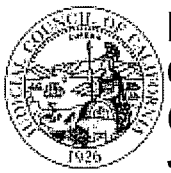

California Rules of Court (Revised January 1, 2012)

Standard 4.30. Examination of prospective jurors in criminal cases

(a) In general

(1)—This standard applies in all criminal cases.

(2)—The examination of prospective jurors in a criminal case should include all questions necessary to insure the selection of a fair and impartial jury.

(3)—The court may consider conducting sequestered voir dire on issues that are sensitive to prospective jurors, on questions concerning media reports of the case, and on any other issue that the court deems advisable.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, and January 1, 2006.)

(b) Examination of jurors

The trial judge's examination of prospective jurors in criminal cases should include the areas of inquiry listed below and any other matters affecting their qualifications to serve as jurors in the case. The trial judge may want to use the *Juror Questionnaire for Criminal Cases* (form MC-002) to assist in the examination of prospective jurors. Form MC-002 is an optional form and is not intended to constitute the complete examination of prospective jurors. Form MC-002 is a tool for trial judges to use to make the initial examination of prospective jurors more efficient. If the court chooses to use form MC-002, its use and any supplemental questions submitted by counsel must be discussed at the pre-voir dire conference required by rule 4.200. Excusing jurors based on questionnaire answers alone is generally not advisable.

(1)—*Address to entire jury panel:*

Do any of you have any vision, hearing, or medical difficulties that may affect your jury service? *(Response.)*

(2)—*In particular, for lengthy trials. Address to entire jury panel:*

This trial will likely take _____ days to complete, but it may take longer. *(State the days and times during the day when the trial will be in session.)*

Will any of you find it difficult or impossible to participate for this period of time? *(After the entire panel has been screened for time hardships, direct the excused jurors to return to the jury assembly room for possible reassignment to other courtrooms for voir dire.)*

(3)—*At this point the court may wish to submit any juror questionnaire that has been developed to assist in voir dire. The court should remind panel members that their answers on the questionnaire are given under penalty of perjury. In addition, if a questionnaire is used, the court and counsel may wish to question individual prospective jurors further based on their responses to particular questions, and a procedure for doing so should be established at the pre-voir dire conference. Therefore, it may not be necessary to ask all of the prospective jurors questions 5 through 25 that follow, although the text may assist the court with following up with individual jurors about answers given on the questionnaire.*

To the entire jury panel:

I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All the remaining members of this jury panel, however, should pay close attention

to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, he or she will be asked to answer these questions.

(4)—*To the prospective jurors seated in the jury box:*

In the trial of this case each side is entitled to have a fair, unbiased, and unprejudiced jury. If there is any fact or any reason why any of you might be biased or prejudiced in any way, you must disclose such reasons when you are asked to do so. It is your duty to make this disclosure.

(5)—*To the prospective jurors seated in the jury box:*

Do any of you know anyone else on this jury panel? *(Response.)*

(6)—Ladies and gentlemen of the jury: This is a criminal case entitled The People of the State of California v. _____. The (defendant is)(defendants are) seated _____.

(A)—(Mr.)(Ms.)(defendant), please stand and face the prospective jurors in the jury box and in the audience seats. *(Defendant complies.)* Is there any member of the jury panel who is acquainted with the defendant or who may have heard (his)(her) name before today? If your answer is yes, please raise your hand.

(B)—The defendant, _____, is represented by (his)(her) attorney, _____, who is seated _____. (Mr.)(Ms.)(defense attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ before today?

(C)—*(If there is more than one defendant, repeat (a) and (b) for each codefendant.)*

(7)—The People are represented by _____, Deputy District Attorney, who is seated _____. (Mr.)(Ms.)(district attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ before today?

(8)—The defendant is charged by an (information)(indictment) filed by the district attorney with having committed the crime of _____, in violation of section _____ of the _____ Code, it being alleged that on or about _____ in the County of _____, the defendant did *(describe the offense)*. To (this charge)(these charges) the defendant has pleaded not guilty, and the jury will have to decide whether the defendant's guilt has been proved beyond a reasonable doubt. Having heard the charge(s) that (has)(have) been filed against the defendant, is there any member of the jury panel who feels that he or she cannot give this defendant a fair trial because of the nature of the charge(s) against (him)(her)?

(9)—Have any of you heard of, or have you any prior knowledge of, the facts or events in this case?

(10)—Do any of you have any ethical, religious, political, or other beliefs that would prevent you from serving as a juror in this case?

(11)—During the trial of this case, the following persons may be called as witnesses to testify on behalf of the parties or their names may be mentioned in evidence: _____ *(Do not identify the side on whose behalf the witness might be called.)* Have any of you heard of or otherwise been acquainted with any of the witnesses just named? You should note that the parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

(12)—Do any of you have any financial or personal interest in the outcome of this case?

(13)—How many of you have served previously as jurors in a criminal case?

To each person whose hand is raised:

(A)—(Mr.)(Ms.) _____(or Juror ID number), you indicated you have been a juror in a criminal case. What were the charges in that case? *(Response.)*

(B)—Do you feel you can put aside whatever you heard in that case and decide this case on the evidence to be

presented and the law as I will state it to you? *(Response.)*

(14)—May I see the hands of those jurors who have served on civil cases, but who have never served on a criminal case? *(Response.)* You must understand that there are substantial differences in the rules applicable to the trial of criminal cases from those applicable to the trial of civil cases. This is particularly true respecting the burden of proof that is placed on the People. In a civil case we say that the plaintiff must prove (his) (her) case by a preponderance of the evidence. In a criminal case, the defendant is presumed to be innocent, and before (he) (she) may be found guilty, the People must prove (his)(her) guilt beyond a reasonable doubt. If the jury has a reasonable doubt, the defendant must be acquitted. Will each of you be able to set aside the instructions that you received in your previous cases and try this case on the instructions given by me in this case?

(15)—The fact that the defendant is in court for trial, or that charges have been made against (him)(her), is no evidence whatever of (his)(her) guilt. The jurors are to consider only evidence properly received in the courtroom in determining whether the defendant's guilt has been proved beyond a reasonable doubt. The defendant has entered a plea of "not guilty," which is a complete denial, making it necessary for the People, acting through the district attorney, to prove beyond a reasonable doubt the case against the defendant. If the evidence does not convince you of the truth of the charges beyond a reasonable doubt, the defendant is entitled to a verdict of not guilty.

In the following questions I will be using the terms "relative," "close friend," and "anyone with whom you have a significant personal relationship." The term "anyone with whom you have a significant personal relationship" means a domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

(16)—Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, ever been the victim of any crime? *(Response.)*

(17)—Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, ever had any contact with law enforcement, including being: (a) stopped by the police? (b) accused of misconduct, whether or not it was a crime? (c) investigated as a suspect in a criminal case? (d) charged with a crime? or (e) a criminal defendant? *(Response.)*

(18)—Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, had any law enforcement training or experience or been a member of or been employed by any law enforcement agency? By law enforcement agency, I include any police department, sheriff's office, highway patrol, district attorney's office, city attorney's office, attorney general's office, United States attorney's office, FBI, and others. *(If so, elicit the details of the experience or connection.)*

(19)—Would you be able to listen to the testimony of a police or other peace officer and measure it the same way you would that of any other witness?

(20)—*When appropriate:*

It may appear that one or more of the parties, attorneys, or witnesses come from a particular national, racial, or religious group (or may have a lifestyle different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?

(21)—It is important that I have your assurance that you will follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You must accept and follow my instructions even if you disagree with the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(22)—Each of you should now state your:

(A)—(Name)(or juror ID number);

(B)—Children's ages and the number of children, if any;

(C)—Occupation;

(D)—Occupational history; and

(E)—Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F)—Occupations;

(G)—Occupational histories; and

(H)—Present employers;

And for your adult children, their:

(I)—Occupations;

(J)—Occupational histories; and

(K)—Present employers.

Please begin with juror number one.

(23)—Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case or why you should not be on this jury? If there is, it is your duty to disclose the reason at this time.

(24)—*After the court conducts the initial examination, Code of Civil Procedure section 223 allows counsel to ask supplemental questions for the purposes of uncovering possible bias or prejudice relevant to challenges for cause. The court may, in the exercise of its discretion, limit the oral and direct questioning of prospective jurors by counsel. The court may specify the maximum amount of time that counsel for each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel.*

(25)—*After the conclusion of counsel questioning, the court asks each side to exercise any challenges for cause.*

(26)—*After ruling on challenges for cause, if any, the court calls on each side, alternately, to exercise any preemptory challenges.*

(27)—*If a new prospective juror is seated, the court should ask him or her:*

(A)—Have you heard my questions to the other prospective jurors?

(B)—Have any of the questions I have asked raised any doubt in your mind as to whether you could be a fair and impartial juror in this case?

(C)—Can you think of any other reason why you might not be able to try this case fairly and impartially to both the prosecution and defendant, or why you should not be on this jury?

(D)—Give us the personal information requested concerning your occupation, that of your spouse or anyone with whom you have a significant personal relationship, that of your adult children, and your prior jury experience.

(Thereupon, as to each new juror seated, the court must permit counsel to ask supplemental questions, and proceed with challenges as above.)

(Subd (b) amended effective January 1, 2007; adopted as subd (c) effective July 1, 1974; amended and relettered effective June 6, 1990; previously amended effective January 1, 1997, January 1, 2004, and January 1, 2006.)

(c) Improper questions

When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys.

(Subd (c) amended effective January 1, 2006; adopted as subd (e) effective July 1, 1974; previously amended and relettered as subd (d) effective June 6, 1990; relettered as subd (c) effective January 1, 1997.)

Standard 4.30 amended and renumbered effective January 1, 2007; adopted as sec. 8.5 July 1, 1974; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, January 1, 1997, January 1, 2004, and January 1, 2006.