

## Parts of a Jury Charge

1. \_\_\_\_\_ includes the name of the parties, the cause number & the court.
2. \_\_\_\_\_ is the greeting and the introductory remarks to the jury including the offense alleged, and the defendant's plea.
3. \_\_\_\_\_ includes all the applicable law including the statute or ordinance at issue and required statutory definitions.
4. \_\_\_\_\_ explains what the jury must find to authorize a conviction and if not, an acquittal.
5. \_\_\_\_\_ contains the relevant law that excuses the defendant's behavior if raised by the evidence.
6. \_\_\_\_\_ explains the burden of proof of beyond a reasonable doubt, etc.
7. \_\_\_\_\_ explains how to communicate with the court.
8. \_\_\_\_\_ is the document used to memorialize the jury's decision.

**CAUSE NO. C14-244767-01**

**THE STATE OF TEXAS**

§

**IN THE MUNICIPAL COURT**

**CITY OF DALLAS**

§

**COURT NO. 11**

**VS.**

§

**IN THE CITY OF DALLAS**

**JOHN DOE**

§

§

§

**DALLAS COUNTY, TEXAS**

**#1 Caption**

**CHARGE OF THE COURT**

**MEMBERS OF THE JURY:**

The Defendant, **JOHN DOE**, stands charged by complaint that on or about the **19<sup>th</sup> day of October, A.D. 2014**, he did then and there unlawfully drive and operate a motor vehicle upon a public street and highway located within the territorial limits of the City of Dallas, Dallas County, Texas, at a speed of **47** miles per hour on and within that portion of **Overton Road between Sunnyvale Lane and Bonnieview Road**, which portion of that street had been zoned by the City of Dallas, Texas, for a posted speed of not greater than **30** miles per hour, and said speed being unreasonable and imprudent under the conditions then existing, having regard to the actual and potential hazards. To this charge Defendant has pled "Not Guilty."

**#2 Salutation**

**I.**

The law applicable to this case is as follows:

**#3 Definitions**

**Section 545.351(b) (1) of the Texas Transportation Code states:**

An operator may not drive a vehicle at a speed greater than is reasonable and prudent under the conditions then existing having regard to the actual and potential hazards.

**Section 545.32(a) of the Texas Transportation Code** provides that any speed in excess of the limits established by law is prima facie evidence that the speed is not reasonable and prudent and that it is unlawful.

**#3 Definitions**

**Section 545.001(1) of the Texas Transportation Code states:**

**“Operator”** means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle.

**"Prima Facie Evidence"** is that evidence which stands proved until rebutted by other evidence.

**II.**

**NOW, THEREFORE**, if you believe beyond a reasonable doubt that the Defendant, **JOHN DOE**, on or about the **19<sup>TH</sup> day of October, A.D. 2014**, did then and there unlawfully drive and operate a motor vehicle upon a public street located within the territorial limits of the City of Dallas, Dallas County, Texas, at a speed of **47** on and within that portion of **Overton Road between Sunnyvale Lane and Bonnieview Road**, which portion of that highway had been zoned by the City of Dallas, Texas, for a posted speed of not greater than **30** miles per hour, which speed being unreasonable and imprudent under the conditions then existing, having regard to the actual and potential hazards, you will find the defendant "Guilty." If you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

**#4 Application Paragraph**

If you find the defendant "Guilty" you will proceed directly to the question of punishment. The range of punishment in this case is by a fine of not less than \$1.00 nor more than \$200.00.

### III.

As to the law of necessity, you are instructed that a person's conduct is justified if that person reasonably believes his conduct is immediately necessary to avoid imminent harm; and the desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law prescribing the conduct.

When a person reasonably believes his conduct is immediately necessary to avoid imminent harm and the desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law prescribing the conduct, that person's conduct is justified.

#### **#5 Defenses**

Now, if you find and believe from the evidence that on the occasion in question the defendant reasonably believed, viewed from the standpoint of the defendant at the time, that his conduct of speeding was immediately necessary to avoid imminent harm, and the desirability and urgency of avoiding the harm clearly outweighed, according to ordinary standards of reasonableness, the harm sought to be prevented by the law prescribing the conduct, then you should acquit the defendant, or, if you have a reasonable doubt as to whether or not the defendant acted reasonably or the desirability and urgency of avoiding the harm was unreasonable under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict "Not Guilty."

**IV.**

In all criminal cases the burden of proof is on the State. All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been charged with the offense gives rise to no inference of guilt at this trial. The law does not require a defendant to prove his/her innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the defendant, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt, after careful and impartial consideration of all the evidence in the case.

**#6 Burden of Proof**

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

In the event you have a reasonable doubt as to the defendant's guilt, after considering all the evidence before you and these instructions, you will acquit the defendant and say by your verdict "Not Guilty".

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to the testimony, but you are bound to receive the law from the Court, which is herein given.

**V.**

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him. In this case, the defendant has elected not to testify, and you are

**#7 Final Instructions**

instructed that you cannot and must not refer or allude to that fact throughout your deliberations or

take it into consideration for any purpose whatsoever as a circumstance against the defendant.

During your deliberations in this case, you must neither consider, discuss, nor relate any matters not in evidence before you. You should neither consider nor mention any personal knowledge or information you may have about any fact or person connected with this case unless such knowledge or information is shown by the evidence.

After you retire to the jury room, you will select one of your members as your Presiding Juror. The Presiding Juror's duty is to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the verdict form attached hereto, and signing the form as Presiding Juror.

**#7 Final Instructions**

After you retire to the jury room, no one has any authority to communicate with you except the Bailiff of this Court. After you have retired, you may communicate with this Court, in writing, through the Bailiff. Your written communication must be signed by the Presiding Juror. Do not attempt to speak verbally to the Bailiff, the Attorney(s), the Defendant, or the Court regarding any question you may have concerning the trial of this case. After you have reached a unanimous verdict, or if you desire to communicate, in writing, with the Court, please knock on the door and the Bailiff will respond.

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Municipal Judge  
City of Dallas  
Dallas County, Texas

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**VERDICT SHEET**

We the jury find the Defendant, **JOHN DOE**, "Guilty" as charged in the complaint and assess

**#8 Verdict Sheet**

punishment at a fine of \$\_\_\_\_\_.

\_\_\_\_\_  
Presiding Juror

We the jury find the Defendant, **JOHN DOE**, "Not Guilty" as charged in the complaint.

\_\_\_\_\_  
Presiding Juror

## The Only Statutes Regarding Jury Charges In Our Criminal Cases

1. Art. 36.14 C.C.P. **CHARGE OF COURT.** Subject to the provisions of Article 36.07 in each felony case and in each misdemeanor case tried in a court of record, the judge shall, before the argument begins, deliver to the jury, except in pleas of guilty, where a jury has been waived, a written charge distinctly setting forth the law applicable to the case; not expressing any opinion as to the weight of the evidence, not summing up the testimony, discussing the facts or using any argument in his charge calculated to arouse the sympathy or excite the passions of the jury. Before said charge is read to the jury, the defendant or his counsel shall have a reasonable time to examine the same and he shall present his objections thereto in writing, distinctly specifying each ground of objection. Said objections may embody errors claimed to have been committed in the charge, as well as errors claimed to have been committed by omissions therefrom or in failing to charge upon issues arising from the facts, and in no event shall it be necessary for the defendant or his counsel to present special requested charges to preserve or maintain any error assigned to the charge, as herein provided. The requirement that the objections to the court's charge be in writing will be complied with if the objections are dictated to the court reporter in the presence of the court and the state's counsel, before the reading of the court's charge to the jury. Compliance with the provisions of this Article is all that is necessary to preserve, for review, the exceptions and objections presented to the charge and any amendment or modification thereof. In no event shall it be necessary for the defendant to except to the action of the court in over-ruling defendant's exceptions or objections to the charge.

2. Art. 36.15 C.C.P. **REQUESTED SPECIAL CHARGES.** Before the court reads his charge to the jury, counsel on both sides shall have a reasonable time to present written instructions and ask that they be given to the jury. The requirement that the instructions be in writing is complied with if the instructions are dictated to the court reporter in the presence of the court and the state's counsel, before the reading of the court's charge to the jury. The court shall give or refuse these charges. The defendant may, by a special requested instruction, call the trial court's attention to error in the charge, as well as omissions therefrom, and no other exception or objection to the court's charge shall be necessary to preserve any error reflected by any special requested instruction which the trial court refuses.

Any special requested charge which is granted shall be incorporated in the main charge and shall be treated as a part thereof, and the jury shall not be advised that it is a special requested charge of either party. The judge shall read to the jury only such special charges as he gives.

When the defendant has leveled objections to the charge or has requested instructions or both, and the court thereafter modifies his charge and rewrites the same and in so doing does not respond to objections or requested charges, or any of them, then the objections or requested charges shall not be deemed to have been waived by the party making or requesting the same, but shall be deemed to continue to have been urged by the party making or requesting the same unless the contrary is shown by the record; no exception by the defendant to the action of the court shall be necessary or required in order to preserve for review the error claimed in the charge.

3. Art. 36.16 C.C.P. **FINAL CHARGE.** After the judge shall have received the objections to his main charge, together with any special charges offered, he may make such changes in his main charge as he may deem proper, and the defendant or his counsel shall have the opportunity to present their objections thereto and in the same manner as is provided in Article 36.15, and thereupon the judge shall read his charge to the jury as finally written, together with any special charges given, and no further exception or objection shall be required of the defendant in order to preserve any objections or exceptions theretofore made. After the argument begins no further charge shall be given to the jury unless required by the improper argument of counsel or the request of the jury, or unless the judge shall, in his discretion, permit the introduction of other testimony, and in the event of such further charge, the defendant or his counsel shall have the right to present objections in the same manner as is prescribed in Article 36.15. The failure of the court to give the defendant or his counsel a reasonable time to examine the charge and specify the ground of objection shall be subject to review either in the trial court or in the appellate court.
4. Art. 36.17 C.C.P. **CHARGE CERTIFIED BY JUDGE.** The general charge given by the court and all special charges given or refused shall be certified by the judge and filed among the papers in the cause.
5. Art. 36.18 C.C.P. **JURY MAY TAKE CHARGE.** The jury may take to their jury room the charges given by the court after the same have been filed. They shall not be permitted to take with them any charge or part thereof which the court has refused to give.

6. Art. 45.033 C.C.P. **JURY CHARGE.** The judge shall charge the jury. The charge may be made orally or in writing, except that the charge shall be made in writing if required by law.

## Jury Charge Resources

1. One place to find suggestions for jury charges on the internet is the TMCEC website at <http://www.tmcec.com/resources/jury-charges/>.
2. Another internet resource for jury charges is the Texas District and County Attorney's Association website at [http://www.tdcaa.com/jury\\_charges/index.asp](http://www.tdcaa.com/jury_charges/index.asp).
3. Another source for pattern jury charges can be found in books authored by the State Bar of Texas Criminal Pattern Jury Charges Committee. They are available for purchase at <http://texasbarbooks.net/texas-pattern-jury-charges/>.
4. Actual jury charges used in capital murder cases can be found at Texas Courts Online (OCA) Jury Charges And Sentences in Capital Cases page at <http://www.txcourts.gov/oca/pdf/jchgs/Nueces042508JChg.pdf>.
5. Other sources: \_\_\_\_\_