

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Criminal Law Advisory Committee
John A. Larson, Senior Court Services Analyst, 415-865-7589

DATE: August 15, 2005

SUBJECT: Juror Questionnaire for Criminal Cases (approve form MC-002, adopt amendments to Cal. Rules of Court, rule 4.200 and 4.201, and adopt amendments to Cal. Stds. Jud. Admin., § 8.5) (Action Required)

Issue Statement

In 1993 the Judicial Council approved form MC-001, *Juror Questionnaire for Civil Cases* and amended Rule 228 of the California Rules of Court to authorize its use in civil jury trials. There is, however, no similar model questionnaire in criminal cases. Indeed, in *People v. Fuentes* (1991) 54 Cal.3d 707, 720, footnote 8 states that the Judicial Council is studying “the feasibility of uniform or standard juror questionnaire forms” and form MC-001 was subsequently developed for this purpose.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2006, approve form MC-002, *Jury Questionnaire for Criminal Cases*, amend California Rules of Court, rule 4.200 and 4.201, and amend Standard of Judicial Administration section 8.5, to provide a model questionnaire for optional use in criminal cases. The text of the proposed form and amendments to the rules and standard is attached at page 17.

Rationale for Recommendation

This proposal discusses a new form and amendments to rules of court and a standard of judicial administration as detailed below.

Form MC-002

The Task Force on Jury System Improvements, in its 2003 Final Report, delegated the development of the statewide criminal case questionnaire’s content (based on form MC-001) to future action by the staff of the Administrative Office of the Courts and the pertinent Judicial Council advisory committee. The Criminal Law

Advisory Committee subsequently developed the content for proposed form MC-002, *Juror Questionnaire for Criminal Cases*.

The proposed form MC-002 is an optional form designed to assist the court in making voir dire more efficient—counsel can avoid repetition during direct questioning and can use the form as a basis to build individual questionnaires tailored to particular cases. The forms also provide individual jurors the opportunity to flag for the court potentially sensitive and private matters.

Rule 4.200

Rule 4.200 of the California Rules of Court pertains to the pre-voir dire conference in criminal cases. In addition to authorizing the use of form MC-002, the proposed amendments to the rule add three matters to be determined at the conference. Rule 4.200(a) is amended to include: (1) the schedule for, and predicted length of, the trial; (2) the number of, and procedures for selecting, alternate jurors; and (3) the procedure for making Wheeler/Batson objections.

Rule 4.200(b) authorizes the use of form MC-002 during jury selection. Rule 4.200(b) would also be modified to clarify when the court may require that proposed questions be in writing. The current version of the rule authorizes the court to require that all questions be submitted in writing before the pre-voir dire conference. Rule 4.200 was adopted in June of 1990 when the entire voir dire was conducted by the court. Since rule 4.200 was adopted, a statutory amendment allows counsel to voir dire the jury directly. The rule, however, has not been amended and subdivision (b) still provides that the court may require counsel to submit all voir dire questions to the court in writing prior to jury selection.

Because counsel may now conduct voir dire under Code of Civil Procedure section 223, rule 4.200(b) would be amended to authorize the court to require attorneys to submit, prior to the pre-voir dire conference, only the questions the attorneys wish the court to ask during the court's initial examination. The requirement to submit questions in writing does not apply to questions counsel intend to ask jurors. Also excluded from the "written question" requirement are follow-up questions that result from responses by jurors, as those questions are not known until the court or counsel hears the jurors' answers.

Rule 4.201

The proposed amendments to rule 4.201 (1) refer to the judge's affirmative duty to conduct an initial examination of prospective jurors in criminal cases and (2) authorize the use of form MC-002.

Standard of Judicial Administration § 8.5

The Advisory Committee comment to rule 4.200 advises that the rule should be used in conjunction with section 8.5 of the Standards of Judicial Administration, which recommends a process for conducting the examination of jurors in criminal cases. Section 8.5, however, is not consistent with California Code of Civil Procedure section 223, which, as noted above, permits counsel to participate in jury voir dire in criminal cases. Code of Civil Procedure section 223 requires the court to conduct an initial examination and thereafter gives counsel for each party the right to question any or all of the prospective jurors. Because section 8.5(a) currently states judges may, with a finding of good cause, permit counsel to participate in supplemental jury voir dire, this language would be deleted.

A new subpart 8.5(a)(3) would advise judges that they should consider conducting sequestered voir dire under certain circumstances. This amendment is proposed as good practice to balance jurors' concerns about disclosing personal matters in open court and concerns about discussion of media reports in high-profile cases tainting the rest of the jury panel, against the public's right to open court proceedings. Sequestered voir dire includes counsel for both sides, allows the defendant to be present, and becomes part of the trial record. The court may determine afterward whether a legitimate privacy interest requires the transcript of the proceeding to be sealed under rule 243.1 of the California Rules of Court, as well as removing juror-identifying information consistent with rule 31.3 of the California Rules of Court and Code of Civil Procedure section 237.

Additional amendments to section 8.5 include: (1) a reference to proposed form MC-002; (2) questions designed to screen for juror health concerns and for hardships at the beginning of voir dire; (3) reordering and rewording existing questions to create consistency with the questions in proposed form MC-002; and (4) rephrasing certain questions in plain English.

Alternative Actions Considered

The committee considered and rejected making the form questionnaire mandatory because it would be difficult, if not impossible, to develop a general questionnaire to cover all types of criminal cases. Because the rules and standard had to be amended to comply with Code of Civil Procedure section 223, which requires the court to allow counsel to voir dire the jury in criminal cases, no alternatives to the proposed amendments to the rules and standard were considered.

Comments From Interested Parties

The form and proposed amendments to the rules and standard were circulated for public comment from April 27, 2005 to June 20, 2005. Seventeen comments were submitted. Four agreed with the proposals, nine agreed only if modified, and four did not agree with the proposals. The majority of the comments received were about proposed form MC-

002. The amendments to the rules and standards elicited few comments, which are described further below.

Form MC-002

All of the commentators who disagreed with the proposed form shared the view that the model questionnaire was too long, would add too much time to voir dire, was too labor intensive for court staff, and that the use of questionnaires was best reserved for only the most serious or unusual cases. Because proposed form MC-002 is an optional form being made available for voluntary, not compulsory, use the advisory committee determined these concerns could be alleviated by emphasizing the optional nature of the form more clearly below the title on page A and in section 2, Use Notes for Courts. In addition, in response to a comment by Judge Tim Cissna of the Superior Court of Humboldt County, the committee directed staff to post the form, if approved, electronically on the California Courts Web site in a format that allows individuals to download, add, delete, alter, and expand the form to add room if needed.

Other recommended modifications to the form were in some cases quite detailed. They ranged from particular questions about wording and grammar to recommendations that categories of questions be eliminated. Modifications made to the form in response to these comments include:

- Adding question 1.21 asking if the prospective juror, a person with whom he or she has a significant personal relationship, or a relative has ever worked in law enforcement;
- Rephrasing and bolding the privacy statement on the “Introductions and Instructions” page; and
- Ensuring that the perjury declaration on the “Verification” page complies with the requirements of Code of Civil Procedure section 2015.5.

For more detailed information concerning comments to the proposed form see the comment chart attached at page 6.

Rules 4.200 and 4.201

The only comment received about the proposed amendments to rules of court 4.200 and 4.201 was a general concern from Administrative Presiding Justice Roger Boren of the Court of Appeal, Second Appellate District. He stated that the “wording of proposed rule 4.200 may lead counsel to insist on procedures that are not warranted.” In addition, he suggested a new change to the existing wording of 4.200(a) not contemplated by the committee. The text of rule 4.200(a) currently states: “Before jury selection begins in criminal cases, the court must conduct a conference with counsel to determine . . .” Justice Boren suggested striking “determine” and substituting “discuss.” This would change the nature of the pre-voir dire conference from a determination of the procedures, theories, and schedules set forth and proposed in subparts (1)–(8) of subdivision (a) to a discussion of those topics.

Insofar as this proposed change is substantive in nature, affecting the entire rule and not just the amendments recommended by the committee, the committee respectfully declined to recommend this change. The committee felt that a change of this type that would have such a significant impact on the rule should be brought forward and discussed during a future rules cycle where comment can be elicited from the public.

Standard of Judicial Administration § 8.5

The committee had the following responses to comments about the proposed amendments to section 8.5(b) of the Standards of Judicial Administration, which describes a process for conducting voir dire in criminal cases:

- Question 8.5(b)(3): The committee added language to this question and in section 2 of form MC-002, Use Notes for Courts, to clarify when a questionnaire should be given to jurors.
- Question 8.5(b)(5): In response to concerns that too many prospective jurors would be eliminated if the entire jury panel seated in the courtroom was asked if they know anyone else on the panel, the committee recommended that the question only be posed to prospective jurors once they are seated in the jury box.
- Question 8.5(b)(12): The committee declined to reinstate language they recommend be deleted from the rule concerning whether a juror has a general belief or feeling that would affect his or her fairness; the committee found that the type of response such vague language elicits is too general and wide-ranging to be of use in uncovering bias during voir dire.
- Former question 8.5(b)(17): The committee did not reinstate this question they recommend be deleted from the rule because they determined renumbered section 8.5(b)(19) adequately and more directly addresses the issue of law enforcement witnesses and that former subsection 8.5(b)(17) is redundant.

For more detailed information concerning comments to the proposed amendments to section 8.5 see the comment chart attached at page 6.

Implementation Requirements and Costs

Because use of proposed form MC-002 is optional, the implementation costs of preparing, copying, and administering the questionnaire during voir dire in criminal cases is entirely dependent on the discretion of the parties and the court. It is not anticipated that costs would increase above current levels associated with the use of juror questionnaires in criminal case voir dire. The amendments to rules and standard would not result in increased costs.

Attachments

SP05-02

Juror Questionnaire for Criminal Cases

(approve form MC-002; amend Cal. Rules of Court, rule 4.200 and 4.201 and Stds. Jud. Admin., § 8.5)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Mr. Ed Berberian District Attorney County of Marin San Rafael	A	N		
2.	Hon. Roger Boren Administrative Presiding Justice Court of Appeal, Second Appellate District Los Angeles	AM	N	Have a concern that wording of proposed rule 4.200 may lead counsel to insist on procedures that are not warranted. In subd. (a) the word “determine” should be changed to “discuss” (I realize this is not a contemplated change.)	Disagree. This proposal represents a substantive change to the existing rule, beyond the scope of what is proposed in the amendments. Because of the potential extent of the change, this proposal should be discussed in a future rules cycle.
3.	Ms. Linda Carter Courtroom Services Manager Superior Court of Humboldt County Eureka	N	N	<ol style="list-style-type: none"> 1. Pg. 5: Our questionnaires are not part of the public record and accessible to anyone. 2. Pg. 9: Q.s 1.11, 1.13, 1.14, 1.15, 1.19, 1.24, and 1.25 should not be included. 3. Pg. 15: Q. 1.34—Jury instruction language is unusual and confusing; do not include 4. Questionnaire is way too long. Copy costs would be significant, as well as the labor cost, the bench time waiting for these questionnaires, the delay for the court to start trial. 5. Sec. 8.5(b)(12): By this rule, the court would commence voir dire with the large group by 8.5(b)(1) through (12) and then send out to fill out the questionnaire? 	<ol style="list-style-type: none"> 1. Disagree; current law states that questionnaires are public record. 2. Disagree; questionnaire is optional form, questions can be deleted if desired. 3. Disagree; jury instruction adds clarity to crucial concept of law. 4. Disagree; because questionnaire is an optional form, it can be tailored to fit the specifics of the trial or not used if unnecessary. 5. Agree; move reference to using questionnaires to section 8.5.(b)(3), after initial hardship screening.

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4.	Hon. Tim Cissna Presiding Judge Superior Court of Humboldt County Eureka	A	N	If adopted, I would like to see the questionnaire put in an easy to use/modify format for computers, so that we can easily delete, add, modify, etc. as appropriate.	Agree
5.	Ms. Diane Colonelli Court Administrative Services Manager Superior Court of Riverside County Riverside	AM	N	On page C-9, Q. 1.37 should read “his/her” testimony rather than “their”	Agree; substitute “his or her” for “their”
6.	Ms. Betty Finley Assistant Court Manager/Jury Services Superior Court of Humboldt County Eureka	N	N	<ol style="list-style-type: none"> 1. Sec. 2.C. Good idea – I don’t know of any other Jury Office that does this. 2. Pg. 5: If only juror ID #s are used as identification and not names, that would make a difference. I know some counties now use only ID #s. 3. Pg. 15: For years we used a 1-page questionnaire on NCR paper. Just the 1 page took up an extra half hour or more to get jurors to court. This questionnaire could take over an hour for some to complete. The special questionnaire used for homicides is case specific and makes more sense than a generic questionnaire for every criminal case. 	<ol style="list-style-type: none"> 1. Agree; juror questionnaires should be administered in the trial court setting. 2. Agree; juror ID #s are preferable to juror names. 3. Disagree; the questionnaire is an optional form, can be tailored to fit the specifics of the trial or not used if determined to be unnecessary.

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7.	Hon. David Flinn Judge Superior Court of California, County of Contra Costa Martinez	AM	N	Q. 1.32 should <i>exclude</i> traffic (“stopped by police”) – too many will reply “yes. Issues re. traffic stops should be limited to “exceptionally pleasant or unpleasant”	Disagree; experiences regarding routine traffic stops are relevant and subpart questions elicit information regarding the characteristics of the stop and what occurred with law enforcement.
8.	Hon. Mark Forcum Judge Superior Court of San Mateo County Redwood City	N	N	This is an area the AOC doesn’t need to involve itself with. After almost 18 years x countless trials big and small I can handle voir dire just fine – certainly don’t need questionnaires on cases other than most serious 187s.	Disagree; the questionnaire is an optional form, can be tailored to fit the specifics of the trial or not used if determined to be unnecessary.
9.	Hon. Charles Horan Judge Superior Court of Los Angeles County Los Angeles	N	N	The use of written questions during voir dire should not be encouraged in routine cases. I have tried several hundred jury trials with and without written questions. Written questions are best reserved for death penalty or very, very unusual situations. In routine cases, they save no time, given the need for copying, distribution, reading, etc. They add about one day <i>at least</i> to the selection process. In LA we pick a jury in one day in a routine felony. With the written Q.s <i>plus</i> in court voir dire, it would 2 to 3 days in every case. Bad idea, not needed.	Disagree; the questionnaire is an optional form, can be tailored to fit the specifics of the trial or not used if determined to be unnecessary.
10.	Ms. Kate Johnston Deputy State Public Defender Office of the State Public Defender	AM	N	There is no direct question asking prospective jurors if they have a family/friend in law enforcement. Instead, Q. 1.7 simply asks if they have family/friend who has taken any “courses or had training in law or a related	Agree; the following question should be inserted as new 1.21: “ If you, your spouse, a person with whom you have a significant personal relationship, or a relative are currently working or have

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Sacramento			subject.” People could easily think this q. is restricted to lawyers/paralegals and does not include cops. Related questions include Q. 1.23 which asks if they or anyone close is involved in the military police or who has served in the military. Q. 1.32 asks if they or anyone close has ever been stopped or arrested/charged with a crime. There are also other q.s regarding possible bias towards law enforcement witnesses (1.35—1.37) Why not ask the obvious re family/friend who works or has worked in law enforcement?	ever worked in law enforcement, please list the agency, position, and the person’s relationship to you.”
11.	Ms. Irene Lopez Court Program Manager Superior Court of California, County of Ventura Ventura	AM	N	Pg. 5, paragraph 6: Parties present when court speaks to prospective jurors privately should also include the judicial assistant or courtroom clerk.	Agree; rephrase sentence to read: “If this is so, write ‘private’ next to the question and the court may then give you an opportunity to share your information with only the judge, counsel, the defendant, the court reporter, and the judicial assistant or courtroom clerk present.”
12.	Superior Court of Los Angeles County Los Angeles	AM	Y	There are no issues with the concept of the questionnaire or the need to amend the rules and Standards of Judicial Administration. Some modifications to the proposed form should be considered. 1. Instructions page, first full paragraph and third full paragraph: delete the word “something” before “about you”. Clearly	1. Agree; substitute “information about you and people you know” for “something about you”

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Superior Court of Los Angeles County (cont.)			<p>the questionnaire asks a great deal of information about the juror and aspects about the juror’s life. Use of the word “something” leaves the expectation that little information is sought when the facts are to the contrary as attested to by the questions in the form. More than a few jurors would take umbrage at the use if this word.</p> <p>2. Instructions page, sixth full paragraph, the first full sentence should be bolded and underlined. Many jurors simply miss the fact that the answers they are providing in the questionnaire are public record. In the same paragraph, in the sentence referring to the use of the “private” the word “may” should be underlined for the same reason. The court is not bound to hold voir dire in chambers.</p> <p>3. Re the perjury statement at the end: the Juror ID number and case number should be included in the upper right hand corner.</p> <p>4. Also, there is uncertainty as to the legal correctness of the attestation itself and should be checked against the appropriate CCP sections, e.g. 2015.5(a) or (b), etc.</p>	<p>2. Agree; bold first sentence and bold the word “may” (see Lopez comment above).</p> <p>3. Agree; insert numbers in upper right corner.</p> <p>4. Agree in part; Code of Civil Procedure section 2015.5 states that for a form executed within the State of California, “[t]he certification or declaration may be in substantially the following form:</p>

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	Superior Court of Los Angeles County (cont.)				<p>(b) If executed at any place, within or without this state:</p> <p>"I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct": ____ (Date and Place) ____ (Signature)</p> <p>Because CCP 2015.5(b) states that the perjury declaration "may" be in "substantially" the form presented in the statute, the perjury declaration on the Verification complies when "and Place" is added after "Date"</p>
13.	Mr. Stephen Love Executive Officer Superior Court of California, County of San Diego San Diego	A	N		
14.	Hon. Dennis J. McLaughlin Judge Superior Court of California, County of Alameda Fremont	AM	N	<p>1. I do not like the reference to jury badges to identify jurors, as we do not give them badges until they are sworn trial jurors; until then, they have only their juror number as printed on their summons.</p> <p>2. I do not like the case number at the top, as</p>	<p>1. Disagree; courts can provide pre-printed stickers with identifying information they would like to attach at the top of each page or eliminate this element from the questionnaire altogether.</p> <p>2. Disagree; see response above.</p>

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				<p>the jurors will not remember it, and have nothing with that number on it.</p> <p>3. There should be places to insert additional questions in the questionnaire (especially after Q. 1.34 concerning law applicable to the case).</p> <p>4. There should be a general question at the end: “Is there any reason that has not already been given that would prevent you from serving as a fair and impartial juror in this case?”</p> <p>5. Q. 1.28 concerning prior jury service is vague, and leaves too little space for the jurors who have multiple prior service; the questions should state, “For each prior jury service, please state approximate years, etc.”</p> <p>6. I don’t understand why the questions are numbered as subparts of question 1 (1.2, 1.24, etc.); there may not be a question 2.</p> <p>7. Rule 8.5(b)(3), requesting all jurors released for time hardships be sent back to await service for other trials presupposes that all the jurors can be screened at one sitting, and that there are other trials in</p>	<p>3. Agree; questionnaire will be distributed in format allowing expansion to provide more room and customization.</p> <p>4. Disagree; the committee deleted this type of question because the general nature does not elicit useful, specific information to uncover possible juror bias.</p> <p>5. Agree in part; questionnaire will be distributed in format allowing length and spacing of the form to be tailored to fit the specifics of the trial.</p> <p>6. Disagree; numbering anticipates capital case supplemental (and possibly others) that will use number such as 2.1, 2.2, etc. to distinguish questions in the various questionnaires.</p> <p>7. Disagree, Standards of Judicial Administration are already advisory in nature.</p>

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	Hon. Dennis J. McLaughlin (cont.)			which to serve. As that is not always true, this should be phrased as an advisory only. 8. Why not add (b)(13) through (22) to the sample questionnaire, as they are questions to be asked in every case?	8. Disagree; questions in the standard are substantively reflected in the form questionnaire.
15.	Hon. Ken Riley Supervising Criminal Judge Superior Court of Ventura County Ventura	A	N		
16.	Hon. James Woodward Judge Superior Court of Trinity County Weaverville	AM	N	In Trinity County if we ask the entire panel if anyone knows another would probably result in many affirmative responses—better to address the Q to the prospective jurors seated in the box	Agree; rephrase parenthetical directions in section 8.5(b)(5) of the standard.
17.	Mr. Dean Zipser President Orange County Bar Association Irvine	AM	Y	1. On page 5 of the “Introduction and Instructions,” prospective jurors are told to write the word “private” as their answer to any question that they feel calls for “personal and sensitive information” about themselves. They are then advised that their answers will become part of the public record in the case but that they “may not have to share the information in open court.” Since it would be highly unlikely that any judge ever would require that a juror provide an answer to such a question	1. Disagree; the wording for this section of the “Introduction and Instructions” was carefully crafted and reviewed by the committee to make jurors aware that their responses will be part of a public record and that there is a possible option that their answers to sensitive questions may be answered out of the presence of other jurors but that such examination is not guaranteed.

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	Mr. Dean Zipser (cont.)			<p>in front of other jurors, it is recommended that the language be changed to, in some better way, reassure prospective jurors that their requests for privacy regarding personal and sensitive information will be honored in every way possible.</p> <p>2. Questions 1.30, 1.31, and 1.32 attempt to create a structure for allowing thorough answers to questions that could lead to strings of answers regarding multiple people connected to the juror. It is recommended that this possibility be recognized in the language used. Perhaps there could be reference to using additional pages for multiple people referred to.</p> <p>3. Also, in questions 1.30, 1.31, and 1.32, “the person who is the subject of this question” is the way that was chosen to create a framework for follow up questions regarding multiple possible people with a relationship to the prospective juror. This manner of reference is difficult to understand. Perhaps “as to each of the people you have provided in your answer to the last question, please answer the following questions,” would be clearer, because it would be directly connected to the juror’s initial answer providing the</p>	<p>2. Disagree; the questionnaire is an optional form and will be distributed in a format allowing the length and spacing to be tailored to fit the specifics of the trial.</p> <p>3. Disagree; proposed language is awkward and not clearer; the questionnaire is an optional form and will be distributed in a format allowing the length and spacing to be tailored to fit the specifics of the trial.</p>

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	Mr. Dean Zipser (cont.)			<p>identity of people connected to the juror who have been victim or witness of a crime, or connected to a crime as a suspect.</p> <p>4. Reinstate part of sec. 8.5(b)(12) “Do any of you have any belief or feeling toward any of the parties, attorneys or witnesses that would make it impossible, or difficult, for you to act fairly and impartially, both as to the defendant and the People?” This question is so general that it allows jurors the opportunity to speak up without worrying that their response is inappropriate. It is felt that such questions allow for a better selection process, by eliciting fuller participation in the selection process by jurors who may have legitimate concerns about whether they should serve as jurors.</p> <p>5. Reinstate former sec. 8.5(b)(17) “Would you have any difficulty or embarrassment in returning a verdict for or against the side which had a police or other peace officer as a witness?” Law enforcement witnesses require careful attention in the jury selection process, because they can easily be perceived as being particularly powerful and trustworthy. The stricken question merely recognizes that this possibility</p>	<p>4. Disagree; the committee reviewed this question several times during the development of the proposed amendments and found that it was so vague that the type of responses that it elicited would be too general and wide-ranging to be of use in uncovering bias during voir dire.</p> <p>5. Disagree; amended and renumbered section 8.5(b)(19) (“Would you be able to listen to the testimony of a police or other peace officer and measure it by the same way you would standards that you use to test the credibility of any other witness?”) adequately and more directly addresses the issue of law enforcement witnesses and therefore</p>

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	Mr. Dean Zipser (cont.)			needs to be brought up during jury selection in an open-ended way, and discussed if anyone responds.	former subsection 8.5(b)(17) is redundant.

JUROR QUESTIONNAIRE FOR CRIMINAL CASES

Form MC-002 (Optional Form)

Code of Civil Procedure Section 205(c)–(d)

Sec. 1. Statutory Authority

This Juror Questionnaire has been drafted under the authority of Code of Civil Procedure section 205(c)–(d) and is intended to expedite jury selection. It is not intended to alter statutes or rules governing the authority of the court or the role of counsel during voir dire.

Sec. 2. Use Notes for Courts

A. General

This Juror Questionnaire is an **optional form** and is **NOT** intended to constitute the complete examination of prospective jurors. **The utility and appropriateness of this questionnaire to a particular case is at the discretion of the judge.** Particular kinds of cases may require that this questionnaire be altered or augmented with the participation of counsel.

B. Pre–Voir Dire Conference

Rule of Court 4.200 requires that the court confer with counsel about voir dire before a jury panel is called. At this conference, the court may establish (1) guidelines for the use of the Juror Questionnaire, (2) any supplemental questions to be propounded to the panel by questionnaire, (3) the extent of the court’s oral inquiry of the panel, and (4) the extent of oral questioning by counsel. Arrangements for duplication of completed questionnaires should be confirmed.

C. Introduction of Questionnaire to Prospective Jurors

It is suggested that the Juror Questionnaire be used after the court has given its customary introductory remarks and any additional instructions that the court deems appropriate. The court also may wish to tell the panel members that a questionnaire will be used, to encourage complete answers, and to remind them that their answers will be given under penalty of perjury. In introducing the questionnaire, the court should instruct prospective jurors how to proceed if they have difficulty reading or filling out the form.

It is not recommended that the court direct the jury commissioner to give the Juror Questionnaire to prospective jurors in the jury assembly room. This procedure ordinarily will mean that jurors are not given complete instructions about the type of case they will hear or the identity of participants and witnesses. In addition, jurors who fill out the form before appearing in the trial court may not clearly understand that their answers are given under penalty of perjury. For these reasons, and to avoid the need to have jurors fill out supplemental questionnaires once they have been sent to the trial court, it is strongly recommended that the Juror Questionnaire be used in the trial court setting.

JUROR QUESTIONNAIRE FOR CRIMINAL CASES

Introduction and Instructions

Thank you for coming to court as a potential juror. Before the case can start, a jury must be selected. The judge and the parties need to know information about you and people you know in order to select jurors who can be fair to both sides.

Everyone has attitudes and opinions that are shaped by their life experiences. Sometimes these experiences can make it difficult to look at a certain issue in an unbiased and unemotional way. As a juror, you must return a verdict based on the law and on the facts proved in court. The judge will give you instructions on the law and on how you should go about deciding the case. You must listen to and follow the judge's instructions.

The questions on this form are designed to help the court and the lawyers learn something about your background and your views on issues that may be related to this case. The questions are asked not to invade your privacy, but to make sure that you can be a fair and impartial juror.

In portions of this form, you will see the term "person with whom you share a significant personal relationship." That term means a former spouse, domestic partner, life partner, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

As you answer the questions that follow, please keep in mind that there are no "right" or "wrong" answers. The only right answer is one that reflects how you honestly feel. Please make sure your answers are as complete as possible. Complete answers are far more helpful and may help shorten the time it takes to select a jury. If you have trouble reading, understanding, or filling out this form, please let the court staff know. If a question does not apply to you please write in "N/A" for "not applicable" rather than leave the question blank.

The information you provide will become part of the court record in this case and will be a public document that is accessible to anyone. Some of the questions may require information that is personal and sensitive to you, and you may be reluctant to talk about this information with the other prospective jurors and the public present. If this is so, write "private" next to the question and the court **may** then give you an opportunity to share your information on the record with only the judge, counsel, the defendant, and the court reporter present. The answers you provide will, under most circumstances, be included as part of the public record but you may not have to share the information in open court.

PLEASE PUT THE LAST FOUR DIGITS OF YOUR JUROR IDENTIFICATION NUMBER FOUND ON YOUR JUROR BADGE ON THE TOP OF EACH PAGE.

REMEMBER THAT YOU ARE ANSWERING THESE QUESTIONS UNDER PENALTY OF PERJURY. YOUR ANSWERS MUST BE TRUE AND COMPLETE. THANK YOU FOR YOUR HELP IN SELECTING A FAIR JURY.

JUROR QUESTIONNAIRE FOR CRIMINAL CASES General Questions

PLEASE PRINT ALL ANSWERS LEGIBLY

1.1 AGE: _____

1.2 THIS (THESE) CRIME(S) ALLEGEDLY TOOK PLACE _____
INSERT LOCATION OF CRIME(S)

DO YOU RESIDE IN THE VICINITY OF THIS LOCATION OR DO YOU FREQUENT THIS LOCATION?

YES NO

IF YES, PLEASE EXPLAIN:

1.3 DESCRIBE ANY DIFFICULTIES (VISION, HEARING, OR MEDICAL PROBLEMS) THAT MAY AFFECT YOUR JURY SERVICE:

1.4 IF YOU HAVE ANY ETHICAL, RELIGIOUS, POLITICAL, OR OTHER BELIEFS THAT MAY PREVENT YOU FROM SERVING AS A JUROR, EXPLAIN:

Juror ID number _____

Case number _____

1.5 WHAT IS THE HIGHEST LEVEL OF EDUCATION YOU COMPLETED?

GRADE SCHOOL OR LESS

SOME COLLEGE

(MAJOR): _____

SOME HIGH SCHOOL

COLLEGE GRADUATE

(MAJOR): _____

HIGH SCHOOL GRADUATE

POSTGRADUATE STUDY

(MAJOR): _____

OTHER (*PLEASE EXPLAIN*):

TECHNICAL, VOCATIONAL, OR BUSINESS SCHOOL

(MAJOR): _____

1.6 IF YOU PLAN TO ATTEND OR ARE CURRENTLY ATTENDING SCHOOL, DESCRIBE:

1.7 IF YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE HAVE TAKEN ANY COURSES OR HAD ANY TRAINING IN LAW OR A RELATED SUBJECT, DESCRIBE:

1.8 EDUCATIONAL BACKGROUND OF ANY OTHER ADULT WHO LIVES IN YOUR HOME, INCLUDING ANY DEGREES OR CERTIFICATES EARNED:

1.9 YOUR PRESENT EMPLOYMENT STATUS (CHECK ALL THAT APPLY):

EMPLOYED FULL-TIME

RETIRED

UNEMPLOYED, LOOKING FOR WORK

EMPLOYED PART-TIME

STUDENT

UNEMPLOYED, NOT LOOKING FOR WORK

HOMEMAKER

1.10 YOUR CURRENT OR MOST RECENT OCCUPATION (AND FOR HOW LONG):

Juror ID number _____

Case number _____

1.11 NAME OF YOUR CURRENT OR MOST RECENT EMPLOYER OR, IF A STUDENT, YOUR SCHOOL:

1.12 WHAT ARE YOUR SPECIFIC JOB DUTIES AND RESPONSIBILITIES?

1.13 DOES YOUR JOB INVOLVE SUPERVISING OTHER PEOPLE? YES NO

IF YES, APPROXIMATELY HOW MANY? _____

1.14 ARE YOU INVOLVED IN THE HIRING AND FIRING OF OTHER EMPLOYEES?

YES NO

1.15 ARE YOU INVOLVED IN EVALUATING THE JOB PERFORMANCE OF OTHER EMPLOYEES?

YES NO

1.16 ALL OTHER EMPLOYMENT YOU HAVE HAD IN THE PAST 10 YEARS (AND FOR HOW LONG):

1.17 THE PRESENT EMPLOYMENT STATUS OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP (CHECK ALL THAT APPLY):

EMPLOYED FULL-TIME RETIRED UNEMPLOYED, LOOKING FOR WORK
EMPLOYED PART-TIME STUDENT UNEMPLOYED, NOT LOOKING FOR WORK
HOMEMAKER

1.18 THE CURRENT OR MOST RECENT OCCUPATION OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP (AND FOR HOW LONG):

1.19 THE NAME OF THE CURRENT OR MOST RECENT EMPLOYER OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP OR, IF A STUDENT, HIS OR HER SCHOOL:

Juror ID number _____

Case number _____

1.20 WHAT ARE THE SPECIFIC JOB DUTIES AND RESPONSIBILITIES OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP?

1.21 IF YOU, YOUR SPOUSE, A PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE ARE CURRENTLY WORKING OR HAVE EVER WORKED IN LAW ENFORCEMENT, PLEASE LIST THE AGENCY, POSITION, AND THE PERSON'S RELATIONSHIP TO YOU:

1.22 IF YOU HAVE CHILDREN, PLEASE LIST (INCLUDING ANY CHILDREN WHO DO NOT CURRENTLY LIVE WITH YOU):

SEX	AGE	DOES CHILD LIVE WITH YOU?	EDUCATION	OCCUPATION
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

1.23 IF YOU, YOUR SPOUSE, OR A PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP HAS EVER SERVED IN THE MILITARY, PLEASE LIST FOR EACH THE BRANCH OF SERVICE AND DATES OF SERVICE:

1.24 IF YOU, YOUR SPOUSE, OR A PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP EVER HAD INVOLVEMENT WITH THE MILITARY POLICE OR THE MILITARY JUSTICE SYSTEM, PLEASE DESCRIBE:

1.25 SOCIAL, CIVIC, PROFESSIONAL, TRADE, OR OTHER ORGANIZATIONS WITH WHICH YOU ARE AFFILIATED:

1.26 DESCRIBE ANY OFFICES YOU HAVE HELD IN ORGANIZATIONS LISTED ABOVE:

1.27 DO YOU KNOW ANYONE ON THIS JURY PANEL? YES NO

1.28 IF YOU PERSONALLY KNOW ANY JUDGES OR ATTORNEYS OR COURT PERSONNEL, WHAT ARE THEIR NAMES AND RELATIONSHIPS TO YOU?

1.29 HAVE YOU PREVIOUSLY SERVED ON A CRIMINAL OR CIVIL TRIAL JURY?

YES NO

ON HOW MANY CASES DID YOU SERVE? _____

APPROXIMATE YEAR(S)? _____

WHERE DID YOU SERVE ON A JURY? _____

WERE YOU A JUROR OR AN ALTERNATE? _____

WHAT KINDS OF CASES DID YOU HEAR WHILE SERVING ON A JURY?

WAS THERE ANYTHING ABOUT YOUR JURY SERVICE THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

1.30 HAVE YOU EVER SERVED ON A GRAND JURY PANEL? YES NO

CRIMINAL OR CIVIL GRAND JURY? _____

APPROXIMATE YEAR(S)? _____

WHERE DID YOU SERVE ON A GRAND JURY? _____

HOW LONG DID YOU SERVE ON A GRAND JURY? _____

WHAT KIND OF MATTERS DID YOU HEAR WHILE SERVING ON A GRAND JURY?

WAS THERE ANYTHING ABOUT YOUR GRAND JURY SERVICE THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

Juror ID number _____

Case number _____

1.31 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER BEEN A VICTIM OF A CRIME?

YES NO

IF YES, WHO? _____

WHAT CRIME(S)? _____

WHEN? _____

WHAT HAPPENED? _____

WAS ANYONE ARRESTED? YES NO

WAS THERE A TRIAL? YES NO

IF YES, DID YOU ATTEND THE TRIAL? YES NO

DID THE PERSON WHO IS THE SUBJECT OF THIS QUESTION TESTIFY? YES NO

DID THE POLICE INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

YES NO

DID ANYONE WORKING FOR THE DEFENDANT INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

YES NO

AS A RESULT OF THAT EXPERIENCE IS THERE ANYTHING THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

1.32 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER BEEN A WITNESS TO A CRIME?

YES NO

IF YES, WHO? _____

WHAT CRIME(S)? _____

WHEN? _____

WHAT HAPPENED? _____

WAS ANYONE ARRESTED? YES NO

WAS THERE A TRIAL? YES NO

IF YES, DID YOU ATTEND THE TRIAL? YES NO

DID THE PERSON WHO IS THE SUBJECT OF THIS QUESTION TESTIFY? YES NO

Juror ID number _____

Case number _____

DID THE POLICE INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

YES NO

DID ANYONE WORKING FOR THE DEFENDANT INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

YES NO

AS A RESULT OF THAT EXPERIENCE IS THERE ANYTHING THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

1.33 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER HAD ANY CONTACT WITH LAW ENFORCEMENT, INCLUDING, BUT NOT LIMITED TO, 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? (E) A CRIMINAL DEFENDANT?

YES NO

IF YES, WHO? _____

WHAT CRIME(S)? _____

WHEN? _____

WHAT HAPPENED? _____

WAS ANYONE ARRESTED? YES NO

WAS THERE A TRIAL? YES NO

IF YES, DID YOU ATTEND THE TRIAL? YES NO

DID THE PERSON WHO IS THE SUBJECT OF THIS QUESTION TESTIFY? YES NO

DID THE POLICE INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

YES NO

DID ANYONE WORKING FOR THE DEFENDANT INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

YES NO

AS A RESULT OF THAT EXPERIENCE IS THERE ANYTHING THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

Juror ID number _____

Case number _____

1.34 HAVE YOU EVER BEEN TO COURT FOR ANY OTHER REASON? EXPLAIN:

1.35 THE FOLLOWING IS A PRINCIPLE OF LAW THAT APPLIES TO ALL CRIMINAL CASES:

A defendant in a criminal action is presumed to be innocent. This presumption requires that the People prove each element of a crime [and special allegation] beyond a reasonable doubt. Whenever the judge tells you the People must prove something, the judge means they must prove it beyond a reasonable doubt [unless the judge specifically tells you otherwise].

Proof beyond a reasonable doubt is proof that leaves you with an abiding conviction that the charge is true. The evidence need not eliminate all possible doubt because everything in life is open to some possible or imaginary doubt.

In deciding whether the People have proved their case beyond a reasonable doubt, you must impartially compare and consider all the evidence that was received throughout the entire trial. Unless the evidence proves the defendant[s] guilty beyond a reasonable doubt, (he/she/they) (is/are) entitled to an acquittal and you must find (him/her/they) not guilty. (CALCRIM No. 130)

DO YOU UNDERSTAND THIS PRINCIPLE OF LAW?

YES NO

DO YOU AGREE WITH THIS PRINCIPLE OF LAW?

YES NO

WILL YOU FOLLOW THIS PRINCIPLE OF LAW?

YES NO

IF YOU ANSWERED NO TO ANY QUESTION, PLEASE EXPLAIN:

1.36 IN GENERAL, WHAT ARE YOUR OPINIONS, IF ANY, ABOUT LAW ENFORCEMENT OFFICERS?

1.37 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER HAD A PARTICULARLY PLEASANT OR UNPLEASANT EXPERIENCE WITH LAW ENFORCEMENT OR THE DISTRICT ATTORNEY'S OFFICE?

YES NO

IF YES, PLEASE EXPLAIN:

Juror ID number _____

Case number _____

1.38 WOULD THE FACT THAT A WITNESS IS A MEMBER OF LAW ENFORCEMENT CAUSE YOU TO AUTOMATICALLY BELIEVE OR DISBELIEVE HIS OR HER TESTIMONY?

YES NO

IF YES, PLEASE EXPLAIN:

Juror ID number _____

Case number _____

JUROR QUESTIONNAIRE FOR CRIMINAL CASES

Verification

I, _____, (PRINT NAME) DECLARE UNDER PENALTY OF PERJURY UNDER
THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING RESPONSES I HAVE GIVEN
ON THIS JUROR QUESTIONNAIRE, AND ON ANY ATTACHED SHEETS, ARE TRUE AND CORRECT
TO THE BEST OF MY KNOWLEDGE AND BELIEF.

(DATE and PLACE)

(SIGNATURE)

Rule 4.200 of the California Rules of Court is amended, effective January 1, 2006, to read:

1 **Rule 4.200. Pre-voir dire conference in criminal cases**

2
3 (a) **[The conference]** Before jury selection begins in criminal cases, the court ~~shall~~
4 must conduct a conference with counsel to determine:

5
6 (1) A brief outline of the nature of the case, including a summary of the
7 criminal charges;

8
9 (2) The names of persons counsel intend to call as witnesses at trial;

10
11 (3) The People's theory of culpability and the defendant's theories;

12
13 (4) The procedures for deciding requests for excuse for hardship and
14 challenges for cause; ~~and~~

15
16 (5) The areas of inquiry and specific questions to be asked by the court and, ~~as~~
17 ~~permitted by the court,~~ by counsel and any time limits on counsel's
18 examination;

19
20 (6) The schedule for the trial and the predicted length of the trial;

21
22 (7) The number of alternate jurors to be selected and the procedure for
23 selecting alternate jurors; and

24
25 (8) The procedure for making *Wheeler/Batson* objections.

26
27 The judge ~~shall~~ must, if requested, excuse the defendant from then disclosing
28 any defense theory.

29
30 (b) **[Written questions]** The court may require counsel to submit in writing, and
31 before the conference, that all questions that counsel requests the court to be
32 asked of prospective jurors. This rule applies to questions to be asked, either
33 orally or by written questionnaire, shall be submitted to the court and opposing
34 counsel in writing before the conference. *The Juror Questionnaire for*
35 *Criminal Cases* (form MC-002) may be used.

36
37 **Advisory Committee Comment**

38
39 Use in conjunction with standard 8.5.

Rule 4.201 of the California Rules of Court is amended, effective January 1, 2006, to read:

1 **Rule 4.201. ~~Supplemental~~ Voir dire in criminal cases**

2

3 ~~In criminal jury trials,~~ To select a fair and impartial jury, the judge must conduct an initial
4 examination of the prospective jurors orally, or by written questionnaire, or by both
5 methods. The *Juror Questionnaire for Criminal Cases* (form MC-002) may be used.

6 After completion of the initial examination, the court shall~~must~~ permit counsel to
7 conduct supplemental questioning as provided in Code of Civil Procedure section 223.

Section 8.5 of the Standards of Judicial Administration is amended, effective January 1, 2006, to read:

1 **Sec. 8.5. Examination of prospective jurors in criminal cases**

2
3 **(a) [In general]**

- 4
5 (1) This standard applies in all criminal cases.
6
7 (2) The examination of prospective jurors in a criminal case should include
8 all questions necessary to insure the selection of a fair and impartial jury.
9

10 ~~The trial judge may, upon a showing of good cause, permit supplemental~~
11 ~~examination calculated to discover possible bias or prejudice with regard to the~~
12 ~~circumstances of the particular case, relevant to a challenge for cause.~~

- 13
14 (3) The court may consider conducting sequestered voir dire on issues that
15 are sensitive to the prospective jurors, on questions concerning media
16 reports of the case, and on any other issue the court deems advisable.
17

18 *(Subd (a) amended effective January 1, 2006~~June 6, 1990~~; previously amended*
19 *effective January 1, 1988, January 1, 1990, and June 6, 1990.)*

- 20
21 **(b) [Examination of jurors]** The trial judge's examination of prospective jurors in
22 criminal cases should include the ~~following~~ areas of inquiry listed below and
23 any other matters affecting their qualifications to serve as jurors in the case.
24 The trial judge may want to use the *Juror Questionnaire for Criminal Cases*
25 (form MC-002) to assist in the examination of prospective jurors. Form MC-
26 002 is an optional form and is *not* intended to constitute the complete
27 examination of prospective jurors. Form MC-002 is a tool for trial judges to
28 use to make the initial examination of prospective jurors more efficient. If the
29 court chooses to use form MC-002, its use and any supplemental questions
30 submitted by counsel must be discussed at the pre-voir dire conference
31 required by rule 4.200. Excusing jurors based on questionnaire answers alone
32 is generally not advisable.
33

- 34 (1) (Address to entire jury panel): Do any of you have any vision, hearing, or
35 medical difficulties that may affect your jury service? (Response.)

- 36
37 (2)~~(3)~~ (In particular, for lengthy trials. Address to entire jury panel): This trial
38 will likely take _____ days to complete, but it may take longer. (State
39 the days and times during the day when the trial will be in session.) Will
40 any of you find it difficult or impossible to participate for this period of

1 time? (After the entire panel has been screened for time hardships, direct
2 the excused jurors to return to the jury assembly room for possible
3 reassignment to other courtrooms for voir dire.)
4

5 (3)(4) (At this point the court may wish to submit any juror questionnaire that
6 has been developed to assist in voir dire. The court should remind panel
7 members that their answers on the questionnaire are given under penalty
8 of perjury. In addition, if a questionnaire is used, the court and counsel
9 may wish to question individual prospective jurors further based on their
10 responses to particular questions, and a procedure for doing so should be
11 established at the pre-voir dire conference. Therefore, it may not be
12 necessary to ask all of the prospective jurors questions 5 through 25 that
13 follow, although the text may assist the court with following up with
14 individual jurors about answers given on the questionnaire.)
15

16 (To the entire jury panel ~~after it has been sworn and seated~~): I am now
17 going to question the prospective jurors who are seated in the jury box
18 concerning their qualifications to serve as jurors in this case. All the
19 remaining members of this jury panel, however, should pay close
20 attention to my questions, making note of the answers you would give if
21 these questions were put to you personally. If and when any other
22 member of this panel is called to the jury box, he or she will be asked to
23 answer these questions.
24

25 (4)(2) (To the prospective jurors seated in the jury box): In the trial of this
26 case each side is entitled to have a fair, unbiased, and unprejudiced jury.
27 If there is any fact or any reason why any of you might be biased or
28 prejudiced in any way, you must disclose such reasons when you are
29 asked to do so. It is your duty to make this disclosure.
30

31 (5) (To the prospective jurors seated in the jury box): Do any of you know
32 anyone else on this jury panel? (Response.)
33

34 (6)(4) Ladies and gentlemen of the jury: This is a criminal case entitled The
35 People of the State of California v. _____. The (defendant is)
36 (defendants are) seated _____.
37

- 38 a. (Mr.) (Ms.) (defendant), please stand and face the prospective
39 jurors in the jury box and in the audience seats. (*Defendant*
40 *complies.*) Is there any member of the jury panel who is
41 acquainted with the defendant or who may have heard (his)
42 (her) name prior to today? If your answer is yes, please raise
43 your hand.

- 1
2 b. The defendant, _____, is represented by (his) (her)
3 attorney, _____, who is seated _____. (Mr.)
4 (Ms.) (defense attorney), would you please stand? Is there any
5 member of the jury panel who knows or who has seen (Mr.)
6 (Ms.) _____ prior to today?
7
8 c. (If there is more than one defendant, repeat (a) and (b) for each
9 codefendant.)
10

11 ~~(7)~~(5) The People are represented by _____, Deputy District Attorney,
12 who is seated _____. (Mr.) (Ms.) (district attorney), would you
13 please stand? Is there any member of the jury panel who knows or who
14 has seen (Mr.) (Ms.) _____ prior to today?
15

16 ~~(8)~~(6) The defendant is charged by an (information) (indictment) filed by the
17 district attorney with having committed the crime of _____, in
18 violation of section _____ of the _____ Code, it being alleged that
19 on or about _____ in the County of _____, the defendant did
20 (*describe the offense*). To (this charge) (these charges) the defendant has
21 pleaded not guilty, and ~~it will be the question of the jury will have to~~
22 decide whether the defendant's guilt has been proved beyond a reasonable
23 doubt. ~~that you will be asked to decide if you are selected as a trial juror~~
24 ~~in this case.~~ Having heard the charge(s) that (has)(have) been filed against
25 the defendant, is there any member of the jury panel who feels that he or
26 she cannot give this defendant a fair trial because of the nature of the
27 charge(s) against (him)(her)?
28

29 ~~(9)~~(7) Have any of you heard of, or have you any prior knowledge of, the facts;
30 or events in this case?
31

32 (10) Do any of you have any ethical, religious, political, or other beliefs that
33 would prevent you from serving as a juror in this case?
34

35 ~~(11)~~(8) During the trial of this case, the following persons may be called as
36 witnesses to testify on behalf of the parties or their names may be
37 mentioned in evidence: _____ ~~(The defendant may be~~
38 ~~excused from disclosing the name of any witness. (Do not identify the~~
39 ~~side on whose behalf the witness might be called.)~~ Have any of you heard
40 of or otherwise been acquainted with any of the witnesses just named?
41 You should note that the parties are not required and might not wish to
42 call all of these witnesses, and they may later find it necessary to call
43 other witnesses.

1
2 ~~(12)(9) Do any of you have any belief or feeling toward any of the parties,~~
3 ~~attorneys or witnesses that would make it impossible, or difficult, for you~~
4 ~~to act fairly and impartially, both as to the defendant and the People? Do~~
5 ~~any of you have any financial or personal interest in the outcome of this~~
6 ~~case?~~

7
8 ~~(13)(10) How many of you have served previously as jurors in a criminal case?~~
9

10 *(To each person whose hand is raised):*

11
12 a. (Mr.) (Ms.) _____ (or Juror ID number), you indicated
13 you have been a juror in a criminal case. What were the charges
14 ~~was the nature of the charge~~ in that case? *(Response.)*

15
16 b. Do you feel you can put aside whatever you heard in that case
17 and decide this case on the evidence to be presented and the
18 law as I ~~shall~~will state it to you? *(Response.)*

19
20 ~~(14)(11) May I see the hands of those jurors who have served on civil cases,~~
21 ~~but who have never served on a criminal case? *(Response.)* You must~~
22 ~~understand that there are substantial differences in the rules applicable to~~
23 ~~the trial of criminal cases from those applicable to the trial of civil cases.~~
24 ~~This is particularly true respecting the burden of proof ~~which~~that is~~
25 ~~placed upon the People. In a civil case we say that the plaintiff must prove~~
26 ~~his case by a preponderance of the evidence. In a criminal case, the~~
27 ~~defendant is presumed to be innocent, and before (he) (she) may be found~~
28 ~~guilty, the People must prove (his) (her) guilt beyond a reasonable doubt.~~
29 ~~If the jury has a reasonable doubt, the defendant must be acquitted. Will~~
30 ~~each of you be able to set aside the instructions ~~which~~that you received in~~
31 ~~your previous cases and try this case on the instructions given by me in~~
32 ~~this case?~~

33
34 ~~(15)(12) The fact that the defendant is in court for trial, or that charges have~~
35 ~~been made against (him) (her), is no evidence whatever of (his) (her)~~
36 ~~guilt. The jurors are to consider only evidence properly received in the~~
37 ~~courtroom in determining whether the defendant's guilt has been proved~~
38 ~~beyond a reasonable doubt. The defendant has ~~been arraigned and has~~~~
39 ~~entered a plea of "not guilty," which is a complete denial, making it~~
40 ~~necessary for the People, acting through the district attorney, to prove~~
41 ~~beyond a reasonable doubt the case against the defendant. ~~Until and~~~~
42 ~~unless this is done, the presumption of innocence prevails If the evidence~~

1 does not convince you of the truth of the charges beyond a reasonable
2 doubt, the defendant is entitled to a verdict of not guilty.

3
4 In the following questions I will be using the terms “~~family,~~” “relative,” “close
5 friend,” and “anyone with whom you have a significant personal relationship.”
6 The term, “anyone with whom you have a significant personal relationship”
7 means a domestic partner, life partner, former spouse, or anyone with whom
8 you have an influential or intimate relationship that you would characterize as
9 important.

10
11 ~~(16)~~(14) Have you, or to your knowledge, any ~~member of your family,~~ relative,
12 close friend, or anyone with whom you have a significant personal
13 relationship, ever been the victim of any crime? a complaining witness or
14 a victim in a case of this kind? (Response.)

15
16 ~~(17)~~(13) Have you, or to your knowledge, any ~~member of your family,~~ relative,
17 close friend, or anyone with whom you have a significant personal
18 relationship, ever ~~been arrested for or charged with an offense similar to~~
19 ~~that in this case?~~ had any contact with law enforcement, including, but not
20 limited to, being: (a) stopped by the police? (b) accused of misconduct,
21 whether or not it was a crime? (c) investigated as a suspect in a criminal
22 case? (d) charged with a crime? or (e) a criminal defendant? (Response.)

23
24 ~~(18)~~(15) Have you, or to your knowledge, any ~~member of your family,~~ relative,
25 close friend, or anyone with whom you have a significant personal
26 relationship, had any law enforcement training or experience or been a
27 member of or been employed by any law enforcement agency? By law
28 enforcement agency, I include any police department, sheriff’s office,
29 highway patrol, district attorney’s office, city attorney’s office, attorney
30 general’s office, United States attorney’s office, FBI, ~~ete~~and others. (If
31 so, elicit the details of the experience or connection.)

32
33 ~~(19)~~(16) Would you be able to listen to the testimony of a police or other peace
34 officer and measure it ~~by the same way you would~~ standards that you use
35 ~~to test the credibility of any other witness?~~

36
37 ~~(17)~~ ~~Would you have any difficulty or embarrassment in returning a verdict for~~
38 ~~or against the side which had a police or other peace officer as a witness?~~

39
40 ~~(20)~~(18) *(When appropriate)* It may appear that one or more of the parties,
41 attorneys, or witnesses come from a particular national, racial, or religious
42 group (or may have a life style different from your own). Would this in

1 any way affect your judgment or the weight and credibility you would
2 give to their testimony?
3

4 ~~(21)~~(19) It is important that I have your assurance that you will, ~~without~~
5 ~~reservation,~~ follow my instructions and rulings on the law and will apply
6 that law to this case. ~~To put it somewhat differently, whether you approve~~
7 ~~or disapprove of the court's rulings or instructions, it is your solemn duty~~
8 ~~to accept as correct these statements of the law. You must accept and~~
9 ~~follow my instructions even if you disagree with the law. You may not~~
10 substitute your own idea of what you think the law ought to be. Will all of
11 you follow the law as given to you by me in this case?
12

13 ~~(22)~~(20) Each of you should now state your:
14

- 15 (i) (Name) (or juror ID number);
- 16
- 17 (ii) Children's ages and the number of children, if any;
- 18
- 19 (iii) Occupation;
- 20
- 21 (iv) Occupational history; and
- 22
- 23 (v) Present employer.
- 24

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

- 27
- 28 ~~(vi)~~ Names;
- 29
- 30 ~~(vi)~~~~(vii)~~ Occupations;
- 31
- 32 ~~(vii)~~~~(viii)~~ Occupational histories; and
- 33
- 34 ~~(viii)~~~~(ix)~~ Present employers.
- 35

36 And for your adult children, their:
37

- 38 (ix) Occupations;
- 39
- 40 (x) Occupational histories; and
- 41
- 42 (xi) Present employers.
- 43

1 *(Please begin with juror number one.)*

2
3 (23)(21) Do you know of any other reason, or has anything occurred during
4 this question period, that might make you doubtful you would be a
5 completely fair and impartial juror in this case or why you should not be
6 on this jury? If there is, it is your duty to disclose the reason at this time?.

7
8 (24)(22) *(At this point After the court conducts the initial examination, Code of*
9 *Civil Procedure section 223 allows counsel to ask supplemental questions*
10 *for the purposes of uncovering possible bias or prejudice relevant to*
11 *challenges for cause. The court may, in the exercise of its discretion, limit*
12 *the oral and direct questioning of prospective jurors by counsel. The*
13 *court may specify the maximum amount of time that counsel for each*
14 *party may question an individual juror, or may specify an aggregate*
15 *amount of time for each party, which can then be allocated among the*
16 *prospective jurors by counsel.)*

17
18 *(After the conclusion of counsel questioning, the court asks each side to*
19 *exercise any challenges for cause.)*

20
21 *(At this point After ruling on challenges for cause, if any, the court calls*
22 *on each side, alternately, to exercise any peremptory challenges.)*

23
24 (25)(23) *(When If a new prospective juror is seated, the court should ask*
25 *(him/her him or her):*

26
27 (i) Have you heard my questions to the other prospective jurors?

28
29 (ii) Have any of the questions I have asked raised any doubt in your
30 mind as to whether you could be a fair and impartial juror in
31 this case?

32
33 (iii) Can you think of any other reason why you might not be able to
34 try this case fairly and impartially to both the prosecution and
35 defendant, or why you should not be on this jury?

36
37 (iv) Give us the personal information requested concerning your
38 occupation, that of your spouse or anyone with whom you have
39 a significant personal relationship, that of your adult children,
40 and your prior jury experience.
41

1 *(Thereupon, as to each new juror seated, the court must permit counsel,*
2 *~~upon a showing of good cause,~~ to ask supplemental questions, and*
3 *proceed with challenges as above.)*
4

5 *(Subd (b) amended effective January 1, 2006-January 1, 2004; adopted effective*
6 *July 1, 1974, as subd (c); amended and relettered effective June 6, 1990; previously*
7 *amended effective January 1, 1997, and January 1, 2004.)*
8

9 **(c) [Improper questions]** When any counsel examines the prospective jurors, the
10 trial judge should not permit counsel to attempt to precondition the prospective
11 jurors to a particular result or allow counsel to comment on the personal lives
12 and families of the parties or their attorneys. ~~Nor should (he) (she) allow~~
13 ~~counsel to question the jurors concerning the pleadings, the applicable law, the~~
14 ~~meaning of particular words and phrases, or the comfort of the jurors, except in~~
15 ~~unusual circumstances, where, in the trial judge's sound discretion, such~~
16 ~~questions become necessary to ensure the selection of a fair and impartial jury.~~
17

18 *(~~Subd (c) amended effective January 1, 2006-Subd (e) as relettered effective January 1,~~*
19 *~~1997; adopted effective July 1, 1974, as subd (e); ~~previously amended and relettered to~~~~*
20 *~~be subd (d) effective June 6, 1990; previously relettered effective January 1, 1997.~~)*
21

22 *Sec. 8.5 amended effective January 1, 2006-January 1, 2004; adopted effective July 1,*
23 *1974; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990,*
24 *January 1, 1997, and January 1, 2004.*
25

26 **Drafter's Notes**

27
28 **1990**—Gender-neutral language is added in section 8.5 of the Standards of Judicial
29 Administration.
30

31 Section 8.5(a)(1) of the Standards of Judicial Administration is amended concerning the
32 examination of prospective jurors in criminal cases, to delete the reference to Code of
33 Civil Procedure section 223.5, which has been repealed by the initiative.
34

35 Section 8.5(a)(2) is amended concerning the examination of prospective jurors in
36 criminal cases, to reflect the limitations on the participation of counsel in voir dire found
37 in new Penal Code section 223.
38

39 New rules 228.2 and 516.2 are added to provide for supplemental examinations in
40 criminal cases, and section 8.5(a)(3) of the Standards of Judicial Administration is
41 repealed concerning the same subject.
42

1 **1997**—Standard 8.5 was amended to recommend that the judge explain to potential jurors
2 in a criminal case that they are to determine whether the defendant's guilt has been
3 proven beyond a reasonable doubt.