

**Ladies and Gentlemen of the Jury: Observations of juror interactions in a death penalty
trial through prose.**

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General University Honors

Frank

Trial juries are supposed to “render a verdict after listening to the evidence and arguments by all parties, following a set of instructions given by the presiding judge.”

Sure. That sounds easy enough. We all troop into this little room here, sit at a table and decide whether that woman out there deserves to live or die. We discuss it in a peaceful and friendly matter, and don’t stop until we reach a unanimous decision. Easy, right? I thought so. That is, I thought so until the trial began.

I grew up in Texas. We had very different ideas about prison and the death penalty down there. I’m not at all used to this hippy-sympathetic crap the defense attorney was spinning. A man kills someone, he should pay the price. A life for a life – simple, fair. None of this talking about how he was poorly treated as a kid, how society did him wrong. He takes responsibility for his actions. It’s so straightforward. Or it had been, anyway, when I was a kid and I would hear about these guys put to death. They were always real bad guys, too. It was never their first murder that got them stuck on trial. Everyone was better off with these guys dead.

Now though... Now it’s different. Living here is a lot different than living in Texas. Everyone’s so damn eager to talk about how all these criminals were wronged themselves, before they went and wronged someone else. And I get it the point, I do. I’m lucky – always had enough to eat, parents who liked having me around. Lots of people aren’t so lucky. But just because you have some problems, you don’t go take it out on someone else, and in the worst possible manner, too. We’re not talking people getting in barfights. You end up on trial for a capital crime, you know you did something real wrong – like sick, inhuman wrong.

But it seems like its just me that thinks that way anymore. I know there's a couple folks gonna be in the jury room with me who think like I do, but just a couple. I get the feeling we're in for a long haul.

And there was me, getting my summons in the mail for jury duty, thinking it'd be easy, thinking maybe I might feel some kind of satisfaction from it – upholding the law and all that. Even when I heard I'd been picked for a capital jury, I still thought it'd be easy. People who end up here deserve it. I'd sit down with my other jurors, and we'd vote to send this guy to the chamber and pay for what he did, right? I had been so sure of it... So sure, even, about my own vote. Of course I would vote for death, the guy deserved to die for killing someone. But then they told me the defendant was a woman, and all that went out the window.

Julia

I never thought about having to make this kind of choice before, because I couldn't conceive of an occasion where I would be forced to do so. I thought about trying to get out of it, using the excuse that my students would be jolted by the sudden transition, and that being left to a substitute for days or weeks would hinder their progress. But I ultimately decided, and my husband agreed, that it was my duty to respond to the summons and do my part to ensure a fair, impartial decision. I never imagined I would be chosen to serve on a capital jury...

When I heard that they wanted to ask me some questions and see if I was fit for a capital trial, I nearly stood up and marched out of the courthouse right then and there. No way could I sit on a capital jury! Being a capital juror means you hear all the gruesome gory details of a horrible murder, and then you're expected to sentence someone to die!

There was no way I was ready for that. I was completely prepared to tell them there was no way I could consent to a vote for death, no way no how. It's just wrong! For twelve ordinary people to play God, arguing with each other over whether a person should live or die... I understand that these criminals have done something awful, and they deserve to be punished for it. But how is it anyone else's responsibility to decide to take away a life? It's no better than the murder committed by a capital defendant.

So there I was, all set to say I wasn't fit for a capital jury, thank you very much. But then they told me the worst part of all – the defendant was a woman.

I made up my mind right then and there that I would sit on her jury. Who knew how many other women would be assigned to the jury, willing to grant a little understanding? Men so often see things in black and white – I could imagine how easy it would be for this poor woman to be sentenced to death without a thought for why she ended up in this awful situation, or what had happened to her to make her so desperate.

I told myself then that I could vote for a sentence of death – if the situation warranted it. I just couldn't envision a circumstance where I would be willing to do it. Maybe this trial would present just such a circumstance, who knew? I could sentence this woman to death, I *could*, if absolutely necessary. That's what I said to the lawyers, at least. But I knew deep down that I would sit on this jury just to give her a fighting chance.

Tyler

I was less than excited about the prospect of having jury duty, as I'm sure everyone else was, too. It's not that I was particularly averse to the idea, I just enjoy my job too much to have to take time off and sit in a court room all day. Who would want to, in my position?

I work as a pilot for a private company. The company itself has nothing to do with planes, it would take more time than I've got to explain exactly what they do. Hell, I'm not sure even I could describe it accurately. I fly the corporate jet. I take the big execs around wherever they have to go. Most of them are pretty good guys and ladies, always treat me with the respect a pilot deserves. But what I love most about my job is that it takes me to all sorts of places I never thought I'd see.

I grew up in a... less than perfect setting. My neighborhood was pretty rough, and my folks weren't around much. Most of the kids I went to school with ended up in jail or worse. My older brother was one of the unlucky ones. He died when I was twelve, and I decided then that I would make something of myself. I think I have – I worked incredibly hard to get where I am, joining the military so I could learn to fly, and finding work with a private company as soon as my time was up.

I'm finally able to enjoy my life, for the first time in as long as I can remember. I have no particular opposition to doing my "civic duty" and all of that. God knows I had plenty of that in the military. It's just that I'm missing out on the company's annual conference in Beijing to be here today, and let me tell you, Beijing is one of my favorites.

I really don't mind that much, though – especially when I heard I was being considered for a capital trial. I saw plenty of crimes of capital-caliber go down when I was a kid, and believe me, I was looking forward to the chance to see someone who got caught in the wrong, and make them pay for what they did. The guy who killed my brother should've ended up on trial for capital murder, but he had friends who hid him pretty well. As far as I know, he's still out on the street.

Someone charged with capital murder deserves a harsh punishment, and I'm willing to dole it out. Lots of people talk about "mitigating circumstances" – I'm sure we'll talk about it a lot in the jury room. Supposedly bad things that happen to you make you less responsible for committing a crime. The way I see it, killing someone puts you at fault in a way nothing else can. I have no sympathy – I grew up in a pretty tough place, but I got myself out alive, and without killing anybody else. When they told me it was a woman who was on trial, all I thought was – oh well, whatever you did, I'm sure you're gonna deserve it.

They filed into the room, one right after another. The twelve of them wore expressions of varying degrees of enthusiasm. Some of them looked pleased to be there, others as if they themselves were on trial. The one thing they shared was their sense of having been shell-shocked, and mutual uncertainty as to exactly what to do next.

Nobody wanted to be the first to sit. They had already gone through an ordeal together,, having just come from the courtroom where the prosecutor and defense attorney had bickered over Tracy's innocence or guilt. Even that had not been simple – she had killed the man, that much was certain. Eyewitnesses had seen her leaving the apartment, covered in blood and chattering incoherently about how it was over, and he could no longer hurt her. Not to mention the fact that she had nodded every time police had asked her, "did you kill him?" while questioning her. And the fact that she told anyone who asked her flat out – "Yes. I was there, I was the one holding the knife. I attacked him, and he later died." The jurors looked at each other, surprised to have it stated so baldly in front of them. Perhaps this would be easier than they thought... But she had had more to say. "I am not guilty of murder. No one can call what I did murder. I plead not guilty."

Frank

Well, even getting everyone to agree to a verdict of guilty was tough enough, much tougher than I thought it'd be. Jeez, it took us nearly a week to get that far. I thought, you know, I'm sure deciding for the death penalty or not would take us ages, but the initial guilty verdict, that oughta be a piece a cake. We sat down there in that little room they gave us, I still only knew one or two names of the whole bunch, and everyone kinda turned toward me, like, "Okay, what happens now?" Which, yeah, I figured, I'm the foreman, I gotta get the ball rolling. So I looked around and said something like, "This part's easy, let's give them our judgment so we can get to work on the hard part."

It was almost funny, I could tell right away, about half the folks were looking at me real eager-like, leaning outta their chairs or nodding their heads, like "Yeah Frank, I'm with ya, let's do this thing." Then the other half, they were looking confused, or upset, one guy almost looked like he wanted to hit me.

Someone spoke up, I later found out his name was Sam, me and him actually ended up almost being pals by the end, but anyway Sam held up his hands and said, "Hold on, now. This is a really important thing we have to decide. Sentencing somebody as guilty of a capital murder isn't something to take lightly, even if it looks like an obvious choice. We have to sit down and discuss this." So we did. We took a vote first thing, just to see how everyone was feeling about it. Our first vote, eight of us voted guilty and four not-guilty. The ones who voted not-guilty...let's see. There was Sam, my buddy....there was Julia, that cute little school-teacher, she ended up giving us a real fight later on. Then there was two other ladies, Grace and Teri.

Well, of course that caused some problems – three ladies not wanting to convict another lady. One of the fellas right away said that they just wanted to help out their own kind, and they shouldn't be doin' that cause this Tracy was gonna make a bad name for all the rest of 'em. That got them riled up pretty good, there was a fair bit of shouting right there at the start. Now me, I didn't think they were looking out for Tracy because she happened to be female, I just thought that they were kinder by nature, they wanted to see the good in everyone, they had more sympathy than the rest of us.

Now the other two ladies, Grace and Teri, they changed their minds pretty quick. They said they just wanted to make sure that we talked it through, and didn't jump to the wrong decision, so they slowed down the vote. And yeah, I can understand that – I guess you don't want to decide someone is guilty of murder in only five minutes if there's even the smallest chance that they're innocent.

Sam was pretty well set against it. He's a real smart guy, I think he had the most schooling out of all of us. He kept talking about how the prosecutor hadn't gotten his burden of proof, and said over and over again that Tracy was "innocent until proven guilty." He didn't think that the prosecutor had proved one hundred percent that Tracy did it. Sam even drew us a graph trying to convince everyone of his point – it showed how sure we should be that she was guilty versus how sure we really were, that the burden of proof was too high... well, I wasn't too sure exactly what he was going on about half the time, but his point was, unless we were one hundred percent absolutely sure, we couldn't call her guilty.

Then there was Julia. She raised some hell, lemme tell you. It seemed like she was dead-set against this entire trial to start with. She kept saying that there was no way that Tracy was

capable of committing a cold-blooded murder, that there had to be something else going on that we didn't know about. I just don't think Julia wanted us to be able to consider the life or death decision – she seemed like the type who was really opposed to the death penalty, really believed it was wrong. She didn't want it to be an option – didn't want to give anybody that choice.

Julia

This whole process was a mess right from the start. First of all, I don't think that poor girl's lawyer had a clue what he was doing. I was friendly with Carl the court stenographer, and he was able to tell me all about what happened during the parts of the process that we as jurors hadn't seen. Carl told me that at the very beginning, when they were about to ask what she was going to plead, when that lawyer walked into the courtroom he was still arguing with her under his voice, looking really angry at her. When they asked him what the plea was and he gave her this look like he thought she was crazy, and looked at the judge to say "Not guilty," but while he was saying it he was shrugging and shaking his head like what he was really saying was, "Ok, I'm done here, don't expect anything else from me today, I wash my hands of this." And really, I think that's what he meant, because I didn't see a decent bit of effort from that man for the rest of the first part of the trial. He just sat back and let the whole thing unfold around him.

I could tell the second we walked in the courtroom that the prosecutor had clearly done his homework, and by that point I had, too. Not that I had much downtime between being chosen for the jury and the start of the trial, but the second I heard I had been selected, I started researching everything I could about the proceedings of capital trials, and criminal trials in general. So I had almost expected Tracy's lawyer to do a poor job – after all, she was a schoolteacher with two children to support, and her husband was long gone by this point. I heard

later on that he assumed she must've been having an affair with the guy who died, thought she killed him because he left her, or cheated on her. Either way, he left her with the kids and not a bit of money. Good lawyers definitely don't come cheap.

But anyway, like I said, the prosecutor had put together a really nice argument. He almost got me riled up with the rest of them. Of course, it didn't hurt at all that he called witness after witness, all claiming that they saw Tracy running from his apartment, covered in blood. But who stopped to think that, oftentimes eyewitnesses alter their story to coincide with that of the first person to speak, just to avoid making waves? Or that sometimes they are just plain *wrong*, that they didn't see what they thought they did? And besides that, who's to say that, even if she was there, that absolutely makes her guilty?

There was also the issue of the fingerprints. Now, as little faith as I had in the witnesses, there was no disputing the fingerprints. I mean, if had been just one or two... but they were all over the place, everywhere. Even on the knife. As much as I would like to believe that Tracy was completely innocent, that knife told me otherwise. It told me she had been there when he died, or very nearly beforehand. But that in and of itself couldn't make her absolutely, one hundred percent guilty of capital murder. But that's not what the prosecutor said. He built his whole case around those witnesses and that knife.

They even brought it into the courtroom, the knife... it was still bloody. That was very upsetting to me. Some of the men on the jury were craning their necks, leaning out of their seats to see it better. I didn't want to see it at all! Some of my fellows on the jury seemed like they were in it just for the blood and gore. Well, they couldn't have gotten a better case. This one was full of it. We were shown photos of the crime scene, and the body – it was to help us

understand the physical set-up of the scene, to show us where the knife was in relation to the body and the rest of the room, to help us see that it couldn't possibly have been self-inflicted. That's what the prosecutor told us. I personally think he just wanted to get everybody nice and worked up about how bloody and horrible of a sight it was, how disfigured the body was, to get us all to jump to a guilty verdict nice and quickly. I had a different reaction. I resented the prosecutor for making us sit through that – once or twice I was very nearly physically sick. It was disgusting and uncalled for. We would've understood the layout of the scene from a description, or a basic diagram. But no, he insisted on showing us the real photos, in order to “get a real sense of the scope of this atrocious crime.” I can be a pretty stubborn person at times, and the more pictures he flashed in front of us, the more I thought, “Nice try. I'm going to make this verdict as hard as possible for you.”

But don't think I intentionally slowed the whole process down just to spite the prosecutor. Even now I still believe that, whatever happened in that apartment that day – and nobody can *ever* know for sure – it was not capital murder. Tracy is just not a cold-blooded killer. She doesn't even have a criminal record, nothing against her to suggest that she is the kind of person who brutally murders people. She has two small children who love her more than anything. Has anyone else even stopped to consider what would happen to her kids if she is sent to prison, or worse, given the death penalty? After her husband took off, there was no one but her to look after those children. I won't try to deny that what happened to that man was horrible, I feel very deeply for him. But whether Tracy is responsible or not, sending her to prison, or *killing* her, doesn't fix anything. It would just make this entire situation worse.

When we first sat down in the jury room together, and Frank looked around and said we should just give them our decision so we could move on to the hard part, I just about fainted.

How anyone could make up their minds so quickly about just a serious issue... Thank goodness Sam spoke up. I was worried I would be the only person in the whole jury who cared about this woman's life.

He and I actually got to talking soon after our final vote on Tracy's guilt. I had wondered why he reacted so strongly, and insisted that we put the issue through a proper discussion. Especially since he was the only man to have such an opposition to finding Tracy guilty. Some of the other men were opposed to a sentence of death, of course, but that came later. First she had to be found guilty, and no other men seemed to have a problem with that part. Sam, though, provided sort of a rallying point for myself, Grace and Teri. He gave voice to our concerns, it seemed.

I thought it was fantastic, what he was doing, but I wasn't sure what it was that set him apart from the other men, so I asked him one day. He told me that he had a son, not much younger than Tracy, who had been in the Army and died overseas. This happened almost five years ago, but he told me that the pain of losing his boy only got worse with each passing day. I can't imagine experiencing that kind of suffering. Losing my children would be the worst kind of torture conceivable... But anyway, Sam told me all about his son, then mentioned how he had seen Tracy's parents sitting in the courtroom. No one had pointed them out to him, he could just tell by their faces, how distraught they looked. He said he couldn't bring himself to inflict the pain of losing a child on another parent, no matter what that child had done.

Whatever his reason (and I have to say, he had a very good one) for supporting Tracy the way he did, I was very grateful for the support I got from Sam during the initial guilt phase. He was able to support his argument using legal jargon that even I had trouble keeping up with, and

like I said, I had been doing some research. He was definitely the most intelligent of all of us, and he did try to bring his legal theories down to a level we could understand, though it was clear that, at times, nobody had a clue what he was talking about.

Grace and Teri weren't much help, once they saw that most people were leaning towards guilt they gave in pretty easily. I didn't see much merit in Troy's argument that we women were just looking out for our own kind. Not that it wasn't offensive, because it was, very. But the two of them were just looking to stir things up, I think. And me, well... It has nothing to do with my being a woman. It has to do with the fact that nobody else in there, with the exception of Sam, wanted to give this girl a chance to get her life back. Her being a woman just made it all the easier for me to picture myself in that very situation, with nobody fighting for me.

Looking back now, I suppose I did get a little too argumentative early on in the decision making process. But at the time I felt really ganged up on, especially once Sam finally changed his mind. His reasoning was sound, he said that even though he didn't feel the prosecutor had succeeded in proving he guilty, he personally felt she had done it, and should be punished, just not by death. He didn't believe at that point that there would be much support for the death penalty once the second phase of the trial began, and we heard from Tracy's family and friends. He was wrong

Tyler

I knew, obviously, that a trial for capital murder would be time-consuming. But what I didn't expect was for the first part of the trial to take as long as it did. The legal arguments and witnesses and all that, sure. We had a lot of people to hear from and a lot of evidence to see. But I thought that our part would be a snap. I expected we would sit down, take a vote and that

would be that. I couldn't believe the fuss that some people were causing. I saw Sam's point, sure, when he was using all that legal jargon to say that the prosecutor couldn't prove without a doubt that Tracy had killed this guy. But we had the evidence right there. A bloody knife with her fingerprints all over it, *plus* all the witnesses – what more could you ask for in a murder trial?

I honestly stopped listening to the four who voted for innocence after Sam gave his little legal speech. That aspect was the only thing that would have slowed me down in my decision - not feeling *sorry* for Tracy, not even making sure we didn't jump to a hasty conclusion. We had plenty of time during the trial itself to make up our minds about her guilt. And in this case, it was just *so* glaringly obvious. The fact that anyone was considering the possibility of her innocence was offensive to me. First of all, she admitted to attacking him. Don't tell me she got carried away and his death was an accident – she went there, to his apartment, and hid there, waiting with a knife for him to come home. That takes any “accident” part right out of it. And then to think of how violent she was - I mean, my God, look at what she did to him before she killed him. She *tortured* him. She fucking *castrated* him. I've heard about murder victims being butchered before, but I never understood it until they showed us those pictures. Anyone who does that to another person is sick, and doesn't deserve another chance. Doesn't deserve the privilege of life.

All this talk about innocence was disrespectful to the man who was killed. In my mind, the killer needed to be brought to justice as quickly as possible. Any time wasted in jury deliberations was a slap in the face to the victim's memory, and his family. Luckily for me, most of the other jurors agreed with me, in this respect, at least.

I couldn't believe how long it took us to sway the four who wanted to find Tracy innocent. Especially Julia. I got a little rough with her eventually, I do feel bad about that now. But she just wouldn't listen to reason, to the facts staring her in the face. So I tried a different approach. I must admit I bullied her. I got right in her face, accused her of having some sort of motive for trying to let Tracy walk free. Then I told her to imagine it was her husband who was killed, and if she would want her husband's murderer not to have to pay for the crime. That made her cry, and I do regret being so harsh with her. But I can't knock it entirely, it worked.

It would've been much quicker work, though, without Adam's input. He feels a lot like I do about prison and the death penalty, but he expresses it in a very different way. I did go a little too far trying to sway Julia, it's true, but Adam is a different story entirely. He was pretty quiet the whole time we were in there. He only spoke up when someone asked him his opinion. That was our mistake, I guess. We all had had our say, everyone said a little piece about why we were voting the way we were, so that we all understood each other. Then somebody noticed Adam hadn't said anything yet. Yeah, he was quiet all right, but once he got going... The things he was saying were worse than anything I badgered Julia with. I don't think he was intentionally being cruel, he just has very strong feelings about the death penalty and he wanted us all to know it. I agree with his sentiment, that those who commit the ultimate crime should pay the ultimate price. He just expresses that sentiment in a much harsher way than I do. What was it he said? "I would gladly see every violent criminal fry in the electric chair, if not swing from a noose." That upset most of the women, Julia especially. I asked him later what made him feel so strongly about capital punishment. I wondered if maybe he had been affected by crime in some way, like I had. But he hadn't been, and he didn't really have an answer for me. I'm starting to think he's just the kind of guy who revels in watching other people suffer, only that's not socially

acceptable, so he takes out his feelings of aggression on prisoners. I'm surprised a guy like that made it through jury selection. I can't imagine he was able to hide his enthusiasm for violence and punishment very well. Maybe the questions they asked him just weren't geared toward figuring out how much he supported the death penalty.

Frank

After all the holy hell we just went through deciding that Tracy was guilty, none of us were very eager to jump back into it for the second part of the trial. But at least we had a couple weeks of sitting in the courtroom to look forward to before we got locked back in that god-awful jury room to argue with each other again. Have you been in there? You wouldn't believe how tiny it is, and how hot it can get in there. Nobody cherished the thought of being cooped up in there for an even longer time than we spent deciding, innocent or guilty?

The first thing we heard during this second part of the trial was "aggravating circumstances." I gathered the gist of what that was supposed to be before it got started, but wasn't too sure what the point of it was. I figured, aggravating – like how you aggravate somebody, bother them, right? You make things difficult for them. But aggravating circumstances – I didn't know which side they were supposed to make things difficult for. Honestly, it took me near 'til the middle of that whole circus to make up my mind WHO this was aggravating.

Once I had it worked out, though, my gosh did that lawyer go overboard. Now we'd already seen all the pictures and the knife, we'd already had a real graphic description of the murder. But they did all that again, to drive home the point that it was an especially cruel crime, and should have the harshest punishment alongside it. This is where I had some real trouble, not

with understanding what was going on, (I had most of it figured out by then, plus Sam was always willing to figure stuff out and explain to the rest of it). No, what I had trouble with here was figuring out what the heck I should vote for – life or death?

See, in any other trial... Most folks who get tried for this kind of crime are men. And men usually overpower someone weaker than them, or they're too hopped up on drugs to tell the difference. And they deserve to die, in my opinion. I've always thought so – that someone who takes another person's life should experience that injustice themselves. But sentencing a lady to die like that just seems *wrong*. I was raised a gentleman, raised to treat a lady with respect at all times, even if she isn't acting like one. What Tracy did, no lady could ever do that, unless the guy really truly deserved it. So I wasn't sure how that division in my mind would work itself out. Either Tracy was a monster, and didn't deserve the courtesy of my respect and should be sentenced to die, or the guy had it coming to him, and she should be spared the death penalty.

I was having a hell of a time deciding. I didn't want my whole decision to hinge on the fact that she was a woman. Wouldn't it be sexist of me to let that effect my viewpoint so much? I should be able to make my choice impartially, like Sam kept telling me. It didn't help me any that Tracy had never taken the stand at all and told us her version of things. I couldn't get a handle on her because she hadn't said a word the entire time. Lucky for me I guess, that changed as soon as we got to the second part of the penalty part of the trial, and we heard all about “mitigating” factors.

Julia

The sentencing phase of the trial was even worse than the guilt phase. We began with hearing about all the aggravating factors, everything that made the murder “heinous.” At least

my fellow jurors had the decency to look disgusted when they showed us the pictures and the knife, this time. But still, the overall effect was unnecessary. I was still unconvinced that Tracy was one hundred percent guilty, and this whole aggravation thing was just making it worse.

I had been looking into other death penalty trials with the little free time I had, and I made sure to focus on this “aggravation” part of the trial, because that seemed to be the most confusing part – I wasn’t exactly sure what exactly it meant, or what the point of it was. So I looked it up, and in most cases where the defendant had actually been found guilty of capital murder, there had been a much greater number of factors which were considered “aggravating.” For example, many cases involved multiple victims, multiple murders. Often the victim was very young, or very old, or weakened in some other way. There were also a good few hate crimes, or crimes committed for the financial benefit of the criminal.

The only aggravating factor working against Tracy was the fact that the murder was “especially heinous, atrocious, cruel, or depraved (or involved torture).” Again, this assumes that a murder took place and that it was her doing, which, even now, I *still* don’t entirely agree with that. But even so, that statement is so vague, who are we to decide what is “atrocious and cruel” and what isn’t? And compared to what? To a pleasant, humane murder? What qualifies me and the eleven other people in that room to discern one crime from another? We had no training, no examples to learn from even. We were thrown in there on our own to decide if somebody lives or dies – how is it that we were given that kind of power?

Anyway, the prosecutor knew that the only aggravating factor he had to go on was this “heinous” business, and let’s not even get started on that. That one word caused us an entire day

of arguments in the jury room. Most of us weren't sure exactly what it meant – I just assumed it was synonymous with cruel and atrocious. They're all words that mean horrible and brutal, right?

Sam was quick to speak up and say that we needed to be absolutely positive of every part of the definition. That it was imperative for us to understand absolutely every part of this procedure, since we were facing such an important decision, literally life-and-death. So we spent an entire morning with a dictionary, hashing out every nuance of every word on the list we were given of possible “aggravators.” We then spent a further five hours arguing as we tried to come up with a common definition for each word.

The low point of that day came when Stanley decided to finally contribute to our discussion. He told us that he didn't really care what “heinous” really meant, that to him it sounded like something dirty that was only legal in the South, so that's what he was going to base his decision on. Typical immature male response, right? That set me off. I wish I could say I really yelled at him and put him in his place, but I was so shocked, all I could muster was a cold glare in his direction, followed by blatantly ignoring anything he had to say for the rest of the deliberation process.

His comment really stuck with me, though. How could someone so obviously uncaring be allowed to sit on a jury? I wanted to know how in God's name he even made it through the selection process. I couldn't sleep for a few weeks after that. It shook me, to know I was part of such an obviously flawed system. I wanted to change it, to be the one who was able to sway everybody else, once it became clear that the majority of them favored death. I just had no idea how to do it. After I put up such a fight over the “guilty” verdict, nobody seemed to take me seriously.

I swear, Rodger and Tyler, they felt the most strongly in favor of the death penalty due to personal circumstances, and I sympathize with them, I do. It's horrible, the things they went through – Tyler with his older brother, and Rodger, whose sister got attacked by someone who just wanted a few dollars to get high. I understand how they can feel so angry toward any criminal, and want to see them punished harshly. I just don't agree with it. And every time I started to make my own case about sparing Tracy the death penalty, the two of them would just look at each other and roll their eyes. "Here she goes again."

I could understand their frustration, at least during the first part of the trial, when we had to decide Tracy's guilt or innocence. I'm a very stubborn person, after all, and I suppose most people were expecting the decision of guilty or innocent to go a little more smoothly, or a little more quickly. But like Sam said, this was not a decision to be taken lightly. And I didn't give up my position without a fight – only when my every argument had been exhausted twice over, and I could no longer deny that Tracy had in fact been responsible for that man's death, did I finally cast my vote for guilt.



The defendant behaved much as one might expect of someone standing trial for capital murder. She kept her head down, she was very quiet. She never spoke unless absolutely necessary. She had refused to take the stand during the guilt phase of the trial, even at the price of her freedom. She didn't say a word to defend herself from the accusation. Then she was found guilty. She had a very surprised countenance, as if she couldn't believe that anyone had believed her responsible for the crime. She almost appeared to go in to shock, and sat through the prosecutor's presentation of aggravating factors wearing a dazed, slightly panicked

expression. Hearing the details of the crime re-hashed in such a brutal fashion seemed to stun her.

Tracy sat up straight as the prosecutor began to wrap up his discourse. She leaned over to whisper something to her lawyer – the first time throughout the entire trial that she had spoken without first being addressed. He gave her a startled look, and quickly nodded his head.

The defense lawyer stood as the judge called on him to present any mitigating factors that may influence the jurors' decision. He strode to the front of the courtroom, spinning on his heel to face the jury. "I would like to point out how distressed my client has been over this whole ordeal, and how much she regrets how these events unfolded. I can say with honesty that although Tracy believes she acted out of necessity, she is deeply sorry for any pain and suffering caused by her actions. But I'm not going to stand her and try to convince you of this – after all, I wasn't there, I cannot tell you exactly what happened. I would like to present to you some mitigating factors, and in order to do this I call to the stand one Ms. Tracy Walker, to give you an honest account of her ordeal."

The jurors looked around at each other, surprised and slightly eager to hear what Tracy had to say. She had been so silent throughout the entire trial so far, everyone was curious to hear what her response to being charged guilty would be. A tense silence filled the courtroom as Tracy approached the stand. Her lawyer followed, and began to ask her questions.

"Ms. Walker, I understand there are a few things about your involvement in this crime that you would like to share with the jury." Tracy nodded.

"I understand you would like to tell the courtroom about the previous relationship you had with the victim" An excited murmur ran through the room – previous relationship? As far

as anybody knew, jurors included, Tracy hadn't known the victim at all. Wasn't the murder completely random?

Tracy nodded again, leaning forward to speak into the microphone, so the whole room could hear her weak voice. "We were acquaintances. A friend of a friend, we first met years ago. I only ever saw him two or three times. But the last time I did... The last time I was afraid for my life. He attacked me, beat me, and then, he raped me."



Tyler

Sitting in the courtroom while the lawyers tried to argue for and against the death penalty was unlike anything I'd ever experienced. The entirety of that second part of the trial was so surreal to me. I'm no stranger to death and tragedy, obviously. My stellar upbringing provided for that. But to actually watch people volleying for the life of some stranger was incredible. I almost expected the two lawyers to get in a tug-of-war match, Tracy in the middle.

Now, I'm a full fledged supporter of the death penalty. I've made that crystal clear through the entire process. I have no sympathy for criminals, especially those who kill other people. But personally, I think the part where we were shown all the aggravating factors had the opposite intended effect. It's supposed to make us want to vote for Tracy to be put to death, right? And yes, that is my belief and nothing I saw or heard in the trial changed that belief. But really, for all those on the jury who were undecided and weren't sure what they would vote for... I think the aggravating factors almost made them reluctant to want to vote for death.

It was just such a gruesome process. Some of the ladies got physically sick, I myself felt nauseous the whole time. The prosecutor was cutthroat; he was as graphically descriptive as possible in giving us the details of the crime. And I understand why, I know he wanted us to feel for the poor guy and get up in arms about what Tracy did to him. He wanted us to be so disturbed by the crime that we saw no other option but the death penalty. However, some of us, the undecided ones like I said, they started getting angry at the prosecutor for taking it so far – enough is enough, right? It was disrespectful to the dead man, I think, the way he was carrying on. The pictures he showed us were absolutely unnecessary. I know that the victim didn't have much family... but if it was my family member or friend who was killed, I wouldn't want photos of their mutilated body displayed and blown up for an entire courtroom to see, like some kind of damn sideshow spectacle.

I could tell that the more he pushed about what a brutal crime it was, the more some jurors closed off and refused to be swayed by his arguments. Julia was the ringleader for this – she was anti-death penalty right from the start, and she used the prosecutor's brutal tactics to try and get more people on her side.

His argument may not have had the effect the prosecutor intended, but it was powerful all the same. I mean, we were told all about the details of the crime during the first half of the trial, but not to this extent. We had known, of course, that she stabbed him to death with a knife, and that she castrated him before she went ahead and killed him. We had known that he had dozens of stab wounds all over his body. We hadn't known the extent of his wounds – that she had methodically avoided all major arteries and organs, to ensure that he suffered for as long as possible before he died. We hadn't known that she made sure to use a blunt knife, and twisted it to make sure the cuts weren't clean – that they were rough and ragged.

And of course, we hadn't known about Tracy's supposed past with the victim. This didn't come up until we were hearing about the mitigating factors, I guess because this was supposed to be one. I'm still not sure if I believe it or not, though, even now. It seemed pretty coincidental that she suddenly decided to take the stand and tell us all about how she knew the guy, how he was the friend of a friend who had assaulted and raped her years ago. She hadn't thought of telling this to anybody before, during the guilty/not guilty part of the trial? But once her life was on the line, she suddenly had a motive for the crime?

Not that having a motive makes her any less responsible, any less guilty. She claims that she has felt continuously threatened by this guy for the past ten years, after he attacked her once, ten years ago... How do you figure that? There was no indication that he was planning on a repeat performance. He wasn't sending her threatening notes. Christ, there wasn't even any proof that he had raped her in the first place!

That's why I wasn't sure if I should believe her. Who says she wasn't just making up some sob story to make us all feel bad for her? Make us pity her, so we wouldn't give her the death penalty? It's like she was trying to punish him for it, but had a few screws loose or something. She could've gone to police all those years ago, and let him be punished the right way. I mean, there's no excuse for rape... if he really did do it, he should've been sent to jail – not murdered!

Anyway, that little testimonial of Tracy's made things hell back in the jury room. All of a sudden all the women were up on their soapboxes about feminism, and women's rights. Not that I have a problem with that. I'm all about equal rights for women, and I have no sympathy for people who take advantage of women, especially rapists. But the female jurors were trying to

make feminism an excuse to vote for life instead of death. I just can't support that. So what if Tracy's a woman? Treating her any different than we would treat a man is sexist, no matter if the different treatment is beneficial to her or not.

I refused to have any more or any less sympathy for Tracy due to the fact that she's a woman. The twelve of us are supposed to be a jury of her peers, we're supposed to be impartial, right? Judge her exactly as we would any other person? Well, let me tell you, there's no way all the jurors thought that way. The women saw themselves as Tracy's peers, all right, but they didn't see the rest of us, the men, that way. Some of the men were just as bad. Frank kept going on and on about how Tracy was a "lady" and he was a gentleman who had to treat her with the respect she deserved. Well, sure, Frank, that's fine, to give her respect. But there's no way he would've given that same respect to a man in Tracy's position, that's for damn sure.

Then there was Adam... like I said before, he has a very different viewpoint when it comes to capital punishment. He has a different viewpoint when it comes to most kinds of crime, as it turns out. After Tracy gave her testimonial about how the victim had raped her all those years ago, and we were hashing it out in the jury room, he started ridiculing the women for suggesting that Tracy's actions made sense when viewed in the light of a rape. He went on and on about how she probably deserved it, because women these days are asking for it with the way they dress and act. That got are asking for it with the way they dress and act. That got *everybody* in an uproar, pro-death or not – we as jury members had never been so united as in that moment – eleven of us against the one outlier. The one crazy outlier.

My god, I don't know how he even made it on to the jury with ideas like that. Isn't the whole *voir dire* process supposed to weed out people like him, the ones who are just

socially...off? I mean I know jury selections are supposed to be random, and I guess maybe Adam was the representative of that portion of our population that is just a little bit nuts. His behavior during our jury deliberations didn't help his case any. All twelve of us usually ended up at the same place for lunch, we'd try and talk to each other about something not related to the trial. It was nice, we got to know each other outside of the confines of the jury room – it even helped sometimes in understanding why one person held a particular viewpoint. Like Casey, the only woman who felt a pull towards voting for death the entire time. She explained to me how she had grown up in a small town, very conservative, with a very low crime rate. She was raised to think that all criminals were bad people, regardless of the crime or the situation that drove someone to commit that crime. She was taught that they were bad people who could not be fixed, and that made her more willing to vote for a sentence of death.

But anyway, Adam was the only one who was always reluctant to join in our conversations at lunch, unless they revolved around sports or another completely neutral, non-personal topic. He was also the heaviest drinker out of the whole bunch. I myself would often have a beer or two with lunch, to help me relax a little. Many of my fellow jurors would do the same – but one or two drinks only. Adam would order whole pitchers for himself, and be half-drunk by the time we got back to the jury room. On several occasions I know I smelled pot wafting off of him. And hey, I'm not one to judge someone else for drinking or smoking pot – come on, I do that shit, most of the people I know do it too. But we were on a jury trying to decide if somebody should live or die. When you have a job that important, you don't come to work drunk or high. You just don't. It's disrespectful to the whole system and damn irresponsible.

I'm surprised nobody called Adam on his behavior. I thought for sure one of the women would've brought it up during one of our many arguments, or that one of the guys would've pulled him aside and told him to get his act together. Although I never mentioned it to him, so I can't complain about everybody else's failure to bring it up. I was just shocked that he would have the nerve to act like that, and that there was no authority to keep him in line. That, I thought, was a huge problem with the whole trial system – we as jurors had nowhere to report, there was nobody to guide us. Nobody would even answer our questions – not the judge, neither of the lawyers. The only thing anybody would tell us was to “consult the jury instructions” if we were confused. Right, OK, the jury instructions. They caused more problems than they helped to resolve.

Now, I consider myself to be a pretty smart guy. Sure, I never had much of a conventional education, I never went to college, but I managed to work my way up through the ranks in the military and got myself hired at a prestigious private company. You need to be pretty intelligent to be able to do something like that. But never in my life have I seen such a complicated and vague document as the jury instructions. Half of the words we looked up in a dictionary, we spent ages on “heinous.”

We also argued back and forth for hours about “life without parole” – the other option besides death, once Tracy had been found guilty. Casey, once she had committed to voting for death, focused on that one statement and made that her argument for trying to sway all the other women. She kept telling us that prisoners sentenced to life without parole are released all the time, and pose a danger to the public. Julia didn't like that one bit, and spat back that Tracy only acted out against a person who posed a threat to her, and that since that person was now dead and buried...no one else was at risk from her.

I had a lot of problems with that whole train of thought. First of all, (and I made sure to consult a lawyer friend after the trial was over, to make sure I was right) life with out parole *means* life without parole. The sentence is never going to magically change, and the prisoner is not going to be released and go on a killing spree. But neither did I agree with Julia's assertion that Tracy was no longer a threat to anybody, because she had done away with the one person who had wronged her.

I mean, first of all, she could've just made the whole thing up – maybe he didn't rape her, maybe he was just some random guy. But taking for a fact that this guy did rape her, it had been *ten years*, then she all of a sudden decided he needed to die for what he did to her? That alarms me more than anything. Who's to say that Tracy doesn't have some old boyfriend who broke her heart, or a friend who stole a love interest or something? Then, years later, Tracy decides that this person just needs to die, to make up for past grievances? Nobody even knew that she and the victim had known each other – all kinds of past acquaintances of hers might be walking around, just biding their time until the day that Tracy decides she's had it, and needs to strike back...

Frank

The last week or so that we spent as a jury has gotta be the most stressful thing I've ever experienced. From the minute we stepped back in to the jury room after hearing about Tracy and her motive for what she did, we were split about even over who wanted to vote for death and who wanted to vote for life. I was voting for life, originally. Hearing Tracy up there on the stand, talking about how she had been raped all those years ago, well honestly it did tug on my heartstrings quite a bit. And it made me see her as weak and defenseless, like she had no other

choice but to defend herself against him. It also just seemed wrong, to me, to sentence such a frail creature to death... it broke my heart to see her so upset, pouring her heart out to us, dressed in a grimy jumpsuit about six sizes too big for her, and with chains wrapped all around her. I just felt such pity for her, I couldn't bear to vote for her death when she already looked so tiny and broken.

Tyler had some heated words with me about that – about the fact that I would gladly have sent to death any fella who done the same thing Tracy did. Told me it was just as sexist as telling ladies they oughta stay in the kitchen instead of having jobs, and that if women were really equal to men they should receive the same treatment in the justice system, and the same punishments. I had to agree with him, in the end. If I had no reservations about executing a man, I had to at least consider the same option for a woman criminal. In my gut I still think it's just wrong, but I had to leave my emotions out of it – that was part of my job as a member of that jury.

I changed my vote about halfway through the time we spent making the decision. It was real tough for me, of course, but I could tell that's the way that everyone else was leaning. By the time I was ready to vote for death, only three other folks were still fighting for life. Sam still didn't want to have anyone's death on his mind, though his argument that it couldn't be proved that Tracy had done it just got weaker and weaker every day. I mean, she had admitted it on the stand, right? Said, "yes I killed him, but I had a good reason why." And besides, she'd already been found guilty, we all decided that, all voted on it during the first part of the trial, Sam included. Now he was trying to go back and say she wasn't really guilty? He just felt bad after hearing Tracy's awful story, and heck, I felt real bad too. But like I said, I couldn't let my feeling bad keep me from making the right decision, legally, and I think Sam finally saw that too.

So he was the next to change his mind after me, and then we only had two ladies to deal with. Casey had already swayed the other ladies, and it was just Julia and Grace. And then it was just Julia. She held on for a good long while, it was a week or two where only she was hanging on, and every one else trying to make her change her mind. And, don't get me wrong, she was pretty persuasive, had some pretty good arguments, but all her arguments seemed to center on making Tracy innocent, when we had already decided she was guilty. She got her emotions too wrapped up in it. I did the same thing, at first, but she refused to quit. A couple times she broke down crying, it almost seemed like she wanted us to feel sorry for her, and change all our minds to make her happy. Or to make us feel guilty, I'm not sure... Either way, it took us awhile to wear her down. I expected that we would eventually, but I was real surprised at how long she Julia held on.

Julia

Everything that led up to the final vote for Tracy's life or death was the most harrowing thing I've ever experienced. I had anticipated from the very start that I would be fighting a losing battle. I fully expected to have to argue my point all alone, and put up with all sorts of disparaging comments from other people about how I am too "soft," or slowing things up on purpose. I didn't expect to be attacked for it personally, though. And I thought I would be able to do a better job of convincing people to stay on my side...

I was surprised that Frank's original vote was for life, especially considering how eager he had been to vote for Tracy's guilt straight away in the guilt phase of the trial. Given his eagerness to see her convicted of the worst possible crime and sit trial for either death or a life in

prison, I didn't expect any kind of sympathy from him. So, like I said, it surprised me to hear him vote for life, though I did appreciate having him on my side, if only for a little bit.

He was always a friend to me, Frank was. And he could understand my perspective, got where I was coming from, even if he didn't agree with it. Unlike most of the others, he treated me with respect, although he did become slightly patronizing right after changing his vote. He told me that I was letting my emotions cloud over my good judgment, but he was confident that I would be able to set aside my feelings and make the right choice in the end. As if his changing his mind meant that everybody else immediately had to agree with him, and anybody who didn't was just plain wrong? But I can't give him too hard of a time for that – most of the rest of the jury was much, much worse. In fact, of all those who voted for death first thing, only Tyler was decent to me about it. I think he felt bad for speaking to me so harshly the first time around, to make me vote for Tracy's guilt. He made it very clear that he did not agree with me, but at least had a sense of decency about it.

Everybody else, though... Adam was by far the worst. I don't think anybody shared his harsh opinion about the death penalty – he was the only one who reveled in how violent and harsh the whole process is. And he was the one to ridicule me, day in and day out, for not wanting to vote for death. He never tried to invalidate my reasons for voting for life by presenting a stronger argument of his own, he would just tell me that I was wrong, and I was costing everybody more money by dragging out the process, and giving Tracy false hope that since we were taking so long maybe we would return a sentence of life in prison – and, of course we would end up sentencing her to death. – Adam seemed so positive of that from the very start.

At first it was easy for me to disregard the poor treatment I was experiencing. I knew I was doing the right thing, standing up for Tracy when almost no one else would. I was prepared to deal with the harsh treatment that was doled out to me. But as our time in the jury room wore on, it started to get to me – I found it harder and harder to deal with the stress of having to be the only person willing to stand up for Tracy, having my beliefs and ideals attacked each and every day, being made out to be the “bad” guy. It was incredibly trying.

Now, even though Adam was the most cruel of everyone, and enjoyed personally attacking me, that doesn’t mean the rest of the pro-death jurors weren’t ruthless as well. They just restrained themselves a bit more when it came to questioning my sanity and mocking my intelligence – they wouldn’t come and say it straight out, but I could tell what they were thinking. Even the other women, once they had all switched over to voting for death, they talked to me like I was too frail to deal with the pressures of the jury room.

Maybe they were right, maybe I was too weak to deal with it. I was certainly too weak to sway the rest of the jury to see my side of things – I fought my battle as long as I could, told them again and again that Tracy was acting in self defense. Even if that man was posing no immediate physical threat to her, she still felt that she was in jeopardy, and had to act to protect herself. That’s what I believe, but what I was unable to convince anybody else of. And what I was unable to hold on to, in the end. Because eventually it just became too much. I couldn’t handle the disparaging remarks and judgments any longer. I was only one-twelfth of that jury, I can’t let myself shoulder all of the responsibility for Tracy’s fate anymore. And besides, she’s getting an automatic appeal – the next highest court, put into place to check up on our work. They wouldn’t let our decision be the only factor deciding Tracy’s fate, right?



Criminal justice in America today is a huge system consisting of many different smaller components. Only in a perfect world would each part of the process – from arrest, all the way through the trial process and incarceration or probation/parole – function with complete legality and fairness. Problems are bound to occur every once in awhile. However, the American system is currently functioning so unsuccessfully as to present a cause for heightened concern, and a call for change. The problems and prejudices plaguing our justice system are many and varied, and will not be fixed quickly or easily. This work of fiction presents only a few of these problems, in hopes of displaying just how truly stunted our criminal justice system can be. Only through increased awareness can we begin to fix some of these problems.