



# BRIEF BANK

## WASHOE COUNTY DISTRICT ATTORNEY'S OFFICE

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## **Notes on Predicates for Trial Evidence and Demonstrations**

Presentation On

### "PREDICATES FOR TRIAL EVIDENCE AND DEMONSTRATIONS"

Lecture By Steven I. Kroll, Esquire  
Assistant States Attorney  
Baltimore County  
Towson, Maryland

### DISCUSSION NOTES AND DETAILED OUTTJT~

#### I. INTRODUCTION

##### A. IN GENERAL

1. Real and demonstrative evidence can breathe life into a case and provide a tangible connection with otherwise intangible facts or events. Any litigator who has used such evidence can attest to the fact that the jury's interest is piqued when the "real thing" is presented into evidence and when, as an admitted piece of evidence, the jurors are permitted to take it into the jury deliberation room.

##### B. THE REQUIREMENT OF RELEVANCY

1. No matter how interesting or stimulating the evidence might be, however, the prosecutor must still be prepared to show that there is some reason for admitting the evidence. One of the first major hurdles is establishing that the evidence is "relevant".

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2. Regardless of whether the evidence is real or demonstrative, the case law has established various legal

predicates for authenticating or identifying each type of evidence. The trial court will decide whether the proponent has laid a sufficient "predicate" or "foundation" or has sufficiently "proved up" the evidence. ~ Federal Rule of Evidence 901(a).

## II. REAL OR ORIGINAL EVIDENCE

### A. IN GENERAL

1. Evidence which is historically related to the case is often considered to be the "direct," "real" or "original" evidence. See generally. Cleary, McCormick on Evidence, 212 at 663 (3d ed. 1984). Common examples would include the actual knife used in the assault, the shirt worn by the victim, the piece of broken glass found in the defendant's car, and the drugs seized from the defendant at the time of the arrest.
2. "Demonstrative evidence" is a generic term usually associated with any tangible evidence which demonstrates a particular fact or condition; it is not essential that the evidence actually be historically connected with the case. For example, a gun similar to the missing weapon used in the robbery might be admissible if it can be established that it is sufficiently similar to the gun actually used.

### B. READILY IDENTIFIABLE REAL EVIDENCE

1. One common method of identifying real evidence ~s to use a witness who can examine the object and readily identify it in court. The means of identification may be a physical mark placed on the object by the witness,

such as a scratch or written initials. Or the witness may recognize the object by pre-existing marks (serial number) or characteristics, i.e. coloring, weight, size, texture, or feel.

2. If the witness cannot readily identify the object, then it may be necessary to either treat the object: as only being similar to the real thing (see discussion below) or establish its authenticity through chain of custody.

#### **B. MODELS**

1. A prosecutor may find it helpful to construct a model which can be shown to the jury and incorporated into a witness' testimony.

2. In establishing the predicate for models, the prosecutor should carefully establish

- a. the thing or object is such a reasonable exact reproduction or replica of the object involved that when viewed by the jury it causes them to see substantially the same object as the original and,

- b. there is a good reason for acceptance into evidence of the replica.

#### **IV. PHOTOGRAPHIC EVIDENCE**

##### **A. IN GENERAL**

I hand you State's Exhibit Number 1 for identification.

What is it?

Do you or do you not recognize it?

Does this photograph marked as State's Exhibit Number 1 for identification purposes fairly and accurately depict the subject matter therein on the date and time in question.

(Or what is it a picture of ?)

Your Honor, the State moves that State's exhibit number 1, for identification be admitted into evidence.

B. SILENT V. PICTORIAL

2. There are two generally recognized methods of authenticating a photograph: the silent witness theory and the pictorial testimony theory. See generally Hannewacker v. City of Jacksonville Beach, 419 So.2d 308 (Fla. 1982) (discussion of both theories).

X-RAY PREDICATE

- a. Qualifications of x-ray operator as a qualified technician.
- b. X-ray is of the person's body at a particular time.
- c. Correct procedures were used
- d. Proper chain of custody of the cassette between filming and development;
- e. X-ray film is the one taken of the person

E. RELEVANCY OF PHOTOGRAPHIC EVIDENCE

1. Assuming that the prosecutor can verify the contents of the photograph,

it is still necessary to establish its relevancy. Photographs are usually relevant if they aid the jury in understanding the issue. If they have no tendency to prove or disprove a contested issue in the case they have little use or purpose. ~ State v. Moorman, 744 P.2d 679 (Ariz. 1987). It is important to note, however, that "necessity" is not the test for determining whether a photo should be admitted. People v. Boggs, 63 Cal. Rptr. 430, 255 Cal.App.2d 693 (1967)

2. The case law recognizes a wide variety of reasons for considering photographic evidence relevant in case.

a. Illustrate Testimony. See, e.a., Cash v. State, 784 S.W.2d 166 (Ark. 1990); Gardner v. State, 754 S.W.2d 518 (Ark. 1988).

b. Identifies victim: State v. Walker, 537 A.2d 1021 (Conn. 1988); Jackson v. State, 745 S.W.2d4(Tex. Crim. Ap. 1988).

c. Shows Degree of Force, Level of Crime. ~ Randolph v. State, 562 So.2d 331 (Fla. 1990) (showed violent and extensive nature of victim's injuries); State v. Micheliche, 533 A.2d 41 (N.J. 1987) (voracity of attack).

G. "ALIVE" PICTURES OF MURDER VICTIMS

1. Where a homicide victim's identity is in issue, a photograph of victim while still alive is probably admissible. See, e.g., Palmer v. State, 451 So.2d 500 (Fla. 1984) (photograph admissible; court noted, however, that the photo might have been cumulative

because father had identified victim at morgue).

2. If the victim's identity is not in issue, the photograph is probably inadmissible unless the prosecution can show some other relevant purpose for introducing it. See, e.g., Staggs v. State, 804 P.2d 456 (Okl. Crim. App. 1991).

## V. AUDIOTAPE EVIDENCE

### A. IN GENERAL

1. Audiotape evidence can be extremely effective in showing the jury what was said at the time in question. A tape recorded conversation, for example, of the defendant's participation in a drug sale or in a post-crime attempt to cover up a crime, can be particularly devastating.

2. Although there is apparently little case law on the subject, it might be helpful to have a transcript made of the tape, especially if it is hard to follow, and ask that the jury be permitted to follow along on the transcript. It would, of course, be necessary to first lay the foundation for the transcript to insure that it is accurate.

### B. THE LEGAL PREDICATE FOR AUDIO TAPE

1. In laying the foundation for audio tapes, the prosecutor must be prepared to establish that the tapes are reliable accounts of what was said.

2. The seven-step predicate often relied upon was set out in Edwards v.

State, 551 S.W.2d 731 (Tex. Crim. App. 1977) which in turn relied upon a widely cited annotation at 58 A.L.R.2d 1024:

- a. Show that the recording device was capable of recording;
- b. Show that the operator of the device was competent;

2. The process of verifying the authenticity of a video tape essentially requires the proponent to show that it was produced by a reliable machine and that it has not been altered. See, e.g., Federal Rule of Evidence 901(9) which addresses authentication of a "process or system."

#### **B. THE LEGAL PREDICATES**

1. At least one court has indicated that video tapes with sound should be authenticated in the same manner as used for audio recordings, supra. Roy v. State, 608 S.W.2d 645 (Tex. Crim. App. 1980). The same court held, however, that a silent video should be verified in the same method used for photographs. Huffinan v. State, 746 S.W.2d 212 (Tex. Crim. App. 1988). Cf. People v. Heading, 39 Mich. App. 126, 197 N.W.2d 325 (1972) (same foundation as motion picture); Annot., 60 A.L.R.3d 333.

2. Whatever system is used to verify the video tape, the proponent must show that the information on the tape is reliable and accurate.

#### **C. CRIME RE-ENACTMENTS AND DEMONSTRATIONS**

1. The courts tend to be wary of admitting videotapes which are "staged." A typical example would be a videotape re-enactment of the crime.

2. An argument for admitting this sort of video would be that it assists the jury in understanding the relative position of the parties and the exact layout of the crime scene. In effect, it brings an otherwise sterile "jury view" of the scene to life. The defense objection is that the vividness and reality of the re-enactment might mislead the jury into confusing fact with fiction.

3. THE PREDICATE FOR DEMONSTRATIONS IS:

- a. The experiment will evidence a tendency, capability or quality of a certain statement of facts to produce a certain result.
- b. Substantially similar conditions as those existing at the time of the occurrence in question are reproduced.
- c. The jury will not be misled or confused by the experiment.

C. HEARSAY ISSUES

1. Although the issue does not arise often, there is case law addressing the issue of whether a particular drawing or diagram amounted to hearsay.

2. The following discussion briefly addresses several areas where hearsay may occur in this type of evidence:

- a. Composite Sketches of Defendant:

There is a fairly large amount of case law which indicates that a composite sketch of the defendant is hearsay. see Annot., 43 A.L.R. 1217. That is, when the victim describes the defendant's features to a police artist or investigator who then converts that verbal description into a visual representation, either or both the victim and the artist have made an out-of-court "statement." Whether that statement amounts to hearsay will depend on the use made of the sketch at trial. Because most jurisdictions have followed the lead of Federal Rule of Evidence 801, which treats a declarant's pretrial identification as nonhearsay, the issue should not pose any serious problems. If Rule 801 is not available, the proponent may try relying upon one of the hearsay exceptions such as excited utterance or present sense impression, depending on the time and circumstances of the identification procedures.

#### VIII. DOCUMENTARY EVIDENCE

##### A. IN GENERAL

1. Documentary evidence, like any other evidence, must meet the same standards of authentication, identification and relevancy as any other piece of evidence. In addition, FRE 901 (a), requires, that, for authentication, there must be, "evidence sufficient to support a finding that the matter in question is what its proponent claims."

#### IX. Conclusion

While the introduction of real and demonstrative evidence is extremely effective, the prosecutor should never take it for granted

that the evidence will be admitted or even permitted in the courtroom. Before any attempt is made to analyze the most effective method of using the evidence during trial, counsel should first address the issue of determining whether a legal predicate can be established. The inquiry should then turn to the issue of whether, and to what extent, the evidence is relevant, and then whether there are other evidence hurdles, such as hearsay and best evidence objections, which must be confronted. Once those issues have been analyzed, the advocate can focus on developing the most effective method of using the exhibits at trial.

## **Handling Exhibits**

### **HANDLING EXHIBITS**

- 1. Have exhibit marked for identification by clerk.**
  
- 2. Ask witness if he recognizes the exhibit but don't have him explain what it is.**
  
- 3. Have witness identify any marks (initials, etc.) or other identifying characteristics to show the exhibit is the same one that he has reference to.**
  
- 4. Have witness explain where exhibit obtained.**
  
- 5. Have witness explain the exhibit has been in his custody.**
  
- 6. If exhibit sent off to FBI for tests, have witness point this out, when sent off, when returned, and that he maintained custody of it after its return.**
  
- 7. Determine whether exhibit is in same (or substantially the same) condition as when he originally took custody of it, or explain any change in condition, such as where marks or samples taken from it during examination and tests by FBI and marks made by FBI.**
  
- 8. Offer exhibit into evidence subject to a showing of materiality, unless the materiality has already been shown or is self-evident.**
  
- 9. After demonstration of materiality of exhibit, re-offer it for unlimited purposes.**
  
- 10. Materiality of certain exhibits may be shown by use of expert witnesses (such as FBI lab men) who will connect blood samples, hair, fiber, etc., with the case at trial. Then those items can be re-offered for unlimited purposes. Other items, such as weapons identified by officers and marked by them, also identified by other witnesses as like gun used in crime, need no further showing of materiality.**

Your honor, the State moves the admissibility into evidence of all exhibits heretofore marked and presented by the state...

## Automobile Accident Reconstruction

### PREDICATE QUESTIONS: AUTOMOBILE ACCIDENT RECONSTRUCTION

1. State your name please.
2. What is your occupation?
3. How long have you been so employed?
4. Were you so employed on \_\_\_\_\_
5. Have you attended any special schools connected with your work? *Accident Reconstruction.*
6. Will you please name some of the specialized schools?
7. When and where did you attend these schools?
8. How long did you attend?
9. What did the training consist of?
10. Were you tested in any manner to determine your degree of proficiency in the area?
11. Did you successfully complete this course of instruction?
12. Were you issued a certificate, diploma, or other evidence of such completion?
13. Since the completion of your training, have you had occasion to investigate accidents concerning automobiles?
14. Approximately how many times?
15. Have you testified previously in a Court concerning Automobile Accident Reconstruction?
16. Approximately how many times?  
**STATEMENT:** At this time, your honor. I would move this court to qualify \_\_\_\_\_ as an expert witness in the field of Automobile Accident Reconstruction.
17. Did you have an occasion to investigate an accident that occurred on at \_\_\_\_\_ location?
18. What did you observe when you arrived on the scene?
  - Number of vehicles
  - Location of vehicles
  - Angle of vehicles
19. Did you observe any physical evidence indicating the direction of travel of the automobile(s)?
  - Body parts (strewn or attached)
  - Other physical evidence, such as: torn trees, signposts. or fences.
20. Did you observe any skid marks?
  - Measurement of skid marks
  - Direction of skid marks
21. As a result of your investigation, as you have related through your testimony. Were you able to form an expert opinion as to the:
  - Speed of the vehicles
  - Direction of the vehicles
  - Which vehicle at fault (civil infraction)
22. Thank you, you may inquire.

## Autopsy Questions Pathologist

### PATHOLOGIST—AUTOPSY QUESTIONS

1. Get photograph of victim
2. Name
3. Address
4. Profession
5. Are you Licensed to practice medicine in the State of \_\_\_? Any other state?
6. Would you relate to the Court and Jury your educational background?
7. Are you a member of any professional organizations?
8. Do you have a specialty?
9. What?
10. Describe if you would, exactly what your specialty is.
11. Are you certified in pathology?
12. Where did you receive your training in pathology?
13. What did it consist of?
14. In what capacity are you presently employed?
15. What are your duties?
16. How many autopsies have you performed?
17. Have you qualified in a Court of Law as an expert in pathology?
18. How many times?  
—Submit Doctor as Qualified—
19. Doctor, during the month of \_\_\_\_\_ do you recall how you were employed?
20. During that month just stated, did you have an occasion to perform one or more autopsies?
21. Do you recall your whereabouts on \_\_\_\_\_
22. Did you have an occasion to perform an autopsy or autopsies on \_\_\_\_\_ on the \_\_\_\_\_
23. Doctor, I show you a photograph marked State's Exhibit No. \_\_\_\_\_ for purposes of identification and ask you if you can identify this picture.

### GO THROUGH PREDICATE QUESTIONS.

24. And what does this picture depict? (Doctor identifies victim),
25. Doctor, when was the first time you saw this person?
26. Did you perform an autopsy on this particular person on \_\_\_\_\_?
27. How long did that autopsy last?
28. Where did it take place?
29. When was the first time you saw this victim? Was it at the autopsy?
30. Based on that particular autopsy. within the bounds of reasonable medical certainty, have you formed an expert opinion concerning the cause of death?
31. What is that opinion?

## Bank Account Microfilm Records

### PREDICATION FOR MICROFILM BANK ACCOUNT RECORDS

1. Name
2. Occupation
3. Duties (including that witness is custodian of all account records.)
4. Were any accounts in the name of \_\_\_\_\_ during the period \_\_\_\_\_ through?
5. How many account(s)?
6. What kind of account(s)?
7. Exact style of the account(s)?
8. Account Number(s)?
9. Pursuant to subpoena, did you bring with you certain records pertaining to account number \_\_\_\_\_?
10. Please identify these records and hand them to me so that the Clerk can mark them.
11. What other records pertaining to this account were you not required to bring?  
(MARK FOR IDENTIFICATION)
12. Point out which of these papers are originals and which are microfilm facsimiles or copies.  
**Establish:**
  - (a) **When, where, how and by whom prepared;**
  - (b) **Whether in regular course of business and**
  - (c) **Whether in his custody. (If witness saw Defendant sign signature card, ask if he saw Defendant sign and if he sees that person in courtroom).**
13. Other than entries in monthly statements, were any other records made of checks deposited to, the accompanying deposit slips, and checks drawn on this account? (Answer yes, each item microfilmed.)  
*Establish:* (a) When, where, how (including that entry front and back side each item photographed) and by whom; (b) that done in regular course of business; and (c) that microfilm negatives under his custody.
14. Does microfilm negative form a durable and accurate medium for reproducing facsimile of the original item?
15. (As to each item marked for identification.) Are each of these facsimiles accurate reproductions of the microfilm negatives? (Did you personally check the facsimile against the negative?)
16. And are those microfilm negatives presently in your custody at the bank and available to us in this trial should the court direct that they be produced?
17. What procedures followed by bank to insure that this and its other accounts are accurate?  
**(Move Admissibility of Exhibit).**

## **Blood Alcohol Toxicologist**

### **PREDICATE FOR TOXICOLOGIST REGARDING BLOOD ALCOHOL TEST**

1. Name and address
2. What is your occupation or profession?
3. What education and training have you had to qualify you as a toxicologist?
4. Have you had any training and experience with respect to poisons, alcohol and chemical tests for alcoholic concentration in blood?
5. Have you written any articles (lectures, et cetera) on this subject?
6. Are you a member of any societies or organizations dealing with this subject?
7. Have you performed tests on blood samples to determine alcoholic concentration?
8. About how many times?
9. Have you previously testified in courts as a toxicologist?
10. Qualified to make blood alcohol examination?
11. On or about \_\_\_\_\_ did you receive a specimen of blood from \_\_\_\_\_
12. What identification was on the specimen?
13. Describe what you did with the blood.
14. What were your findings with respect to this blood?
15. Is there a recognized correlation between the alcoholic content of the blood and intoxication?
16. From your training and experience, what would be the condition of a person whose blood showed a concentration of 0.33 per cent ethyl alcohol?

## Blood Groupings Chemist

### PREDICATE FOR CHEMIST AS TO BLOOD GROUPINGS

1. Please state your name and address.
2. What is your occupation or profession?
3. How long have you been so employed?
4. To what duties have you been assigned with the FBI?
5. How long have you been engaged in making chemical analyses?
6. What training, study and preparation have you had in connection with making chemical analyses?
7. Are you now one of the regular chemical analysts assigned to the FBI lab in Washington. D.C.?
8. Have you previously qualified as an expert chemical analyst in other courts?
9. Would you please name some courts in which you have so qualified?

#### Submit Qualifications as Expert Chemical Analyst

10. State, if you know, if all human blood is identical or can blood be divided scientifically into groups.
11. Do you know these groups?
12. What are they?
13. From your training, experience and study. about which you have previously testified, do you know the processes by which human blood can be grouped?
14. Can you make such determinations?
15. About how many times have you done so?
16. Describe what specifically you do to determine the blood group into which a particular specimen falls.
17. I now hand you a section of a car floor mat which has been filed for identification as State's Exhibit \_\_\_\_\_ and ask you to examine it and state whether you have ever seen it before?
18. From whom did you receive it?
19. How?
20. Did you place any marks of identification on it?
21. At same time you received the section of floor mat, did you receive anything else from the police department?
22. What?
23. Did you make any examination of those objects?
24. Following your examinations, what was done with the objects?
25. When you returned them to the police department, were they in same condition as when you received them?  
Offer Mat in Evidence Exhibit \_\_\_\_\_
26. What was purpose of your examination of State's Exhibit \_\_\_\_\_?
27. Did you, in your examination, use the methods and tests about which you have previously testified?
28. Please state what you determined or learned from your tests.
29. Then you found human blood group A on the floor mat and found that the specimen submitted to you likewise was human blood, group A'?
30. So it is possible both could have come from a common source?

## **Body Fluids Expert Blood Semen**

### **PREDICATE QUESTIONS FOR EXPERT IN BODY FLUIDS (BLOOD, SEMEN, ETC.)**

#### **Initial Identifying Questions**

1. Please state your full name.
2. Where do you reside?
3. What is your present occupation?
4. By whom are you employed?
5. How long have you been so employed?
- 6.

#### **Questions Relating to Expertise**

1. What is your educational background?
  - (a) Undergraduate
  - (b) Graduate
  - (c) Subsequent specialized education in the field
2. Have you had any other specialized training in your field?
  - (a) On the job training
  - (b) Special research projects
3. Are you a member of any organizations related to your work?
4. Do you subscribe to any publications related to your field?
5. Have you authored any papers for either private circulation or publication relating to your field?
  - (a) What subjects?
  - (b) Published?
  - (c) If privately circulated, among whom?
6. Is your entire work devoted to your field, or do you have other duties?
7. Have you ever testified as an expert before?
  - (a) In court or before administrative agencies?
  - (b) In what jurisdiction?
  - (c) Approximately how many times?

#### **Questions Relating to the Field of Expertise**

1. Would you explain to the jury the nature of the work you do?
2. What body fluids do you analyze?
  - (a) Explain blood analysis. or the analysis of the other fluids submitted for examination.
  - (b) Be sure the recitation is in terms that make the explanation understandable to the jury.
3. What is the significance of the information you obtain as a result of this type of analysis?
  - (a) If blood, explain typing.
  - (b) If blood or urine for drugs or alcohol content, explain.
  - (c) If semen for presence of sperm, or for determination of blood type (if a secretor is involved), explain.

#### **Questions Relating to the Evidence Submitted and the Examinations Conducted**

1. Did you have occasion to examine evidence submitted to you by the (law enforcement agency) in this case?
2. I show you what has been marked for identification as  
State's Exhibit \_\_\_\_\_
  - (a) Do you recognize this exhibit?
  - (b) How are you able to do so?
  - (c) When and where did it first come into your custody?
  - (d) What did you do with it? (Performed tests and examinations)

- (e) Was it in your care, custody and control until its return to the (law enforcement agency)?
  - (f) Is it in substantially the same condition as when you returned it to the (law enforcement agency)?
  - (g) Offer the exhibit.
- 4. What tests or examinations did you conduct on this exhibit?
- 5. What was the purpose of those tests and examinations?
- 6. Please describe in detail each of the tests and examinations.
- 7. Did these tests and examinations permit you to arrive at a conclusion?
- 8. Is your conclusion within the bounds of reasonable scientific probability (or even better, reasonable scientific certainty)?
- 9. What is your conclusion? Please explain it to the jury.
  - (a) Utilize this explanation to illustrate the significance of the conclusions to the State's case.
  - (b) Also attempt to negate the possible impact of cross-examination by demonstrating the certainty of the findings, or the scientific impossibility of absolute certainty by the nature of the substance in question or the state of the science.

**Tender the Witness for Cross-examination**

## Breathalyzer DUI

### PREDICATE QUESTIONS IN BREATHALYZER CASES

1. State your present job and how long you have been on the Highway Patrol?
2. What are your duties, and as part of your duties, do you administer a breathalyzer test?
3. Did you administer any test that required the securing of a sample of the Defendant's breath?
4. How long have you been an authorized operator of a breathalyzer unit?
5. Did you have any special training in the operation of the breathalyzer? Describe that training briefly.
6. Did you receive a Certificate from the State Board of Health which certified you as qualified to operate the breathalyzer?
7. Prior to securing the sample of breath from the Defendant, did you advise the Defendant of his constitutional rights?
8. Did the Defendant voluntarily and of his own free will and accord furnish you a sample of his breath for testing purposes?
9. Were any promises or threats made by you or anyone in your presence to the Defendant prior to obtaining his breath sample?
10. I ask you the following questions which relate to the period of time just prior to securing a sample of the Defendant's breath.
  - (a) Was the machine properly checked out and in good working order at the time of the test?
  - (b) Describe to the Court what steps you took to properly prepare this machine to take the breath sample?
  - (c) Did the defendant have anything in his mouth at the time of the test?
  - (d) Did the defendant have anything to eat or drink within fifteen minutes of time prior to the test being run?
  - (e) Was the entire test conducted in the proper and proscribed manner?
11. Who was present at the time the breathalyzer test was administered to the defendant?
12. Just what kind of test is the Breathalyzer Test?
13. At school, were breath tests correlated to blood tests?
14. In your own words, tell us how the Breathalyzer works?
15. Will anything else besides alcohol cause this reaction?
16. Were you present when the defendant gave a sample of his breath?
17. After the breath was introduced into the machine. (did you observe a reading on the meter?
18. What was that reading?
19. Have any authoritative bodies endorsed the reliability of the Breathalyzer?
20. What are these bodies?
21. The reading of \_\_\_\_\_ which you stated that you observed—what does this mean in terms of Blood Alcohol?
22. At what alcohol percent does one begin to be under the influence?
23. Is this your opinion or has this statement been made by one or more authoritative bodies?
24. If a person has alcohol in his blood, will his breath contain alcohol?
25. How does the alcohol get in the breath?
26. Is the test designed to show how much a person has had to drink?

27. What is the meaning of the percentage that you stated that the defendant registered?
28. Have any standards been adopted relating the blood alcohol content and degree of the person being under the influence of alcoholic beverages?
29. Who set this standard?
30. State briefly what that standard is.
31. Were any other tests given to the defendant?
32. Who administered these tests?
33. Were you present when these tests were taken?
34. Describe the tests that you observed.
35. How did the defendant perform them?
36. What did you observe about the Defendant's physical condition?
37. Based on your experience, training and observations were you able to form an opinion as to this defendant's sobriety or lack of it?
38. What is that opinion?

## **Burglary Tools Expert**

### **PREDICATE QUESTIONS: QUALIFICATION OF BURGLARY TOOLS EXPERT**

1. Please state your name?
2. What is your occupation?
3. How long?
4. Department?
5. How long?
6. Duties?
7. Participate in burglary investigations?
  8. How many times?
  9. Occasion to make arrest of persons engaged in burglary activities?
10. How many times?
11. Occasion to investigate burglary cases involving: (Dept. stores, businesses, homes, safes)?
12. How many times?
13. In making burglary investigation occasion to determine point of entry? (Explain.)
14. How many times?
15. What training in determining point of entry?
16. In burglaries investigated by you what percent of time involved in determining point of entry?
17. Pursuant to arrest for burglary occasion to converse with person in connection with burglary?
18. How many times and separate people?
19. Occasion to arrest persons for burglary in act of burglary or right after act?
20. How many times?
21. In these arrests occasion to seize tools?
22. How many times?
23. Pursuant to all investigation of burglary. occasion to seize tools?
24. Total of times seizure of tools?
25. Subsequent to seizing tools did you have occasion to study same in connection with burglary?
26. Occasion to speak with person arrested for burglary in connection with tools found and purpose for such tools?
27. How many times? —Content of conversation.
28. Familiar with tools used to break into (business, homes, safes, etc.)?
29. Occasion to discuss burglary and burglary tools with people who are recognized experts in the field of burglary tools? (Cloud and Van Vliet).
30. How many times—how many hours?
31. Content of discussions.
32. Occasion to send specific burglary tools to Federal Bureau of Investigation for specific analysis?
33. Occasion to send specific burglary tools to Treasury Department for specific analysis?

34. Occasion to receive scientific reports and other reports on these tools from the agency?
35. Occasion to review these reports personally?
36. How many times?
37. Specific training in area of identification of burglary tools?
38. How many hours?
39. Definition of burglary tools:  
Tool or implement designed or adapted for cutting through, forcing, or breaking some type of depository in order to steal therefrom.
40. Describe types of burglary tools?:
  - (a) Classic Kit
  - (b) Safes
  - (c) Buildings
  - (d) Phones
41. Tools used by burglars pertaining to department stores, businesses, residential, safe: tire iron, hammer, chisels. screwdrivers, drills, torches, etc.
42. Show exhibits—
43. Identify—
44. Hypothetical based on facts of your case.
45. Based on facts of hypothetical do State Exhibit(s) One through have any significance?
46. State significance of these exhibits in light of facts just presented —(burglary tools).
47. Basis for opinion (Go through tools, show what used for.)

## Business Records

### PREDICATION OF BUSINESS RECORDS

1. Please state your name, residence, occupation—how long?
2. Do you have an official title in the company?
3. Are you acquainted with the defendant?
4. How long?
5. Has he done business with your company?
6. Over what period of time?
7. What does your office force consist of?
8. Among your duties do you have supervision and preservice of the bookkeeping?
9. Do you personally keep the books?
10. Is it done under your supervision? (Witness may be a supervisor, not entrant, so long as he can state that the record is correct.)
11. Do you have in your custody the records of the company?
12. When a customer buys a load of oil from your company. what record is made of the transaction? (Grand larceny of fuel oil case).
13. Is that record made at or near the time of the transaction?
  14. Who makes that record? Does he have personal knowledge of the transaction?
  15. Is that the initial record of the transaction?
16. When is the first permanent record made? What is it made up from? Are those records accurate?
17. What is it made up from? Are those records accurate?
18. Does the customer sign that invoice?
19. Are there any carbon copies of that invoice?  
(Tender the witness for voir dire on records)  
(Move exhibits into evidence)
20. What becomes of the original?—the carbon?
21. How are those invoices (or other permanent records) kept?
22. Are they a part of the permanent record of our company?
23. Are these invoices and the entries shown on them regular entries in the course of business?
24. Who makes the initial record of the transaction?
25. Does he have personal knowledge of the transaction reflected by such records?
26. Are these records a correct and accurate reflection of the transaction?
27. Can you refer W those records and tell how much oil you sold to \_\_\_\_\_ on any particular date?
28. Do you have with you the invoices (or other named records) covering the transactions during the month of \_\_\_\_\_ 19\_\_?
29. Do you have Invoice No. \_\_\_\_\_ . Dated \_\_\_\_\_ 19\_\_?  
(Have clerk mark for identification.)
30. I hand you State's Exhibit No. \_\_\_\_\_ and ask you to identify it.
31. Is this the original record of the transaction? (Or—is this the first permanent record of the transaction?)
32. Is it a true and correct record of such transaction?

33. Have there been any alterations or changes made on it since the time it was made?  
(Hand the Exhibit to opposing counsel for his examination and then state to the Court: We offer State's Exhibit No. \_ in evidence.")

(The exhibit, if admitted by the Court, may be exhibited to the jury, read by you or by the witness to the jury in whole or in part, or you may ask the witness any questions therefrom.)

### **Chemist Narcotics**

#### **STATE CHEMIST**

1. Name
2. Business Address
3. By whom employed
4. Capacity employed
5. How long
6. Duties
7. Type training to qualify for post
- Occasion to chemically analyze substances to determine whether the substance is or contains a narcotic or narcotic-type drug?
9. How many times?
10. Occasion to chemically analyze substances to determine whether the substance is or contains marijuana?
11. How many times?
12. How many analyses made in a given week?
13. Do you make analysis as a regular part of your duties?
14. Occasion to qualify in courts of \_\_\_\_\_ as an expert in this area?
15. How many times?
16. Pursuant to qualifying as an expert, have occasion to actually testify as an expert with respect to the chemical character of a particular substance.
17. Occasion to qualify as expert in County in this area?
18. Move court to declare witness an expert in field of chemistry and analysis of narcotics.
19. Show exhibit.
20. Identify
21. How can identify?
22. When exhibit marked?
23. When received (date submitted)?
24. Where received?
25. How did exhibit come into possession (by whom submitted)?
26. Has exhibit been continuously under care, custody or control?
27. Is exhibit in same condition now as when it was first received?
28. For what purpose did exhibit come into your possession?
29. Move exhibit into evidence subject to materiality and relevancy being shown.
30. Weight of marijuana?
31. Occasion to make analysis?
32. When?

33. What tests were made by you? What type examination did you perform?
34. From these tests were you able to form an expert opinion as to what the exhibit is or contains?
35. State opinion.
36. State basis for opinion.
37. Move exhibit into evidence without reservation.

## Child Witness Qualifying

### QUALIFYING INFANT WITNESS TO TESTIFY

1. What is your name?
2. How old are you?
3. When is your birthday?
4. Do you go to school?
5. What school do you go to?
6. What grade are you in?
7. What grades do you get?
8. Who was your teacher last year?
9. Where do you live?
10. Where were you born?
11. Who lives with you?
12. You held your hand up just now, do you know what that means?
13. What does it mean?
14. Do you know the difference between right and wrong?
15. Would you tell me what the difference is?
16. Is it right or wrong to tell a story?
17. If you were to sit here and tell these people a story, or something that wasn't true, what would happen to you?
18. Do you know what it is to tell a lie?
19. Have you seen me before you came to court today?
20. Where was that?
21. When was that?
22. Who else was there?
23. Do you remember me asking you anything?
24. What did I ask you?
25. Did I tell you what happened or did you tell me what happened?
26. Did I tell you anything?
27. What?

State offers witness \_\_\_\_\_ as a competent to testify in this case.

## Chemist Blood Groupings

### PREDICATE FOR CHEMIST AS TO BLOOD GROUPINGS

1. Please state your name and address.
  2. What is your occupation or profession?
  3. How long have you been so employed?
  4. To what duties have you been assigned with the FBI?
  5. How long have you been engaged in making chemical analyses?
  6. What training, study and preparation have you had in connection with making chemical analyses?
  7. Are you now one of the regular chemical analysts assigned to the FBI lab in Washington, D.C.?
  8. Have you previously qualified as an expert chemical analyst in other courts?
  9. Would you please name some courts in which you have so qualified?
- Submit Qualifications as Expert Chemical Analyst
10. State, if you know, if all human blood is identical or can blood be divided scientifically into groups.
  11. Do you know these groups?
  12. What are they?
  13. From your training, experience and study, about which you have previously testified, do you know the processes by which human blood can be grouped?
  14. Can you make such determinations?
  15. About how many times have you done so?
  16. Describe what specifically you do to determine the blood group into which a particular specimen falls.
  17. I now hand you a section of a car floor mat which has been filed for identification as State's Exhibit \_\_\_\_\_ and ask you to examine it and state whether you have ever seen it before?
  18. From whom did you receive it?
  19. How?
  20. Did you place any marks of identification on it?
  21. At same time you received the section of floor mat, did you receive anything else from the police department?
  22. What?
  23. Did you make any examination of those objects?
  24. Following your examinations, what was done with the objects?
  25. When you returned them to the police department, were they in same condition as when you received them?
- Offer Mat in Evidence Exhibit \_\_\_\_\_
26. What was purpose of your examination of State's Exhibit \_\_\_\_\_?
  27. Did you, in your examination, use the methods and tests about which you have previously testified?
  28. Please state what you determined or learned from your tests.
  29. Then you found human blood group A on the floor mat and found that the specimen submitted to you likewise was human blood, group A'?

30. So it is possible both could have come from a common source?

## Clerk of the Court

### PREDICATE QUESTIONS FOR CLERK OF COURT

1. Clerk of Court called to the witness stand.
2. Name
3. Occupation—Title
  - (a) How long
  - (b) Business address
5. Duties
6. Pursuant to subpoena—bring with you Court of Record File Number  
\_\_\_\_\_?
7. Mark for identification?
8. Responsible for maintenance of file and contents?
9. Responsible for custody of file and contents?
10. Do you have charge of file and contents?
11. Is the file kept and maintained as the official records of court of record in this county?
12. Do contents of file contain seal of the Court of Record in this county?
13. Move admission of:
  - (a) Information (or indictment)
  - (b) Minutes
  - (c) Judgment and sentence

**(fingerprint included therein, in some states.)**

## Comparison Expert Evidence Hair Soil Fibers Glass

### GENERAL PREDICATE QUESTIONS FOR EXPERT ON EVIDENCE COMPARISONS

1. Name and residence.
2. What is your occupation and where are you employed?
3. Describe briefly the nature of your work.
4. How long have you been engaged in the work you have described?
5. Please state what special studies or training you \_\_\_\_\_ undertook to qualify as a specialist in your work?
6. How much of your time is devoted to the duties which you have described?
7. What technical equipment is available to you for conducting these examinations?
8. Have you previously testified in courts of law as an Expert on \_\_\_\_\_?
9. I also hand you State's Exhibits \_\_\_\_\_ and ask if you had occasion to examine these exhibits?
10. I also had you State's Exhibits \_\_\_\_\_ and ask if you also had occasion to examine these exhibits?
11. For what purpose did you examine State's Exhibits \_\_\_\_\_ and \_\_\_\_\_?
12. Did you arrive at any conclusion as a result of your examination and comparisons?
13. Please state your conclusion.  
Did you prepare or cause to be prepared any photographic charts (or slides) to illustrate the basis for your conclusion?
15. Do you have any charts (or slides) with you, and if so, will you produce them?  
(Photographic exhibit(s) marked for identification)  
I will now ask you to explain to the Court and Jury using State's Exhibit \_\_\_\_\_ for purposes of illustration, the basis for your conclusion that \_\_\_\_\_  
(Witness is granted permission to leave witness stand to demonstrate basis for conclusion.)  
(After witness completes his testimony, he returns to the stand and he is turned over to the defense attorney for cross-examination.)

#### Identification: Hair

1. Agent, Mr. \_\_\_\_\_, please state your name.
2. What is your occupation/profession?
3. How long have you been employed by \_\_\_\_\_?
4. To what duties are you regularly assigned with the \_\_\_\_\_?
5. How long have you been engaged in the science of hair identification?  
What training, study or preparation have you had in connection with hair identification— OR— What is your educational background?
7. How much of your working time is devoted to the duties you have previously described?
8. How many examinations or tests on hair have you performed in your course of employment with the \_\_\_\_\_?
9. Over what period of time?

10. Have you ever previously qualified as an expert in hair identification in other courts?
11. Will you state some of the courts and the approximate number of cases in which you have so testified as a hair identification expert?
12. Tender as an expert witness.
13. In the course of your work as an expert did you have occasion to receive from (*law enforcement agency*) certain exhibits relative to this case?
14. On what date did you receive them?
15. How did you receive them?
16. What did you do with exhibits received from (*law enforcement agency*)
  - (a) put them in evidence locker
  - (b) examined them and tested them.
17. When did you conduct examination?
18. After examining exhibits what did you do with them?
  - (a) returned to evidence locker
  - (b) \_\_\_\_\_ (b) returned to (*law enforcement agency*)
19. Mr. \_\_\_\_\_, let me show you State's Exhibit #
20. Recognize?
21. Is this the same exhibit you received from (*law enforcement agency*) on (*date*)?
22. Any identifying marks to show exhibits are the same?
23. What tests/examinations did you perform on this exhibit?
24. Specifically, what test/examination did you perform on State's Exhibit ~ \_\_\_\_\_?
25. If your situation suggests the use of comparisons, use the following questions:
26. Did you perform a comparison test/examination on State's Exhibits ~ \_\_\_\_\_ and ~ \_\_\_\_\_?
27. What did your comparison test/examination consist of?
28. What did your test(s) reveal?
29. Explain the value of your comparison test(s).
30. How many characteristics do you compare?
31. Please explain them.  
Mr. \_\_\_\_\_, must all characteristics be identical before you can consider (*soil, hair, fibers*) as the same?
33. Offer exhibit(s) into evidence for unlimited purposes.

**Identification: Soil**

1. Agent, Mr. \_\_\_\_\_, please state your name.
2. What is your occupation/profession?
3. How long have you been employed by \_\_\_\_\_
4. To what duties are you regularly assigned with the \_\_\_\_\_
5. How long have you been engaged in the science of soil identification?
6. What training, study or preparation have you had in connection with soil identification?—OR— What is your educational background?
7. How much of your working time is devoted to the duties you have previously described?

8. How many examinations or tests on soil have you performed in your course of employment with the
9. Over what period of time?
10. Have you ever previously qualified as an expert in soil identification in other courts?
11. Will you state some of the courts and the approximate number of cases in which you have so testified as a soil identification expert?
12. Tender as an expert witness.
13. In the course of your work as expert did you have occasion to receive from (*law enforcement agency*) certain exhibits relative to this case?
14. On what date did you receive them?
15. How did you receive them?
16. What did you do with exhibits received from (*law enforcement agency*)?  
(a) put them in evidence locker (b) examined them and tested them
17. When did you conduct examination?
18. After examining exhibits what did you do with them? (a) returned to (*law enforcement agency*)
19. Mr. \_\_\_\_\_, let me show you State's Exhibit
20. Recognize?
21. Is this the same exhibit you received from (*law enforcement agency*) on (*date*)?
22. Any identifying marks to show exhibits are the same?
23. What tests/examinations did you perform on this exhibit?
24. Specifically, what test/examination did you perform on State's Exhibit # \_\_\_\_\_?
25. If your situation suggests the use of comparisons, use the following questions?
26. Did you perform a comparison test/examination on State's Exhibits # \_\_\_\_\_ and # \_\_\_\_\_?
27. What did your comparison test/examination consist of?
28. What did your test(s) reveal?
29. Explain the value of your comparison test(s).
30. How many characteristics do you compare?
31. Please explain them.
32. Mr. \_\_\_\_\_, must all characteristics be identical before you can consider (*soil, hair, fibers*) as the same?
33. Offer exhibit(s) into evidence for unlimited purposes.

(c)

**Identification? Fibers**

1. Agent, Mr. \_\_\_\_\_, please state your name.
2. What is your occupation/profession?
3. How long have you been employed by ?
4. To what duties are your regularly assigned with the
5. How long have you been engaged in the science of fiber identification?
6. What training, study or preparation have you had in connection with fiber identification? —OR— What is your educational background?
7. How much of your working time is devoted to the duties you have previously described?

8. How many examinations or tests on fibers have you performed in your course of employment with the
9. Over what period of time?
10. Have you ever previously qualified as an expert in fiber identification in other courts?
11. Will you state some of the courts and the approximate number of cases in which you have so testified as a fiber identification expert?
12. Tender as an expert witness.
13. In the course of your work as expert did you have occasion to receive from (*law enforcement agency*) certain exhibits relative to this case?
14. On what date did you receive them?
15. How did you receive them?
16. What did you do with exhibits received from (*law enforcement agency*)? put them in evidence locker examined them and tested them
17. When did you conduct examination?
18. After examining exhibits what did you do with them?
  - (a) returned to evidence locker
  - (b) returned to (*law enforcement agency*)
19. Mr. \_\_\_\_\_, let me show you State's Exhibit #
20. Recognize?
21. Is this the same exhibit you received from (*law enforcement agency*) on (*date*)?
22. Any identifying marks to show exhibits are the same?
23. What test/examinations did you perform on this exhibit?
24. Specifically, what test/examination did you perform on State's Exhibit ~ \_\_\_\_\_?
25. If your situation suggests the use of comparisons, use the following questions:
26. Did you perform a comparison test/examination on State's Exhibits ~ and ~ \_\_\_\_\_?
27. What did your comparison test/examination consist of?
28. What did your test(s) reveal?
29. Explain the value of your comparison test(s).
30. How many characteristics do you compare?
31. Please explain them.
32. Mr. \_\_\_\_\_, must all characteristics be identical before you can consider (*soil, hair, fibers*) as the same?
33. Offer exhibit(s) into evidence for unlimited purposes.

**Predicate Questions on Glass Identification  
And Paint Identification**

**Glass Identification**

- I. Mr. \_\_\_\_\_, I show you State's Exhibit marked number \_\_\_\_\_ for identification and ask you if you recognize it. If so, how do you recognize it?
2. Mr. \_\_\_\_\_, have you made an examination of these glass fragments identified as State's Exhibit
3. *What* did your physical examination of these glass fragments consist of?

4. What were your findings with respect to color and general appearance of these glass fragments?
5. What were your findings with respect to thickness of these glass fragments?
6. Mr. \_\_\_\_\_, what conclusion, if any, can be drawn from this comparison of thickness?
7. Mr. \_\_\_\_\_, did you make an examination of these glass fragments with respect to the shape and configuration of breakage?
8. What were your findings with respect to the shape of these glass fragments?
9. Were there any irregularities in the broken surfaces?
10. What conclusion can be drawn from this matching of fragments?
11. Mr. \_\_\_\_\_, did you compare and examine certain physical properties of these glass fragments such as density and reflective index?
12. How do these properties aid in determining identity of glass fragments?
13. Mr. \_\_\_\_\_, what is the scientific probability that two different objects made from the same type of glass would have the same density and refractive index?
14. Therefore, Mr. \_\_\_\_\_, as a result of your examination and tests of State's Exhibit # do you have an opinion with respect to the identity of these glass fragments?
15. Mr. \_\_\_\_\_, what is that opinion?
16. Your Honor, at this time the State would offer into evidence without restriction State's Exhibit marked \_\_\_\_\_ for identification.

### **Paint Identification**

1. Mr. \_\_\_\_\_, I show you State's Exhibit marked \_\_\_\_\_ for identification, and ask you if you recognize it. If so, how do you recognize it?
2. Mr. \_\_\_\_\_, have you made an examination of these paint particles identified as State's Exhibit
3. What type of examinations did you perform on these paint particles?
4. Mr. — , did you make an examination of the composition of these paint particles?
5. What were your findings respecting the composition of these paint particles?
6. Mr. \_\_\_\_\_, did you perform a spectrograph examination of these paint particles?
7. What is the scientific value of a spectrograph examination of paint particles?
8. Does this examination aid determining the identity of paint particles?
9. Mr. \_\_\_\_\_, what is the scientific probability that these paint particles came from the paint scrapings marked as State's Exhibit
10. Therefore, Mr. \_\_\_\_\_, as a result of your examination and tests of State's Exhibit \_\_\_\_\_ do you have an opinion with respect to the identity of these paint fragments?
11. What is that opinion?

Your Honor, at this time the State would offer into evidence without restriction State's Exhibit marked \_\_\_\_\_ for identification.

## Confession Admissibility

### PREDICATE QUESTIONS FOR ADMISSIBILITY OF DEFENDANT'S CONFESSION

Did you advise defendant of his constitutional rights?

Anything used to assist you?

3. What?

4. IDENTIFY EXHIBIT

—Recognize exhibit?

—When, where from?

—Any identifying marks?

—Card remain in your custody?

—Turned over to property room?

—Not removed since by officer?

—Same condition or substantially so?

5. OFFER EXHIBIT

6. Demonstrate manner in which exhibit used to advise defendant of rights. (If card read, then read it)

7. Where were you when this was done?

8. Anyone else present?

9. Describe defendant's physical appearance.

10. Ever dealt with people in your work who were under the influence of alcohol or narcotics?

11. Defendant appear to be intoxicated by alcohol or drugs?

12. Did defendant respond to your questions when you read the exhibit (card, form)?

13. Did defendant appear to understand your questions regarding his rights?

14. Was defendant's speech coherent?

15. Did defendant respond when asked whether he wanted an attorney?

16. What was reply?

17. If reply was yes, did interrogation cease?

18. Did defendant invoke right to remain silent?

19. Did defendant agree to answer your questions at that time without an attorney being present?

20. Did you promise defendant anything in return for making statement?

21. Did you coerce defendant into making statement with threat, actions?

22. To the best of your knowledge, was defendant's statement freely and voluntarily given?

23. Did defendant make a statement in response to your questions

24. Did defendant ever refuse to answer further questions, or refuse to do so without an attorney being present?

25. (NOTE: Distinguish between defendant's refusal to answer certain questions only. but agreement to answering other questions without attorney being present).

26. Did interrogation stop at point when defendant refused to answer further questions or refused to do so unless attorney present?

27. Is the time you are referring to now the only time defendant was interrogated by you or in your presence?
28. Was a record (or transcript) of that testimony made?

### **Counterfeit Currency Expert**

#### **PREDICATE QUESTIONS FOR IDENTIFICATION OF COUNTERFEIT CURRENCY**

1. Special Agent \_\_\_\_\_, would you state your name and occupation for the record, please?
2. What are your principal duties regarding your employment? How long have you been so employed?
3. Have you had occasion to attend any specialized schools or have you had any specialized training concerning counterfeit currency? If so, what schools and what training?
4. On approximately how many occasions have you observed counterfeit currency?
5. Have you ever testified as an expert witness regarding the identification of counterfeit currency? In what court(s) and approximately how many times?
6. Have you had an opportunity to examine State's Exhibits \_\_\_\_\_ for identification? When and under what circumstances?
7. Have you formed an opinion concerning the authenticity of State's Exhibits \_\_\_\_\_ based upon your examination of them? What is that opinion?
8. Please explain to the jury the reasons that you arrived at the conclusion that these exhibits are counterfeit currency.

## **Court Reporter Qualifications**

### **PREDICATE FOR COURT REPORTER TRANSCRIPT OF DEFENDANT'S STATEMENT OR CONFESSION**

1. Name
2. Occupation, how long employed, before that—where?
3. Qualifications.
4. Certified, by whom, when?
5. Employed as Official Court Reporter on (date of defendant's statement).
6. Were you present when a statement was made by defendant on that date?
7. Did you record that statement and how was that done?
8. Where was that statement made?
9. Time?
10. Who was present?
11. Were your notes made contemporaneously with defendant's statement?
12. Was a transcript prepared from your notes?
13. Have you compared the transcript with your notes?
14. Is the transcript an accurate verbatim rendering of your notes?
15. Have you certified the transcript as true and correct?
16. Identify and mark Court Reporter notes.
17. Transcript was prepared from notes at witness' direction (and copy of transcript prepared as well)
18. Offer notes.
19. Identify transcript and have it marked for identification.

**As the TX prepared from his notes at his direction and certified by him as an accurate TX of his notes.**

20. Offer transcript.
21. Read portion of it pertaining to constitutional rights warning given defendant.
22. That portion recorded on notes at same time statement made.
23. Transcript prepared from those notes.
24. Tender admissibility of entire confession based on above rights warning.
25. Ask leave of Court to publish and read the entire (or portions) of admitted transcript.

## **Crime Scene Diagram**

### **PREDICATE QUESTIONS: CRIME SCENE DIAGRAM**

#### **Identifying Questions**

1. Please state your name.
2. How are you employed?
3. How long have you been so employed?
4. What are your duties as such?

#### **Questions Relating to the Crime Scene Diagram**

1. Were you on duty (date)?
2. Did you have occasion to participate in the investigation of this case?
3. Where did you go to assist in the investigation?
4. Did you prepare a diagram of this location?

#### **Questions Pertaining to the Admissibility of the Crime Scene Diagram**

1. Officer, I show you what has been marked for purposes of identification as State's Exhibit \_\_\_\_\_
2. Do you recognize this exhibit.
3. How are you able to do so?
4. When and where was that exhibit prepared by you?
5. How was it prepared?
6. Is it drawn to scale?
7. Does it accurately reflect the relationship of the objects shown to each other?
8. Are distances and directions shown?
9. Is this exhibit in substantially the same condition as when you originally prepared it?
10. Are there any material alterations or deletions.
11. Offer the exhibit.

#### **Questions About the Crime Scene Diagram Itself**

1. Officer, please explain how you prepared the crime scene diagram.
2. With the Court's permission. I would like to have the officer step down and explain the diagram to the jury.  
(a) Have the officer point out the significant features of the diagram.
3. Thank you. officer, you may resume your seat on the witness stand.

Tender the Witness for Cross-examination

## **Defendant ID Out-of-Court Police Officer**

### **OUT-OF-COURT IDENTIFICATION OF DEFENDANT**

(a)

#### **Predicate Questions For Photographic Identification (Police Officer)**

##### **Introductory Questions for the Police Officer**

1. Please state your name.
2. How are you employed?
3. How long have you been so employed?
4. What are your duties?

##### **Questions Pertaining to the Particular Photographic Display**

1. Did you have occasion to conduct a photographic display in this case, State v. \_\_\_\_\_?
2. On what date did you do so?
3. At approximately what time?
4. Where did this photographic display take place?
5. How long after the date of the alleged crime was this?
6. What, if anything, were the witnesses to this photographic display told before being permitted to see the photographs?
7. What are the names of the persons who viewed this display?
8. Did they all view it at the same time or did they view it separately?
9. How many photographs were displayed?
10. Describe the nature of the photographs viewed by these individuals.
  - (a) Be sure to instruct the officer prior to questioning that he is never to refer to these photographs as mugshots or any equivalent term:
  - (b) Have him explain that they are either color Polaroid photographs or black and white photographs representing a full face and profile of certain individuals, or some other similar descriptive term.
11. Were the persons in the photographs all similar in physical description?
  - (a) Question the officer specifically as to the age range/height/weight/build/hairstyle/race/facial features/etc., of the persons depicted in the photos.
12. How were the photographs displayed?
  - (a) Have the officer explain that they were viewed in some non-suggestive manner.
  - (b) Usually this is by setting a stack of photographs in front of the witness and letting the witness place them out so that the photographic surfaces can be viewed individually by him or by placing all the photographs in a row in front of the witness and permitting the witness to view them in that manner.

13. Did you or any person in your presence influence or suggest to the witness which photograph to select?
14. Did you have any of the witnesses who viewed this photographic display participate in a physical line-up prior to seeing these photographs?
15. Did you display photographs of any suspects individually to the witness prior to this photographic display?
16. Did any of the witnesses select a photograph of a person at this photographic display?
17. Did they indicate whether this person was the person responsible for the crime in question?
18. Whose photograph was selected:
  - (a) If the photograph of this defendant was selected, have the witness point out the defendant in the court room.
19. Who selected the defendant's photograph?

### **Questions Pertaining to the Admission of the Photopack**

1. Officer, I show you what has been marked for purposes of identification as State's composite exhibit # \_\_\_\_\_.
2. Do you recognize the contents of that exhibit?
3. How are you able to do so?
4. Have the contents of that composite exhibit been in your care, custody or control since you originally used them?
5. Are they in substantially the same condition as when you originally used them?
6. Are there any material alterations or deletions in the contents of that composite exhibit?
7. Offer the photopack into evidence.
8. If the officer has not yet done so, have him relate to the jury that the contents of the exhibit are the photopack from which the defendant's photograph was identified.

### **Questions Further Removing Any Hint of Suggestibility**

1. After the witness identified the defendant in the photographic display did he communicate his identification of the defendant to any other witnesses participating in the photographic display?
2. Did any witness select the photograph of any other person as being the one who committed this alleged crime?
3. Did any witness ever select another person in a line-up as the person who committed this alleged crime?
4. Did any witness ever select the photograph of another person at another photographic display as being the one who committed this alleged crime?

### **Tender the Officer for Cross-examination**

**Note Well: This should be done as a proffer out of the presence of the jury if there is any issue as to the suggestibility of the photographic display. If it is ruled admissible, the same questions should then be asked in the presence of the jury.**

## **Defendant ID Out-of-Court Witness**

### **OUT-OF-COURT IDENTIFICATION OF DEFENDANT**

#### **Predicate Questions for Photographic identification (Witness)**

#### **Introductory Questions for the Witness**

1. Please state your name.
2. Where do you live?
3. Were you the victim of (or a witness to) an alleged (crime) on or about (date)?

#### **Questions Pertaining to the Particular Photographic Display**

1. Did you have occasion to view a photographic display in this case, State vs. \_\_\_\_\_?  
?
2. On what date did you do so?
3. At approximately what time?
4. Where did this photographic display take place?
5. How long after the date of the alleged crime was this?
6. Who showed you the photographs?
7. What, if anything, were you told before seeing the photographs?
8. Did anyone else view the photos at the same time you saw them?
9. How many photographs were displayed?
10. Describe the photographs you viewed.
  - (a) Be sure to instruct the victim/witness prior to questioning that he is never to refer to these photographs as mugshots or any equivalent term;
  - (b) Have him explain that they are either color Polaroid photographs or black and white photographs representing a full face and profile of certain individuals, or some other similar descriptive term.
11. Were the persons in the photographs all similar in physical description?
  - (a) Question the victim/witness specifically as to the age range/height/weight/build/hairstyle/race/facial features/etc., of the person depicted in the photos.
12. How were the photographs displayed?
  - (a) Have the victim/witness explain that they were displayed in some non-suggestive manner.
13. Did the officer or anyone else present suggest to you which photograph to select?
14. Did you view a physical line-up prior to seeing these photographs?
15. Were the photographs of any suspects individually shown to you prior to this photographic display?
16. Did you have an opportunity to observe the person who committed the alleged crime in question.
17. For how long a period of time?
18. How close were you to him?
19. What did you observe?

20. Did you select a photograph of a person at this photographic display?
21. What caused you to select this photo?
22. Is this the person responsible for the crime in question?
23. Whose photograph was selected?
  - (a) If the photograph of this defendant was selected, have the victim/witness point out the defendant in the courtroom.

### **Questions for Identifying the Photopack**

1. I show you what has been marked for purposes of identification or admitted into evidence as State's composite exhibit \_\_\_\_\_
2. Do you recognize the contents of that exhibit?
3. How are you able to do so?
4. Are they in substantially the same condition as when you originally saw them?
5. Are there any material alterations or deletions in the contents of that composite exhibit?
6. If the photopack has not yet been offered, do so.
7. Have the witness pick out the photos he identified.

### **Questions Further Removing Any Hint of Suggestibility.**

1. After you identified the defendant in the photographic display did you communicate your identification of the defendant to any other witnesses participating in the photographic display?
2. Did you ever select the photograph of any other person as being the one who committed this alleged crime?
3. Did you ever select another person in a line-up as the person who committed this alleged crime?
4. Did you ever select the photograph of another person **at** another photographic display as being the one who committed this alleged crime?

### **Tender the Victim/Witness for Cross-examination**

**Note Well: This should be done as a proffer first out of the presence of the jury if there is any issue as to the suggestibility of the photograph display. If it is ruled admissible, the same questions should then be asked in the presence of the jury.**

## **Defendant ID Line-up Police Officer**

### **OUT-OF-COURT IDENTIFICATION OF DEFENDANT**

(c)

#### **Predicate Questions For Line-Up Identification (Police Officer)**

#### **Introductory Questions for the Police Officers**

1. Please state your name.
2. How are you employed?
3. How long have you been so employed?
4. What are your duties?

#### **Questions Pertaining to the Particular Line-Up**

1. Did you have occasion to conduct a line-up in this case, State vs. \_\_\_\_\_?
2. On what date did you do so?
3. At approximately what time?
4. Where did the line-up take place?
5. How long after the date of the alleged crime was this?
6. What, if anything, were the witnesses to the line-up told before seeing the line-up?
7. What are the names of the persons who viewed the lineup?
8. Did they all view it at the same time or did they view it separately?
9. How many persons were viewed in the line-up?
10. How were they dressed?
11. Did anyone wear distinctive clothing unlike the clothing worn by the others?
12. Were the persons in the line-up similar in physical description?
  - (a) Question the officer specifically as to the age range/height/weight/build 'hairstyle. race facial features/etc.
13. How was the line-up conducted?
  - (a) Have the officer explain that it *was* conducted in some non-suggestive manner.
14. Did you or any person in your presence influence or suggest to the witness which person to select?
15. Did you display photographs of any of the participants of the line-up individually to the witnesses prior to the line-up'?
16. Did any of the witnesses select a person from the lineup?
17. Did they indicate whether this person was the person responsible for the crime in question?
18. Who was selected?
  - (a) If the defendant waived his right to counsel, introduce the waiver and demonstrate that it was knowingly, voluntarily and intelligently entered into.

### **Questions Pertaining to the Admission of the Photos of the Line-Up**

1. Officer, I show you what has been marked for purposes of identification as State's composite exhibit
2. Do you recognize the contents of that exhibit?
3. How are you able to do so?
4. Have the contents of that composite exhibit been in your care, custody or control since you originally used them?
5. Are they in substantially the same condition as when you originally used them?
6. Are there any material alterations or deletions in the contents of that composite exhibit?
7. Offer the photographs into evidence.
8. If the officer has not yet done so, have him relate to the jury that the contents of the exhibits are the photographs of the line-up from which the defendant was identified.

### **Questions Further Removing Any hint of Suggestibility**

1. After the witness identified the defendant in the line-up did he communicate his identification of the defendant to any other witnesses to the line-up?
  2. **Did any witness select any other person as being the one who committed this alleged crime?**
  3. **Did any witness ever select another person at another line-up as being the one who committed this alleged crime?**

### **Tender the Officer for Cross-examination**

**Note Well: This should be done as a proffer first out of the presence of the jury if there is any issue as to the admissibility of the line-up identification. If it is ruled admissible, the same questions should then be asked in the presence of the jury.**

## **Defendant ID Line-up Witness**

### **OUT-OF-COURT IDENTIFICATION OF DEFENDANT**

**(d)**

#### **Predicate Questions for Line-Up Identification (Witness)**

##### **Introductory Questions for the Witness**

1. Please state your name.
2. Where do you live?
3. Were you the victim of (or a witness to) an alleged (crime) on or about (date)?

##### **Questions Pertaining to the Particular Line-Up**

1. Did you have occasion to view a line-up in this case, State vs. \_\_\_\_\_? On what date did you do so? At approximately what time?
4. Where did the line-up take place?
5. How long after the date of the alleged crime was this?
6. Who conducted the line-up?
7. What, if anything, were you told before seeing the line-up?
8. Did anyone else view the line-up at the same time as you?
9. How many persons were viewed by you in the line-up?
10. Describe the line-up you viewed.
11. Were the persons in the line-up all similar in physical description?
  - (a) Question the witness specifically as to the age range/height/weight/build/hairstyle/race/facial features/etc., of the persons in the line-up.
12. How were they dressed?
13. How was the line-up conducted?
  - (a) Have the victim/witness explain that it was conducted in some non-suggestive manner.
14. Did the officer or anyone else present suggest to you who to select?
15. Did you view any of the people in the line-up individually before seeing them in the line-up?
16. Were the photographs of any of the persons in the lineup individually shown to you prior to the line up?
17. Did you have an opportunity to observe the person who committed the alleged crime in question? For how long a period of time? How close were you to him?
20. What did you observe?
21. Did you select a person at the line-up?
23. Is this the person responsible for the crime in question?
24. Who did you select?
  - (a) If the defendant was selected, have the victim/witness point out the defendant in the courtroom.

### Question for Identifying the Photographs of the Line Up

1. I show you what has been marked for purposes of identification (or admitted into evidence) as State's composite exhibit # \_\_\_\_\_
2. Do you recognize the contents of that exhibit?
3. How are you able to do so?
4. Do the scenes portrayed in these exhibits accurately depict the line-up from which you identified the defendant?
5. If the photographs have not yet been offered, do so.
6. Have the witness point out the defendant in the photographs.

### Question Further Removing Any Hint of Suggestibility

1. After you identified the defendant in the line-up did you communicate your identification of the defendant to any other witnesses viewing the line-up?
2. Did you ever select any other person as being the one who committed this alleged crime?
3. Did you ever select any other person at another line-up as the one responsible for this alleged crime?
4. Was your identification of the defendant based on your observation of him at the time of the commission of the alleged crime?
5. Was your identification of the defendant based on anything else other than your observation of him at the time of the commission of the alleged crime?

### Tender the Victim/Witness for Cross-examination

**Note Well: This should be done as a proffer first out of the presence of the jury if there is any issue as to the suggestibility of the line-up. If it is ruled admissible, the same questions should then be asked in the presence of the jury.**

**Defendant ID Line-up Witness**

**OUT-OF-COURT IDENTIFICATION  
OF DEFENDANT**

(d)

**Predicate Questions for  
Line-Up Identification (Witness)**

**Introductory Questions for the Witness**

1. Please state your name.
2. Where do you live?
3. Were you the victim of (or a witness to) an alleged (crime) on or about (date)?

**Questions Pertaining to the Particular Line-Up**

1. Did you have occasion to view a line-up in this case, State vs. \_\_\_\_\_?
2. On what date did you do so?
3. At approximately what time?
4. Where did the line-up take place?
5. How long after the date of the alleged crime was this?
6. Who conducted the line-up?
7. What, if anything, were you told before seeing the line-up?
8. Did anyone else view the line-up at the same time as you?
9. How many persons were viewed by you in the line-up?
10. Describe the line-up you viewed.
11. Were the persons in the line-up all similar in physical description?
  - (a) Question the witness specifically as to the age range/height/weight/build/hairstyle/race/facial features/etc., of the persons in the line-up.
12. How were they dressed?
13. How was the line-up conducted?
  - (a) Have the victim/witness explain that it was conducted in some non-suggestive manner.
14. Did the officer or anyone else present suggest to you who to select?
15. Did you view any of the people in the line-up individually before seeing them in the line-up?
16. Were the photographs of any of the persons in the lineup individually shown to you prior to the line up?
17. Did you have an opportunity to observe the person who committed the alleged crime in question?
18. For how long a period of time?
19. How close were you to him?
20. What did you observe?
21. Did you select a person at the line-up?

22. Is this the person responsible for the crime in question?
23. Who did you select?
  - (a) If the defendant was selected, have the victim/witness point out the defendant in the courtroom.

#### Question for Identifying the Photographs of the Line Up

1. I show you what has been marked for purposes of identification (or admitted into evidence) as State's composite exhibit # \_\_\_\_\_
2. Do you recognize the contents of that exhibit?
3. How are you able to do so?
4. Do the scenes portrayed in these exhibits accurately depict the line-up from which you identified the defendant?
5. If the photographs have not yet been offered, do so.
6. Have the witness point out the defendant in the photographs.

#### Question Further Removing Any Hint of Suggestibility

1. After you identified the defendant in the line-up did you communicate your identification of the defendant to any other witnesses viewing the line-up?
2. Did you ever select any other person as being the one who committed this alleged crime?
3. Did you ever select any other person at another line-up as the one responsible for this alleged crime?
4. Was your identification of the defendant based on your observation of him at the time of the commission of the alleged crime?
5. Was your identification of the defendant based on anything else other than your observation of him at the time of the commission of the alleged crime?

Tender the Victim/Witness for Cross-examination

**Note Well: This should be done as a proffer first out of the presence of the jury if there is any issue as to the suggestibility of the line-up. If it is ruled admissible, the same questions should then be asked in the presence of the jury.**

## Doctor Medical

### PREDICATE QUESTIONS FOR MEDICAL DOCTOR

1. Name, residence?
2. Are you licensed in this state? How long?
3. What medical college did you attend?
4. Where did you intern?
5. Since that time where have you practiced?
6. Nature of your practice—general or specialized?
7. During your years in practice have you had occasion to treat a good many personal injury cases?
8. On or about \_\_\_\_\_, did you have occasion to see professionally?
9. Where? Describe his condition at that time.
10. What, if anything, did you do on that occasion?
11. Have you been attending physician since that date?
12. Describe the nature of the examinations, which you made, on \_\_\_\_\_ and from time to time since then.
13. Did you see him daily—several times a day at first—when he was at the hospital?
14. Did you continue to see him? How often?
15. What, generally did your treatment consist of?
16. How many operations?
17. Did you see him from time to time, during those periods, as his attending physician?
18. From your examination and treatment of did you determine what organs of his body were injured?

Continue interrogation for the specific purpose of your  
Case e.g.. to prove extent of disability, nature of physical pain, suffering. etc.)

## Documents Expert Questioned

### QUALIFICATION OF AN EXPERT EXAMINER OF QUESTIONED DOCUMENTS

1. Mr. \_\_\_\_\_, what is your profession?
2. Where is your office?
3. What is your educational background?
4. How long have you been (engaged in that specialty) so employed by the (Post Office Department) (other agency)?
5. What study have you made of questioned documents, handwriting and of allied subjects?
6. What additional training have you received to prepare for the work of document examination?
7. How much of your time is devoted to the study and examination of such matters?
8. How many separate examinations have you made of (questioned documents) (handwriting)?
9. Are you regularly assigned to the full time examination of questioned documents?
10. About how many documents have you examined?
11. Have you ever qualified and testified in a court before as an expert examiner of questioned documents?
12. I hand you (Proponent's) Exhibits Numbered \_\_\_\_\_ and \_\_\_\_\_ and will ask you to state whether you have ever seen them before and if so under what circumstances?
13. What are they?
14. I hand you also (Proponent's) Exhibit Number \_\_\_\_\_ for identification and will ask you to state whether you have ever seen that before and, if so, under what circumstances?
15. What is it?
16. Have you at any time prior to today examined the (handwriting) (etc.) appearing on those several documents and have you compared the (handwriting) (etc.) appearing on (the back) (in the endorsement) (etc.) with any other standards of (writing or any person) etc.)?
17. As the result of your examination and comparison of the (handwriting) (etc.) on those documents, have you reached any opinion as to the (handwriting) (etc.) on (Proponent's) Exhibit Number \_\_\_\_\_ for Identification?
18. What is that opinion?
19. In connection with your examination of those documents, what instruments, equipment, methods or tests did you use?
20. Have you prepared photographs of these exhibits and do you have such photographs with you?
21. Your Honor. I now offer in evidence (Proponent's) Exhibit Number \_\_\_\_\_ for Identification as (Proponent's) (Evidentiary) Exhibit Number \_\_\_\_\_ I further offer in evidence as Exhibit Numbers \_\_\_\_\_ and \_\_\_\_\_ the photographs just identified by the witness. Does the defense have any objection, your Honor? (If not or once admitted the

Judge will say that the document and photographs will be received in evidence and marked. Mr. Clerk.

22. Now, Mr. \_\_\_\_\_, please explain to the Court how you reached the conclusion that you have just testified about.

### **Predicate Questions For Water Marks**

1. Mr. \_\_\_\_\_. have you, prior to today, examined this document marked as State Exhibit Number One, which was purportedly signed by the deceased on July 4, 1973?
2. And from your examination, were you able to determine the authenticity of the document you examined?
3. Of what importance is the water mark which is visible on the document?
4. Then it is your testimony that from examining the water mark you can determine the manufacturer of the paper and the year in which it was manufactured?
5. Is it your opinion, Mr. \_\_\_\_\_, that the water mark on State Exhibit Number One, which you have examined, was not even produced by the ABC Paper Company until January 1, 1975?
6. Then what is the approximate age of the document marked as State Exhibit Number One?
7. Then State Exhibit Number One could not have been signed by the deceased on July 4, 1973?
8. The State would now move that State Exhibit Number One be received into evidence without reservation.

### **Predicate Questions For Typewriters**

1. Mr. \_\_\_\_\_, is it possible, within the bounds of current scientific knowledge, to examine the letters or numerals on this typewritten letter and ascertain with certainty which typewriter made the letters or numerals on this document?
2. Mr. \_\_\_\_\_. I show you this typewritten letter, which has been marked as State Exhibit Number Two and ask you if you have compared it with known samples from this IBM typewriter, which has been marked as State Exhibit Number Three.
3. Mr. \_\_\_\_, what is a known typewriter character?
4. Mr. \_\_\_\_, from your examination, were you able to find any defects in any of the elements used in the IBM typewriter marked as State Exhibit Number Three?
5. Mr. \_\_\_\_ other than the fact that the element letter E is darker in print than any other element on the IBM typewriter marked as State Exhibit Number Three, are there any other identifiable or distinguishable factors?
6. Are any of the other elements on the IBM typewriter misaligned, raised or lowered, cracked or nicked?
7. After you examined and compared the typewritten letter marked as State Exhibit Number TWO with the known characters on the IBM typewriter, were you able to find any similarities in the type?

8. Taking into consideration that the letter E on the typewritten document marked as State Exhibit Number Two is darker than any other letter or numeral on the document, are you able to give the Court your opinion as to whether this document was typed on the IBM typewriter marked as State Exhibit Number Three?
9. The State would now move that State Exhibit Number Two be received into evidence without reservation.

## **DUI Breathalyzer**

### **PREDICATE QUESTIONS IN BREATHALYZER CASES**

1. State your present job and how long you have been on the Highway Patrol?
2. What are your duties, and as part of your duties, do you administer a breathalyzer test?
3. Did you administer any test that required the securing of a sample of the Defendant's breath?
4. How long have you been an authorized operator of a Breathalyzer unit?
5. Did you have any special training in the operation of the Breathalyzer? Describe that training briefly.
6. Did you receive a Certificate from the State Board of Health, which certified you as qualified to operate the Breathalyzer?
7. Prior to securing the sample of breath from the Defendant, did you advise the Defendant of his constitutional rights?
8. Did the Defendant voluntarily and of his own free will and accord furnish you a sample of his breath for testing purposes?
9. Were any promises or threats made by you or anyone in your presence to the Defendant prior to obtaining his breath sample?
10. I ask you the following questions, which relate to the period of time just prior to securing a sample of the Defendant's breath.
  - (a) Was the machine properly checked out and in good working order at the time of the test?
  - (b) Describe to the Court what steps you took to properly prepare this machine to take the breath sample?
  - (c) Did the defendant have anything in his mouth at the time of the test?
  - (d) Did the defendant have anything to eat or drink within fifteen minutes of time prior to the test being run?
  - (e) Was the entire test conducted in the proper and proscribed manner?
11. Who was present at the time the Breathalyzer test was administered to the defendant?
12. Just what kind of test is the Breathalyzer Test?
13. At school, were breath tests correlated to blood tests?
14. In your own words, tell us how the Breathalyzer works?
  15. Will anything else besides alcohol cause this reaction?
16. Were you present when the defendant gave a sample of his breath?
17. After the breath was introduced into the machine. (Did you observe a reading on the meter?
18. What was that reading?
19. Have any authoritative bodies endorsed the reliability of the Breathalyzer?
20. What are these bodies?
21. The reading of \_\_\_\_\_, which you stated that you observed—what does this mean in terms of Blood Alcohol?
22. At what alcohol percent does one begin to be under the influence?

23. Is this your opinion or has this statement been made by one or more authoritative bodies?
24. If a person has alcohol in his blood, will his breath contain alcohol?
25. How does the alcohol get in the breath?
26. Is the test designed to show how much a person has had to drink?
27. What is the meaning of the percentage that you stated that the defendant registered?
28. Have any standards been adopted relating the blood alcohol content and degree of the person being under the influence of alcoholic beverages?
29. Who set this standard?
30. State briefly what that standard is.
31. Were any other tests given to the defendant?
32. Who administered these tests?
33. Were you present when these tests were taken?
34. Describe the tests that you observed.
35. How did the defendant perform them?
36. What did you observe about the Defendant's physical condition?
37. Based on your experience, training and observations were you able to form an opinion as to this defendant's sobriety or lack of it?
38. What is that opinion?

## **DUI Police Officer**

### **PREDICATE QUESTIONS IN BREATHALYZER CASES**

1. What is your name, address and occupation. please?
2. How long have you been so employed?
3. Were you employed on (date of offense) of this year?
4. Calling your attention to that day (or night) and specifically at about (time of offense) where were you?
5. Were you on duty. in uniform?
6. Were you in a squad car?
7. Describe your squad car. please.
8. Did you observe anything out of the ordinary at this time?
9. Will you describe the car which you observed at that time?
10. Where did you observe this car.?’
11. Is this location in ( \_\_\_\_\_ County?)
12. What drew your attention to this vehicle?
13. Do you recognize the driver of the vehicle in this courtroom now?
14. Would you point him out, please?
15. Will you relate the incident to the folks on the jury. please, with particular description and attention to the defendant’s driving?
16. Where was your vehicle in relation to his?
17. Was there any other traffic present?
18. Would you describe what else, if anything, with regard to the defendant’s driving!
19. What was the speed of his driving?
20. Was the defendant driving in a normal manner? (weaving?)
21. Did he cross the centerline?
22. How many times did he cross it?
23. Where was your vehicle at this time?
24. How much distance did he cover?
25. Was he weaving during this time?’!
26. Were you able to get his vehicle stopped?
27. How long did it take you to get the vehicle stopped?
28. What did you do to get the vehicle stopped?
29. Describe the position of the vehicle when it was stopped?
30. How much distance was covered between the time you first attempted to get the defendant to stop his vehicle until that was finally accomplished?
31. After the defendant was finally stopped did you ask him to produce his license?
32. Will you describe the defendant’s actions as he attempted to produce his license?
33. Did you ask him to get out of the car?
34. Will you describe for the jury, please, his exit from the car?
35. How far from the defendant were you at the scene?
36. Did you smell any odor that you could identify?
37. What was the odor?
38. Where did it appear to be coming from?
39. How strong was the odor?

40. Did you have an occasion to talk with the defendant at the scene?
41. Did you question him?
42. Did you advise him of his rights?
43. Will you describe his speech for us, please?
44. Will you describe his choice of words?
45. Did you observe the defendant walk?
46. For what distance?
47. Would you describe for the jury the way he walked. please?
48. Would you describe the defendant's balance?
49. As you observed him there, did he appear injured in any way?
50. Did you ask him if he was hurt?
51. What did he reply?
52. Will you describe his appearance. please?
53. Could you describe his eyes?
54. How did his face appear?
55. What was the state of his clothing?
56. Was there anyone else at the scene besides yourself and the defendant'!
57. Who else was present?
58. Did you search defendant's car? What did you find?
59. Was there any evidence of consumption of liquor around defendant's car?
60. Did you ask the defendant to get into your squad car?
61. Describe his entry into the car, please.
62. Did you escort the defendant to the county jail?
63. What was his attitude at this time!
64. Will you describe the defendant's exit from the squad car when you arrived at the county jail?
65. Did you have an occasion to observe the defendant walk at this time?
66. For what distance?
67. Would you describe, please, the way he walked?
68. Would you describe his balance at this time?
69. Did you assist him in any way in walking from the squad car to the jail?
70. How much physical effort went into this assistance on your part?
71. Did you give the defendant a series of tests on this occasion?

**NOTE: THIS IS A STRICT YES OR NO ANSWER.**

(IF NO TESTS WERE GIVEN, THEN STOP THE TEST QUESTIONS RIGHT HERE.)

72. What kind of tests were these?
73. What did you ask the defendant with regard to the taking of these tests?
74. What did he answer?
75. What, if anything did you tell him with regard to his rights respecting the tests?  
(Miranda)
76. What did you tell him about the purpose of these tests?
77. What did you tell him with respect to the results of these tests? (That they could be used as evidence against him.)

78. Did you ask him any other questions before giving him the tests
79. What did you ask? (Ask if he had been drinking recently.)
80. What did he answer?
81. How many times did you pose the question before you got an answer?
82. Describe his answer, please.
83. What else did you ask him?
84. What did he reply?
85. Describe his reply for us, please?
86. Did you ask him how much he had drunk?
87. And what was his answer to this?
88. What else did you ask him? (Where he had drunk the liquor)
89. And what was his answer?
90. What other questions did you ask him?
91. If he had been hurt or received a bump on the head in the collision?
92. If he had been taking insulin, had diabetes or recently used a mouthwash?
93. What did he answer to each of these questions?
94. How many times did you pose these questions before you got an answer?
95. Will you describe the choice of words the defendant used to answer these questions?
96. Did you ask any other questions? (Medicine)
97. Did you ask him what time it was?
98. And what did he answer?
99. What time was it?
100. After asking him questions what did you do? (Administered tests)
101. What time was it when you administered these tests?
  - a. balance and walking tests
    - Did you give him a balance test?
    - Will you step down please and describe for the jury this test please?
    - What was his reaction to the test?
    - Did you administer a walking and turning test?
    - Will you describe that for us, please?
    - How did he perform on this test?
  - b. Finger to nose test
    - Did you give him a finger to nose test? Will you describe this test for the jury, please?
    - Show them what it is.
    - What were the results of this test?
    - What did he touch with his right index finger?
  - c. Coin Test
    - Did you give a coin test?
    - Will you describe that for the jury, please?
    - And what did he answer?
    - How did he perform this test?
  - d. Did you give him a speech test? Will you describe that for us, please?
    - What did you ask him to say?
    - How did he perform on this test?

Did you notice any odor on his breath at this time?

Could you identify the odor?

What was it in your opinion?

Have you in your occupation as a (Highway patrolman) (Police Officer) had occasion to observe persons driving under the influence of intoxicating liquor?

102. How often have you had this experience?

103. Based upon this previous experience and from what you observed of the defendant's driving, his speech, his action, the odor of his breath, do you have an opinion as to whether or not the defendant was under the influence of an alcoholic beverage to the extent his normal faculties were impaired?

What is that opinion?

104. Did all of the driving events and testing which you have described earlier occur in ( ) County, ( ) State.

105. Will you point out to the jury, please, the person who participated in the driving events which you have described?

106. During the time which you talked with the defendant at the jail would you describe his speech, please?

107. Will you describe his choice of words?

108. Were the various questions about which you have told us repeated at all?

109. About how many times were they repeated?

110. Did the defendant appear to comprehend immediately your requests?

111. Would you describe the defendant's position as he sat in the jail?

## Evidence Comparison Expert

### GENERAL PREDICATE QUESTIONS FOR EXPERT ON EVIDENCE COMPARISONS

1. Name and residence.
2. What is your occupation and where are you employed?
3. Describe briefly the nature of your work.
4. How long have you been engaged in the work you have described?
5. Please state what special studies or training you            undertook to qualify as a specialist in your work?
6. How much of your time is devoted to the duties, which you have described?
7. What technical equipment is available to you for conducting these examinations?
8. Have you previously testified in courts of law as an Expert on \_\_\_\_\_?
9. I also hand you State's Exhibits \_\_\_\_\_ and ask if you had occasion to examine these exhibits?
10. I also had you State's Exhibits \_\_\_\_\_ and ask if you also had occasion to examine these exhibits?
11. For what purpose did you examine State's Exhibits \_\_\_\_\_ and \_\_\_\_\_?
12. Did you arrive at any conclusion as a result of your examination and comparisons?
13. Please state your conclusion.
14. Did you prepare or cause to be prepared any photographic charts (or slides) to illustrate the basis for your conclusion?
15. Do you have any charts (or slides) with you, and if so, will you produce them?  
(Photographic exhibit(s) marked for identification)  
I will now ask you to explain to the Court and Jury using State's Exhibit \_\_\_\_\_ for purposes of illustration, the basis for your conclusion that \_\_\_\_\_  
(Witness is granted permission to leave witness stand to demonstrate basis for conclusion.)  
(After witness completes his testimony, he returns to the stand and he is turned over to the defense attorney for cross-examination.)

#### Identification: Hair

1. Agent, Mr. \_\_\_\_\_, please state your name.
2. What is your occupation/profession?
3. How long have you been employed by \_\_\_\_\_?
4. To what duties are you regularly assigned with the \_\_\_\_\_?
5. How long have you been engaged in the science of hair identification?
6. What training, study or preparation have you had in connection with hair identification— OR— What is your educational background?
7. How much of your working time is devoted to the duties you have previously described?
8. How many examinations or tests on hair have you performed in your course of employment with the \_\_\_\_\_?

9. Over what period of time?
10. Have you ever previously qualified as an expert in hair identification in other courts?
11. Will you state some of the courts and the approximate number of cases in which you have so testified as a hair identification expert?
12. Tender as an expert witness.
13. In the course of your work as an expert did you have occasion to receive from (*law enforcement agency*) certain exhibits relative to this case?
14. On what date did you receive them?
15. How did you receive them?
16. What did you do with exhibits received from (*law enforcement agency*)
  - (a) put them in evidence locker
  - (b) examined them and tested them.
17. When did you conduct examination?
18. After examining exhibits what did you do with them?
  - (a) returned to evidence locker
  - (b) returned to (*law enforcement agency*)
19. Mr. \_\_\_\_\_, let me show you State's Exhibit #
20. Recognize?
21. Is this the same exhibit you received from (*law enforcement agency*) on (*date*)?
22. Any identifying marks to show exhibits are the same?
23. What tests/examinations did you perform on this exhibit?
24. Specifically, what test/examination did you perform on State's Exhibit ~ \_\_\_\_\_?
25. If your situation suggests the use of comparisons, use the following questions:
26. Did you perform a comparison test/examination on State's Exhibits ~ \_\_\_\_\_ and ~ \_\_\_\_\_?
27. What did your comparison test/examination consist of?
28. What did your test(s) reveal?
29. Explain the value of your comparison test(s).
30. How many characteristics do you compare?
31. Please explain them.
32. Mr. \_\_\_\_\_, must all characteristics be identical before you can consider (*soil, hair, fibers*) as the same?
33. Offer exhibit(s) into evidence for unlimited purposes.

### **Identification: Soil**

1. Agent, Mr. \_\_\_\_\_, please state your name.
2. What is your occupation/profession?
3. How long have you been employed by
4. To what duties are you regularly assigned with the
5. How long have you been engaged in the science of soil identification?
6. What training, study or preparation have you had in connection with soil identification?—OR— What is your educational background?
7. How much of your working time is devoted to the duties you have previously described?

8. How many examinations or tests on soil have you performed in your course of employment with the
9. Over what period of time?
10. Have you ever previously qualified as an expert in soil identification in other courts?
11. Will you state some of the courts and the approximate number of cases in which you have so testified as a soil identification expert?
12. Tender as an expert witness.
13. In the course of your work as expert did you have occasion to receive from (*law enforcement agency*) certain exhibits relative to this case?
14. On what date did you receive them?
15. How did you receive them?
16. What did you do with exhibits received from (*law enforcement agency*)?
  - (a) Put them in evidence locker
  - (b) Examined them and tested them
17. When did you conduct examination?
18. After examining exhibits what did you do with them? (a) returned to (*law enforcement agency*)
19. Mr.\_\_\_\_, let me show you State's Exhibit
20. Recognize?
21. Is this the same exhibit you received from (*law enforcement agency*) on (*date*)?
22. Any identifying marks to show exhibits are the same?
23. What tests/examinations did you perform on this exhibit?
24. Specifically, what test/examination did you perform on State's Exhibit # \_\_\_\_\_?
25. If your situation suggests the use of comparisons, use the following questions?
26. Did you perform a comparison test/examination on State's Exhibits # \_\_\_\_\_ and # \_\_\_\_\_?
27. What did your comparison test/examination consist of?
28. What did your test(s) reveal?
29. Explain the value of your comparison test(s).
30. How many characteristics do you compare?
31. Please explain them.
32. Mr.\_\_\_\_, must all characteristics be identical before you can consider (*soil, hair, fibers*) as the same?
33. Offer exhibit(s) into evidence for unlimited purposes.

(c)

Identification? Fibers

1. Agent, Mr. \_\_\_\_\_, please state your name.
2. What is your occupation/profession?
3. How long have you been employed by ?
4. To what duties are your regularly assigned with the
5. How long have you been engaged in the science of fiber identification?
6. What training, study or preparation have you had in connection with fiber identification? —OR— What is your educational background?

7. How much of your working time is devoted to the duties you have previously described?
8. How many examinations or tests on fibers have you performed in your course of employment with the
9. Over what period of time?
10. Have you ever previously qualified as an expert in fiber identification in other courts?
11. Will you state some of the courts and the approximate number of cases in which you have so testified as a fiber identification expert?
12. Tender as an expert witness.
13. In the course of your work as expert did you have occasion to receive from (*law enforcement agency*) certain exhibits relative to this case?
14. On what date did you receive them?
15. How did you receive them?
16. What did you do with exhibits received from (*law enforcement agency*)?
  - (a) put them in evidence locker
  - (b) examined them and tested them
17. When did you conduct examination?
18. After examining exhibits what did you do with them?
  - (a) returned to evidence locker
  - (b) returned to (*law enforcement agency*)
19. Mr.\_\_\_\_, let me show you State's Exhibit #
20. Recognize?
21. Is this the same exhibit you received from (*law enforcement agency*) on (*date*)?
22. Any identifying marks to show exhibits are the same?
23. What test/examinations did you perform on this exhibit?
24. Specifically, what test/examination did you perform on State's Exhibit  
~ \_\_\_\_\_?
25. If your situation suggests the use of comparisons, use the following questions:
26. Did you perform a comparison test/examination on State's Exhibits ~ and  
~ \_\_\_\_\_?
27. What did your comparison test/examination Consist of?
28. What did your test(s) reveal?
29. Explain the value of your comparison test(s).
30. How many characteristics do you compare?
31. Please explain them.
32. Mr.\_\_\_\_, must all characteristics be identical before you can consider (*soil, hair, fibers*) as the same?
33. Offer exhibit(s) into evidence for unlimited purposes.

**Predicate Questions on Glass Identification  
And Paint Identification  
Glass Identification**

1. Mr. \_\_\_\_\_, I show you State's Exhibit marked number \_\_\_\_\_ for identification and ask you if you recognize it. If so, how do you recognize it?
2. Mr. \_\_\_\_\_, have you made an examination of these glass fragments identified as State's Exhibit
3. *What* did your physical examination of these glass fragments consist of?
4. What were your findings with respect to color and general appearance of these glass fragments?
5. What were your findings with respect to thickness of these glass fragments?
6. Mr. \_\_\_\_\_, what conclusion, if any, can be drawn from this comparison of thickness?
7. Mr. \_\_\_\_\_, did you make an examination of these glass fragments with respect to the shape and configuration of breakage?
8. What were your findings with respect to the shape of these glass fragments?
9. Were there any irregularities in the broken surfaces?
10. What conclusion can be drawn from this matching of fragments?
11. Mr. \_\_\_\_\_, did you compare and examine certain physical properties of these glass fragments such as density and reflective index?
12. How do these properties aid in determining identity of glass fragments?
13. Mr. \_\_\_\_\_, what is the scientific probability that two different objects made from the same type of glass would have the same density and refractive index?
14. Therefore, Mr. \_\_\_\_\_, as a result of your examination and tests of State's Exhibit # do you have an opinion with respect to the identity of these glass fragments?
15. Mr. \_\_\_\_\_, what is that opinion?
16. Your Honor, at this time the State would offer into evidence without restriction State's Exhibit marked \_\_\_\_\_ for identification.

**Paint Identification**

1. Mr. \_\_\_\_\_, I show you State's Exhibit marked \_\_\_\_\_ for identification, and ask you if you recognize it. If so, how do you recognize it?
2. Mr. \_\_\_\_\_, have you made an examination of these paint particles identified as State's Exhibit
3. What type of examinations did you perform on these paint particles?
4. Mr. \_\_\_\_\_, did you make an examination of the composition of these paint particles?
5. What were your findings respecting the composition of these paint particles?
6. Mr. \_\_\_\_\_, did you perform a spectrograph examination of these paint particles?
7. What is the scientific value of a spectrograph examination of paint particles?
8. Does this examination aid determining the identity of paint particles?
9. Mr. \_\_\_\_\_, what is the scientific probability that these paint particles came from the paint scrapings marked as State's Exhibit?

10. Therefore, Mr. , as a result of your examination and tests of State's Exhibit \_\_\_\_\_ do you have an opinion with respect to the identity of these paint fragments?
11. What is that opinion?

Your Honor, at this time the State would offer into evidence without restriction State's Exhibit marked \_\_\_\_\_ for identification.

## **Evidence Introduction**

### **INTRODUCTION OF PHYSICAL EVIDENCE**

- I. Mark evidence as “States Exhibit # 1 for identification.”
- II. Questions:
  1. I show you State’s Exhibit #1 for identification and would you look at it please?
  2. Can you identify this \_\_\_\_\_
  3. How?
  4. When did you so mark it?
  5. Where did you first see this \_\_\_\_\_ — —How did it come into your possession?
  6. How did it come into your possession?
  7. What did you do with it?
  8. When was the next time you *saw* it?
  9. Did you take it from the property room under some number?
  10. Is the \_\_\_\_\_ in substantially the same condition now as when you first saw it?
  11. The State will offer State’s Exhibit #1 for identification into evidence.

## **Finger Print Palm Print Expert**

### **PREDICATE QUESTIONS FOR FINGERPRINT (OR PALMPRINT) EXPERT**

1. Please state your name.
2. Please state your occupation.
3. Describe briefly the nature of your work.
4. How much of your duty-time is devoted to the work you have just described?
5. How long have you been engaged in this work?
6. What study and preparation have you made for this work?
7. Have you made continuous study to keep abreast of new techniques in this area?
8. What type of technical equipment is available for you to use in this work?
9. Have you had occasion to identify persons by comparing latent fingerprints or palmprints with their own inked fingerprints or palmprints?
10. How many times?
11. Have you had occasion to qualify as an expert in fingerprint or palmprint analysis in courts of County?
12. How many times?
13. Pursuant to qualifying as an expert in fingerprint analysis, and palmprint analysis, have you had occasion to testify as an expert in Court regarding identification of persons based on fingerprint and palmprint comparison?
14. How many times?

### **After Witness Qualified As Expert**

1. Explain to jury what a "latent" fingerprint and a "latent" palmprint is.
2. Explain to jury what a "known" inked fingerprint is, and/or palmprint.
3. Are there different distinguishing characteristics of a fingerprint and palmprint?
4. How many?
5. What are they?
6. How is it possible for persons to leave fingerprints or palmprint?
7. Is it possible for a person to touch a surface and not leave his fingerprint or palmprint?
8. Why?
9. How do you compare latent fingerprints and/or palmprint with known inked fingerprints and/or palmprint?
10. How are fingerprints and palmprint used to identify persons?
11. Are fingerprints and palmprint specific as to each individual?
12. Could two different people have the same fingerprints and palmprint?
13. Based upon your training and study and your years of experience in fingerprint and palmprint analysis have you ever seen two persons with the same fingerprint and/or palmprint?
14. I show you State's Exhibit \_\_\_\_\_ and ask you if you have had occasion to examine it? When? Where? (Latent Print)

15. I show your State's Exhibit ~ \_\_\_\_\_ and ask you if you have had occasion to examine it? When? Where? (Rolled ink impression of defendant),
16. For what purpose did you examine State's Exhibit \_\_\_\_\_ and \_\_\_?
17. Did you arrive at any conclusion as a result of your examination and comparison?
18. Please state your conclusion.
19. Upon what factors did you base this conclusion?
20. How many points of comparison did you find?
21. Based upon your expertise in the field of fingerprint analysis, are the points of comparison conclusive as to the identity of the latent print, State's Exhibit # \_\_\_\_\_, with the known inked print of the defendant, State's Exhibit # \_\_\_\_\_?
22. Based upon your expertise in the field of fingerprint and palmprint analysis did the defendant make the latent print as shown in State's Exhibit \_\_\_\_\_?

## **Firearms Expert**

### **QUALIFICATION QUESTIONS FOR FIREARMS EXPERT**

1. Name.
2. Address.
3. Occupation.
4. What are your duties with the FBI?
5. How long have you been employed?
6. What is Firearms Identification?
7. What makes such identifications possible?
8. What is your educational background?
9. What specialized training have you had in your present work?
10. Are you a member of any professional organization associated with this work'?
11. Have you testified previously in the field of firearms identification?
12. In what courts have you testified?

### **Introduction of the Evidence**

1. Have you ever seen these before?
2. Under what circumstances did they come into your possession?
3. Did you make an examination of any of these items?
4. Describe in detail the examination you made and any conclusions you were able to reach.
5. Following your examination, what did you do with this evidence?

### **CROSS EXAMINATION**

## Footprints Expert

### PREDICATE QUESTIONS; FOOTPRINTS

#### Name and address

1. Occupation
2. Qualifications of witness in the examination of
3. footprints.
4. Did you conduct an examination of the scene of the crime in this case?
5. What was the purpose of your examination?
6. What did you find as a result of your examination?
7. What did you do when you discovered the footprint?
8. Describe how you made a plaster cast (photograph) of the footprint.
9. I now show you a plaster cast (photograph) of a footprint. State's Exhibit No. \_\_\_\_\_ for identification, and ask you if this is the plaster cast (photograph) concerning which you have just testified?
10. How do you recognize it?
11. Your Honor, the State offers the plaster cast (photograph) into evidence as State's Exhibit No. \_\_\_\_\_
12. Subsequent to your finding the footprint and making the plaster cast (taking the photograph) were you requested to compare the print with any other shoes or prints?
13. When and under what circumstances were you asked to do so?
14. I now show you State's Exhibit No. \_\_\_\_\_ consisting of a man's brown oxford shoe taken from the defendant, and ask if this was the shoe that you were asked to compare with the footprint?
15. How do you recognize it?
16. Did you make such a comparison?
17. How did you do so?
18. As a result of your comparison do you have an opinion as to whether the footprint that you found at the scene of the crime was made by the shoe taken from the defendant, State's Exhibit No. - \_\_\_\_\_
19. What is that opinion?

## **Hospital Records**

### **PREDICATE QUESTIONS FOR HOSPITAL RECORDS**

1. Please state your name.
2. Do you have an official title?
3. Where are you employed?
4. What is the position you hold?
5. Did you receive a subpoena duces tecum for certain hospital records?
6. Did you bring the records?
7. Can you identify these hospital records?
8. Did you retrieve these hospital records yourself?
9. What was the mode of preparation of these hospital records?
10. Is this hospital record maintained under your care, custody and control?
11. Was this hospital record made in the regular course of business?
12. Was this hospital record made at the time the act.
13. Is this hospital record regularly kept or maintained?

**Hostile Witness Foundation**

**LAYING FOUNDATION FOR  
CALLING COURT WITNESS:  
HOSTILE WITNESS**

IT IS MY OPINION AS STATE ATTORNEY. MADE IN GOOD FAITH, THAT \_\_\_\_\_ MAY TESTIFY FALSELY TO CERTAIN MATERIAL FACTS AND MAY ATTEMPT TO CONCEAL CERTAIN MATERIAL FACTS BEARING UPON THE QUESTION OF THE GUILT OF THE DEFENDANT UPON THIS CHARGE, TO THE DETRIMENT OF THE STATE.

SINCE THE COMMISSION OF THE OFFENSE CHARGED IN THE INDICTMENT IN THIS CASE. THE SAID \_\_\_\_\_ HAS MADE CONTRADICTORY AND INCONSISTENT STATEMENTS, UNDER OATH. AND OTHERWISE, TO ME AND IN MY PRESENCE. IF CALLED AS \_\_\_\_\_ A WITNESS BY THE STATE OF \_\_\_\_\_, THE SAID \_\_\_\_\_ MAY PROVE TO BE A HOSTILE WITNESS TO THE INTEREST OF THE STATE OF \_\_\_\_\_. I, AS STATE ATTORNEY. DO NOT WISH TO ASSUME THE RESPONSIBILITY OF JEOPARDIZING THE STATE'S CAUSE BY CALLING \_\_\_\_\_ AS A WITNESS FOR THE STATE. THEREBY VOUCHING FOR THE TRUTHFULNESS OF HIS TESTIMONY, WHEN TO MY OWN PERSONAL KNOWLEDGE, HE HAS MADE INCONSISTENT AND CONTRADICTORY STATEMENTS RELATIVE TO THE FACTS IN THIS CASE. I DO NOT FEEL THAT THE STATE OF \_\_\_\_\_ - SHOULD BE. NECESSARILY BOUND BY HIS TESTIMONY.

THEREFORE, AND FOR THE REASONS SO STATED. I NOW ASK THAT \_\_\_\_\_ BE CALLED AS A WITNESS BY THE COURT. TO BE QUESTIONED BY THE COURT, AND EXAMINED AND CROSS-EXAMINED BY THE PROSECUTION AND DEFENSE BUT NOT AS A WITNESS FOR EITHER THE STATE OR DEFENDANT, ALL IN ACCORDANCE WITH THE LAW OF THIS STATE AS ANNOUNCED BY OUR SUPREME COURT IN THE CASES OF BROWN VS. STATE. 108 So. 842; MORRIS VS. STATE, 130 So. 528; DAUGHERTY VS. STATE. 17 So. 2nd 290."

ABOVE HELD TO BE SUFFICIENT FOUNDATION FOR CALLING OF A WITNESS AS A COURT WITNESS IN THE CASE OF *TILLMAN VS. STATE*, 44 So. 2nd 644.

## **Identification Voice**

### **PREDICATE FOR VOICE IDENTIFICATION**

1. Do you, Mr. Witness, know the defendant?
2. How long?
3. Have you ever spoken to him?
4. About how many times?
5. When and where and who present?
6. On such and such a date did you hear a telephonic conversation between the defendant and \_\_\_\_\_
7. Did you recognize either or both of the voices?
8. Whose voice or voices did you recognize?
9. Tell us the conversation. What did the defendant say to you and what did you say to the defendant?

## **Impeachment Prior Inconsistent Statements**

### **TRIAL—IMPEACHMENT WITH PRIOR INCONSISTENT SWORN STATEMENT**

1. Have witness testify to circumstances surrounding taking of the deposition.
2. That the lawyer for the other side was present, i.e., his side's lawyer.
3. That the witness was sworn.
4. That a court reporter was present.
5. That questions were asked and witness was given a full opportunity to answer.
6. That the witness told the truth on that occasion (sworn to tell the truth).
6. That witness had an opportunity to read his answers before signing deposition (or that the witness waived signature, etc.).

### **THEN GO TO QUESTION ASKED AND ANSWER GIVEN THAT IS BEING USED TO IMPEACH**

8. Do you remember making that statement to the question asked?
9. Did you answer on that occasion?

## **Impeachment Prior Inconsistent Unsworn Statements**

### **IMPEACHMENT WITH PRIOR INCONSISTENT UNSWORN STATEMENT**

1. Mr. (witness), do you recall talking with/giving Mr. \_\_\_\_\_ a statement on (time, date, place).
2. The answers/statements you gave to Mr. on (time, date, place) were all-true, were they not?
3. Do you recall in your statement (either oral or in writing) that Mr. \_\_\_\_\_ asked you the following (state question) or do you recall writing the following words (state what witness wrote)?  
In the event it was an oral question, then do you recall giving Mr. \_\_\_\_\_ the following answer (state answer)?
4. Mr. (witness), isn't your response today different than what it was on (time, date, place)?
5. Which statement (oral or written), Mr. (witness) is true, the one you've given today on direct examination or the one you gave on (date)?

## Infant Witness Qualifying

### QUALIFYING INFANT WITNESS TO TESTIFY

1. What is your name?
2. How old are you?
3. When is your birthday?
4. Do you go to school?
5. What school do you go to?
6. What grade are you in?
7. What grades do you get?
8. Who was your teacher last year?
9. Where do you live?
10. Where were you born?
11. Who lives with you?
12. You held your hand up just now, do you know what that means?
13. What does it mean?
14. Do you know the difference between right and wrong?
15. Would you tell me what the difference is?
16. Is it right or wrong to tell a story?
17. If you were to sit here and tell these people a story, or something that wasn't true, what would happen to you?
18. Do you know what it is to tell a lie?
19. Have you seen me before you came to court today?
20. Where was that?
21. When was that?
22. Who else was there?
23. Do you remember me asking you anything?
24. What did I ask you?
25. Did I tell you what happened or did you tell me what happened?
26. Did I tell you anything?
27. What?

State offers witness \_\_\_\_\_ as a competent to testify in this case.

## **Insanity Alleged at Time of the Crime – Psychiatrist Cross Examination**

### **CROSS EXAMINATION OF DEFENDANT’S PSYCHIATRIST RELATING TO ALLEGED INSANITY AT TIME OF CRIME**

1. How long after the date of the crime did you first examine the defendant?
2. How many times did you examine the defendant?
3. How long did your first examination take?
4. How long did the other examinations take?
5. What was the total amount of time you spent with the defendant?
6. Did the defendant have a prior psychiatric history?
7. What independent investigation have you made in this case?
8. Have you talked to the defendant’s family, fellow employees, friends, or neighbors?
9. Do you have any personal knowledge of the facts in this case?
10. What symptoms did the defendant exhibit when you examined him?
11. Did you have psychological tests made? (If he answers yes, then ask, which ones, Doctor?)

The following are the nine most used psychological mental tests:

Minnesota Multiphasic Personality Inventory;  
Thematic Apperception Test; Wechsler Adult  
Intelligence Scale Test; Porteus Maze Test; Bender  
Gestalt Test; The Sentence Completion Test;  
Graham-Kandall Test; Shipley-Hartford Test;  
Rorschach Test.

12. Do you have examinations made to determine the presence of organic brain disease?
  - (a) An X-Ray examination
  - (b) A physical examination
  - (c) An electro-encephalogram test (the tracing of waves generated by electrical impulses from brain which may indicate epilepsy or brain tumors)
  - (d) Pneumo-encephalogram test (Air is injected into the brain, X-Ray taken of the brain will then show an unusual space or spaces in the brain)
  - (e) Neurological examinations (a check of the central nervous system damage)

If the expert did not conduct these various tests, it can be argued to the jury that his examination was totally inadequate.

If he did conduct the tests and found no organic brain damage, then he can be asked the following questions:

13. Then, Doctor you are relying entirely on what the defendant told you about his symptoms or what you observed about his behavior while talking to him?
14. Since you found nothing organically wrong, there is a possibility that the defendant is malingering since your opinion rests totally on his demeanor and behavior while being observed by you?
15. Doctor, did you determine whether the defendant appeared confused and bewildered or whether he perpetrated the crime in an efficient and cunning manner?
16. Are you familiar with the defendant’s background?

17. Did you speak with his daily associates, employers or employees, or neighbors or family members?
18. Then, Doctor, you made no independent investigation of the facts in this case?
19. Is this man suffering from "prison psychosis"?
20. Doctor, isn't this condition precipitated by the defendant's realization of the consequences of his wrongful act?
21. During your examination, Doctor, was the defendant in control of his normal physical faculties?
22. Was the defendant in control of his moral faculties?
23. Doctor, is it your opinion that the defendant was of unsound mind when he committed the crime, or whether the defendant has developed the psychosis after the crime?
24. How long after the date of the crime did you examine the defendant?
25. Doctor, I suppose you examined him at length about the offense with which he is charged.
26. What if he tells you he doesn't remember when, in fact, he does remember?
27. Does that have an effect on your diagnosis? What if he was telling you lies concerning the acts and nature of the offense and the parties thereto?
28. Would that have an effect on your diagnosis. Doctor?
29. If you don't have the proper facts, can you make a proper diagnosis?
30. Isn't it a fact that you can fake mental illness or insanity?
31. Isn't it a fact Doctor, that clever people often fake mental illness?
32. Was the defendant conscious while committing this unlawful act?
33. Was he in a state of amnesia while committing these wrongful acts with which he is charged?
34. Doctor, since you found nothing organically wrong, isn't there a possibility that the defendant is malingering, since your opinion rests solely on his demeanor and behavior while you were speaking with him?
35. Isn't it a fact, Doctor, that your diagnosis is based on your observing his affect, his thinking and behavior while being observed by you?
36. Doctor, have you read the formal charges against this defendant?
37. Then you don't know specifically what he is charged with nor the time involved?
38. Isn't it a fact that the defendant came to you after he had been charged with this offense?
39. Isn't it a fact that he had already retained his defense attorney to represent him?
40. Isn't it a fact (hat when he came to see you, Doctor, he knew that you would be testifying in his behalf concerning the insanity defense?
41. When were you advised of the insanity defense being interposed?
42. Doctor, to your knowledge, has the (defendant ever interposed the defense of insanity'?
43. How much time had elapsed between the time that the defendant committed this criminal offense and the time that yon saw him?
44. And isn't it naturally difficult to make retrospective statements about a person's state of mind at a given specific time in the past? Is that true, Doctor?
45. And isn't this especially true when the only source of information concerning the facts of the crime is the patient, when the outcome is so important to his future?

46. Isn't it a fact that the defendant realized that you would be testifying in Court concerning his sanity?
47. Might a man who faces substantial punishment for violating the type of law that he is charged with if found sane, tend to exaggerate symptoms of insanity or abnormality during a psychiatric interview'!
48. In arriving at your conclusion. Doctor, were you aware that the defendant continued his profession practice and services to the public during the time of this offense?
49. Were you aware, Doctor, that the defendant had been going regularly to his work and tending to his employer during the time of the alleged crime?
50. Doctor, distinguishing the psychosis from the neurosis as well as other personality disorders and psychosomatic disorders, isn't it a fact that psychosis is generally identified by the characteristics of loss of contact with reality or an individual who has a distorted perception and who is operating in his own little world and who is disoriented as to time and place. who is irritable and distracted easily'! (These are the standard identifying characteristics of psychosis. The Doctor certainly will answer yes. then ask the following questions)
51. Doctor, the first time you examined him, did he know where he was?
52. Did he know who he was?
53. Did he know why he was there?
54. Did he know who you were?
55. Did he know the day and month and year?
56. Did he know the nature of the inquiry?
57. Did he know the significance of the interview?
58. How about the second time you saw him?
59. How about the other times you saw him? (The same type questions can be asked in order to lay a predicate to a question of -----)
60. Then. Doctor, if he knew the time and place as well as who he was dealing with, who he was there was in fact no loss of reality nor operating in his own little world, then there is no identifying characteristics of psychosis? (or in the alternative—)
61. Doctor, what are the distinguishing characteristics between psychotic and neurotic persons?
62. Was the defendant conscious during the period of interview, Doctor?
63. Was he in a state of amnesia?  
(The next series of questions and all details of certain essential *facts* determine conduct and behavior at the time of the offense, and they can be worded as follows:)
64. Doctor, did you know "X" fact?  
OR
65. Had you know "X" fact, would it have changed the opinion, i.e., how he acted when setting up the sale, negotiating for a higher percentage of profit; upon being arrested and the undercover agent identifying himself; upon being taken to the U.S. Commissioner; shortly after arrest, he asked to see his attorney; how he spoke, how he conducted himself?
66. The defendant, immediately after the crime, told the officers that he had made a terrible mistake and was sorry and that this would ruin his dental practice. Would this indicate that he

- (a) knew he had committed a wrongful act?
- (b) had an awareness of his having violated the law?
- 67. Doctor, other than what the defendant himself told you, did you independently determine whether this was a crime of passion and acted on the spur of the moment?
- 68. Did you determine whether this was a crime of long duration?
- 69. Did you determine how the defendant acted immediately before, during and after the commission of the crime?
- 70. Did you determine what he said during the commission of the crime?
- 71. Did you determine whether he was acting in such a way as to avoid detection, indicating a cool calculation or irrational recklessness?
- 72. Did the defendant relate his actions prior to going to work on the date of the crime?
- 73. Did he relate his actions during the working hours of the date of the crime?
- 74. Did he express regret for having committed the crime?
- 75. Was his memory good for recent events?
- 76. Was his memory good for remote facts and events?
- 77. Had you known that the defendant planned the negotiations and transfer of this contraband for over three weeks, especially in detail the day of the crime would it have changed your opinion?
- 78. Did you ask him during your interview if he thought it was wrong to knowingly violate the law as he did?
- 79. Did the defendant know the difference between right and wrong when he conspired and planned with other defendants to deal, possess and conceal as well as purchase and sell counterfeit currency?
- 80. Did he know the difference between right and wrong when he “aged” the counterfeit notes in his office?
- 81. Did he know the difference between right and wrong when he concealed them and put them in plastic containers in these dental boxes?
- 82. Did he know the difference between right and wrong when he in detail negotiated over the phone about the sale price and profit percentage he wanted to make?
- 83. Doctor, what’s the difference between sanity and insanity?
- 84. Do you believe that all persons who commit crime are mentally ill?
- 85. Then, Doctor, you must agree that a person could be mentally ill but legally sane? (There are generally four ways of treating psychotic conditions. They are psychiatric interviews: psychoanalysis; drug therapy; and shock therapy. The following questions can be asked):
- 86. What drugs did you prescribe for him after the first meeting? Then you ask the question concerning the second meeting. and then the third meeting. and then followed by another question. such as—
- 87. What medicine did you prescribe for him on that first interview? And then second interview, third interview, and then followed by this question—
- 88. Did you prescribe shock therapy?
- 89. Then, Doctor, you allowed him to leave your office and to continue walking the streets and living at home?
- 90. Doctor, does he need hospitalization or institutionalization’!
- 91. Is there any danger to society or himself?

92. Can he continue living at home and taking care of his family and his business?
93. Doctor, is he legally sane or insane at this time?
94. Doctor, you say that the defendant knew the difference between right and wrong. was conscious during the alleged offense, but had an uncontrollable impulse to do the wrong. How is this uncontrollable impulse determined?
95. Then, Doctor, this so-called uncontrollable impulse is determined psychologically, isn't that correct? (The Doctor will undoubtedly say "Yes". Then in argument to the jury since he probably did not give the defendant an psychological tests, as I have stated earlier, it can be argued that this was just a guess on the doctor's part because no psychological tests were given.)
96. (This was a vital question in the Stiles R. Davis case.) Would the defendant have committed this if a policeman in full uniform was standing at his side and looking at what he was doing? If the doctor answers "No" as he did in the Davis case, the logic is irrefutable: if the defendant could have refrained from committing the act as long as a policeman was there looking at him then the impulse was in fact resistable and controllable.)
97. Then, Doctor, he would have known it was wrong and against the law to do what he was doing?
98. Tell me, Doctor. unless there is a policeman in full uniform standing at his side looking on at all times, do you feel that if released the defendant would violate the law again? NOTE: In reference to the expert's qualifications, it is my feeling that we should never stipulate to his qualifications unless we are absolutely certain and have checked previously that he not only is a member of the medical profession and has taken the Board examination here for the practice of medicine but likewise that he has taken the Board examination for certification in neurology and psychiatry. That is another examination that you are eligible to take after an extended practice and postgraduate training and residency. If a psychiatrist merely states when he is scaling his qualifications that he is licensed to practice in the State of Florida and that he is specializing in psychiatry and doesn't mention that he is a member of the Board of Neurology and Psychiatry, then it can be reasonably inferred that he has not passed or perhaps not even taken the examinations of the American Board of Psychiatry and Neurology. Then he can be asked a question such as this—
99. Doctor, when was the last time that you took the examination for certification in neurology and psychiatry? Then that question can be followed by a statement such as this—
100. Then, Doctor, you have not been certified in psychiatry or neurology? Then, followed by a question such as this—
101. Isn't it a fact, Doctor, that there are rigorous examinations both oral and written in order to be Board certified in psychiatry or neurology?
102. Isn't it a fact, Doctor, that in order to be eligible to take these examinations, postgraduate training as well as residency is required in neurology and/or psychiatry? Should the Doctor respond that he is certified and your previous investigation as to his qualifications has proven to be that he is certified in neurology and not in psychiatry, then you can attempt to discredit or weaken his testimony by asking—

103. Isn't it a factor, Doctor, that you have been certified in neurology and not in psychiatry?

The following inferences and arguments can be made to the jury concerning these questions: it is clear that we have a so-called expert who is nothing more than a general practitioner or a practitioner in a particular field which is not directly on point with what we are determining here today.

## **Insanity Alleged at Time of the Crime – Lay Witness Cross Examination**

### **QUESTIONS FOR DIRECT OR CROSS-EXAMINATION OF LAY WITNESSES RELATING TO SANITY OF DEFENDANT AT TIME OF CRIME**

**A well-established exception to the opinion evidence rule is that a non-expert, a lay person, may express his opinion as to the mental condition of a person known to him. After laying a proper predicate as to the time of acquaintance and circumstances of knowledge of defendant and relationships with the defendant and time to observe the defendant on different occasions, the following questions are proper:**

1. Did the defendant feed himself?
2. Did he dress himself?
3. Did he wash himself?
4. Did he shave himself?
5. Did he drive an automobile?
6. Did he pilot a plane?
7. Did he pilot a boat?
8. Did he know where he was?
9. Did he know who you were?
10. Did he know where he lived?
11. Did he know where he was going?
12. Did he know what day month and year it was?
13. Was his memory good for recent events?
14. Was his memory good for remote events?
15. Was he able to relate dates, places and persons?
16. Did he smoke?
17. Did he drink?
18. Did the defendant have an office?
19. Did he go to his office regularly?
20. Did he have a good practice?
21. Did he support his family financially?
22. Isn't it a fact that he was the sole support of his family?
23. Did the defendant play sports?
24. Did he enjoy the outdoors?
25. Did he enjoy television?
26. Did he enjoy radio?
27. Did he enjoy hunting or fishing?
28. Did he do much travel?
29. Was he managing his own affairs?
30. Did the defendant converse in an intelligent manner?
31. Did he socialize?
32. Did he entertain friends, business associates, or patients?
33. Did he go dancing?

34. Did he go to the movies?
35. Did he go to theatrical shows?
36. Did he go boating?
37. Did the defendant make his own bank deposits?
38. Did the defendant write out his own checks?
39. Did he buy his own clothing?
40. Did he buy household things?
41. Did he buy gifts and merchandise?
42. Was he in control of his normal faculties?
43. Did he walk satisfactorily?
44. On such and such a date, what was his conduct? Was it normal or abnormal?
45. Was his conduct bizarre?
46. Was his speech normal or abnormal?
47. Was his composure normal or abnormal?
48. Were his responses proper?
49. Were his responses normal or abnormal?
50. How did he handle himself?
51. Was he rational?
52. How was his memory?
53. Was he courteous?
54. Was he respectful?
55. What was his demeanor?
56. Did he appear to you that he was "cracking up"?
57. Did he appear to you to be in a nervous breakdown?
58. Was he in control of his moral faculties?
59. (After setting the exact time and place) Did you see anything abnormal about this person at that particular time?
60. Did he appear to you to be a normal, everyday person? In like situations that you deal with in your business and everyday life?
61. What was his appearance?
62. What was his dress like?
63. Did he express his thoughts by use of gestures?
64. Did he ever complain about being sick?
65. Will you describe his appearance? His conduct and behavior around you at the time you were associating with him. Was anything noticeably wrong'?
66. He wasn't sick was he?
67. Wasn't he perfectly rational at the time'?
68. Isn't it a fact that his memory was excellent?
69. Was the defendant conscious during the time that you dealt with him?
70. Was the defendant conscious during the period that you observed him?
71. In your opinion, did the defendant know right from wrong and have respect for law and order?
72. Were you in contact with the defendant during the (a reasonable time before and a reasonable time subsequent to the date of the offense should be alleged)?
73. Did you discuss the unlawful activity that he is alleged to have been engaged in with the defendant?

74. Did you discuss it with him during that particular period?
75. Did you visit him during that particular period (shortly before and shortly after the commission of the crime)?
76. Did you have any personal independent knowledge of the facts in this case?

## **Line-up ID Police Officer**

### **OUT-OF-COURT IDENTIFICATION OF DEFENDANT**

(c)

#### **Predicate Questions For Line-Up Identification (Police Officer)**

##### **Introductory Questions for the Police Officers**

1. Please state your name.
2. How are you employed?
3. How long have you been so employed?
4. What are your duties?

##### **Questions Pertaining to the Particular Line-Up**

1. Did you have occasion to conduct a line-up in this case, State vs. \_\_\_\_\_?
2. On what date did you do so?
3. At approximately what time?
4. Where did the line-up take place?
5. How long after the date of the alleged crime was this?
6. What, if anything, were the witnesses to the line-up told before seeing the line-up?
7. What are the names of the persons who viewed the lineup?
8. Did they all view it at the same time or did they view it separately?
9. How many persons were viewed in the line-up?
10. How were they dressed?
11. Did anyone wear distinctive clothing unlike the clothing worn by the others?
12. Were the persons in the line-up similar in physical description?  
(a) Question the officer specifically as to the age range/height/weight/build  
'hairstyle. race facial features/etc.
13. How was the line-up conducted?  
(a) Have the officer explain that it *was* conducted in some non-suggestive manner.
14. Did you or any person in your presence influence or suggest to the witness which person to select?
15. Did you display photographs of any of the participants of the line-up individually to the witnesses prior to the line-up'?
16. Did any of the witnesses select a person from the lineup?
17. Did they indicate whether this person was the person responsible for the crime in question?
18. Who was selected?  
(a) If the defendant waived his right to counsel, introduce the waiver and demonstrate that it was knowingly, voluntarily and intelligently entered into.

### **Questions Pertaining to the Admission of the Photos of the Line-Up**

1. Officer, I show you what has been marked for purposes of identification as State's composite exhibit
2. Do you recognize the contents of that exhibit?
3. How are you able to do so?
4. Have the contents of that composite exhibit been in your care, custody or control since you originally used them?
5. Are they in substantially the same condition as when you originally used them?
6. Are there any material alterations or deletions in the contents of that composite exhibit?
7. Offer the photographs into evidence.
8. If the officer has not yet done so, have him relate to the jury that the contents of the exhibits are the photographs of the line-up from which the defendant was identified.

### **Questions Further Removing Any hint of Suggestibility**

1. After the witness identified the defendant in the line-up did he communicate his identification of the defendant to any other witnesses to the line-up?
2. Did any witness select any other person as being the one who committed this alleged crime?
3. Did any witness ever select another person at another line-up as being the one who committed this alleged crime?

### **Tender the Officer for Cross-examination**

**Note Well: This should be done as a proffer first out of the presence of the jury if there is any issue as to the admissibility of the line-up identification. If it is ruled admissible, the same questions should then be asked in the presence of the jury.**

**Line-up ID Lay Witness**

**OUT-OF-COURT IDENTIFICATION  
OF DEFENDANT**

**(d)**

**Predicate Questions for  
Line-Up Identification (Witness)**

**Introductory Questions for the Witness**

1. Please state your name.
2. Where do you live?
3. Were you the victim of (or a witness to) an alleged (crime) on or about (date)?

**Questions Pertaining to the Particular Line-Up**

1. Did you have occasion to view a line-up in this case, State vs. \_\_\_\_\_?
2. On what date did you do so?
3. At approximately what time?
4. Where did the line-up take place?
5. How long after the date of the alleged crime was this?
6. Who conducted the line-up?
7. What, if anything, were you told before seeing the line-up?
8. Did anyone else view the line-up at the same time as you?
9. How many persons were viewed by you in the line-up?
10. Describe the line-up you viewed.
11. Were the persons in the line-up all similar in physical description?
  - (a) Question the witness specifically as to the age range/height/weight/build/hairstyle/race/facial features/etc., of the persons in the line-up.
12. How were they dressed?
13. How was the line-up conducted?
  - (a) Have the victim/witness explain that it was conducted in some non-suggestive manner.
14. Did the officer or anyone else present suggest to you who to select?
15. Did you view any of the people in the line-up individually before seeing them in the line-up?
16. Were the photographs of any of the persons in the lineup individually shown to you prior to the line up?
17. Did you have an opportunity to observe the person who committed the alleged crime in question?
18. For how long a period of time?
19. How close were you to him?
20. What did you observe?
21. Did you select a person at the line-up?

23. Is this the person responsible for the crime in question?
24. Who did you select?
  - (a) If the defendant was selected, have the victim/witness point out the defendant in the courtroom.

#### **Question for Identifying the Photographs of the Line Up**

1. I show you what has been marked for purposes of identification (or admitted into evidence) as State's composite exhibit # \_\_\_\_\_
2. Do you recognize the contents of that exhibit?
3. How are you able to do so?
4. Do the scenes portrayed in these exhibits accurately depict the line-up from which you identified the defendant?
5. If the photographs have not yet been offered, do so.
6. Have the witness point out the defendant in the photographs.

#### **Question Further Removing Any Hint of Suggestibility**

1. After you identified the defendant in the line-up did you communicate your identification of the defendant to any other witnesses viewing the line-up?
2. Did you ever select any other person as being the one who committed this alleged crime?
3. Did you ever select any other person at another line-up as the one responsible for this alleged crime?
4. Was your identification of the defendant based on your observation of him at the time of the commission of the alleged crime?
5. Was your identification of the defendant based on anything else other than your observation of him at the time of the commission of the alleged crime?

#### **Tender the Victim/Witness for Cross-examination**

**Note Well: This should be done as a proffer first out of the presence of the jury if there is any issue as to the suggestibility of the line-up. If it is ruled admissible, the same questions should then be asked in the presence of the jury.**

## **Lotteries Expert**

### **QUALIFICATION OF WITNESS AS EXPERT IN THE FIELD OF ILLEGAL LOTTERIES**

#### **Law Enforcement Background and Engagement in Lottery Investigations**

1. Would you please state your name?
2. By whom are you presently employed?
3. Would you please state the duration of employment with that Agency'!
4. Would you state your present capacity or title with that Agency?
5. Would you state the duration of your employment in that capacity with that Agency?
6. Would you please describe your present duties within that capacity, or would you state the specific area or type of investigation in which you are engaged in that capacity'!
7. Would you state the duration of time in which you have engaged in that area or type of investigation with that agency?
8. Would you state what employment, if any, you were engaged in prior to your present position?
9. Would you please detail your duties and areas of investigation in that previous employment'!
10. Would you state the toe" number of hours in 'which you have engaged in law enforcement activities!
11. Would you state the total number of hours in which you have specialized in the specific area of illegal lottery investigations? (Inclusive of both past and present employment.)
12. Would you state the total number of separate lottery investigations in which you have engaged during this period of time?
13. Of those lottery investigations, would you state the total number in which you have actually directed or supervised said investigations?
14. Of these investigations, would you state the total number of these in which you actually personally participated?
15. Have you ever had occasion to effect the arrest of persons for violations of this State's lottery laws?
16. Would you state the total number of such persons which you have arrested or who were arrested under your direction or supervision?
17. Have you ever had occasion to direct, supervise or participate in the execution or serving of search warrants directed toward persons and premises involved in lottery law violations'?
18. Would you state the total number of such search warrants?
19. Have you ever had occasion. pursuant to the execution or serving of these search warrants, to physically take into official custody items of tangible evidence which are commonly classified as lottery paraphernalia or items used in the conducting of a lottery?
20. On how many such occasions?

21. Could you estimate the percentage of your working schedule, which is directed exclusively toward the investigation of violations of this State's lottery laws?
22. Would you please state that percentage?
23. Occasion to listen to tape recorded conversation of lottery operations in actual operation?
  - (a) Number of occasions?
  - (b) Number of hours listened to and studied?

### **Personal Contact and Communication with Lottery Law Violators**

1. Of the persons whom you have arrested in the past or who have been arrested under your direction and supervision for lottery law violations, have you ever had occasion to discuss personally with them illegal lotteries, both how they are operated or conducted and their organizational structure'!
2. Would you state the total number of such individuals with whom you have had occasion to discuss these matters?
3. Could you estimate the total number of hours in which you have discussed the same with such individuals!
4. In these conversations, have you had an occasion to discuss the same by use of reference to actual tangible evidence or paraphernalia which was physically present at the time of such conversations?
5. Would you state the total number of occasions on which this has been done?
6. Could you estimate the total number of hours in which this has been done?

### **Training and Education**

1. Have you had occasion in the past to receive any type of specialized training of a classroom nature in the field of illegal lotteries and investigations?
2. On how many separate such occasions?
3. Would you detail the content of this instruction and by whom same was given?
4. Could you estimate the total number of hours of such training, which you have received?
5. Have you ever had occasion to discuss with and be instructed by individuals who have been qualified in Criminal Courts as experts in the field of lottery and lottery investigations?
6. Would you state the number of such experts with whom you have communicated?
7. Would you state the names of these experts!
8. Could you estimate the number of hours in which you have engaged in such instruction with these experts?
9. Would you state the number of such hours?
10. Have you ever had occasion to transfer evidentiary items of a tangible nature or lottery paraphernalia to the Federal Bureau of Investigation and other authorities for analysis and interpretation as to its relevance with regard to illegal lottery activities?
11. Would you state the number of such occasions?
12. Pursuant to said transfer, have you had occasion to receive written reports from the State and Federal Bureau of Investigation and other authorities relating to their interpretations.

13. On how many such occasions?
14. Pursuant to receiving these reports, have you had occasion to examine and study same?
15. Could you estimate the total number of hours in which you have engaged in such examination and study?
16. Have you ever had occasion to read books, papers, memorandums, or other literature concerning illegal lotteries, their operation, and the paraphernalia employed by those engaged in same?
17. Would you state the names and authors of said works?
18. Could you estimate the total number of hours in which you have engaged in the examination and study of such works?
19. Have you ever had occasion to prepare and distribute such works yourself?
20. Would you state the names of such works and the dates of their distribution, as well as the purpose of said distribution.
21. Have you ever had occasion in the past to conduct courses or classes of instruction yourself in the field of illegal lotteries and lottery investigation?
22. Would you state the number of occasions on which you have done so?

### **Testimonial Experience**

1. Have you ever had occasion to be qualified and testified as an expert in the field of illegal lotteries in Courts of Criminal Jurisdiction?
2. Would you state the total number of such occasions?
3. Would you state the separate jurisdictions or courts in which you have been so qualified and testified?
4. Could you estimate the total number of hours in which you have testified from the stand as an expert in the field of illegal lotteries?
5. Are you in fact familiar with and knowledgeable as to the operation of illegal lotteries in this County of \_\_\_\_\_
6. Are you in fact familiar with and knowledgeable as to the organizational structure of lottery operations as they exist and have existed in this County of \_\_\_\_\_
7. Are you in fact familiar with and knowledgeable as to items of a tangible nature, which are commonly known as lottery paraphernalia as they exist and have existed in this Counts of \_\_\_\_\_
8. Are you in fact familiar with and knowledgeable as to these matters as that pertain to the month of \_\_\_\_\_ 20\_\_?

## **Marijuana Identification – Non-Chemist**

### **MARIJUANA IDENTIFICATION BY OFFICER/AGENT (Non-Chemist)**

1. Detective, would you state your name and occupation for the record?
2. How long have you been so employed?
3. Have you specialized in any particular field of investigation? How long?
4. Have you attended any specialized schools or had any specialized training regarding drugs?
5. During the past years, in your training, education, and experience, on approximately how many occasions have you observed (or smelled) or come into contact with marijuana?
6. Have you ever identified a substance as being marijuana and had the forensic chemical analysis result in a finding that the substance was not marijuana?
7. Have you ever testified as an expert witness in any Court concerning the visual or olfactory (smell) identification of marijuana?
8. In what courts and on how many occasions?  
Tender Witness  
I show you State's Exhibit \_\_\_\_\_ for identification.
9. Based upon your past experience and training, do you have an opinion as to what the substance is?

## Medical Doctor

### PREDICATE QUESTIONS FOR MEDICAL DOCTOR

1. Name, residence?
2. Are you licensed in this state? How long?
3. What medical college did you attend?
4. Where did you intern?
5. Since that time where have you practiced?
6. Nature of your practice—general or specialized?
7. During your years in practice have you had occasion to treat a good many personal injury cases?
8. On or about \_\_\_\_\_, did you have occasion to see professionally?
9. Where? Describe his condition at that time.
10. What, if anything, did you do on that occasion?
11. Have you been attending physician since that date?
12. Describe the nature of the examinations, which you made, on \_\_\_\_\_ and from time to time since then.
13. Did you see him daily—several times a day at first—when he was at the hospital?
14. Did you continue to see him? How often?
15. What, generally did your treatment consist of?
16. How many operations?
17. Did you see him from time to time, during those periods, as his attending physician?
18. From your examination and treatment of did you determine what organs of his body were injured?

(Continue interrogation for the specific purpose of your case e.g.. to prove extent of disability, nature of physical pain, suffering. etc.)

## Memory Refreshing Present Recollection – Past Recollection Recorded

### PREDICATE QUESTIONS FOR REFRESHING MEMORY

#### (PRESENT RECOLLECTION REFRESHED OR PAST RECOLLECTION RECORDED)

1. Can you recall the individual items you packed? (No.)
2. Do you know of anything that will refresh your recollection? (Shipping Ticket.)
3. I will show you State's Exhibit \_\_\_\_\_ and ask you if that is the shipping ticket you have referred to.
4. Who prepared the ticket? (The witness).
5. Was it written up by you?
6. Was **it** true and correct at the time you wrote it?
7. Was it made in the ordinary course of business?
8. And at the time you shipped these items?
9. Would a reference to the shipping ticket help you to refresh your recollection?
10. Please read State's Exhibit \_\_\_\_\_ and tell me whether it refreshes your independent recollection of the items you shipped.

If the document does refresh the present recollection of the witness, ask the next question.

11. What do you recall?  
If the present recollection of the witness is *not* refreshed by the exhibit, the exhibit must be introduced into evidence *after* the witness has testified:
  - a. The exhibit was true and correct when made;
  - b. The exhibit was made in the ordinary course of business; and
  - c. The exhibit was prepared at the time of the transaction it records.
12. Please read the contents of the exhibit (or the pertinent part thereof) to the jury. Once the exhibit is admitted it becomes the proof itself of the past recollection recorded.

## Narcotics Officer Paraphernalia

### QUALIFICATION OF NARCOTICS PARAPHERNALIA EXPERT

1. Name
2. Occupation
  - (a) How long?
3. Department
  - (a) How long?
4. Narcotics Division
  - (a) How long?
5. Have special training in field of narcotics?
6. What did training consist of (I.D. of Drugs; paraphernalia)?
7. How long attend course?
8. How many hours in course?
9. Ever participate in investigation of illegal narcotics activities?
10. How many times?
11. Ever make arrests of persons engaged in illegal narcotics activities.
12. How many times?
13. Occasion to speak with individuals engaged in illegal narcotics activities.
14. How many times?
15. Occasion to speak with these people with regard to the identification of and use of narcotics. paraphernalia.
16. Ever been called upon by other members of law enforcement to examine and render opinion as to whether certain article was in fact narcotics paraphernalia.
17. How many times?
18. Occasion to be qualified as expert in Criminal Court in ( ) County in field of narcotics paraphernalia.
19. How many times?
20. Did you actually testify?

#### Optional:

1. Occasion to conduct courses in identification of narcotics, narcotic-type drugs and narcotic paraphernalia.
2. Pursuant to arrests of persons for illegal narcotics activities have occasion to seize narcotics, narcotic type drugs and narcotics paraphernalia.
3. How many times?
4. Ever participate in execution of S/W pertaining to narcotics or narcotic-type drugs?
5. How many times?
6. During occasion of arrests and execution of S/W have opportunity to view and familiarize self with narcotics, narcotic-type drugs and paraphernalia used by those engaged in illegal narcotics use.
7. How many times?
8. Occasion to conduct tests to determine narcotic content of substances.
9. What test used?

10. How many times?
11. How much training in conducting such test?

## Narcotics Chemist

### STATE CHEMIST

1. Name
2. Business Address
3. By whom employed
4. Capacity employed
5. How long
6. Duties
7. Type training to qualify for post
8. Occasion to chemically analyze substances to determine whether the substance is or contains a narcotic or narcotic-type drug?
9. How many times?
10. Occasion to chemically analyze substances to determine whether the substance is or contains marijuana?
11. How many times?
12. How many analyses made in a given week?
13. Do you make analysis as a regular part of your duties?
14. Occasion to qualify in courts of \_\_\_\_\_ as an expert in this area?
15. How many times?
16. Pursuant to qualifying as an expert, have occasion to actually testify as an expert with respect to the chemical character of a particular substance.
17. Occasion to qualify as expert in County in this area?
18. Move court to declare witness an expert in field of chemistry and analysis of narcotics.
19. Show exhibit.
20. Identify
21. How can identify?
22. When exhibit marked?
23. When received (date submitted)?
24. Where received?
25. How did exhibit come into possession (by whom submitted)?
26. Has exhibit been continuously under care, custody or control?
27. Is exhibit in same condition now as when it was first received?
28. For what purpose did exhibit come into your possession?
29. Move exhibit into evidence subject to materiality and relevancy being shown.
30. Weight of marijuana?
31. Occasion to make analysis?
32. When?
33. What tests were made by you? What type examination did you perform?
34. From these tests were you able to form an expert opinion as to what the exhibit is or contains?
35. State opinion.
36. State basis for opinion.
37. Move exhibit into evidence without reservation.

## **Neutron Activation Analysis**

### **PREDICATE QUESTIONS:**

#### **NEUTRON ACTIVATION ANALYSIS**

1. What is your present title?
2. What position do you hold?
3. You are a (nuclear chemist) (atomic physicist)?
4. Briefly describe what the subject matter of (Nuclear Chemistry) (Atomic Physics) pertains to.
5. Describe your formal education.
6. What degrees do you hold?
7. What positions have you held since the completion of your formal education and the number of years in each position?
8. In the course of your work have you had occasion to conduct laboratory examinations of (material) by the use of a technique known as Neutron Activation Analysis?
9. Have you taught or lectured on Neutron Activation Analysis?
10. Have you published works on Neutron Activation Analysis?
11. Have you previously been qualified and testified as an expert witness in Neutron Activation Analysis in Court? If so, how many times?

#### **Move to qualify as expert.**

12. Generally, explain what Neutron Activation Analysis is.
13. Is it possible for you to determine the elements making up the substance you analyze by using this technique?
14. Did you bombard each of the comparison samples of (material) with an equivalent number of neutrons?
15. Why is it essential that each sample be bombarded with an equal number of neutrons'?
16. What type of control did you run to insure that the reactor and measurement equipment were in good working order?
17. As a result of your analysis of (material) using the technique of Neutron Activation Analysis do you have an opinion as to (whatever test was designed to show)?
18. What is that opinion?

## Pathologist Autopsy Questions

### PATHOLOGIST—AUTOPSY QUESTIONS

1. Get photograph of victim
2. Name
3. Address
4. Profession
5. Are you Licensed to practice medicine in the State of \_\_\_? Any other state?
6. Would you relate to the Court and Jury your educational background?
7. Are you a member of any professional organizations?
8. Do you have a specialty?
9. What?
10. Describe if you would, exactly what your specialty is.
11. Are you certified in pathology?
12. Where did you receive your training in pathology?
13. What did it consist of?
14. In what capacity are you presently employed?
15. What are your duties?
16. How many autopsies have you performed?
17. Have you qualified in a Court of Law as an expert in pathology?
18. How many times?  
—Submit Doctor as Qualified—
19. Doctor, during the month of \_\_\_\_\_ do you recall how you were employed?
20. During that month just stated, did you have an occasion to perform one or more autopsies?
21. Do you recall your whereabouts on \_\_\_\_\_
22. Did you have an occasion to perform an autopsy or autopsies on \_\_\_\_\_ on the \_\_\_\_\_
23. Doctor, I show you a photograph marked State's Exhibit No. \_\_\_\_\_ for purposes of identification and ask you if you can identify this picture.

### GO THROUGH PREDICATE QUESTIONS.

24. And what does this picture depict? (Doctor identifies victim),
25. Doctor, when was the first time you saw this person?
26. Did you perform an autopsy on this particular person on \_\_\_\_\_?
27. How long did that autopsy last?
28. Where did it take place?
29. When was the first time you saw this victim? Was it at the autopsy?
30. Based on that particular autopsy within the bounds of reasonable medical certainty, have you formed an expert opinion concerning the cause of death?
31. What is that opinion?

## **Pathology Medical Expert**

### **QUALIFYING AN EXPERT**

#### **MEDICAL WITNESS IN PATHOLOGY**

1. Name
2. Are you a duly-licensed physician and surgeon?
3. In what state(s)?
4. How long have you been licensed to practice your profession?
5. Are you presently engaged in the practice of your profession?
6. Where did you receive your medical training?
7. Will you please tell us just what are the duties of the Medical Examiner of County?
8. Is the function of the Medical Examiner similar to that of the coroner in some states?
9. Does the work include the performance of autopsies?
10. During your experience in the Medical Examiner's Office, how many autopsies have you performed?
11. Will you please continue with your experience in the Medical Examiner's Office?
12. Are you on the staff, or are you affiliated in any way, with any universities or academic institutions?
13. Do you specialize in any particular branch or field of medicine?
14. Would you tell us just exactly what pathology involves?
15. Are you a member of any specialized medical or scientific groups or associations?
16. Will you please tell us what the American Board of Pathology is?
17. What is the object of this board?
18. What are the special requirements before certification as a diplomate by the American Board of Pathology is granted?
19. Must the applicant take special examinations given by the Board before his certification as a specialist in pathology?
20. You have mentioned forensic pathology. Will you explain what that term means?
21. Certification as a diplomate by the American Board of Pathology is over and above your license to practice medicine?
22. Is certification by the American Board of Pathology on a national basis?
23. Are you the author of any textbooks or any specific papers in the field of pathology?
24. During your years of experience in the office of the Medical Examiner, have you had occasion to observe many cases in which the cause of death was

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(Here you can have the doctor testify to particular autopsy in question if he performed it, or tender him as an expert and ask him hypotheticals if he did not perform the autopsy.)

## Paraphernalia Expert

### QUALIFICATION OF NARCOTICS PARAPHERNALIA EXPERT

1. Name
2. Occupation
  - (a) How long?
3. Department
  - (a) How long?
4. Narcotics Division
  - (a) How long?
5. Have special training in field of narcotics?
6. What did training consist of (I.D. of Drugs; paraphernalia)?
7. How long attend course?
8. How many hours in course?
9. Ever participate in investigation of illegal narcotics activities?
10. How many times?
11. Ever make arrests of persons engaged in illegal narcotics activities.
12. How many times?
13. Occasion to speak with individuals engaged in illegal narcotics activities.
14. How many times?
15. Occasion to speak with these people with regard to the identification of and use of narcotics. paraphernalia.
16. Ever been called upon by other members of law enforcement to examine and render opinion as to whether certain article was in fact narcotics paraphernalia.
17. How many times?
18. Occasion to be qualified as expert in Criminal Court in ( ) County in field of narcotics paraphernalia.
19. How many times?
20. Did you actually testify?

#### **Optional:**

1. Occasion to conduct courses in identification of narcotics, narcotic-type drugs and narcotic paraphernalia.
2. Pursuant to arrests of persons for illegal narcotics activities have occasion to seize narcotics, narcotic type drugs and narcotics paraphernalia.
3. How many times?
4. Ever participate in execution of S/W pertaining to narcotics or narcotic-type drugs?
5. How many times?
6. During occasion of arrests and execution of S/W have opportunity to view and familiarize self with narcotics, narcotic-type drugs and paraphernalia used by those engaged in illegal narcotics use.
7. How many times?
8. Occasion to conduct tests to determine narcotic content of substances.
9. What test used?
10. How many times?

11. How much training in conducting such test?

## **Pen Registers**

### **PREDICATE QUESTIONS REGARDING PEN REGISTER OR DIALED NUMBER RECORDER TAPES**

1. Detective \_\_\_\_\_ would you please explain to the jury what a “pen register” or dialed number recorder is?
2. Would you please explain how a dialed number recorder works?
3. Was a dialed number recorder utilized during this investigation? If so, what type?
4. Was the dialed number recorder tested or checked for accuracy before it was connected to the telephone line? By whom, how, when?
5. Who has custody of the tapes that were produced by the dialed number recorder?
6. How were these tapes obtained?
7. I show you State’s Exhibit No. \_\_\_\_\_ for identification; can you identify this exhibit? How?
8. Would you please explain to the jury what the numbers digits and characters on this tape reflect?
  - (a) Date/time telephone taken off the hook (start of call)
  - (b) Date/time telephone replaced on the hook (end of call)
  - (c) Number dialed (outgoing call) or character printout reflecting an incoming call

## **Photographs Admission**

### **Questions Qualifying the Photographs for Admissibility**

1. I show you what has been marked for purposes of identification as State's Exhibits \_\_\_\_\_
2. Do you recognize these exhibits?
3. How are you able to do so?
- (a) Here the witness can explain that he recognizes the scenes as those he photographed that he either developed the film and made the prints himself, or that this was (done at his direction, and that he marked or initialed the prints.
4. When were the photographs marked State's Exhibits \_\_\_\_\_ taken by you?
5. Do these photographs fairly and accurately depict the scene as it appeared on the day the) were taken?
6. Are there any material alterations or deletions from the photographs?
7. Were any of them posed?
8. Are you familiar with the way the scene depicted in the photos appeared on (date). the day of the alleged crime in question?
9. Were there any material differences between the way the scene appeared on that day and the day on which these photos were taken?
10. The State offers State's Exhibits \_\_\_\_\_ for admission into evidence your honor.

### **Questions Relating to the Photographs Themselves**

1. Your honor, with the Court's permission. I would like to have the witness step down and explain the photographs to the jury.
2. Officer, beginning with State's Exhibit \_\_\_\_\_ please explain what each exhibit depicts.
  - (a) Here have the officer show the area photographed. explaining its significance to the crime in question.
  - (b) Have the officer point out landmarks to orient the judge. such as roads, etc.
  - (c) Have the officer explain the direction and altitude from which the photographs were taken.
3. Thank you officer. You may resume your seat on the witness stand.

## **Photographs Generally**

### **PREDICATE FOR ADMITTING PHOTOGRAPHS**

#### **Form No. I—Photographs, Generally**

1. I hand you State's Exhibit Number I for identification. What is it?
2. Do you or do you not recognize it?
3. Does this photograph marked as State's Exhibit Number 1 for identification fairly and accurately depict the subject matter therein? (on the date and time in question).
4. (Or what is it a picture of?)
5. Ask question number 3 immediately above.
6. Your Honor, the State moves that State's Exhibit Number 1 for identification be admitted into evidence.

#### **Form No. II—Photographs in Vehicular Homicide**

1. Mr. \_\_\_\_\_ are you familiar with the street intersection at which the collision involved in this case occurred? If so, state what it is?
2. Did you see the intersection at any time during the day when the collision took place?
3. (Hand witness purported photo) I hand you what purports to be a photograph of that intersection and ask if you recognize it from the photograph?
4. Is that photograph a fair representation of the intersection as you saw it on the day of the collision?
5. Your Honor, I offer the photograph into evidence as State's Exhibit No. \_\_\_\_\_

**Photographs Aerial Police or Professional Photographer**

**PREDICATE QUESTIONS:  
AERIAL PHOTOGRAPHS (POLICE OR  
PROFESSIONAL PHOTOGRAPHER)**

**Questions Identifying the Witness**

1. Please state your name.
2. How are you employed?
3. What are your duties as such?
4. How long have you been so employed?

**Questions Relating to the Specific Aerial Photographs in Question**

1. Did you have occasion to be working on (date)?
2. Did you participate in the investigation of this case in any way on that date?
3. Did you take aerial photographs relating to this case on that date?
4. By whom were you requested to do so?
5. What area or areas did you photograph?
6. What type of camera/film did you use? Lens? Shutter speed?

Tender the Witness for Cross-examination

## Physical Evidence Introduction

### INTRODUCTION OF PHYSICAL EVIDENCE

- I. Mark evidence as “States Exhibit #1 for identification.”
- II. Questions:
  1. I show you State’s Exhibit #1 for identification and would you look at it please?
  2. Can you identify this \_\_\_\_\_
  3. How?
  4. When did you so mark it?
  5. Where did you first see this \_\_\_\_\_ — —How did it come into your possession?
  6. How did it come into your possession?
  7. What did you do with it?
  8. When was the next time you *saw* it?
  9. Did you take it from the property room under some number?
  10. Is the \_\_\_\_\_ in substantially the same condition now as when you first saw it?
  11. The State will offer State’s Exhibit #1 for identification into evidence.

## Physician Deceased Hospital Charts and Records

### PREDICATE QUESTIONS FOR REVIEWING HOSPITAL CHARTS/RECORDS OF A DECEASED PHYSICIAN

1. Please state your name.
2. What is your occupation/profession?
3. Dr. \_\_\_\_ where did you take your undergraduate training?
4. Your medical school?
5. Your internship'?
6. Dr. \_\_\_\_\_ did you have the occasion to take up a residency for further specialized training?
7. Where did you do your residency?
8. For what length of time?
9. Under whom did you train?
10. Do you hold any certifications from National or State boards?
11. Are you licensed to practice medicine in this State or any other States?
12. For what length of time?
13. Dr.\_\_\_\_,what, generally, are your duties/responsibilities as a (put in doctor's specialty)?
14. Dr.\_\_\_\_, in the normal performance of your specialty have you had the occasion to examine medical charts/records of patients prepared by your colleagues?
15. And from those charts/records draw conclusions within the bounds of reasonable medical certainty?
16. On approximately how many occasions?  
(Tender as an Expert)
17. Dr. \_\_\_\_\_ let me show you State's Exhibit No. \_\_\_\_\_, will you please examine it?
18. In your role as an instructor in preparing for teaching sessions do you ever have the occasion to examine medical charts/records for the purpose of drawing medical conclusions to be used in your classes?
19. Dr. \_\_\_\_\_, in making these chart/record studies that you have just testified about do you re-administer tests and exams or do you rely on the medical charts/records of the individuals for your conclusions?
20. Dr. \_\_\_\_\_, do you serve on any committees at the local hospitals) which require you to review medical charts/records for the purpose of arriving at medical conclusions for yourself and your colleagues?  
(Tender as an expert)
21. Dr. \_\_\_\_\_ let me show you State's Exhibit No. \_\_\_\_\_ and ask you to examine it.
22. Based on State's Exhibit No. Dr. \_\_\_\_\_ have you reached a conclusion within the bounds of reasonable medical certainty?
23. What are those conclusions?

## Photographic Copies Secondary Evidence

### PROOF— IDENTIFICATION, AUTHENTICATIONS AND INTRODUCTION OF SECONDARY EVIDENCE (PHOTOGRAPHIC COPY)

1. What is your occupation?
2. What are your duties with respect to docket sheets, informations, case files, minute book entries, and papers related thereto?
3. Pursuant to my request, did you bring with you the criminal Court minute book entry on \_\_\_\_\_ 1976, in the case of State of Georgia vs. John Doe,
4. Why not?
5. Are you familiar with the appearance of the pages of the minute books?
6. Will you describe it?
7. When you were approached by me with reference to producing the minute book entry on \_\_\_\_\_ 1976, in the case of State of Georgia vs. John Doe, \_\_\_\_\_ did you examine that entry?
8. I show you exhibit \_\_\_\_\_ for identification, purporting to be a photograph of minute book entry on 1976, in case # \_\_\_\_\_. State of Georgia vs. John Doe, and ask you whether it is a true and correct representation and picture of that minute book entry?
9. Your Honor, the State offers State's Exhibit in evidence and tenders the witness for cross-examination as to the admissibility of the exhibit.

## **Pictures on Checks Regiscope**

### **PREDICATE QUESTIONS: REGISCOPE PICTURES ON CHECKS**

1. Please state your name.
2. How employed, where, how long employed.
3. Did you receive a Subpoena Duces Tecum for certain records and photographs?
4. Did you bring these records and photographs with you? (mark for identification)  
(show exhibits to witness)
5. Identify exhibit.
6. Have witness explain to Jury what a regiscope picture is, how made, reverse image vs. true image, etc.
7. Show picture made by regiscope at scene of check cashing and have explained.
8. Show picture of true image and have explain difference.  
(tender witness for voir dire on regiscope) (move exhibit into evidence)

## **Police Officer Qualifying**

### **GENERAL PREDICATE QUESTIONS FOR LAW ENFORCEMENT OFFICERS**

1. Name?
2. Occupation?
3. What law enforcement agency?
4. How long so employed?
5. Previous law enforcement experience?
6. Present duties?
7. One of your duties to assist in (or supervise) homicide investigations?
8. Familiar with so-called *Miranda* warnings on a suspect's constitutional rights?
9. Had occasion to advise suspects of those rights during the course of your work in law enforcement?
10. Number of times?
11. Employed in your present capacity in June, 1971?
12. (If not, explain)
13. Have occasion to become involved in investigation of death of victim of this case?
14. What date?
15. Time?
16. How were you brought into case?

**Prior Conviction Proof by Clerk of the Court**

**PROOF OF PRIOR CONVICTION BY  
CLERK OF CIRCUIT COURT**

1. Would you please state your name?
2. Do you presently hold any official capacity with the County of \_\_\_\_\_ State of \_\_\_\_\_?
3. What position do you hold?
4. How long have you been so employed?
5. What are your duties?
6. Among your duties as clerk, are you the official custodian of all the criminal records?
7. Explain to the jury or court what criminal records are maintained.
8. Please explain each individual record that you maintain as part of an individual's criminal record?
9. Pursuant to my request did you bring with you the criminal records relating to State of \_\_\_\_\_ vs. \_\_\_\_\_ case number \_\_\_\_\_
10. May I see those documents? (USE BUSINESS RECORD PREDICATE)
11. Mr. \_\_\_\_\_. I note that each of these documents. State's Exhibits \_\_\_\_\_ to \_\_\_\_\_ bears a certificate of one • as deputy clerk certifying that these are true and correct copies of the original documents on file. (He or She) is an official deputy clerk with your office, is that correct?
12. Did you personally examine each document and compare them with the originals?
  - (a) Any additions?
  - (b) Any deletions?
  - Any alterations?

TENDER WITNESS

## **Prior Conviction Proof by Police Officer**

### **PROOF OF PRIOR CONVICTION BY POLICE OFFICER**

1. Would you please state your name and occupation?
2. How long have you been so employed?
3. During the course of your employment as a police officer, did you have occasion to participate in an investigation of \_\_\_\_\_, which occurred in \_\_\_\_\_ on \_\_\_\_\_,
4. Who was arrested and charged with that offense?
5. Did you on, 19\_, appear in this court as a State witness when \_\_\_\_\_ was found guilty of the charge?
6. Do you see that person then known to you as seated in this courtroom? Describe what he is wearing etc.?

**Prior Conviction Proof by Bailiff**

**PROOF OF PRIOR CONVICTION BY  
(c) BAILIFF**

1. State your name and occupation.
2. What are your duties?
3. Were you employed as a bailiff on \_\_\_\_\_ 19\_\_?
4. I show State's Exhibit No. (fingerprint form-judgment of conviction) and ask if you can identify?
5. Did you roll the prints on that form?
6. Look around the courtroom and identify the individual whose prints you placed on this form? Describe what he is wearing?

NOTE: THE NEXT WITNESS WOULD BE AN IDENTIFICATION EXPERT WHO COMPARED THE DEFENDANTS FINGERPRINTS.

## **Prior Inconsistent Statement Impeachment**

### **TRIAL—IMPEACHMENT WITH PRIOR INCONSISTENT SWORN STATEMENT**

1. Have witness testify to circumstances surrounding taking of the deposition.
2. That the lawyer for the other side was present, i.e., his side's lawyer.
3. That the witness was sworn.
4. That a court reporter was present.
5. That questions were asked and witness was given a full opportunity to answer.
6. That the witness told the truth on that occasion (sworn to tell the truth).
7. That witness had an opportunity to read his answers before signing deposition (or that the witness waived signature, etc.).

THEN GO TO QUESTION ASKED AND ANSWER GIVEN THAT IS BEING USED TO IMPEACH

8. Do you remember making that statement to the question asked?
9. Did you answer on that occasion?

## **Psychiatrist Cross Examination Alleged Insanity at Time of the Crime**

### **CROSS EXAMINATION OF DEFENDANT'S PSYCHIATRIST RELATING TO ALLEGED INSANITY AT TIME OF CRIME**

1. How long after the date of the crime did you first examine the defendant?
2. How many times did you examine the defendant?
3. How long did your first examination take?
4. How long did the other examinations take?
5. What was the total amount of time you spent with the defendant?
6. Did the defendant have a prior psychiatric history?
7. What independent investigation have you made in this case?
8. Have you talked to the defendant's family, fellow employees, friends, or neighbors?
9. Do you have any personal knowledge of the facts in this case?
10. What symptoms did the defendant exhibit when you examined him?
11. Did you have psychological tests made? (If he answers yes, then ask, which ones, Doctor?)

The following are the nine most used psychological mental tests:

Minnesota Multiphasic Personality Inventory;  
Thematic Apperception Test; Wechsler Adult  
Intelligence Scale Test; Porteus Maze Test; Bender  
Gestalt Test; The Sentence Completion Test;  
Graham-Kandall Test; Shipley-Hartford Test;  
Rorschach Test.

12. Do you have examinations made to determine the presence of organic brain disease?
  - (a) An X-Ray examination
  - (b) A physical examination
  - (c) An electro-encephalogram test (the tracing of waves generated by electrical impulses from brain which may indicate epilepsy or brain tumors)
  - (d) Pneumo-encephalogram test (Air is injected into the brain, X-Ray taken of the brain will then show an unusual space or spaces in the brain)
  - (e) Neurological examinations (a check of the central nervous system damage)

If the expert did not conduct these various tests, it can be argued to the jury that his examination was totally inadequate.

If he did conduct the tests and found no organic brain damage, then he can be asked the following questions:

13. Then, Doctor you are relying entirely on what the defendant told you about his symptoms or what you observed about his behavior while talking to him?
14. Since you found nothing organically wrong, there is a possibility that the defendant is malingering since your opinion rests totally on his demeanor and behavior while being observed by you?

15. Doctor, did you determine whether the defendant appeared confused and bewildered or whether he perpetrated the crime in an efficient and cunning manner?
16. Are you familiar with the defendant's background?
17. Did you speak with his daily associates, employers or employees, or neighbors or family members?
18. Then, Doctor, you made no independent investigation of the facts in this case?
19. Is this man suffering from "prison psychosis"?
20. Doctor, isn't this condition precipitated by the defendant's realization of the consequences of his wrongful act?
21. During your examination, Doctor, was the defendant in control of his normal physical faculties?
22. Was the defendant in control of his moral faculties?
23. Doctor, is it your opinion that the defendant was of unsound mind when he committed the crime, or whether the defendant has developed the psychosis after the crime?
24. How long after the date of the crime did you examine the defendant?
25. Doctor, I suppose you examined him at length about the offense with which he is charged.
26. What if he tells you he doesn't remember when, in fact, he does remember?
27. Does that have an effect on your diagnosis? What if he was telling you lies concerning the acts and nature of the offense and the parties thereto?
28. Would that have an effect on your diagnosis. Doctor?
29. If you don't have the proper facts, can you make a proper diagnosis?
30. Isn't it a fact that you can fake mental illness or insanity?
31. Isn't it a fact Doctor, that clever people often fake mental illness?
32. Was the defendant conscious while committing this unlawful act?
33. Was he in a state of amnesia while committing these wrongful acts with which he is charged?
34. Doctor, since you found nothing organically wrong, isn't there a possibility that the defendant is malingering, since your opinion rests solely on his demeanor and behavior while you were speaking with him?
35. Isn't it a fact, Doctor, that your diagnosis is based on your observing his affect, his thinking and behavior while being observed by you?
36. Doctor, have you read the formal charges against this defendant?
37. Then you don't know specifically what he is charged with nor the time involved?
38. Isn't it a fact that the defendant came to you after he had been charged with this offense?
39. Isn't it a fact that he had already retained his defense attorney to represent him?
40. Isn't it a fact (hat when he came to see you, Doctor, he knew that you would be testifying in his behalf concerning the insanity defense?
41. When were you advised of the insanity defense being interposed?
42. Doctor, to your knowledge, has the (defendant ever interposed the defense of insanity'?
43. How much time had elapsed between the time that the defendant committed this criminal offense and the time that you saw him?

44. And isn't it naturally difficult to make retrospective statements about a person's state of mind at a given specific time in the past? Is that true, Doctor'?
  45. And isn't this especially true when the only source of information concerning the facts of the crime is the patient, when the outcome is so important to his future?
  46. Isn't it a fact that the defendant realized that you would be testifying in Court concerning his sanity?
  47. Might a man who faces substantial punishment for violating the type of law that he is charged with I if found sane, tend to exaggerate symptoms of insanity or abnormality during a psychiatric interview'!
  48. In arriving at your conclusion. Doctor, were you aware that the defendant continued his profession practice and services to the public during the time of this offense?
  49. Were you aware, Doctor, that the defendant had been going regularly to his work and tending to his employer during the time of the alleged crime?
  50. Doctor, distinguishing the psychosis from the neurosis as well as other personality disorders and psychosomatic disorders, isn't it a fact that psychosis is generally identified by the characteristics of loss of contact with reality or an individual who has a distorted perception and who is operating in his own little world and who is disoriented as to time and place who is irritable and distracted easily'! (These are the standard identifying characteristics of psychosis. The Doctor certainly will answer yes then ask the following questions)
  51. Doctor, the first time you examined him, did he know where he was?
  52. Did he know who he was?
  53. Did he know why he was there?
  54. Did he know who you were?
  55. Did he know the day and month and year?
  56. Did he know the nature of the inquiry?
  57. Did he know the significance of the interview?
  58. How about the second time you saw him?
  59. How about the other times you saw him? (The same type questions can be asked in order to lay a predicate to a question of ----)
  60. Then. Doctor, if he knew the time and place as well as who he was dealing with, who he was there was in fact no loss of reality nor operating in his own little world, then there is no identifying characteristics of psychosis? (or in the alternative—)
  61. Doctor, what are the distinguishing characteristics between psychotic and neurotic persons?
  62. Was the defendant conscious during the period of interview, Doctor?
  63. Was he in a state of amnesia?  
(The next series of questions and all details of certain essential *facts* determine conduct and behavior at the time of the offense, and they can be worded as follows:)
  64. Doctor, did you know "X" fact?
- OR
65. Had you know "X" fact, would it have changed the opinion, i.e., how he acted when setting up the sale, negotiating for a higher percentage of profit; upon being arrested and the undercover agent identifying himself; upon being taken to the U.S.

Commissioner; shortly after arrest, he asked to see his attorney; how he spoke, how he conducted himself?

66. The defendant, immediately after the crime, told the officers that he had made a terrible mistake and was sorry and that this would ruin his dental practice. Would this indicate that he
  - (a) knew he had committed a wrongful act?
  - (b) had an awareness of his having violated the law?
67. Doctor, other than what the defendant himself told you, did you independently determine whether this was a crime of passion and acted on the spur of the moment?
68. Did you determine whether this was a crime of long duration?
69. Did you determine how the defendant acted immediately before, during and after the commission of the crime?
70. Did you determine what he said during the commission of the crime?
71. Did you determine whether he was acting in such a way as to avoid detection, indicating a cool calculation or irrational recklessness?
72. Did the defendant relate his actions prior to going to work on the date of the crime?
73. Did he relate his actions during the working hours of the date of the crime?
74. Did he express regret for having committed the crime?
75. Was his memory good for recent events?
76. Was his memory good for remote facts and events?
77. Had you known that the defendant planned the negotiations and transfer of this contraband for over three weeks, especially in detail the day of the crime would it have changed your opinion?
78. Did you ask him during your interview if he thought it was wrong to knowingly violate the law as he did?
79. Did the defendant know the difference between right and wrong when he conspired and planned with other defendants to deal, possess and conceal as well as purchase and sell counterfeit currency?
80. Did he know the difference between right and wrong when he “aged” the counterfeit notes in his office?
81. Did he know the difference between right and wrong when he concealed them and put them in plastic containers in these dental boxes?
82. Did he know the difference between right and wrong when he in detail negotiated over the phone about the sale price and profit percentage he wanted to make?
83. Doctor, what’s the difference between sanity and insanity?
84. Do you believe that all persons who commit crime are mentally ill?
85. Then, Doctor, you must agree that a person could be mentally ill but legally sane? (There are generally four ways of treating psychotic conditions. They are psychiatric interviews: psychoanalysis; drug therapy; and shock therapy. The following questions can be asked):
86. What drugs did you prescribe for him after the first meeting?  
Then you ask the question concerning the second meeting. and then the third meeting and then followed by another question. such as—
87. What medicine did you prescribe for him on that first interview? And then second interview, third interview, and then followed by this question—

88. Did you prescribe shock therapy?
89. Then, Doctor, you allowed him to leave your office and to continue walking the streets and living at home?
90. Doctor, does he need hospitalization or institutionalization'!
91. Is there any danger to society or himself?
92. Can he continue living at home and taking care of his family and his business?
93. Doctor, is he legally sane or insane at this time?
94. Doctor, you say that the defendant knew the difference between right and wrong. was conscious during the alleged offense, but had an uncontrollable impulse to do the wrong. How is this uncontrollable impulse determined?
95. Then. Doctor, this so-called uncontrollable impulse is determined psychologically, isn't that correct? (The Doctor will undoubtedly say "Yes". Then in argument to the jury since he probably did not give the defendant an psychological tests, as I have stated earlier, it can he argued that this was just a guess on the doctor's part because no psychological tests were given.)
96. (This was a vital question in the Stiles R. Davis case.) Would the defendant have committed this if a policeman in full uniform was standing at his side and looking at what he was doing? If the doctor answers "No" as he did in the Davis case, the logic is irrefutable: if the defendant could have refrained from committing the act as long as a policeman was there looking at him then the impulse was in fact resistable and controllable.)
97. Then, Doctor, he would have known it was wrong and against the law to do what he was doing?
98. Tell me, Doctor. unless there is a policeman in full uniform standing at his side looking on at all times, do you feel that if released the defendant would violate the law again? NOTE: In reference to the expert's qualifications, it is my feeling that we should never stipulate to his qualifications unless we are absolutely certain and have checked previously that he not only is a member of the medical profession and has taken the Board examination here for the practice of medicine but likewise that he has taken the Board examination for certification in neurology and psychiatry. That is another examination that you are eligible to take after an extended practice and postgraduate training and residency. If a psychiatrist merely states when he is scaling his qualifications that he is licensed to practice in the State of Florida and that he is specializing in psychiatry and doesn't mention that he is a member of the Board of Neurology and Psychiatry, then it can be reasonably inferred that he has not passed or perhaps not even taken the examinations of the American Board of Psychiatry and Neurology. Then he can be asked a question such as this—
99. Doctor, when was the last time that you took the examination for certification in neurology and psychiatry? Then that question can be followed by a statement such as this—
100. Then, Doctor, you have not been certified in psychiatry or neurology? Then, followed by a question such as this—
101. Isn't it a fact, Doctor, that there are rigorous examinations both oral and written in order to be Board certified in psychiatry or neurology?

102. Isn't it a fact, Doctor, that in order to be eligible to take these examinations, postgraduate training as well as residency is required in neurology and/or psychiatry? Should the Doctor respond that he is certified and your previous investigation as to his qualifications has proven to be that he is certified in neurology and not in psychiatry, then you can attempt to discredit or weaken his testimony by asking—
103. Isn't it a factor, Doctor, that you have been certified in neurology and not in psychiatry?

The following inferences and arguments can be made to the jury concerning these questions: it is clear that we have a so-called expert who is nothing more than a general practitioner or a practitioner in a particular field which is not directly on point with what we are determining here today.

## Questioned Documents Expert Water Marks Typewriters

### QUALIFICATION OF AN EXPERT EXAMINER OF QUESTIONED DOCUMENTS

1. Mr. \_\_\_\_, what is your profession?
2. Where is your office?
3. What is your educational background?
4. How long have you been (engaged in that specialty) so employed by the (Post Office Department) (other agency)?
5. What study have you made of questioned documents, handwriting and of allied subjects?
6. What additional training have you received to prepare for the work of document examination?
7. How much of your time is devoted to the study and examination of such matters?
8. How many separate examinations have you made of (questioned documents) (handwriting)?
9. Are you regularly assigned to the full time examination of questioned documents?
10. About how many documents have you examined?
11. Have you ever qualified and testified in a court before as an expert examiner of questioned documents?
12. I hand you (Proponent's) Exhibits Numbered \_\_\_\_\_ and \_\_\_\_\_ and will ask you to state whether you have ever seen them before and if so under what circumstances?
13. What are they?
14. I hand you also (Proponent's) Exhibit Number \_\_\_\_\_ for identification and will ask you to state whether you have ever seen that before and, if so, under what circumstances?
15. What is it?
16. Have you at any time prior to today examined the (handwriting) (etc.) appearing on those several documents and have you compared the (handwriting) (etc.) appearing on (the back) (in the endorsement) (etc.) with any other standards of (writing or any person) etc.)?
17. As the result of your examination and comparison of the (handwriting) (etc.) on those documents, have you reached any opinion as to the (handwriting) (etc.) on (Proponent's) Exhibit Number \_\_\_\_\_ for Identification?
18. What is that opinion?  
In connection with your examination of those documents, what instruments, equipment, methods or tests did you use?  
Have you prepared photographs of these exhibits and do you have such photographs with you?
21. Your Honor. I now offer in evidence (Proponent's) Exhibit Number \_\_\_\_\_ for Identification as (Proponent's) (Evidentiary) Exhibit Number \_\_\_\_\_ I further offer in evidence as Exhibit Numbers \_\_\_\_\_ and \_\_\_\_\_ the photographs just identified by the witness.  
Does the defense have any objection, your Honor? (If not or once admitted the

Judge will say that the document and photographs will be received in evidence and marked. Mr. Clerk.

22. Now, Mr. \_\_\_\_\_, please explain to the Court how you reached the conclusion that you have just testified about.

### **Predicate Questions For Water Marks**

1. Mr. \_\_\_\_\_. have you, prior to today, examined this document marked as State Exhibit Number One, which was purportedly signed by the deceased on July 4, 1973?
2. And from your examination, were you able to determine the authenticity of the document you examined?
3. Of what importance is the water mark which is visible on the document?
4. Then it is your testimony that from examining the watermark you can determine the manufacturer of the paper and the year in which it was manufactured?
5. Is it your opinion, Mr. \_\_\_\_\_ that the water mark on State Exhibit Number One, which you have examined, was not even produced by the ABC Paper Company until January 1, 1975?
6. Then what is the approximate age of the document marked as State Exhibit Number One?
7. Then State Exhibit Number One could not have been signed by the deceased on July 4, 1973?
8. The State would now move that State Exhibit Number One be received into evidence without reservation.

### **Predicate Questions For Typewriters**

1. Mr. \_\_\_\_\_, is it possible, within the bounds of current scientific knowledge, to examine the letters or numerals on this typewritten letter and ascertain with certainty which typewriter made the letters or numerals on this document?
2. Mr. \_\_\_\_\_ I show you this typewritten letter, which has been marked as State Exhibit Number Two and ask you if you have compared it with known samples from this IBM typewriter, which has been marked as State Exhibit Number Three.
3. Mr. \_\_\_\_, what is a known typewriter character?
4. Mr. \_\_\_\_, from your examination, were you able to find any defects in any of the elements used in the IBM typewriter marked as State Exhibit Number Three?
5. Mr. \_\_\_\_ other than the fact that the element letter E is darker in print than any other element on the IBM typewriter marked as State Exhibit Number Three, are there any other identifiable or distinguishable factors?
6. Are any of the other elements on the IBM typewriter misaligned, raised or lowered, cracked or nicked?
7. After you examined and compared the typewritten letter marked as State Exhibit Number TWO with the known characters on the IBM typewriter, were you able to find any similarities in the type?
8. Taking into consideration that the letter E on the typewritten document marked as State Exhibit Number Two is darker than any other letter or numeral on the

document, are you able to give the Court your opinion as to whether this document was typed on the IBM typewriter marked as State Exhibit Number Three?

9. The State would now move that State Exhibit Number Two be received into evidence without reservation.

## **Real Evidence Introduction**

### **Identification, Authentication and Introduction of Real Evidence**

1. Mr. \_\_\_\_, you have testified that you saw the defendant shoot at deceased and saw him drop pistol and run off. Further, you testified you picked up the pistol.
2. What did you do then?
3. I hand you a pistol, which has been identified as State's Exhibit No. for identification; ask you to examine it and state whether you have ever seen it before and if so, when and where?

Your honor, the State offers the pistol in evidence as State's Exhibit  
No. \_\_\_\_\_

## Reconstruction Automobile Accident

### PREDICATE QUESTIONS: AUTOMOBILE ACCIDENT RECONSTRUCTION

1. State your name please.
2. What is your occupation?
3. How long have you been so employed?
4. Were you so employed on \_\_\_\_\_
5. Have you attended any special schools connected with your work? *Accident Reconstruction.*
6. Will you please name some of the specialized schools?
7. When and where did you attend these schools?
8. How long did you attend?
9. What did the training consist of?
10. Were you tested in any manner to determine your degree of proficiency in the area?
11. Did you successfully complete this course of instruction?
12. Were you issued a certificate, diploma, or other evidence of such completion?
13. Since the completion of your training, have you had occasion to investigate accidents concerning automobiles?
14. Approximately how many times?
15. Have you testified previously in a Court concerning Automobile Accident Reconstruction?
16. Approximately how many times?  
**STATEMENT:** At this time, your honor. I would move this court to qualify \_\_\_\_\_ as an expert witness in the field of Automobile Accident Reconstruction.
17. Did you have an occasion to investigate an accident that occurred on \_\_\_\_\_ at \_\_\_\_\_ location?
18. What did you observe when you arrived on the scene?
  - Number of vehicles
  - Location of vehicles
  - Angle of vehicles
19. Did you observe any physical evidence indicating the direction of travel of the automobile(s)?
  - Body parts (strewn or attached)
  - Other physical evidence, such as: torn trees, signposts. or fences.
20. Did you observe any skid marks?
  - Measurement of skid marks
  - Direction of skid marks
21. As a result of your investigation, as you have related through your testimony. Were you able to form an expert opinion as to the:
  - Speed of the vehicles
  - Direction of the vehicles
  - Which vehicle at fault (civil infraction)
22. Thank you, you may inquire.

## Records Bank Account Microfilm

### PREDICATION FOR MICROFILM BANK ACCOUNT RECORDS

1. Name
2. Occupation
3. Duties (including that witness is custodian of all account records.)
4. Were any accounts in the name of \_\_\_\_\_ during the period \_\_\_\_\_ through?
5. How many account(s)?
6. What kind of account(s)?
7. Exact style of the account(s)?
8. Account Number(s)?
9. Pursuant to subpoena, did you bring with you certain records pertaining to account number \_\_\_\_\_?
10. Please identify these records and hand them to me so that the Clerk can mark them.
11. What other records pertaining to this account were you not required to bring?  
(MARK FOR IDENTIFICATION)
12. Point out which of these papers are originals and which are microfilm facsimiles or copies.  
Establish:  
When, where, how and by whom prepared;  
Whether in regular course of business and  
Whether in his custody. (If witness saw Defendant sign signature card, ask if he saw Defendant sign and if he sees that person in courtroom).
13. Other than entries in monthly statements, were any other records made of checks deposited to, the accompanying deposit slips, and checks drawn on this account?  
(Answer yes, each item microfilmed.)  
*Establish:* (a) When, where, how (including that entry front and back side each item photographed) and by whom; (b) that done in regular course of business; and (c) that microfilm negatives under his custody.
14. Does microfilm negative form a durable and accurate medium for reproducing facsimile of the original item?
15. (As to each item marked for identification.) Are each of these facsimiles accurate reproductions of the microfilm negatives? (Did you personally check the facsimile against the negative?)
16. And are those microfilm negatives presently in your custody at the bank and available to us in this trial should the court direct that they be produced?
17. What procedures followed by bank to insure that this and its other accounts are accurate?  
(Move Admissibility of Exhibit).

## Records Business

### PREDICATION OF BUSINESS RECORDS

1. Please state your name, residence, occupation—how long?
2. Do you have an official title in the company?
3. Are you acquainted with the defendant?
4. How long?
5. Has he done business with your company?
6. Over what period of time?
7. What does your office force consist of?
8. Among your duties do you have supervision and preservice of the bookkeeping?
9. Do you personally keep the books?
10. Is it done under your supervision? (Witness may be a supervisor, not entrant, so long as he can state that the record is correct.)
11. Do you have in your custody the records of the company?
12. When a customer buys a load of oil from your company. what record is made of the transaction? (Grand larceny of fuel oil case).
13. Is that record made at or near the time of the transaction?
14. Who makes that record? Does he have personal knowledge of the transaction?
15. Is that the initial record of the transaction?
16. When is the first permanent record made? What is it made up from? Are those records accurate?
17. What is it made up from? Are those records accurate?
18. Does the customer sign that invoice?
19. Are there any carbon copies of that invoice?  
(Tender the witness for voir dire on records)  
(Move exhibits into evidence)
20. What becomes of the original?—the carbon?
21. How are those invoices (or other permanent records) kept?
22. Are they a part of the permanent record of our company?
23. Are these invoices and the entries shown on them regular entries in the course of business?
24. Who makes the initial record of the transaction?
25. Does he have personal knowledge of the transaction reflected by such records?
26. Are these records a correct and accurate reflection of the transaction?
27. Can you refer W those records and tell how much oil you sold to \_\_\_\_\_ on any particular date?
28. Do you have with you the invoices (or other named records) covering the transactions during the month of \_\_\_\_\_ 19\_?
29. Do you have Invoice No. \_\_\_\_\_. Dated \_\_\_\_\_ 19\_?  
(Have clerk mark for identification.)
30. I hand you State's Exhibit No. \_\_\_\_\_ and ask you to identify it.
31. Is this the original record of the transaction? (Or—is this the first permanent record of the transaction?)
32. Is it a true and correct record of such transaction?
33. Have there been any alterations or changes made on it since the time it was made?

(Hand the Exhibit to opposing counsel for his examination and then state to the Court: We offer State's Exhibit No. \_ in evidence.")

(The exhibit, if admitted by the Court, may be exhibited to the jury, read by you or by the witness to the jury in whole or in part, or you may ask the witness any questions therefrom.)

## **Records Hospital**

### **PREDICATE QUESTIONS FOR HOSPITAL RECORDS**

1. Please state your name.
2. Do you have an official title?
3. Where are you employed?
4. What is the position you hold?
5. Did you receive a subpoena duces tecum for certain hospital records?
6. Did you bring the records?
7. Can you identify these hospital records?
8. Did you retrieve these hospital records yourself?
9. What was the mode of preparation of these hospital records?
10. Is this hospital record maintained under your care, custody and control?
11. Was this hospital record made in the regular course of business?
12. Was this hospital record made at the time the act?
13. Is this hospital record regularly kept or maintained?

## Refreshing Memory

**PREDICATE QUESTIONS FOR  
REFRESHING MEMORY  
(PRESENT RECOLLECTION REFRESHED OR PAST RECOLLECTION RECORDED)**

1. Can you recall the individual items you packed? (No.)
2. Do you know of anything that will refresh your recollection? (Shipping Ticket.)
3. I will show you State's Exhibit \_\_\_\_\_ and ask you if that is the shipping ticket you have referred to.
4. Who prepared the ticket? (The witness).
5. Was it written up by you?
6. Was **it** true and correct at the time you wrote it?
7. Was it made in the ordinary course of business?
8. And at the time you shipped these items?
9. Would a reference to the shipping ticket help you to refresh your recollection?
10. Please read State's Exhibit \_\_\_\_\_ and tell me whether it refreshes your independent recollection of the items you shipped.

If the document does refresh the present recollection of the witness, ask the next question.

11. What do you recall?  
If the present recollection of the witness is *not* refreshed by the exhibit, the exhibit must be introduced into evidence *after* the witness has testified:
  - a. The exhibit was true and correct when made;
  - b. The exhibit was made in the ordinary course of business; and
  - c. The exhibit was prepared at the time of the transaction it records.
12. Please read the contents of the exhibit (or the pertinent part thereof) to the jury. Once the exhibit is admitted it becomes the proof itself of the past recollection recorded.

## **Regiscope Pictures on Checks**

### **PREDICATE QUESTIONS: REGISCOPE PICTURES ON CHECKS**

1. Please state your name.
2. How employed, where, how long employed.
3. Did you receive a Subpoena Duces Tecum for certain records and photographs?
4. Did you bring these records and photographs with you? (mark for identification)  
(show exhibits to witness)
5. Identify exhibit.
6. Have witness explain to Jury what a regiscope picture is, how made, reverse image vs. true image, etc.
7. Show picture made by regiscope at scene of check cashing and have explained.
8. Show picture of true image and have explain difference.  
(tender witness for voir dire on regiscope) (move exhibit into evidence)

## Sanity Competency to Stand Trial

### PREDICATE QUESTIONS FOR COMPETENCY (SANITY)

- I. To Stand Trial
- II. At the Time of the Crime

#### General Qualifying Questions

1. What is your name?
2. Are you licensed to practice your state?
3. When were you licensed?
4. What area are you specializing in?
5. Since when have you been engaged in that specialty.
6. Are you Board Certified in your specialty?
7. When did you receive Board Certification in your specialty?
8. What type of examination did you undergo for Board Certification?
9. In what area did you do your residency?
10. Where and when did you do your residency?
11. Was it an accredited residency program?
12. When and where did you receive your medical school training?
13. Was it an accredited medical school program (or curriculum)?
14. Are you presently on any hospital staff and if so, where and since when?
15. Have you previously been requested by the Court to determine competency to stand trial or sanity at the time of the crime?
16. How many persons have you examined in these particular issues?
17. Have you previously been qualified as an expert? How many times?

Your Honor, I move the Court to allow this witness to testify as an expert in his field and tender the witness to opposing counsel for any questions he may have as to the expert's qualifications...

(NOTE: Following opposing counsel's questions or if there are none—then ask:)

21. Pursuant to the Court Order of Judge. dated ,did you have occasion to examine one \_\_\_\_\_?
22. Is \_\_\_\_\_ the subject of this inquiry, in the courtroom today?
23. Please point him out for the Court and record.
24. Let the record show that the witness has correctly identified \_\_\_\_\_,the subject of these proceedings.
25. When and where did you conduct the examination?
26. What was the duration of the interview?
27. What records or charts, if any, did you review? (NOTE: If the answer is "no" then go to question number 30, but if the answer is "yes" then ask:)
28. Would you inform the Court of the nature of the material contained in the records that you reviewed?

29. Did you review those records prior or subsequent to your examination of \_\_\_\_\_?
30. Pursuant to the Court Order of Judge you were requested to render an opinion concerning two (or more) separate matters:
- I. The competency of \_\_\_\_\_ to stand trial; and
  - II. The ability of \_\_\_\_\_ to distinguish right from wrong at the time of the crime.

(NOTE: The language in II is applicable in those states using the M'Naghten Rule. Otherwise, interpose the rule used in your state in Section II.)

30. Do you have an opinion as to both of those issues?
31. What is your opinion on both of those issues?

### **Competency to Stand Trial**

32. Does \_\_\_\_\_ have the ability to understand the nature and the extent of the charges pending in this Court against him?
33. Does \_\_\_\_\_, the subject of these proceedings, have the ability to aid and assist his attorney in the preparation and implementation of his defense?
34. Does he understand the nature and purpose of the Court proceedings?
35. Does he understand his own position in these court proceedings as the defendant—the accused?
36. Does he understand the role of his attorney in these court proceedings?
37. Does he understand the role of the others in the court proceedings such as the judge, the prosecuting attorney, the jury, the witnesses?
38. Does he have the ability to cooperate and advise his attorney rationally?
39. Does he have the capability to disclose to his attorney pertinent facts surrounding the offense including his movements, timing, mental state, and actions at the time of the offense?
40. Does he have the ability to help his attorney in the presentation of his defense?
41. Does he have the ability to advise his lawyer as well as the ability to accept the advice of his attorney?
42. Does he understand the gravity of the criminal charges against him?
43. Does he understand the possible outcome or verdict in this case?
44. Does he understand, if he is found guilty, the range and nature of the penalties and punishment that he may face?
45. Does he have the ability to understand his legal rights, such as his:
- a) right to a public trial
  - b) right to counsel
  - c) right to hear the testimony of the witnesses
  - d) right to testify in his own defense, if necessary, as well as his
  - e) right against self-incrimination
46. Does he have the capacity to testify relevantly? (NOTE: If the defendant appears to be incompetent to stand trial—ask the following:)

47. In your opinion doctor, is the defendant suffering from a mental illness or deficiency?
  48. Which of these two? Please explain.
  49. In your opinion is he suffering from an emotional or character disorder?
  50. What is your diagnosis!
  51. Is there a probability that the defendant will decompensate while awaiting trial - that is to say, the probability that he will develop signs of acute psychosis, suicidal depression or regressive withdrawal under the stress of a trial?
  52. In your opinion, does the defendant suffer from delusional ideation?
- (NOTE: If the psychiatrist has answered "yes" to any of the above questions, then ask:)
53. How would you classify the degree of that condition— mild, moderate or severe?
  54. In your opinion, is this condition of such a degree that it interferes with the defendant's understanding and awareness of the courtroom proceedings?
  55. In your opinion, is this defendant's condition of such degree that it interferes with his ability to cooperate, advise and accept the advice of his attorney? (NOTE: If the answer is "yes" to questions 54 and/or 55, then ask:)
  56. Is there a substantial probability that the defendant will regain his competency in order to stand trial within the foreseeable future?
  57. What type of treatment would you recommend for his condition—outpatient or institutionalized?
  58. Does the defendant suffer from any propensities that make him a danger to himself or to others?
  59. What are those propensities?
  60. What is your evaluation of the defendant's \_\_\_\_\_ susceptibility to violence?

### **Part II: Sanity at the Time of the Crime**

1. Did \_\_\_\_\_ on the \_\_\_\_\_ suffer from a disease of mind?
2. Did \_\_\_\_\_ on the \_\_\_\_\_ suffer from a defect of reason resulting from the disease of the mind?
3. Did \_\_\_\_\_ on \_\_\_\_\_ know the nature of the criminal act that he was doing?
4. Did \_\_\_\_\_ on \_\_\_\_\_ know the quality of the criminal act that he was doing?
5. Was \_\_\_\_\_ on \_\_\_\_\_ at the time of the criminal act in question laboring under such defect of reason from disease of mind, that he was unable to know the nature and quality of his actions?
6. Did the defendant on \_\_\_\_\_, the date and time of the criminal act in question, know that what he was doing was wrong?
7. Was the defendant on \_\_\_\_\_, the day and time of the criminal act in question, suffering from an insane delusion?
8. Then Doctor, in your opinion, did — on \_\_\_\_\_ know and appreciate the difference between right and wrong?
9. Was the defendant able to distinguish the differences between right and wrong at the time and on the date of the crime?
10. Then Doctor, in reference to the criminal responsibility, was this defendant legally sane according to the laws of this State on the date of the crime?

## Sanity at the Time of the Crime

### PREDICATE QUESTIONS FOR COMPETENCY (SANITY)

- I. To Stand Trial
- II. At the Time of the Crime

#### General Qualifying Questions

1. What is your name?
2. Are you licensed to practice your state?
3. When were you licensed?
4. What area are you specializing in?
5. Since when have you been engaged in that specialty.
6. Are you Board Certified in your specialty?
7. When did you receive Board Certification in your specialty?
8. What type of examination did you undergo for Board Certification?
9. In what area did you do your residency?
10. Where and when did you do your residency?
11. Was it an accredited residency program?
12. When and where did you receive your medical school training?
13. Was it an accredited medical school program (or curriculum)?
14. Are you presently on any hospital staff and if so, where and since when?
15. Have you previously been requested by the Court to determine competency to stand trial or sanity at the time of the crime?
16. How many persons have you examined in these particular issues?
17. Have you previously been qualified as an expert? How many times?

Your, Honor, I move the Court to allow this witness to testify as an expert in his field and tender the witness to opposing counsel for any questions he may have as to the expert's qualifications...

(NOTE: Following opposing counsel's questions or if there are none—then ask:)

21. Pursuant to the Court Order of Judge. dated ,did you have occasion to examine one \_\_\_\_\_?
22. Is \_\_\_\_\_ the subject of this inquiry, in the courtroom today?
23. Please point him out for the Court and record.
24. Let the record show that the witness has correctly identified \_\_\_\_\_,the subject of these proceedings.
25. When and where did you conduct the examination?
26. What was the duration of the interview?
27. What records or charts, if any, did you review? (NOTE: If the answer is "no" then go to question number 30, but if the answer is "yes" then ask:)

28. Would you inform the Court of the nature of the material contained in the records that you reviewed?
29. Did you review those records prior or subsequent to your examination of \_\_\_\_\_?
30. Pursuant to the Court Order of Judge you were requested to render an opinion concerning two (or more) separate matters:
  - I. The competency of \_\_\_\_\_ to stand trial; and
  - II. The ability of \_\_\_\_\_ to distinguish right from wrong at the time of the crime.

(NOTE: The language in II is applicable in those states using the M'Naghten Rule. Otherwise, interpose the rule used in your state in Section II.)

30. Do you have an opinion as to both of those issues?
31. What is your opinion on both of those issues?

### **Competency to Stand Trial**

32. Does \_\_\_\_\_ have the ability to understand the nature and the extent of the charges pending in this Court against him?
33. Does \_\_\_\_\_, the subject of these proceedings, have the ability to aid and assist his attorney in the preparation and implementation of his defense?
34. Does he understand the nature and purpose of the Court proceedings?
35. Does he understand his own position in these court proceedings as the defendant—the accused?
36. Does he understand the role of his attorney in these court proceedings?
37. Does he understand the role of the others in the court proceedings such as the judge, the prosecuting attorney, the jury, the witnesses?
38. Does he have the ability to cooperate and advise his attorney rationally?
39. Does he have the capability to disclose to his attorney pertinent facts surrounding the offense including his movements, timing, mental state, and actions at the time of the offense?
40. Does he have the ability to help his attorney in the presentation of his defense?
41. Does he have the ability to advise his lawyer as well as the ability to accept the advice of his attorney?
42. Does he understand the gravity of the criminal charges against him?
43. Does he understand the possible outcome or verdict in this case?
44. Does he understand, if he is found guilty, the range and nature of the penalties and punishment that he may face?
45. Does he have the ability to understand his legal rights, such as his:
  - a) right to a public trial
  - b) right to counsel
  - c) right to hear the testimony of the witnesses
  - d) right to testify in his own defense, if necessary, as well as his
  - e) right against self-incrimination

46. Does he have the capacity to testify relevantly? (NOTE: If the defendant appears to be incompetent to stand trial—ask the following:)
47. In your opinion doctor, is the defendant suffering from a mental illness or deficiency?
48. Which of these two? Please explain.
49. In your opinion is he suffering from an emotional or character disorder?
50. What is your diagnosis!
51. Is there a probability that the defendant will decompensate while awaiting trial - that is to say, the probability that he will develop signs of acute psychosis, suicidal depression or regressive withdrawal under the stress of a trial?
52. In your opinion, does the defendant suffer from delusional ideation?  
(NOTE: If the psychiatrist has answered “yes” to any of the above questions, then ask:)
53. How would you classify the degree of that condition— mild, moderate or severe?
54. In your opinion, is this condition of such a degree that it interferes with the defendant’s understanding and awareness of the courtroom proceedings?
55. In your opinion, is this defendant’s condition of such degree that it interferes with his ability to cooperate, advise and accept the advice of his attorney? (NOTE: If the answer is “yes” to questions 54 and/or 55, then ask:)
56. Is there a substantial probability that the defendant will regain his competency in order to stand trial within the foreseeable future?
57. What type of treatment would you recommend for his condition—outpatient or institutionalized?
58. Does the defendant suffer from any propensities that make him a danger to himself or to others?
59. What are those propensities?
60. What is your evaluation of the defendant’s \_\_\_\_\_ susceptibility to violence?

### **Part II: Sanity at the Time of the Crime**

1. Did \_\_\_\_\_ on the \_\_\_\_\_ suffer from a disease of mind?
2. Did \_\_\_\_\_ on the \_\_\_\_\_ suffer from a defect of reason resulting from the disease of the mind?
3. Did \_\_\_\_\_ on \_\_\_\_\_ know the nature of the criminal act that he was doing?
4. Did \_\_\_\_\_ on \_\_\_\_\_ know the quality of the criminal act that he was doing?
5. Was \_\_\_\_\_ on \_\_\_\_\_ at the time of the criminal act in question laboring under such defect of reason from disease of mind, that he was unable to know the nature and quality of his actions?
6. Did the defendant on \_\_\_\_\_, the date and time of the criminal act in question, know that what he was doing was wrong?
7. Was the defendant on \_\_\_\_\_, the day and time of the criminal act in question, suffering from an insane delusion?
8. Then Doctor, in your opinion, did — on \_\_\_\_\_ know and appreciate the difference between right and wrong?
9. Was the defendant able to distinguish the differences between right and wrong at the time and on the date of the crime?

10. Then Doctor, in reference to the criminal responsibility, was this defendant legally sane according to the laws of this State on the date of the crime?

## Secondary Evidence Photographic Copies

### PROOF— IDENTIFICATION, AUTHENTICATIONS AND INTRODUCTION OF SECONDARY EVIDENCE (PHOTOGRAPHIC COPY)

1. What is your occupation?
2. What are your duties with respect to docket sheets, informations, case files, minute book entries, and papers related thereto?
3. Pursuant to my request, did you bring with you the criminal Court minute book entry on \_\_\_\_\_ 1976, in the case of State of Georgia vs. John Doe,
4. Why not?
5. Are you familiar with the appearance of the pages of the minute books?
6. Will you describe it?
7. When you were approached by me with reference to producing the minute book entry on \_\_\_\_\_ 1976, in the case of State of Georgia vs. John Doe, \_\_\_\_\_ did you examine that entry?
8. I show you exhibit \_\_\_\_\_ for identification, purporting to be a photograph of minute book entry on 1976, in case # \_\_\_\_\_. State of Georgia vs. John Doe, and ask you whether it is a true and correct representation and picture of that minute book entry?
9. Your Honor, the State offers State's Exhibit in evidence and tenders the witness for cross-examination as to the admissibility of the exhibit.

## Telephone Conversation – Recording Machine

### PROPER FOUNDATION FOR ADMISSIBILITY OF TELEPHONE CONVERSATION TAKEN ON TAPE BY A RECORDING MACHINE

1. Please state your name.
  2. By whom are you employed?
  3. In what capacity?
  4. How long have you held that position?
  5. What are your duties?
  6. Do you know the defendant in this case?
  7. Is he in the courtroom today?
  8. Would you point him out please, for the court and jury?
  9. Let the record show that the witness has identified the defendant.
  10. Directing your attention to (date), were you acting in your official capacity on that date?
  11. On that particular date, did a telephonic conversation take place that you recorded?
  12. Where was this conversation held?
  13. Who was present?
  14. (a) On what days were these recordings?  
(b) What time of day or night did these (or this) telephonic conversation(s) take place?
  15. What did you do in order to preserve the telephonic conversation(s) that you've described (a tape recorder in operation that recorded everything).
  16. Did you have his permission to make these recordings on separate dates?
  17. Was the entire conversation recorded by the tape recorder that you've described?
  18. Was the tape recording mechanical device that you had in operation capable of taking the mentioned telephonic conversation so that said recording could at a later date be played back and be heard for purposes of transcription?
  19. How do you know this? (Because that is the purpose of the recorder and I have used it on many occasions and later played back.)
  20. What experience have you had in operating a recording device of that kind? (I've used it on many occasions.)
  21. Have you ever had any trouble in operating a recorder? (No, sir)
- (HAVE EXHIBIT MARKED FOR IDENTIFICATION)
22. I show you State's Exhibit No. \_\_\_\_\_ for identification and ask you to state what it is, if you know?
  23. Does this recording marked as State's Exhibit No. \_\_\_\_\_ contain an authentic and correct recording of the telephonic conversation held between \_\_\_\_\_ and \_\_\_\_\_ on (date)?
  24. How do you know? Did you check the recording? (Because I've played the tape recording back.)
  25. Now, have there been any changes, additions or deletions on that recording since the time that it was used to record the mentioned conversation with the defendant? How do you know'?

26. Did you mark it in anyway?
27. And when did you see the envelope again?
28. At that time what was the condition of the envelope? (Same as when I had it last.)
29. And in whose custody has this exhibit been?
30. Is it basically in the same original condition? Are there any deletions, corrections or alterations? Do you know whose voices were recorded on this tape? Did you say anything during the entire conversation? (No, sir.)
34. Do you have with you a device upon which this tape recording can be played, so that the recorded conversations may be heard by the court, the jury, the defendant and his counsel and myself?
35. Where is the device?
36. Your Honor, the State now offers in evidence State's Exhibit No. \_\_\_\_\_ for identification as State's Exhibit No. \_\_\_\_\_ in evidence.
37. Would you please step down and play the tape recording, which has been marked as State's Exhibit No. \_\_\_\_\_.

## Tire Tracks Expert

### PREDICATE QUESTIONS: TIRE TRACKS

1. Name and address
2. Occupation
3. Qualifications of witness in the examination of tire tracks.
4. Did you conduct an examination of \_\_\_\_\_, the scene of the crime in this case?
5. When and where did your examination take place?
6. What was the purpose of your examination?
7. What did you find as a result of your examination?
8. What did you do when you discovered the tire tracks?
9. Describe how you made a plaster cast (photograph) of the tire tracks?
10. I now show you a plaster cast (photograph) of a tire track, State's Exhibit No. \_\_\_\_\_ for identification, and ask you if this is the plaster cast (photograph) concerning which you have just testified?
11. How do you recognize it?
12. Your Honor, the State offers the plaster cast (photograph) into evidence as State's Exhibit No.
13. Subsequent to your finding the tire track and making the plaster cast (taking the photograph) were you requested to compare the tire track with any other tire tracks or tires?
14. When and under what circumstances were you asked to do so?
15. I now show you a tire taken from a vehicle owned by the defendant, State's Exhibit No., and ask if this is the tire you were asked to compare with the tire track?
16. How do you recognize it?
17. Did you make such a comparison?
18. How did you do so?
19. As a result of your comparison do you have an opinion as to whether the tire taken from a vehicle owned by the defendant made the tire track that you found at the scene of the crime.
20. What is that opinion?

## Tool Marks Expert

### PREDICATE QUESTIONS: TOOL MARKS

1. Name and address
2. Occupation
3. Qualifications of witness in the examination of tool marks.
4. Did you conduct an examination of the scene of the crime in this case
5. When and where did your examination take place?
6. What was the purpose of your examination?
7. What did you find as a result of your examination?
8. I now hand you State's Exhibit No. \_\_\_\_\_ for identification and ask you if this is the object on which you found the tool marks?
9. How do you recognize it?
10. Your Honor, the State offers this object into evidence as State's Exhibit No. \_\_\_\_\_
11. Subsequent to your finding of State's Exhibit No. \_\_\_\_\_ did you have occasion to compare the tool marks thereon to the tool marks of any specific tool?
12. When and under what circumstances did you do so?
13. I now show you State's Exhibit No., a pair of pliers found on the defendant's person and ask you if this is the tool about which you have just testified?
14. How do you recognize it?
15. Did you have occasion to use the tool which is State's Exhibit No. \_\_\_\_\_ under the same circumstances and conditions that the tool marks on State's Exhibit No. \_\_\_\_\_ were made?
16. How did you do so?
17. I now hand you State's Exhibit No. \_\_\_\_\_ for identification and ask you if this object contains the tool marks that you made with the pliers, State's Exhibit No.?
18. How do you recognize it?
19. Your Honor, the State offers this object into evidence as State's Exhibit No. \_\_\_\_\_
20. Did you make a comparison between the tool marks on State's Exhibit No. \_\_\_\_\_ and the tool marks on State's Exhibit No. \_\_\_\_\_
21. How did you do so?
22. As a result of your comparison do you have an opinion as to whether the pair of pliers found on the defendant's person made the tool marks on the object found at the scene of the crime, State's Exhibit No.
23. What is that opinion?

## **Toxicologist Blood Alcohol**

### **PREDICATE FOR TOXICOLOGIST REGARDING BLOOD ALCOHOL TEST**

1. Name and address
2. What is your occupation or profession?
3. What education and training have you had to qualify you as a toxicologist?
4. Have you had any training and experience with respect to poisons, alcohol and chemical tests for alcoholic concentration in blood?
5. Have you written any articles (lectures, et cetera) on this subject?
6. Are you a member of any societies or organizations dealing with this subject?
7. Have you performed tests on blood samples to determine alcoholic concentration?
8. About how many times?
9. Have you previously testified in courts as a toxicologist?
10. Qualified to make blood alcohol examination?
11. On or about \_\_\_\_\_— did you receive a specimen of blood from \_\_\_\_\_
12. What identification was on the specimen?
13. Describe what you did with the blood.
14. What were your findings with respect to this blood?
15. Is there a recognized correlation between the alcoholic content of the blood and intoxication?
16. From your training and experience, what would be the condition of a person whose blood showed a concentration of 0.33 per cent ethyl alcohol?

## **Translator Spanish/English**

### **PREDICATE QUESTIONS FOR SPANISH/ENGLISH TRANSLATOR**

1. Name
2. Occupation (a) How long?
3. Business address
4. Duties
5. What languages do you teach?
6. Works published?
7. Where were you born!
8. What schooling did you have in that county?
9. State education
10. State all degrees.
11. State experience in instructing non-Spanish speaking persons in use of that language.
12. Do you speak English fluently?
13. Where did you learn the language?
14. Do you speak Spanish fluently?
15. Where did you learn the language'?
16. Formal education English?
17. Formal education Spanish?
18. Do you read, write and speak English in your daily affairs at present?
19. Do you read, write and speak Spanish?
20. When do you use the Spanish language?
21. Are you fully conversant with Spanish usage, grammar and speech?
22. Did you hear and translate certain tape-recorded conversations in connection with this case?
23. In what language were the parties speaking?
24. Into what language did you translate the Spanish language?

## **Valuation Expert**

### **QUALIFICATION OF VALUE EXPERT**

1. Name
2. Business Address
3. How employed?
4. How long?
5. Duties
6. Duties include buying and selling tangible property?
7. Occasion to buy and sell (subject tangible property)?
8. How many times?
9. How long engaged in buying and selling this property!
10. In capacity as (dealer in used property) have occasion to determine fair market value of property?
11. How many times?
12. Explain term “fair market value” (willing buyer—with seller).
13. Have occasion to determine fair market value of (subject tangible property)?
14. How many times?
15. In determining fair market value of property have occasion to consult with manuals, catalogs. etc.?
16. On how many occasions?
17. Have occasion to qualify as expert in determination of fair market value in criminal court?
18. How many times?
19. Pursuant to so qualifying have occasion to testify as to fair market value?

#### **TENDER AS EXPERT**

- (a) Post hypothetical question.
- (b) Occasion, pursuant to subpoena, to examine (subject tangible property)?
- (c) Identify property.
- (d) Based on examination, are you able to state opinion as to fair market value?
- (e) What is opinion?
- (f) Upon what is opinion based?

## **Vehicular Homicide Speed, Intoxication, Injuries, Weather, Etc.**

### **PREDICATE QUESTIONS TO EYE WITNESS TO VEHICULAR HOMICIDE**

#### **Physical Facts**

1. Name, residence, where employed, location (with respect to scene of collision).
2. Are you familiar with (scene of collision)?
3. Do you recall the morning of when X was killed?
4. When did you go to work that morning?
5. Where were you at the time of collision?
6. Did you have an open view to the intersection?
7. Did anything unusual take place at that time?
8. What first attracted your attention?
9. Had you seen X prior to the time of the collision?
10. Had you seen D prior to the time of the collision?
11. Did you look up immediately when you heard the collision?
12. What did you see when you looked up?
13. What direction was X traveling?
14. What direction was D traveling?
15. What did D's vehicle consist of?
16. Where was X with reference to the intersection when you first saw him? D's vehicle?
17. What happened to X's car when D hit him?
18. Where did X's car come to rest? Near what object?
19. Where did D's car come to rest? Near what object?
20. Is the driver of that vehicle in the courtroom today? Where is he; what is he wearing—let the record show that the witness has identified the defendant.

#### **Speed**

1. How long have you been driving automobiles?
2. Have you been observing automobiles in motion and trucks in motion during that period of time?
3. From your experience in observing automobiles and trucks in motion and from your experience in driving automobiles can you fairly judge or estimate the speed of a moving truck or automobile?
4. When you first saw the D's car did you form any estimate as to the speed of it? What speed?
5. Did you observe any change of speed of X's car? of D's

#### **Intoxication**

1. Did you observe the defendant at the time immediately after the collision?

2. Did you notice anything unusual about his actions? Speech and conduct and appearance?
3. Please describe any odors that you did smell.
4. Did the defendant appear to be in control of his faculties?
5. Prior to this occasion have you observed other intoxicated persons? --
6. How many times?
7. Do you have an opinion about the defendant's sobriety or intoxication? What is that opinion?

### **Warnings**

1. Did you hear the D's truck blow its horn prior to the impact?
2. How long prior to impact? What time elapsed?
3. Could you tell how far down the highway D's truck was at the time you heard its horn blow?

### **Injuries**

1. What did you do after the collision occurred?
2. Describe the condition of X's car at that time?
3. What did you do when you arrived there?
4. Describe X's condition insofar as you could observe when you arrived there.
5. Was he conscious or unconscious?
6. Did he regain consciousness? Die before ambulance came?
7. Did you observe any injuries to any portions of his body? What condition?
8. Did D go to X's car?
9. Did you talk with him?
10. Did you hear him make any statements?

### **Damages**

1. Did you observe the portions of X's car that were damaged? Which?
2. Was there any other property damage?

### **Weather Conditions**

1. Was the pavement wet or dry when the collision occurred?
2. Did you drive that morning?
3. Did you have any difficulty driving on the streets?

### **Time of Day**

1. Did you have your headlights burning?
2. Was there any need for lights at that time?

### **Other Motorist**

1. Do you recall the occasion when X was killed at the Crossing?
2. Were you along there about the time it happened?
3. Were you in an automobile? Who was driving?

4. Who was with you? Time of day?
5. What was the weather like that morning?

### **Weather and Road Conditions**

1. Was it cold or warm? Temperature below freezing?
2. What was condition of pavement?
3. Were the windows in your car closed at the time of the collision—where was your car with reference to X's car?
4. Were there any other cars between your car and X's? Any obstacles to your view?
5. Did you see X's car and the (other vehicle) when they collided?
6. Did you see the vehicle before the impact?
7. How much time before that?
8. You were riding along there looking straight ahead? Watching where you were going?
9. Can you tell me whether the headlights were burning?
10. Did you see X's car change direction prior to the collision? What change?
11. Could you tell whether X applied his brakes?
12. Had X passed you back down the highway? How far?
13. Was X driving on his proper right hand side of the street?  
car?

## **Video Tape Admissibility**

### **INTRODUCTION OF VIDEO TAPES**

1. First present testimony of person taking pictures as to what he saw.  
Proffer the following:
  - (a) Name
  - (b) Occupation
  - (c) Current duties
  - (d) How long
2. Have you received training in the operation of a video tape camera?
  - (a) Where
  - (b) When
  - (c) By whom
  - (d) How long was this training period?
  - (e) Describe what this training involved
3. Have you kept up to date on improvements and modifications in the area of videotaping?
4. Have you had occasions since your training to operate videotape cameras?
5. How many times?
6. (Were the results of these uses accurate?)
7. Have you had the opportunity to use a videotape camera within your employment by the (law enforcement agency)?
8. On how many occasions?
9. What type of uses have you put a video tape camera to with the police department?
10. On the night of (date), when you viewed the events you previously have testified about, were you operating a videotape camera?
11. What type of camera was it?
12. Describe its physical appearance, i.e., size, weight. etc.?
13. How was it powered?
14. Was it portable?
15. Had you used the same or similar camera prior to that occasion?
16. How many times?
17. Did you examine that camera prior to operating it on that date?
18. Was the camera operational?
19. Is the tape placed in the camera or a separate unit?
20. Was a videotape film placed into the unit?
21. By whom?
22. Is that tape blank when a picture is recorded on it? How?
23. On the date and time in question, were you able to view the subject matter through the camera viewfinder?
24. Does that camera operate so that you are seeing the scene through the lens?
25. In relation to your testimony concerning the events, which took place on that time and date, when did you begin operating the camera?
26. From what location?
27. What distance was that from the subject matter?
28. What were the lighting conditions?

29. Was any type of special lens used on the camera? Filter?
30. Describe the lens and its specific purpose on that camera.
31. Was any special artificial lighting used? Describe?
32. Was it operational and properly attached to the camera?
33. How long did you tape the subject matter?
34. Was the tape subsequently removed from the unit?
35. By whom?
36. Was it marked for identification?
37. Please examine State's Exhibit No. \_\_\_\_\_ for identification purposes.
38. Can you identify it?
39. What was done with the tape after its removal from the unit?
40. Has it been constantly in the care custody and control of yourself and the (law enforcement agency) since that date?
41. How was it transported to court today?
42. Since the time that you taped this sequence of events, have you viewed this videotape?
43. How many times?
44. Is that videotape a fair and accurate representation of the actual events you observed on that date and time?
45. Is it an actual recording of the events or is it a reconstruction of what you saw?
46. Have you been trained in the operation of this videotape viewer?
47. Have you operated it or a similar viewer in the past?
48. On how many occasions?
49. Please place exhibit No, \_\_\_\_\_ in the viewer and display it to the court.
50. View tape.
51. Is that videotape a fair and accurate representation of the actual scenes you observed and which this tape purports to reproduce from that date and time?
52. Has this tape been altered or edited in any way since you removed it from the camera?
53. Submit into evidence.
54. End proffer.
55. Repeat most of the above procedure for the jury.

## **Voice Identification**

### **PREDICATE FOR VOICE IDENTIFICATION**

1. Do you, Mr. Witness, know the defendant?
2. How long?
3. Have you ever spoken to him?
4. About how many times?
5. When and where and who present?
6. On such and such a date did you hear a telephonic conversation between the defendant and \_\_\_\_\_
7. Did you recognize either or both of the voices?
8. Whose voice or voices did you recognize?
9. Tell us the conversation. What did the defendant say to you and what did you say to the defendant?

## **X-Rays**

### **MEDICAL: X-RAYS**

**(After qualification of doctor as M.D.)**

1. During your professional experience have you had considerable experience in the taking, developing and interpreting of X-rays?
2. When did you make pictures of the \_\_\_\_\_
3. Where were they made?
4. Is that good X-ray equipment?
5. Is the technician a competent operator?
6. Were these pictures all made and developed under your direction and supervision?
7. Did you see them immediately after they were developed?
8. What portions of \_\_\_\_\_ body were X-rayed?
9. May I have it (them)? (Have clerk mark, hand back to doctor).
10. Doctor, referring to State's Exhibit 'is that the X-ray film of \_?
11. How do you identify it as the one you took of
12. Will you please point out those identification marks?
13. When were those marks placed there?
14. By whom?
15. What is included on the marker?
16. Does this X-ray film, marked State's Exhibit truly and correctly portray that part of body, which it purports to show?  
(Hand to Counsel).
17. I offer it in evidence.
18. Doctor, please refer again to State's Exhibit \_\_\_\_\_ and interpret it for us.
19. What effect does a (condition) of that kind usually have upon a patient's future health and general physical condition?
20. Have you an opinion as to whether or not, based on reasonable medical certainty, this condition is temporary or permanent?