

DUI Voir Dire Questions

INTRODUCTION

1. Can you give me an example of a law that you disagree with (i.e., the speed limit)?
2. Someone tell me what the First Amendment protects? You see Ladies and Gentlemen, these two ideas work together in jury selection in a case. Here's how: you have been told by the Judge and the Prosecutor much of the law that will govern this case. Now that you know the law, what I want you to know is that you have a Constitutional Right to disagree with the law. I also want you to know that if you disagree with the law, that does not make you a bad citizen or a bad juror. It just means that you should be a juror in a different type of case. Let me give you an example: the law says that a person does not have to testify. Many people disagree with that law and would not follow it because they feel that a person should testify. So, if at anytime, you disagree with any law in this case, your obligation as a juror is to raise your hand and say, **[your name]**, I disagree with that law.
3. In this case, we want to find out who has pre-judged or already made up their mind. There is absolutely nothing wrong if you have pre-judged this case. That is human nature, we all do it. Let me give you an example. [Juror's name], tell me a vegetable you don't like at all? **[Ask the same question to 3 more jurors]**. Everyone does this, even Presidents, for example, President Bush had a vegetable he did not like at all, what vegetable was that?**[everyone will know it's broccoli]**. If President Bush was called for jury duty and the case involved broccoli, we all know that he couldn't be fair no matter how hard he tried. So **[client's name]** and I will be asking you questions and if anything we ask is your broccoli, please let us know. If a President can pre-judge something, it's OK if we do to.

4. Being a good citizen means a person should vote, pay taxes and serve on a jury. A good citizen does not have to vote for a particular candidate, pay the same amount of taxes each year or serve on a particular case. Would you agree or disagree with that?
5. A good citizen is the one who says, "I do not feel I could be a fair and impartial juror in a case like this." Do you agree that if a person feels that way, he/she should say that?
6. I've been coming downtown for 35 years and I've learned that everyone has a type of case where they have such strong feelings that they just couldn't be a totally fair and impartial juror. For me, I just could not be a fair and impartial juror in a Burglary case, the reason is that my home, my office and my car have all been burglarized. I want to find out from ya'll in what kind of case you can't be a totally fair and impartial juror? **[keep asking individual jurors until someone says, DUI or intoxication manslaughter, then say]** (Juror's name), I want to thank you for being so honest, let me go row by row and find out who else agrees with (Juror's Name) that they just could not be a fair and impartial juror in a case of (Child molestation, sexual assault). Row #1, if you feel this way, please raise your card. Row #2, etc.
7. What ya'll are telling me and the Judge is that in a case involving sexual assault, you have such strong feelings that you would not start out as a fair and impartial juror, that you have pre-judged such a case, so please raise your hand again if this is how you feel. Row #1, Row 2, etc.
8. Have you ever wanted to go into law enforcement? Why did you want to go into law enforcement?
9. Please tell us your opinion about groups such as M.A.D.D., S.A.D.D., or similar organizations.
10. Are you presently a member of Alcoholics Anonymous, Narcotics Anonymous, or any other similar group or organization?
11. Have you ever been a member of A.A., N.A., or similar organizations?

12. Please tell us your opinion about groups such as A.A., N.A., or similar organizations?
13. Have you, a family member, or close friend ever have a bad experience with a drunk driver?
14. Have you, a family member or close friend ever been stopped, arrested, charged or convicted of drunk driving? If yes please explain.
15. What have you heard, read or seen on television about the law in Texas regarding Driving While Intoxicated?
16. In Texas, the law was changed to lower the level of intoxication from .010 to .08. What are your thoughts or feels about the level being reduced to .08?
17. Many people have had a beer while driving home from work. Have you ever drank a beer while driving? Did you feel that your driving was affected in any way.
18. Do you agree or disagree with the law that says a person can not have an open container of alcohol while he or she is driving. Why?
19. Do you know anyone that has a drinking problem? If yes, describe how you and that person cope with the disease.
20. Have you ever had one or two alcoholic drinks and then driven a vehicle? If yes, why did you drive your vehicle?
21. Some people feel that it should not be against the law to have one or two alcoholic drinks and then drive. Other people feel that if you have any alcoholic drinks and then drive a vehicle it should be against the law. What is your opinion?
22. How many times per month do you have one or more alcoholic drinks?
23. Do you, any family members or close friends own a business that sells alcohol or alcoholic drinks? If yes, what business?
24. Do you, any family members or close friends work for a business that sells alcohol or alcoholic drinks? If so what is that business?

25. Do you think club owners, club employees, or store employees should be legally responsible for determining if a person has too much to drink? If yes, what sort of measurement should they use for making the determination?
26. If the State proved that **[client's name]** had plead guilty to Driving While Intoxicated on two prior occasions, what influence, if any, would that have on your decision of whether **[client's name]** was driving while intoxicated on this occasion?
27. If a police officer stops a car and learns that the driver had previously been arrested two times for DUI, do you think that fact would influence the police officer in deciding whether the person should be arrested for DUI?
28. Do you think that is fair? Why?
29. Have you, any family member or close friends ever served on a jury for a case involving Driving While Intoxicated?
30. Have you, any family member or close friends ever served on a civil or criminal jury where Driving While Intoxicated was an issue? If yes, please tell us about that situation.
31. Have you, any family members or close friends ever been a witness in a case of driving while intoxicated?
32. The State of Texas has charged **[client's name]** with Driving While Intoxicated. To vote for a verdict of Not Guilty, would you require **[client's name]** to present evidence or testimony? Why or why not?
33. If the State presented witnesses who said **[client's name]** was driving while intoxicated and then you saw a video tape taken shortly after his arrest and he appeared to be sober, what evidence would be more valuable to you? Why?
34. Would you consider probation for a person who has been convicted of driving while intoxicated two prior times? Why or why not?
35. Do you drink alcohol? Why or why not?
36. How do you feel about people who drink alcohol?
37. Do you belong to a church or any other group that is against drinking alcohol? If yes, which one?

38. Some people believe certain races have a more difficult time handling their liquor than other. What do you think about that?
39. Have you ever heard someone say “Drunk Mexican” (Drunk Indian)? If yes, what was your reaction? If no, then how would you react to such a comment?
40. My client, **[client’s name]** is a (race). I am concerned that some people have strong feelings about (race). Have you, a family member or close friend ever had a bad experience with a (race) person? If yes please tell us about that situation.
41. Have you ever heard someone make a joke about a (race)? If yes, what was your reaction?
42. Have you ever been the object of a racist or prejudicial comment? If yes, what was your reaction?
43. What are some of the reasons why a person would continue driving after an accident?
44. Have you ever left the scene of an accident? If yes, please explain:
45. Have you ever been hit by a car that left the scene of the accident? If yes, please tell us about that situation.
46. Have you ever heard the term “out on your feet”? If yes, what does that phrase mean to you?
47. Have you ever seen a person after an accident? If yes, how did that person act? What are some reasons a person’s eyes may be bloodshot, other than alcohol?
48. What are some reasons why a person would have slurred speech, other than alcohol?
49. What are some reasons why a person would be unsteady when they walk, other than alcohol?
50. What are some reasons why a person would stagger when they walk, other than alcohol?
51. What are some reasons why a person might weave while driving, other than alcohol?
52. Would you say you are: very coordinated, coordinated, somewhat coordinated, uncoordinated or very uncoordinated?
53. Give me an example of an exercise you could not do because you aren’t very coordinated.

54. How do you think being tired, exhausted or sleepy would affect a person's coordination?
55. What does "mentally impaired" mean to you?
56. What are some characteristics of mental impairment?
57. What does "physically impaired" mean to you?
58. What are some characteristics of physical impairment?
59. Do you think a person can drink one or two beers and still have the normal use of his mental and physical faculties? Why or why not?
60. Have you ever had one or two beers at a friend's house and then driven home?
If yes, why did you drive?
61. Did you have the normal use of your physical and mental faculties?
62. If you were pulled over by a policeman, in your opinion, would you be guilty of Driving While Intoxicated? Why?
63. Texas law allows a person to drink and drive. What is your opinion of this law?
64. What are some reasons why an innocent or sober person would refuse to take an Intoxilyzer test?
65. Do you think Intoxilyzer are accurate? Why or why not?
66. Do you think a person accused of Driving While Intoxicated should have a choice between a breath, blood, or urine test? Why or why not?
67. If the person accused of Driving While Intoxicated volunteers to pay for the test of his choice, should he be able to choose which test he wants to take? Why or why not?
68. What are some reasons why law enforcement officers would not video tape a person charged Driving While Intoxicated?
69. Have you ever jumped to a conclusion about something and later you were wrong?
If yes, please give us an example:
70. Do you believe that a police officer can jump to a conclusion and be wrong? Why or why not?

71. Have you, any family member or close friend ever been injured by a drunk driver? If yes, please explain:
72. Do you know anyone who was ever accused of drunk driving? If yes, please explain:
73. How would you feel if you were falsely accused of drunk driving?
74. What are some reasons why an innocent person accused of DUI might not testify?
75. At what age do you think it is appropriate for a person to be able to purchase liquor? Why do you feel that way?
76. At what age do you think it is appropriate to allow someone to enter a bar? Why do you feel that way?
77. Some people think it is okay for high school students to drink with adult supervision. They figure that teenagers will do it anyway and it's better than doing it without supervision. How do you feel about that?
78. Some people think it's better to drink beer or wine than hard liquor. What do you think about that?
79. Do you think people are drinking more or less than they used to? Why do you think this may be true?
80. What do you consider too much to drink and then drive a car? Why do you feel this way?
81. Do you feel any differently about women who drink and then drive a car?
82. How many drinks do you think it takes for an average person to become intoxicated?
83. Do you think that some people have a greater tolerance to alcohol? If yes, why might this be true?
84. Have you ever driven and realized later that you probably had too much to drink? Please explain:
85. Have you ever stopped someone from driving because they had too much to drink? If yes, please explain the circumstances.
86. Have you ever been stopped from driving because someone felt you had too much to drink? If yes, please explain:
87. Have you ever been driving and seen another car on the road whose driver appeared to be drunk? If yes, how did this make you feel?

88. How do you feel about mandatory drug testing?
89. How do you feel about law enforcement officers setting up roadblocks to find drunk drivers?
90. What do you think the appropriate punishment should be for a first conviction for Driving While Intoxicated? Why do you feel this way?
91. What do you think the appropriate punishment would be of a repeat offender of Driving While Intoxicated? Why?

DUI VOIR DIRE QUESTIONS

1. Have you, any family members or close friends ever had a bad experience with a drunk driver? Would you mind telling us about that?
 - a. Was there an accident?
 - b. Was anyone injured?
 - c. What happened to the drunk driver?
2. Have you ever known anyone who has been suspected, accused, arrested or convicted of driving under the influence of alcohol or other drugs? Would you mind telling us about that situation?
3. Have you ever known anyone who had to take any type of sobriety test? Would you tell us about that?
4. What are your feelings about sobriety tests, in general?
 - a. What are your feelings about intoxilyzers (where a person is asked to blow into a device designed to measure the amount of alcohol a person has consumed)?
 - b. What are your feelings about coordination tests (for example, when a person is asked to walk a straight line, touch his nose with his eyes closed, balance on one foot, etc., to tell if that person is impaired by drugs or alcohol)?
 - c. What are your feelings about blood/alcohol tests?
 - d. Which type of test do you believe is most accurate? Why?
5. Why would a person who is accused of driving while intoxicated request a blood/alcohol test? How would you feel if you knew that [Client's Name] requested a blood/alcohol test but was not given one by the police officers?
6. Have you ever had a beer, glass of wine or a cocktail and then later driven your car?
 - a. Would you tell us about that?
 - b. How long after you had a beer, glass of wine or a cocktail would you feel it was safe to operate a vehicle?
 - c. We want to be the first to tell you that [Client's Name] did have two or three beers several hours before he was stopped by police. What is your reaction to that?

7. How do you think a police officer would feel if that police officer had been involved in several accidents and was almost involved in another?
 - a. How do you think a police officer who had been involved in several accidents might react to a driver with whom he was almost involved in another accident?
 - b. How do you think a driver who was almost involved in an accident with a police officer might feel if he was pulled over by the police officer?
 - c. How do you feel you might perform on coordination tests if you were upset about almost being involved in an accident with a police officer?
 - d. How well do you perform when you are very nervous?
8. Some people believe that police officers who have been with a DUI task force for many years may be more inclined to believe a driver is intoxicated than other police officers. What is your reaction to that?
9. People have very negative feelings about drunk drivers these days. I am concerned that because people have such negative feelings about drunk drivers, some jurors may believe because [Client's Name] is accused of driving while intoxicated, he must be guilty. What is your reaction to that?
10. Can a person who has been accused of driving while intoxicated get a fair trial? Why or why not?

FELONY DUI
VOIR DIRE QUESTIONS

1. On a scale of 1 to 10, how careful a driver are you? [1 = very careful to 10 = not very careful at all.].
2. On a scale of 1 to 10, how strongly do you support the law that says you can drink and drive?
[1 = you strongly support it to 10 = you oppose it.]
3. Do you feel alcoholism is an illness, addiction or weakness?
Why do feel it is a _____?
4. If a person is a diabetic and doesn't take their insulin, gets in their car, goes into insulin shock, and causes an accident, should that person go to prison? Why?
5. What if it was the person's third (3rd) accident?
6. Who would agree with and who would disagree with, a law which says that a person who is convicted of DUI for a third time shall be sent to prison as punishment? Why?
7. [Depends upon the case / I'd have to hear the facts.] Give me an example of a situation where a person had been convicted three (3) or more times of DUI, but deserves probation and not prison.
8. If a person had been convicted of DUI three (3) or more times, some people could never consider sending that person to prison. Other people could never consider probation. Which of these two (2) categories do you fall into?
9. What kinds of conditions of probation would you feel would be appropriate for a person who had been convicted of DUI three (3) or more times?
10. I am addicted to [smoking, caffeine, chocolate]. Bubba will tell you [or you will learn] that he is addicted to alcohol. If it is not too personal, will you share with Bubba and me something to which you are addicted?
OR: What are some examples of addictions you have heard of and believe are true.
11. WITHOUT MENTIONING ANY NAMES, do you know anyone who is addicted to alcohol?
12. How do you break the cycle of addiction?

13. There have been a number of studies which have shown that education, family support and medical treatments are far more effective and less costly when a person is suffering from alcohol addiction. Do you agree or disagree with these studies? Why?
14. Studies have shown that people who complete treatment programs are much less likely to commit another crime than people who complete a prison sentence. Do you agree or disagree with these studies? Why?
15. How many times would a person have to be convicted of DUI before you would say that you could not even consider giving them probation? Why?
16. Fill in the blank for us: If a person was convicted of DUI _____ times, I would always vote for prison time. Why do you feel this way?
17. What would be some of the benefits of giving a person probation as opposed to sending them to prison?