

**Sample Voir Dire subjects covered by
Judge Susan Oki Mollway in Criminal Trials¹**

1. Does anyone have a medical reason or personal hardship that would make it difficult to serve as a juror in this case?
2. Does anyone have difficulty reading, hearing, or understanding the English language?
3. Does anyone know or has anyone dealt with the Assistant United States Attorney, any of the Government's agents, the defendant, the defendants' attorneys, or any member of their family? If yes, please identify the person you know or have dealt with, the nature of your relationship, and whether that relationship would hinder or affect your ability to give a fair trial to all of the parties in this case.
4. Does anyone know, or has anyone had any business dealings with, any of the witnesses who have just been identified by counsel? If yes, please identify the person you know or have dealt with, the nature of your relationship, and whether that relationship would hinder or affect your ability to give a fair trial to all of the parties in this case.
5. Now that I have discussed the different burdens of proof in criminal and civil cases, does everyone understand those different burdens? Is there anyone who would refuse to convict the defendant if the evidence established the defendant's guilt beyond a reasonable doubt merely because the government did not prove the defendant's guilt beyond all doubt? Would any of you refuse to find the defendant not guilty even if you had a reasonable doubt about the defendant's guilt?
6. The defendant has a constitutional right not to testify, and, if the defendant chooses not to testify, that fact cannot be used against the

¹These sample questions are provided only as a guide to the types of questions used by Judge Susan Oki Mollway during voir dire. These sample questions are not a script. Judge Mollway may change the wording of the questions, decline to ask particular questions, and/or may ask other questions in her discretion.

defendant. In addition, the defendant need not call any witnesses or produce any evidence whatsoever. The burden is always on the government to prove guilt beyond a reasonable doubt. Unless the government meets this burden, the defendant must be acquitted. Is there anyone who cannot abide by this?

7. The defendant has been has been indicted by a grand jury. By itself, that fact means nothing; it is not evidence of guilt. An indictment is merely the formal method of bringing charges. In other words, the fact that the defendant has been indicted does not create any inference that the defendant is guilty. Does everyone understand this? Is there anyone who believes that, just because a defendant has been arrested or indicted, the defendant must be guilty of something?
8. Has anyone here previously served as a juror either in a criminal or civil case? If yes, has your previous experience as a juror affected your ability to be fair to all sides in the case? If you served as a juror in a civil case, do you understand the different burdens of proof between a civil and a criminal case?
9. When you served as a juror, did you reach a verdict? If yes, what was the verdict?
10. Has anyone here served as either a state or federal grand juror? If yes, has your previous experience as a grand juror affected your ability to be fair to all sides in the case? If you served as a grand juror, do you understand the different burdens of proof between a grand jury's decision regarding whether to indict a person and a criminal case?
11. In the eyes of the law, the government and the defendant are to be treated alike and are entitled to the same honest, fair, and impartial treatment. If selected to serve as a juror in this case, would everyone accept and apply this principle of law?

12. Does anyone know of any reason he or she may be prejudiced for or against the plaintiffs or defendants because of the nature of the case, or otherwise?
13. Is anyone here a lawyer, married to a lawyer, or in a substantial relationship with a lawyer? Has anyone here studied law or worked in a law office? Notwithstanding what you feel the law is or should be on a particular subject, will you apply the law as I give it to you at the end of this case? Is there anything about your legal training or your relationships with lawyers that would in any way hinder your ability to serve as a fair and impartial juror in this case?
14. Have you or a close family member or close friend ever been a victim of a crime? If yes, will that experience interfere with your ability to be a fair and impartial juror in this matter?
15. Have you or a close family member or close friend ever been arrested and/or convicted of crime? If yes, will that experience interfere with your ability to be a fair and impartial juror in this matter?
16. Have you or a close family member or close friend ever worked for or applied for job with a law enforcement agency? If yes, please describe your situation.
17. Have you or a close family member or close friend ever been involved with a dispute, conflict, or litigation with any police officer or government agency? If yes, please describe your situation. If you had a bad experience with any law enforcement officer or government agency in the past, would you be willing to put aside that experience and judge this case solely on its own merits?
18. Is there anyone here who would automatically give more weight to the testimony of an employee of the police department or other government agency just because he or she was such an employee? Is there anyone who believes that such an employee would never lie? You understand, then, that the testimony of police department and other government employees is to be treated like any other testimony in this case?

19. Does anyone here, because of the nature of your employment, feel that you may not be able to judge this case impartially?
20. Have you read in the newspapers, read on the internet, seen on television, or heard on the radio anything about this case, or do you have any knowledge of the facts or events of this case? If yes, please describe the details of what was reported and whether you have an opinion at this time, based on those details, as to the guilt or innocence of the defendant. If, during the trial of this case, you recall more about the case than you do now, could you put aside what you recall and decide the case solely on the basis of the evidence that you see and hear in this case?
21. If you are selected as a juror, do you pledge that you will base your decision on the facts as presented in this trial and not on any past experience or prior opinions you might have about the subject matter of this case?
22. Have you or a close family member sued or been sued by someone? If so, what was the nature of the lawsuit? Does that experience affect your ability to be fair to all parties in deciding this case?
23. Have you or a close family member ever testified in a lawsuit? Does this experience affect your ability to be fair to all parties in deciding this case?
24. Do any of you have any religious, philosophical, or other belief that prevents you from acting as an impartial juror in this case? Some people hold a religious or moral belief that prevents them from returning a verdict because they feel that, if they do, they are morally sitting in judgment of a person and not simply determining whether that person's conduct violated the law. Is there anyone who holds such a belief?
25. Is there anyone who, if selected to serve as a juror, has any qualms about attempting to come to a verdict at the end of the case? In the

course of deliberations, will you be willing to discuss the evidence and the law with the other jurors? Will you be willing to express your opinion as well as to listen to the opinions of the other jurors? If you find that there is a difference of opinion among the jurors, will you be willing to discuss that difference with the other jurors? If, in the course of that discussion, you change your mind as to how you view the case, will you be willing to tell the other jurors that you have changed your mind and will you be willing to change your vote?

26. Does everyone understand that the role of a juror in a case of this type is to decide whether or not the law was broken, not whether the law itself is a good law or a bad law or should be changed?
27. Do any of you think that you would not be able to follow an instruction of the court if that instruction differed from your own personal views or values? If selected as a juror to sit and hear this case, will you be able or willing to render a verdict based solely on the evidence presented at the trial and the law as given to you by the judge, disregarding any other ideas, notions, or beliefs about what the law is or should be?
28. Do you know of any reason that you cannot sit in this case with complete fairness and impartiality and decide the case based only on the evidence presented in court and the law as given at the conclusion of the trial? If you or a family member were the defendant, would you be satisfied to have as your juror a person with your frame of mind?
29. Each potential juror is asked to state:
 - a. his or her full name and area of residence (Manoa, Hilo, etc.);
 - b. how long he or she has been a resident of the State of Hawaii;
 - c. his or her occupation;
 - d. if retired, what his or her occupation was before retirement;
 - e. marital status (single, married, etc.);

- f. if married, spouse's name and occupation;
- g. respective ages and occupations of any children; and
- h. if a relative (other than a spouse or a child), friend, or roommate lives in the same household, that person's occupation.