



Expanded Voir Dire Pilot

Dear Maryland Attorney,

Thank you for participating in the Pilot Program for Expanded Voir Dire in Maryland as a pilot attorney. The purpose of this program under Rule 16-310 is to gather information and experience that may be used to:

- (1) study the effects of expanded voir dire on the effectiveness and efficiency of jury selection, case management, juror satisfaction, public perception of the trial process, court operations, and related concerns;
- (2) develop guidance and education to assist courts, attorneys, and litigants in the implementation of expanded voir dire statewide; and
- (3) inform efforts of the Standing Committee on Rules of Practice and Procedure and the Supreme Court to consider whether amendments to Rules 2-512 and 4-312 are appropriate.

To provide you with guidance and an opportunity to prepare as this project moves forward, attached is a packet of information on how a pilot judge in a pilot jurisdiction might conduct expanded voir dire in the jury selection process. This is a copy of the information that has been sent to the pilot judges with the intention of providing a menu of expanded voir dire options available. As noted, the pilot judge may use any of these styles or a combination of these styles during voir dire.

No matter what type of expanded voir dire is ultimately used in a particular case, counsel are encouraged to provide pilot judges with input on the type or combination of types of expanded voir dire which might be most effective in a particular case and to participate in pre-trial or status conferences per the court's direction to discuss the procedures regarding a particular case and to understand how voir dire will be conducted prior to jury selection.

Included with this letter is the menu of types of expanded voir dire that has been provided to the pilot judges. Each type is accompanied by a brief description of the technique and considerations involved. Also included is a list of the pilot jurisdictions and the pilot judges. The Maryland State Bar Association is expected to update the voir dire questions previously published and to include sample expanded voir dire questions.

The Expanded Voir Dire Survey Instructions packet directed to attorneys is also included. These survey questions will be provided to you at the conclusion of each jury selection in which you participate in the pilot jurisdictions. Data will also be collected in a similar



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fashion from the pilot judges, jurors, other judges, as well as other members of the judiciary.

Please keep in mind that jury selection remains within the sole discretion of the judge. Pilot judges will continue to be mindful of safeguarding the jury selection process, and the type(s) of expanded voir dire to be used are subject to the pilot judge's discretion.

Throughout the Pilot Program, there will be regular meetings among various stakeholders, including the pilot judges and the Expanded Voir Dire Pilot Program Advisory Board. This will permit the monitoring of the Program's progress as well as the exchange of observations, thoughts, and ideas as we move forward together. The data collection period for this program covers January through June, 2025.

Thank you once again for your participation in this important project. We look forward to conducting and analyzing this pilot project.

Respectfully,

A handwritten signature in black ink, appearing to read "Laura S. Ripken", with a long horizontal line extending to the right.

Laura S. Ripken
Judge, Appellate Court of Maryland
Chair, Expanded Voir Dire Pilot Program Advisory Board



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Appendix A: Expanded Voir Dire Considerations Provided to Pilot Judges



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Overview

The following are considerations applicable to the types of expanded voir dire identified below:

- Set clear guidelines for how voir dire will be conducted prior to jury selection.
- Conduct a pre-trial or status conference as appropriate to address the guidelines you are setting.
- Obtain counsel's input on the type or combination of types of expanded voir dire which they assert will be most effective in the case.
- Provide the parties with the responsive information from the Juror Qualification Form pertaining to a prospective juror's eligibility to serve and general background information that might have been collected by the court prior to jury selection.
- Per the Supreme Court, you as a trial judge have "significant latitude" in the process of conducting voir dire and the scope and form of the questions presented to the prospective jurors. *Collins v. State*, 452 Md. 614, 622–23 (2017).

Sample Expanded Voir Dire Type

This resource will provide considerations for the following types of expanded voir dire:

- Traditional voir dire with additional questions for the intelligent exercise of peremptory strikes.
- Individual juror voir dire at the bench or outside the trial courtroom, i.e., a conference room, or another courtroom if available.
- Attorney-led voir dire of a panel.
- Questionnaires.
- Limited opening remarks before the beginning of voir dire.



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1. Traditional voir dire with additional questions for the intelligent exercise of peremptory strikes.

Technique: Trial Judge performs voir dire in the traditional manner based on the Trial Court's preferences with the addition of questions to be submitted by counsel to facilitate the intelligent exercise of peremptory strikes.

Considerations:

- a. Use traditional questions focused on impartiality and bias and request from counsel expanded voir dire questions to be used for the intelligent exercise of peremptory strikes.
- b. Set a deadline for the submission of expanded voir dire questions and require that counsel exchange expanded voir dire questions prior to the deadline.
- c. Prior to conducting voir dire, permit each side to review the traditional questions and expanded voir dire questions that will be read to the panel and provide an opportunity for counsel to object or offer modifications.
- d. Ask all the questions directly of the panel.
- e. Methods include: (1) Ask all of the voir dire questions of the panel at once, keeping track of affirmative responses, followed by calling each juror to the bench to address all the questions for which the juror had a response; (2) Ask each question, one at a time, and bring up each of the responsive jurors individually following each individual question.
- f. Inquire of any juror who has not responded to any questions. This would be conducted at the bench.
- g. Challenges for cause can be made during questioning or at the conclusion of questioning.
- h. Determine when to permit the use of peremptory challenges, i.e., prior to jurors being seated in the juror box, or prior to and after they are seated.
- i. Whether it is appropriate to impose a limit on the number of expanded voir dire questions submitted by counsel.



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2. Individual juror voir dire at the bench or outside the trial courtroom, i.e., a conference room, or another courtroom if available.

Technique: All questions are posed to the entire panel, and then the Court reviews the answers with the attorneys and prospective jurors one at a time. All potential jurors meet with the Court and the attorneys even if they did not respond to any of the questions.

Considerations:

- a. There are a variety of manners in which and locations where this can occur.
- b. Prepare the questions in advance as per above, and then the judge can pose all of them to each juror individually or to the entire panel at the same time while taking individual responses separately.
- c. How to permit follow-up questions, i.e., by counsel based on the responses or by the judge as appropriate.
- d. As appropriate, limit individual voir dire to only as many jurors as would be necessary.
- e. Once the judge has qualified enough jurors, the remainder of the panel could be released.
- f. If individual voir dire is conducted outside the courtroom, precautions must be taken to ensure the questioning is on the record.
- g. If individual voir dire is conducted outside the courtroom, precautions must be taken to ensure appropriate security measures are in place.



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3. Attorney-led voir dire of a panel.

Technique: Judge permits attorneys to question the jury panel directly.

Considerations:

- a. This method could be used in conjunction with any of the other following types of expanded voir dire: i.e., traditional voir dire with additional questions, individual voir dire, questionnaire and/or opening statements. For example, the judge conducts the traditional voir dire questions focused on bias, and the attorneys then inquire with additional questions directed at the intelligent exercise of peremptory strikes.
- b. Require questions to focus on the intelligent exercise of peremptory challenges and do not allow for inappropriate advocacy.
- c. Set firm time restrictions and/or a limitation on the number of questions by each side.
- d. Require disclosure of the proposed questions in advance.
- e. Require permission, prior to follow-up inquiry, outside disclosed questions during panel discussion.
- f. Be mindful of the potential of improper questions impacting the integrity of the venire process.
- g. Carefully supervise to avoid inappropriate questions that unnecessarily invade a potential juror's privacy or impact security.
- h. Allow counsel an opportunity to state objections to questions.
- i. The attorneys' experience, willingness, and abilities should be considered when selecting this option.



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4. Questionnaires.

Technique: General and/or Case-Specific Questionnaires are prepared, distributed, and completed by the panel prior to questioning of jurors.

Considerations:

- a. A trial judge could require the parties to confer on the form and content of the questionnaire and encourage a joint submission in advance of jury selection. If the parties are unable to reach an agreement, each party could be permitted to submit a proposed questionnaire and comment on any proposal submitted by another party.
- b. A proposed questionnaire could include questions seeking basic background information from jurors, as well as responses to traditional voir dire questions related to impartiality, pre-existing knowledge, bias, and hardship. The questionnaire may also include questions that relate to relevant case-specific topics.
- c. In most cases, questionnaires should be given to prospective jurors on the day of jury selection. Consider a short cover letter briefly describing the contentions of the parties in the case being tried and explaining the purpose of the questionnaire. In lengthy, complex, or high-publicity cases, a more detailed questionnaire can be mailed to prospective jurors in advance of trial to permit review of the answers prior to the day of jury selection.
- d. The completed questionnaires would be collected and copied in a secure manner allowing for the distribution of copies to counsel. All are advised the questionnaires are to be kept confidential, not to be copied or disseminated further and that they will be collected at the conclusion of jury selection.
- e. After the venire panel is sworn, the judge should question each prospective juror, inquiring whether each juror's answers on the questionnaire are true and accurate. The judge should ask follow-up questions prompted by the responses as appropriate. Because the judge and the parties will have the answers in advance, they should be able to determine whether inquiries of a juror as to a particular area should be made privately.
- f. The judge may permit counsel to pose supplemental questions directly to the prospective juror or may permit counsel to propose supplemental questions to be posed by the judge.
- g. In appropriate cases, the parties should be permitted to submit a case specific questionnaire which may be used for the purpose of obtaining a prospective juror's personal knowledge of the case, life experiences, and opinions regarding topics relevant to the case.
- h. A potential benefit from soliciting written rather than oral responses is that a juror may be more comfortable disclosing information in this format. This could be useful in high-profile



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cases to assess exposure to pre-trial publicity or in cases that involve controversial or complex subjects.

- i. A case-specific questionnaire may also shorten the time required for voir dire by avoiding repetitive questioning and allowing for more focused questions, thereby streamlining the trial process.
- j. A questionnaire could reduce the waiting time for prospective jurors who likely are to be excused for cause.
- k. Advise potential jurors of the purpose of any questionnaire, how it will be used, and who will have access to the information.
- l. Provide completed questionnaires to the parties in sufficient time before the start of voir dire to enable the parties to adequately review them.
- m. Strikes for cause resulting from responses could be addressed preliminarily.
- n. All copies of questionnaires should be collected and secured at the completion of jury selection.



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5. Limited opening remarks before the beginning of voir dire.

Technique: Before expanded voir dire of the panel is conducted by the trial judge or with participation by counsel, the attorneys are permitted to make brief preliminary comments to the panel to assist in framing the inquiry to follow.

Considerations:

- a. This method may or may not be appropriate given the aspects of the trial. For example, you might conclude it could be more useful in a long trial with complex issues as opposed to a short uncomplicated trial.
- b. Comments should be brief, non-argumentative, and informative.
- c. Attorneys should only be permitted to state the facts of the case in a neutral way. For example, they might be permitted to state the essential allegation(s), indicate why the jury is needed, and what they will be asked to do as jurors at the end of the case.
- d. Set a time limit for each side.
- e. Require the submission of the comments or areas to be addressed in advance.
- f. Require that both parties agree to giving a limited opening statement.
- g. A limited opening may reduce the number of people seeking hardship, as there is a potential for a juror to be more interested in the case and invested in the process.
- h. A judge should remind the prospective jurors that the limited openings, like opening statements and closing arguments, are not evidence.
- i. Be mindful of the potential of improper remarks impacting the integrity of the venire process.



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Appendix B: Pilot Jurisdictions



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EXPANDED VOIR DIRE PILOT PROGRAM JURISDICTIONS
Allegany County
Anne Arundel County
Baltimore City
Carroll County
Cecil County
Charles County
Montgomery County
Worcester County



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Appendix C: Pilot Judges Directory



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EXPANDED VOIR DIRE PILOT PROGRAM – PILOT JUDGES DIRECTORY	
Allegany County	
Judge Jeffrey Getty	
Anne Arundel County	
Judge Pamela Alban	
Judge Michael Malone	
Judge Robert Thompson	
Baltimore City	
Judge Troy Hill	
Judge Jeannie Hong	
Judge Lynn Stewart Mays	
Judge Jennifer Schiffer	
Judge Martin Schreiber	
Judge Hope Tipton	
Carroll County	
Judge Maria Oesterreicher	
Judge Richard Titus	
Cecil County	
Judge Cameron A. Brown	
Charles County	
Judge Makeba Gibbs	
Judge William Greer	
Montgomery County	
Judge Sharon Burrell	
Judge Jill Cummins	
Judge David Lease	
Judge John Maloney	
Judge Michael McAuliffe	
Judge Margaret Schweitzer	
Worcester County	
Judge Brian Shockley	



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Appendix D: Expanded Voir Dire Survey Instructions Directed to Attorneys



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Survey Instructions Packet – Attorneys

Introduction

This document outlines the attorney-specific survey procedures for gathering data during the expanded voir dire pilot implementation aimed at evaluating the impact of the pilot program. There are two goals to the data collection effort. One is to collect data on jury trials participating in the pilot and all other jury trials in the same jurisdictions so that we can compare the outcomes and control for extraneous factors. The second goal is to ensure that we have a clear, consistent approach that minimizes the effort to collect data and encourages high participation rates.

Along with the attorney survey, the complete list of data elements is outlined below. Specifically, courts will be responsible for the following data collection points at each civil and criminal jury trial:

1. Survey link and QR code given to venirepersons and sitting jurors
2. Survey link and QR code given to attorneys
3. Survey link and QR code given to judge
4. Strikes Data Form
5. Tagging Key Trial Points

Attorneys are asked to respond to the survey accessed via a QR code for each trial in which voir dire is conducted. Attorneys can contact ResearchandAnalysis@mdcourts.gov with any questions at any time during the pilot.

Survey Instructions - Attorney Survey

Survey links and QR codes will be placed on trial tables and sent via email at the end of the first day of a trial where jurors were selected and sworn.

The survey intentionally seeks to gain an understanding of the voir dire process from the attorney perspective to enable a comprehensive analysis of operational impacts and how effective they feel the voir dire process was in juror selection. Research & Analysis acknowledges the time commitment for completing a survey for each trial; however, this level of data collection will allow Research & Analysis the ability to map more specifically judges' and attorneys' styles, particularly as they evolve over the course of the pilot.

(See Appendix for attorney survey questions.)

Distribution:

Court staff will provide attorneys with index cards containing a QR code and link to the attorney



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survey. These cards may also be placed on trial tables in every courtroom that potentially will have a criminal or civil jury trial during the research period. Attorneys will be asked to complete the survey as soon as practicable after the voir dire process or at the end of the trial.

The QR code will direct the respondent to an online survey accessible only by Research & Analysis. Confidentiality will be maintained, and responses will be analyzed and reported in aggregate counts. Free text responses may be quoted anonymously. Court staff (including judges) will not be able to view or access individual responses.

The cards containing the survey link and QR code will instruct respondents to contact Research & Analysis at ResearchandAnalysis@mdcourts.gov if they have any questions about the survey or need assistance submitting a response.

Follow-Up:

Attorneys will receive a follow-up email from Research & Analysis after the first day of a jury trial using the email provided in MDEC. Research & Analysis will not know who has already submitted a response, so this email will act as a reminder to all attorneys to complete the survey.



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Appendix: Attorney Survey Questions

Introduction

1. Case Number

Voir Dire Style

2. Who was involved in the voir dire process?
 - Judge Exclusively
 - Judge Primarily
 - Judge and Attorney (Self-Represented Party) Equally
 - Attorney (Self-Represented Party) Primarily
3. How was voir dire conducted? (Select all that apply)
 - Oral questions posed to the full potential jury panel in open court.
 - Oral questions posed to individual potential jurors in open court.
 - Oral questions posed to individual potential jurors at a sidebar or other location.
 - Standardized written questionnaire completed by potential jurors.
 - Case-specific written questionnaire completed by potential jurors.
4. Who asked questions of the potential jurors during voir dire?
 - Judge Exclusively
 - Judge Primarily
 - Judge and Attorney (Self-Represented Party) Equally
 - Attorney (Self-Represented Party) Primarily

Efficiency and Effectiveness of Jury Selection

5. In your opinion, did voir dire take:
 - More time than reasonably necessary
 - The right amount of time
 - Less time than reasonably necessary
6. Did the voir dire process adequately assist in your ability to detect juror bias?
(Yes / No / Unsure)
7. How effective was the voir dire process for identifying jurors to remove for cause?
Scale: 1 (ineffective) to 5 (very effective)
8. How effective was the voir dire process for identifying jurors for informing the use of peremptory challenges?
Scale: 1 (ineffective) to 5 (very effective)

Please rate your agreement with the following statements. (Scale Rating from 1 [Strongly Agree] to 5 [Strongly Disagree])

9. Topics submitted by attorneys were likely to elicit relevant juror information necessary to select a jury.
10. Questions asked by attorneys were likely to elicit relevant juror information necessary to select a jury.



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11. Were there any topics you wanted to address with jurors that were disallowed (Yes/No)?

If yes, please specify:

- ☐ Legal topics
- ☐ Burden of proof (civil cases only)
- ☐ Juror's opinions
- ☐ Details of juror's prior jury service
- ☐ Other: _____

12. Do you have any comments about the jury selection process in this case? (Open Text Box)