

6.19 Duty to Deliberate

When you begin your deliberations, elect one member of the jury as your [presiding juror] [foreperson] who will preside over the deliberations and speak for you here in court.

You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict, whether guilty or not guilty, must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight and effect of the evidence simply to reach a verdict.

Perform these duties fairly and impartially. You should also not be influenced by any person's race, color, religious beliefs, national ancestry, sexual orientation, gender identity, gender, or economic circumstances. Also, do not allow yourself to be influenced by personal likes or dislikes, sympathy, prejudice, fear, public opinion, or biases[.] [, including unconscious biases. Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may be expressed without conscious awareness, control, or intention.]

It is your duty as jurors to consult with one another and to deliberate with one another with a view towards reaching an agreement if you can do so. During your deliberations, you should not hesitate to reexamine your own views and change your opinion if you become persuaded that it is wrong.

Comment

“In the typical case, a . . . general unanimity instruction to the jury adequately protects a defendant's right to a unanimous jury verdict.” *United States v. Gonzalez*, 786 F.3d 714, 717 (9th Cir. 2015) (citing *United States v. Chen Chiang Liu*, 631 F.3d 993, 1000 (9th Cir. 2011)). A specific unanimity instruction is required “if it appears that there is a genuine possibility of jury confusion or that a conviction may occur as the result of different jurors concluding that the defendant committed different acts.” *Id.* (internal quotation marks and citation omitted). A specific unanimity instruction may also be necessary in certain circumstances to avoid constitutional error. See *United States v. Ramirez*, 537 F.3d 1075, 1083 (9th Cir. 2008) (trial court appropriately instructed jury it must unanimously reject self-defense theory to find defendant guilty). For further discussion of when a specific unanimity instruction is needed,

see Comment at Instruction 6.27 (Specific Issue Unanimity).

The Supreme Court emphasized the importance of jury instructions as a bulwark against bias in *Pena-Rodriguez v. Colorado*, 137 S. Ct. 855, 871 (2017). Accordingly, the Committee has incorporated stronger language, regarding the jury's duty to act fairly and impartially, into this instruction, Instruction 1.1 (Duty of Jury), and Instruction 6.1 (Duties of Jury to Find Facts and Follow Law).

Revised March 2024