

6 California Criminal Law (3d), Criminal Judgment

I. VERDICT

A. Conduct and Deliberation of Jury.

1. Composition, Custody, and Deliberations.
 - (a) [§1] Custody.
 - (b) [§2] Deliberations.
 - (c) [§3] Admonition.
 - (d) [§4] Alternate Jurors.
 - (e) [§5] Change of Foreperson.
 - (f) [§6] Jury Nullification.
2. Return for Additional Information.
 - (a) [§7] In General.
 - (b) Instructions.
 - (1) [§8] Procedure.
 - (2) [§9] Illustrations.
 - (c) [§10] Evidence.
 - (d) [§11] Summations.
3. Unlawful Separation After Submission.
 - (a) [§12] Rule and Presumption.
 - (b) [§13] Waiver by Defendant.
 - (c) [§14] Nonprejudicial Separation.
4. Papers and Exhibits in Jury Room.
 - (a) [§15] In General.
 - (b) [§16] Papers Received in Evidence.
 - (c) [§17] Exhibits.
 - (d) [§18] Written Instructions and Notes of Proceedings.
 - (e) [§19] Substantial Likelihood Test for Reversible Error.
5. Misconduct.
 - (a) [§20] In General.
 - (b) Unauthorized Reception of New Evidence.
 - (1) [§21] In General.
 - (2) [§22] Test: Actual Bias.
 - (3) [§23] Newspaper Articles.
 - (4) [§24] Evidence Inadvertently Given to Jury.
 - (5) [§25] Biblical References.
 - (c) Unauthorized Communications With Nonjurors.
 - (1) [§26] In General.
 - (2) [§27] With Judge.
 - (3) [§28] With Bailiff.
 - (4) [§29] With Others.
 - (d) [§30] Premature Discussion Among Jurors.
 - (e) [§31] Illegal Discussion Among Jurors.
 - (f) [§32] Consumption of Alcohol.
 - (g) [§33] Other Misconduct.

B. Rendition of Verdict.

1. Disagreement.

- (a) [§34] Judge's Power To Discharge for Disagreement.
- (b) [§35] Retrial After Discharge.
- (c) Permissible Urging of Agreement.
 - (1) [§36] In General.
 - (2) [§37] Illustrations.

2. Improper Coercion.

- (a) [§38] Known Minority for Acquittal.
- (b) [§39] Allen Instruction Disapproved.
- (c) [§40] Suggestion of Guilt or Hint of Leniency.
- (d) [§41] Stressing Simplicity of Case.

3. Return.

- (a) [§42] Verdict Forms.
- (b) [§43] Return and Polling of Jury.
- (c) [§44] Manner and Place of Rendering Verdict.
- (d) [§45] Recording Verdict.

4. Reconsideration of Defective Verdict.

- (a) [§46] In General.
- (b) [§47] Limitations.

5. Discharge.

- (a) [§48] In General.
- (b) [§49] Communication With Discharged Jurors.
- (c) [§50] Jury May Not Be Reconvened After Discharge.

6. Form of Verdict.

- (a) [§51] General Verdict.
- (b) [§52] Special Verdict.
- (c) [§53] Distinction: Findings in Trial by Court.

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- (a) Findings of Special Issues.
 - (1) [§54] Prior Conviction.
 - (2) [§55] Armed With Weapon.
 - (3) [§56] Degree.
 - (4) [§57] Penalty.
- (b) [§58] Multiple Defendants.
- (c) [§59] Multiple Counts.
- (d) Included Offense or Attempt.
 - (1) [§60] Power and Duty of Jury.
 - (2) [§61] Existence of Reasonable Doubt.
 - (3) [§62] Partial Verdict of Acquittal Where Jury Deadlocked.
 - (4) Test Based on Elements of Crime.
 - (aa) [§63] In General.
 - (bb) [§64] Illustrations: Offenses Included.
 - (cc) [§65] Illustrations: Offenses Not Included.
 - (5) Test Based on Accusatory Pleading.
 - (aa) [§66] In General.

- (bb) [§67] Extensions to Other Forms of Notice.
- (cc) [§68] Test Inapplicable in Absence of Notice.
- (dd) [§69] Enhancement Allegations Not Considered.
- 8. Informal, Irregular, and Defective Verdicts.
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 - (b) [§71] Surplusage and Clerical Error.
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 - (d) [§73] Failure To Find.
 - (e) Inconsistent Verdicts on Separate Grounds.
 - (1) [§74] Former Law: Inconsistent Verdicts Not Valid.
 - (2) [§75] Current Law: Valid Inconsistent Verdicts.
 - (3) [§76] Enhancement Allegations.
 - (4) [§77] Special Rules for Conspiracy.
 - (f) Inconsistent Verdicts on Joint Defendants.
 - (1) [§78] Nature of Problem.
 - (2) [§79] Appeal by Defendant More Severely Treated.
 - (3) [§80] Appeal by Defendant More Favorably Treated.
 - (g) Unincluded Offense Not Charged.
 - (1) [§81] In General.
 - (2) [§82] Procedure.
- 9. Impeachment of Verdict.
 - (a) [§83] Former Rule Against Impeachment.
 - (b) Present Rule and Limitations.
 - (1) [§84] Statement of Rule.
 - (2) [§85] Application of Rule.
 - (3) [§86] Federal Procedure.
- 10. Proceedings on Verdict.
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 - 2. [§92] Statutory Grounds Normally Exclusive.
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 - (b) Competency and Strength.
 - (1) [§94] Probability of Different Result.
 - (2) [§95] Cumulative Evidence.
 - (3) [§96] Impeaching Evidence.
 - (4) [§97] Recantation.
 - (c) Discovery and Diligence.
 - (1) [§98] Newly Discovered.
 - (2) [§99] Diligence.

- (3) [§100] Where Diligence Not Required.
 - 4. Insufficiency of Evidence.
 - (a) [§101] Nature of Ground.
 - (b) [§102] Judge's Duty To Weigh Evidence.
 - (c) Judge's Power To Modify Judgment.
 - (1) [§103] Lesser Offense or Degree.
 - (2) [§104] Lesser Penalty.
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 - 6. [§106] Improper Conduct of Jury.
 - 7. [§107] Misconduct of Prosecuting Attorney.
 - 8. [§108] Absence of Defendant in Felony Trial.
 - 9. [§109] Inability To Obtain Transcript.
 - 10. [§110] Incompetence of Counsel.
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- 1. Motion by Defendant.
 - (a) [§111] Necessity and Form.
 - (b) [§112] Time of Motion.
 - (c) [§113] Renewal of Motion.
 - (d) [§114] Second Motion in Bifurcated Trial.
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 - (a) [§123] Order Granting.
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 - 2. [§127] Scope of Repeal.
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 - (b) [§140] Exceptions.
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