

# SCALED QUESTIONS

## VOIR DIRE

AUSTIN CRIMINAL DEFENSE LAWYERS ASSOCIATION  
Austin, Texas  
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## WHO IS YOUR IDEAL JUROR?

~~An Educated Juror  
A Woman/Mother  
Men/Uncles  
Leaders/Followers  
Young/Old  
78723 vs. 78734  
Professional~~

Do we select or strike jurors?

Do stereotypes tell us how a particular juror thinks?

Is a bad G/I juror the same as a bad Punishment juror?

## HOW MUCH TIME DO YOU GET FOR VOIR DIRE?

### Misdemeanors

30 minutes?

30 person venire?

60 seconds/person.

### Felonies

90 minutes?

75 person venire?

72 seconds/person.

Some people speak more than others,  
Some don't talk at all.

## Legal Authoritarians

- Who are they
- How do they think
- How do we identify and strike them

## Scaled Questions

- What are they
- How to use them to strike Legal Authoritarians
- Examples

Authoritarianism has been found to correctly predict verdicts more often than any other trait measured.

(Moran, Cutler & DeLissa, 1994).

## Authoritarian Jurors Are Likely to:

Condemn people who deviate from societal norms;  
View the world as black and white;  
Engage in stereotyping;  
Hold conventional or traditional values;

Seek an orderly and powerful society;  
Submit to established authority; and  
Ostracize or act aggressively against out-group members.

Herde, Gayle Jury Expert, The Art and Science of Litigation Advocacy — Take Me to Your Leader: An Examination of Authoritarianism as an Indicator of Juror Bias, Volume 21, Issue 1, January 2009 citing: (Butler & Moran, 2007; Narby, et al, 1993).

Authoritarian Jurors may be inclined to deny a defendant's civil rights (e.g., presumption of innocence, burden of proof) in order to convict a defendant.

(Narby, et al., 1993).

Herde, Gayle Jury Expert, The Art and Science of Litigation Advocacy — Take Me to Your Leader: An Examination of Authoritarianism as an Indicator of Juror Bias, Volume 21, Issue 1, January 2009

- How do we identify who these jurors are?
- How can we rank them from best to worst?
- How do we strike them from the jury?

## SCALED QUESTIONS

## SCALED QUESTION

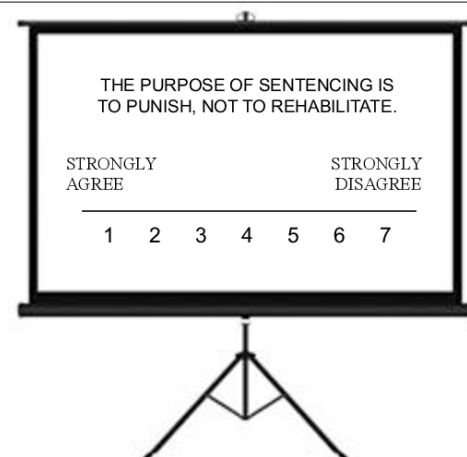
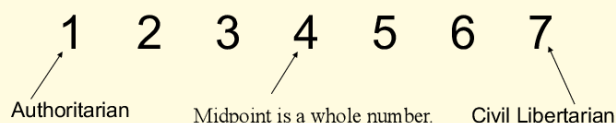
A statement you pose to the entire venire while asking each member to give you a number indicating how strongly they agree or disagree with the statement.

ON A SCALE OF 1 TO 7, WITH 1 BEING STRONGLY AGREE AND 7 BEING STRONGLY DISAGREE, HOW WOULD YOU ANSWER THE FOLLOWING QUESTION:

**THE PURPOSE OF SENTENCING IS TO PUNISH, NOT TO REHABILITATE.**

STRONGLY  
AGREE

STRONGLY  
DISAGREE



Display your scaled questions  
in a PowerPoint presentation.

Verbally stating the scaled  
question is counterproductive  
because the jurors will ask you  
to repeat the questions.

**1 to 7 as your scale.**

**1 to 8 as your scale.**

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7 8



What if a juror asks for  
clarification or wants to  
explain their answer?

Ask the panel to tell you the  
number that reflects their  
honest and true beliefs and  
not worry about how the  
other jurors answered the  
same question.

Repeat the answer given by  
each juror.

Making sure you have written  
down the correct information  
given by the juror.

ON A SCALE OF 1 TO 7, WITH 1 BEING STRONGLY  
AGREE AND 7 BEING STRONGLY DISAGREE, HOW  
WOULD YOU ANSWER THE FOLLOWING QUESTION:

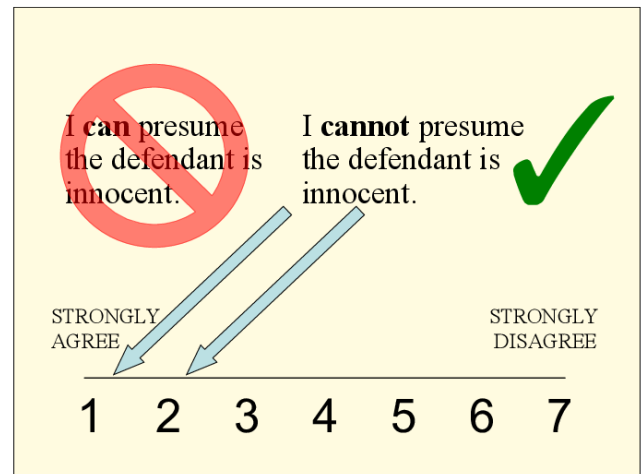
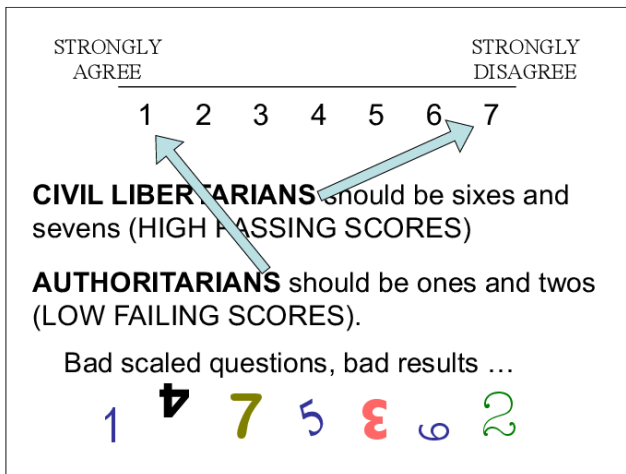
IF THE FACTS JUSTIFIED IT, AND THE LAW ALLOWED IT,

I COULD NOT CONSIDER ASSESSING  
THE MINIMUM PUNISHMENT AND  
RECOMEND PROBATION.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7



1. THE PURPOSE OF SENTENCING IS TO PUNISH, NOT TO REHABILITATE.

2. I ORDINARILY KEEP MY HOME VERY ORGANIZED.

3. EVERYTHING IN LIFE MUST BE DONE TO MY LEVEL OF SATISFACTION, WHICH IS OFTEN HIGHER THAN ANYONE ELSE'S.

4. IT IS UNACCEPTABLE TO MAKE A MISTAKE.

5. IF THOSE IN AUTHORITY SAY "THIS IS THE WAY IT IS SUPPOSED TO BE," THEN THAT IS THE WAY IT IS SUPPOSED TO BE.

6. TOO MANY OBVIOUSLY GUILTY PERSONS ESCAPE PUNISHMENT BECAUSE OF LEGAL TECHNICALITIES.

7. THE LAW CODDLES CRIMINALS TO THE DETRIMENT OF SOCIETY.

8. UPSTANDING CITIZENS HAVE NOTHING TO FEAR FROM THE POLICE.

9. IT IS JUSTIFIABLE TO SUSPEND A PERSON'S CIVIL RIGHTS IN THE INTEREST OF NATIONAL SECURITY.

10. I FEEL THAT I EARN THE REWARDS AND PUNISHMENTS I GET.

| QUESTION JUROR | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | TOTAL |
|----------------|---|---|---|---|---|---|---|---|---|----|-------|
| 1.             |   |   |   |   |   |   |   |   |   |    |       |
| 2.             |   |   |   |   |   |   |   |   |   |    |       |
| 3.             |   |   |   |   |   |   |   |   |   |    |       |
| 4.             |   |   |   |   |   |   |   |   |   |    |       |
| 5.             |   |   |   |   |   |   |   |   |   |    |       |
| 6.             |   |   |   |   |   |   |   |   |   |    |       |
| 7.             |   |   |   |   |   |   |   |   |   |    |       |
| 8.             |   |   |   |   |   |   |   |   |   |    |       |
| 9.             |   |   |   |   |   |   |   |   |   |    |       |
| 10.            |   |   |   |   |   |   |   |   |   |    |       |
| 11.            |   |   |   |   |   |   |   |   |   |    |       |
| 12.            |   |   |   |   |   |   |   |   |   |    |       |
| 13.            |   |   |   |   |   |   |   |   |   |    |       |
| 14.            |   |   |   |   |   |   |   |   |   |    |       |

4. IT IS UNACCEPTABLE TO MAKE A MISTAKE.

5. IF THOSE IN AUTHORITY SAY: "THIS IS THE WAY IT IS SUPPOSED TO BE," THEN THAT IS THE WAY IT IS SUPPOSED TO BE.

9. IT IS JUSTIFIABLE TO SUSPEND A PERSON'S CIVIL RIGHTS IN THE INTEREST OF NATIONAL SECURITY.

10. I FEEL THAT I EARN THE REWARDS AND PUNISHMENTS I GET.

| QUESTION JUROR | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|----------------|---|---|---|---|---|---|---|---|---|
| 1.             | 6 |   |   |   |   |   |   |   |   |
| 2.             | 5 |   |   |   |   |   |   |   |   |
| 3.             | 1 |   |   |   |   |   |   |   |   |
| 4.             | 1 |   |   |   |   |   |   |   |   |
| 5.             | 2 |   |   |   |   |   |   |   |   |
| 6.             | 7 |   |   |   |   |   |   |   |   |
| 7.             | 6 |   |   |   |   |   |   |   |   |
| 8.             | 7 |   |   |   |   |   |   |   |   |
| 9.             | 3 |   |   |   |   |   |   |   |   |
| 10.            | 1 |   |   |   |   |   |   |   |   |
| 11.            | 6 |   |   |   |   |   |   |   |   |
| 12.            | 2 |   |   |   |   |   |   |   |   |
| 13.            | 3 |   |   |   |   |   |   |   |   |

After Each Juror's Score Is Totaled,  
You Can Rank Which Jurors Are More  
or Less Authoritarian.

| QUESTION JUROR | 1 | 2 | 3 | 4 | 5 | 6 | 7  | 8 | 9 | 10 | TOTAL |
|----------------|---|---|---|---|---|---|----|---|---|----|-------|
| 1.             | 6 | 6 | 7 | 7 | 7 | 6 | 5  | 6 | 6 | 7  | 63    |
| 2.             | 5 | 4 | 5 | 6 | 5 | 4 | 5  | 6 | 5 | 5  | 50    |
| 3.             | 1 | 2 | 3 | 1 | 2 | 3 | 12 | 1 | 3 | 1  | 29    |
| 4.             | 1 | 3 | 3 | 1 | 1 | 2 | 2  | 3 | 2 | 1  | 19    |
| 5.             | 2 | 3 | 4 | 3 | 4 | 3 | 4  | 3 | 4 | 3  | 33    |
| 6.             | 7 | 6 | 7 | 6 | 7 | 6 | 7  | 6 | 7 | 7  | 66    |
| 7.             | 6 | 5 | 6 | 7 | 5 | 6 | 7  | 6 | 6 | 6  | 60    |
| 8.             | 7 | 6 | 6 | 7 | 5 | 4 | 5  | 6 | 7 | 7  | 60    |
| 9.             | 3 | 3 | 3 | 4 | 4 | 4 | 5  | 4 | 4 | 4  | 38    |
| 10.            | 1 | 2 | 1 | 2 | 1 | 2 | 1  | 2 | 1 | 1  | 14    |
| 11.            | 6 | 5 | 6 | 7 | 7 | 7 | 6  | 5 | 4 | 5  | 58    |
| 12.            | 2 | 2 | 2 | 3 | 2 | 3 | 3  | 2 | 2 | 3  | 24    |
| 13.            | 3 | 4 | 5 | 4 | 5 | 4 | 5  | 4 | 5 | 4  | 43    |
| 14.            | 3 | 4 | 4 | 4 | 3 | 3 | 3  | 4 | 3 | 4  | 35    |

**ADVANTAGES OF SCALED QUESTIONS**

Everyone on the panel participates.

You get more than a "yes" or "no" answer.

Protect juror privacy.

If you ask enough scaled questions you can accumulate a lot of information in a relatively short period of time.



#### WRITTEN QUESTIONNAIRES

Judge may not allow it;  
Stuck with misunderstood questions and non-responsive answers;  
Resources;  
Answers sometimes meaningless, i.e., Yes or No.  
You can submit lots of questions but may not have time to process the answers.

#### SCALED QUESTIONS

Part of voir dire so less likely to be denied;  
You can clarify the questions and the answers sought;  
Takes no resources;  
You can insist on an answer;  
Answers are nuanced;  
Fewer questions but automated with a spreadsheet.

Some jurors just don't like to speak.

In a twenty-minute voir dire, you can pose three or four scaled questions and hear from everyone at least three to four times.

## Strikes for Cause

### Scaled Questions Give You a Basis for Making Strikes for Cause.

ON A SCALE OF 1 TO 7, WITH 1 BEING STRONGLY AGREE AND 7 BEING STRONGLY DISAGREE, HOW WOULD YOU ANSWER THE FOLLOWING QUESTIONS:

**I cannot simply presume the defendant is innocent.**

**A police officer would never lie while testifying.**  
**If the Defendant does not testify, I will consider his silence as evidence of his guilt.**

**I personally would not require the prosecutors to prove each element of the case beyond a reasonable doubt.**

**Even if the facts justified it, and the law allowed it, I cannot consider the minimum on the range of punishment.**

There are some people who so admire and respect police officers, they simply wouldn't believe that a police officer would lie under oath.

There are other people who believe that a police officer is just as likely as anyone else to lie under oath.



ON A SCALE OF 1 TO 7, WITH 1 BEING STRONGLY AGREE AND 7 BEING STRONGLY DISAGREE, HOW WOULD YOU ANSWER THE FOLLOWING QUESTION:

**I BELIEVE A POLICE OFFICER WOULD NEVER LIE WHILE TESTIFYING IN COURT.**

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

*White v. State*, NO. 02-15-00131-CR, 2016 WL 446672 (Tex.App.-Fort Worth, Feb. 4, 2016) (not designated for publication).

Defense counsel asked the jury panel to rank the believability of police witnesses on a scale of 1-to-5.

I don't believe anything police officers say, they all lie, I can't trust them, don't believe them at all.

I just think that police officers are the most trustworthy people, and you know, if they say something, it's going to be the truth.

1 2 3 **4** 5

Counsel challenged two jurors that answered "4" based on their bias in favor of police officers.

*White v. State*, NO. 02-15-00131-CR, 2016 WL 446672 (Tex.App.-Fort Worth, Feb. 4, 2016) (not designated for publication).

Neither potential juror was at the extreme end of the range proposed by defense counsel.

As they did not demonstrate **extreme or absolute** positions regarding the credibility of police officers, but instead rated them a "four" —

i.e., a number between a neutral "three" and an absolute "five"

— the trial court did not abuse its discretion by denying defendant's challenges for cause with respect to them.

*Fuller v. State*, NO. 01-14-00796-CR, NO. 01-14-00797-CR, 2016 WL 1267912, (Tex.App.-Houston [1st Dist.] Mar. 31, 2016, PDR Refused June 29, 2016) (not designated for publication).

Prosecutor asked venire: On a scale of one to four,

**"How likely do you think a child would be to lie about being sexually abused?"**

1 2 3 4  
Very Likely Likely Unlikely Very Unlikely

The prosecutor's question sought to discover any biases or prejudices rather than commit prospective jurors to resolve or refrain from resolving any issue in the case on the basis of facts contained in the question.

The question therefore is not a commitment question.

Almost all of the prospective jurors answered "three" or "four."

Defendant argued that this was an improper commitment question.

*Hernandez v. State*, NO. 01-15-00837-CR, 2017 WL 1416877, (Tex.App.-Houston [1st Dist.] April 20, 2017, (not designated for publication).

Prosecutor asked venire: On a scale of one to four,

**"If the child says they were sexually abused, then they probably were."**

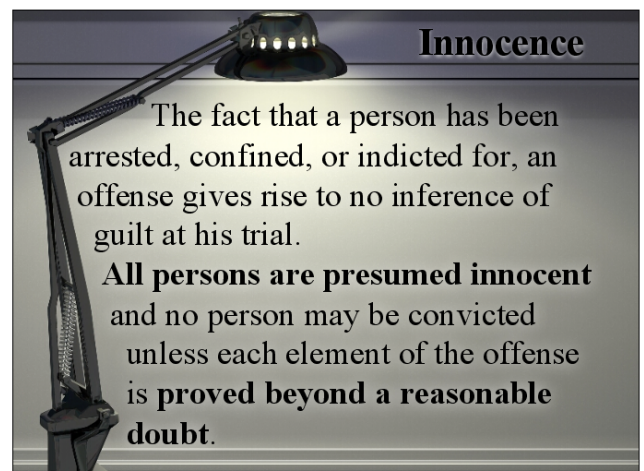
1 2 3 4  
Strongly Disagree Disagree Agree Strongly Agree

The State's question sought to discover any biases or prejudices rather than to commit prospective jurors to resolve or refrain from resolving any issue in the case on the basis of facts contained in the question. The question therefore was not a commitment question.

Defendant argued that this was an improper commitment question.

**What is the only presumption in a criminal case?**

**THE PRESUMPTION OF INNOCENCE**



Establish that in a criminal case:

- Witness reports a crime;
- Police investigate the crime;
- Judge signs an Arrest Warrant;
- Police arrest someone for the crime;
- Prosecutors evaluate the case and prepare the case for a jury.

People have honest differences about the presumption of innocence.

Some people, if they were on the jury, would feel perfectly comfortable presuming Mr. Johnson is innocent.

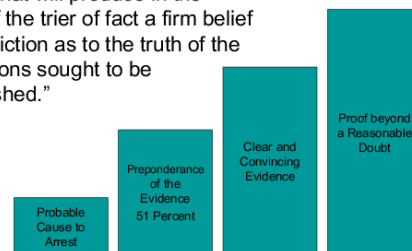
Others without hearing any evidence would infer that Mr. Johnson is probably guilty just because he was arrested.

## PROOF BEYOND ALL REASONABLE DOUBT

What does “PROOF BEYOND ALL REASONABLE DOUBT” mean?

## PROOF BEYOND ALL REASONABLE DOUBT

“Proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.”



## PBRD

The prosecution has the burden of proving the defendant guilty and it must do so by proving each and every element of the offense charged beyond a reasonable doubt and if it fails to do so, you must acquit the defendant.

People have strong feelings about the burden of proof in criminal cases.

Some people would require the state to prove their case *Beyond a Reasonable Doubt* before convicting someone of Sexual Assault of a Child.

Others feel that its enough if the evidence shows it's *more likely than not* that the allegations are true.

They would only need to be convinced by a *preponderance of the evidence*.

ON A SCALE OF 1 TO 7, WITH 1 BEING STRONGLY AGREE AND 7 BEING STRONGLY DISAGREE, HOW WOULD YOU ANSWER THE FOLLOWING QUESTION:

**A**

I WOULD NOT  
REQUIRE PROOF  
BEYOND A  
REASONABLE DOUBT  
TO CONVICT.

**B**

I CANNOT SIMPLY  
*PRESUME* THE  
DEFENDANT IS  
INNOCENT.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

*Barnes v. State*, No. 14-04-00478-CR, 2005 WL 2420375 (Tex.App.-Houston [14th Dist.] Aug. 25, 2005, pet. ref'd) (not designated for publication).

On Presumption of Innocence, Defense used a scale of 0 to 5.

Defense challenged all veniremembers who answered "1" to "4".

Trial judge denied challenges for cause and also denied request for additional peremptory challenges.

TOTAL BELIEF IN THE  
PRESUMPTION OF  
INNOCENCE

BELIEVE THAT  
DEFENDANT IS  
GUILTY

0 1 2 3 4 5

*Barnes v. State*, No. 14-04-00478-CR, 2005 WL 2420375 (Tex.App.-Houston [14th Dist.] Aug. 25, 2005, pet. ref'd) (not designated for publication).

The record did not reveal that any particular veniremember's beliefs would

"prevent or substantially impair him from following the law as set out in the trial court's instructions and as required by the juror's oath."

Appellant failed to prove his challenges for cause were erroneously denied.

*Villarreal State*, No. 03-13-00600-CR, 2014 WL 3893023, (Tex.App.-Austin Aug. 7, 2014 (not designated for publication)).

Defense asked venire: On a scale of 1 to 7, do you agree with the statement:

**"I would not require the State to prove its case beyond a reasonable doubt?"**

1 2 3 4 5 6 7

The State objected to this as an improper commitment question, and the court sustained the objection.

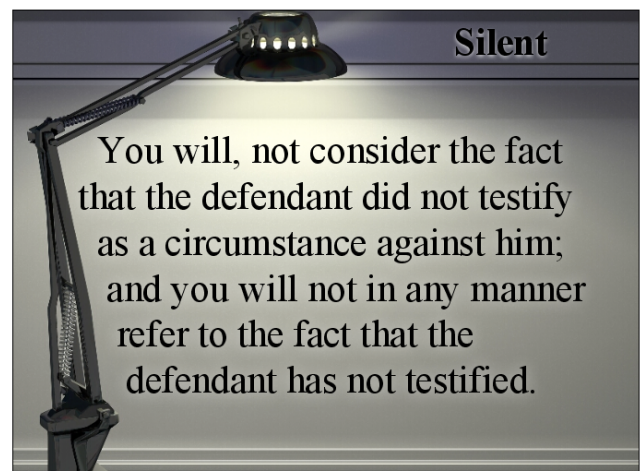
It is **not a commitment question** because it is not based on a hypothetical set of facts and does not require the veniremember to commit to a decision after learning a particular fact.

Accordingly, it was an abuse of discretion for the trial court to sustain the State's objection on that basis. But Harmless.

## THE RIGHT TO REMAIN SILENT

What are some reasons an innocent person may not want to testify ...

Language problems;  
Easily confused and nervous;  
Stutters or doesn't come off well;  
Afraid of being tricked;  
**LAWYER TELLS HIM NOT TO!!!**





ON A SCALE OF 1 TO 7, WITH 1 BEING STRONGLY AGREE AND 7 BEING STRONGLY DISAGREE, HOW WOULD YOU ANSWER THE FOLLOWING QUESTION:

**IF THE DEFENDANT DOES NOT TESTIFY, I WILL CONSIDER HIS SILENCE AS EVIDENCE OF GUILT.**

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

*Womack v. State*, No. 04-08-00059-CR, 2008 WL 2715731 (Tex.App.-San Antonio July 9, 2008) (not designated for publication).

Defense used a scale of 1 to 5 and asked, whether prospective jurors would “**hold it against the defendant if he did not testify.**”

1 2 **3** 4 5

One Juror said “3”.

Defense Counsel tried to clarify.

Juror said: “It would be a question in the back of my mind. ...”

*Womack v. State*, No. 04-08-00059-CR, 2008 WL 2715731 (Tex.App.-San Antonio July 9, 2008) (not designated for publication).

Trial Judge then rehabilitated the entire venire:

whether any of the prospective jurors **could not in good conscience follow** the court's instructions that, if the defendant does not testify, they may not consider or hold that fact against the defendant.

None of the prospective jurors indicated that they could not follow the court's instructions.

Conviction Affirmed.



## Peremptory Challenges

### Peremptory Challenges:

You're down to your last peremptory challenge, and

You have two unfavorable venire members left on the panel, and it's a coin toss,

Who do you strike?



| QUESTION<br>JUROR | 1 | 2 | 3 | 4 | 5 | 6 | 7  | 8 | 9 | 10 | TOTAL |
|-------------------|---|---|---|---|---|---|----|---|---|----|-------|
| 1.                | 6 | 6 | 7 | 7 | 7 | 6 | 5  | 6 | 6 | 7  | 63    |
| 2.                | 5 | 4 | 5 | 6 | 5 | 4 | 5  | 6 | 5 | 5  | 50    |
| 3.                | 1 | 2 | 3 | 1 | 2 | 3 | 12 | 1 | 3 | 1  |       |
| 4.                | 1 | 3 | 3 |   |   |   |    |   |   |    |       |
| 5.                | 2 | 3 | 4 | 3 | 4 | 3 | 4  | 3 | 4 | 3  |       |
| 6.                | 7 | 6 | 7 | 6 | 7 | 6 | 7  | 6 | 7 | 6  | 66    |
| 7.                | 6 | 5 | 6 | 7 | 5 | 6 | 7  | 6 | 6 | 6  | 60    |
| 8.                | 7 | 6 | 6 | 7 | 5 | 4 | 5  | 6 | 7 | 6  | 60    |
| 9.                | 3 | 3 | 3 | 4 | 4 | 4 | 5  | 4 | 4 | 4  |       |
| 10.               | 1 | 2 | 1 | 2 |   |   |    |   |   |    |       |
| 11.               | 6 | 5 | 6 | 7 | 7 | 7 | 6  | 5 | 4 | 5  | 58    |
| 12.               | 2 | 2 | 2 | 3 | 2 | 3 | 3  | 2 | 2 | 3  |       |
| 13.               | 3 | 4 | 5 | 4 | 5 | 4 | 5  | 4 | 5 | 4  |       |
| 14.               | 3 | 4 | 4 | 4 | 3 | 3 | 3  | 4 | 3 | 4  |       |
| 15.               | 6 | 5 | 6 | 7 | 5 | 5 | 6  | 6 | 7 | 6  | 59    |
| 16.               | 7 | 7 | 7 | 6 | 6 | 7 | 6  | 7 | 6 | 7  | 66    |
| 17.               | 6 | 4 | 5 | 6 | 7 | 4 | 5  | 6 | 5 | 4  | 52    |
| 18.               | 6 | 5 | 5 | 5 | 5 | 5 | 5  | 4 | 5 | 5  | 50    |
| 19.               | 2 | 1 | 2 | 3 | 2 | 2 | 3  | 2 | 3 | 2  |       |

## The Revised Legal Attitude Questionnaire

### High in Legal Authoritarianism

The following are a few of the statements from the **Revised Legal Attitude Questionnaire**, which, when jurors are in agreement, have been found to effectively identify persons high in legal authoritarianism (Kravitz, Cutler & Brock, 1993):

IT IS IMMORAL AND UNETHICAL FOR A LAWYER TO REPRESENT A DEFENDANT IN A CRIMINAL CASE WHEN HE BELIEVES HIS CLIENT IS GUILTY.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

It is moral and ethical for a lawyer to represent a defendant in a criminal case even when he believes his client is guilty.

EVIDENCE ILLEGALLY OBTAINED SHOULD BE ADMISSIBLE IN COURT IF SUCH EVIDENCE IS THE ONLY WAY OF OBTAINING A CONVICTION.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

TOO MANY OBVIOUSLY GUILTY PERSONS ESCAPE PUNISHMENT BECAUSE OF LEGAL TECHNICALITIES.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

DEFENDANTS IN A CRIMINAL  
CASE SHOULD BE REQUIRED TO  
TAKE THE WITNESS STAND.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

THE FREEDOM OF SOCIETY IS  
ENDANGERED MORE BY THE  
ACTS OF INDIVIDUAL CRIMINALS  
THAN BY ZEALOUS LAW  
ENFORCEMENT.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

The freedom of society is endangered as much by zealous law enforcement as by the acts of individual criminals.

POLICE SHOULD BE ALLOWED TO  
ARREST AND QUESTION  
SUSPICIOUS LOOKING PERSONS TO  
DETERMINE WHETHER THEY HAVE  
BEEN UP TO SOMETHING ILLEGAL.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

THE LAW CODDLES CRIMINALS  
TO THE DETRIMENT OF SOCIETY.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

UPSTANDING CITIZENS HAVE  
NOTHING TO FEAR FROM THE  
POLICE.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

I APPROVE OF THE GOVERNMENT  
USING WIRETAPS AND OTHER  
TYPES OF ELECTRONIC  
SURVEILLANCE TO INVESTIGATE  
POTENTIAL CRIMINAL ACTIVITY.

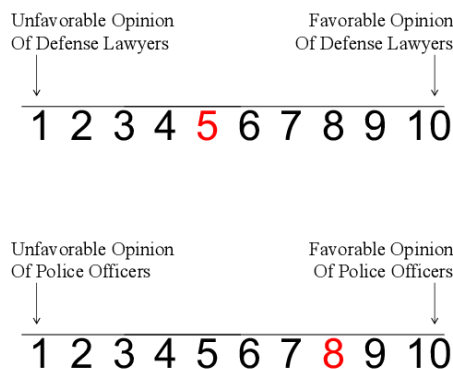
STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

## Batson v. Kentucky

*Hassan v. State*, 369 S.W.3d 872 (Tex.Crim.App. 2012).



*Hassan v. State*, 369 S.W.3d 872 (Tex.Crim.App. 2012).

The State used a PE strike on one juror who ranked his opinion of defense attorneys as a “5”.

The State used another PE strike on a juror who ranked his opinion of police officers as an “8”.

Appellant argued these answers made these jurors favorable State’s jurors and that it was unlikely the State would strike them for any reason other than race.

*Hassan v. State*, 369 S.W.3d 872 (Tex.Crim.App. 2012).

**The venire consisted of 14 people:**

5 African–Americans,  
2 Asians,  
3 Caucasians,  
4 Hispanics.

**The jury consisted of:**

2 African–Americans,  
1 Asian,  
2 Hispanics,  
1 Caucasian.

**The State struck:**

2 African–Americans,  
1 Asian.

Defense counsel objected that the State’s strikes were racially motivated in violation of *Batson*.

This is the reader’s guess at the seating order, however the composition by race is reflected in the opinion.

X = State PE Strike; S = State Challenge for Cause  
X = Def PE Strike; S = Def Challenge for Cause  
E = Excused by Court

|   |   |   |   |   |
|---|---|---|---|---|
| H | B | W | W |   |
| W | B | A | B | H |
| B | B | A | H | H |

*Hassan v. State*, 369 S.W.3d 872 (Tex.Crim.App. 2012).

CCA: Defendant failed to establish a prima facie case of racial discrimination in State’s use of peremptory strikes, where statistical evidence was based on small sample sizes, jury was racially diverse and corresponded roughly to the racial composition of the venire, and defendant’s proffer of other circumstances was insubstantial.



Perfectionists



I ORDINARILY KEEP MY HOME VERY ORGANIZED.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

EVERYTHING IN LIFE MUST BE DONE TO MY LEVEL OF SATISFACTION, WHICH IS OFTEN HIGHER THAN ANYONE ELSE'S.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

IT IS UNACCEPTABLE TO MAKE A MISTAKE.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

I DO NOT EASILY FORGIVE MYSELF AND OTHERS FOR MISTAKES OR FAILINGS.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

IF THOSE IN AUTHORITY SAY: **"THIS IS THE WAY IT IS SUPPOSED TO BE,"** THEN THAT IS THE WAY IT IS SUPPOSED TO BE.

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7



*Cardona. State*, No. 08-07-00161-CR, 2009 WL 3153207, (Tex.App.-El Paso Sept. 30, 2009) (not designated for publication).

Prosecutor asked venire: On a scale of 1 to 10,

**“Rate the seriousness of Intox. Manslaughter with 1 being ‘it’s not important’ and 10 being ‘it’s real important.’ ”**

|   |   |   |   |   |           |   |   |   |           |
|---|---|---|---|---|-----------|---|---|---|-----------|
| 1 | 2 | 3 | 4 | 5 | 6         | 7 | 8 | 9 | 10        |
|   |   |   |   |   | Not       |   |   |   | Real      |
|   |   |   |   |   | Important |   |   |   | Important |

By asking the potential jurors to rate how seriously they viewed the offense of Intox. Manslaughter, the prosecutor was attempting to determine their views and to expose any biases.

The prosecutor did not attempt to bind the venire members to resolve, or refrain from resolving, an issue a certain way after learning a particular fact.

VIOLENT OFFENDERS  
SHOULD ALWAYS RECEIVE A  
PRISON SENTENCE

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

MENTAL HEALTH  
TREATMENT IS A  
WASTE OF TIME

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

TRAVIS COUNTY IS TOO  
SOFT ON VIOLENT CRIME

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7

I COULD NEVER CONSIDER  
PROBATION IF I FOUND SOMEONE  
GUILTY OF CAUSING SERIOUS  
BODILY INJURY TO A FAMILY  
MEMBER WITH A DEADLY WEAPON

STRONGLY  
AGREE

STRONGLY  
DISAGREE

1 2 3 4 5 6 7



WHEN INTERROGATING A CRIMINAL SUSPECT, THE POLICE SHOULD BE ALLOWED TO DENY FOOD OR DRINK

STRONGLY AGREE

STRONGLY DISAGREE

1 2 3 4 5 6 7

WHEN INTERROGATING A CRIMINAL SUSPECT, THE POLICE SHOULD BE ALLOWED TO REFUSE PERMISSION TO USE A BATHROOM

STRONGLY AGREE

STRONGLY DISAGREE

1 2 3 4 5 6 7

WHEN INTERROGATING A CRIMINAL SUSPECT, THE POLICE SHOULD BE ALLOWED TO SUBJECT A PERSON TO EXTREME TEMPERATURES

STRONGLY AGREE

STRONGLY DISAGREE

1 2 3 4 5 6 7

IT IS JUSTIFIABLE TO SUSPEND A PERSON'S CIVIL RIGHTS IN THE INTEREST OF NATIONAL SECURITY.

STRONGLY AGREE

STRONGLY DISAGREE

1 2 3 4 5 6 7

WHEN INTERROGATING A CRIMINAL SUSPECT, THE POLICE SHOULD **PREVENT** ACCESS TO A LAWYER

STRONGLY AGREE

STRONGLY DISAGREE

1 2 3 4 5 6 7



National Election Study  
4 Item Authoritarian Index -  
Views on Raising Children.

ALTHOUGH THERE ARE A NUMBER OF  
QUALITIES THAT PEOPLE FEEL THAT  
CHILDREN SHOULD HAVE, EVERY  
PERSON THINKS THAT SOME ARE  
MORE IMPORTANT THAN OTHERS.

I AM GOING TO READ YOU PAIRS OF  
DESIRABLE QUALITIES.

PLEASE TELL ME WHICH ONE YOU  
THINK IS MORE IMPORTANT FOR A  
CHILD TO HAVE.

RESPECT FOR ELDERS  
VERSUS  
INDEPENDENCE

RESPECT FOR  
ELDERS

1

INDEPENDENCE

2

OBEDIENCE  
VERSUS  
SELF-RELIANCE

OBEDIENCE

1

SELF-RELIANCE

2

GOOD MANNERS  
VERSUS  
CURIOSITY

GOOD MANNERS

1

CURIOSITY

2

BEING WELL BEHAVED  
VERSUS  
BEING CONSIDERATE

BEING WELL  
BEHAVED

1

BEING  
CONSIDERATE

2

Never forget, almost every case has  
been won or lost when the jury is  
sworn.

*Clarence Darrow*



Good Luck