

## **Law Day 2005 Judges or Attorney Lesson: “To Speak the Truth”**

**Lesson Description:** This lesson is a simulation of voir dire. It is based on the Scott Peterson Case. The lesson uses, with permission, materials from *When Justice is Up to You*, developed by the Association of Trial Lawyers of America, the National Institute for Citizen Education in the Law and the D.C. Street Law Project in 1992. This lesson meets the End of Cluster Expectations for Citizenship

**Grade Level:** 9 - 12

### **Lesson Objectives:**

1. Define the purpose of voir dire.
2. Analyze jury selection strategies used in voir dire to eliminate bias.

**Time to Complete:** One 45 minute lesson

### **Materials Needed:**

1. Handout I: US Constitution Amendment VI (***Bring 40 copies or use a transparency.***)
1. Handout II: Directions and Questions for Defense and Prosecution Attorneys. (***Bring 6 copies.***)
2. Handout III: Voir Dire Elimination Sheets and Example (***Bring 2 copies.***)
3. Chart of Juror Descriptions: ***Cut -up sheets for each potential juror prior to class.***
4. Description of the Case (“Scott Peterson Fact Summary”).
5. Oath to administer to the potential jurors.

### **LESSON PROCEDURE:**

INTRODUCTION: (2 minutes)

Tell the students who you are and explain that you are going to be helping them learn about how juries are selected. Talking points regarding the adversary system and voir dire may be found on page 4 of this packet. Tell students that you will save some time at the end to answer questions about the voir dire process and what you do as an attorney.

FOCUS ACTIVITY: (2-3 minutes)

Give out Handout I of Amendment VI, found on page 5, or project on overhead projector. Ask students to define the term “impartial” and to explain why having an impartial jury is important.

PREPARATION FOR THE SIMULATION: (5 minutes)

1. Explain to the students that they will be doing a simulation of a jury selection or “voir dire” in a famous trial. Tell them that “voir dire” is a French term meaning “to speak the truth.”

2. Ask for six volunteers to play the role of the attorneys or ask the teacher to select six students. Three students will play the roles of prosecuting attorneys. Three will play the roles of defense attorneys. The attorneys for each side should be divided into one attorney who will ask the voir dire questions and two attorneys who will determine who should be struck. If the class is small, there can be two attorneys on each side. Give student attorneys the Handout II, found on pages 6 and 7, which includes directions and appropriate questions for each side. Ask them to quietly review the directions and the questions, in their group of Prosecution or Defense, while you are working with the potential jury.

3. Give each potential juror a slip of paper with the role play description to which he or she is assigned. These descriptions are found on pages 13-21 (*Chart with descriptions should be cut up before the class*). Starting with the first student on the right, go across each row of students and have each say and write a consecutive number on the other side of their slip. The number should be printed as large as possible. Tell students they should stand if they would answer yes to any question based on the descriptions on the back of their sheet. They should hold up their number and remain standing until the attorney asking the question asks them to sit.

4. Ask if everyone understands what they are to do.

5. Tell the students that they should try to end up with 12 acceptable jurors, but in a real trial they would have many more people from which to choose.

**SIMULATION:**

(20 minutes)

1. You will be playing the role of the Judge. Read the students the “Scott Peterson Fact Summary”, found on page 11, and administer the Oath to the potential jurors, which is found on page 12.
2. Ask the Prosecution to ask their questions to the entire group, with follow-up questions (which the students may ad-lib), and questions from opposing counsel and then the same for the Defense. Tell them that each side is limited to 5 minutes.
3. Give attorneys for each side a few minutes to determine who they want to strike and why, using the Voir Dire Elimination Sheets found on pages 8, 9, and 10.
4. Ask the jurors, while the attorneys are working, to write down those aspects of potential jurors that they predict will be most important to each side; what descriptions do they think would show the most bias and to which side.
5. Have attorneys present their strikes for cause and explain why.

**EVALUATION:**

(5 minutes)

1. Ask students to explain why voir dire helps to create an impartial jury and why does it help the jury “speak the truth”. Ask them to describe what issues were most important in creating a impartial jury in this case. Explain that some of the voir dire questions were really used in the case, others were not.
2. Ask them to consider if they might have been chosen to serve on a jury in the Peterson case if they were of age and lived in California. Why or why not?

**DISCUSSION:**

(10 minutes)

This is time for you to answer general questions about juries, the law, what you do. Etc.

THANK YOU FOR HELPING WITH LAW DAY

## **INTRODUCTION to the Adversary System and Voir Dire**

The United States of America uses an adversarial trial system. In the adversary system, opposing parties argue that their facts of the case are correct and that their opponents' are not. Under this system, it is the trier of fact, either the judge or the jury, who weighs the evidence and arguments to determine the truth. Therefore, jurors play a very important role in our nation's judicial system. Choosing a jury with impartial jurors is important, because it helps to ensure a fair trial. Attorneys use a system called voir dire to help select a neutral jury out of the large group of potential jurors.

To recruit potential jurors, the state compiles a master list from DMV records and voter registration lists that include all eligible community members. Potential jurors are randomly pulled from the master list and are summoned for jury duty on a specific date. After potential jurors report for duty, they are assigned to a courtroom for voir dire.

Voir dire is the process used for jury selection, and allows each party the opportunity to ensure that the jury is fair and balanced. This works through the questioning of the potential jurors by the attorneys representing each party to the case. The purpose of voir dire is to determine whether potential jurors have any prejudice or bias that might affect the trial.

Each attorney hopes to choose a jury that will decide in their party's favor. Attorneys use the voir dire process to identify the potential jurors that would be more inclined to favor the opposing party, and then attempts to remove them through the use of challenges, which are also known as strikes.

There are two types of challenges, a challenge for cause, and a peremptory challenge. A challenge for cause is made when an attorney feels that they have a valid reason for removing a potential juror. Some examples of a challenge for cause include removing a potential juror who knows one of the parties to the case, or who has a specific belief that favors one party over the other. In contrast, a peremptory challenge can be used to remove potential jurors without having to give a valid reason why. Each side is given a specific number of peremptory challenges, but there are limits on their use. Attorneys may not use their peremptory challenges in a manner that discriminates based on a potential juror's race, religion, sex or age.

# **HANDOUT I: United States Constitution, Amendment VI**

In all criminal prosecutions, the accused shall enjoy **the right to a speedy and public trial by an impartial jury** of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

## Handout II: Prosecution Voir Dire Questions

The questions below are to be used by the attorneys to single out potential jurors who will be unfavorable to the Prosecution's side. The system is a process of elimination, and the questions should be used in conjunction with the elimination sheets. The Judge will administer an oath to the potential jurors, reaffirming the importance of the truthfulness of their answers.

The questioning attorney should introduce yourself, explain that you are representing the State of California, and begin asking the questions listed below. Jurors should stand to indicate a "yes" answer to any question. You may ask one follow-up question for clarification for each question and opposing counsel (the Defense) may ask one follow-up question for each question.

Your partner attorney(s) should mark the elimination sheets. If it is clear that a person's answers indicate bias, note that juror on the elimination sheet by putting an X through the juror's number and note the cause for elimination and the juror's number at the bottom of the sheet. Circle the jurors you want to keep. **Removal for cause** must be based on a valid reason for not having the prospective juror serve on the jury. It might be clear, for instance, that juror favors one side or another. After you have asked all of your questions, confer with your partners. Decide as a group who will be finally eliminated trying to retain twelve jurors. When asked by the Judge, you should present your recommendations and reasons for strikes to the class.

1. Do you know who I am, or the law firm I work for?
2. Do you know either Scott or Laci Peterson?
3. Have you ever lost a child?
4. Do you harbor a general distrust of the police?
5. Have you or anyone close to you ever felt that they have been wronged by the criminal justice system?
6. Would you be able to charge someone with the death penalty even if the crime committed was his or her first offense?
7. This case may last several months. Do you have a problem serving on this important case for that period of time?
8. Do you know of any reason at all why you would not be able to render a fair and impartial verdict in this case?

## Handout II: Defense Voir Dire Questions

The questions below are to be used by the attorneys to single out potential jurors who will be unfavorable to the Defense's side. The system is a process of elimination, and the questions should be used in conjunction with the elimination sheets. The Judge will administer an oath to the potential jurors, reaffirming the importance of the truthfulness of their answers.

The questioning attorney should introduce yourself, explain that you are representing the Defendant, and begin asking the questions listed below. Jurors should stand to indicate a "yes" answer to any question. You may ask one follow-up question for clarification for each question and opposing counsel (the Defense) may ask one follow-up question for each question.

Your partner attorney(s) should mark the elimination sheets. If it is clear that a person's answers indicate bias, note that juror on the elimination sheet by putting an X through the juror's number and note the cause for elimination and the juror's number at the bottom of the sheet. Circle the jurors you want to keep, **Removal for cause** must be based on a valid reason for not having the prospective juror serve on the jury. It might be clear, for instance, that juror favors one side or another. After you have asked all of your questions, confer with your partners. Decide as a group who will be finally eliminated trying to retain twelve jurors. When asked by the Judge, you should present your recommendations and reasons for strikes to the class.

1. Do you know who I am, or the law firm I work for?
2. Do you have any legal training or experience, or have you ever worked as an attorney?
3. Have you ever sat as a juror before?
4. If you have been a juror previously, was it a criminal case in which the defendant was convicted?
5. Do you feel that when the police charge someone with a crime that the person is most likely guilty?
6. Do you believe that because Scott Peterson is being prosecuted by the State of California in this case that he is most likely guilty?
7. Do you feel that cheating on a spouse is morally wrong?
8. Have you ever had a family member killed by another member of your family?











### Scott Peterson Fact Summary

On Christmas Eve of 2002, Laci Peterson vanished from her Modesto, California home. She was a 27 year-old substitute teacher, and was eight months pregnant with her first child, a son she'd already named 'Connor'. Her husband, Scott Peterson, a 30 year-old fertilizer salesman, was one of the last people to see Laci that day, having left their home at 9:30 a.m. for a solo fishing trip. When Scott returned from his trip that night, Laci was gone.

The mystery surrounding her disappearance gained widespread attention, and was covered by both the local and national media. Hundreds of people joined searches throughout Modesto, hoping to find Laci alive. Scott joined with Laci's family to ask the public to provide any information that might lead to Laci's safe return.

The police department believed that Scott was a prime suspect in Laci's disappearance, and searched the Peterson's home, Scott's personal warehouse, several computers, as well as Scott's truck for clues, but were unable to find any direct evidence linking Scott to Laci's disappearance. Laci's family stood by their son-in-law, proclaiming his innocence, until news of an affair he'd been having with another woman during his marriage to Laci came to light.

On April 13, 2003, the corpse of a full-term baby washed-up on the shore of the San Francisco Bay, followed the next day by the discovery of a badly decomposed adult body nearby. Both bodies were found approximately 3 miles away from the marina where Scott had said he'd been fishing the day Laci disappeared. They were later confirmed to be the remains of Laci Peterson, and her unborn son, Connor.

Scott was subsequently arrested for the murders of both Laci and Connor.

## Oath for the Jury

The Judge should swear in the potential jury with the following oath:

*Please raise your right hand and state your name...*

*Do you solemnly, sincerely and truly declare and affirm that the answers you are about to give this court are the truth, the whole truth and nothing but the truth, so you affirm?*

Students should answer yes.

Ask them to be seated.

# **LAW DAY 2005**

## **Chart of Juror Descriptions**

*Directions:*

Cut-up sheets prior to class so that they can be distributed to each potential juror for the exercise

<p>Knows the Prosecutor</p>	<p>Knows Laci Peterson</p> <p>Would not be able to charge the death penalty</p>
<p>Would not be able to charge the death penalty</p>	<p>Cannot serve on jury due to time constraints</p> <p>Sat on a jury that convicted the Defendant</p>



<p>Has lost a child</p> <p>They have been wronged by the justice system</p>	<p>Generally distrusts the police</p> <p>Cheating on a spouse is morally wrong</p>
<p>Knows the Defense attorney's law firm</p>	<p>Has legal training</p> <p>Knows the Defense attorney's law firm</p>



<p>Has been a juror in a trial</p>	<p>Has been a juror in a trial that convicted the defendant</p>
<p>Had a family member killed by another family member</p> <p>They have been wronged by the justice system</p>	<p>Knows the Prosecutor</p> <p>Would not be able to charge the death penalty</p>

<p>People charged with crimes by the police are guilty</p>	<p>Scott Peterson is likely guilty since he's being prosecuted</p>
<p>Knows Scott Peterson</p> <p>Cheating on a spouse is morally wrong</p>	<p>Has lost a child</p> <p>Has been a juror in a trial</p>



<p>Cheating on a spouse is morally wrong</p>	<p>Generally distrusts the police</p> <p>Biased against alleged wife killers</p>
<p>Their best friend has been wronged by the justice system</p>	<p>Would not be able to charge the death penalty</p>

<p>Cannot serve on jury due to time constraints</p> <p>Scott Peterson is likely guilty since he's being prosecuted</p>	<p>Biased against alleged baby killers</p> <p>They have been wronged by the justice system</p>
<p>Knows the Defense attorney</p> <p>Knows Laci Peterson</p>	<p>Has worked as an attorney</p> <p>Cheating on a spouse is morally wrong</p>

<p>Has been a juror in a trial</p>	<p>Cheating on a spouse is morally wrong</p>
<p>People charged with crimes by the police are guilty</p>	<p>Had a family member killed by another family member</p>



<p>They have been wronged by the justice system</p> <p>Knows the Prosecutor</p>	<p>Biased against alleged wife killers</p>
<p>People charged with crimes by the police are guilty</p> <p>Knows Scott Peterson</p>	<p>Has lost a child</p> <p>Their best friend has been wronged by the justice system</p>