

VOIR DIRE TRAINING

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by

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GETTING STARTED.

1. The Paperwork
 - a. Selection Sheet
 - i. How to keep track
 - ii. What to write down
 - b. Juror Information Sheets
 - i. Must be returned to the court after a Jury has been selected.
2. Challenges for Cause
 - a. Acquaintance with Parties, Witnesses, or Attorneys (Implied Bias) **CCP §§ 225(b), 229**
 - b. Prejudice
 - i. Intoxicants and Gambling
 - ii. Religion
 - iii. Race
 - c. Physical Condition and Intellectual Functioning
 - d. Nervous or Emotional Condition
 - e. Connection with Law Enforcement
 - f. Other
3. Preemptory Challenges
 - a. Number of Challenges
 - i. One Defendant – 10 per side
 - ii. Co-Defendants
 1. e.g. – 2 defendants: Prosecution = 20 / Defense = 10 joint & 5 ea. D
 2. e.g. – 3 defendants: Prosecution = 25 / Defense = 10 & 5 ea. D
 - iii. Alternate Jurors (CCP 234)
 1. Number equal to alternate selected
 - iv. Life case: 20 per side
 - b. Limitations
 - i. **Wheeler Challenge** (People v. Wheeler (1978) 22 c3d 258)
 1. Procedure
 - a. Presumption that preemptory challenges are being exercised in a constitutionally permissible fashion. *People v. Crittenden* (1994) 9 C4th 83, 36 CR2d 474
 - b. A party who believes that the opposing party is exercising preemptory challenges in an impermissible fashion must make a timely objection and establish a prima facie case of a constitutional violation. *People v. Perez* (1996) 48 CA4th 1310, 56 CR2d 299
 - c. A prima facie case consists of a showing both that the excluded jurors belong to a cognizable group and the reason for the being challenged is their membership in the group. *People v. Turner* (1994) 8 C4th 137, 32 CR2d 762

- d. Once showing is made, the burden shifts to the opposing party to demonstrate that the peremptory challenges were made for reasons of specific bias. *Batson v. Kentucky* (1986) 476 US 79, 90 L Ed 2d 69, 196 S Ct 1712
- e. The rebuttal does not have to rise to the level required to justify a challenge for cause
- f. If the rebuttal is ineffective, the court is required to dismiss the jurors so far selected, quash the remaining venire, and convene a new venire.

Voir Dire

Basics

1. Develop your theme
2. Always get out the weakness in your case
 - a. Bad victim/snitch/hostile wit/sympathetic Def
3. Repeat your issues with replacement jurors. You are showing jurors you are not afraid of your issues.
4. Know your court and rules-names v. badge numbers etc
5. Anticipate answers from jurors and prepare back up questions
6. Never argue with a juror
7. Always have come back questions if defense begins to plant bad seeds (all kids lie..) Use come back questions to your next group.
Stay calm
8. No Public Defenders or DA's allowed on your jury. People vs. Terry (1994) 30 Cal App 4th 97.
9. Keep your questions short. Use plain language for them.
10. Know the law and what your must prove. Not to question them on it, but to be prepared on what areas you need them to focus.
11. Watch your jurors. How they dress, items with them, books in hands, who they talk to, getting along with others etc.