

## Introduction:



Thomas Ullmann is a public defender for the State of Connecticut New Haven Judicial District and a Clinical Visiting Lecturer in Law at Yale Law School. He joined the New Haven Public Defender's office in

1980 as an attorney and was named supervising public defender in 1992. In his role, Ullmann provides indigent clients with legal defenses in major felony cases in the towns and cities that comprise the New Haven Judicial District. He was recognized as a "Champion of Liberty" by the Connecticut Criminal Defense Lawyers Association in 2011 and for "Distinguished Service to the Bar" by the *Connecticut Law Tribune* in 1995. A graduate of Quinnipiac College and the University of Connecticut School of Law, Ullmann is a member of the Connecticut Sentencing Commission, a member of the advisory board of the *Connecticut Law Tribune*, and past president of the Connecticut Criminal Defense Lawyers Association.<sup>1</sup>

## Part 1:

### Background

With just about a month until trial, Attorney Tom Ullmann is heavily into his case preparation. His client is the defendant accused of murdering a well-known and well-liked musician in the New Haven area. His client says that he was framed, that he was not in the victim's apartment, and did not shoot him. In fact, he insists that he was home at the time of

the murder. Ullmann believes his client. He has prepared a tight case with a compelling story to present to a jury, but what will the jury think? He decides to find out using a new online jury research service. This is the story:

## STATEMENT OF FACTS (Overview of Case)

One night at approximately 10:00PM a 23 year old white man was shot to death during what appeared to be an attempted robbery in his apartment in a poor and largely minority section of a large college city in New England.

The victim, named MD, was a popular bike shop employee and musician who shared living space with several roommates. At the time of the shooting they were seated in the dining room with some out-of-town guests. A man wearing a partial face mask knocked on the door. MD answered. He told MD to back up. MD responded, "Dude, just put down the gun." Instead the man fired a fatal bullet into MD's chest instead and then fled.

Eyewitnesses described the shooter a light-skinned black. They also said the shooter's face had freckles.

No weapon was recovered.

No arrests were made for 17 months until the police arrested a young black male teenager, the Defendant, a 19-year-old who lived around the corner from the victim.

The basis for the arrest was the testimony of one individual, PL, who was accused of, but denies, having broken into the same apartment a week prior to the shooting.

The Defendant had spoken to the police at length during the investigation and consistently denied involvement or being present.

No witnesses from among the victim's friends ever identified the Defendant's picture. No other witnesses are mentioned as implicating the Defendant.

## Prosecution version

Police issued a warrant for the Defendant's arrest approximately 17 months after the shooting. The arrest warrant affidavit is based on interviews police did with multiple people whom they convinced, after repeated tracking down and requests, to come forward with information.

The police made it clear that MD was a wholly innocent person in the case. According to the warrant, the Defendant had come to the house to commit a robbery. He apparently panicked. He fatally fired at MD's chest after MD had pleaded, "Dude, just put down the gun."

### Version 1:

Police initially interviewed PL in jail in 2011. He is identified in the warrant as being "known to burglarize houses." PL did not match Mike's friends' descriptions of the shooter. PL "at first denied any knowledge of the incident," according to the warrant affidavit. Then PL reported having had a conversation with the Defendant in which the Defendant admitted going to the victim's apartment to "do a 'jooks'" (robbery) and then firing the fatal shot after getting "scared" upon encountering so many people in the house. PL did not place himself at the scene.

### Version 2:

In April 2012, the police tracked down PL again so they could re-interview him. They found him, arrested him for outstanding warrants, and then conducted an interview at police headquarters. This time PL told the 'full story' that became the basis of the arrest warrant.

### Why version two?

"During our interview [the witness, PL] became emotional and told us that he finally admitted what really happened because he was about to be a father and he felt bad for the victim's family." Weeks later the police arrested the Defendant.

## Defense version

The Defendant denies committing the murder. He believes that PL, the witness at the heart of the State's case, may have been the shooter.

The Defendant says that he was home in his bedroom at the time of the shooting playing video games. He recalls that his mother came into his room to ask if he had heard gunshots. The Defendant's mother confirms that the Defendant was home at the time of the murder. Her recollection is that the Defendant came into her room after hearing the gunshots and asked what was going on. At the time the Defendant was first interviewed, he spoke voluntarily to the police for over an hour, without an attorney. He consistently denied any involvement in the crime.

The Defendant and his attorney learned of confidential FBI reports which quote a person identified as a friend to PL who claimed that PL had confessed to committing the crime. This person picked PL on a photo board. According to this FBI report, PL was the one who had burglarized MD's home the week before the murder. He then allegedly returned for more and ended up shooting MD instead. PL was named as the shooter in the FBI report.

The New Haven police reports also shows that PL changed his story to the police over time. At first, PL denied any knowledge of the incident yet later he placed himself just outside in the driveway.

PL's contrary account to police, naming the Defendant as the shooter, is the entire case against the Defendant. The police did not mention the FBI report in the Defendant's arrest warrant application.

Finally, eye witness descriptions of the killer could never match the Defendant's description. The shooter was described as having freckles, but the Defendant does not have freckles.

There is no DNA evidence, nor any other physical evidence.

Attorney Ullmann knew that his case would benefit from mock jury feedback, including community attitudes, before the trial started. In a case such as this one, the variables were many and both the emotions and the stakes high, so Ullmann wanted to be armed with as much information as possible when he walked into court. The fate of his client was going to be put in the hands of a jury, and jury reactions are difficult to predict. So Ullmann decided he wanted to test his case on a jury beforehand in order to validate his trial strategies.

Unfortunately, running a full-scale traditional mock trial requires a lot of time, money, and planning. Although Ullmann's case received considerable media attention, it just wasn't the kind of high-profile case that afforded Ullmann the resources he would need to run a traditional mock trial.

Instead, he decided to try a tactic he had used once before and take his mock trial virtual. Online mock trials, he knew, were much less expensive and time-consuming than their traditional counterparts, yet were able to

deliver comparable results. It was the ideal way to cost-effectively test his complex case before his rapidly-approaching court date.

## **Part 2:**

### **Online Mock Trial**

Ullmann decided to contact Litigation Solutions, LLC, to collect pre-trial feedback he could use to help fine-tune his case. Ullmann had worked before with Litigation Solutions for other trial services and was glad to go back to them for a focused cost-effective case evaluation with their new online services called Jury Workshop. He had been extremely pleased with the previous services received, so he knew he could rely on their expertise and experience to get him the feedback and opinions that would help him predict what to expect from his jury.

Ullmann opted to use both a Jury Poll and a Jury Pulse to test his case evidence and build his trial strategy. He also requested specific demographics for the state and county location of his online jurors.

**Jury Poll** is an asynchronous online survey platform: whether from their mobile device or their desktop computer, attorneys or jury consultants initiate a survey to designated participants. Survey responses are posted to an online account. The results are displayed in dynamic and interactive reports, with options to filter responses by individual juror and/or selected juror demographics.

**Jury Pulse** is a recorded asynchronous analysis tool. Uploaded video clips, photographs, documents, PowerPoint slides or audio clips are presented to online jurors. Attorneys receive recorded juror feedback, including the ability to instantly connect juror responses to their demographics.

### Part 3:

#### The Jury Poll Design → Data

Ullmann and the Jury Workshop team at Litigation Solutions collaborated to create a Jury Poll consisting of 32 questions. See Figure 1. The Jury Poll was offered to the Workshop’s pre-screened and qualified jurors on a first-come, first-served basis.

The Jury Poll ran for 48 hours and responses were collected and posted to his online account at Jury Workshop. Results were displayed in dynamic and interactive reports, with options to filter the jurors’ responses by selected demographics (e.g., age, gender, education, income, occupation, etc.). See Figures 2 and 3.

Given the significance of the case and the severity of possible consequences, an assortment of questions were added to the poll to reveal any preconception jurors may have had about the case’s major issues. These issues included opinions of police, feelings about physical attacks, race, physical disabilities – the victim’s father had a serious physical impairment – and ability to presume innocence. They were separated into sections as described below:

- Part 1: Questions about you (your opinions)
- Part 2: Your experiences
- Part 3: State version of the case
- Part 4: Questions about the case
- Part 5: Defense version of the case
- Part 6: Questions about the case
- Part 7: Finish

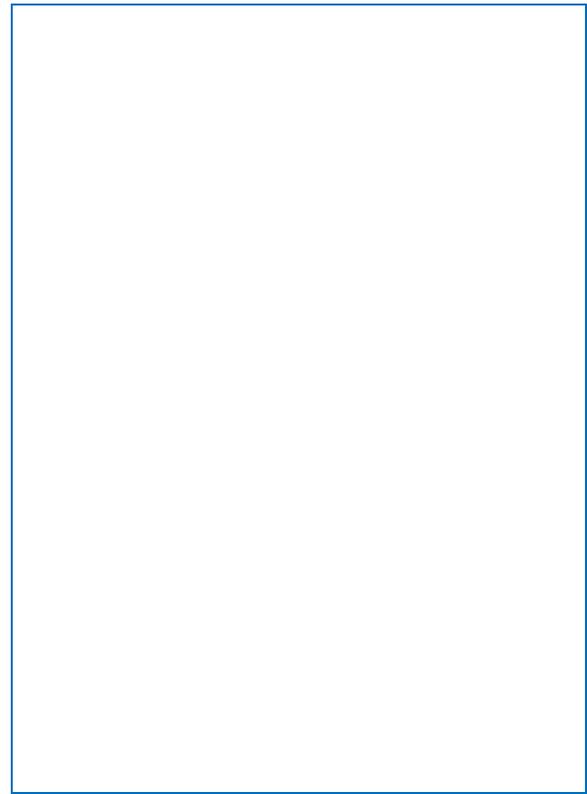


Figure 1: Excerpt from Jury Poll Questionnaire

Juror 4		Juror 4
Question	Response	Juror 4
Marital Status	Single, never married	
Military Service	No	
Personality Type	ESTJ	
Political Affiliation	Republican	
Q1: Would your input in this Jury Poll be influenced in any way by factors other than the evidence presented (such as similar situations with friends or family or the type of work that you do)?	No	
Q2: Is there anything about the charge itself or the defendant that would make you more or less likely to find the defendant guilty?	Not impartial?	

Figure 2: Excerpt of results of Jury Poll filtered by individual juror

## See Results! State v. Defendant

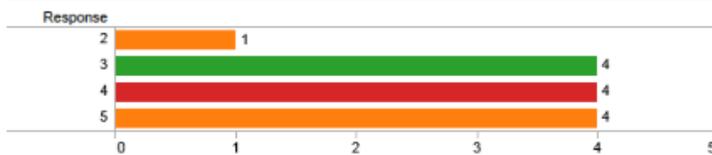
Posted on May 21, 2013 by Admin — 5 Comments ↓

The Jury Poll and Jury Pulse that you participated in (State v. Defendant) are complete.

Results are shown below.

We invite you to share your thoughts with your fellow jurors by commenting below.

Q31. A composite sketch was created from an eyewitness account of the alleged shooter. As you can see, it includes a mask partially covering the shooter's face. Comparing this image and the photo of the Defendant, how would you rate the identity match on



Question: Q31. A composite...  
Age: (All)  
Education: (All)  
Employment Status: (All)  
Field of Employment: (All)  
Gender: (All)  
Response: 2 (orange), 3 (green), 4 (red), 5 (orange)  
Household Income: (All)  
Household Members: (All)  
Income: (All)  
Marital Status: (All)  
Military Service: (All)  
Personality Type: (All)  
Political Affiliation: (All)  
Race: (All)

Q31. A composite sketch was created from an eyewitness account of the alleged shooter. As you can see, it includes a mask partially covering the shooter's face. Comparing this image and the photo of the Defendant, how would you rate the identity match on

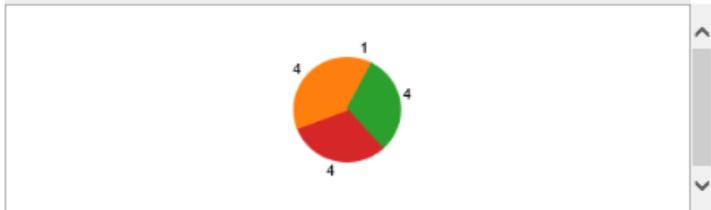


Figure 3: Sample results of Jury Poll filtered by demographics

**Who are the jurors?** The online jurors are pre-screened, pre-qualified, trained, paid participants in the online jury service. They reside throughout the United States and are profiled by various demographics, including location, age, gender, race, religion, political affiliation, income, employment, education, personality type, etc.

## The Jury Pulse Design → Data

In addition to the Jury Poll, Ullmann also conducted a Jury Pulse (using the same jurors). The Jury Pulse allowed the online jurors to view video police interrogations of both the defendant and PL. After the jurors viewed the video they were given questions to answer. In the Jury Pulse a juror was able to answer by typing or recording their voice response. Once the Jury Pulse closed, Mr. Ullmann received a recording of the Jury Pulse that included the jurors' responses and a table of their individual demographics compared to group demographics.

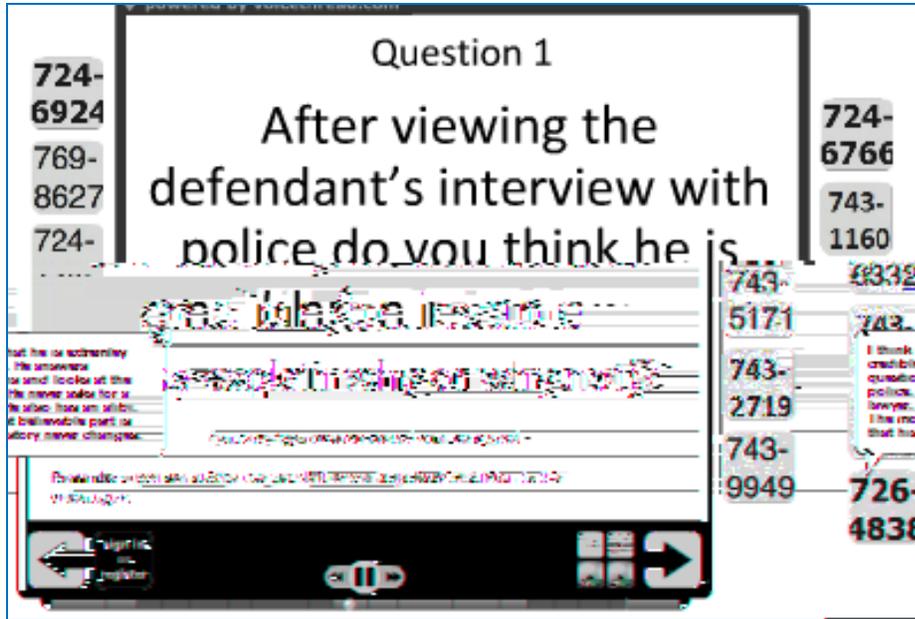


Figure 4: Snapshot of Jury Pulse results

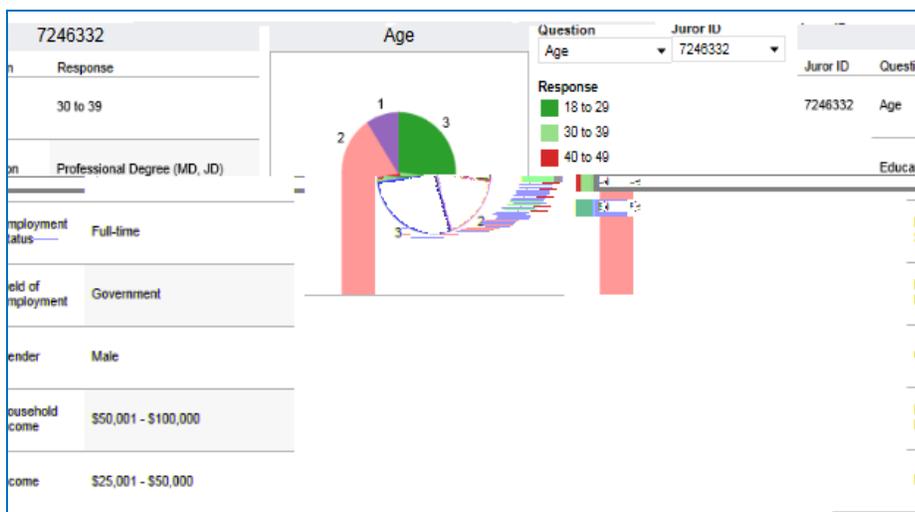


Figure 5: Excerpt of a juror's demographics viewed with Jury Pulse results

## Part 4:

### What did the data reveal?

Mr. Ullmann learned from the responses of his online jury that he had a strong case of mistaken identity. He also learned from the Jury Workshop jurors that he had to incorporate as much as he could about the police interviews of both the accused and the witness to strengthen that notion for the real jury.

### What else did Ullmann learn?

In a post-deliberation chat room now available to all clients of Jury Workshop, the jurors who participated in the Jury Poll and the Jury Pulse chatted with each other. See Figure 6.

### The verdict?

Not guilty.



The screenshot shows a chat interface with four messages. Each message includes a user avatar, a name, a timestamp, and an 'Edit' link. The messages are as follows:

- Admin** says: May 30, 2013 at 3:45 pm (Edit)  
Share your thoughts on the results!  
Reply
- jw7439949** says: May 30, 2013 at 3:46 pm (Edit)  
I am satisfied that all the jurors were in agreement on most of the issue  
Reply
- jw7246924** says: June 5, 2013 at 3:39 pm (Edit)  
i agree. everyone had various opinions on some of the case variables, as to the events  
Reply
- jw7439949** says: June 5, 2013 at 9:23 pm (Edit)  
I am really impressed that all the jurors were able to take the evidence system works, and that reasonable people can deliberate reasonably.  
Reply
- jw7431144** says: June 6, 2013 at 4:31 am (Edit)  
I do not believe that similar circumstances or my job would influence my evidence presented.

Figure 6: Excerpt of post-deliberation chat of the participating jurors

## Part 5:

### Conclusion

In a follow-up interview, Ullmann was asked a number of questions about his experience using the online mock jury service to conduct his research:

Regarding what he liked about Jury Workshop, Ullmann said that, "it provided real reactions of independent people from the same jurisdiction to the important pieces of evidence in the case." His only disappointment was that it did not provide live observation of juror deliberations and interactions. Attorney

Ullmann now knows that **Jury Workshop-LIVE** recently launched and he may now participate in an online mock trial experience similar to traditional mock trials – including deliberations!

Ullmann felt it was "**extremely likely**" that he would use Jury Workshop again and rated the service as "**absolutely helpful**" to his case strategies and voir dire strategies, and further that it was "**a good value and worth what he paid for it.**"

### Firm/Organization:

State of CT, Office of the Public Defender  
Chief Public Defender, New Haven Judicial District, New Haven, CT

### Practice Area:

Criminal

### Problem:

A case of mistaken identity? Attorney needed timely, cost-effective yet substantial research to learn attitudes and opinions from venue-specific online mock jurors.

### Implementation:

Conducted (1) a Jury Poll containing 32 questions in 7 parts, including established sociologic scales and (2) a Jury Pulse requiring video analysis.

### Reports:

Online interactive reports of juror feedback posted within 5 business days to online account with optional printed report.

### Result:

was  
Attorney Ullmann credited juror insights and results of Jury Poll and Jury Pulse with strengthening his trial strategy. Gave a  
Jury Workshop performance.



**Litigation Solutions, LLC** is an award-winning litigation support company based in Connecticut and specializing in multi-media courtroom presentations of civil and criminal trials throughout New England since 1994.

For more information: call **860-528-1462** or visit [www.litigationolutions.net](http://www.litigationolutions.net)



**Jury Workshop** is a service being offered by Litigation Solutions, LLC for its clients. A recent recipient of the State of Connecticut DECD Small Business Express Award, it officially launched in early 2013.

For more information: call **860-528-1462** or visit [www.juryworkshop.com](http://www.juryworkshop.com)

<sup>i</sup> Source Yale Law School, <http://www.law.yale.edu/faculty/TUllmann.htm>