

6.24 Communication with Court

If it becomes necessary during your deliberations to communicate with me, you may send a note through the [clerk] [bailiff], signed by any one or more of you. No member of the jury should ever attempt to communicate with me except by a signed writing, and I will respond to the jury concerning the case only in writing or here in open court. If you send out a question, I will consult with the lawyers before answering it, which may take some time. You may continue your deliberations while waiting for the answer to any question. Remember that you are not to tell anyone—including me—how the jury stands, numerically or otherwise, on any question submitted to you, including the question of the guilt of the defendant, until after you have reached a unanimous verdict or have been discharged.

Comment

In *United States v. Southwell*, 432 F.3d 1050, 1052-53 (9th Cir. 2005), the Ninth Circuit noted:

“The necessity, extent and character of additional [jury] instructions are matters within the sound discretion of the trial court.” *Wilson v. United States*, 422 F.2d 1303, 1304 (9th Cir. 1970) (per curiam). That discretion is abused, however, when the district court fails to answer a jury’s question on a matter that is not fairly resolved by the court’s instructions. Because it is not always possible, when instructing the jury, to anticipate every question that might arise during deliberations, “the district court has the responsibility to eliminate confusion when a jury asks for clarification of a particular issue.” *United States v. Hayes*, 794 F.2d 1348, 1352 (9th Cir. 1986); see also *Bollenbach v. United States*, 326 U.S. 607, 612-13 (1946) (“When a jury makes explicit its difficulties a trial judge should clear them away with concrete accuracy.”).