

Voir Dire in Domestic Violence Cases

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Voir dire provides the opportunity to educate jurors while probing for bias, and if done effectively, can dramatically increase the likelihood of your winning the case. This is the time to ask tough, probing questions of each potential juror. The following sample questions offer a good start.

Some quick pointers:

Former Prosecutor Rusty Hardin suggests that when asking questions of the entire jury panel, try to use the phrase “how many of you . . . ?” which is more inviting of a response than “do any of you. . . ?” He also stresses the importance of smiling, talking in lay terms and not accepting evasive answers.

Prepare your list of questions ahead of time, but listen carefully to juror’s responses to cue you for the next question.

A. **Introduction**: not prying + taken oath to tell truth; it’s okay to disagree with the law, just be truthful about it.

B. **Questions Regarding Violence In General**

1. Have you or anyone close to you been the victim of violence?
2. How many of you have ever witnessed a violent incident?
3. Have you or anyone close to you been involved in a fight for which the police were called?
4. Were you happy with the police’s handling of the situation?
5. Have you ever called the police because of a fight going on in a neighbor’s home?
6. How many of you have ever called the police because you were afraid?
7. Have you ever called the police to protect others from violence?
8. How many of you have seen a normally calm person become violent after using drugs or alcohol?
9. Do you think that using drugs or alcohol should excuse committing a crime?

*Adapted from materials by Casey Gwinn, City Attorney, San Diego, California and
Cindy Dyer, Assistant Criminal District Attorney, Dallas, Texas.*

C. Questions Regarding Bias and Following the Law

1. For how many of you does the defendant's appearance make you believe that he could not have committed this crime?
2. How many of you believe that crimes which take place in the home should not be prosecuted?
3. Do you think you can tell an abuser by how he looks or acts?
4. How many of you think that a woman who has been hit by her partner probably deserved it? Provoked it?
5. Is it okay to beat someone up because of things they say to you? Name-calling? Criticism? Jealousy?
6. Are there any religious, philosophical or moral reasons why you could not find the defendant guilty if you believed he had committed the crime?
7. (For female prosecutors) how many of you feel that because I am a woman and prosecuting this case, that I must be on a women's rights bandwagon?
8. How many of you think that a victim must be married to be a battered woman?
9. How many of you understand that the state of Texas is bringing the case against this defendant? That this is not like a civil case where one person files against another?
10. How many of you understand that the defendant is accused of violating a law of the state of Texas and that's why he is being prosecuted?

D. Questions Regarding Domestic Violence

1. In Texas the law views all assaults the same, whether or not they are related. How many of you think people should not be treated the same?
2. Do you know who is covered under the legal meaning of domestic violence? Do you know that it includes spouses? Members of a family? People who have a child together?
3. How many of you feel that it's wrong for the state to get involved in a domestic violence case?
4. Do you feel that prosecuting domestic violence crimes is a waste of taxpayer's money? Do you feel that domestic violence cases should be handled within the family instead of by the courts?
5. Do you feel that defendants in domestic violence cases should be treated more leniently?
6. Do you feel that domestic violence victims deserve less protection than victims of crimes committed by strangers do?

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7. What do you think constitutes abuse? A hit? A slap? A shove? Use of weapons? Threats?
8. What do you think makes someone violent? Stress? Work? Money problems? Jealousy? Substance abuse? Nagging?
9. Do you feel that abusers must have a good reason if they become violent?
10. Do you feel that abusers must be provoked to become violent?
11. Do you think that abusers believe that it's okay to use violence to get what they want?
12. Do you think that sometimes abusers get violent over unimportant things? Like kids, too noisy, house not clean enough, beer instead of wine. . .
13. How many of you think that a victim who reports a domestic violence crime might be pressured by the suspect not to testify?
14. Do you think that a victim might be afraid for her safety if she testifies?
15. How many of you think that it's possible for the victim to still care for the batterer after the abuse is over? Do you think that will make her more likely to want to cover-up for his actions?
16. If the state can prove this case beyond a reasonable doubt, how many of you would vote not guilty because the victim was the girlfriend of the defendant? The wife? Because the victim did not suffer physical injury? The victim was threatened but not assaulted?
17. How many of you are bothered by a victim who is willing to testify against her violent husband/boyfriend?

E. Questions Regarding Victims Who Will Testifying for the Defendant or Not At All

1. With domestic violence as the number one cause of injury to women in this country, how many of you disagree with the state's decision to press charges even if the victim does not want them to?
2. How many of you think that the state has a responsibility to prosecute people who commit domestic violence crimes, even when the victim does not want them to?
3. How many of you think that a victim might feel that she cannot testify against her abuser out of loyalty? Out of fear? Out of love?
4. Do you think that an abuser could convince a victim that he would never hurt her again if she just gives him this one more chance?
5. How do you feel about a victim who will not testify against her abuser because she is financially dependent on him? Does it matter if they have children together?

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6. How many of you think that it's possible for the victim to want the state to prosecute, but she is not able or willing to testify against the abuser?
7. How many of you have heard of "Battered Woman Syndrome"?
8. Do you think it's possible for a victim to feel guilty for the abuse? To have low self-esteem and think she doesn't deserve any better? To believe she did something to deserve the abuse?
9. How many of you believe that a victim might be too afraid to testify against her abuser?
10. Do you agree that if someone is scared to testify they might not come to court?
11. Do you believe that a victim might have deep religious beliefs, which prevent her from testifying against her abuser?
12. How many of you think that if a victim asks that the charges be dropped that the State should automatically do so?
13. If the State proves this case beyond a reasonable doubt, how many of you would vote not guilty solely because the victim, for whatever reason, did not testify? Or testifies for the defendant?

F. Race and Culture

This issue should be addressed head on. Be sure to obtain the advice of advocates of the same race and culture of the litigants and jurors prior to proceeding. These questions refer to Chicano and Hispanic culture, with the assumption that you will substitute whatever race, culture or religion is relevant for your case. Some of the questions are also specific to the last case for which they were used; please substitute your own case facts.

1. How many of you think that if the prosecutor is white and the defendant is Chicano, then the prosecutor can't be fair?
2. How many of you think that if the defendant is Chicano, he will be more upset if his wife wants to work or go to school?
3. How many of you understand that nobody is allowed to commit murder, even if they believe their wife is getting too modern?
4. How many of you understand that even if a Chicano man thinks that his wife is acting against her culture, he doesn't have the right to kill her?
5. How many of you think that in the Chicano culture a man can make his wife do whatever he wants by using force against her.
6. How many of you think that a Chicano man has the right to slap around his wife or girlfriend because she dresses too sexy or acts flirtatious?
7. How many of you think that the Chicano culture says it's okay to murder your wife if you don't like how she is acting?

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8. How many of you think that the Chicano culture says it's okay to beat your wife if you don't like how she is acting?
9. How many of you think that all Chicanos think and act alike?
10. How many of you think that in Chicano culture, a husband can beat his wife if she goes to school against his wishes? Can he kill her for this?
11. How many of you think that in Chicano culture, a husband can beat his wife if she wears skirts that he thinks are too short? Can he kill her for this?
12. How many of you think that in Chicano culture, a husband can beat his wife if he thinks she is too "tart-tongued"? Can he kill her for this?
13. How will the race of the victim/defendant affect you?
14. Please use five words to describe Hispanic people.
15. How many of you have had any contact with Hispanic people?
16. What were your experiences?
17. How many of you have Hispanic friends or acquaintances?
18. How many of you have any Hispanic co-workers?
19. Please describe your relationship with each.
20. Please describe the typical Hispanic family.
21. Please use five words to describe Hispanic women.
22. How many of you think that Hispanic women are more likely than white women to become victims of domestic violence? Why?
23. How many of you think that racial prejudice no longer exists? If not, why?

G. Opinion of Police and Crimes Against the Community

1. What type of job are the police doing in your city?
2. How many of you have had a bad experience with the police or courts?
3. How many of you are familiar with the phrase "the victim dropped the charges"? How about "the victim pressed charges"?
4. How many of you understand that it is the state that brings the charges against the accused abuser, and not the victim?
5. How many of you understand that the reason the state brings the charges is because the abuser's crimes hurt the whole community?
6. How many of you think that children who grow up in a violent home are more likely to be violent?

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7. How many of you think that witnessing abuse traumatizes children who grow up in a violent home?
8. Do you think that children have to be hit themselves to be traumatized by the abuse? Or do you think that it's enough for them to witness a family member being abused?
9. Is there anything else that I should know that I did not ask?

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