

acquired by the court or jury commissioner shall be noted in jury commissioner or court records. **Leg.H.** 1988 ch. 1245 §2.

§197. Sources for Selection of Jurors.

(a) All persons selected for jury service shall be selected at random, from a source or sources inclusive of a representative cross section of the population of the area served by the court. Sources may include, in addition to other lists, customer mailing lists, telephone directories, or utility company lists.

(b) The list of registered voters and the Department of Motor Vehicles' list of licensed drivers and identification cardholders resident within the area served by the court, are appropriate source lists for selection of jurors. These two source lists, when substantially purged of duplicate names, shall be considered inclusive of a representative cross section of the population, within the meaning of subdivision (a).

(c) The Department of Motor Vehicles shall furnish the jury commissioner of each county with the current list of the names, addresses, and other identifying information of persons residing in the county who are age 18 years or older and who are holders of a current driver's license or identification card issued pursuant to Article 3 (commencing with Section 12800) of, or Article 5 (commencing with Section 13000) of, Chapter 1 of Division 6 of the Vehicle Code. The conditions under which these lists shall be compiled semiannually shall be determined by the director, consistent with any rules which may be adopted by the Judicial Council. This service shall be provided by the Department of Motor Vehicles pursuant to Section 1812 of the Vehicle Code. The jury commissioner shall not disclose the information furnished by the Department of Motor Vehicles pursuant to this section to any person, organization, or agency. **Leg.H.** 1988 ch. 1245 §2.

§198. Creation of Master and Qualified Juror Lists.

(a) Random selection shall be utilized in creating master and qualified juror lists, commencing with selection from source lists, and continuing through selection of prospective jurors for voir dire.

(b) The jury commissioner shall, at least once in each 12-month period, randomly select names of prospective trial jurors from the source list or lists, to create a master list.

(c) The master jury list shall be used by the jury commissioner, as provided by statute and state and local court rules, for the purpose of (1) mailing juror questionnaires and subsequent creation of a qualified juror list, and (2) summoning prospective jurors to respond or appear for qualification and service. **Leg.H.** 1988 ch. 1245 §2.

Ref.: W. Cal. Sum., "Constitutional Law" §636.

§198.5. Counties Where Superior Court Sessions Are Held in Place Other Than County Seat—Use of Juror Lists From Judicial Districts.

In counties where sessions of the superior court are held in cities other than the county seat, the names for master jury lists and qualified jury lists to serve in those cities may be selected from the judicial district in which the city is located and, if the judges of the court determine that it is necessary or advisable, from a judicial district adjacent to a judicial district in which the city is located. **Leg.H.** 1988 ch. 1245 §2.

§199. Trial Jury Selection in El Dorado County.

In El Dorado County, trial jury venires for the superior court shall be drawn from residents of the supervisory district, or a portion thereof, within which the court will sit for such trial and from residents of such other immediately adjacent supervisory district, or portion thereof, as may be specified by local superior court rules. Such venireman shall serve the court sitting in the geographical portion of the county from which this section and such court rules specify trial jury venires shall be drawn; provided that such rules shall afford to each eligible resident of such county an opportunity for selection as a trial jury venireman. Such court may, in its discretion, order a countywide venire in the interest of justice. **Leg.H.** 1988 ch. 1245 §2.

§199.5. Trial Jury Selection in Santa Barbara County.

In Santa Barbara County, trial jury venires for the superior court shall be drawn from residents of the supervisory district within which the court will sit for that trial and from residents of such other immediately adjacent supervisory district, or portion thereof, as may be specified by local superior court rules. The venireman shall serve the court sitting in the geographical portion of the county from which this section and such court rules specify trial jury venires shall be drawn. However, those rules shall afford to each eligible resident of such county an opportunity for selection as a trial jury venireman. The court may, in its discretion, order a countywide venire in the interest of justice. **Leg.H.** 1988 ch. 1245 §2.

§200. Use of Same Juror Pool in Municipal and Superior Courts—Alameda County Excepted.

Except in Alameda County, when authorized by local superior court rules, a municipal or justice court district pursuant to duly adopted court rule may use the same juror pool as that summoned for use in the superior court. Persons so selected for jury service in those municipal or justice courts need not be residents of the judicial district. In Los Angeles County, the municipal courts shall use the same jury

pool as that summoned for use in the superior court. Leg.H. 1988 ch. 1245 §2.

§201. Separate Panel for Each Judge.

In any county having two or more judges of the superior court, or in any judicial district, or city and county, in which a municipal court having two or more judges is established, a separate trial jury panel may be drawn, summoned, and impaneled for each judge, or any one panel may be drawn, summoned, and impaneled by any one of the judges, for use in the trial of cases before any of the judges, as occasion may require. In those counties or judicial districts, when a panel of jurors is in attendance for service before one or more of the judges, whether impaneled for common use or not, the whole or any number of the jurors from such panel may be required to attend and serve in the trial of cases, or to complete a panel, or jury, before any other of the judges. Leg.H. 1988 ch. 1245 §2.

§202. Selection of Jurors by Mechanical Device.

Mechanical, electric, or electronic equipment, which in the opinion of the jury commissioner is satisfactory therefor, may be used in the performance of any function specified by this chapter for the selection and drawing of jurors. Leg.H. 1988 ch. 1245 §2.

§203. Persons Eligible to Serve as Jurors; Exceptions.

(a) All persons are eligible and qualified to be prospective trial jurors, except the following:

- (1) Persons who are not citizens of the United States.
- (2) Persons who are less than 18 years of age.
- (3) Persons who are not domiciliaries of the State of California, as determined pursuant to Article 2 (commencing with Section 200) of Chapter 1 of Division 1 of the Elections Code.
- (4) Persons who are not residents of the jurisdiction wherein they are summoned to serve.
- (5) Persons who have been convicted of malfeasance in office or a felony, and whose civil rights have not been restored.
- (6) Persons who are not possessed of sufficient knowledge of the English language, provided that no person shall be deemed incompetent solely because of the loss of sight or hearing in any degree or other disability which impedes the person's ability to communicate or which impairs or interferes with the person's mobility.

(7) Persons who are serving as grand or trial jurors in any court of this state.

(8) Persons who are the subject of conservatorship.

(b) No person shall be excluded from eligibility for jury service in the State of California, for any reason other than those reasons provided by this section. Leg.H. 1988 ch. 1245 §2.

Ref.: Cal. Fms Pl. & Pr., "Juries & Verdicts"; W. Cal. Pro., "Trial" §113.

§204. Grounds for Exemption From Jury Service.

(a) No eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, or economic status, or for any other reason. No person shall be excused from service as a trial juror except as specified in subdivision (b).

(b) An eligible person may be excused from jury service only for undue hardship, upon themselves or upon the public, as defined by the Judicial Council. Leg.H. 1988 ch. 1245 §2.

§205. Juror Questionnaires.

(a) If a jury commissioner requires a person to complete a questionnaire, the questionnaire shall ask only questions related to juror identification, qualification, and ability to serve as a prospective juror.

(b) Except as ordered by the court, the questionnaire referred to in subdivision (a) shall be used solely for qualifying prospective jurors, and for management of the jury system, and not for assisting in the courtroom voir dire process of selecting trial jurors for specific cases.

(c) The court may require a prospective juror to complete such additional questionnaires as may be deemed relevant and necessary for assisting in the voir dire process or to ascertain whether a fair cross section of the population is represented as required by law, if such procedures are established by local court rule.

(d) The trial judge may direct a prospective juror to complete additional questionnaires as proposed by counsel in a particular case to assist the voir dire process. Leg.H. 1988 ch. 1245 §2.

§206. Discussion of Verdict; Attorney's Contact With Jurors.

(a) Prior to discharging the jury from the case, the judge in a criminal action shall inform the jurors that they have an absolute right to discuss or not to discuss the deliberation or verdict with anyone. The judge shall also inform the jurors of the provisions set forth in subdivisions (b), (c), and (d).

(b) Following the discharge of the jury in a criminal case, the defendant, or his or her attorney or representative, or the prosecutor, or his or her representative, may discuss the jury deliberation or verdict with a member of the jury, provided that the juror consents to the discussion and that the discussion takes place at a reasonable time and place.

(c) Any unreasonable contact with a juror by the defendant, or his or her attorney or representative, or by the prosecutor, or his or her representative, without the juror's consent shall be reported to the trial judge forthwith.

(d) Any violation of this section shall be considered a violation of a lawful court order and shall be subject to reasonable monetary sanctions in

accordance with Section 177.5 of the Code of Civil Procedure.

(e) Nothing in the section shall prohibit a peace officer from investigating an allegation of criminal conduct. Leg.H. 1988 ch. 1245 §2.

§207. Maintenance of Records by Jury Commissioner.

(a) The jury commissioner shall maintain records regarding selection, qualification, and assignment of prospective jurors.

(b) The jury commissioner shall maintain records providing a clear audit trail regarding a juror's attendance, jury fees, and mileage.

(c) All records and papers maintained or compiled by the jury commissioner in connection with the selection or service of a juror may be kept on an electronic or microfilm medium and such records shall be preserved for at least three years after the list used in their selection is prepared, or for any longer period ordered by the court or the jury commissioner. Leg.H. 1988 ch. 1245 §2.

§208. Summons of Prospective Jurors.

The jury commissioner shall estimate the number of prospective jurors that may be required to serve the needs of the trial courts, and shall summon such prospective jurors for service. Prospective jurors shall be summoned by mailing a summons by first-class mail or by personal service or, in urgency situations, as elsewhere provided by law. The summons, when served by mail, shall be mailed at least 10 days prior to the date of required appearance. Once a prospective juror has been summoned, the date, time, or place of appearance may be modified or further specified by the jury commissioner, by means of written, telegraphic, telephonic, or direct oral communication with the prospective juror. Leg.H. 1988 ch. 1245 §2.

Ref.: W. Cal. Pro., "Trial" §122.

§209. Failure to Respond to Jury Summons; Penalty.

Any prospective trial juror who has been summoned for service, and who fails to attend upon the court as directed or to respond to the court or jury commissioner and to be excused from attendance, may be attached and compelled to attend; and, following an order to show cause hearing, the court may find the prospective juror in contempt of court, punishable by fine, incarceration, or both, as otherwise provided by law. Leg.H. 1988 ch. 1245 §2.

§210. Contents of Jury Summons.

The summons shall contain the date, time, and place of appearance required of the prospective juror or, alternatively, instructions as to the procedure for calling the jury commissioner for telephonic instructions for appearance as well as such additional juror information as deemed appropriate by the jury commissioner. Leg.H. 1988 ch. 1245 §2.

§211. Completion of Jury Panel by Immediate Summons, Service, and Attachment of Persons Qualified to Be Jurors.

When a court has no prospective jurors remaining available for voir dire from panels furnished by, or available from, the jury commissioner, and finds that not proceeding with voir dire will place a party's right to a trial by jury in jeopardy, the court may direct the sheriff, marshal, or constable to summon, serve, and immediately attach the person of a sufficient number of citizens having the qualifications of jurors, to complete the panel. Leg.H. 1988 ch. 1245 §2.

§213. Availability of Jurors on One-Hour Notice.

Unless excused by reason of undue hardship, all or any portion of the summoned prospective jurors shall be available on one-hour notice by telephone to appear for service, when the jury commissioner determines that it will efficiently serve the operational requirements of the court.

Jurors available on one-hour telephone notice shall receive credit for each day of such availability towards their jury service obligation, but they shall not be paid unless they are actually required to make an appearance. Leg.H. 1988 ch. 1245 §2.

§214. Juror Orientation.

The jury commissioner shall provide orientation for new jurors, which shall include necessary basic information concerning jury service. The jury commissioner shall notify each juror of the provisions of Section 230 of the Labor Code. Leg.H. 1988 ch. 1245 §2, 1989 ch. 1416.

§215. Jury Fees.

Unless a higher fee is provided for each day's attendance by county or city and county ordinance, the fee for jurors in the superior, municipal, and justice courts, in civil and criminal cases, is five dollars (\$5) a day for each day's attendance as a juror. Unless a higher rate of mileage is otherwise provided by statute or by county or city and county ordinance, jurors in the superior, municipal, and justice courts shall be reimbursed for mileage at the rate of fifteen cents (\$.15) per mile for each mile actually traveled in attending court as juror, in going only.

(b) In criminal cases, the board of supervisors of each county shall make sufficient appropriations for the payment of the fees provided for in this section. Leg.H. 1988 ch. 1245 §2.

§216. Jury Deliberation Room: Assembly Facilities.

(a) At each court facility where jury cases are heard, the board of supervisors shall provide a deliberation room or rooms for use of jurors when they have retired for deliberation. Such deliberation rooms shall be designed to minimize unwarranted

intrusions by other persons in the court facility, shall have suitable furnishings, equipment, and supplies, and shall also have restroom accommodations for male and female jurors.

(b) If the board of supervisors neglects to provide the facilities required by this section, the court may order the sheriff, marshal, or constable to do so, and the expenses incurred in carrying the order into effect, when certified by the court, are a county charge.

(c) Unless authorized by the jury commissioner, jury assembly facilities shall be restricted to use by jurors and jury commissioner staff. Leg.H. 1988 ch. 1245 §2.

§217. Food and Lodging for Jurors.

In criminal cases only, while the jury is kept together, either during the progress of the trial or after their retirement for deliberation, the court may direct the sheriff, marshal, or constable to provide the jury with suitable and sufficient food and lodging, or other reasonable necessities. In the superior, municipal, and justice courts, the expenses incurred under the provisions of this section shall be charged against the county or city and county in which the court is held. All such expenses shall be paid on the order of the court. Leg.H. 1988 ch. 1245 §2.

§218. Jurors Excused From Service.

The jury commissioner shall hear the excuses of jurors summoned, in accordance with the standards prescribed by the Judicial Council. It shall be left to the discretion of the jury commissioner to accept an excuse under subdivision (b) of Section 204 without a personal appearance. All excuses shall be in writing setting forth the basis of the request and shall be signed by the juror. Leg.H. 1988 ch. 1245 §2.

§219. Random Selection of Jurors for Jury Panels.

The jury commissioner shall randomly select jurors for jury panels to be sent to courtrooms for voir dire; provided that no peace officer, as defined in Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code, shall be selected for voir dire in a criminal case. Leg.H. 1988 ch. 1245 §2.

§220. Number of Persons Comprising Jury.

A trial jury shall consist of 12 persons, except that in civil actions and cases of misdemeanor, it may consist of 12 or any number less than 12, upon which the parties may agree. Leg.H. 1988 ch. 1245 §2.

Ref.: W. Cal. Pro., "Trial" §86.

§221. Number of Jurors—Trial Jury Pilot Project.

(a) A trial jury in civil actions in municipal and justice courts may consist of eight persons in the County of Los Angeles, pursuant to rules adopted by the Judicial Council, as an experimental project operative until July 1, 1989.

(b) The Judicial Council shall appoint an advisory committee which shall include at least one judge of each court or courts in which the project will take place, one court administrator from that court or courts, or his or her designee, and one member of the Los Angeles County Bar Association, Trial Lawyers Section, who practices in the municipal or justice courts, to make recommendations regarding the design of the eight-person jury experiment. The Judicial Council shall adopt rules for the implementation of the project, including rules governing the assignment of cases to eight person juries during the experimental period, and establish procedures for the collection and evaluation of data.

(c) The Judicial Council shall report to the Legislature no later than January 1, 1990, comparing the performance of eight and 12 person juries. The comparison shall include, but not be limited to, the following factors:

(1) Cross-sectional representation of the community.

(2) Numbers of verdicts favoring plaintiffs or defendants, and size of awards.

(3) Accuracy, consistency, and reliability of awards.

(4) Time required for impanelment, trial, and deliberations.

(5) Public and private costs of the jury.

(d) Notwithstanding the provisions of Section 206, the project courts shall collect and provide to the Judicial Council the data required for a proper evaluation of the experiment. Any bona fide researcher or research organization shall be permitted access to any data regarding the conduct or evaluation of the pilot project. Leg.H. 1988 ch. 1245 §2.

§222. Random Selection of Jurors for Voir Dire.

(a) Except as provided in subdivision (b), when an action is called for trial by jury, the clerk, or the judge where there is no clerk, shall randomly select the names of the jurors for voir dire, until the jury is selected or the panel is exhausted.

(b) When the jury commissioner has provided the court with a listing of the trial jury panel in random order, the court shall seat prospective jurors for voir dire in the order provided by the panel list. Leg.H. 1988 ch. 1245 §2.

Ref.: Cal. Fms Pl. & Pr., "Juries & Verdicts."

§222.5. Examination of Prospective Jurors in Civil Jury Trials.

To select a fair and impartial jury in civil jury trials, the trial judge shall examine the prospective jurors. Upon completion of the judge's initial examination, counsel for each party shall have the right to examine, by oral and direct questioning, any of the prospective jurors in order to enable counsel to intelligently exercise both peremptory challenges and challenges for cause. During any examination conducted by counsel for the parties, the trial judge

should permit liberal and probing examination calculated to discover bias or prejudice with regard to the circumstances of the particular case. The fact that a topic has been included in the judge's examination should not preclude additional nonrepetitive or non-duplicative questioning in the same area by counsel.

The scope of the examination conducted by counsel shall be within reasonable limits prescribed by the trial judge in the judge's sound discretion. In exercising his or her sound discretion as to the form and subject matter of voir dire questions, the trial judge should consider, among other criteria, any unique or complex elements, legal or factual, in the case and the individual responses or conduct of jurors which may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case. Specific unreasonable or arbitrary time limits shall not be imposed.

The trial judge should permit counsel to conduct voir dire examination without requiring prior submission of the questions unless a particular counsel engages in improper questioning. For purposes of this section, an "improper question" is any question which, as its dominant purpose, attempts to precondition the prospective jurors to a particular result, indoctrinate the jury, or question the prospective jurors concerning the pleadings or the applicable law. A court should not arbitrarily or unreasonably refuse to submit reasonable written questionnaires, the contents of which are determined by the court in its sound discretion, when requested by counsel.

In civil cases, the court may, upon stipulation by counsel for all the parties appearing in the action, permit counsel to examine the prospective jurors outside a judge's presence. **Leg.H. 1990 ch. 1232.**

§223. Enacted 1988. Repealed by Initiative (Prop. 115 §6) at the June 5, 1990, Primary Election, operative June 6, 1990.

A new §223 follows.

§223. Examination of Prospective Jurors in Criminal Cases.

In a criminal case, the court shall conduct the examination of prospective jurors. However, the court may permit the parties, upon a showing of good cause, to supplement the examination by such further inquiry as it deems proper, or shall itself submit to the prospective jurors upon such a showing, such additional questions by the parties as it deems proper. Voir dire of any prospective jurors shall, where practicable, occur in the presence of the other jurors in all criminal cases, including death penalty cases.

Examination of prospective jurors shall be conducted only in aid of the exercise of challenges for cause.

The trial court's exercise of its discretion in the manner in which voir dire is conducted shall not cause any conviction to be reversed unless the exercise of that discretion has resulted in a miscarriage of justice, as specified in Section 13 of Article VI of the California Constitution. [Adopted by Initiative

(Prop. 115 §7) at the June 5, 1990, Primary Election, operative June 6, 1990.]

§223.5. Enacted 1988. Repealed by Initiative (Prop. 115) at the June 5, 1990, Primary Election, operative June 6, 1990.

§224. Handicapped Jurors—Use of Attendants.

(a) If a party does not cause the removal by challenge of an individual juror who is handicapped by loss of hearing, sight, or power of speech in any degree and who requires the services of a sign language interpreter, reader, or speech interpreter to facilitate communication, the party shall (1) stipulate to the presence of that attendant in the jury room during jury deliberations, and (2) prepare and deliver to the court proposed jury instructions to that attendant.

(b) If the services of a sign language interpreter, reader, or speech interpreter are required during the course of jury deliberations, the court shall instruct the jury and that attendant that the attendant for the disabled juror is not to participate in the jury's deliberations in any manner except to facilitate communication between the disabled juror and other jurors. **Leg.H. 1988 ch. 1245 §2.**

§225. "Challenge" Defined.

A challenge is an objection made to the trial jurors that may be taken by any party to the action, and is of the following classes and types:

(a) A challenge to the trial jury panel for cause.

(1) A challenge to the panel may only be taken before a trial jury is sworn. The challenge shall be reduced to writing, and shall plainly and distinctly state the facts constituting the ground of challenge.

(2) Reasonable notice of the challenge to the jury panel shall be given to all parties and to the jury commissioner, by service of a copy thereof.

(3) The jury commissioner shall be permitted the services of legal counsel in connection with challenges to the jury panel.

(b) A challenge to a prospective juror by either:

(1) A challenge for cause, for one of the following reasons:

(A) General disqualification—that the juror is disqualified from serving in the action on trial.

(B) Implied bias—as, when the existence of the facts as ascertained, in judgment of law disqualifies the juror.

(C) Actual bias—the existence of a state of mind on the part of the juror in reference to the case, or to any of the parties, which will prevent the juror from acting with entire impartiality, and without prejudice to the substantial rights of any party.

(2) A peremptory challenge to a prospective juror. **Leg.H. 1988 ch. 1245 §2.**

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§226. Challenge to Individual Juror—In General.

(a) A challenge to an individual juror may only be made before the jury is sworn.

(b) A challenge to an individual juror may be taken orally or may be made in writing, but no reason need be given for a peremptory challenge, and the court shall exclude any juror challenged peremptorily.

(c) All challenges for cause shall be exercised before any peremptory challenges may be exercised.

(d) All challenges to an individual juror, except a peremptory challenge, shall be taken, first by the defendants, and then by the people or plaintiffs. Leg.H. 1988 ch. 1245 §2.

Ref.: W. Cal. Pro., "Trial" §145.

§227. Order of Challenges.

The challenges of either party for cause need not all be taken at once, but they may be taken separately, in the following order, including in each challenge all the causes of challenge belonging to the same class and type:

(a) To the panel.

(b) To an individual juror, for a general disqualification.

(c) To an individual juror, for an implied bias.

(d) To an individual juror, for an actual bias. Leg.H. 1988 ch. 1245 §2.

§228. Grounds for General Disqualification of Juror.

Challenges for general disqualification may be taken on one or both of the following grounds, and for no other:

(a) A want of any of the qualifications prescribed by this code to render a person competent as a juror.

(b) A loss of hearing, or the existence of any other incapacity which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the challenging party. Leg.H. 1988 ch. 1245 §2.

§229. Challenge for Implied Bias.

A challenge for implied bias may be taken for one or more of the following causes, and for no other:

(a) Consanguinity or affinity within the fourth degree to any party, to an officer of a corporation which is a party, or to any alleged witness or victim in the case at bar.

(b) Standing in the relation of, or being the parent, spouse, or child of one who stands in the relation of, guardian and ward, conservator and conservatee, master and servant, employer and clerk, landlord and tenant, principal and agent, or debtor and creditor, to either party or to an officer of a corporation which is a party, or being a member of the family of either party; or a partner in business with either party; or surety on any bond or obligation for either party, or being the holder of bonds or shares of

capital stock of a corporation which is a party; or having stood within one year previous to the filing of the complaint in the action in the relation of attorney and client with either party or with the attorney for either party. A depositor of a bank or a holder of a savings account in a savings and loan association shall not be deemed a creditor of that bank or savings and loan association for the purpose of this paragraph solely by reason of his or her being a depositor or account holder.

(c) Having served as a trial or grand juror or on a jury of inquest in a civil or criminal action or been a witness on a previous or pending trial between the same parties, or involving the same specific offense or cause of action; or having served as a trial or grand juror or on a jury within one year previously in any criminal or civil action or proceeding in which either party was the plaintiff or defendant or in a criminal action where either party was the defendant.

(d) Interest on the part of the juror in the event of the action, or in the main question involved in the action, except his or her interest as a member or citizen or taxpayer of a county, city and county, incorporated city or town, or other political subdivision of a county, or municipal water district.

(e) Having an unqualified opinion or belief as to the merits of the action founded upon knowledge of its material facts or of some of them.

(f) The existence of a state of mind in the juror evincing enmity against, or bias towards, either party.

(g) That the juror is party to an action pending in the court for which he or she is drawn and which action is set for trial before the panel of which the juror is a member.

(h) If the offense charged is punishable with death, the entertaining of such conscientious opinions as would preclude the juror finding the defendant guilty; in which case the juror may neither be permitted nor compelled to serve. Leg.H. 1988 ch. 1245 §2.

Ref.: Cal. Fms Pl. & Pr., "Juries & Verdicts"; W. Cal. Pro., "Trial" §131A.

§230. Challenges for Cause.

Challenges for cause shall be tried by the court. The juror challenged and any other person may be examined as a witness in the trial of the challenge, and shall truthfully answer all questions propounded to them. Leg.H. 1988 ch. 1245 §2.

§231. Number of Peremptory Challenges.

(a) In criminal cases, if the offense charged is punishable with death, or with imprisonment in the state prison for life, the defendant is entitled to 20 and the people to 20 peremptory challenges. Except as provided in subdivision (b), in a trial for any other offense, the defendant is entitled to 10 and the state to 10 peremptory challenges. When two or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant shall also be entitled to five additional challenges which may be

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exercised separately, and the people shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(b) If the offense charged is punishable with a maximum term of imprisonment of 90 days or less, the defendant is entitled to six and the state to six peremptory challenges. When two or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant shall also be entitled to four additional challenges which may be exercised separately, and the state shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(c) In civil cases, each party shall be entitled to six peremptory challenges. If there are more than two parties, the court shall, for the purpose of allotting peremptory challenges, divide the parties into two or more sides according to their respective interests in the issues. Each side shall be entitled to eight peremptory challenges. If there are several parties on a side, the court shall divide the challenges among them as nearly equally as possible. If there are more than two sides, the court shall grant such additional peremptory challenges to a side as the interests of justice may require; provided that the peremptory challenges of one side shall not exceed the aggregate number of peremptory challenges of all other sides. If any party on a side does not use his or her full share of peremptory challenges, the unused challenges may be used by the other party or parties on the same side.

(d) Peremptory challenges shall be taken or passed by the sides alternately, commencing with the plaintiff or people; and each party shall be entitled to have the panel full before exercising any peremptory challenge. When each side passes consecutively, the jury shall then be sworn, unless the court, for good cause, shall otherwise order. The number of peremptory challenges remaining with a side shall not be diminished by any passing of a peremptory challenge.

(e) If all the parties on both sides pass consecutively, the jury shall then be sworn, unless the court, for good cause, shall otherwise order. The number of peremptory challenges remaining with a side shall not be diminished by any passing of a peremptory challenge. Leg.H. 1988 ch. 1245 §2, 1989 ch. 1416.

Ref.: Cal. Fms Pl. & Pr., "Juries & Verdicts."

§232. Acknowledgement and Agreement Concerning Perjury.

(a) Prior to the examination of prospective trial jurors in the panel assigned for voir dire, the following perjury acknowledgement and agreement shall be obtained from the panel, which shall be acknowledged by the prospective jurors with the statement "I do":

"Do you, and each of you, understand and agree that you will accurately and truthfully answer, under penalty of perjury, all questions propounded to you concerning your qualifications and competency to

serve as a trial juror in the matter pending before this court; and that failure to do so may subject you to criminal prosecution."

(b) As soon as the selection of the trial jury is completed, the following acknowledgment and agreement shall be obtained from the trial jurors, which shall be acknowledged by the statement "I do":

"Do you and each of you understand and agree that you will well and truly try the cause now pending before this court, and a true verdict render according only to the evidence presented to you and to the instructions of the court." Leg.H. 1988 ch. 1245 §2, 1989 ch. 1416.

Ref.: Cal. Fms Pl. & Pr., "Juries & Verdicts."

§233. Discharge of Juror; Substitution of Alternative Jurors.

If, before the jury has returned its verdict to the court, a juror becomes sick or, upon other good cause shown to the court, is found to be unable to perform his or her duty, the court may order the juror to be discharged. If any alternate jurors have been selected as provided by law, one of them shall then be designated by the court to take the place of the juror so discharged. If after all alternate jurors have been made regular jurors or if there is no alternate juror, a juror becomes sick or otherwise unable to perform the juror's duty and has been discharged by the court as provided in this section, the jury shall be discharged and a new jury then or afterwards impaneled; and the cause may again be tried. Alternatively, with the consent of all parties, the trial may proceed with only the remaining jurors, or another juror may be sworn and the trial begin anew. Leg.H. 1988 ch. 1245 §2.

§234. Alternate Jurors—Selection and Role.

Whenever, in the opinion of a judge of superior, municipal, or justice court about to try a civil or criminal action or proceeding, the trial is likely to be a protracted one; or upon stipulation of the parties, the court may cause an entry to that effect to be made in the minutes of the court and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or more additional jurors, in its discretion, to be known as "alternate jurors."

These alternate jurors shall be drawn from the same source, and in the same manner, and have the same qualifications, as the jurors already sworn, and shall be subject to the same examination and challenges. However, each side, or each defendant, as provided in Section 231, shall be entitled to as many peremptory challenges to the alternate jurors as there are alternate jurors called.

The alternate jurors shall be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and shall, unless excused by the court, attend at all times upon the trial of the cause in company with the other jurors, but

shall not participate in deliberation unless ordered by the court, and for a failure to do so are liable to be punished for contempt.

They shall obey the orders of and be bound by the admonition of the court, upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff, marshal, or constable during the trial of the cause, the alternate jurors shall also be kept in confinement with the other jurors; and upon final submission of the case to the jury, the alternate jurors shall be kept in the custody of the sheriff, marshal, or constable who shall not suffer any communication to be made to them except by order of the court, and shall not be discharged until the original jurors are discharged, except as provided in this section.

If at any time, whether before or after the final submission of the case to the jury, a juror dies or becomes ill, or upon other good cause shown to the court is found to be unable to perform his or her duty, or if a juror requests a discharge and good cause appears therefor, the court may order the juror to be discharged and draw the name of an alternate, who shall then take his or her place in the jury box, and be subject to the same rules and regulations as though he or she has been selected as one of the original jurors.

All laws relative to fees, expenses, and mileage or transportation of jurors shall be applicable to alternate jurors, except that in civil case the sums for fees and mileage or transportation need not be deposited until the judge directs alternate jurors to be impaneled. Leg.H. 1988 ch. 1245 §2.

Ref.: Cal. Fms Pl. & Pr., "Juries & Verdicts."

§235. Jury of Inquest—Selection, Compensation, and Obligation.

At the request of the sheriff, concern, or other ministerial officer, the jury commissioner shall provide such prospective jurors as may be required to form a jury of inquest. Prospective jurors so provided shall be selected, obligated, and compensated in the same manner as other jurors selected under the provisions of this chapter. Leg.H. 1988 ch. 1245 §2.

§236. Function of Jury of Inquest.

When six or more prospective jurors of inquest attend, they shall be sworn by the coroner to inquire who the person was, and when, where, and by what means the person came to his or her death, to inquire into the circumstances attending the death, and to render a true verdict thereon, according to the evidence offered them or arising from the inspection of the body. Leg.H. 1988 ch. 1245 §2.

CHAPTER 2 COURT COMMISSIONERS AND STENOGRAPHERS

§258. Enacted 1872. Repealed 1953 ch. 206.

§259. Powers.

Subject to the supervision of the court every court commissioner shall have power to do all of the following:

[1] (a) Hear and determine ex parte motions, for orders and alternative writs and writs of habeas corpus in the superior court for which the court commissioner is appointed.

[2] (b) Take proof and make and report findings thereon as to any matter of fact upon which information is required by the court. Any party to any contested proceeding may except to the report and the subsequent order of the court made thereon within five days after written notice of the court's action. A copy of the exceptions shall be filed and served upon opposing party or counsel within the five days. The party may argue any exceptions before the court on giving notice of motion for that purpose within 10 days from entry thereof. After a hearing before the court on the exceptions, the court may sustain, or set aside, or modify its order.

[3] (c) Take and approve any bonds and undertakings in actions or proceedings, and determine objections to the bonds and undertakings.

[4] (d) Administer oaths and affirmations, and take affidavits and depositions in any action or proceeding in any of the courts of this state, or in any matter or proceeding whatever, and take acknowledgments and proof of deeds, mortgages, and other instruments requiring proof or acknowledgment for any purpose under the laws of this or any other state or country.

[5] (e) Act as temporary judge when otherwise qualified so to act and when appointed for that purpose, or by written consent of [6] an appearing party [7]. While acting as temporary judge the commissioner shall receive no compensation therefor other than compensation as commissioner.

[8] (f) Hear and report findings and conclusions to the court for approval, rejection, or change, all preliminary matters including motions or petitions for the custody and support of children, the allowance of temporary alimony, costs and attorneys' fees, and issues of fact in contempt proceedings in divorce, maintenance, and annulment of marriage cases.

[9] (g) Hear, report on, and determine all untested actions and proceedings subject to the requirements of [10] subdivision (e).

[11] (h) Charge and collect the same fees for the performance of official acts as are allowed by law to notaries public in this state for like services. This [12] subdivision does not apply to any services of the commissioner, the compensation for which is expressly fixed by law. The fees so collected shall be paid to the treasurer of the county, for deposit in the general fund of the county.

[13] (i) Provide an official seal, upon which must be engraved the words "Court Commissioner" and the name of the county, or city and county, in which the Commissioner resides.

[14] (j) Authenticate with the official seal the commissioner's official acts. Leg.H. 1872, 1878 p.

CCP

1.

VOIR DIRE
GENERAL QUESTIONS

BY

ELLIOTT E. ALHADEFF
DEPUTY DISTRICT ATTORNEY
LOS ANGELES COUNTY

JUNE 18, 1988

1. Credibility:

1. Liars ordinarily have a reason to lie. (M. _____, ordinarily, do you believe that normal persons need a reason to lie? That if there is no apparent reason for a person to be lying, then it is reasonable to believe that they will tell the truth?

2. If the People present a witness and there is no evidence that the witness is lying, will that suggest to you that the witness is telling the truth? Will you consider that in evaluating that witness's credibility?

3. (Ask a question involving...) The function of a juror is to determine who is telling the truth and who is not and the juror must be willing to perform that function and feel comfortable in making these kind of decisions irrespective of the consequences.

2. Testimony of a single witness.

1. Instruction: The testimony of a single witness is sufficient to prove any fact if you believe the witness.

2. If a witness testifies about a particular element of this offense, and you believe the witness so that you are convinced of the proof of that element beyond a reasonable doubt, would you require any further evidence of that element? Would you require that the people parade a line of witness or present a series of documents to corroborate that testimony even though you were already convinced beyond a reasonable doubt that it was proved by the testimony of that witness?

3. Do you understand that the same rule applies if the witness testifies and is able to convince you of all the

elements of the offense beyond a reasonable doubt, that no further evidence need be presented? Do you understand that principle? Do you agree with it? Will you apply it as instructed by the court?

3. Testimony of a police officer.

1. Do you think police officers are paid to lie?

2. Do you think police officers will suffer serious sanctions if they lie?...even if the case results in a conviction?

3. Do you think police officers will suffer any sanctions if they tell the truth and it results in an acquittal?

4. Do you think that a police officer can be mistaken without intentionally lying?

5. If you disagree with the investigation of the case by the police, but you are convinced that the defendant is guilty beyond a reasonable doubt, would you acquit the defendant just to teach the police a lesson?

6. Instructions:

1. Would you follow the instructions even if they conflict with your own personal ideas?

2. You understand that the jury room is not a place to legislate. The law has already been determined and both counsel expect that you will apply the law as the judge gives it to you? Now suppose there is an instruction that you strongly disagree with. Could you set aside your own personal feelings and nevertheless apply the law as the judge instructs, reserving your objections for another time to be conveyed to your legislator or other appropriate forum?

3. Can you understand how wrong it would be for both the defense and the people to expect that you will apply the law and find that someone is unwilling to do so? It would mean that despite our efforts to obtain a fair trial based on the law, that could not happen and this whole trial turned out to be a sham? It would be so important for us to discover if any of you have any serious objection to setting aside your personal feelings in applying the law at this stage rather than to subject you to the strain of defending

your personal convictions that may run against the court's instructions.

7. Evidence:

1. You must decide from the evidence presented in court.

2. Do not consider items not introduced into evidence. E.g. M. _____, If a juror tries to say that he or she has visited the scene of the incident and that it is different than that testified to, what would be your response?

Do you understand that it would be improper to consider something like that?

Since the statement hasn't been subjected to the rules of evidence, and neither the defense nor I have had an opportunity to ask questions, or cross-examine the juror, and the juror has not been placed under oath, can you see why it is not right to consider such a statement?

(Other examples may be personal relations with individuals or police, expertise with a particular subject.

3. This does not mean that you should be restricted in using your common sense in evaluating the evidence and arriving at all the reasonable inferences and rejecting those inferences that you find are unreasonable.

8. Circumstantial (Indirect) Evidence.

1. The law does not favor one over the other

2. Demonstrate direct and circumstantial.

a. Use of pen in pocket with the inference that it could be stuck with bubble gum.

b. Use of little boy who gets caught with cookie crumbs on his mouth. (Inference that someone flew in the window and put the crumbs on the boy's mouth)

c. Robber who is found with the wallet in his pocket belonging to the victim of a purse snatch. (Somebody put the wallet in his pocket and ran away.)

d. Man who goes to his car and puts keys in the ignition and starts the car and drives away. Inference is