

The Basics

CCP §§ 223, 226, 231

- Voir dire should be conducted in open court with other prospective jurors present
- Judge conducts initial questioning- court may limit time for questioning by the parties.
- Court may ask questions submitted by parties
- Defense usually has first turn to question and challenge for cause- Judge may limit time for questioning;
- DA then questions and challenges for cause;
- DA exercises first peremptory challenge, then alternate with defense
- Additional jurors are called as needed and the process continues
- When each side passes consecutively, the jury shall be sworn
- Cause challenges must be made prior to peremptory challenges
- Challenges must be made before jury is sworn

For Cause Challenge

CCP § 225(b)(1)

- Unlimited number (each side)
- General disqualification
 - Lack of any qualification prescribed by law
 - Doesn't speak/understand English, non-resident, etc. (prior felony OK if off probation/parole Jan 2020)
- Implied bias
 - Blood relation to any party, victim, witness, etc.
 - Involvement in prior case
 - Any interest in outcome
- Actual bias
 - State of mind preventing impartiality
 - Focus of voir dire questioning

Peremptory Challenge

CCP §§ 225(b)(2) / 231

- Limited number – reverting back to law in 2016
 - Generally 10 per side
 - **If the crime is punishable with a maximum term of imprisonment of 90 days, there is a limit of 6 per side.**
 - 20 if life or DP case
- Alternates
 - Same number as alternative jurors called (CCP § 234)
- Basis for exclusion of juror
 - May not exclude members of a cognizable group based on group bias
 - AB 3070