

Voir Dire

A Practical Pre-Trial Guide (2025)

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About This Guide

Purpose, authorship, scope, and how to use this ebook in real voir dire

This ebook is a structured, practical companion for lawyers preparing to conduct voir dire in Texas trial courts. It distills strategy, law, and step-by-step execution into a cohesive flow you can adapt to any case type—civil or criminal, county or district court. It is designed to be read linearly, but each section stands alone for quick reference at counsel table.

The guidance presented reflects the collective experience of **Hon. Kim Laseter** (District Judge), **Nick Lawrence** (Assistant District Attorney), and **Thomas J. Daley** (Family Law Attorney, KoonsFuller, P.C.). Their vantage points—bench, prosecution, and civil/family practice—provide a 360-degree view that respects legal constraints, jury psychology, and practical courtroom logistics.

How to use this book at each trial stage: Before jury selection, begin with the Foundational Strategy and Preparation chapter to set your roadmap. Then review Foundational Law and Constraints to understand what you can and cannot ask. On the morning of voir dire, lean on the Execution section for a prioritized sequence you can customize to your time limits. Throughout the process, apply the questioning techniques to maximize information gathering. If you encounter restrictions or denied cause challenges, consult the Preserving Error section immediately to make a clean record. Close your preparation by scanning the Legal Citations and Bibliography for authorities you may need to brief or cite on the fly.

This guide assumes you will face two universal pressures: limited time and incomplete information. Your antidote is discipline—start with the end in mind, ask only what you must, and harvest the most useful data for cause strikes and peremptories. Credibility and authenticity remain your core advocacy tools: be clear, fair, and concise; avoid legalese; and remember that jurors are evaluating you and your client from the first moment they see you in the courtroom.



I. Foundational Strategy and Preparation

Start with the charge, plan your time, and set a credible tone

A. Starting Point: The Jury Charge as Your Roadmap. Begin with the end in mind: The finalized jury charge should be prepared before jury selection begins, serving as your ultimate roadmap for the legal issues and rules you must discuss during voir dire. The Goal of Information Gathering: The primary objective of your time is Information Gathering—spending all available time learning as much as possible about the panel members' thoughts and opinions. Resist the impulse to teach the law if it is self-explanatory; focus instead on exposing potential disqualifying biases and gathering data for peremptory strikes. Play the Odds: Play the odds by gathering maximum information and focusing on identifying (and protecting) jurors who are favorable to your side.

B. Judicial Inquiry (Pre-Voir Dire Check). Always ask the judge important jury selection questions well in advance to prepare for constraints and procedures: Time: How much time is allotted for questioning (typically 30 minutes to 1 hour per side in county/district court)? Will the court provide time warnings? Breaks: Will there be a lunch break or recess before the opposing counsel conducts voir dire? Challenges: Does the court require challenges for cause to be made immediately upon identification of an issue, or will they be taken up later (preferably at the bench at the conclusion of general voir dire)? Court's Comments: What initial comments will the judge provide before turning the panel over to the parties (e.g., scheduling conflicts, burden of proof (BOP), etc.)?

C. Professionalism and Authenticity. Be You: Use ideas and suggestions from others, but do not be afraid to be yourself. Credibility is Key: You must maintain your credibility throughout the process; the panel must believe you are fair and treat everyone equally. Tone: Avoid talking like a lawyer; simplify language so that everyone in the audience can understand you. Client Preparation: Discuss jury selection expectations with your client beforehand. The panel is prejudging EVERYTHING about your client from the moment they enter the courtroom.

D. Note-Taking and Documentation. Juror Packets: Before the jury is brought in, review the Juror Information Packets (which contain name, DOB, address, and sometimes occupation). Juror Squares Sheet: Use a dedicated Juror Squares Sheet to write down information each juror provides during selection. Write in the juror's name and occupation in each square beforehand; note if information is retired or unknown so you know whom to ask later. Two-Chair Responsibility: The lawyer conducting the selection is just as responsible as the second chair for taking notes. Interrupt and Speak Up: If you cannot hear a juror's response, you must interrupt and speak up. System Development: Develop a shorthand and a system for note-taking, especially related to challenges for cause.

Summary: Strategy becomes effective only when it meets the boundary lines of the law. Before you step in front of the panel, be crystal-clear about qualifications, disqualifications, and the limits on commitment questions. The next chapter gives you those guardrails in plain language so your questions are productive and admissible—and your record is clean.



II. Foundational Law and Constraints

Qualifications, strikes, bias, and commitment question limits

A. Qualifications and Disqualification.

General Qualifications: Jurors must be 18+ years old, a U.S. citizen and resident, able to read and write, and not convicted of (or currently under indictment for) a felony or misdemeanor theft.

Exemptions: Exemptions often include being over age 75, having legal custody of a child under 12 that requires supervision, or being a student whose classes would interfere with service. Grounds for Cause Strikes (Unlimited): A juror may be struck for cause if they cannot follow some aspect of the law (e.g., the charged offense, the Fifth Amendment, or the presumption of innocence).

B. Peremptory Challenges. Allocation: In a civil district court case, each party is typically given six peremptory strikes; in county court, three. In felony cases, 10 per side; misdemeanor cases, 3 per side. Use: Peremptory strikes can be used for any reason other than those based on protected classifications (race, gender, or ethnicity).

C. Striking for Bias (The Cortez Rule). The law governing juror disqualification based on bias changed significantly with *Cortez v. HCCI-San Antonio, Inc.*, 159 S.W.3d 87 (Tex. 2005). Definition of Bias: Bias is an inclination toward one side of an issue, but to disqualify, the state of mind of the juror must lead to the natural inference that he or she will not or did not act with impartiality. Rehabilitation is Possible: A prospective juror who expresses an apparent bias can often be rehabilitated, especially if their partiality stems from confusion or misunderstanding. The trial court must consider the entire examination, not just isolated answers. Unequivocal Bias: If the record clearly shows the juror is unequivocally biased (e.g., they state they cannot follow the law regardless of the court's instruction), disqualification is warranted. Inoculation Tip: Avoid using the word "bias" or inoculate the panel against the word early on. Focus your questioning on whether the juror can set aside preconceived ideas and follow the law.

D. Improper Commitment Questions (The Hyundai/Standefor Rule). The Constraint: Inquiries that seek an opinion about the evidence or attempt to commit a juror to a specific outcome or view regarding the weight of evidence are generally improper. Texas Precedent: You must be careful to avoid questions that test possible verdicts based on case-specific relevant evidence, as articulated in *Hyundai Motor Co. v. Vasquez*, 189 S.W.3d 743 (Tex. 2006). Review *Standefor v. State*, 59 S.W.3d 177 (Tex. Crim. App. 2001) to clarify what constitutes an improper commitment question.

Summary: Knowing the rules lets you tailor your script. In the next section, you'll find a prioritized sequence for voir dire that respects these limits while extracting the maximum information about attitude, experience, and potential disqualification. Use it as a checklist, adapting your phrasing to the court's preferences and your case theory.



III. Execution: Structuring Your Voir Dire

A stepwise sequence to maximize information within time limits

Given time limits, structure your voir dire to cover the essentials first. The following order is recommended, with goals and exemplar language you can adapt.

- 1) **Introduction.** State your name. Apologize in advance for the awkwardness of the process and for leaning over to write notes.
- 2) **State Jurors' Only Job.** Tell them their job is to state thoughts/opinions; there are no right or wrong answers. The only way to "screw this up" is to tell the lawyers what they think the lawyers want to hear.
- 3) **State Charge/Elements.** Tell the jury what the defendant has been charged with. If the offense is self-explanatory, move quickly; if it contains complex concepts (like DWI), explain further.
- 4) **Cause Off Jurors.** Go row by row, asking: "Even if I prove every element of this offense Beyond a Reasonable Doubt, is there anyone here that thinks I still wouldn't be able to follow the law and find them guilty?"
- 5) **Range of Punishment.** State the range of punishment for the offense (e.g., probation up to 2 years, jail time).
- 6) **Judge/Jury Punishment.** If the jury determines punishment, ensure everyone can consider the full range of punishment. Ask: "Can everyone promise me that after hearing the facts, if you think probation is appropriate then you will consider giving probation, and that if you think jail time is appropriate then you'll consider giving jail time?"
- 7) **Morals/Judgment.** Check for moral/religious/ethical beliefs preventing them from sitting in judgment of others.

8) **Employment/Demographics.** Ask those whose packets are blank or say "retired" what they do for a living (or did when working). Use personal advocacy with individual jurors here.

9) **Defendant's Rights.** Briefly list the rights the defendant is entitled to (Jury trial, presumption of innocence, 5th Amendment, etc.).

10) **Witness Credibility.** Emphasize that the jury is the sole judge of credibility. All witnesses must start on a level playing field (e.g., a police officer in uniform vs. a civilian).

11) **Prior Experience.** Inquire about prior criminal jury service, negative experiences with law enforcement, or having been affected by the offense being tried.

12) **Fears and Issues.** Don't be afraid to tell the panel your fears (e.g., concerns about sympathy, large monetary verdicts, or sensitive issues). Address your 1–2 largest unique issues that might dictate the outcome.

13) **Empty Squares.** If time remains, use the Empty Squares Sheet to go to jurors who provided little information and learn more about them.

Throughout, keep looping and use specific, non-leading, open-ended prompts to surface real attitudes rather than rehearsed civics answers.

Summary: Techniques amplify structure. The next chapter provides questioning tools—open-ended prompts, targeted follow-ups, and looping—to deepen responses while staying on the safe side of commitment question rules. Integrate them into each step above so that every minute moves you closer to informed cause challenges and effective peremptories.



IV. Effective Questioning Techniques

Open-ended prompts, address specific jurors, and loop effectively

Open-Ended Questions: Use open-ended, interactive questions to learn the maximum amount of information about the jurors' thoughts and opinions.

Address Specific Jurors: To break the ice and encourage participation, call on a specific panel member to answer an important question before asking for a general show of hands. **Looping:** Use the powerful technique of looping. When you receive an answer favorable to your case, repeat that exact answer to several other specific panel members and ask if they agree. This reinforces the concept, using a peer as the messenger. **The Catch-All:** Before concluding your questioning, ask a final "catch-all" question, such as: "Is there anybody sitting out there that is thinking, if [I] had just asked me this one question he would have learned something that is very important about me?"

Practical phrasing tips: Replace abstract terms with everyday language. Instead of "Can you be impartial?" try "Is there anything about your experiences that would make this kind of case hard for you to judge?" Swap yes/no questions for "Tell me about a time..." or "What concerns do you have about...?" Follow up with "What makes you say that?" and "How would that affect how you weigh testimony?" Keep a visible, respectful cadence: ask, listen, reflect back, and invite others to react—then mark your notes for potential cause or peremptory action.

Guardrails while probing: Avoid committing jurors to outcomes tied to specific facts you expect at trial. Instead, explore principles. For example, in a DWI case, do not ask, "If you hear one failed field sobriety test, will you convict?" Ask, "How do you think about deciding whether someone is impaired—what kinds of things would you want to consider?" That invites discussion of standards without locking jurors into an evidentiary threshold.

Managing silence and dominant voices: If the room goes quiet, cold-call gently with permission—"Ms. Lee, can I get your thoughts on that?" If one juror dominates, thank them, summarize their point, and pivot—"That's helpful. I'd like to hear a different perspective. Mr. Nguyen?" Use name tents from juror packets to speed rapport and accuracy in your notes. Interrupt politely if you miss a response—accuracy beats politeness when the record matters.

V.

Preserving Error: The Hallett Rule

Exact steps to protect appellate rights when voir dire is restricted

If the trial court denies a motion to strike a juror for cause, you must follow these steps to preserve the issue for appeal: 1) Use a peremptory challenge against the juror whose cause strike was denied. 2) Exhaust all remaining peremptory challenges. 3) Notify the trial court that you have exhausted your strikes and identify a specific objectionable juror who will now remain seated on the jury as a result. **Note on Questioning Denial:** If the court improperly restricts your voir dire time or scope, you must timely state the exact questions you were prevented from asking (not just general areas of inquiry) to preserve the complaint.

Precision matters: Appellate courts require a clear causal chain—denied cause strike, forced expenditure of a peremptory, exhaustion, and identification of an objectionable juror who remained. Any missing link breaks preservation. Similarly, when time or scope limits block essential questions, make a concise, specific proffer: read each excluded question into the record, tie it to your theory of the case, and cite authority where possible (e.g., *Babcock* for scope, *Standefer/Hyundai* for commitment boundaries).

Practical script for the record: "Your Honor, I renew my challenge for cause to Juror No. 22 based on their statement that they could not consider the full range of punishment. If the Court denies, I will use a peremptory. I will then exhaust all remaining peremptories and identify Juror No. 9 as objectionable and seated as a result." For constrained questioning: "Your Honor, for the record, I was prevented from asking the following questions: [read verbatim]. These are necessary to discover bias under Cortez and to exercise peremptories intelligently under Batson-compliant standards."

With preservation secured, close your preparation loop by reviewing core authorities you may need to cite in real time. The next section lists select legal citations, followed by a bibliography of articles and presentations for deeper study and current best practices.



VI. Select Legal Citations

Controlling and persuasive authorities to keep at your fingertips

Batson Challenge Standard (Civil/Criminal): *Batson v. Kentucky*, 476 U.S. 79 (1986); *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614 (1991). **Bias and Rehabilitation:** *Cortez v. HCCI-San Antonio, Inc.*, 159 S.W.3d 87 (Tex. 2005). **Commitment Questions (Civil/Weight of Evidence):** *Hyundai Motor Co. v. Vasquez*, 189 S.W.3d 743 (Tex. 2006). **Commitment Questions (Criminal Standard):** *Standefer v. State*, 59 S.W.3d 177 (Tex. Crim. App. 2001). **General Scope of Voir Dire:** *Babcock v. Nw. Mem'l Hosp.*, 767 S.W.2d 705 (Tex. 1989). **Preservation of Error (Cause Strikes):** *Hallett v. Houston Nw. Med. Ctr.*, 689 S.W.2d 888 (Tex. 1985).

Quick-use notes: Keep a one-page bench brief with short parentheticals. **Batson/Edmonson:** peremptories cannot be based on race, gender, ethnicity; be ready with neutral reasons and comparative juror analysis. **Cortez:** bias must show inability to act impartially; rehabilitation through full context allowed. **Hyundai/Standefer:** avoid case-specific commitments; test principles, not verdicts. **Babcock:** wide scope to discover bias within reasonable limits. **Hallett:** exact steps to preserve error when cause strikes are denied.

Application under pressure: When opposing counsel objects that your question "commits" the panel, respond: "Your Honor, I'm not testing a verdict on expected evidence; I'm exploring whether jurors can follow the court's instruction to consider the full range of punishment and weigh credibility on a level playing field under *Standefer* and *Cortez*." If the court sustains, pivot to a principle-based variant and preserve with a verbatim proffer.

VII.

Bibliography

Seminar materials, articles, and cited cases for deeper study

Articles and Presentations from Legal Seminars

Each of these articles is available on www.TexasBarCle.com.

David M. Gonzalez, **Voir Dire in Polarized Times**, STATE BAR OF TEX. 17TH ANNUAL BUSINESS DISPUTES, ch. 14 (Sept. 2025).

Jason Smith & David F. Johnson, **Voir Dire (In a Post COVID World)**, STATE BAR OF TEX. 14TH ANNUAL BUSINESS DISPUTES, ch. 20 (Sept. 2022).

Hon. Les Hatch, **The Law on Voir Dire**, STATE BAR OF TEX. BECOMING A FAMILY TRIAL LAWYER, ch. 4.2 (Mar. 2024).

Lisa Blue & Robert Hirschhorn, **How to Get All the Jurors Talkin' and Your Unfavorable Jurors Walkin'**, STATE BAR OF TEX. 13TH ANNUAL ADVANCED TRIAL STRATEGIES, ch. 3 (Feb. 2024).

Thomas C. Riney, **A Primer on the Law of Voir Dire**, STATE BAR OF TEX. 16TH ANNUAL BUSINESS DISPUTES, ch. 16.1 (Sept. 2024).

A. Blue & Robert B. Hirschhorn, **A Practical Guide to Effective Voir Dire** (Trial Advocacy Materials, undated).

Cited Cases. The following cases are cited within the source materials and constitute relevant legal authority referenced throughout the discussion of Voir Dire and Jury Selection.

Alonzo v. Jolly, 647 S.W.3d 764 (Tex. App.—Houston [14th Dist.] 2022). **Babcock v. Nw. Mem'l Hosp.**, 767 S.W.2d 705 (Tex. 1989). **Batson v. Kentucky**, 476 U.S. 79 (1986). **BNSF Ry. Co. v. Wipff**, 408 S.W.3d 662 (Tex. App.—Fort Worth 2013). **Brooks v. Armco, Inc.**, 194 S.W.3d 661 (Tex. App.—Texarkana 2006). **Cortez v. HCCI-San Antonio, Inc.**, 159 S.W.3d 87 (Tex. 2005). **Davis v. Fisk Elec. Co.**, 268 S.W.3d 508 (Tex. 2008). **El Hafi v. Baker**, 164 S.W.3d 383 (Tex. 2005). **Edmonson v. Leesville Concrete Co.**, 500 U.S. 614 (1991). **Golden Eagle Archery, Inc. v. Jackson**, 24 S.W.3d 362 (Tex. 2000). **Gregory v. Chohan**, 670 S.W.3d 546 (Tex. 2023). **Hallett v. Houston Nw. Med. Ctr.**, 689 S.W.2d 888 (Tex. 1985). **Hyundai Motor Co. v. Vasquez**, 189 S.W.3d 743 (Tex. 2006). **In re Commitment of Hill**, 334 S.W.3d 226 (Tex. 2011). **K.J. v. USA Water Polo, Inc.**, 383 S.W.3d 593 (Tex. App.—Houston [14th Dist.] 2012). **McCoy v. Wal-Mart Stores, Inc.**, 59 S.W.3d 793 (Tex. App.—Texarkana 2001). **Miller-El v. Dretke**, 545 U.S. 231 (2005). **Murff v. Pass**, 249 S.W.3d 407 (Tex. 2008). **Palmer Well Servs., Inc. v. Mack Trucks, Inc.**, 776 S.W.2d 575 (Tex. 1989). **Peña-Rodriguez v. Colorado**, 137 S. Ct. 855 (2017). **Powers v. Palacios**, 813 S.W.2d 489 (Tex. 1991). **Ratliff v. State**, 690 S.W.2d 597 (Tex. Crim. App. 1985). **Standefor v. State**, 59 S.W.3d 177 (Tex. Crim. App. 2001). **United Rentals N. Am. Inc. v. Evans**, 668 S.W.3d 627 (Tex. 2023). **Wells v. Barrow**, 153 S.W.3d 514 (Tex. App.—Amarillo 2004).

Using the bibliography: Before trial, select two to three articles aligned with your case type and venue. Extract sample questions, rehabilitation techniques, and panel management tips. Pair those with tabbed copies of Cortez, Standefor, and Hyundai for quick citation when objections arise. Post-trial, revisit these materials to refine your approach based on what worked and what didn't.

