

1.10. Juror Questions and Procedure

During the trial you may have questions you want to ask a witness. Please do not address any questions directly to a witness, the lawyers, or your fellow jurors since there are rules as to what questions may be asked, and the answers that witnesses are allowed to give. Instead, if you have questions, please raise your hand after the attorneys have asked all of their questions, and before the witness has left the witness stand. You must put your questions in writing. I will review them with the attorneys, and I will determine whether your questions are permitted by law. If a question is permitted, I will ask it of the witness. If it is not permitted, you may not speculate why it was not asked, nor what the answer may have been.

Authority: IN Pattern Instruction No. 1.2200.

Comments

Indiana Jury Rule 20(a)(7) mandates a preliminary instruction to jurors that they "may seek to ask questions of the witnesses by submission of questions in writing."

This instruction and Civil Pattern Instruction 1.12 are identical. A uniform instruction on juror questions was suggested by members of both the Civil and the Criminal Instructions Committees and by the Judicial Conference's Jury Committee, as well. The Instruction above was approved by both the Criminal and the Civil Committees.

The Criminal Instructions Committee endorses the instruction above, but at the same time the Committee encourages judges and counsel to look for ways to improve upon it. Innovative approaches to juror question instructions are appropriate. As an encouragement for innovation, the Committee has reproduced the following instruction, with its incorporated juror question form, both of which has been well-received in one county:

PRELIMINARY INSTRUCTION NO. _____

Counsel will be given an opportunity to question all witnesses. When counsel have finished questioning the witnesses, if you feel there are substantial questions that should be asked, you will be given an opportunity to do so prior to that witness being excused.

The way we handle juror questions is to require you to write out the question on the question form and sign legibly at the bottom. The Bailiff or a member of the court staff will retrieve the question and provide it to counsel to review and give to me. This method gives counsel for both sides and me the opportunity to review the questions before they are asked since your questions, like questions of counsel, are subject to objection. I will ask the questions on your behalf if deemed appropriate.

There are a couple of matters for you to consider concerning questions. First, you cannot attempt to help either side. Second, counsel are trained attorneys and have spent much time preparing for this case. They know more about the case and the witnesses than we do. Very often they do not ask what may appear to us to be an obvious question because they are aware that a particular witness has no knowledge on that subject or the question may be objectionable and they already know that. Third, Rules of Evidence control what can and cannot be received into evidence. As I indicated, questions of the witnesses are

subject to objection, so an objection may be made to your question and the court may sustain that objection. Therefore, your question, while submitted, may not be answered. During the trial, when I sustain an objection disregard the question and answer. If I overrule an objection, you may consider both the question and the answer.

STATE OF INDIANA

COUNTY OF _____)

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IN THE _____ COURT

CAUSE NO. _____

I. My question(s) is/are directed to _____ (name of Witness).

II. My question(s) is/are:

_____ Last Name of Juror _____ Juror #

III. Objections? Plaintiff/State: ☐ No ☐ Yes, basis:

Defense: ☐ No ☐ Yes, basis:

COURT'S RULING:
