Criminal Jury Trial

(Bailiff asks for all to rise, announcing the judge, county and precinct)

**\*\*\* Before the jury is brought in, you need to have a discussion with the Defendant while the State is present; this can be in your office or chambers, but may also be held in the courtroom.\*\*\***

**Mr./Ms. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(defendant), now that you are here for your trial day, I want to make sure you understand your rights. First, you do not have to say or do anything. You may choose to make arguments, ask questions of witnesses, and present evidence, but you do not have to do any of these things. You also do not have to testify.**

**Do you understand your rights?**

**You may also choose to change your plea now or at any time before the case is over and I have given my judgment.**

**Do you understand this choice that you have?**

(Bailiff brings in the potential jurors.)

**Judge: Good morning. My name is Judge \_\_\_\_\_\_. You’ve met the Bailiff, \_\_\_\_\_\_\_\_\_ already. My court clerk, \_\_\_\_ , (is seated here OR may also enter the courtroom from time to time and if he/she does, he/she will sit here.)**

**This other chair is called the witness stand and anyone who will be giving testimony under oath will sit here to speak.**

**Today we have the case of The State of Texas v \_\_\_\_\_\_\_\_\_\_\_\_.**

**Are both parties ready?**

(Allow both parties to answer.)

**I am now going to call roll for the potential jurors who have been selected:**

(Call the roll.)

**Now that we know what jurors are here, I need to place you under oath before the questioning begins. Please raise your right hand.**

**"You, and each of you, solemnly swear that you will make true answers to such questions as may be propounded to you by the court, or under its directions, touching your service and qualifications as a juror, so help you God."**

**We will be selecting six of you today. Even if you are not chosen, we want to thank you for your service.**

**Please turn OFF all electronic devices. If your phone is not turned off, the Bailiff will hold it until jury selection is over. This applies to the parties, as well.**

**You are going to determine the facts of this case; I will ensure that the case proceeds fairly.**

**This is a criminal case. The State of Texas claims that a law was broken and has brought this case to trial.**

**This will probably not be necessary, but if this case should go on longer than a couple hours, there may be breaks where you would have an opportunity to see the parties or witnesses outside of the courtroom. Remember to keep your distance from them and do not communicate, so that we can keep the process neutral and fair.**

*\*\*\*Know the jury process in your county – these questions may have already been asked in pre-jury service proceedings.\*\*\**

**The law requires me to qualify or make sure that jurors are eligible to serve. Please listen carefully to the six qualificiations.**

* **All jurors must be 18 years of age or older**
* **A citizen of this county and of this country**
* **Be able to read and write**
* **Currently, or are eligible to become, a qualified voter in this county or state under the Constitution and laws of this state. This does not mean you must be registered to vote, but only means your privilege to vote has not been lost**
* **Not convicted of a misdemeanor theft or a felony**
* **Not under indictment or legal accusation for a misdemeanor theft or any felony**

**If you don’t meet one or more of these qualifications, could I please get you to form a line here?**

*\*\*\*Remember to allow individuals to come up to the bench and discuss these issues privately with the judge and the parties.\*\*\**

*\*\*\*If anyone does not meet these REQURED qualifications, they may not serve on the jury; you should wait until the end of these questions to thank the jurors for their time and tell them that they are excused.\*\*\**

**Thank you for your patience. I have a few more questions to ask. If any of these questions apply to you, you may choose to be excused, but it does not mean that you are not allowed to stay and be considered for the jury if you choose. Please raise your hand ONLY if you do qualify and WANT to be excused.**

* **Is anyone over 70 years of age?**
* **Does anyone have legal custody of a child younger than 12 years of age, and being here means the child does not have adequate supervision?**
* **Are there any secondary school students with us (grade 9-12)?**
* **Is anyone enrolled and in actual attendance at an institution of higher education?**
* **Are any of you officers or employees of the Texas senate, house of representatives, or any department, commission, board, office, or other agency in the legislative branch of state government?**
* **Are any of you primary caretakers of an invalid unable to care for himself/herself?**
* **Does anyone have a physical or mental impairment or are you unable to understand or speak English?**
* **Are any of you members of the United States military forces serving on active duty and deployed to a location away from the home station and out of the county of residence?**

*\*\*\*If anyone raised their hand to say that they meet the criteria and want to be excused, you can ask follow-up questions to make sure that they do meet the criteria to be excused.\*\*\**

*\*\*\*You should wait until the end of these questions to thank the jurors for their time and tell them that they are excused.\*\*\**

**For those of you remaining, I am now going to ask for any excuse why you cannot serve on this jury today. This trial should only last a couple hours. Let me inform you that generally, the fact that you are missing work is not enough. Does anyone have an excuse why you cannot serve today?**

*\*\*\*Hear the reasons but know that if one ‘works’ other jurors may try the same excuse.\*\*\**

**The parties will now have an opportunity to ask you questions. They may ask you individually or as a whole panel. They cannot ask you how you would rule in this case. Each side will be limited to 15 minutes.**

**State, you may begin.**

(once the State is finished)

**Mr/Ms. \_\_\_\_\_\_\_\_\_\_\_(defendant), you may now begin your questioning of the jury panel.**

(once the Defendant is finished)

**Potential jurors, thank you for being upfront in your responses to the questions. At this time, I’m going to have Bailiff \_\_\_\_\_\_\_ take you out of the courtroom so that we can decide the jury for this case.**

(Jurors leave the courtroom.)

**\*\*\*Give both sides an opportunity to look over their notes.\*\*\***

(to the parties) **We will first discuss any strikes for cause. This means did any juror say something that you believe makes them unable to be fair and neutral in this case?**

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you have any challenges for cause?**

*\*\*\*If a party says yes, they must state which juror, what was said, and the other party can argue against striking for cause. Then you must decide to strike the juror for cause or not. \*\*\**

**Mr./Ms. \_\_\_\_\_\_ (defendant), do you have any challenges for cause?**

(once all challenges for cause are stated)

**Now that the challenges for cause are complete, I will give each side 5 minutes to decide on your 3 peremptory strikes. Please use (the ‘Peremptory Strike Form’, the list of jurors, or your county’s form for this) and sign at the bottom when you are finished.**

**\*\*\*Collect the lists and create your own master list of the selected jurors.\*\*\***

(Read aloud the six remaining jurors IN ORDER to the parties.)

*\*\*\*Remember, if one side objects to the other improperly striking someone based on race, ethnicity, or gender, you must ask the striking party for a ‘neutral’ reason for striking and rule on it.\*\*\**

(You do not have to have an alternate juror, but if you choose to, follow this procedure)**That makes jurors \_\_\_\_\_(list the next 3 jurors by number or name) the potential alternate jurors. You have one strike each. Mr./Ms. \_\_\_\_\_ (prosecutor), do you have a peremptory alternate strike? (take their one strike)Mr./Ms. \_\_\_\_\_\_\_\_\_(defendant), do you have a peremptory alternative strike? (make their one strike)**

**Does either side have an objection to the panel?**

**Bailiff \_\_\_\_\_, please bring the jurors back into the courtroom.**

(Jurors re-enter the court room.)

**Ladies and gentlemen, again thank you for your time. Like I mentioned before the questions began, we were trying to pick the best jury for this particular case. None of you did or said anything wrong. If you are not selected, please do not take it personally.**

**The following jurors are needed to remain:** (list the jurors)

**All other potential jurors are free to go at this time. Thank you for your service today.**

(after other jurors leave)

**Now that you have been selected, I need you to raise your right hand and take a new oath:**

**"You and each of you do solemnly swear that in the case of the State of Texas versus the defendant, you will render a true verdict according to the law and the evidence, so help you God".**

**Members of the Jury, before the trial begins, I want to let you know what is going to happen today.**

**As I mentioned before, this case will not likely last longer than a couple hours, but I will pay attention to the need for comfort breaks.**

**This is a criminal case in which the Defendant stands charged by complaint with the offense of \_\_\_\_\_\_\_ The complaint alleges** (read the complaint) **this complaint the Defendant has pleaded “Not Guilty.”**

**You are instructed that in all criminal cases the burden of proof is on the State. is the Defendant is presumed to be innocent until the guilt of the Defendant is established by legal evidence beyond a reasonable doubt, and in a case where you have a reasonable doubt as to the defendant’s guilt you shall acquit him and say by your verdict “Not Guilty.”**

**You are further instructed as a part of the law in this case that the complaint against the defendant is not evidence in the case, and that the true and sole use of the complaint is to charge the offense and to inform the defendant of the offense alleged against him.**

**Every defendant in a criminal case has the right to testify if he desires to do so; but he also has the constitutional right not to testify. If a defendant does not testify, you will be instructed that you cannot comment on the failure of the defendant to testify, and you cannot consider it as any evidence against the defendant.**

\*\*\*ONLY if the defendant has elected to have the jury access punishment say this: **The punishment authorized for this type of criminal case is \_\_\_\_\_\_\_\_.\*\*\***

**I am going to read to you the following jury instructions. I will then sign them and give them to the Bailiff so that you will have them during deliberations.**

**1. Do not mingle with or talk to the attorneys, the witnesses, the parties, or any other person who might be connected with or interested in this case, except for casual greetings. They must follow these same instructions and you will understand it when they do.**

**2. Do not discuss this case among yourselves until after you have heard all of the evidence, the court’s charge, the attorneys’ arguments, and until I have sent you to the jury room to consider your verdict.**

**3. Do not make any investigation about the facts of this case by phone calls or internet searches. This is improper. All evidence must be presented in open court. This means you should not call friends, search for newspaper articles, look at google maps, or try to read the law online. If you know or, or learn anything about, this case except from the evidence admitted during the course of this trial, you should tell me about it at once. You have just taken an oath that you will render a verdict on the evidence submitted to you under my rulings.**

**4. Do not tell other jurors your own personal experiences, other persons’ experiences, or relate any special information. A juror may have special knowledge of matters such as business, technical or professional matters or he may have expert knowledge or opinions, or he may know what happened in this or some other case. To tell the other jurors any of this information is a violation of these instructions.**

**You may keep these instructions and review them as the case proceeds. A violation of these instructions should be reported to me.**

**We will begin with opening statements. Next the State will have any witnesses testify and provide any physical evidence they are relying on. Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you will have a chance to question those witnesses and look at any documents presented. When the State is finished, Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you will have the chance to call any witnesses and provide any physical evidence you would like the jury to consider. The state may choose to put on more witnesses or evidence in rebuttal. Both sides will then have a chance to make their final argument and you will then decide the case.**

**Both sides will have five minutes for an opening statement.**

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), you may begin your opening now.**

(once the State is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you may begin your opening statement if you choose now.**

**\*\*\*The Defendant may choose to do their opening statement at the beginning of their case. If the Defendant waives, make sure to ask again after the State has ‘rested’ their case.\*\*\***

(once the Defendant is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), please call your first witness.**

\*\*\*If there are any documents either side wants to use during this trial, make sure that they show each other before showing the witness or the court.\*\*\*

*\*\*\*If there are items a side wants shown to the jury, it should be handled like this: Members of the jury, the (plaintiff/defendant) has an item for you to examine. Bailiff, will you show the item to the jury? (Bailiff hands the document to the jury.)\*\*\**

(To the witnesses) **Please take the stand. Raise your right hand: “Do you solemnly swear to tell the truth, the whole truth and nothing but the truth?”**

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor) you may begin to ask questions.**

(once the State has finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any question for this witness?**

(If yes, allow them to ask, if no, ask the witness to step down.)

**You may begin to ask questions now.**

(once the Defendant is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you have any follow-up questions?**

**\*\*\*You may allow the Defendant and State to continue to take turns asking follow-up questions, but do not have to.\*\*\***

(If yes, allow them to ask, if no, ask the witness to step down.)

(to the witness) **Please step-down from the witness stand.**

\*\*\*Follow this same process for any additional witnesses.\*\*\*

\*\*\*Once the State isfinished with their witnesses and documents, they should state that they “rest.”\*\*\*

**\*\*\*If the Defendant waived their opening, you should ask if they would like to make theirs now: Mr./Ms. \_\_\_\_\_\_\_\_(defendant), you may make an opening statement now, if you choose.\*\*\***

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any witnesses that you would like me to hear from? You may also testify yourself.**

(If the Defendant says yes, allow them to bring a witness forward and/or testify themselves.)

\*\*\*If they choose to testify, they should take the stand and be sworn in like any witness. Their testimony will be them stating what happened rather than asking themselves questions and answering. You may need to tell them this if they are confused.\*\*\*

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), please call your first witness.**

(once the Defendant has finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you have any question for this witness?**

(If yes, allow them to ask, if no, ask the witness to step down.)

**You may begin to ask question now.**

(once the State is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any follow-up questions?**

**\*\*\*You may allow the Defendant and State to continue to take turns asking follow-up questions, but do not have to.\*\*\***

(If yes, allow them to ask, if no, ask the witness to step down.)

(to the witness) **Please stepdown from the witness stand.**

(Follow this same process for any additional defense witnesses.)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), do you have any further witnesses or any documents you want to introduce?**

(If yes, follow the procedure above, if no, say the below)

**Now that both sides have presented their cases, I will read the jury instructions to the jury.**

\*\*\*Jury instructions do not have to be in writing, but it is strongly advised to do that. The Bailiff will give the written instructions to the jury when they deliberate, so they can remember what law to apply.\*\*\*

\*\*\*The jury instructions regarding the law should be provided by the prosecuting attorney. You need to allow the defendant to review and if there are objections, you will need to decide what the instructions should say.\*\*\*

(Read the jury instructions regarding the law.)

**At this time, both sides will have a chance to make a closing argument. Each side will have 10 minutes. State, you may reserve up to 2 minutes of the 10 for a potential rebuttal.**

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), you may begin your closing argument.**

(once the State is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (defendant), you may begin you closing argument.**

(once the Defendant is finished)

**Mr./Ms. \_\_\_\_\_\_\_\_\_ (prosecutor), do you have a rebuttal statement?**

(If yes, give them up to two minutes, if no, say the below.)

**Thank you both for presenting your case.**

**Bailiff \_\_\_\_\_\_\_\_\_, please take the jurors to the (jury room/ deliberations room) to decide which side should win. Jurors, I am sending the jury instructions back with you. I am also sending the verdict form back with you. As you can see from reading it, the first thing you will need to do is pick a foreperson. The verdict must be unanimous – meaning everyone must agree.**

*\*\*\*For steps on handling the verdict and judgment, please see Chapter 6 of the Trial Procedure deskbook.\*\*\**