESEARCH FACTS

Fact:

**Jurors are not good at
using jury instructions to
make decisions**

Fact:

In 90% of cases, the majority's initial vote in deliberations becomes the ultimate verdict

Fact:

Case facts are the single
greatest factor re: verdict

An abstract, multi-colored background with a dark, semi-transparent overlay. The colors include shades of red, orange, yellow, green, blue, and purple, creating a textured, marbled effect. The text is centered in the lower half of the image.

THE CASE FOR DESELECTION

THE OLD SCHOOL METHOD

Three Objectives of Voir Dire

- Get jurors to commit to being fair
- Educate the jury
- Identify bias



THE OLD SCHOOL METHOD

- Three Objectives of Voir Dire
 - ~~Educate the jury~~
 - ~~Get jurors to commit to being fair~~
 - Identify bias

BIAS

THE OLD SCHOOL METHOD

- Use gender, age, race, profession as a shortcut for identifying your “friendliest” jurors.
- Get them to like you and start buying into your theory of defense

Fact:

Case facts are the single
greatest factor re: verdict

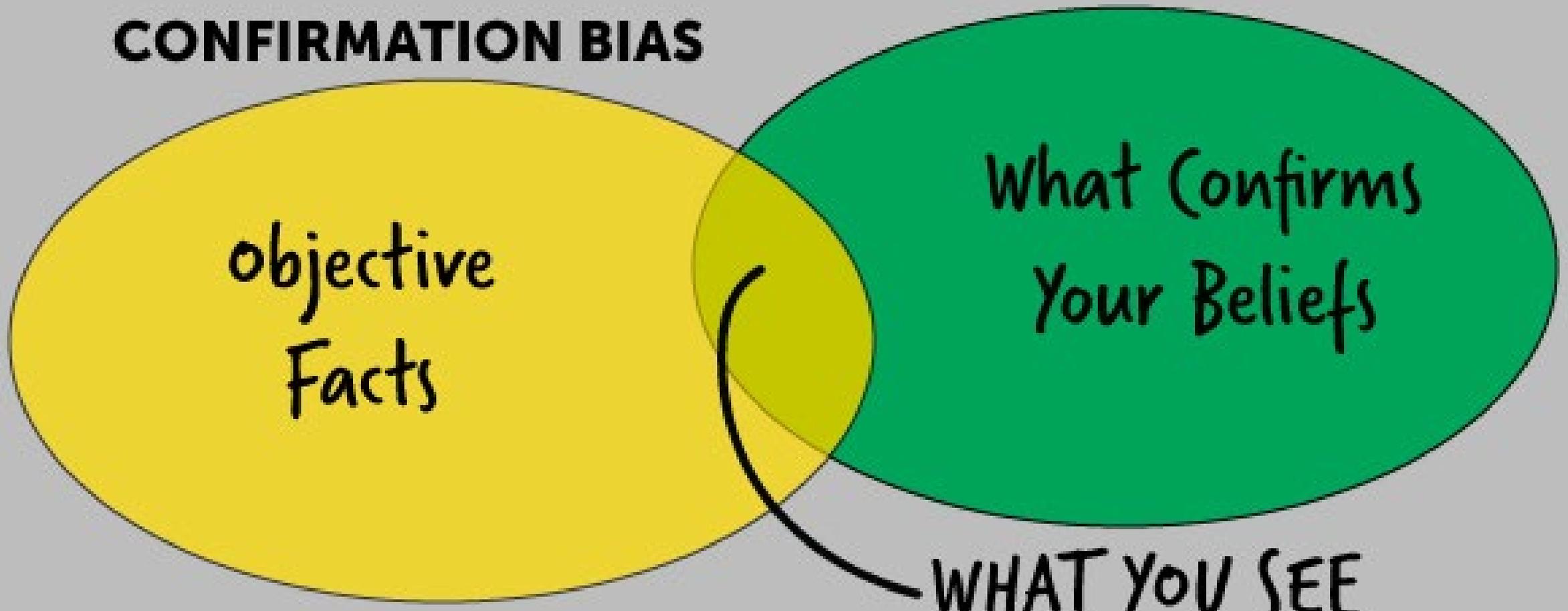
BUT

CONFIRMATION BIAS

objective
Facts

What Confirms
Your Beliefs

WHAT YOU SEE



Fact:

People with high
confidence levels are less
susceptible to
confirmation bias

Fact:

**Confirmation bias is
strongest about issues
that are emotionally
charged**

Fact:

**The closer a juror's
experiences are to the
central issue of the case,
the stronger their
opinions**

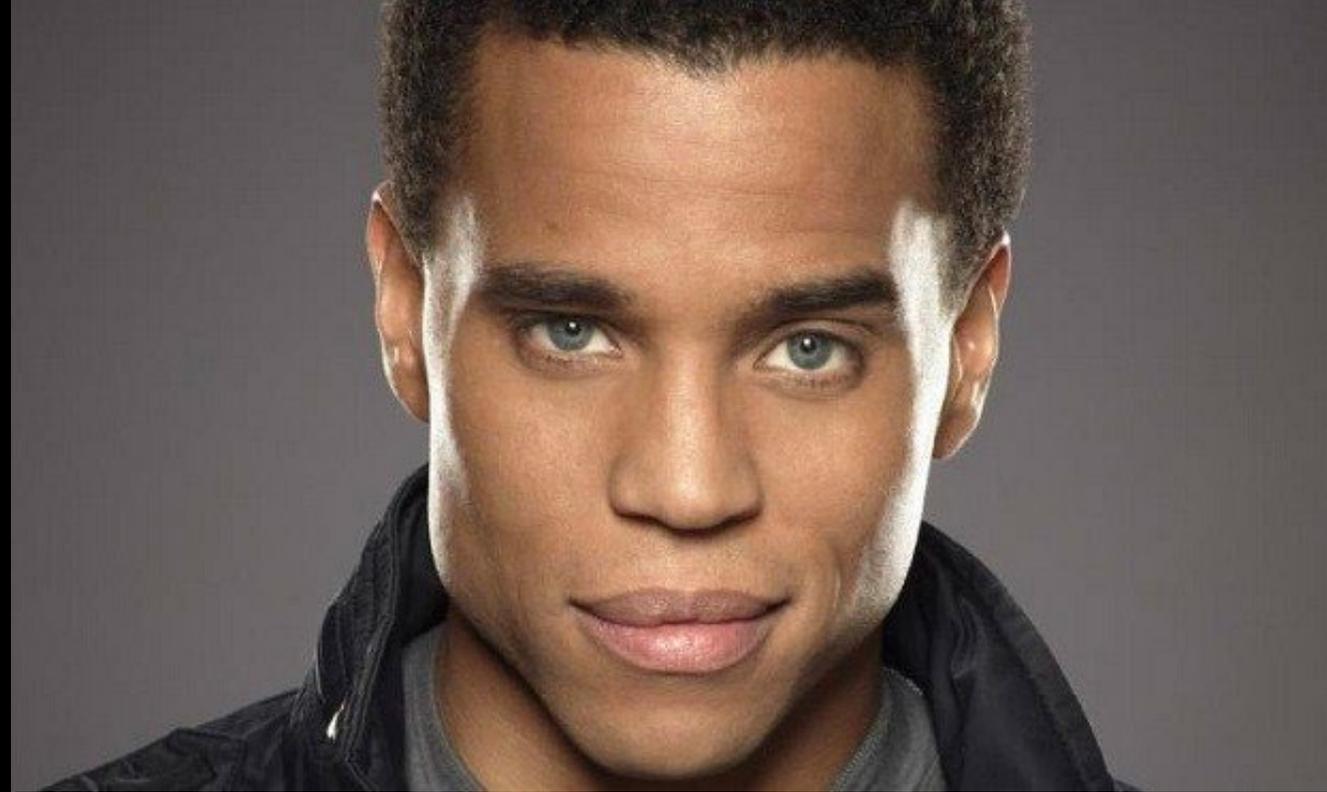
TO SUMMARIZE

Bias is strongest when:

1) Jurors have a strong emotional reaction to some aspect of your case

2) Jurors have had life experiences that closely mirror your case facts

GETTING READY FOR YOUR DATE



MIGHT BE THE BEER GOGGLES

**BUT THIS CHICK LOOKS LIKE
PRINCE WILLIAMS WIFE YO**

quickmeme.com



SNL
40

Honesty tops list of traits that people say society values most in men; physical attractiveness top trait for women

What traits or characteristics do you think people in our society ... [OPEN-END]

Value most in men

- 33% Honesty/Morality
- 23% Professional/Financial success
- 19% Ambition/Leadership
- 19% Strength/Toughness
- 18% Hard work/Good work ethic
- 11% Physical attractiveness
- 11% Empathy/Nurturing/Kindness
- 9% Loyalty/Dependability
- 8% Intelligence
- 5% Being family-oriented
- 5% Politeness/Respectfulness

Value most in women

- 35% Physical attractiveness
- 30% Empathy/Nurturing/Kindness
- 22% Intelligence
- 14% Honesty/Morality
- 9% Ambition/Leadership
- 9% Hard work/Good work ethic
- 8% Professional/Financial success
- 7% Loyalty/Dependability
- 7% Competence/Ability
- 6% Independence/Self-reliance
- 5% Strength/Toughness
- 5% Politeness/Respectfulness
- 5% Ability to multitask

About | Photos

The Good

[Edit](#)



Me at a Bears/Lions Game

[Edit](#)

Pros

- + Stable, Good-Paying Job
- + Good Talker
- + Love my family
- + Loyal & Trustworthy
- + I like kids

[Edit](#)

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The Bad

[Edit](#)



My hair is fading fast...

[Edit](#)

Cons

- I am a diet mountain dew addict
- I have an extremely bad sense of fashion
- I attempt to watch football all Sunday long
- I am a little too attached to my mom
- I have little experience dating

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Charge: PWID

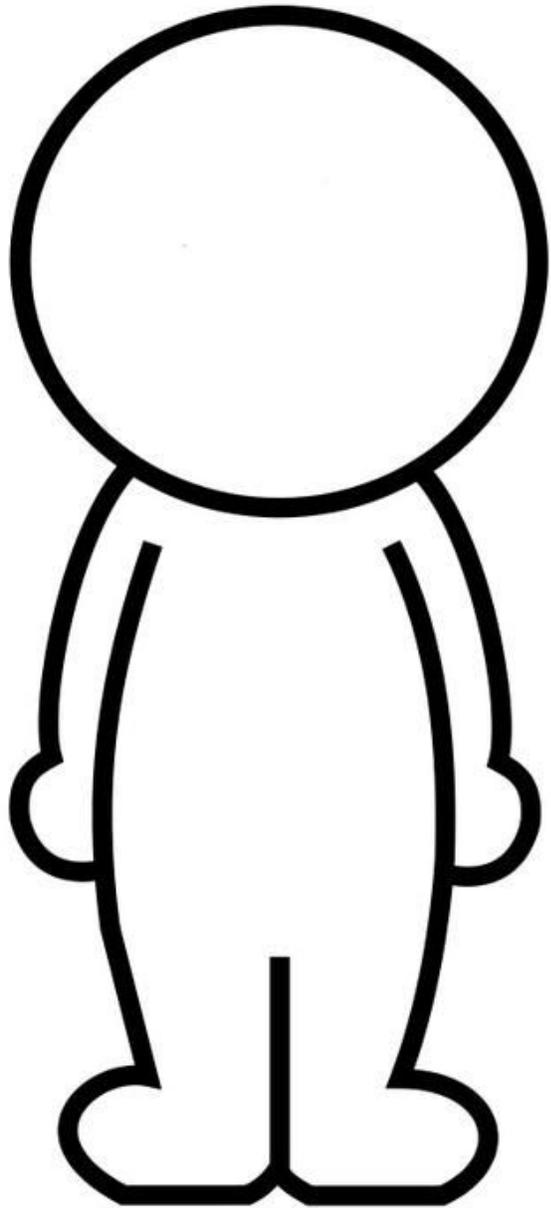
- Young client w/ a record
- Traffic stop
- Client is the passenger - 2 other people in the car
- Drugs, phones, scale found in console
- Cop says client told him the drugs were his
- Client says no way, never said that



1) Brainstorm the most critical facts a juror must believe to accept your theory of defense

What facts must a juror accept for you to win?

What beliefs would be WORST for your theory of defense?



2) Create a profile of the worst juror

What beliefs would be WORST for your theory of defense?



**3) Make a list of
topic
statements that
your WORST
jurors will
agree with**

*-What is the specific belief that is fatal to accepting
your theory of defense?*

STATEMENTS SHOULD BE:

A Belief

Or

An Experience



4) Reformat those topic statements into a series of general to specific questions

-Keep it simple

-Keep it broad

-Make it something you can say sincerely

-5 W's

Fact:

Participation in voir dire declines
as questioning goes on due to

-juror fatigue

-questions designed to draw out a
minority opinion

THE DATE



Your mission: identify the enemies

- When you find a friendly, spend NO time with them*
- When you find a clear enemy, spend little time with them (unless it's a springboard for getting other enemies out of their shell)*
- Try to talk to everyone*



ONE DOES NOT SIMPLY

**"BE YOURSELF" ON A FIRST
DATE**

The four types of bitchface



5) Set the tone with your words and actions

- Be Nonjudgmental*
- Praise honesty, no matter what*
- No shaming or arguing, no matter what*
- You may have to practice this with others*



6) Ask one of your broad questions that will get people who agree, then follow up

- Give it enough time for people to think about*
- Repeat the question if necessary*
- Include yourself as an agreeer*



7) Shop that juror's answer around

- Give it enough time for people to think about*
- Repeat the question if necessary*
- Include yourself as an agreeer*

STRIKE FOR CAUSE



STRIKE FOR CAUSE = Dealbreakers



STRIKE FOR CAUSE

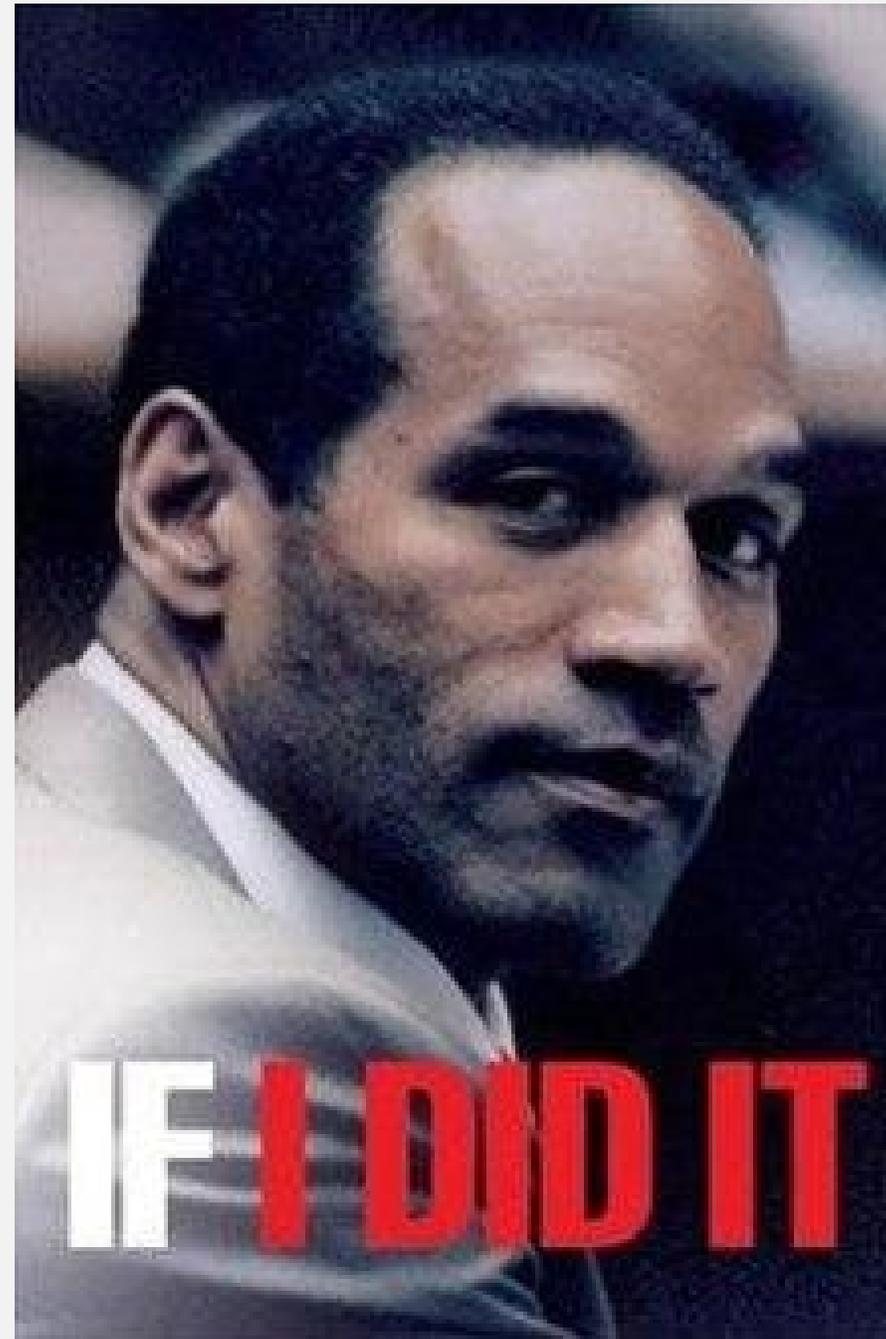
- 1) Affirm what they just said with the appropriate words and emotional response.
- 1) Try to efficiently get to the root of their beliefs. (An experience, religion etc)
- 1) Affirm the depth and length of their beliefs (“That sounds like a very traumatic experience.” “It sounds like your religion is very important to you.” Or try a scaled question - “On a scale of 1-5, how strong would you say...”)
- 1) Narrate body language or tone. (“I see you folded your arms when we started talking about this.” “Your voice changed when you started telling me about that.”)
- 1) Acknowledge that these are very important and deeply held beliefs/experiences and ask if they think they’d be better suited for a different kind of case. (“Do you think you’d be distracted?” “Might this belief make it difficult to hear these facts?”)

EMPATHY, EMPATHY, EMPATHY



SPECIAL ISSUES

Hypotheticals



Court-led Voir Dire



Prohibition on Cold Calling



Race



TRANSLATION:

**I'm going to use my place of privilege
to refute and deny the sufferings of
those who do not have
white privilege
while at the same time
erasing
their personal
and cultural history.**

Politics



Morality/ Duty to Rehabilitate



And they lived happily ever after...



LET'S PRACTICE

Charge: OWI

- Middle aged client
- Mid-range BAC
- Accident
- Found on scene alone, outside the car
- Bottle of booze on scene
- Client says he only drank after the crash

Preparation Steps

1) What are my essential facts? (TOD)

1) Who is the worst juror?

1) Topic list

1) Topic opening question and follow ups

Charge: Felony DV

- Mid-20's female client
- Beat up male partner, left him with injuries
- He has no record, she has one prior conviction with the same partner, coming in as other act
- Trauma history
- Says she was the one being abused in this relationship all along

Charge: CCW

- “Suspicious vehicle”
- Smell of marijuana, no marijuana found but police find a pistol in the glove box
- Client is not white
- Jury will be mostly or all white

If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle

—Sun Tzu, The Art of War



Happy Hunting

