

TRIAL ADVOCACY

HANDOUT #3 - Make one copy for each student

HOW TO PREPARE EFFECTIVE QUESTIONS

Voir dire is the attorneys' first opportunity to communicate with the jury and to begin winning them over. In this assignment, you are an attorney preparing to question prospective jurors. Draw up a list of questions that will aid you in determining jurors' possible prejudices in a criminal or civil case. Open-ended questions reveal more information than "yes--or-no" questions.

Your role in voir dire is to discover jurors' attitudes that are either antagonistic or sympathetic toward your side and to establish a rapport with individual jurors. Think about what issues are most relevant. Phrase your question carefully and know why you are asking it. Remember that attitudes are formulated by many things, including family values, experiences and media (especially television). Possible areas for questioning might include the following:

Criminal cases:

- \$ attitudes toward police, law, punishment
- \$ attitudes about certain kinds of defenses such as self defense or insanity pleas.
- \$ experiences with police, courtroom, justice system

Civil cases:

- \$ attitudes toward corporations, insurance companies, etc,
- \$ experiences as stockholder, victim of fraud, etc.

All cases:

- \$ occupation
- \$ racist or sexist attitudes
- \$ desire to serve and previous jury experience
- \$ group membership (political, MADD, Chamber of Commerce, etc.)
- \$ connections with parties involved in the case, directly or indirectly
- \$ beliefs that may directly/indirectly prejudice the case
- \$ ability to weigh conflicting testimony
- \$ knowledge about case

Tips:

1. Word your questions carefully, but try to compose them conversationally.
2. Speak distinctly and listen carefully to the answer, maintaining eye contact. Follow up on any answers that need clarification. Avoid sexist language or any other references that rely on stereotypes and prejudices.

3 Do not duplicate questions already asked by the judge or other attorneys.

4. When in doubt, word the question so that the juror states explicitly that he or she can be open-minded and apply the law, not personal opinion.

5. Where feasible, direct your initial questions collectively to the original group of jurors summoned to the jury box rather than repeating each question to each juror individually. Direct specific questions to individuals to follow up or clarify.