

## Highlights of the 2026 Edition

- In *People v. Allen* the California Supreme Court has granted review to determine if, following a suspect's invocation of *Miranda*, incriminating statements obtained from that defendant through a *Perkins* operation are admissible as substantive proof of guilt against the defendant. In *People v. Garcia* the court has granted review on that same issue as well as on a related question: what effect, if any, does the fact that the police continued to interrogate the suspect following his invocation of his right to remain silent have on the admissibility of statements later obtained through a *Perkins* operation. See section 5:22.
- When the attorney for a juvenile expresses a doubt as to his client's competency, triggering a competency proceeding, the psychotherapist privilege is negated by Evidence Code section 2016 (*People v. T.M.*). See section 5:53.
- Health & Safety Code section 1799.110, requires experts on the standard of care for emergency medical treatment to have "substantial professional experience within the last 5 years while assigned to provide emergency medical coverage." This provision applies in malpractice actions against "physicians who remotely provide medical expertise on an expedited basis as part of an emergency department in the midst of treating an emergency department patient" (*Charlie L. v. Kangavari*). See section 4.2.
- Expertise is "relative to the subject," may be based on experience and is "not subject to rigid classification according to formal education or certification." (*Richard v. Union Pacific Railroad*). See section 4:1.
- Several cases have discussed the admissibility and sufficiency of evidence in Penal Code section 1172.6(d) cases. *People v. Patton* concluded that evidence in a preliminary hearing transcript may refute conclusory statements made in an 1172.6 petition at the prima facie hearing. Courts of Appeal are divided over whether the prosecution may rely on a grand jury transcript at an 1172.6(d)(3) hearing. *People v. Ramos* held that where one codefendant is tried separately, the prosecution may use the transcript from that separate trial against the codefendant, Ramos, who pled guilty, in Ramos's 1172.6 hearing. See section 2:101.
- In *People v. Aguirre* the California Supreme Court held that Evidence Code section 352.2 does not apply retroactively. *Aguirre* and *People v. Hin* applied the reasoning in *People v. Coneal* to cases tried before the enactment of section 352.2 to find the trial court erroneously admitted rap lyrics under section 352. See section 6:15.
- A "defendant's right to confrontation is violated if a prosecutor facing a witness who refuses to answer essentially testi-

fies for the witness by asking leading questions that convey prior statements incriminating the defendant that the witness made to police.” (*People v. Jasso*). See section 3:22.

- In *People v. Hin* the California Supreme Court set out the five factors trial courts should weigh in deciding if a *Miranda* readvisement is necessary before a custodial interrogation is resumed. See section 5:21.
- The *Pitchess* procedural requirements govern efforts to obtain *Brady* information from confidential police personnel files. (*Schneider v. Superior Court of Los Angeles County*). See section 5:79.
- The California Supreme Court held that Penal Code section 1385 (c)(2) does not create a rebuttable presumption obligating the trial court to dismiss an enhancement unless the court finds the dismissal of the enhancement would endanger public safety. (*People v. Walker*). See section 10.5