

# VOIR DIRE

## A BENCH CARD FOR JUSTICES OF THE PEACE

### Excuses

- The Court can excuse a party who they believe has a sufficient excuse.
- The Court cannot excuse a prospective juror for an economic reason without both parties being present and approving the release of that juror for that reason.

### Things the Parties Can't Ask

- Repetitive questions
- Irrelevant or immaterial questions
- Commitment questions – A party can't try to make a potential juror commit to a verdict *based on facts* other than something that would prove they have a bias or prejudice. A party can ask a commitment question if it is simply asking if the jurors can follow the law without applying specific facts.

#### Examples:

*Allowable:* If I proved all of the elements of the offense beyond a reasonable doubt, could you convict? (follow the law)

*Not Allowable:* If I proved the Defendant refused a breath test, would you convict? (applying facts)

### Peremptory Challenges/Strikes

Each side may strike three (3) people from the jury pool without telling the court a reason, as long as they are not challenged by the other side with a Batson Challenge.

#### Batson Challenge

When one side argues that the other side has used peremptory strikes to eliminate otherwise eligible jurors because of race, ethnicity, or sex.

### Challenges/Strikes for Cause

- A request that a prospective juror should be struck, meaning removed or dismissed, because there is a specific reason to believe the person can't be fair, unbiased, or capable of serving as a juror.

### Common Challenges for Cause

- Unfair bias for/against law enforcement
- Personal relationship with one of the parties that creates bias or prejudice
- Experience with the justice system that creates bias or prejudice
- Sovereign citizens - couldn't find anyone guilty
- Can't hear or see
- Witness in this case
- Related to a party within third degree consanguinity or affinity (Government Code Ch. 573)
- Can't consider full range of punishment

### Swearing in the Jury

#### Criminal Trial

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

*CCP Art. 35.22*

#### Civil Trial

"You, and each of you, do solemnly swear that in all cases between parties which shall be to you submitted, you will a true verdict render, according to the law, as it may be given you in charge by the court, and to the evidence submitted to you under the rulings of the court, (so help you God)."

*Rule 236*



# VOIR DIRE

## A BENCH CARD FOR JUSTICES OF THE PEACE

### What is “Voir Dire”?

Voir Dire is the process of eliminating jurors that Texas courts use to determine which prospective jurors will sit on the jury for a trial. In justice courts, juries are made up of 6 jurors. After the court has determined which jurors to excuse for qualifications, exemptions, and excuses, each party receives time to ask the remaining potential jurors questions related to their case to determine if the prospective jurors can be fair, unbiased, and capable of serving.

### Swearing in the Venire

#### Criminal Trial

"You, and each of you, do 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 on your service and qualification as a juror, (so help you God)." *CCP Art. 35.02*

#### Civil Trial

"You, and each of you, do solemnly swear that you will true answers give to all questions propounded to you concerning your qualifications as a juror, (so help you God)." *Rule 226*

### General Qualifications

- Is at least 18 years of age;
- Is a citizen of the United States;
- Is a resident of this state and of the county in which the person is to serve as a juror;
- Is qualified under the constitution and laws to vote in the county in which the person is to serve as a juror;
- Is of sound mind and good moral character;
- Is able to read and write;
- Has not served as a petit juror for six days during the preceding three months in the county court or during the preceding six months in the district court;
- Has not been convicted of misdemeanor theft or a felony; and
- Is not under indictment or other legal accusation for misdemeanor theft or a felony.

*Gov't Code § 62.102, CCP Art. 35.12*

### Exemption from Jury Service

- Is over 75 years of age;
- Has legal custody of a child younger than 12 years of age and the person's service on the jury requires leaving the child without adequate supervision;
- Is a student of a public or private secondary school;
- Is a person enrolled and in actual attendance at an institution of higher education;
- Is an officer or an employee of the senate, the house of representatives, or any department, commission, board, office, or other agency in the legislative branch of the state government;
- Is summoned for service in a county with a population of at least 200,000, unless that county uses a jury plan under Government Code Section 62.011 and the period authorized under Section 62.011(b) exceeds two years, and the person has served as a petit juror in the county during the 24-month period preceding the date the person is to appear for jury service;
- Is the primary caretaker of a person who is unable to care for himself or herself;
- Is summoned for service in a county with a population of 250,000 and the person has served as a petit juror in the county during the three-year period preceding the date the person is to appear for jury service. This does not apply if the jury wheel in the county has been reconstituted after the date the person served as a petit juror;
- Is a member of the United States military forces serving on active duty and deployed to a location away from the person's home station and out of the county of residence.

*Gov't Code § 62.106*



CAUSE NUMBER: 123456

STATE OF TEXAS	§	IN THE JUSTICE COURT
VS.	§	PRECINCT 1
JEFF GRAJEK	§	NEW JUDGE COUNTY, TEXAS

In the name and by the authority of the State of Texas:

I, the undersigned affiant, do solemnly swear that I have good reason to believe and do believe that JEFF GRAJEK, hereinafter called Defendant, on or about the 1<sup>st</sup> day of January, 2022, and before the making and filing of this complaint, in the County of New Judge, and the State of Texas, the Defendant did then and there appear in a public place while intoxicated, to the degree that the Defendant may have endangered himself or another.

Against the peace and dignity of the State.

Affiant: April Williams

Sworn and subscribed before me by

April Williams  
a credible person, this 3<sup>rd</sup> day of January, 2022.

William A Smith

William A. Smith, Notary Public  
New Judge County, Texas



CAUSE NO. \_\_\_\_\_

STATE OF TEXAS

§ IN THE JUSTICE COURT

§

v.

§ PRECINCT \_\_\_\_

§

§

DEFENDANT

§ \_\_\_\_\_ COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The Defendant, \_\_\_\_\_, stands charged by complaint with the offense of \_\_\_\_\_, alleged to have been committed in \_\_\_\_\_ County, Texas, on or about \_\_\_\_\_, 20\_\_\_\_. To this charge, the Defendant has pleaded "Not Guilty."

You are instructed that a person commits the offense of \_\_\_\_\_ if \_\_\_\_\_

Definitions:

You are the exclusive judges of the facts, of the credibility of the witnesses, and of the weight to be given to the testimony, but you must follow the law given to you by the Court found in this charge.

In all criminal cases, the burden of proof is on the State. All persons are presumed innocent, and no person may be convicted unless each element of the offense charged is proven beyond a reasonable doubt. The fact that a person has been arrested, confined, or charged with an offense is not evidence of guilt. The law does not require the Defendant to prove innocence or put on a case at all. The presumption of innocence alone is sufficient to find the Defendant, "Not Guilty," if the elements of the offense are not proven beyond a reasonable doubt.

You must only consider the evidence presented in this case and not any outside information. In deliberating the case, do not refer to or discuss matters not in the evidence presented to you during trial.

Keeping in mind the instructions in this charge, if you believe from the evidence, beyond a reasonable doubt, that the Defendant, \_\_\_\_\_, on or about \_\_\_\_\_, 20\_\_, in \_\_\_\_\_ County, Texas, did then and there commit the offense of \_\_\_\_\_, you shall find the defendant "Guilty," and assess a fine of not less than \_\_\_\_\_ dollars (\$\_\_\_\_\_) and not more than \_\_\_\_\_ dollars (\$\_\_\_\_\_). If you do not so believe, or have a reasonable doubt thereof, you will acquit the Defendant and find the Defendant, "Not Guilty."

You will now go to the jury room and select a presiding juror. The presiding juror will preside over your deliberations. Your verdict must be unanimous. When you reach a unanimous verdict, you will return to the Court.

**SIGNED AND ENTERED** on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
JUSTICE OF THE PEACE, PRECINCT \_\_\_\_\_

\_\_\_\_\_ COUNTY, TEXAS

CAUSE NO. \_\_\_\_\_

STATE OF TEXAS

§ IN THE JUSTICE COURT

§

v.

§ PRECINCT \_\_\_\_\_

§

§

\_\_\_\_\_  
DEFENDANT

§ \_\_\_\_\_ COUNTY, TEXAS

**CHARGE OF THE COURT**

**MEMBERS OF THE JURY:**

The Defendant, \_\_\_\_\_, stands charged by complaint with the offense of \_\_\_\_\_, alleged to have been committed in \_\_\_\_\_ County, Texas, on or about \_\_\_\_\_, 20\_\_\_\_. To this charge, the Defendant has pleaded "Not Guilty."

You are instructed that a person commits the offense of Assault by Contact if that person intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other would regard the contact as offensive or provocative.

**Definitions:**

A person acts intentionally, or with intent, with the respect to the result of the person's conduct when it is the person's conscious objective or desire to engage in the conduct or to cause the result.

A person acts knowingly, or with knowledge, with respect to a result of the person's conduct when the person is aware that the person's conduct is reasonably certain to cause the result.

"Reasonable belief" means a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

You are the exclusive judges of the facts, of the credibility of the witnesses, and of the weight to be given to the testimony, but you must follow the law given to you by the Court found in this charge.

In all criminal cases, the burden of proof is on the State. All persons are presumed innocent and no person may be convicted unless each element of the offense charged is proven beyond a reasonable doubt. The fact that a person has been arrested, confined, or charged with an offense is not evidence of guilt. The law does not require the Defendant to prove innocence or put on a case at all. The presumption of innocence alone is sufficient to find the Defendant, "Not Guilty," if the elements of the offense are not proven beyond a reasonable doubt.

You must only consider the evidence presented in this case and not any outside information. In deliberating the case, do not refer to or discuss matters not in the evidence presented to you during trial.

Keeping in mind the instructions in this charge, if you believe from the evidence, beyond a reasonable doubt, that the Defendant, \_\_\_\_\_, on or about \_\_\_\_\_, 20\_\_, in \_\_\_\_\_ County, Texas, did then and there commit the offense of \_\_\_\_\_

\_\_\_\_\_, you shall find the defendant "Guilty," and assess a fine of not less than one dollars (\$1.00) and not more than five hundred dollars (\$500.00). If you do not so believe, or have a reasonable doubt thereof, you will acquit the Defendant and find the Defendant, "Not Guilty."

You will now go to the jury room and select a presiding juror. The presiding juror will preside over your deliberations. Your verdict must be unanimous. When you reach a unanimous verdict, you will return to the Court.

**SIGNED AND ENTERED** on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
JUSTICE OF THE PEACE, PRECINCT \_\_\_\_\_

\_\_\_\_\_ COUNTY, TEXAS

CAUSE NO. \_\_\_\_\_

STATE OF TEXAS

§ IN THE JUSTICE COURT

§

v.

§ PRECINCT \_\_\_\_\_

§

§

\_\_\_\_\_  
DEFENDANT

§ \_\_\_\_\_ COUNTY, TEXAS

**CHARGE OF THE COURT**

**MEMBERS OF THE JURY:**

The Defendant, \_\_\_\_\_, stands charged by complaint with the offense of Speeding, alleged to have been committed in \_\_\_\_\_ County, Texas, on or about \_\_\_\_\_, 20\_\_\_\_. To this charge, the Defendant has pleaded "Not Guilty."

You are instructed that a person commits the offense of Speeding if that person operates a vehicle at a speed greater than is reasonable and prudent under the existing circumstances. Any speed in excess of the posted speed is prima facie evidence that the speed is unreasonable or imprudent.

**Definitions:**

A person "operates" a motor vehicle if that person drives or has physical control of a vehicle.

"Vehicle" means a device that can be used to transport or draw persons or property on a highway.

"Prima facie" means evidence which stands proved until rebutted by other evidence.

You are the exclusive judges of the facts, of the credibility of the witnesses, and of the weight to be given to the testimony, but you must follow the law given to you by the Court found in this charge.

In all criminal cases, the burden of proof is on the State. All persons are presumed innocent and no person may be convicted unless each element of the offense charged is proven beyond a reasonable doubt. The fact that a person has been arrested, confined, or charged with an offense is not evidence of guilt. The law does not require the Defendant to prove innocence or put on a case at all. The presumption of innocence alone is sufficient to find the Defendant, "Not Guilty," if the elements of the offense are not proven beyond a reasonable doubt.

You must only consider the evidence presented in this case and not any outside information. In deliberating the case, do not refer to or discuss matters not in the evidence presented to you during trial.

Keeping in mind the instructions in this charge, if you believe from the evidence, beyond a reasonable doubt, that the Defendant, \_\_\_\_\_, on or about \_\_\_\_\_, 20\_\_, in \_\_\_\_\_ County, Texas, did then and there commit the offense of \_\_\_\_\_, you shall find the defendant "Guilty," and assess a fine of not less than one dollar (\$1.00) and not more than two hundred dollars (\$200.00). If you do not so believe, or have a reasonable doubt thereof, you will acquit the Defendant and find the Defendant, "Not Guilty."



You will now go to the jury room and select a presiding juror. The presiding juror will preside over your deliberations. Your verdict must be unanimous. When you reach a unanimous verdict, you will return to the Court.

**SIGNED AND ENTERED** on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUSTICE OF THE PEACE, PRECINCT \_\_\_\_\_

\_\_\_\_\_ COUNTY, TEXAS

CAUSE NO. \_\_\_\_\_

STATE OF TEXAS

§ IN THE JUSTICE COURT

§

v.

§ PRECINCT \_\_\_\_\_

§

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\_\_\_\_\_  
DEFENDANT

§ \_\_\_\_\_ COUNTY, TEXAS

**CHARGE OF THE COURT**

**MEMBERS OF THE JURY:**

The Defendant, \_\_\_\_\_, stands charged by complaint with the offense of \_\_\_\_\_, alleged to have been committed in \_\_\_\_\_ County, Texas, on or about \_\_\_\_\_, 20\_\_\_\_. To this charge, the Defendant has pleaded "Not Guilty."

You are instructed that a person commits the offense of class c theft of property if that person unlawfully appropriates property with the intent to deprive the owner of property and the value of that property is less than fifty dollars (\$50.00).

**Definitions:**

A person acts intentionally, or with intent, with the respect to the result of the person's conduct when it is the person's conscious objective or desire to engage in the conduct or to cause the result.

A person acts knowingly, or with knowledge, with respect to a result of the person's conduct when the person is aware that the person's conduct is reasonably certain to cause the result.

Appropriation of property is unlawful if it is without the owner's effective consent; the property is stolen, and the actor appropriates the property knowing it was stolen by another; or property in the custody of any law enforcement agency was explicitly represented by any law enforcement agent to the actor as being stolen and the actor appropriates the property believing it was stolen by another.

"Deprive" means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner; to restore property only upon payment of reward or other compensation; or to dispose of property in a manner that makes recovery of the property by the owner unlikely.

"Appropriate" means to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another; or to acquire or otherwise exercise control over property other than real property.

"Property" means real property; tangible or intangible personal property including anything severed from land; or a document, including money that represents or embodies anything of value.

You are the exclusive judges of the facts, of the credibility of the witnesses, and of the weight to be given to the testimony, but you must follow the law given to you by the Court found in this charge.

In all criminal cases, the burden of proof is on the State. All persons are presumed innocent and no person may be convicted unless each element of the offense charged is proven beyond a reasonable doubt. The fact that a person has been arrested, confined, or charged with an offense is not evidence of guilt. The law does not require the Defendant to prove innocence or put on a case at all. The presumption of innocence alone is sufficient to find the Defendant, "Not Guilty," if the elements of the offense are not proven beyond a reasonable doubt.

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You will now go to the jury room and select a presiding juror. The presiding juror will preside over your deliberations. Your verdict must be unanimous. When you reach a unanimous verdict, you will return to the Court.

**SIGNED AND ENTERED** on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
JUSTICE OF THE PEACE, PRECINCT \_\_\_\_\_

\_\_\_\_\_ COUNTY, TEXAS

## Resources for Trials:

### TJCTC

Trial Handbook (*including trial scripts*) and other Deskbooks <https://www.tjctc.org/tjctc-resources/Deskbooks.html>

Flowcharts, Bench Cards, & Checklists <https://www.tjctc.org/tjctc-resources/Charts-and-Checklists.html>

Forms (*including judgments*) <https://www.tjctc.org/tjctc-resources/forms.html>

SRL Packets <https://www.tjctc.org/SRL>

### Texas Courts

Texas Constitution and Statutes <https://statutes.capitol.texas.gov/>

Texas Rules of Evidence <http://txcourts.gov/rules-forms/rules-standards/>

OCA Interpretation and Translation Info <https://www.txcourts.gov/programs-services/interpretation-translation/>

Texas State Law Library Digital Collection (*Accounts are free to all Texas residents*)  
<https://www.sll.texas.gov/library-resources/collections/digital-collection/>

### Links Specifically for Self-Represented Litigants

Article about Gathering and Presenting Evidence <https://texaslawhelp.org/article/gathering-and-presenting-evidence>

TJCTC Self-Represented Litigants Page <https://www.tjctc.org/SRL>

Texas State Law Library Legal Help and Information <https://www.sll.texas.gov/legal-help/>

Toolkit: My Debt Collection Rights in Texas - <https://mydebtcollectionrights.org/>

Toolkit: Ticket Help Texas - <https://tickethelptexas.org/>