§ 310.70 Rendition of partial verdict and effect thereof.

1. If a deliberating jury declares that it has reached a verdict with respect to one or more but not all of the offenses submitted to it, or with respect to one or more but not all of the defendants, the court must proceed as follows:

(a) If the possibility of ultimate agreement with respect to the other submitted offenses or defendants is so small and the circumstances are such that if they were the only matters under consideration the court would be authorized to discharge the jury pursuant to paragraph (a) of subdivision one of section 310.60, the court must terminate the deliberation and order the jury to render a partial verdict with respect to those offenses and defendants upon which or with respect to whom it has reached a verdict;

(b) If the court is satisfied that there is a reasonable possibility of ultimate agreement upon any of the unresolved offenses with respect to any defendant, it may either:

(i) Order the jury to render its verdict with respect to those offenses and defendants upon which or with respect to whom it has reached agreement and resume its deliberation upon the remainder; or

(ii) Refuse to accept a partial verdict at the time and order the jury to resume its deliberation upon the entire case.

2. Following the rendition of a partial verdict pursuant to subdivision one, a defendant may be retried for any submitted offense upon which the jury was unable to agree unless:

(a) A verdict of conviction thereon would have been inconsistent with a verdict, of either conviction or acquittal, actually rendered with respect to some other offense, or

(b) The submitted offense which was the subject of the disagreement, and some other submitted offense of higher or equal grade which was the subject of a verdict of conviction, were so related that consecutive sentences thereon could not have been imposed upon a defendant convicted of both such offenses.

3. As used in this section, a "submitted offense" means any offense submitted by the court to the jury, whether it be one which was

expressly charged in a count of the indictment or a lesser included offense thereof submitted pursuant to section 300.50.