

Introduction to the 2025-2026 Edition

Jury Selection Strategy & Science is written by Ted A. Donner, an adjunct professor with Loyola University Chicago School of Law, and Richard Gabriel, one of the world's preeminent trial consultants and the author of *Acquittal: An Insider Reveals the Stories and Strategies Behind Today's Most Infamous Verdicts*.

This book is intended to provide insight into effective legal strategies for both criminal and civil trials, the legal authority necessary to conduct effective voir dire, and insight gleaned by the authors from their work in some of history's most remarkable jury trials. These include a number of trials in which Gabriel served as lead trial consultant (the high-profile trials of Phil Spector, Heidi Fleiss, O.J. Simpson and Casey Anthony, being among that list).

The 2025-2026 Edition has been revised and updated to include a great deal of new material, recognizing the changing landscape of this most important but often difficult area of practice. In addition to adding recent authority and other material relating to most all of the issues addressed in the book, this edition includes the following:

- Chapter 2 (Constitutional Rights) includes an updated discussion on the “triviality exception” to the right to public trials.
- Chapter 4 (Objections to Array) includes new material, and an additional section, to clarify the distinction between motions for a change of venue and motions for change of venire, a jurisdictional distinction which was of particular importance in *Florida v. Casey Anthony*.
- Chapter 5 (Hardship) has been updated to include additional authority and analysis with regard to the standards for excusing jurors for hardship.
- Chapter 6 (Juror Dishonesty) has been updated to include additional emphasis on ways to identify juror dishonesty during voir dire and the importance of raising the concern soon enough to avoid waiver.
- Chapter 19 (Deselection and Rehabilitation) has been updated to address the circumstances in which it may be held that counsel has a right to pursue rehabilitation questioning of prospective jurors.
- Chapter 21 (Challenges for Cause) has been updated to include additional focus on the extent to which such challenges are determined by reference to whether a prospective juror has demonstrated an ability and commitment to performing the duties of a juror under the applicable law, and what that law has been found to require.
- Chapter 23 (Challenges and Implicit Bias) has been introduced to the text to emphasize the extent to which recent studies on implicit bias are affecting both how juries are selected and even what instructions are given to them before trial and before their deliberations.
- Chapter 26 (Ability to Fairly Deliberate with Other Jurors) now includes additional discussion on the difficulties that can arise from one juror's presence on the jury may impact on others' ability to be fair and impartial in their deliberations, either because of a juror's expertise, background or experience.
- Chapter 29 (Occupation and Education) now includes a section on occupational leadership and decision-making experience, in recognition of the importance of task leadership during the jury's deliberations.
- Chapter 34 (Effects of Current Events and Media) includes a new section on social media and public spectacle, a growing concern in light of the effect that

dialogue among those participating in social media platforms appears to be having on community bias (in such cases as *Massachusetts v. Karen Read*).

- Chapter 40 (Juror Misconduct) now includes an additional section on jury tampering and attorney misconduct which addresses how outside influences on the jury can lead to an increased likelihood of misconduct, particularly where the conduct in question amounts to tampering.
- Chapter 41 (Anticipating Appeal) now addresses the standard for appeal in Arizona, where there is no longer any duty to exhaust peremptory challenges since such challenges were abolished by the Court in 2022.