HOOSIER JUSTICE: AI AND JURY SELECTION IN INDIANA

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Historically, jury selection has relied on attorneys and judges conducting voir dire, a process involving direct questioning of potential jurors to assess their suitability. This method, while thorough, is not without its limitations.

The judicial system is facing the complex task of selecting an impartial jury due to factors such as population growth and the complexity of legal disputes. Traditional methods of jury selection, while foundational, are often time-consuming and susceptible to human biases. The advent of AI offers a transformative approach to jury selection, promising to streamline the process and improve the quality of juror decisions.

THE ROLE OF AI IN MODERNIZING JURY SELECTION

Artificial Intelligence (AI) has permeated all aspects of everyday life and is here to stay. The legal profession is no exception. To stay ahead of the curve, states are forming policy groups to set the initial stage for law development of AI. To date, only a few state or federal laws regulate AI, although some states have recently assembled task forces to investigate AI and make recommendations (e.g., Illinois 20 ILCS 1370/1-80; Indiana Senate Bill 150). Until laws dealing with AI are passed, the landscape feels like the wild frontier of the Old West where anything goes.

As Indiana's courts face increasing caseloads and resource constraints, the adoption of AI-assisted jury selection could significantly expedite proceedings while maintaining the fundamental right to a fair trial. This innovative approach aligns with Indiana's commitment to leveraging technology to improve its legal system.

UNDERSTANDING AI IN JURY SELECTION

Artificial intelligence is a broad category of software performing tasks typically seen as human-like, such as planning or learning. AI's benefits, including cost-effectiveness and efficiency, and potential disadvantages, including privacy and constitutional issues, have sparked much debate.
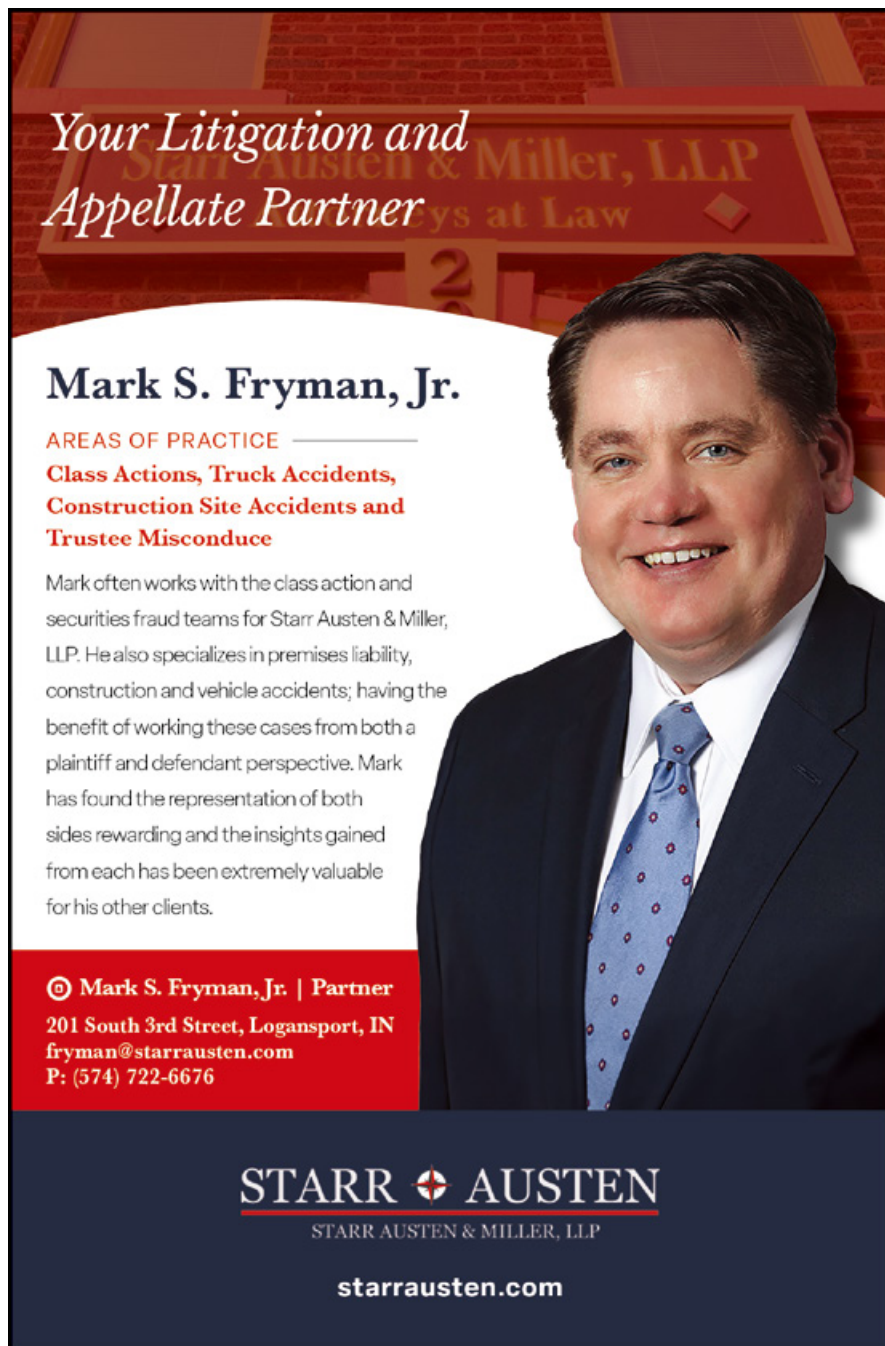
AI used in jury selection has become an increasingly popular and complex issue. Jury selection is a critical component of the jury system. The goal is to ensure that the individuals chosen to serve on a jury are unbiased and able to make fair and informed decisions. The aim is to locate those jurors most favorable to our case.

AI enhances jury selection by utilizing advanced algorithms to process large volumes of personal information quickly. The algorithms can sift through a person's public social media activity, public records, and other personal online data, including credit history, criminal records, and political affiliations for jurors who are registered voters. Moreover, AI algorithms could potentially identify prospective jurors more likely to engage in specific critical thinking and decision-making styles to suit your case.

USING AI FOR JURY SELECTION

To get an idea of how AI can facilitate your jury-selection process, try it for yourself.

1. **Set Up and Log In:** Select from one of many free public platforms (e.g., Chat GPT-4o, Claude 3.5, Sonnet, Gemini 1.5 Pro) and tell AI about your case details. (Be sure to not breach confidentiality. Only share

EX. 1: PROVIDE A PROFILE OF THE MOST FAVORABLE PLAINTIFF'S JUROR IN A WRONGFUL DEATH NURSING HOME CASE IN MARION COUNTY, INDIANA.

Psychographics:
- High empathy and compassion
- Strong sense of duty and responsibility
- Moderate to high trust in healthcare professionals
- Personal experience with elderly care

Attitudes and Beliefs:
- Critical of nursing homes
- Distrustful of large corporations
- Believes in legal accountability
- Sympathetic to plaintiffs in wrongful death cases

Behavioral Traits:
- Analytical and thoughtful decision-makers
- Good communicators
- Less likely to have implicit biases against the elderly

EX. 2: LIST THE TOP 5 VOIR DIRE QUESTIONS TO IDENTIFY JURORS MOST SYMPATHETIC TO THE PLAINTIFF IN A WRONGFUL DEATH NURSING HOME CASE IN MARION COUNTY, INDIANA.

1. **Experience with Elderly Care:** "Have you or someone close to you ever had to place a loved one in a nursing home? Can you tell us about that experience?"

2. **Views on Nursing Homes:** "What are your thoughts on the quality of care provided by nursing homes in general?"

3. **Trust in Corporations:** "How do you feel about large corporations, particularly those that operate nursing homes or healthcare facilities?"

4. **Empathy and Responsibility:** "Are you or have you ever been involved in community service or volunteer work with the elderly or vulnerable populations? What motivated you?"

5. **Legal System Beliefs:** "Do you believe the legal system plays an important role in holding individuals and organizations accountable for their actions, especially in cases involving vulnerable individuals like the elderly?"

generalized and non-specific details that will not identify your client.) Following is a hypothetical example:

a. **Trial Venue Details:** This legal case is about a wrongful death arising from alleged nursing home negligence. Create a summarized demographic profile of the average prospective juror in Marion County, Indiana.

b. **Plaintiff Characteristics:** White male, 77. Wife died five years ago. Has Stage III bedsores/bedridden. Dehydration. Cause of death: sepsis.

c. **Defendant Characteristics:** Large corporation based in Delaware doing business in Indiana. Operated 10 other nursing homes in the state for 12 years. History of resident complaints for being understaffed. Nursing home cited for four violations in three years.

2. **Preliminary Queries for AI:**

a. Provide a profile of the most favorable plaintiff's juror in a wrongful death nursing home case in Marion County, Indiana (*See Ex. 1*).

b. List the top five voir dire questions to identify jurors most sympathetic to the plaintiff in a wrongful death nursing home case in Marion County, Indiana (*See Ex. 2*).

c. Provide a short, concise closing statement for the plaintiff (*See Ex. 3*).

d. Provide short, effective case themes for a wrongful death nursing home case in Marion County, Indiana (*See Ex. 4*).

> **"The adoption of AI in jury selection is not about replacing human judgment but enhancing it. By providing data-driven insights, we can uncover unconscious bias and create juries that truly represent our communities."**

BENEFITS AND DISADVANTAGES OF USING AI IN JURY SELECTION

Using an AI algorithm to help in jury selection can streamline your process and provide benefits like:

- **Efficiency and Cost-Effectiveness:** AI is easily learned and initially available at no cost. It provides general information and recommendations helpful in identifying potential juror bias.

- **Advanced Profiling:** For serious litigators, more sophisticated, accurate, and reliable AI applications can perform deep dives into juror demographics and psychographics. This will usually require a trial consultant's help.

- **Minimizing Bias:** AI reduces attorney confirmation bias by providing objective juror information.

However, it is important to emphasize that many AI tools still carry ethical risks and disadvantages. These risks can be alleviated through proper algorithm selection and engineering, but be aware of:

- **Error Rate:** AI is not foolproof, with an estimated error rate of 3 to 30% primarily caused when one AI program relies on the inaccuracy of another AI program, commonly causing "hallucinations."

- **Privacy Issues:** Detailed personal data searches may raise privacy-related issues. The use of AI to scrape and analyze public data raises questions about privacy and consent. Ensuring that AI applications comply with legal and ethical standards is crucial.

- **Historical Data Limitations:** AI only offers historic summaries, and significant reliance on historical data by itself may not always predict juror predilection.

- **Lack of Human Intuition:** AI cannot factor in a juror's life experience or read body language important in court to detect implicit juror bias at trial. Jurors bring unique perspectives, empathy, and common sense that AI cannot replicate, and jury selection still must be handled by the attorney independently. The ultimate

EX. 3: PROVIDE A SHORT, CONCISE CLOSING STATEMENT FOR THE PLAINTIFF.

Introduction:
- "Ladies and Gentlemen of the jury, we have shown you the heart-wrenching story of [Plaintiff's Name] and the broken promises of [Nursing Home's Name]."

Negligence Overview:
- "The evidence demonstrates clear neglect, understaffing, and failure to meet basic care needs, leading to [Deceased's Name]'s preventable death."

Witnesses and Evidence:
- "Witnesses testified about deplorable conditions and ignored complaints, showing a pattern of negligence."

Call for Accountability:
- "This case is about holding [Nursing Home's Name] accountable and preventing future tragedies."

Final Appeal:
- "We ask you to find in favor of the plaintiff and deliver justice for [Deceased's Name]. Let's ensure their suffering was not in vain."

EX. 4: PROVIDE SHORT, EFFECTIVE CASE THEMES FOR A WRONGFUL DEATH NURSING HOME CASE IN MARION COUNTY, INDIANA.

"Broken Promises and Neglect: Seeking Justice for Our Vulnerable Loved Ones." Key Points:
- **Breach of Trust:** "The nursing home promised to provide a safe and caring environment for [Deceased's Name], but they failed to uphold their duty."
- **Negligence and Abuse:** "Evidence shows a pattern of negligence, inadequate staffing, and substandard care leading to [Deceased's Name]'s untimely death."
- **Systemic Failures:** "This is not an isolated incident but a systemic issue within [Nursing Home's Name], affecting many vulnerable residents."
- **Emotional Impact:** "The pain and suffering endured by [Deceased's Name] and their family are immeasurable and should never have happened."
- **Call to Action:** "Holding [Nursing Home's Name] accountable will help prevent future tragedies and ensure that our loved ones receive the care and dignity they deserve."

decision-making power must remain with human jurors to ensure justice is served through collective human judgment.

SUPPLEMENTAL JUROR QUESTIONNAIRES

A more advanced trial technique is the Supplemental Juror Questionnaire (SJQ), often used in collaboration with a trial consultant, for courts allowing advanced questioning of jurors. Both opposing counsel and the judge must agree to it. Once agreed to, it is then sent to the jury commissioner to administer. The questionnaire data is then captured and entered into a pre-determined database of your selection criteria.

CONCLUSION

The adoption of AI in jury selection is not about replacing human judgment but enhancing it. By providing data-driven insights, we can uncover unconscious bias and create juries that truly represent our communities. Indiana has the chance to pioneer this approach, setting a new standard for justice in the 21st century. The integration of AI into jury selection is not just an option for Indiana; it's a necessity to keep pace with the evolving landscape of justice.

As Indiana modernizes its judicial system, incorporating AI into jury selection presents a promising opportunity. By leveraging advanced algorithms to analyze vast amounts of data, the results will be more diverse and impartial juries, ensuring fairer trials for all Hoosiers. It's time for Indiana to embrace this technology and lead the way in innovative jury selection practices. ⊕