



MINNESOTA JUDICIAL TRAINING UPDATE



CRIMINAL VOIR DIRE QUESTIONS ASKED BY THE COURT

THE MN SUPREME COURT TASK FORCE ON JURY SELECTION HAS RECOMMENDED THAT JUDGES BE MORE PROACTIVE IN ASKING INITIAL QUESTIONS TO THE JURY PANEL DURING JURY SELECTION.

BELOW IS A SAMPLE VERBATIM SCRIPT, INCLUDING A LIST OF JUDICIAL VOIR DIRE QUESTIONS, THAT NEW JUDGES CAN FOLLOW WHEN COMMENCING THE JURY SELECTION PROCESS.

Note: Also Available, By Email Request, Is A Complete Criminal Jury Trial Step-By-Step Guide Designed To Walk New Judges Thru Any Type Of Criminal Jury Trial From The Initial In-Chambers Discussion Thru The Return Of Verdict.

SAMPLE SCRIPT – CRIMINAL JURY TRIAL JUDGE’S COMMENCEMENT OF JURY SELECTION

We are now ready to begin the process of selecting members of the jury who will hear and decide the facts in this case. We will select these jurors in a procedure called voir dire: In plain English, jury selection. The clerk will draw the names of the jurors who are to be questioned regarding whether they should sit on this case. When your name is called, please come up to the front and the bailiff will direct you to a seat in the jury box. If your name is mispronounced, we apologize and ask that you state the correct pronunciation as you come forward. When all of the names have been drawn, then the Court and the lawyers will ask you some questions.

COURT ADMINISTRATOR DRAWS NAMES***Felony:*** 21 = (12 + 1 alternate) + (3 & 5 peremptory challenges)***Misd and Gross Misd:*** 15 = (6 + 1 alternate) + (3 & 5 peremptory challenges)***Note:*** First degree murder: rule 26.02 subd 6; state = 9; defense = 15**1) The Court's Voir Dire – Introductory Remarks**

Ladies and gentlemen, your contribution to the important and serious matter at hand is best assured by your full and free answers to the questions asked during the jury selection process. It is critical that your answers be honest and truthful. You are encouraged to volunteer information. This will shorten the whole process. I will ask you questions about your qualifications to sit as jurors in this case. When I am done, the attorneys will ask additional questions. I hope that you will not take offense at any question you may be asked. Some of you will be excused from serving on the jury. If you are excused, it does not mean that anyone doubts that you are a fair person.

STATE TO THE ENTIRE PANEL:

Those of you not yet called are asked to listen closely to all the proceedings until a jury is finally empanelled. This is because you might be called upon to replace a potential juror who has been excused. It will save time if we do not have to repeat all the questions and you are prepared to offer your answers.

STATE TO THE JURY PANEL:

If your answer to any of the following questions is "yes," please raise your hand. If you would have difficulty responding to a particular question or if your answer to any question by me or the attorneys would be personal or sensitive or have an adverse effect upon another juror, please let me know before answering and you can answer outside the presence of the other jurors. In answering questions, be as candid and truthful as possible. We are not trying to pry unnecessarily into your personal lives. We are merely seeking information to select a fair and impartial jury. We all have attitudes, beliefs, and life experiences that may be important.

QUESTIONS BY THE COURT

- 1) Would anyone have difficulty accepting or following these rules of law:
 - a) The defendant is presumed to be innocent.
 - b) The defendant does not have to take the witness stand and he does not have to call any witnesses or present any evidence.
 - c) The state has the burden of proof.
 - d) The state must prove its case beyond a reasonable doubt. I will define the concept of reasonable doubt later, but please understand, it is the highest burden of proof imposed by our system of justice.
 - e) The defendant does not have to prove his innocence
 - f) The charges I have read are not evidence, and they create no inference of guilt.
 - g) The jury must be unanimous in its verdict.
- 2) Does anyone feel that the defendant must be guilty of something – otherwise he would not have been charged or placed on trial?
- 3) Do any of you know:
 - a) the prosecuting attorney, _____
 - b) the defense attorney, _____
 - c) the defendant, _____
- 4) Are any of you presently involved in any matter where the County/City Attorney's Office is also involved? Have any of you been so involved in the past? Do any of you have an ongoing relationship with the County/City Attorney's Office?
- 5) Do any of you know:
 - a. anything about this case?
 - b. have you read about it or know about it from any source?
 - c. are you familiar with the location involved?
- 6) **Witness List:** I am now going to read you a list of people who may be called to testify as witnesses in this case or whose names might be otherwise referred to. There are ____ names. Please listen carefully. As I read each name, please let me know by raising your hand, whether you know any of these people or are related to them. We may then ask you further questions about your knowledge or relationship. The names are as follows: *READ WITNESS LIST*

- 7) This trial is expected to last approximately _____ days/weeks/months.
- 8) Does anyone:
- a. Have a hearing or seeing problem? (*use hearing impaired devices or real time*)
 - b. Do any of you have any trouble hearing and understanding what I am saying?
 - c. Do any members of the panel suffer from any physical impairment that would prevent or make difficult your service as a juror here today?
 - d. Do any of you have a pressing family or business concern that would make it hard to give this case your full attention? By this question I want to know if there is any situation in your personal life which so occupies your mind that you can't give your full attention to this case here today.
 - e. How many of you are smokers; there is no smoking in the deliberation room; however, in the event any of you should desire to smoke, arrangements may be made with the bailiffs for smoking breaks. Does that create a problem for anyone?
- 9) I will now ask some questions concerning you or your family. I use the word "family" in a rather broad sense to include mother, father, spouse, children, brothers or sisters, in-laws, and any relative with whom you have regular contact.
- a. Have you or a member of your family been a plaintiff or defendant in a civil case?
 - b. Have any of you or a member of your family ever been charged with a crime other than minor non-alcohol related traffic violations? (such as traffic or parking tickets)
NOTE: a DUI is NOT a minor traffic violation!
 - c. Has anyone ever been a witness in a criminal or civil case? Have any of you ever testified in a criminal prosecution? In a civil case?
- 10) Have any of you had prior jury service with this panel? For those of you with prior jury experience with this panel, how many of you have sat on a criminal case? How many of you have sat on a civil case? (see questions a – e below)

- 11) Other than service with this panel, have any of you ever served on a jury before?
 - a. Criminal or Civil? – Different burden of proof;
criminal = Proof beyond a reasonable doubt
civil = preponderance of evidence
 - b. When and where
 - c. Type of case
 - d. Did you reach a verdict (*don't allow attorneys to ask what the verdict was*)
 - e. Are you satisfied it was a fair and just verdict
- 12) Are any of you related to or do you have a close personal or business relationship with any other members of the jury panel? What I am concerned about here is that sometimes when juries are deliberating there will be disagreements between the jurors as to what their verdict ought to be. Looking around at those who are seated in the jury box with you, are there persons who because of a business or personal relationship it would be difficult for you to debate and discuss vigorously your verdict in this case?
- 13) Do any of you have immediate members of your family who work in the field of criminal justice or law enforcement? For Example, a police officer, prosecuting attorney, correctional officer, or some similar type of occupation?
- 14) Is there anyone among you who has strong views for or against police officers? Either against them as a result of their law enforcement work or sympathy for them as a result of their law enforcement work?
- 15) Do any of you feel that the testimony of a police officer or other law enforcement officer is entitled to either more weight or less weight merely because he or she is a police officer?
- 16) Has anyone ever served as an M.P. in the military?
- 17) Have you or any member of your immediate family had any unsatisfactory or upsetting encounters with law enforcement officers which would cause you to have difficulty in accepting or believing any testimony such an officer might give during this trial?
- 18) Have any of you or the immediate members of your family ever been the victim of a crime? (who, when, where, type of crime, arrest, disposition, satisfied). If yes, is there anything about that experience that would make it difficult for you to be a fair and impartial juror in this case? (or leave it to the attorneys to follow up on).

IF DOMESTIC OR SEXUAL ASSAULT IS AN ISSUE IN THE TRIAL

If your answer to either one of the following 2 questions is YES, raise your hand and we will talk with you privately, outside the presence of your fellow jurors.

- 1) Have you, any member of your family or close friend ever been physically or sexually abused?
- 2) Have you, any member of your family or close friend ever been charged with physical or sexual abuse or accused of abusing someone?

Note: *The following questions can be directed to the entire jury panel:*

- 3) Have you ever had a job where you were required to report any signs of physical or sexual abuse of children or young people?
 - a) If Yes, did you ever have to report abuse?
- 4) Do you, any member of your family or close friend work in a hospital E.R.?
 - a) If Yes, has this person ever mentioned seeing children who were physically or sexually abused?

IF THE CASE INVOLVES A DUI OR OTHER ALCOHOL-RELATED OFFENSE

- 1) Is there anyone among you who totally abstains from consuming alcoholic beverages either for medical or personal reasons?
- 2) Is there anyone among you who has any bias concerning someone who consumes alcoholic beverages? By that I mean a strong feeling against that person for consuming alcohol that you would not be able to put aside in reaching a verdict?

IF RACE IS OR MAY BE AN ISSUE IN THE TRIAL

- 1) Please tell us the type of contacts you have had with Blacks/Asians/Native Americans/Hispanics
- 2) Do you work with any Blacks/ Natives Americans/ Asians?
 - a) Describe work setting (i.e. large factory; small office)
 - b) If so, do you socialize with them at work?
 - c) Coffee breaks, lunch?
 - d) Socialize with them outside of work?
 - e) If so, types of activities?
 - f) Have they been in your home? Have you been in their home?
- 3) Do you have kids? Are they in school?
- 4) Are your kids friends with any Blacks/Native Americans/ Asians in school?
- 5) Have your kids' minority friends ever been in your house?
- 6) Have your kids ever been in their minority friend's home?
- 7) Do Blacks/ Native Americans/ Asians live in your neighborhood?
- 8) Do you have any contact with them?
 - a) Describe?
 - b) Ever been in their house?
 - c) They ever been in your house?
 - d) Kids have any contact with them? Their kids?
 - e) Are you friends with them?
 - f) Their kids & your kid's friends?
- 9) Any Blacks/ Native Americans/ Asians in your church?
 - a) If so, describe types of contacts you have with them?
- 10) When you were growing up were there any Blacks/ Native Americans/ Asians in your neighborhood?
 - a) What kind of relationship did you have with them?
 - b) Describe activities you would do with them?
 - c) They ever in your home? You ever in their home?
- 11) Ever date Black/ Native American/ Asian?
 - a) If yes, How did your parents feel about that?
- 12) Your children ever date Black/ Native American/ Asian?
 - a) If yes, How do you feel about that?
 - b) If no, How would you feel about your child dating a Black/ Native American/ Asian?
- 13) Have you or anyone close to you ever been the victim of a crime?
 - a) Do you know the race/ethnicity of the person who committed that crime?
 - b) If yes, Is there anything about the race of the person who committed that crime that would make it difficult for you to be a juror in this case?
- 14) **Is there anything about the race of the defendant in this case that would make it difficult for you to be a juror in this case?**

- 19) Is there anyone among you who has strong views concerning someone who has been arrested? Either against them because of their arrest or sympathy for them as a result of the arrest?
- 20) Questions Concerning Mobile Electronic Devices And Internet Research During Trial:
- a. How many of you own a mobile electronic device such as a Blackberry or iPhone?
 - b. How many of you have access to the Internet at home or elsewhere?
 - c. How many of you regularly access Social Network sites such as My Space, Facebook or Twitter?
 - d. During this trial you will be strictly prohibited from conducting any type of Internet research on the parties, attorneys or issues involved in this case. You will be prohibited from posting information about the trial on Social Network sites such as My Space, Facebook or Twitter. You will also NOT be permitted to take any electronic devices into the jury room during your deliberations.
 - e. Any violation of that prohibition would jeopardize the entire trial; could result in a mistrial and the parties would have to start all over with a new jury.
 - f. Is there anyone here that would not be willing or able to respect and comply with that prohibition?
- 21) Is there anything about the nature of the charge(s) in this case which causes any of you to have some doubt as to whether you could give both sides a fair and impartial trial?
- 22) *Optional* - Photos – Because of the nature of the charges you may be asked to view photographs that are of a graphic nature (i.e. autopsy or crime scene photos); would anyone have difficulty viewing such photos?
- 23) If selected as a juror, each of you must decide this case solely on the evidence produced in court and the law as I give it to you, and not on the basis of passion, prejudice or sympathy. Does that create a problem for anyone?
- 24) Will anyone have a problem following the law as I give it to you, even though you think the law is or should be different? (Example -- black is white).
- 25) Members of the jury panel, what I want each of you to do is take a moment and search your mind and conscience and decide if there is any reason, bias or prejudice you can think of that would prevent you from serving as a fair and impartial juror in this case.

26. Before the attorneys ask their questions, I would like each of you to give a thumbnail sketch of your background: *(use document camera for easy display of questions; or write questions on an easel; or give jurors individual sheets)*

- (a)* Name;
- (b)* City;
- (c)* Occupation;
- (d)* Educational background;
- (e)* Marital Status;
- (f)* Spouse's occupation, if applicable;
- (g)* Children - age and occupation, if applicable.

WHEN DONE, TURN QUESTIONING OVER TO THE ATTORNEYS

Ladies and gentlemen, each attorney now has an opportunity to ask you additional questions and to follow up on the answers given to my general questions. The attorneys have been instructed not to repeat the questions I have already asked you.

Defense Attorney goes 1st: Mr/Ms. _____

Prosecutor goes 2nd: Mr/Ms. _____

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