**VOIR DIRE**

**Do you accept any government benefits or assistance?**

**Can there be a crime without a victim?**

1. **If you were my client, would you be completely comfortable having you as a juror on this case?**
2. Do you know the difference between common law jurisdiction and statutory jurisdiction?
3. **Can you think of anything in your own life that reminds you of this case? What and how?**
4. Do you know the difference between legal and lawful?
5. **Is there anything that you have seen or heard that would make it hard for you to guarantee to judge my client the same as the other side?**
6. **Is there anything you’d prefer to discuss in private?**
7. **Is there anything we haven’t asked you that you think we should know?**

Q: How would those who know you describe you?

Q: What do people notice about you within the first hour of meeting you?

Q: Where did you grow up?

Q: If you could live anywhere, where would you live?

Q: If you could go to dinner with any famous person, who would it be?

Q: If you could go back in time, what era would you choose?

Q: If you could be an animal, which one would you be?

Q: If you could eliminate one disease (or one crime) from the face of the earth, what would it be?

Q: If you were a comic book character, what superpower would you like to have?

Q: If you could bring back any deceased musician for one concert, who would it be?

Q: Do you have any pets?

Q: Do you have a nickname?

Q: Do you consider yourself open-minded? Rate yourself on a scale of 1 to 10, 10 being the most open-minded.

Q: What is your favorite place to vacation?

Q: Are you a competitive person?

Q: What is one of your favorite activities on Saturday night?

Q: Which of the five senses – sight, hearing, smell, touch or taste – would you least want to lose?

Q: When you are bored, what do you do to stop the boredom?

Q: Do you have any superstitions?

Q: Do you believe in fate?

Q: Do you believe in revenge?

Q: Tell me about the person who most influenced your life?

Q: When you are in the car, do you listen to music or radio talk shows?

Q: When you are alone, do you ever talk to yourself out loud? What do you talk about?

Q: How important is physical fitness in your life?

Q: Would you characterize yourself as a morning person or a night owl?

Q: Would you describe yourself as a leader or a follower?

Q: Do you prefer coffee or tea, sunrise or sunset/ paper or plastic?

Q: Have you ever participated in a protest? What were you protesting?

Q: What is your preferred method of communicating with someone who isn’t in your presence – phone, email, or instant messaging?

Q: Do you screen your phone calls?

Q: Have you ever had a collection? Of what?

Q: Who is your favorite musician?

Q: Have you ever talked yourself out of speeding ticket? Do you remember what you said?

Q: What is your favorite: TV program, book, movie, writer, cartoon character, web site, restaurant, dessert, snack food?

Q: Does your car have any bumper stickers? What do they say? [“My child was inmate of the month at the Wood County jail,” would be a good answer for the defense.]

Q: Do you have any tattoos or piercings? Thinking about getting any?

Q: What stresses you out?

Q: Have you ever baited a fishing hook?

Q: When you are lost, do you ask for directions or do you find your way out by using a map?

Q: Would you describe your social life? Party person or enjoy the peace and quiet of home?

Q: What’s your favorite outdoor activity?

Q: What’s your favorite sport to play (or watch)?

Q: How important is family to your?

(***Permissible “Put Yourself in the Defendant’s Shoes” Questions***)

Q: If you were accused of a crime where your liberty and your future were on the line, would you want to know something about the men and women who were going to decide your fate?

Q: What would you want to know about those people who had your future in their hands?

Q: Would you want the people on your jury to be the sort of folks who would give you a fair shake?

(***Juror’s Neighborhood***)

Q: Tell me a little about the neighborhood you live in.

Q: Tell me about crime in your neighborhood.

Q: What racial groups live in your neighborhood?

(***Occupation***)

Q: What type of work do you do?

Q: Have you had any other occupations?

Q: Do you supervise other people? How many” How do you feel about supervising other people?

Q: Does anyone have current work related projects that are going to occupy your mind to the extent that you wouldn’t be able to concentrate on the evidence that will be presented in this trial?

(***Spouse’s Occupation***)

Q: Does your spouse work outside the home?

Q: What type of work does your spouse do?

Q: Does s/he supervise other people?

Q: What race is your spouse?

(***Membership and Activities in Organizations***)

Q: What organizations or activities do you participate actively in? (Examples of particular relevance might include Mothers Against Drunk Drivers, Parents of Murdered Children, the 100 Club.)

Q: Do ( any of you or how many of you) you do any volunteer work?

Q: Have your ever called in to a radio talk-show or written a letter to the editor?

(***Blogger***)

Q: Do any of you blog? (I don’t need to tell you how revealing an affirmative answer to this could be.)

(***Military Service***)

Q: Is anyone (Are any of you or how many of you are) either presently or previously a member of the armed forces of the United States or the reserve?

Q: When, where, enlisted, drafted?

(***Exposure to Media***)

Q: How much TV do you watch? What are your favorite shows?

Q: Do you like to read? What type of reading do you like?

Q: Do you subscribe to any magazines? Which ones?

Q: Before coming to court today, have you heard anything about this case?

Q: (If a juror has been exposed to publicity negative to the defendant, prosecutors may ask a question similar to the following.) Now you understand that the law says that a juror cannot consider anything other than the evidence that comes out here in court from the witness stand. You cannot consider what you might have read or heard about the case. When you are sworn as a juror, you have to take an oath that you will consider only the law and evidence in arriving at your verdict. I need to know if you can accept and abide by (follow) such an oath?

([***CSI Effect***](http://en.wikipedia.org/wiki/CSI_Effect)) ([1](http://www.maricopacountyattorney.org/Press/PDF/CSIReport.pdf) – prosecutor’s view ), ([2](http://www.tnr.com/doc.mhtml?i=w060605&s=loeffler060706)– New Republic), ([3](http://www.osbar.org/publications/bulletin/05oct/csi.html) – article), ([4](http://www.wpri.org/WIInterest/Vol14no3/Hay14.3.pdf) – article), ([5](http://law.vanderbilt.edu/journals/jetl/articles/vol9no2/Shelton.pdf) – 38pp. research)

Q: Does anyone watch the crime scene investigation shows like CSI, Forensic Files, or Cold Case?

Q: How often do you watch?

Q: What’s you favorite show?

Q: Most of these shows claim to be able to solve crimes using scientific evidence. How do you feels about how accurately these shows depict what happens in the real world of police work?

Q: What do you think about whether or not there is forensic evidence at every crime scene?

Q: Do you think there are some cases where there is simply no forensic evidence?

Q: Do you think it’s possible to prove a criminal case without presenting any scientific evidence?

(***Physical/Mental Infirmity/Condition***)

Q: Does anyone ( Do any of you) have any difficulty seeing or hearing?

Q: Does anyone require frequent medication or medical care? If so, just raise your hand and we can discuss this privately at the judge’s bench.

Q: Does anyone have any health issue or health problem that might interfere with serving on a jury? Again, we can take it up privately at the judge’s bench.

(***Religious Belief***)

Q: Does anyone have a religious belief or religious affiliation that might interfere with sitting in judgment of another human being?

(***Connections to Legal System, Legal Training, Law Enforcement***)

Q: Has anyone or a member of your family ever studied law or worked in a lawyer’s office?

Q: Have any of you or anyone close to you ever been connected with a law enforcement agency, including the district/states attorney’s office, police, sheriff’s department, constable’s office, F.B.I., Treasury Department, the ATF, or the IRS – either as an agent, secretary, consultant, maintenance worker, or any other position?

Q: Have any of you or your spouse ever applied for a job with a law enforcement agency?

Q: Have any of you ever worked in a job where you were involved in investigations of any sort?

Q: What sort of effort would you expect the police to make in investigating a crime?

Q: Do you understand that jurors are not permitted to personally conduct their own investigation of the case?

(***Exposure to Courtroom***)

Q:Have you (How many of you have) ever been in a courtroom before?

(***Victim of Crime, Litigant or Witness***)

Q: Have any of you or any member of your family ever been the victim of a crime?

Q: Have any of you (How many of you have) ever been a witness in a criminal/civil case?

Q: Have you ever been sued or sued someone else in court?

Q: Does anyone have any legal action presently pending in a court? In other words, is anyone currently involved in a lawsuit either as a complainant, plaintiff or defendant?

Q: Without naming names, have you ever known anyone who has a serious problem with drug use?

(***Negative Experiences with Legal System – Arrested or Charged***)

Q: Have you or a loved one ever been arrested and taken into custody by any law enforcement agency?

Q: Have you or a loved one ever been charged with a crime other than minor traffic offenses?

Q: Do you personally know anyone who has been incarcerated in the penitentiary?

(***Feelings re Burden of Proof***)

Q: Some people say that if the police and the prosecutor say a person is guilty, he must be guilty. What do you think about that?

Q: Should the prosecution have to prove the accused person guilty or should the person accused of crime have to prove himself innocent?

Q: (On the burden of proof issue, prosecutors may say something like the following.) The judge is going to tell you that the burden of proving the defendant guilty is on us. There’s a legal presumption in the innocence of all defendants when they go to trial. You’ve probably heard it: ” A defendant person is presumed innocent until his guilt is proved at trial. The law doesn’t say that defendants *are* innocent. It simply says that they are presumed innocent until proven guilty. We gladly accept the burden of proving guilt. Here’s what I need to know: If we present evidence which proves to you beyond a reasonable doubt that the defendant did the crime he is charged with, will you find him guilty?

(***Feelings re Race and Ethnicity***)

Q: Do you believe that the crime rate among blacks (or Hispanics. etc.) is higher than the rate among other racial groups?

Q: What racial group do you believe is responsible for committing most of the crime in our county?

Q: Do you think there will ever come a time in this country when race will have no more significance than the color of a person’s eyes?

Q: Have you ever had an unfortunate experience with a black (or Hispanic, etc.) person?

Q: When was the last time that you had a black (or Hispanic, etc.) person in your home as a social guest?

Q: What contact do you have with black (or Hispanic, etc.) persons?

Q: Have you or anyone in your family ever been “labeled” in an unpopular way?

(***Relationship with Parties, Witnesses, and Legal Officers***)

Q: Are any of you related to or do you know personally any of the following: (Introduce the witnesses, e.g. ” The prosecution’s witnesses are (name them); will these witnesses please rise so that all the jurors may see you. Do any of you know these witnesses?”) (Introduce yourself, e.g., “My name is (*state your name*). I have been a lawyer here in town for (*state the time*). Does any one know me?” and the opposing lawyers,.e.g., “The (prosecution/defense) in this case is represented by (*state the names of opposing counsel*). Do any of you know any of these lawyers or their firm (*name the firm*) or have any of you had dealing with that firm or any of its members?”)

(***Prior Acquaintance with Other Prospective Jurors***)

Q: Do any of you know anyone else on this panel? By that I mean, did you know anyone else in this group of potential jurors before today?

(***Prior Jury Service***) [Note: some lawyers believe that the more criminal cases a juror has been on, the better prosecution juror s/he will be, i.e., s/he he has heard the boilerplate defense spiel a number of times and has probably been educated/lectured by the prosecutor after the case as to the anti-defense information that could not be placed in evidence because of rules of court.]

Q: Has anyone ever served on a grand jury?

Q: Are there any of you who have been summoned for jury duty and, after the lawyers talked to you, excused from jury service; in other words, called for service but not selected to be on the particular jury?

Q: Who has served on a jury? Criminal or civil case? Without telling me what the verdict was, were you able to arrive at a verdict?

Q: Were you the foreperson of that jury?

Q: After the verdict, did anyone come and talk with you? Did you talk with either of the lawyers? Did the judge talk with you? Did you feel comfortable after you were talked to?

Q: How did you feel about the experience of serving on a jury?

Q: Was there anything in your previous jury service that was disturbing, troubling, or upsetting

(***Feelings re Prior Convictions of the Defendant or a Witness***)

Q: If at one time in the past a person was convicted of a crime, some people might think that once a person has been convicted, he could never be believed again? How do you feel about that?

Q: How would you feel about convicting an innocent person just because he had been convicted of a crime in the past?

Q: Should a person who has committed a crime in the past be entitled to less rights than any other person who is accused of a crime?

Q: What would be your impression of a person accused of crime who didn’t testify in his own defense?

Q: Can you think of any reason why a person who is accused of a crime wouldn’t want to testify other than the fact that he might be guilty?

(***Feelings re Credibility of Witness, e.g. Police, Complainant, Defendant***)

Q: Do you understand that a police officer witness (or the complainant) is not entitled to be believed any more than any other witness just because s/he is a police officer (or a complainant). [Prosecution: If the defendant chooses to testify, do you understand that s/he is not entitled to be believed any more than any other witness just because s/he is the defendant?]

Q: In taking the stand, a police officer (or the complainant or the defendant) will have to take an oath like every other witness who testifies. Is there anyone who believes that when a police officer (complainant, defendant) takes the witness stand and swears to tell the truth that it automatically means that s/he is going to tell the truth just because s/he is a police officer (complainant, defendant)?

Q: Is there anyone who believes that a police officer”s (complainant’s, defendant’s) testimony should be given any more weight or credibility just because the witness is a police officer (complainant, defendant)?

(***Feelings re Defense Failure to Call Witnesses***)

Q: How would you feel if the defendant didn’t call any witnesses at all?

Q: Would this make you believe that the defendant was guilty?

Q: What if the defense lawyer didn’t even question any of the prosecution witnesses?

Q: Would you expect the defense to prove the prosecution wrong?

Q: What affect will it have on you if the prosecution (or defense) has more witnesses than we do?

(***Feelings re Circumstantial Evidence***)

Q: When we talk about “circumstantial evidence,” what does that phrase mean to you?

Q: Direct evidence is evidence that proves a fact directly without you having to draw any inferences. Circumstantial evidence is evidence that allows you to draw an inference of the existence of a fact from proof of a different fact. That may sound like jabberwocky or legal mumbo-jumbo, but let me give you an example. [Note: You may give one of the bromide examples of rain or snow; personally, I like using an example of circumstantial evidence that every juror would have recently experienced, e.g., ” Most of us, at one time or another, have been in the yard or at the mailbox when the postal carrier arrives with the mail. On that day, you actually see the carrier deliver the mail into your mailbox. But there are some times when you are not home when the mail is delivered. You just find your mail in the box when you come home. When you left, the mailbox was empty. When you get home, it is full of mail. When you actually see the carrier put the mail into your mailbox – that is *direct evidence* that the postman delivered that mail. But when you return home to find the mail in a mailbox that was empty when you left, that is *circumstantial evidence* that the postman delivered your mail. You didn’t see the mail delivered by the carrier, but you draw a logical inference that the carrier delivered your mail from the circumstantial evidence that its in your mailbox. You draw the logical inference of one fact, i.e., that the carrier delivered your mail from proof of another fact, i.e., the fact that you found mail in the mailbox. We use circumstantial evidence like that every day. Think about it tonight when you get home and have mail in the box. You have a pretty good idea how it got there, even though you weren’t there when it arrived.Another good example – remember the excitement that Robinson Crusoe felt in seeing the human foot print on the beach? Why was he excited? It wasn’t just because he found a footprint in the sand. It was because that footprint was circumstantial evidence that there was another human being on the island. Proof of one fact – the footprint – allowed him to logically infer another fact – someone left that footprint.”] Having said that, is there anyone that has a problem with convicting a defendant based on evidence that is circumstantial, so long as that circumstantial evidence proves guilt beyond a reasonable doubt?

Q:

(***Feelings re Possibility of “Wrong Man”***)

Q: How often do you think it happens that the police and prosecutor have the wrong man?

Q: What about the possibility that an eyewitness might make a mistake in identifying the wrong man as the perpetrator of a crime? ([1](http://criminaldefense.homestead.com/eyewitnessmisidentification.html))

(***Feeling re Defendant’s Innocence and Reasonable Doubt (***[***1***](http://www.juryargument.homestead.com/Samples.html)***) as Trial Begins***)

Q: What is your feeling right now about whether (*name* *the* *accused*) is innocent?

Q: How do you feel about the fact that in order for the prosecutor to win her case, she has to persuade you beyond a reasonable doubt that (*name* *the* *accused*) committed this alleged crime?

Q: If you find yourself in a position where the believable credible evidence points toward guilt and also points toward innocence, who would get the benefit of the doubt?

Q: (Prosecution question) If the defense puts on evidence that conflicts with the evidence presented by the prosecution, is there anyone who believes that the mere fact the the evidence is conflicting creates a reasonable doubt without having to evaluate the credibility of the witnesses and/or the weight of the evidence? In other words, I am asking if there is anyone who believes that *any* conflict in the evidence creates a reasonable doubt?

(***Feelings re Law and Order***)

Q: What do you think about the idea of law and order?

Q: How necessary is it to a civilized society?

(***Connection with Rehabilitation Programs******– Prosecution Question***)

Q: Have any of you or someone in your family ever been associated with a program that was devoted to rehabilitation of persons convicted of crime?

(***When Punishment Is a Matter for the Judge – Prosecution Question***) If you are chosen as a juror and you and your fellow jurors convict the defendant, you will have no say in the sentencing part of the trial. Would that fact have any influence on your ability to be a fair and impartial juror on the guilt/innocence part of the trial.

(***Reservations re Serving as a Juror in the Case***)

Q: Is there anyone who has any reservations or problems whatsoever, no matter how small they may seem, with sitting as a juror in this case? If so, now is the time to talk about them, and we can do that in private up at the judge’s bench if you’d like.

Q: Taking the oath as a juror is kind of like taking vows when you get married. Suppose you are getting married and the preacher asked your intended if he or she promised to love, honor and protect you. If your future spouse answered, “I guess so, ” or “Maybe, ” you probably shouldn’t marry that person. The person may be a good person but just not for that marriage. Why? Because that person is hesitant about being able to commit themselves to the marriage. The same is true with being a juror. There are some cases where you just can’t make the promise to be completely impartial. You are all good people, but that doesn’t mean you are a good juror for this case. If you have any inclination that would cause you at this point to lean toward the prosecution, you wouldn’t be a good juror for this case. And that’s because you wouldn’t be able in good faith to take the vow of 100% impartiality. If you are hesitant about your ability to look at this with total impartiality, now is the time to say so. You don’t want to get married with the wrong frame of mind, and you don’t want to sit in judgment of your fellow man with the wrong frame of mind. At this point, do you have a smidgeon of bad feeling against (*name the accused*)?

Q: Is there anyone who feels now that s/he shouldn’t serve as a juror in this case?

Q: Do you want to serve as a juror in this case?

Q: Is there a question that either myself or the attorney on the other side should have asked you that we didn’t?

Q: Is there something about you that we should know regarding whether you should serve on the jury in this case?

Q: Is there any reason that we haven’t covered in this voir dire questioning that might keep you from being a fair and impartial juror in this case?

(***Closing***)

(Pause. Look at all the jurors with a Z-glance and say the following.) Ladies and gentlemen, I appreciate your honesty, your candor, and your patience. We look forward to presenting our case to you. Thank you, Your Honor.

What reputation is your credibility based on if you're permitted to lie during an investigation?

The fact that it's legal for you to lie to me, and theres a quota of tickets you have to write to keep your job, kinda destroys your credibility in court, doesn't it?