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## § 199.5. Santa Barbara County; drawing jury trial venires

In Santa Barbara County, trial jury venires for the superior court shall be drawn from residents of the supervisorial district within which the court will sit for that trial and from residents of such other immediately adjacent supervisorial 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. (Added by Stats.1988, c. 1245, § 5.)

## § 200. Alameda County; drawing jury trial venires

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 200, added by Stats.1975, c. 593, § 3, was repealed by Stats.1988, c. 1245, § 1.

Former § 200, enacted in 1872, last amended by Stats.1972, c. 1337, § 1, was repealed by Stats.1975, c. 593, § 2.

## § 201. Multiple judges; separate panels; use of jurors from one panel on another

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 201 was repealed by Stats.1975, c. 593, § 4.

## § 201a. Repealed by Stats.1988, c. 1245, § 1

## § 202. Mechanical, electric, or electronic equipment

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 202 was repealed by Stats.1975, c. 593, § 6.

## §§ 202.5 to 202.7. Repealed by Stats.1988, c. 1245, § 1

## § 203. Persons qualified to be trial 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. (Added by Stats.1988, c. 1245, § 5.)

Former § 203 was repealed by Stats.1988, c. 1245, § 1.

## §§ 203.1 to 203.3. Repealed by Stats.1988, c. 1245, § 1

## § 204. Exemptions and excuses 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. (Added by Stats.1988, c. 1245, § 5.)

Former § 204 was repealed by Stats.1980, c. 81, § 10.

## § 204a. Renumbered § 204.1 and amended by Stats. 1980, c. 81, § 11

## § 204b. Repealed by Stats.1980, c. 81, § 12

## § 204c. Renumbered § 204.3 and amended by Stats. 1980, c. 81, § 13

## § 204d. Repealed by Stats.1980, c. 81, § 14

## § 204e. Renumbered § 204.7 and amended by Stats. 1980, c. 81, § 16

Former § 204e was repealed by Stats.1953, c. 206, § 7.

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§§ 204f to 204h. Repealed by Stats.1951, c. 1316, § 2; Stats.1953, c. 206, § 7

See, now, Gov.C. §§ 69892, 69893, 69894.1.

§§ 204.1 to 204.7. Repealed by Stats.1988, c. 1245, § 1

§ 205. Juror questionnaires; contents; use; additional 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. (Added by Stats.1988, c. 1245, § 5.)

Former § 205 was repealed by Stats.1988, c. 1245, § 1.

§ 206. Criminal actions; discussion of deliberation or verdict after discharge of jury; informing jury; violations

(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. (Added by Stats.1988, c. 1245, § 5.)

Former § 206 was repealed by Stats.1988, c. 1245, § 1.

## TRIAL JURY

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Part 1

§§ 206a to 206c. Repealed by Stats.1988, c. 1245, § 1

§ 207. Records; maintenance; preservation

(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. (Added by Stats.1988, c. 1245, § 5.)

Former § 207 was repealed by Code Am.1875-76, c. 514, § 5.

§ 208. Summoning jurors; methods of serving summons

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 208 was repealed by Stats.1980, c. 81, § 20.

§ 209. Failure to respond to summons; attachment; compelling attendance; contempt

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 209 was repealed by Stats.1980, c. 81, § 21.

§ 210. Summons; contents

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 210 was repealed by Stats.1980, c. 81, § 21.5.

SELECTION AND MANAGEMENT

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§ 211. Additional jurors; summoning qualified citizens to complete panel

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 211 was repealed by Stats.1980, c. 81, § 22.

§ 213. Availability of jurors on telephone 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. (Added by Stats.1988, c. 1245, § 5.)

§ 214. Orientation for new jurors; notice of rights under Labor Code

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. (Added by Stats.1988, c. 1245, § 5. Amended by Stats.1989, c. 1416, § 8.)

Former § 214 was repealed by Stats.1988, c. 1245, § 1.

§ 215. Fees for jurors; mileage

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 a 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. (Added by Stats.1988, c. 1245, § 5.)

Former § 215 was repealed by Stats.1980, c. 81, § 23.

§ 216. Deliberation rooms; restriction of jury 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. (Added by Stats.1988, c. 1245, § 5.)

Former § 216 was repealed by Code Am.1880, c. 35, § 1.

§ 217. Criminal cases; food, lodging, and necessities for jurors; expenses

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 217 was repealed by Code Am.1880, c. 35, § 1.

§ 218. Written excuses of jurors; acceptance by commissioner

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 218 was repealed by Code Am.1880, c. 35, § 1.

§ 219. Selection of jurors for voir dire; exemption of peace officers in criminal cases

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 219 was repealed by Stats.1980, c. 81, § 24.

§ 220. Number of jurors

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 220 was repealed by Stats.1980, c. 81, § 25.

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**§ 221. Experimental eight person juries**

(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. (*Added by Stats.1988, c. 1245, § 5.*)

Former § 221 was repealed by Code Am.1880, c. 35, § 1.

**§ 222. Selection for voir dire; panel list; seating**

(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. (*Added by Stats.1988, c. 1245, § 5.*)

**§ 223. Criminal cases; voir dire examination by court and counsel**

In criminal cases:

(a) It shall be the duty of the trial court to examine the prospective jurors to select a fair and impartial jury. Except as provided in Section 223.5, the trial court shall

permit reasonable examination of prospective jurors by counsel for the people and for the defendant, such examination to be conducted orally and directly by counsel.

(b) In each case it shall be the duty of the trial judge to provide for a voir dire process as speedy, focused, and informative as possible, and to protect prospective jurors from undue harassment and embarrassment and from inordinately extensive, repetitive, or unfocused examinations.

(c) In discharging its duties, the court shall have discretion and control with respect to the form and subject matter and duration of voir dire examination. In exercising that discretion and control, the trial judge shall be guided by, among other criteria, the following:

- (1) The nature of the charges and the potential consequences of a conviction.
- (2) Any unique or complex elements, legal or factual, in the case.
- (3) The individual responses or conduct of jurors which may reveal attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case.

(4) The attorneys' need, under the circumstances, for information on which to exercise preemptory challenges intelligently.

(d) The trial court shall not permit questions which the trial court concludes would, as their sole purpose, do any of the following:

- (1) Educate the jury panel to the particular facts of the case.
- (2) Compel the jurors to commit themselves to vote in a particular way.
- (3) Prejudice the jury for or against any party.
- (4) Argue the case.
- (5) Indoctrinate the jury.
- (6) Instruct the jury in a matter of law.
- (7) Attempt to accomplish any other improper purpose.

(e) The trial court shall require that questions be phrased by counsel in a neutral and nonargumentative form. (*Added by Stats.1988, c. 1245, § 5.*)

**§ 223.5. Fresno and Santa Cruz Counties; voir dire pilot project; task force; report**

(a) As a pilot project applicable solely to criminal cases in the superior courts in Fresno and Santa Cruz Counties during the period July 1, 1988, to June 30, 1991, inclusive, all questions designed solely for assisting in the intelligent exercise of the right to preemptory challenge and not applicable to the determination of implied or actual bias, shall be propounded by the court. If such a question is requested by the prosecution or by counsel for the defense and is one of the standardized questions developed by the Task Force on Voir Dire, the court shall propound the question unless the court

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determines that the question is clearly inappropriate. If a nonstandardized question is proposed by the prosecution or by counsel for the defense, the court may propound the question in its discretion.

(b) The Task Force on Voir Dire shall consist of eight members who shall serve without compensation, two of whom shall be appointed by the Judicial Council, two by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. All appointees shall have been members of the State Bar for at least five years prior to their appointment. The Judicial Council may provide staff to assist the task force.

All appointments to the Task Force on Voir Dire shall be made on or before March 1, 1988. The task force shall submit to the pilot project counties a list of standardized questions which meet the purposes of subdivision (a) on or before July 1, 1988.

(c) Notwithstanding the provisions of Section 206, the Judicial Council and any other bona fide research or research organization shall be permitted access to any data regarding the conduct or evaluation of the pilot project. On or before January 1, 1992, the Judicial Council shall report to the Legislature on the effects of the pilot project on the efficiency in jury selection and on any effect on the conviction rate for particular crimes compared to a similar prior period in each pilot project county. (Added by Stats.1988, c. 1245, § 5.)

## § 224. Handicapped jurors; presence of attendant

(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. (Added by Stats.1988, c. 1245, § 5.)

## § 225. Challenges; definition; classes and types

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 225 was repealed by Stats.1988, c. 1245, § 1.

## § 226. Challenges to individual jurors; time; form; exclusion on peremptory challenge

(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. (Added by Stats.1988, c. 1245, § 5.)

Former § 226 was repealed by Stats.1988, c. 1245, § 1.

## § 227. Challenges for cause; time; order

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 227 was repealed by Stats.1988, c. 1245, § 1.

## § 228. Challenges for general disqualification; grounds

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. (*Added by Stats.1988, c. 1245, § 5.*)

Former § 228 was repealed by Stats.1988, c. 1245, § 1.

#### § 229. Challenges for implied bias; causes

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. (*Added by Stats.1988, c. 1245, § 5.*)

#### § 230. Challenges for cause; trial; witnesses

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. (*Added by Stats.1988, c. 1245, § 5.*)

Former § 230 was repealed by Stats.1980, c. 81, § 26.

#### § 231. Peremptory challenges; number; joint defendants; passing 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 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

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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. (Added by Stats.1988, c. 1245, § 5. Amended by Stats.1989, c. 1416, § 9.)

Former § 231 was repealed by Stats.1980, c. 81, § 26.

## § 232. Perjury acknowledgement and agreement

(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." (Added by Stats.1988, c. 1245, § 5. Amended by Stats.1989, c. 1416, § 10.)

Former § 232 was repealed by Stats.1980, c. 81, § 26.

## § 233. Discharge of juror unable to perform duties; alternate jurors; discharge of jury

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. (Added by Stats.1988, c. 1245, § 5.)

Former § 233 was repealed by Stats.1980, c. 81, § 26.

## § 234. Alternate jurors; drawing and examining; qualifications; attendance; confinement; replacing original juror; fees and expenses

Whenever, in the opinion of a judge of a superior, municipal, or justice court about to try a civil or criminal action or proceeding, the trial is likely to be 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 cases the sums for fees and mileage or transportation need not be deposited until the judge directs alternate jurors to be impaneled. (Added by Stats.1988, c. 1245, § 5.)

## § 235. Juries of inquest; selection; compensation

At the request of the sheriff, coroner, 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. (*Added by Stats.1988, c. 1245, § 5.*)

Former § 235 was repealed by Stats.1947, c. 424, § 3.

**§ 236. Juries of inquest; oath; duties**

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. (*Added by Stats.1988, c. 1245, § 5.*)

**§§ 238 to 240. Repealed by Stats.1988, c. 1245, § 1**

Former § 239 was repealed by Stats.1978, c. 718, § 6.

**§§ 241 to 242. Repealed by Stats.1959, c. 501, § 3**

See, now, Penal Code §§ 902 to 906, 908.

**§ 242a. Repealed by Stats.1961, c. 72, § 2**

See, now, Penal Code § 908.1.

**§ 243. Repealed by Stats.1959, c. 501, § 3**

**§§ 246 to 248. Repealed by Stats.1988, c. 1245, § 1**

**§§ 250, 251. Repealed by Stats.1980, c. 81, § 29**

**§§ 254, 255. Repealed by Stats.1988, c. 1245, § 1**

**CHAPTER 2. COURT COMMISSIONERS**

**Section**

258. Repealed.

259. Powers and duties.

259a. Repealed.

260 to 261.5. Repealed.

**§ 258. Repealed by Stats.1953, c. 206, § 7**

See, now, Gov.C. §§ 69894.1, 70141, 70142 to 70144.

**§ 259. Powers and duties**

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

(1) 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) 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) Take and approve any bonds and undertakings in actions or proceedings, and determine objections to the bonds and undertakings.

(4) 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) Act as temporary judge when otherwise qualified so to act and when appointed for that purpose, or by written consent of the party appearing at the hearing where the action is either uncontested or the other party or parties are in default. While acting as temporary judge the commissioner shall receive no compensation therefor other than compensation as commissioner.

(6) 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.

(7) Hear, report on, and determine all uncontested actions and proceedings subject to the requirements of paragraph (5) above.

(8) 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 paragraph 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.

(9) 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.

(10) Authenticate with the official seal the commissioner's official acts. (*Enacted 1872. Amended by Code Am.1877-78, c. 154, § 1; Code Am.1880, c. 35, § 1; Stats.1980, c. 229, § 1; Stats.1982, c. 517, § 95; Stats.1989, c. 1105, § 5.*)

Effect of L.1982, c. 517, see note under § 166.

**Cross References**

Administration of oaths, see § 2093 et seq.

Affidavits, see § 2009 et seq.

Duties of commissioners in counties with population of 291,000 to 900,000, see Government Code § 70141.5.

Findings of commissioner, see §§ 643 to 645.

Mortgage foreclosures, see § 726.

Notary fees, see Government Code § 8211.

Official seals, defined, see § 14.

Power of legislature to provide for court commissioners, see Const. Art. 6, § 22.

Proof and acknowledgment of instruments, see Civil Code § 1180 et seq.



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

that he intended to drive the car, instead of being forced to do so by believing he was commanded by a martian from outer space.

e. Footprints in the snow. Inference is that a person walked in the area vis. the snow fell coincidentally in the pattern of footprints.

f. Lipstick on the collar; inference is that there was an amorous encounter rather than his secretary used his collar as a napkin at lunch that day.

3. Indicate all the alternatives are "possible" but one is reasonable. They must be prepared to select the reasonable and reject the unreasonable even though the unreasonable alternative may be possible.

4. The use of circumstantial evidence requires the application of common sense.

9. Reasonable doubt.

1. Jurors must determine facts.

2. The facts are determined from the evidence, and evidence may be truthful, or untruthful, reasonable or not reasonable, possible or impossible, and so on.

3. Do you expect that in a trial there will be such evidence, i.e., truthful, untruthfull, reasonable or unreasonable, possible and impossible?

4. The determination of facts often means that you must evaluate the truth of evidence that is in conflict. I.e., which version is truthful, reasonable, possible, etc.

5. Resolving conflicts may mean that as between two conflicting versions in the evidence, one pointing to guilt and the other pointing to innocense, you are convinced beyond a reasonable doubt as to that version that points to guilt, notwithstanding the existence of the version that points to innocense. Can you understand that the mere existence of a conflict of the testimony does not mean the existence of reasonable doubt?

Or, do you believe that the mere existence of a conflict of the evidence necessarily means the existence of reasonable doubt?

6. Do you understand that if a mere conflict in the

evidence meant reasonable doubt then in every case a defendant said he was not guilty he would be entitled to an acquittal even if you did not believe him? Can you understand it is important that you evaluate all the evidence and reject that evidence which may be in conflict that you do not believe is trustworthy?

10. Single juror holdout.

1. If you are the only juror voting for a particular position, will you listen to the other jurors to see if you may be wrong?

2. Do you believe it is possible for you to be wrong in evaluating the evidence in this case? Is there anyone on this jury who has never been wrong before?

3. If you are convinced that you are wrong after listening to your fellow jurors, will you unhesitatingly reverse your position in order to avoid what may be an injustice?

4. At the same time, will you discuss your position with your fellow jurors and give them the benefit of your thinking as to the evidence in this case?

11. Use of common sense.

1. You understand that being in a courtroom is no reason to use your common sense any differently than you would use it in any other place?

2. If you happen to be outside the courtroom and you hear something unreasonable it should seem as unreasonable to you as if you were to hear it inside the courtroom, don't you agree?

12. Standards of conduct.

1. Will you hold the defendant to the same standards of conduct that you believe are applicable to any other citizen?

2. Do you think that the defendant is entitled to a fairer trial than are the People?

3. Will you apply the rules of evidence and the law as the judge instructs equally as to the evidence presented by the people as well as that presented by the defendant?

4. Imagine, if you will yourself being asked to perform the same crime that the defendant is being charged with. Can you imagine what your response would be? Do you think that the response by the defendant or any one else should be any different than yours?

12. Sentencing:

1. Do you understand that sentencing is not an issue that may enter into your deliberations?

2. Do you understand that sentencing is a matter that rests exclusively with the judge and other governmental agencies that can evaluate the appropriate sentence, if any, that the defendant may serve?

3. Do you believe you will have the ability only to determine whether the defendant is guilty of the charge? You understand that you must not consider the consequences. If the defendant is found to be guilty, then the court, together with other governmental agencies are charged with the responsibility to determine what, if any sentence should be administered. Do you believe this is proper?

14. Appearance, etc. of deft.

1. Do you think the defendant is entitled to any consideration of leniency because of his youthful appearance?

2. Do you think there is anything in the law that says that if the defendant is young looking or nice looking, or has nice hair or a friendly smile that he is less likely to be guilty?

3. Do you think there is anything in the law that says that if the defendant comes from a particular economic class, or area of our community or has achieved a certain level of education, or social status, or that he has failed to do so, that he is entitled to any greater or lesser consideration of leniency in the application of the law than anybody else? Will you apply the law equally as to this defendant irrespective of his race, national origin, religion, economic status, social or educational status?

15. Deft. testifying

1. I don't know whether the defendant will testify in this case. If he chooses not to testify, you understand that you must not consider that decision to have any effect in the determination of his guilt. On the other hand, if he does, do you believe that his testimony is entitled to be judged by a different standard giving him more credibility than the standard used for any other witness?

2. If the defendant chooses to testify, do you think that he is entitled to a presumption of credibility merely because he is a defendant?

3. Do you understand that the person that gets on the witness stand is considered a witness and is to be judged by the same standards of credibility as any other witness?

4. Remember the question I asked whether you believe a person ordinarily has a reason to lie if he is lying? Will you consider that in judging the credibility of all witnesses including the testimony of the defendant if he should testify?

16. Closing

1. Is there any reason that you can think of that would prevent you from giving both sides in this case a fair trial?