

After a wholly regrettable first experience in family court, I proudly bring you,



A **MAD** Look at Justice Systems Vol. 1

A Tinder^(™)-Inspired

eCourt

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www.freetopo.net/pub/tinderinspiredecourt.pdf

Abstract

This paper begins to explore the idea of a justice system inspired by [Tinder](#)¹ and a recent experience in Family Court; and by the [3 Ballot Voting System](#)². It has the goals that it A)represents an improvement over the current system, and B)is in keeping with the [Constitution](#)³. It cannot succeed completely at the second because a jury of size >12 would require an amendment. It could however exist as [arbitration](#)⁴.

Disclaimer

Given that the current family court system denies defendants their constitutional rights in a number of ways and [everybody knows it](#)⁵, although perhaps moot because we have no desire to abandon goal **B**, **A** is actually independent of **B**.

¹ Tinder: www.tinder.com

² Ron Rivest, MIT, 2006: <https://people.csail.mit.edu/rivest/Rivest-TheThreeBallotVotingSystem.pdf>

³ <https://constitution.findlaw.com/>

⁴ Wikipedia: https://en.wikipedia.org/wiki/Judge_Judy

⁵ www.google.com/search?q=state+supreme+court+finds+restraining+orders+unconstitutional

Background

Tinder

- First there was the web and shortly after, dating sites
- In the early 2000's hotornot.com did away with the usual dating site features and showed only a series of faces and HOT and NOT buttons. Hotornot also invented the two-way-like = a match allowing messaging⁶
- Hotornot went viral but also became a feature on every other dating site
- Tinder brings things full circle 10 years later by replacing the site with an app and clicking with swiping. Interestingly, either it also swapped left and right, or the associations of left and right came about some other way
- The experience is so well known that we have a popular song about it⁷ - that it also predates it notwithstanding⁸: "To the left, To the left, to the left; I could have another you in a minute, I could have another you by tomorrow" - and the way we (uh, some of us, anyway) [mis]use it as cheap entertainment by soliciting applications and then casually rejecting {trivially}all}.

Inspiration

Imagine an app like Tinder but instead of looking at potential mates' faces, you are presented with the faces of the plaintiff and defendant in court cases in which all the arguments have been made. If you swipe up you see a few summary items in the case profile - the relationship if any between the two, the charges brought, the punishment sought. But where Tinder has multiple photos of the person, instead this app has multiple arguments: one for opening arguments and rebuttals, one for witness statements, one for closing arguments, one for prior convictions.

Imagine Homer Simpson - or someone you know - looking at the desktop version in a browser. He looks and sees a defendant and wrinkles his brow and mumbles while reading a line or two and frowns and says "Yeah right. Who do u think yer kidding? Guilty" and swipes left. At the next one he frowns harder and says more loudly "*Guilty!*" and swipes left. The third time the defendant is quite scary looking and Homer throws both hands against the sides of his head and yells "WAAAAAAAAA!!" and then removes his hands and scowls and yells "**GUILTY!!!!!!**" and swipes left. The 4th time his face relaxes and softens, and he says "Oh!" "He doesn't look that bad" and then "In fact, almost goody-goody, like Flanders. Alright, we'll give him the benefit of the doubt." "Not Guilty" and swipes right.

⁶ <https://mashable.com/feature/hotornot-history-20-year-anniversary>

⁷ Beyonce, 2006: "Irreplaceable"

⁸ <https://browngirlmagazine.com/to-the-left-to-the-left-how-i-struggled-to-keep-up-with-tinders-speed-of-finding-love/>

This would obviously constitute two abuses of such a system: he only read a few words about the case, not the whole text; and he is a juror too often.

Features

Reversing the traditional negative reaction to jury duty

We said that Tinder is cheap entertainment, and took the swipe part. We now anticipate the opposite of the traditional problem: instead of wanting to get out of jury duty when the postcard arrives, eligible jurors will want to be a juror repeatedly; their desire to participate, to have an effect on the outcome, and to “make a difference” now exceeding their desire to avoid it, now perceiving it as more interesting and less unpleasant than before.

Further, every site has its geeks: users who love the site and compete with other users to get the most views (youtube), or to have authored the most pages (wikipedia), etc. It is no surprise that each also has its bullies. So we should expect there to be some fans who want to be a juror on more cases than any other in the system; some who would like to skew the results by voting "Not Guilty" on every single case that existed, and some the opposite. So we must have a limit of once per year or whatever is appropriate.

Improved Juror's Knowledge of Case Details

We also need to depart from the clean, only-swiping style like Tinder, because we need to add tests, obviously to verify that the user read the case and remembers the details. We will have to add a test - probably a series of short tests, one after each phase of the trial. So we might have multiple choice questions like:

1. The defendant said:
 - a) He can see that someone hit her but it wasn't him
 - b) He admits he hit her, but only after she:
 - a)hit him first
 - b)slept with his best friend
 - c)slept with all his friends

...and by continuing in this manner, we can establish beyond a reasonable doubt that this applicant did indeed watch the videos of the case, followed and understands the arguments that were made and viewed the evidence that was brought. At least as long as the test questions were created with care, of course, until AI can reliably extract the questions from the testimony 100.000% without error.

Removal of jury selection bottleneck

Jury Selection - Juror side

We assumed, a long time ago, that the reason why we have these restraining orders in the 1st place is that jury trials take a long time to set up: the jury selection process can drag on for weeks, and so on. So it is not possible to hold jury trials for minor things like traffic tickets. In our opening discussion above, we suggested using swiping to indicate a juror's decision. But we are not to that point yet. It is time for the lawyers to go ahead with their jury selection, ... by swiping. The pool that they have to choose from is those in the set of users of this system who have passed the tests thus qualifying themselves to be considered.

Jury Selection - Barrister side

This brings to mind that some prosecutors and some defenders might think it in their interests - or against them - for a juror to be someone who also went through the same ordeal, and others in others would not.

Whether yes or no, the point here is that establishing "user preferences" - interest level settings - would aid prosecutors and defenders in finding the potential jurors they are looking for. Which cases are of interest to which potential jurors, and which potential jurors appear to be more moved by court goings-on in the first place.

Technology

Obviously, due to its nature the courtroom has been one of the last places to be affected by the internet; or is a place that has not been yet. For example although we can now do our banking in addition to dating online, we still can't give testimony or present evidence, despite that the technology required has been present for some time. Of course this is a conscious decision, the features have not been brought together into a single place where they can be isolated and certified and so on.

In other words, video chat is ubiquitous; while a few years ago it might have been the domain of a few such as CU-See-me.com, Skype, and Google hangouts, now we have it in any old website. And someone's face is such powerful evidence that it is really them that it takes little added to this - some proof that the audio has not been dubbed, for example - to be something which could be tested and certified as secure enough for a given use. But something does, and the process and software components involved have to be certified.

What of Zoom-like meetings for replacing jury's deliberating rooms? Of course this too could happen at the present time. But as with individual testimony or potential juror interviews, specific chosen tools: applications, encryption standards, etc., have not been chosen, and so cannot have been tested and certified as fit for the purpose and as secure.

Because a jury-room, real or electronic, is a more complicated thing than a single person speaking, and an after-the-fact scrutiny of what took place and how it is known that the process was secure from beginning to end - nothing else happened or was said, and that all is as it is represented, etc., therefore the application that provided the jury-room chatroom would be centralized not distributed, having no parts in apps on phones, but in one piece and existing in a secure server.

Areas where tech features might be applied:

Jury meetings

Jury meetings would take place entirely on secure dedicated hosts running on the same or same type of facilities that any other mission-critical county or state services are run.

Individual testimony

However, testimony is type of evidence which could perhaps be presented remotely: given the ubiquity of phones with cameras and a public which, (if it does not understand them,) has at least has lost its fear of the words *https*, *certificates*, and *public-key/private-key*; and given the existence (if not yet ubiquity) of standard and easy-to-use crypto utility programs like md5sum, it is now easy for anyone with a PC running Windows or a phone to upload something which can be verified to have been received correctly, and then the contents in this way or that, even if the PC or phone is infected with viruses and other malware.

Juror authentication

Verifying that a user of the system logging in is actually that user and not someone else - could be accomplished by standard techniques: face recognition, fingerprints, passwords, passphrases, 2-step schemes.

Vote verification

The 3 Ballot Voting System could perhaps be described or partially described in terms of logical goals: a voter can verify that his or her vote was counted, and is counted correctly, and while remaining anonymous - nobody else can know how they voted, even if their receipt were stolen.

Mechanically, 3Ballot is a system for use of paper ballots without cryptography. Adapting it to be used remotely as in an app or eCourt initially appears to me to be not only in conflict with some of its goals but more difficult than I suspected: for example, 3Ballot assumes that the fact that the paper ballots are falling through a slot into a box will randomize the order in which they came. Representing paper ballots and their handling on the voter's device display and also transmitting the ballot securely are standard problems with solutions, but regarding randomizing the order in which the ballots arrive, they did come in in triplets from multiple voters in whatever order they did, and that order could be known through investigation.

I leave it here temporarily to encourage myself to replace it.

A Better Equipped Jury

A Larger Jury

After the above discussion it would seem like the swiping itself has or will become the smallest part of such a plan, and is now only a gimmick. But although the discussion above refers to a jury and a jury selection process, so was clearly written with a criminal court in mind as well as a family court, the idea - "eCourt" or "Web Court" came about in frustration with our family courts and their restraining orders, wherein the jury size is reduced from 12 to 1, and the 1 is the same person who is the Judge, and there is a time limit of 10 minutes. But what if it were possible to have enough time and dozens or hundreds of Jurors?

The Twinkie Defense⁹ claimed that the defendant is not as guilty as one would first think: that he has committed only manslaughter not murder - because he had just finished eating a twinkie, and was a bit crazy from the sugar. All the public could do was shake their heads and call it a fluke.

This is a poor example, as it is a criminal not family court case and also because it is a sensational not everyday case. But there are plenty of everyday horror stories on the site www.fathersunite.org¹⁰, which goes on to say at the top of the Restraining Orders page: **"No law has been so misused to subvert the rights of any class of people since slavery."**

...and at the bottom: **"Restraining orders are the most egregious abuse of authority by government since Nazi Germany."**

[Womens' similar stories](#)¹¹ are easy to find as well.

A Jury With Enough Time

The 10 minute time limit turns the verdict into a coin toss or else a biased decision, because there is insufficient time for both sides to wholly present their arguments, and care is not taken to halt the arguments at a point which does not favor one side. The Tinder-style of processing family cases would obviously depart from the traditional architecture of being held in one room in one sitting with all present. The argument would be made first, followed by the potential jurors watching them then being tested, then the jury being selected, etc

A number of these steps might be performed remotely, as seen above.

⁹ Twinkie Defense, 1979: https://www.law.cornell.edu/wex/twinkie_defense

¹⁰ https://fathersunite.org/FathersStories_Index.html

¹¹ <https://wamu.org/story/19/08/19/fathers-are-favored-in-child-custody-battles-even-when-abuse-is-alleged/>

A Greater Interest Level

All might agree on a few fundamental statements about the cases in family court:

- That what is most common of all is hurt feelings: more common/numerous than acts of violence, and more common/numerous than violations of the law, and more common/numerous than losses that can be addressed with \$\$, are hurt feelings: infidelity, reasons for it, revenge for it, loss of interest/romance/sex drive, damage done to other relationships, blah blah blah. Who's gonna care? Enough to listen?

- He-said-she-said: This is how the above comes out/is expressed. Again, who will listen, and who is needed? If anybody at all, it will be some who have gone through the same thing in their family. Someone who heard all the same excuses/lies from their own spouse or family members... and see right through it, because they also know how it ends. Hopefully because this time around it is not they themselves who are the players, they will be somewhat free to see their own mistakes, mean statements, games and deceptions as well.

A Greater Gender-Equality

This will be easier to solve. Anyone who was alive in the 1970s is used to hearing: "Women always win in California courts". The family courts and restraining orders are from the same era, and for the same reason. However, with the system described here, an equal number of jurors of both genders could be enforced.

Greater freedom from bias than the court

Since they are not the court itself, a jury of many in a family case would also have the freedom to see and acknowledge and admit that this case is frivolous and should not have been put on calendar at all.

So perhaps we have arrived at the most useful applications for swiping yet. For enabling extremely large juries. In turn by presenting them with the ability to choose the case rather than it being chosen for them, and by making it interesting.

A Self-Selecting Jury

We are used to thinking of the jury selection process as one done by the barristers. What if they chose only the four or six, and the rest of the applicants were screened by them? In that case, we might dispense with the multiple-choice questions described above, and augment or replace them with a verbal exam conducted by one or more of the existing jury members, over videochat. In a videochat any hesitation or eye movement done in order to grab the answer from another window - is clearly visible. In fact, the interviewer could request that the applicant close their eyes, before asking for the 4th of 6 points made in the defendant's rebuttal of the plaintiff's opening arguments. Presumably the existing jurors will care about the accuracy of the verdict as they are here by choice, not obligation, and will resent an applicant who did not take the time that they took, and the result will be a better jury and one with enough time.

Conclusion

If there is hope for the correctness of rulings by a court facing a huge quantity of family cases, with their complicated mess of hurt feelings, mean but legal acts, and he-said-she-said, it lies in a jury of larger than 12 not smaller, one which has sufficient time to spend due to its distributed nature and its nature of staged and stepped progression rather than a single block of time, and one made up of jurors who are interested.

Known Bugs

This paper contains at least one error but this may be it.¹²

References

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¹² van der Linden, Peter, 1994: “Expert C Programming: Deep C Secrets”