

Impeachment Evidence

- Includes:
 - Bias toward the prosecution or against the defense
 - Witness is on parole or probation (P v. Price (1991) 1 C4th 324, 486-87*; Millaud v. Superior Court (1986) 182 CA3d 471, 476-77)
 - Witness has a financial stake in a guilty verdict (e.g., restitution) (Moore v. Marr (2001) 254 F3d 1235, 1244)
 - Witness has a personal relationship with prosecutor (In re McDonald (6th Cir. 2008) 514 F3d 539, 545-46)
 - Witness has independent reason for aligning with prosecution (Wilson v. Beard (3d Cir. 2009) 589 F3d 651, 665 [loves to impersonate police])
 - Witness has longstanding, cooperative relationship with law enforcement (P v. Roberts (1992) 2 C4th 271, 330-31)
 - Witness has racial, religious or other bias or gang affiliation bearing on case, if prosecution is aware (E.g., In re Anthony P. (1985) 167 CA3d 502, 511-12)
 - Witness has illegal immigration status: SPLIT (compare P v. Viniegra (1982) 130 CA3d 577, 580-81 with Hernandez v. Paicius (2003) 109 CA4th 452, 460-61*)

Defense's Sixth Amendment Rights To Acquire Evidence

- ▶ Sixth Amendment rights
 - ▶ To compulsory process
 - ▶ To confrontation
- ▶ Applies pre-trial (P v. Reber (1986) 177 CA3d 523, 531)
- ▶ Does not apply pre-trial (P v. Hammon (1997) 15 C4th 1117, 1126-1127)
- ▶ Pending before Supremes (Facebook, Inc. v. Superior Court (2017) 15 CA5th 729, No. S245203)

Juror Information

- ▶ To obtain information that a particular group has been systematically excluded from the jury pool, D must apply for a court order by demonstrating:
 - ▶ The group is “distinctive”
 - ▶ The group is not fairly and reasonably represented in the jury venire
 - ▶ The underrepresentation is due to “systematic exclusion” of that group from the jury selection process
- (Berghuis v. Smith (2010) 559 US 314, 319)