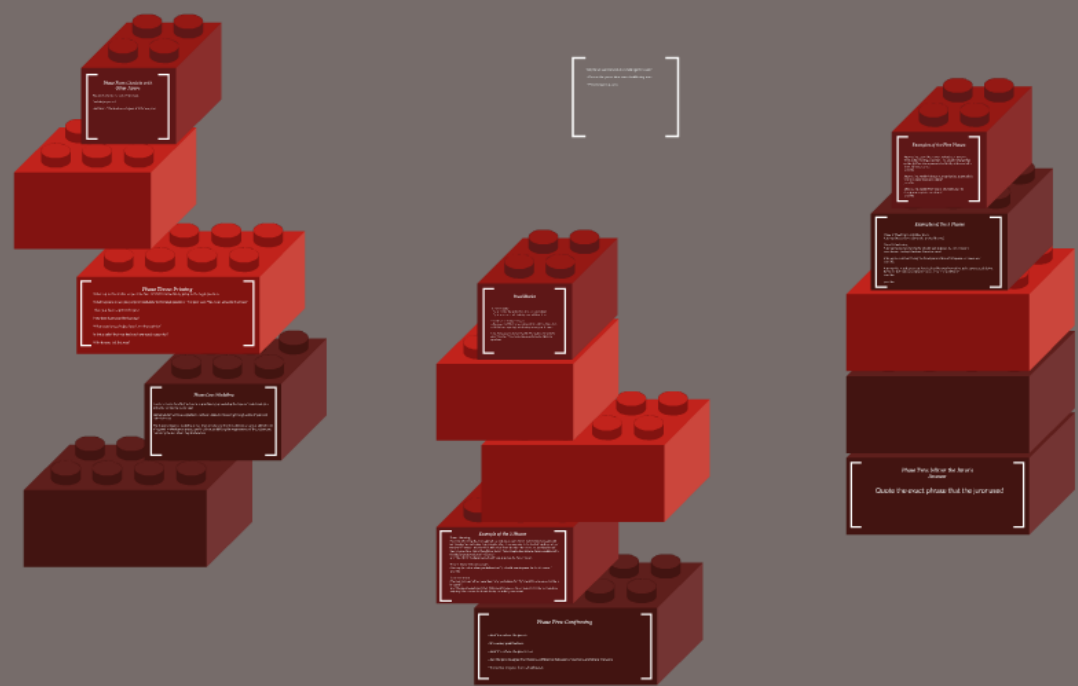
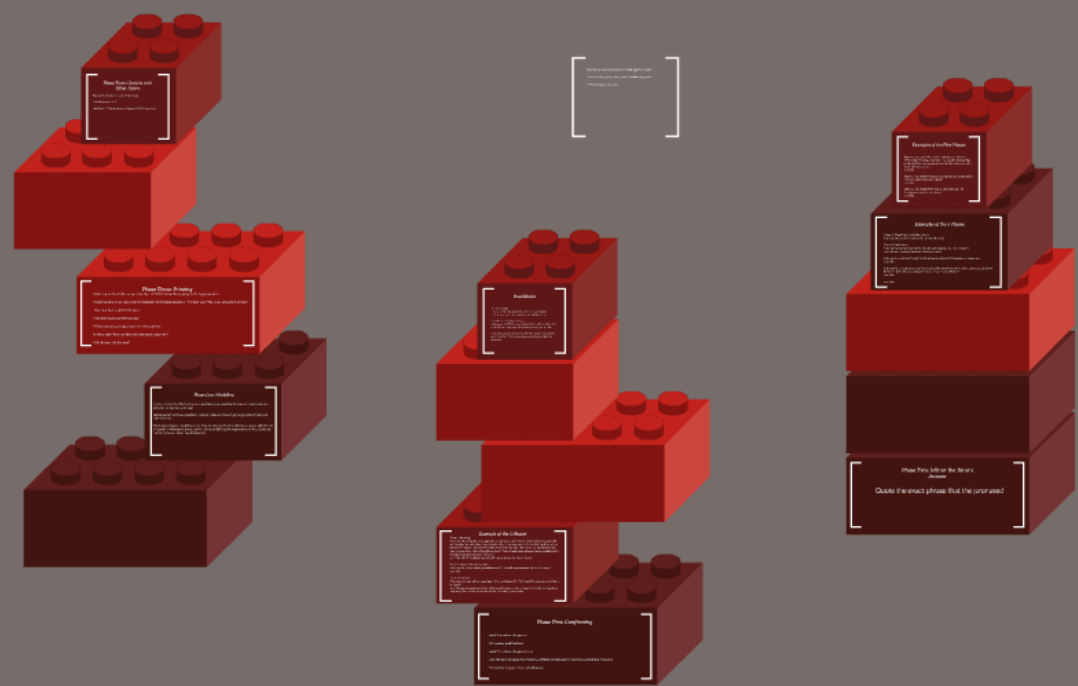


5 Phases to Locking in a Challenge for Cause
Phase I. Modeling
Phase II. Mirror the juror's answer
Phase III. Priming
Phase IV. Check in with other jurors
Phase V. Confirming



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Why do we want to Lock-In a Challenge for Cause?

--Prevent the prosecution from rehabilitating jurors

--Preserve peremptories

5 Phases to Locking in a Challenge for Cause

Phase I: Modeling

Phase II: Mirror the juror's answer

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Phase One: Modeling

Create a climate for effective for cause questioning by modeling the types of undesirable juror attitudes for your particular case

Demonstrate that it is acceptable to hold such views by modeling through some of your own self-disclosure

The important part of modeling is that it be genuine and that it establishes a comfortable climate of rapport in which jurors understand that they are fulfilling the requirements of the system and not failing the test when they disclose bias

*Phase Two: Mirror the Juror's
Answer*

Quote the exact phrase that the juror used

Phase Three: Priming

When a juror has indicated possible bias, DO NOT immediately jump to the legal question

What happens when you jump immediately to the legal question? The juror says "Yes, I can set aside that bias"

Thus, you have to prime the juror

How long have you felt that way?

What experiences helped you form that opinion?

Is this a belief that you feel you have good reason for?

Why do you feel this way?

Phase Four: Check in with Other Jurors

Also see if other jurors have similar biases

Don't be judgmental

Don't worry if the whole panel agrees with that one juror

me more about why you believe that Ty "should have to prove that he is
wasn't he? Why would the police have arrested him if he had not done
should not always be on the government.

Phase Five: Confirming

- Reaffirm where the juror is
- Strip away qualifications
- Reaffirm where the juror is not
- Get the juror to agree that there is a difference between where he is and where the law is
- Immunize the juror from rehabilitation

Example of the 5 Phases

Phase I: Modeling

Attorney: One thing that I struggle with is keeping an open mind. Sometimes I struggle with not jumping to conclusions. For example, when I see someone in the back of a police car I say to myself "I wonder what he did" rather than "I wonder what the police are accusing him of." Does anyone have similar thoughts or views? For example, does anyone have a problem with this idea of presumption of innocence?

Juror: Yes, I think the defendant should have to prove that he is innocent.

Phase II: Mirror the Juror's Answer

Attorney: Just so I am clear you believe that Ty "should have to prove that he is innocent"

Juror: Yes

Phase III: Priming

Attorney: Can you tell me more about why you believe that Ty "should have to prove that he is innocent"?

Juror: He was arrested wasn't he? Why would the police have arrested him if he had not done anything? The burden should not always be on the government.

Examples of the 5 Phases

Phase IV: Checking in with Other Jurors

Attorney: Does anyone else on the jury feel this way?

Phase V: Confirming

Attorney: So you believe that Ty "should have to prove that he is innocent"

Juror: I mean it is okay if he doesn't take the stand.

Attorney: Even without taking the stand, you would want Ty to prove his innocence?

Juror: Yes

Attorney: You would agree that there is a big difference from sitting at the defense table during the trial and do nothing and presenting an entire case or defense?

Juror: Yes

Juror: Yes

Examples of the Five Phases

Attorney: You seem like a very thoughtful juror. One who thinks before forming an opinion. You wouldn't change that opinion just because someone might want you to agree with them. Isn't that correct?

Juror: Yes

Attorney: You wouldn't change your opinion just to save a little time and move this process along?

Juror: No

Attorney: You wouldn't let anyone intimidate you into changing your opinion would you?

Juror: No

Road Blocks

Interfering Judge

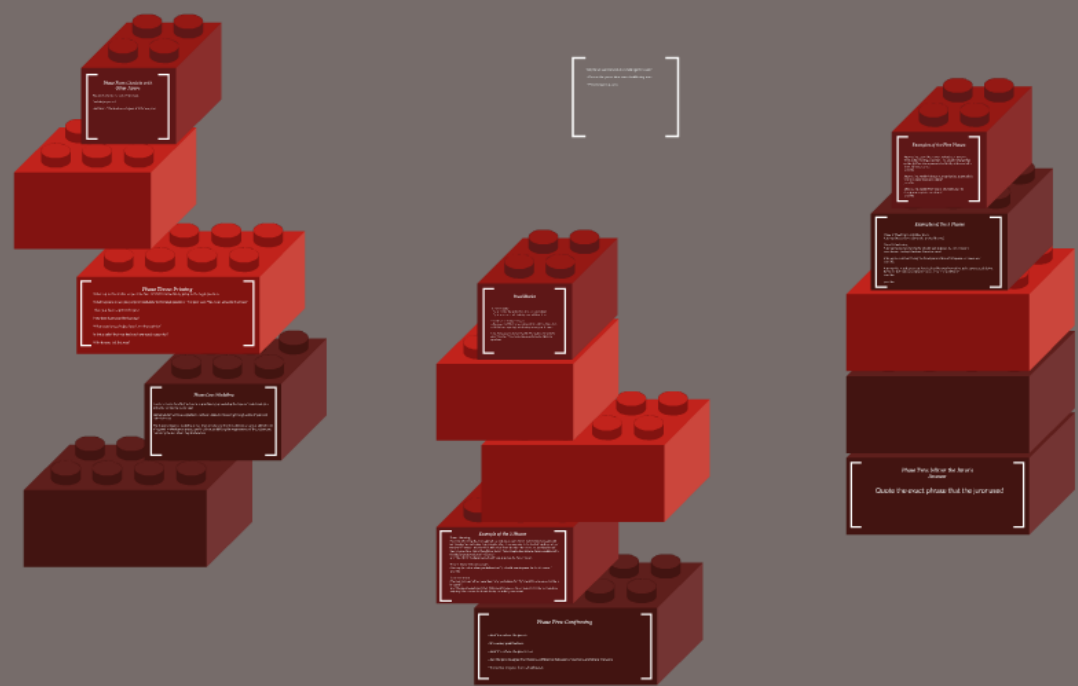
- Try to remind the judge that she is a neutral arbiter
- Try to make a record of what you would have done

"I think so" or "maybe" answers

- Professor and Trial Lawyer extraordinaire Michael Tigar deals with this issue by using the following language with jurors:

If I go home tonight and ask my wife, 'Do you love me' and she says, 'I think so,' I'm going to have to ask her some follow-up questions.

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