



**VII. IMPORTANT TRIAL
CONSIDERATIONS**

PRESENTED BY:

JUDGE MARK A. SPEISER

I. ROLE OF JUDGE

- CONTROL MEDIA
 - COURTROOM PRESENCE
 - ACCESS TO WITNESSES, JURORS AND JUDGE
 - “GAG ORDERS”
- MAINTAIN ORDER IN COURTROOM REMEMBER: RESPECT IS EARNED NOT BESTOWED
- CONTEMPT: POWER OF COURT
- PROJECT IMAGE OF IMPARTIALITY
- SEQUESTRATION OF WITNESSES
- CHANGE OF VENUE MOTION DUE TO PRETRIAL PUBLICITY



- EXCLUDE PUBLIC FROM COURTROOM DURING TESTIMONY BY CHILD VICTIM OF SEXUAL OFFENSE
- RULE ON ADMISSIBILITY OF EXHIBITS INTO EVIDENCE
- DETERMINE WHETHER WITNESS QUALIFIES TO TESTIFY AS AN EXPERT WITNESS
- RESOLVE UNIQUE EVIDENTIARY ISSUES
- RULE ON OBJECTIONS TO TESTIMONIAL EVIDENCE
- JUDGE MUST REFRAIN FROM:
 - FACIAL REACTIONS,
 - BODY LANGUAGE,
 - VERBAL COMMENTARY,CONCERNING AN ATTORNEY'S STATEMENTS, WITNESS TESTIMONY OR AN EXHIBIT INTRODUCED INTO EVIDENCE THAT COULD BE CONSTRUED AS A COMMENT OR OPINION BY THE COURT ON AN ISSUE IN THE CASE



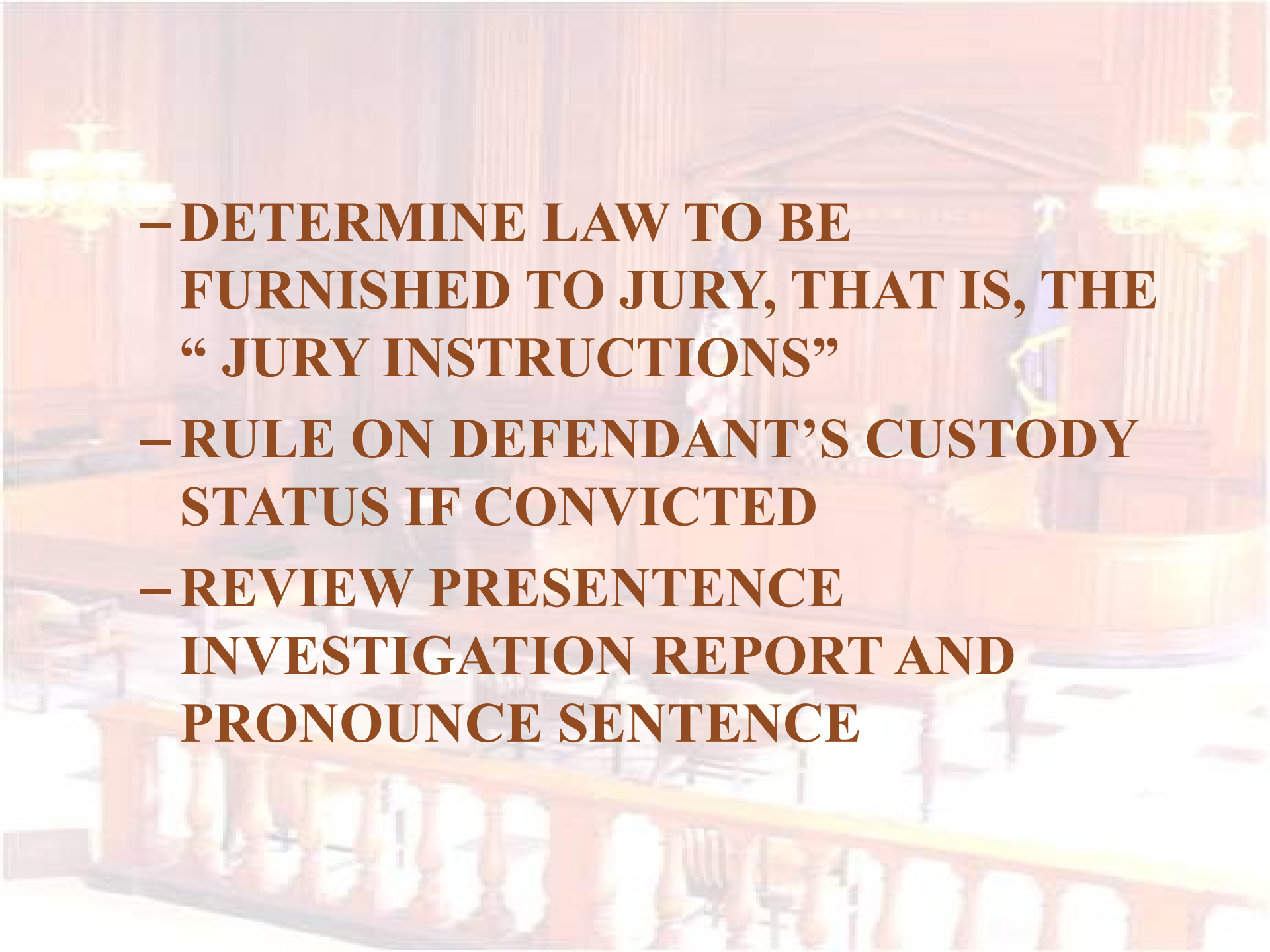
- INSURE JURY COMFORT AND THEIR COMPLIANCE WITH COURT DIRECTIVES**
- RULE ON OBJECTIONS TO JURY CHALLENGES**
- RULE ON JUROR NOTETAKING AND JURORS QUESTIONING OF WITNESSES**
- PREVENT MISBEHAVIOR BY ATTORNEYS OR DEFENDANT**
 - EXCLUDING DEFENDANT FROM TRIAL DUE TO DISRUPTIVE COURTROOM BEHAVIOR IS PERMISSIBLE DESPITE CONSTITUTIONAL RIGHT UNDER 6TH AMMENDMENT TO BE PRESENT AT TRIAL AND CONFRONT THE WITNESSES TESTIFYING AGAINST THE DEFENDANT**



**– RULE ON REQUESTS FOR JURY
VIEW OF CRIME SCENE**

**– DETERMINE WHETHER CASE
SHOULD BE SUBMITTED TO JURY
FOR DECISION**

**• RULE ON MOTION FOR DIRECTED
VERDICT OF ACQUITTAL**

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- DETERMINE LAW TO BE FURNISHED TO JURY, THAT IS, THE “ JURY INSTRUCTIONS”**
 - RULE ON DEFENDANT’S CUSTODY STATUS IF CONVICTED**
 - REVIEW PRESENTENCE INVESTIGATION REPORT AND PRONOUNCE SENTENCE**

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- RULE ON POST-TRIAL MOTIONS**
 - INSURE COURT REPORTER RECORDS ENTIRE PROCEEDING TO DEVELOP AN ACCURATE RECORD FOR APPEAL**
 - ARRANGE FOR TRANSLATOR, IF NEEDED**

- **II. JURY ISSUES**

- **DEFENDANT HAS 6TH AMENDMENT CONSTITUTIONAL RIGHT TO JURY TRIAL IF DEFENDANT FACES POSSIBILITY OF A SENTENCE MORE THAN 6 MONTHS**

- **SERIOUS V. PETTY CRIME**

- **DEFENDANT CAN WAIVE RIGHT TO JURY TRIAL IF DONE INTELLIGENTLY AND KNOWINGLY; PROSECUTOR MUST ALSO CONSENT TO WAIVER OF TRIAL BY JURY IF THE JURY TRIAL WAIVER IS INITIATED BY DEFENDANT**



– JUROR ELIGIBILITY

- U.S. CITIZEN**
- COUNTY RESIDENT**
- AGE 18-70**
- NOT A CONVICTED FELON**
- NOT A SWORN LAW ENFORCEMENT OFFICER**

– SOURCE OF JURY POOL

- VOTER REGISTRY**
- TAXPAYER ROLL**
- DRIVERS LICENSE LIST**

– SIZE OF JURY PANEL

- **FEDERAL-12**
- **STATE OF FLORIDA**
 - **DEATH PENALTY -12**
 - **ALL OTHER CRIMES-6**

» FLORIDA IS 1 OF 2 STATES

ALLOWING 6 INSTEAD OF 12

**JURORS TO DECIDE A CRIMINAL CASE
WHERE A LIFE SENTENCE CAN BE
IMPOSED IF DEFENDANT IS CONVICTED**

- **ALTERNATE JURORS**
 - **ROLE AND NUMBER**
- **USE OF JUROR QUESTIONNAIRES IN CAPITAL OR
COMPLEX TRIALS**
- **VOIR DIRE**
 - **FEDERAL**
 - **STATE**



– FOCUS OF JUROR INTERVIEWS

- **UNCOVER BIAS OR PREJUDICE**
- **IDENTIFY PRECONCEIVED IDEAS**
- **ASCERTAIN FAMILIARITY WITH:**

–CASE

–WITNESSES

–DEFENDANT

–ATTORNEYS

–JUDGE

– ABILITY TO BE FAIR

– CAPABILITY TO REACH A VERDICT

**– LEARN JUROR'S PERSONAL
BACKGROUND**





– STRIKING ENTIRE JURY PANEL

– JUROR CHALLENGES

- **CHALLENGES FOR CAUSE**

- UNLIMITED NUMBER**

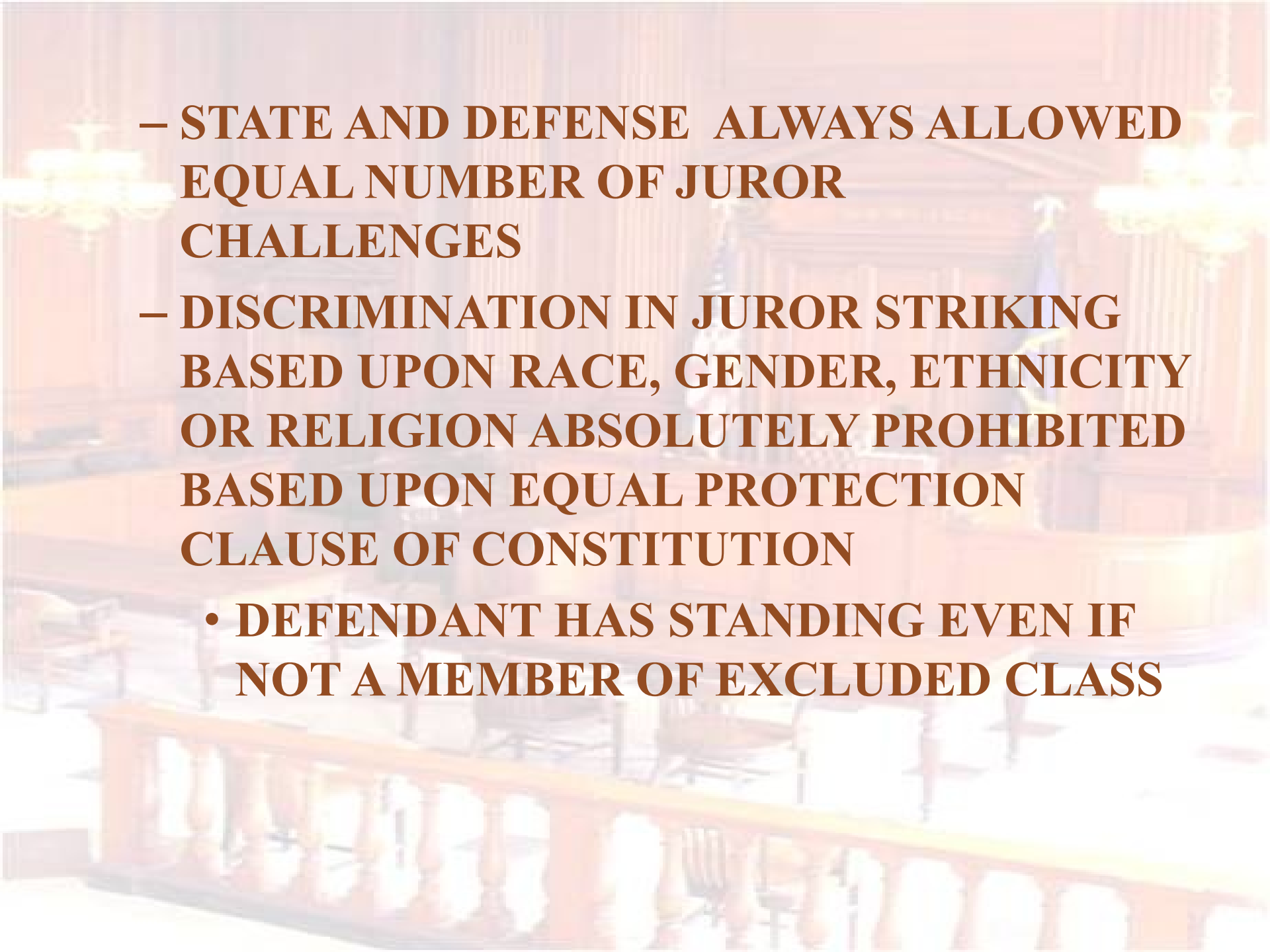
- **PEREMPTORY CHALLENGES**

- 10- DEATH PENALTY OR LIFE IN PRISON**

- 6- ALL OTHER FELONIES**

- 3- MISDEMEANORS**

- 1- FOR EVERY TWO ALTERNATE JURORS BEING SEATED**

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- STATE AND DEFENSE ALWAYS ALLOWED EQUAL NUMBER OF JUROR CHALLENGES**
 - DISCRIMINATION IN JUROR STRIKING BASED UPON RACE, GENDER, ETHNICITY OR RELIGION ABSOLUTELY PROHIBITED BASED UPON EQUAL PROTECTION CLAUSE OF CONSTITUTION**
 - DEFENDANT HAS STANDING EVEN IF NOT A MEMBER OF EXCLUDED CLASS**



–MANNER OF STRIKING JURORS

- **CONDUCTED OUTSIDE OF
EARSHOT OF JURORS**

- **MAYBE ORAL OR WRITTEN**

- **DEFENDANT HAS TO
APPROVE THEIR COUNSEL'S
JUROR CHALLENGES**

–SWEARING IN THE JURY PANEL

– DOUBLE JEOPARDY CLAUSE OF 5TH AMENDMENT TO CONSTITUTION ATTACHES ONCE JURY IMPANELED AND SWORN IN

- DEFENDANT CAN NOT BE TRIED TWICE FOR SAME OFFENSE**
- REPROSECUTION AFTER ACQUITAL PROHIBITED**
- REPROSECUTION AFTER MISTRIAL ONLY IF BASED UPON DEFENDANT'S CONSENT OR MISCONDUCT; A HUNG JURY; OR ILLNESS DURING TRIAL OF JUDGE, JUROR OR DEFENDANT**

– JUROR MISCONDUCT

- RECEIVING, ACCESSING OR SOLICITING INFORMATION OUTSIDE THE COURTROOM**
- MISREPRESENTATIONS OR OMISSIONS DURING JURY SELECTION**
- SLEEPING JUROR**
- JUROR HOSTILITY DURING DELIBERATIONS**





– JUROR SEQUESTRATION

– JUROR VERDICTS

- **UNANIMOUS**

- **HUNG JURY (JUROR DEADLOCK)**

- **GUILTY AS CHARGED**

- **GUILTY OF LESSER INCLUDED
OFFENSE**

- **NOT GUILTY**

- **NOT GUILTY BY REASON OF
INSANITY**

– JUROR DISCHARGE

A grand, wood-paneled courtroom with a judge's bench, American and state flags, and ornate chandeliers. The room is filled with wooden furniture, including a large table and chairs, and a wooden railing in the foreground. The walls are covered in vertical wood paneling, and the ceiling features two large, ornate chandeliers. The overall atmosphere is formal and dignified.

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