

## CPL ARTICLE 310: JURY DELIBERATION.

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Jury **MUST** retire to deliberate after being charged.

Deliberations **must** be *outside* the courtroom.

The Jury must be kept together by a **COURT OFFICER** (NOT Public Servant!).

The Court may allow the jury to recess; but must first notice the parties and allow them to be heard *away* from the jury. Recesses can last no more than 24 hours at a time (exclusive of weekends and holidays). During recess the jury is kept together by **PUBLIC SERVANT**. The jury must be admonished not to begin deliberations again until the appointed time, and then only if all are present.

The jury may be allowed to take any trial exhibits admitted into evidence; but only that which the Court allows after allowing parties to be heard. The jury also takes with them a list - prepared by the Court - of all charges. The jury may take a list of the witnesses, only if the Court determines that such will assist them.

Any time during deliberations that jury can request additional info, at which time they must be returned to the courtroom. The parties must be notified, and the defendant must be present. If the jury is requesting information regarding a statute, and the parties consent, the Court *may* allow them to take copies.

Before rendering the verdict, the foreperson [or another juror if the foreperson is unable or refuses] must be asked if all jurors agreed; verdict is then read by the foreperson (else another, as above). The Court, Prosecutor, defendant and counsel must be present.

An error in the verdict - or if not in the form charged by the Court - is defective. The Court must explain the error, and require the jury to re-deliberate. If the jury's verdict is still defective, the Court can either enter an acquittal to the *entire* indictment; **OR:** order re-trial of the whole indictment or only specified charges [EXCEPT that any for any charge which the jury clearly intended to acquit **must** be so recorded.]

If the Court accepts an incomplete verdict, shall be deemed acquittal of ignored charge(s). Regarding enterprise corruption: if the jury failed to render unanimous special verdict convicting defendant of at least 3 pattern offenses; Court must enter acquittal of corruption charge.

If the jury deliberates for a long time, and the Court is satisfied that no verdict is reasonably forthcoming, it may discharge the jury; OR absent a lengthy period of deliberation, if both parties consent; OR: if a mistrial is ordered. Re-trial when jury discharged *during* deliberations is of all charges not dismissed or acquitted (including

when mistrial declared [unlike mistrial before jury charged/retires, when *all* charges are re-tried]).

If jury has so far only agreed as regards *some* of the charges/defendants, the Court shall order them to deliberate further; and **may** also accept a partial verdict.

However where there is only a small chance of further agreement being reached, **shall** accept partial verdict and discharge. On a re-trial following such partial verdict, any count not agreed upon, but which nevertheless inconsistent with the partial verdict - OR a concurrent charge - is not re-tried.

All verdicts are recorded on minutes, and read back to the jury. The jury as a whole **MUST** be collectively asked if such be their decision. Jurors only polled *separately/individually* upon request of either party. If the jury answers affirmatively, shall be discharged (unless needed for sentencing); else must be directed to re-deliberate.

A conviction of guilty against a defendant not responsible by reason of infancy shall be vacated and replaced by a juvenile delinquency fact-finding; and the matter then removed to Family Court (pursuant to section 725). However if the defendant was also convicted of a proper crime, any conviction of charge for which not responsible is a "nullity".