

## The Jury System

# California Simplifies Jury Instructions

Will juror understanding improve?

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In July 2003, California led the nation when it issued completely rewritten, simplified civil jury instructions. Rewriting its criminal instructions proved more difficult. "Criminal law tends to be very statutory, and the statutes may have been around for a very long time," says Loyola Law School Professor Peter Tiersma, Los Angeles a member of California's Task Force on Jury Instructions. By mid-summer, however, the state's Administrative Office of Courts will likely be reviewing new criminal jury instructions.

Ironically, O.J. Simpson's acquittal by a Los Angeles jury catalyzed California's jury instruction project. Concerned about the resulting perception that the jury system was not working, the Judicial Council of California

established a blue-ribbon commission to review it, which in turn recommended the formation of the Task Force on Jury Instructions.

Because the prior *Book of Approved Jury Instructions* (BAJI) and *California Jury Instructions: Criminal* (CALJIC) were copyrighted, the task force rewrote the new instructions from scratch. The new instructions are in the public domain and available as a template for other states that decide to simplify their instructions.

Simpler is not necessarily better, of course. "The goal of comprehensibility and plain speech sometimes is in conflict with legal accuracy," notes Judge Gregory Mize, Washington, DC, a member of the ABA's American Jury Project. Studies have revealed poor juror comprehension of jury instructions. The real question is whether the simplified instructions will yield better understanding.

Simplification of jury instructions involves more than mere vocabulary. Other issues include organization, style, and grammar. For example, under the BAJI, the judge would instruct a juror in a motor vehicle case, "Do not assume to be true any insinuation suggested by a question asked a witness." Under the

new instructions, the judge will instruct, "Do not assume that something is true just because one of the attorneys asked a question that suggested it was."

Despite widespread interest in improving the jury system, California is unique in having completely rewritten its instructions. Approximately half of all states, however, have implemented or are considering improvements to their jury instructions. □

### Resources:

Judicial Council of California Civil Jury Instructions (CAJCI), available at [www.courtinfo.ca.gov/reference/documents/civiljuryinst.pdf](http://www.courtinfo.ca.gov/reference/documents/civiljuryinst.pdf).

Peter Tiersma, *The Language of Jury Instructions*, available at [www.languageandlaw.org/ILJRYINST.HTM](http://www.languageandlaw.org/ILJRYINST.HTM); *The Rocky Road to Legal Reform*: 66 BROOKLYN L. REV. 1081 (2001).

American Bar Association, American Jury Project, *Principles for Juries and Jury Trials*, Principle 14, available at [www.abanet.org/media/docs/juryprinciples.pdf](http://www.abanet.org/media/docs/juryprinciples.pdf).

Center for Jury Studies, National Center for State Courts, available at [www.ncsconline.org/juries/topics.htm](http://www.ncsconline.org/juries/topics.htm).