

DUI - Proposed Voir Dire Questions:

1. Do you know any of the parties or their representatives
You should introduce yourself – my name is _____ and I have practiced law in _____ --- This is my client --- _____ and he works at _____ and has a wife named _____ who works at _____ and he has _____ number of children, names & ages & attend school at _____. Do you know them?
(this includes the defendant, prosecutor, defense attorney, Judge, bailiff, clerk or stenographer, or arresting officer, or other officers ?
2. Do you know any of the other jurors on the proposed panel ?
3. Have you been a witness in a criminal case?
4. Have you ever served on a jury before?
5. If so, was it a civil or criminal case?
6. What was the result?
7. Are you acquainted with, related to, or have you ever applied to be a law enforcement officer (this includes police, security, sheriff, and/or guard)?
8. What does the word “impartial” mean to you?
9. What does the word “biased” mean to you?
10. What does the word “favor” mean to you?
11. Have you ever heard of the presumption of innocence? If so, what does it mean to you?
12. What does “proof beyond a reasonable doubt” mean to you?
13. Do you realize that it is not **AUTOMATICALLY** against the law to drink and drive **BUT ONLY AGAINST THE LAW TO DRINK AN AMOUNT THAT IS ABOVE THE LIMIT TO WHERE A PERSON IS IMPAIRED?**
14. Do you realize that in order for my client to be found guilty he must have had a sufficient amount to drink to cause him to be under the influence to an extent that it rendered him incapable of safely operating his motor vehicle (*or other appropriate definition*)?
15. Do you disagree with this law?

16. Do you feel that a person who drinks alcohol and then drives a car has violated the law, regardless of the effect the alcohol had on him?
17. Will my client's admission that he was drinking and driving lead you to believe that he is guilty of the crime charged?
18. Do you think that my client should be punished because he was drinking and driving even though he was not intoxicated?
19. Do you realize that DUI or DWI is an "opinion" crime?
20. What is your understanding of an "opinion" crime?
21. Do you realize that you must make your decision based on whether the facts prove my client's guilt beyond a reasonable doubt? You will be given certain opinions by the police officer, (maybe: by the State's chemical expert) , and in a sense by the breath testing machine. Are you willing to look beyond those opinions, to examine the facts which allegedly support those opinions, and require that the facts prove guilt beyond a reasonable doubt, before voting for a guilty verdict?
22. Have you ever heard of an "intoxilyzer" machine?
23. Do you have any understanding of how the machine works? (Always use the word "machine" instead of "instrument" --- jurors know about machines and how they can malfunction. "Instrument" sounds more scientific than it is).
24. Do you have any preconceived ideas that the "intoxilyzer" test is scientific and always perfectly accurate? In fact, it is true, isn't it, that any machine can malfunction ?
25. Do you believe that the test result ought to be accepted because someone says it is magically "scientific" and somehow "accurate" even though the machine may malfunction or not be working right or may not be properly maintained? Remember the movie 2001 Space Odyssey and "Hal" the computer.....is there a "magical" non-fallible --- perfect machine that never malfunction that can determine guilt or innocence and if there is then why even have a jury trial with people as jurors?
26. Will you allow the test result to substitute for your own opinion based upon the facts you hear in this case?
27. Regardless of the machine's test reading, will you still presume my client to be innocent until proven guilty beyond a reasonable doubt?
28. Do you know what the term "probable cause" means? *(If the juror says "no," ask the judge for an instruction.)*

29. Do you believe that a police officer has probable cause to arrest someone for driving under the influence merely because the person had the odor of an alcoholic beverage on his breath and was driving a car?
30. Have you had any friends, relatives, or acquaintances arrested for DUI or DWI ?
31. Have you had any friends, relatives, or acquaintances who were hurt or had their property damaged by a drunk driver?
32. Would you be offended if the arresting officer were vigorously cross examined?
33. If you were to vote “not guilty,” would you think that your verdict was a criticism and an indictment of the arresting officer?
34. Have you ever challenged or wanted to challenge a traffic citation?
35. Do you believe that alcohol affects different people in different ways?
36. What do you understand the term “tolerance to alcohol” to mean?
37. What do you understand the difference to be between the term “innocent” and the term “not guilty”?
38. What magazines do you read regularly?
39. What newspapers do you read regularly?
40. Have you read any accounts of this case in magazines or newspapers?
41. Have you seen any accounts of this case on television?
42. Have you heard any accounts of this case on the radio?
43. If you were to have an operation, would you require a second medical opinion?
44. Do you realize that the “intoxilyer” takes only one test and renders only one opinion, even though it has the ability to run a second test?
45. The judge will instruct you on the law. Will you promise to follow the judge’s instructions even if they do not seem to fit within your own beliefs, or the way in which you conduct your daily affairs?
46. Can you give a fair evaluation to this case if you have not heard both sides of the story because the defendant chooses to exercise his constitutional right to remain silent? The judge will instruct you that my client does not have to take the stand. He may or he may not.

Number 46 (continued): Isn't it true that there are many reasons that have nothing to do with guilt or innocence that may explain why the defendant chooses not to testify---- such as a fear of public speaking, or maybe he is following the advise of his lawyer or medical problems such as heart problems, or even maybe protecting someone else..... Isn't it true that merely because a defendant does not testify does not mean they are automatically guilty? Do you think that he has something to hide under those circumstances? If my client remained silent or refused to answer in the face of any criminal accusation, would that imply guilt to you?

47. Realizing how important this case is to my client, is there any reason why you think you would be more comfortable sitting on another jury rather than this one?
48. Search your own heart. Is there anything there which will lead you to believe that you have not told me anything that I should know about before I make my decision on whether to request the judge to make you part of this jury?