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# California

## State Court Organization Profile

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State Court Organization Profile Series

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This report is one of a series of profiles of all non-federal court systems prepared by the Implementation of Standards of Judicial Administration Project. This project is an effort of the American Bar Association Judicial Administration Division with staff support provided by the National Center for State Courts.

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## FOREWORD

This is one of a series of profiles of state court systems being prepared by the National Center for State Courts. The preparation of profiles at this particular time was prompted by a National Center project to implement the A.B.A. Standards Relating to Court Organization. A first step in this implementation process is to review the state courts and determine the extent to which the Standards are currently met in each state.

The information is presented in three sections: the overview, the charts, and the main body of the profile. The overview is a brief introduction which synthesizes the more detailed information in the body of the profile. The overview also comments on the relationship between the state's court system and the A.B.A. Court Organization Standards. The next section consists of charts which present a graphic summary of the major aspects of the court system. The main body of the profile contains the more complete description of each aspect of the court organization, and is followed by a chart indicating the degree of similarity between the state's court system and the Standards. Because the first two sections are intended as a summary, there is some repetition of material. To facilitate use of the information in the profile, a cross-index of the Standards to the profile and a chart indicating the degree of similarity between the state's court system and the Standards are provided.

The sources for all material in the body of the profile are indicated with citations which have been abbreviated in the interest of space economy. No citations are used in the overview or the charts because these are intended to give a quick description of the system and are based exclusively on material included in the body of the profile. A list of sources appears at the end of the profile.

The profiles are prepared on the basis of the state's constitution, statutes, court rules, the annual report of the courts, and administrative or personnel manuals. Information from other publications about the court system is also reviewed and utilized as appropriate. Each profile is reviewed by the respective state court administrator and any suggested revisions are incorporated prior to publication.

Because of project time constraints, it has not been possible to conduct an exhaustive search for operational information or to conduct on-site interviews. We hope, however, that the profiles will provide baseline data about the state court systems. An assertion that a court system is not consistent with a standard is a value judgment by staff and does not necessarily reflect a defect in the particular state court system.

## ACKNOWLEDGMENTS

A number of individuals assisted in the development of this profile and we are grateful for the time and talent that they have contributed. Justice Winslow Christian of the California Court of Appeal, San Francisco, has guided the work on this profile throughout its preparation. Elaine Mielke, Research Attorney, California Court of Appeal, did the research and drafting. We are also grateful to Ralph J. Gampell, Director, and Richard A. Frank, Deputy Director, of the Administrative Office of the Courts of California for reviewing a draft of this profile.

Particular note should be made of the guidance, support and critical advice that have been provided by the Committee on Implementation of Standards of Judicial Administration of the American Bar Association's Judicial Administration Division, which serves as Advisory Committee to this project. Also, we would like to thank Edward B. McConnell, Director of the National Center, who has been an invaluable source of encouragement and helpful suggestions. Finally, we would like to express our gratitude to Mr. James C. Swain, Mr. Dennis Murphy and Mr. Gregory C. Brady of the Adjudication Division of the Law Enforcement Assistance Administration for their continuing interest in and support for the profile effort.

The preparation of this profile would not have been possible without the assistance of these people. However, responsibility for any errors of fact or judgment remains with the staff.

V. S. Cashman  
August, 1978

OVERVIEW OF THE CALIFORNIA COURT SYSTEM



## OVERVIEW OF THE CALIFORNIA COURT SYSTEM

With Commentary Based on the  
American Bar Association  
Standards Relating to Court Organization

### I. INTRODUCTION

The modernization of the California courts has been marked by evolutionary steps, taken at intervals of several years, rather than by comprehensive and drastic reform. For example, the Superior Court was created as a state court of general jurisdiction as early as 1879 but in financial and administrative matters it still has important aspects of a local and non-unified system of courts. These features, which represent some of the most important divergencies between the California judicial scene and the American Bar Association's Standards, are not merely the product of the inertia of a large system; they exemplify and are supported by California's strong tradition of home rule. County government in California is perhaps the most vigorous structure of local government to be found in the United States, and the present status of the trial courts in California is heavily influenced by that circumstance.

### II. COURT STRUCTURE

#### A. Overview

California's court system is composed of a court of last resort (the Supreme Court), an intermediate appellate court (the Court of Appeal, organized in five districts), a trial court of general jurisdiction (the Superior Court, organized separately for each county) and courts of limited jurisdiction (the Justice Court in rural districts and the Municipal Court in urban districts).

Certain important headings of jurisdiction, which in some states belong to the courts, California has assigned to administrative tribunals (e.g., Workers' Compensation Appeals Board, Unemployment Insurance Appeals Board, Water Rights Board) whose determinations are subject to limited judicial review.

B. The Supreme Court

The California Supreme Court consists of six associate justices and the Chief Justice. Its appellate jurisdiction extends to all causes in the court system; the prerogative writs enable the court to review the determination of administrative agencies.

The sole method of judicial review of orders of the Public Utilities Commission is a petition directly to the Supreme Court for a writ of review. In all the diverse matters which are subject to the jurisdiction of the Supreme Court, review is discretionary with the court, subject to one exception: a direct appeal to the Supreme Court is automatically taken from every judgment of death.

The Supreme Court has discretionary original jurisdiction in habeas corpus.

Relation to Standards: The California Supreme Court's structure and jurisdiction conform to Standard 1.13(a).

C. The Court of Appeal

The Court of Appeal is California's intermediate appellate court. An appeal may be taken to it as a matter of right from any final judgment of a superior court and from a final order of the Agricultural Labor Relations Board.

The Court of Appeal may accept for further review a judgment of a Municipal or Justice Court after a decision on first appeal has been rendered by the Appellate Department of the Superior Court.

Interlocutory orders of the Superior Court may be reviewed, in the discretion of the Court of Appeal, by writs in the nature of mandamus or prohibition. Determinations of the Workers' Compensation Appeals Board and the Alcoholic Beverage Control Appeals Board can be brought to the Court of Appeal by means of a discretionary writ of review.

The Court of Appeal has original jurisdiction to entertain petitions for writs of habeas corpus; congruently, a judgment of the Superior Court denying habeas corpus is not appealable.

When the Court of Appeal was established in 1904, three appellate districts were created, in each of which three justices were authorized. To accommodate increases in appellate business two more districts have been created. Capacity has been further augmented by successive additions of three-justice divisions in the busier districts. However, no new divisions have been created since 1966. Instead, judicial positions have been added to existing divisions as they are needed. In divisions with more than three justices, calendars and assignments are arranged so that cases are handled by rotating three-judge panels. The judicial complement of the Court of Appeal is now 56.

Relation to Standards: The California Court of Appeal conforms substantially to Standard 1.13(b).

D. The Superior Court

The trial court of general jurisdiction in California is the Superior Court. At the present time, there are 551 Superior Court judges. In each county, there is a Superior Court of one or more judges. The number of Superior Court judges ranges from one in a number of counties to 171 in Los Angeles County.

The Superior Court has original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. It has trial jurisdiction in all felony cases. The Superior Court has jurisdiction in civil cases in which the amount involved exceeds \$5,000 (effective July 1, 1979, the amount involved must exceed \$15,000). The Superior Court has probate jurisdiction; the court also sits as juvenile court and conciliation court. The Superior Court has exclusive trial jurisdiction in many cases in equity (however small the amount in controversy may be), because the Legislature has made only a limited grant of equitable jurisdiction to Municipal and Justice Courts. The Superior Court alone has the power to issue permanent injunctions.

The Superior Courts have appellate jurisdiction in causes prescribed by statute that arise in Municipal and Justice Courts in their counties. Appeals on questions of law are heard by a three-judge appellate department.

Review of the decisions of most administrative agencies is in the Superior Court, by means of a writ of mandamus based on the administrative record. The California Supreme Court, however, has exclusive jurisdiction to review final decisions of the Public Utilities Commission, and the Courts of Appeal directly review final orders and decisions of the Agricultural Labor Relations Board, the Workers Compensation Appeals Board, and the Alcoholic Beverage Control Appeals Board.

E. The Municipal and Justice Courts

There are two types of trial courts below the Superior Court in California: Municipal Courts and Justice Courts. Municipal Courts are established in judicial districts having more than 40,000 residents. Justice Courts are established in judicial districts having 40,000 residents or less. The jurisdiction of these courts is the same.

The jurisdiction of the Municipal and Justice Courts is prescribed by the Legislature. The civil actions and proceedings over which they have jurisdiction are specified in section 86 of the California Code of Civil Procedure; generally, they have original trial jurisdiction in civil cases in which the amount involved is \$5,000 or less (effective July 1, 1979, the jurisdictional amount is \$15,000 or less). Municipal and Justice Courts have trial jurisdiction in criminal misdemeanor and infraction cases. Municipal and Justice Courts have no general equity jurisdiction but have jurisdiction over restricted classes of equitable actions specified by statute. They have jurisdiction in all cases where equity is pleaded as a defensive matter in any case otherwise properly pending in the court. They also exercise jurisdiction in simplified small claims proceedings where the amount claimed does not exceed \$750.

Presently there are 455 Municipal Court judges and 108 Justice Court judges. The number of judges on a Municipal Court ranges from one in several Municipal Court districts to 64 in the Los Angeles Municipal Court District. Generally, each Justice Court has one judge only. One Justice Court has two judges.

Relation to Standards: The California trial court system, which has one trial court of general jurisdiction and two trial courts of limited jurisdiction, does not conform to the Standards. Standard 1.12 recommends that there be one court of original proceedings administered as a single unit.

### III. JUDICIARY

#### A. Qualifications, Selection, and Term

Justices of the Supreme Court and the Courts of Appeal and judges of the Superior Court must have been admitted to the State Bar or have served as a judge of a court of record in the state for 10 years immediately preceding selection. Municipal Court judges must have been a member of the State Bar for five years immediately preceding selection to the Municipal Court. After January 7, 1975, persons seeking election to the Justice Court must be members of the State Bar and residents of the county in which the court is located.

Vacancies on the Supreme Court and Courts of Appeal are filled by appointment of the Governor. Appointments are subject to confirmation by the Commission on Judicial Appointments. When a nomination for the position of Associate Justice of the Supreme Court is being considered, the Commission on Judicial Appointments is composed of the Chief Justice, the State Attorney General and the Presiding Justice who has presided longest on any Court of Appeal. However, when a nomination for Chief Justice is to be considered, the Commission is composed of the Acting Chief Justice, the Attorney General, and the Presiding Justice who has presided longest on any Court of Appeal. In the case of an appointment to the Court of Appeal, the Commission consists of the Chief Justice, the Attorney General, and the Presiding Justice

of the Court of Appeal of the affected district. If there are two or more Presiding Justices in that district, the one who has presided longest sits on the Commission. Supreme Court justices are elected at large at general elections at the same time and places as the Governor. Justices of the Courts of Appeal are elected in their districts at general elections at the same time and places as the Governor. Justices of both courts run unopposed on a nonpartisan ballot. No Supreme Court or Court of Appeal justice has ever been defeated in a retention election. The term of office for both courts is 12 years beginning the Monday after January 1 following the election.

Judges of the Superior Courts are chosen in their counties at general elections. The term of office is six years. Vacancies are filled by nonpartisan election to a full term at the next general election after the January 1 following the vacancy, but the Governor appoints a person to fill the vacancy temporarily until the elected judge's term begins. No confirmation of the appointment is required.

Municipal Court judges are elected by the electors in their respective districts at the general state election next preceding the expiration of the term for which the incumbent has been elected. The office is nonpartisan. The term of office is six years. Vacancies are filled by appointment of the Governor. No confirmation of the appointment is required.

Justice Court judges are elected at general elections in their judicial districts. They are elected at the general state election next preceding the expiration of the term for which the incumbent has been elected. The office is nonpartisan. The term of office is six years. When a vacancy occurs in the

Justice Court, the board of supervisors of the county in which the court is located may either fill the office by appointment or call a special election. Any person so appointed or elected holds the office until his successor is elected.

Relation to Standards: California's process for selecting judges fails to conform to Standards 1.20 and 1.21. Standard 1.20 recommends that election of judges be abolished. This has not occurred in California. Standards 1.20 and 1.21 recommend that judges be selected by executive appointment from nominations made by a judicial nomination commission. In California, there is no judicial nomination commission which selects the qualified applicants from whom the Governor must select his appointments. Judicial qualifications and terms of office are generally consistent with Standard 1.21.

B. Discipline and Removal

The Supreme Court, on recommendation of the Commission on Judicial Performance, may suspend, retire, censure, or remove a judge for the reasons stated in Article VI, section 18(c), of the California Constitution. The Commission on Judicial Performance is the constitutional body authorized to investigate complaints of alleged judicial misconduct. It is composed of two judges of the Courts of Appeal, two judges of the Superior Courts, one Municipal Court judge, two members of the State Bar who have practiced law in the state for at least 10 years, and two public members.

On recommendation of the Commission, the Supreme Court may: (1) retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent; or (2) censure or remove a judge for action occurring not



more than six years prior to the commencement of the judge's current term that constitutes wilful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The Commission on Judicial Performance may privately admonish a judge found to have engaged in an improper action or a dereliction of duty.

The procedure to be followed and the rules governing the proceedings for the censure, removal, retirement, or private admonishment of judges are set forth in the California Rules of Court. Prior to any disciplinary recommendation, a hearing is held before the Commission on Judicial Performance or, upon the Commission's request, before special masters appointed by the Supreme Court. A recommendation by the Commission to censure, remove, or retire a judge is reviewed by the Supreme Court upon a petition to modify or reject the recommendation. But where the disciplinary proceeding involves a Supreme Court justice, the Commission's recommendation to censure, remove, or retire is subject to review instead by a tribunal consisting of seven Court of Appeal judges selected by lot. A private admonition by the Commission is subject to review in the Supreme Court in the manner provided for review of causes decided by a Court of Appeal.

Alternatively, judges are subject to impeachment for misconduct in office.

Relation to Standards: California's discipline and removal procedure is in accord with Standard 1.22.

C. Compensation

As of July 1978, California ranks first in the nation for Supreme Court judicial salaries, for intermediate appellate court judicial salaries, and for general trial court judicial salaries. It ranks seventh in the nation in terms of per capita personal income. As of July 1, 1978, California's judicial salaries are as follows:

Chief Justice	\$70,212
Supreme Court Associate Justices	66,082
Court of Appeal Justices	61,952
Superior Court Judges	51,624
Municipal Court Judges	47,497
Justice Court Judges	\$3,275 to 38,409

Judges of the Supreme Court, Courts of Appeal, Superior, and Municipal Courts are entitled to an annual cost-of-living raise not to exceed five percent.

Under the Judges' Retirement Law, retirement allowances are provided to judges of all courts, except Justice Courts, who have contributed to the Judges' Retirement Fund. A judge who qualifies for retirement and who retires on, or before, the day of attaining age 70 receives a retirement allowance equal to 65 percent of his judicial salary and if the judge has 20 or more years of retirement service credit, the judge receives a retirement allowance equal to 75 percent of salary.

Judges receive medical insurance coverage.

Relation to Standards: California's compensation provisions are largely consistent with Standard 1.23. However, California's pension system does not provide a retirement allowance of at least three-quarters salary at age 70 with only 10 years of judicial service, but rather requires 20 or more years of

retirement service credit in order to receive at age 70 a pension of 75 percent of salary. Standard 1.23 also recommends that a compensation review board be established to review and make periodic recommendations concerning compensation of judges. No compensation review board exists in California.

D. Retirement Age and Active Service

There is no mandatory retirement age for judges in California. However, a financial penalty is imposed upon judges who do not retire upon reaching age 70 in that their retirement allowance upon retiring later is less than if they retire, when otherwise qualified, by age 70. Justices may retire at age 70 if they have served at least 10 years as a judge within the 15 years immediately preceding the effective date of retirement. If otherwise qualified, a judge may retire as early as age 60. A retired judge who consents may be assigned to any court by the Chief Justice.

Relation to Standards: California has no mandatory retirement age for judges, which is inconsistent with the recommendation of Standard 1.24 that judges be required to retire at age 70. California's active service provisions, however, substantially conform to Standard 1.24.

E. Continuing Education

In 1973, the California Center for Judicial Education and Research (CJER), a joint project of the Judicial Council of California and the California Judges Association, was created with federal funds allocated by the California Office on Criminal Justice Planning. The Center is now supported primarily by state funds. The center's projects include preparing a master outline of educational subjects important to daily judicial work,

publishing benchbooks for instruction and reference and a CJER Journal furnishing information on legal developments and on the operations of courts, conducting educational programs for judges (including orientation programs and the annual two-week Trial Judges' College Session), and developing new methods and materials of judicial education, including audiotape and videotape cassettes.

CJER produces an Institute each year for the Courts of Appeal.

The Presiding Judges of Superior and Municipal Courts are required to provide for an appropriate orientation program for new judges as soon as feasible after appointment.

The Judicial Council is required to conduct annual sentencing institutes for trial court judges toward the end of assisting such judges in imposing appropriate sentences.

F. Parajudicial Officers

The Supreme Court and the Courts of Appeal seldom use parajudicial officers. Pursuant to statute, the Superior Courts may appoint court commissioners to perform subordinate judicial duties, the number and authority of the commissioners varying with the size of the county. Every commissioner of the Superior Court must be a citizen of the United States and a resident of the state, and the Superior Court may require that the commissioner have been admitted to practice in the state for at least five years immediately preceding the appointment. A Superior Court commissioner holds office at the pleasure of the appointing court. The salaries of trial court commissioners are set by statute and vary from county to county. The salaries are paid by the counties.

Within the jurisdiction of the Municipal Court, the commissioners of the Municipal Court exercise the same powers and perform the same duties which are authorized by law to be performed by commissioners of the Superior Courts. Additionally, at the direction of the judges, Municipal Court commissioners may have the same jurisdiction and exercise the same powers and duties as Municipal Court judges with respect to any infraction. Municipal Court commissioners must possess the same qualifications the law requires of a Municipal Court judge - membership in the State Bar for at least five years immediately preceding selection. They hold office at the pleasure of the appointing court.

In certain instances, referees and temporary judges also are used in the Superior and Municipal Courts.

Relation to Standards: California's provisions for parajudicial officers are in large part consistent with the suggestions of Standard 1.26.

#### IV. ADMINISTRATION AND PROCEDURE

##### A. Administrative Authority

The Chief Justice is the administrative head of the state court system.

Relation to Standards: California's provisions for the administrative authority of the courts are substantially consistent with Standard 1.33.

##### B. Central Administrative Office

The chief administrative body of the state judicial system is the Judicial Council. The California Constitution directs the Judicial Council to survey judicial business and make recommendations to the courts and annual

recommendations to the Governor and the Legislature in order to improve the administration of justice. The Council also adopts rules for court administration, practice, and procedure, which are published as the California Rules of Court.

The Administrative Director of the Courts is appointed by the Judicial Council. The Director serves as Secretary of the Judicial Council and is in charge of the Administrative Office of the Courts, the staff agency created to assist the Judicial Council and its Chairperson in carrying out their duties.

Relation to Standards: California's provisions for statewide administration are consistent with Standard 1.41.

C. Rule-Making and Policy-Making Authority

The chief rule-making and policy-making body of the state judicial system is the Judicial Council. The Judicial Council consists of the Chief Justice and one other justice of the Supreme Court, several judges of the Courts of Appeal, Superior, Municipal, and Justice Courts, several members of the State Bar, and one member from each house of the Legislature. The Council makes rules for court administration, practice and procedure, not inconsistent with statute.

Every court of record may make rules for its own government and the government of its officers not inconsistent with law or with the rules adopted and prescribed by the Judicial Council.

Relation to Standards: California's rule-making and policy-making provisions are generally consistent with Standards 1.31 and 1.32.

D. Non-Judicial Personnel System

Employees of the Administrative Office of the Courts, the Supreme Court, and the Courts of Appeal are state employees. Employees of the Superior Courts are county employees and the staffs of the Municipal Courts are county employees. The Judicial Council has not set forth rules governing non-judicial court personnel.

Relation to Standards: California's non-judicial personnel system is partially consistent with Standard 1.42. However, Standard 1.42 suggests that non-judicial personnel of the court system should be selected, supervised, retained and promoted by the court system, in accordance with regulations adopted by a judicial council. The Judicial Council of California has not set forth such regulations. California also does not conform to the recommendations of Standard 1.44 relating to continuing education for court staff.

V. FINANCE AND BUDGET

A. Funding

In fiscal year 1977-78, total court expenditures by the state and counties was \$458,971,671. Of this amount, 11.2% was borne by the state and 88.8% was borne by the counties. Municipalities do not contribute any amount to the operation of the state judicial system. The state pays for the total operation of the Supreme Court, the Courts of Appeal, the Judicial Council, and the Commission on Judicial Performance. The state pays a portion of the salaries of Superior Court judges and, in addition, provides a \$60,000 subvention towards the support costs of each new Superior Court judgeship created. The state contributes to the Judges' Retirement Fund which funds retirement

benefits for judges of all courts of record. The counties pay for the total cost of operating all trial courts (i.e., Superior, Municipal and Justice Courts) except for the state payments noted above.

Relation to Standards: California is not consistent with Standard 1.50 which recommends state funding of the entire court system.

B. Fines and Fees

A major portion of the revenue from fines and fees produced by the courts is transferred to city and county general and transportation funds. The remainder of such revenue is transferred to the state transportation and other special funds (e.g., driver education). In no instance is there linkage between court-generated revenue and the cost of operating the courts.

Relation to Standards: California is inconsistent with Standard 1.53 which states that all revenues from fines and fees should be transferred to the state general fund; however, there is consistency with the underlying principle that court operations should not depend upon the generation of revenue from fees or fines.

C. Budget

The proposed judicial budget is initially prepared by the Fiscal Services Office of the Judicial Council and is submitted to the Department of Finance (the executive branch budget office) for review and revision by the Department and the Governor. The Governor's total state budget, which includes provision for judicial branch expenditures, is submitted to the Legislature within the first 10 days of the calendar year. The Legislature by a two-thirds majority must pass a budget bill by midnight on June 15 of each year. The Governor may reduce or delete any item in the budget bill.



The audit of state appropriations is conducted by the Department of Finance, the Auditor General, and the State Controller. The audit of county appropriations is conducted by the county auditor-controller and the State Controller.

Relation to Standards: California is partially consistent with Standard 1.51. There is a central budget for the state-funded portions of the judicial system. However, California is inconsistent in that the state does not fund the entire court system and the court budget must be approved by, and is presented to the Legislature by, the executive branch of government.

## VI. INFORMATION SYSTEM

### A. Record Keeping

The policies relating to the retention and destruction of court records are governed primarily by statute. The Judicial Council is required to report periodically to the Legislature any statutory changes needed to achieve uniformity in the entry, storage, and retrieval of court records. The Judicial Council has provided by rule that the Clerk of each Superior, Municipal or Justice Court may create, maintain, update and make accessible the indexes required by law by photographic, microphotographic, photocopy, mechanical, magnetic or electronic means. A single alphabetic index may be maintained as long as the plaintiff-defendant distinction is retained. The Clerk must provide for preserving the information on a medium that will insure its permanence and protect it from loss or damage arising from electronic failure or mechanical defect. The indexes maintained under automated procedures must be accessible for public information and use.

Relation to Standards: California's system for record keeping substantially complies with Standard 1.61.

B. Statistics and Data Processing

The Judicial Council of California, under the State Constitution, has the responsibility for surveying judicial business to improve the administration of justice. Pursuant to Judicial Council regulations, prescribed statistical reports are submitted to the Council each month by the Clerks of the Supreme Court, Courts of Appeal, Superior Courts and Municipal Courts. Justice Courts report on a quarterly basis. From these reports data are extracted, stored, retrieved and compiled for inclusion in an annual report and other special reports to the Governor, the Legislature and the courts, and made available to interested persons.

Data from the summary of court business reports, condition of calendar reports and assistance reports submitted by the Superior and Municipal Courts are key entered and stored in master files on a computer complex located in Sacramento, the state capital.

Also stored are data from the summary of court business reports and assistance reports submitted by Justice Courts. Justice Courts do not submit condition of calendar reports. Data for Judicial Council reports are retrieved from the computer and the reports are prepared by the Administrative Office of the Courts, the staff agency for the Judicial Council.

The summary of court business reports contain data on filings and dispositions of the various types of case categories.

The condition of calendar reports provide data on case inventories, the age of matters set for trial, and the age of cases tried in the previous month.

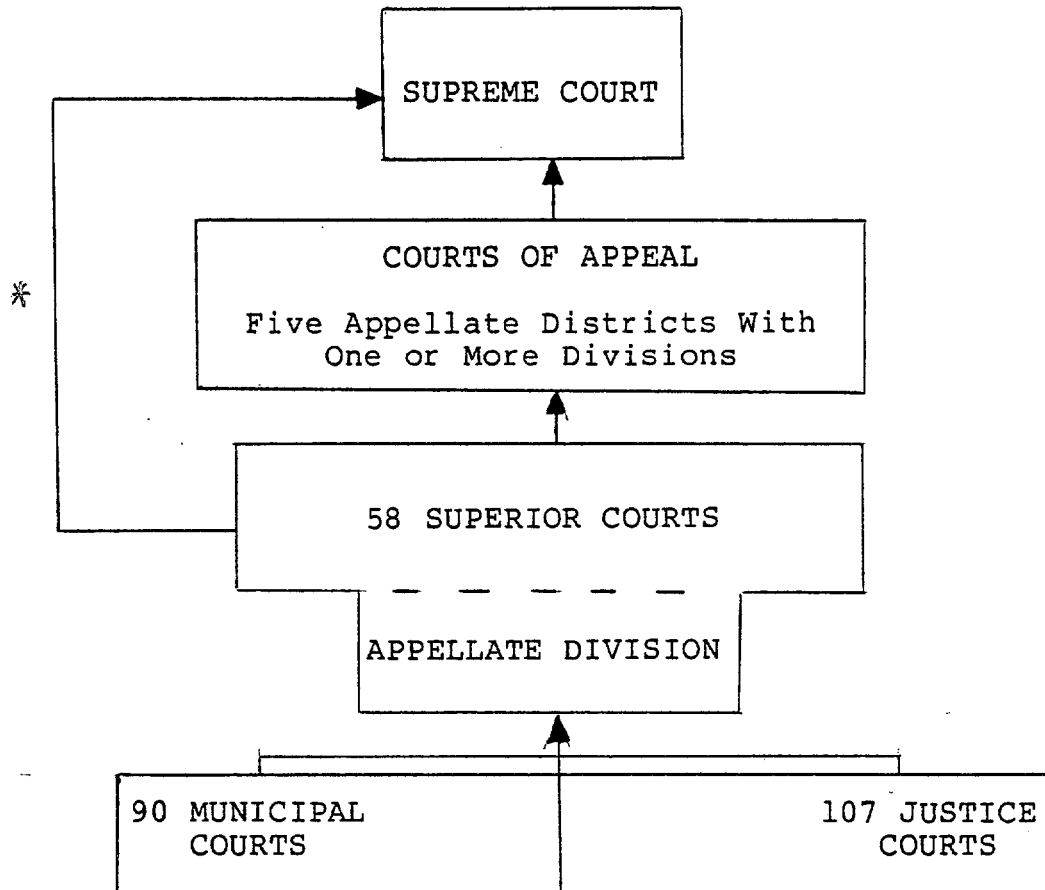
The assistance reports record in detail the amount of assistance rendered to the various courts by judges from other courts, retired judges, commissioners and referees.

From reports filed by the Supreme Court and the Courts of Appeal the Administrative Office of the Courts manually maintains similar data files for those courts.

Relation to Standards: California's information system substantially conforms to Standard 1.60.

# CALIFORNIA STATE COURT SYSTEM

## Routes of Appeal



Shows Court To Which Appeals Are Made

\*Automatic appeal of death sentences to the Supreme Court.

## JUSTICES, JUDGES AND JURISDICTIONS

**SUPREME COURT:** Chief Justice and 6 Associate Justices.

Vacancies filled by appointment of the Governor. Elected at large (run unopposed on a nonpartisan ballot) at general elections. Term of office: 12 years. No mandatory retirement age.

### Jurisdiction:

1. Final appellate jurisdiction of all causes in state court system upon grant of petition for hearing.
2. Direct, automatic appellate review in death-sentence cases.
3. Direct discretionary review of final decisions of California Public Utilities Commission.
4. Direct review of disciplinary proceedings of judges and attorneys.
5. Original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in nature of mandamus, certiorari, and prohibition.

**COURTS OF APPEAL:** One, with one or more divisions, for each of the five appellate districts in the state. Each division consists of a presiding justice and 2 or more associate justices. Total number of judges authorized: 56. Vacancies filled by appointment of the Governor. Elected in their districts (run unopposed on a nonpartisan ballot) at general elections. Term of office: 12 years. No mandatory retirement age.

### Jurisdiction:

1. Appellate jurisdiction of all cases (except death penalty cases) originating in Superior Courts and in other causes prescribed by statute.
2. Jurisdiction of cases transferred to them by Supreme Court.
3. Same original jurisdiction as Supreme Court.

**SUPERIOR COURTS:** One court of one or more judges in each county. 551 judges authorized. Vacancies filled by appointment of the Governor. Elected in their counties at general elections on nonpartisan ballot. Term of office: 6 years. No mandatory retirement age.

### Jurisdiction:

1. Original jurisdiction of all cases except those given by statute to other trial courts - generally, all felony cases and civil cases in which the amount involved exceeds \$5,000 (effective July 1, 1979, the jurisdictional minimum is \$15,000). Probate jurisdiction; also sits as juvenile court and conciliation court.
2. Original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.
3. Reviews the decisions of most administrative agencies.
4. Appellate jurisdiction in causes prescribed by statute that arise in Municipal and Justice Courts in their counties.

**MUNICIPAL COURTS:** One court of one or more judges in each judicial district of more than 40,000 residents. 455 judges authorized. Vacancies filled by appointment of the Governor. Elected in their districts at general elections, on nonpartisan ballots. Term of office: 6 years. No mandatory retirement age.

### Jurisdiction:

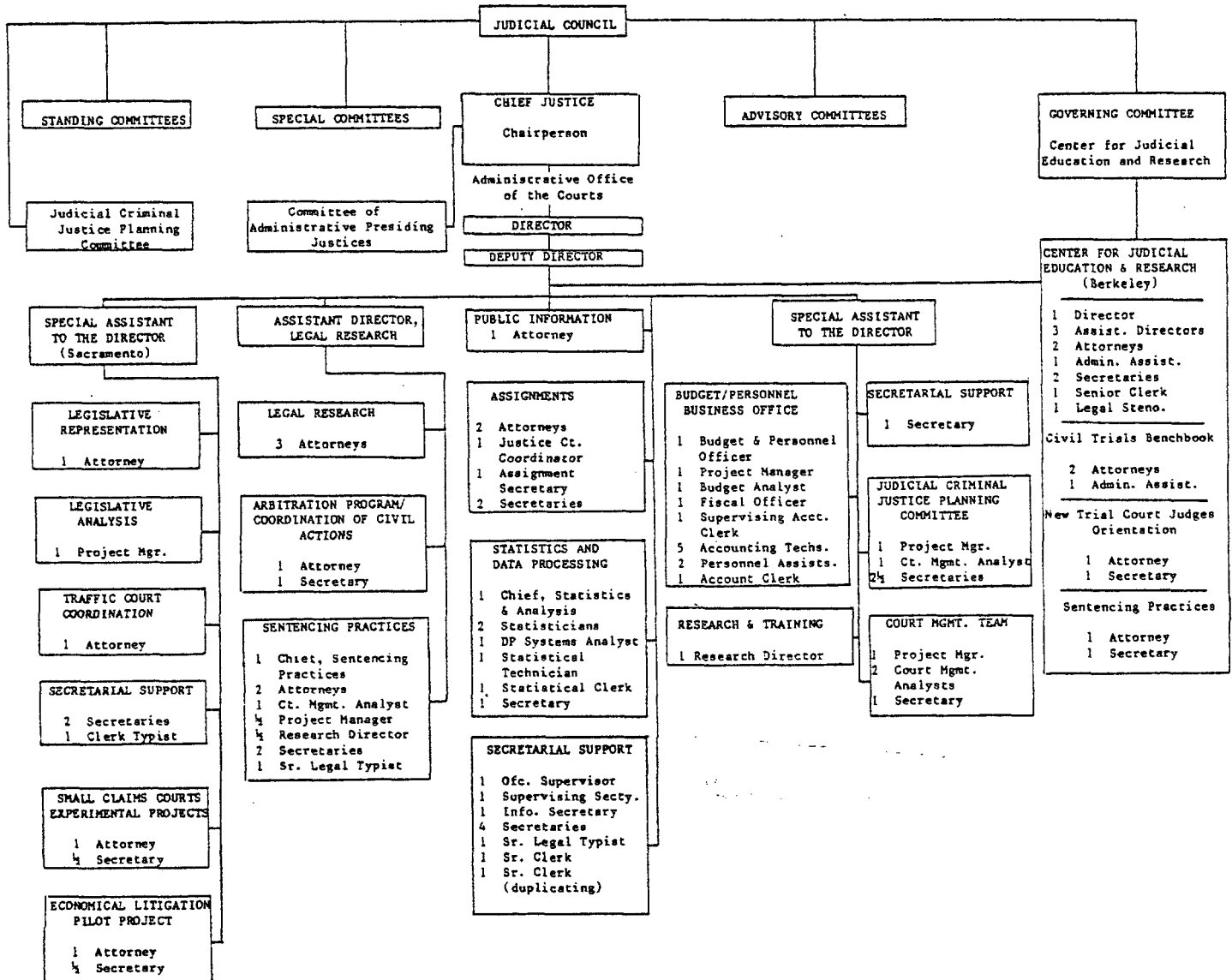
1. Prescribed by statute - generally, criminal misdemeanor and infraction cases and civil cases in which the amount involved is \$5,000 or less (effective July 1, 1979, jurisdictional amount raised to \$15,000 or less).

**JUSTICE COURTS:** One court in each judicial district having 40,000 residents or less. 108 judges authorized. Elected in their districts at general elections. Vacancies filled by appointment of the county board of supervisors or by special election. Term of office: 6 years. No mandatory retirement age.

### Jurisdiction:

1. Same as Municipal Court.

ORGANIZATION CHART  
JUDICIAL COUNCIL



\*As of December 31, 1976, the chart does not include temporary help or contract consultants.

## CALIFORNIA STATE COURT SYSTEM

### Courts Having Appellate Jurisdiction

#### SUPREME COURT

##### Nature of Jurisdiction

1. Discretionary final appellate jurisdiction of all causes in state court system upon grant of petition for hearing;
2. Automatic review directly from the trial court in cases where death penalty has been imposed;
3. Direct discretionary review of final decisions of the state Public Utilities Commission;
4. Direct review of disciplinary proceedings against judges and attorneys.

#### COURTS OF APPEAL

##### Nature of Jurisdiction

1. Appellate review as a matter of right of all causes, except death penalty cases, originating in the Superior Courts;
2. Appellate review of cases arising in the Municipal and Justice Courts and on appeal in the Superior Court; upon certification of the Superior Court or determination by the Court of Appeal that such transfer and review appear necessary to secure uniformity of decision or to settle important questions of law;
3. Direct review of final orders of the Agricultural Labor Relations Board;
4. Direct review of final decisions of the Workers' Compensation Appeals Board and the Alcoholic Beverage Control Appeals Board.
5. Appellate jurisdiction of cases transferred by the Supreme Court.

#### SUPERIOR COURTS

##### Nature of Jurisdiction

1. Appellate jurisdiction in causes prescribed by statute that arise in Municipal and Justice Courts in their counties.

## CALIFORNIA STATE COURT SYSTEM

### Courts Having Trial/Hearing Jurisdiction

#### SUPREME COURT

##### Nature of Jurisdiction

1. Original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.
2. In certain limited circumstances, may conduct a hearing or appoint a referee for the purpose of taking additional evidence on appeal, in order to make findings of fact contrary to or in addition to those made by the trial court or for any purpose in the interests of justice. (Rarely occurs.)

#### COURTS OF APPEAL

##### Nature of Jurisdiction

Same as Supreme Court.

#### SUPERIOR COURTS

##### Nature of Jurisdiction

1. Original jurisdiction of all cases except those given by statute to other trial courts - generally, all felony cases and civil cases in which the amount involved exceeds \$5,000 (effective July 1, 1979, the jurisdictional minimum is \$15,000). Has probate jurisdiction; also sits as juvenile court and conciliation court. Original jurisdiction in many cases in equity irrespective of amount in controversy because only a limited grant of equity jurisdiction has been made to the Municipal and Justice Courts. The Superior Court is the only trial court that may issue a permanent injunction.
2. Original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.



## MUNICIPAL COURTS

### Nature of Jurisdiction

1. Generally, original jurisdiction in all criminal misdemeanor and infraction cases and in all civil cases in which the amount involved is \$5,000 or less (effective July 1, 1979, jurisdictional amount raised to \$15,000 or less). No general equity jurisdiction but have jurisdiction over a limited number of equitable actions specified by statute. Jurisdiction in simplified small claims proceedings where the amount claimed does not exceed \$750.

## JUSTICE COURTS

### Nature of Jurisdiction

Same as Municipal Courts.

CALIFORNIA STATE COURT SYSTEM

Funding Sources for Courts

Court	State Budget	County Budget	City Budget
Supreme Court	X		
Courts of Appeal	X		
Superior Courts	X <sup>1</sup>	X	
Municipal Courts		X	
Justice Courts		X	

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<sup>1</sup> The state pays a portion of the salaries of the Superior Court judges, and, in addition, provides a \$60,000 subvention towards the support costs of each new Superior Court judgeship created.

PROFILE

I. COURT OF LAST RESORT

A. Name, Seat, Terms

The court of last resort is the Supreme Court. The Supreme Court may transact business at any time. [Const., Art. 6, §2; Code Civ. Proc., §41.] Historically, the Supreme Court has maintained its principal office in San Francisco, notwithstanding section 1060 of the Government Code which provides that justices of the Supreme Court "shall reside and keep their offices in the City of Sacramento." The Court holds regular sessions in San Francisco, Los Angeles and Sacramento and may hold special sessions elsewhere. [Cal. Rules of Court, Rule 21(a).]

B. Jurisdiction

1. Original

The Supreme Court has original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. [Cal. Const., Art. VI, §10.] Rules governing such proceedings are set forth in California Rules of Court, Rules 56, 56.5 and 60 [See also Code Civ. Proc., §1108.]

2. Appellate

A direct appeal is automatically taken to the Supreme Court in criminal cases in which judgment of death has been pronounced. [Cal. Const., Art. VI, §11.]

Any party may petition for a hearing in the Supreme Court after a decision by a Court of Appeal. [Cal. Rules of Court, Rule 28.] The grounds for a hearing in the Supreme Court are set forth in California Rules of Court, Rule 29(a).

The major grounds are to secure uniformity of decision or to settle important questions of law. [Cal. Rules of Court, Rule 29(a).] Additionally, the Supreme Court may review a decision of a Court of Appeal upon the Supreme Court's own motion. [Cal. Rules of Court, Rule 28(a).] If a hearing is granted, the Court of Appeal decision becomes a nullity, and is withheld from publication. [Cal. Rules of Court, Rule 976(d).] Also, the Supreme Court may, before final decision, transfer to itself for decision a cause in a Court of Appeal. [Cal. Const., Art. VI, §12.] The Supreme Court may directly, without intervention of a Court of Appeal, review a decision rendered by a superior court on appeal to it from a lower court by issuing a writ of certiorari where it is shown that the superior court has acted without, or in excess of, its jurisdiction. [See Auto Equity Sales, Inc. v. Superior Court (1962) 57 Cal. 2d 450.] The Court also has exclusive jurisdiction for discretionary review of final decisions of the California Public Utilities Commission by means of a statutory writ of review. [Cal. Pub. Util. Code, §§1756, 1759; Cal. Rules of Court, Rule 58.]

### 3. Supervisory Jurisdiction

The Supreme Court has jurisdiction over disciplinary proceedings of judges. [Cal. Const., Art. VI, §18; Cal. Rules of Court, Rule 901 et seq.] The Court has jurisdiction over the admission of attorneys to practice law [Cal. Bus. & Prof. Code, §§6060, 6062], and it reviews and makes the final determination of State Bar disciplinary proceedings. [Cal. Bus. & Prof. Code, §§6082-6084, 6700; Cal. Rules of Court, Rules 951, 952.]

#### 4. Time for Filing Petition for Hearing

The party seeking a hearing in the Supreme Court must file a petition therefor within 10 days after the decision of the Court of Appeal becomes final as to that court. [Cal. Rules of Court, Rule 28(b).]

In fiscal year 1975-76, 229 (7.9%) of the 2,894 petitions for hearing were granted. [Judicial Council of California, Annual Report of the Administrative Office of the California Courts (January 1, 1977) p. 182.]

#### C. Panels

The Supreme Court consists of the Chief Justice and six associate justices. Concurrence of four justices present at the argument is necessary for a judgment. [Cal. Const., Art. VI, §2.]

#### D. Rule-Making

The Judicial Council makes rules for court administration, practice and procedure, not inconsistent with statute. [Cal. Const., Art. VI, §6.] The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, several judges of the Courts of Appeal, superior, municipal, and justice courts, several members of the State Bar and one member of each house of the California Legislature. [Cal. Const., Art. VI, §6.] Every court of record may make rules for its own government and the government of its officers not inconsistent with law or with the rules adopted and prescribed by the Judicial Council. [Cal. Gov. Code, §68070.]

E. Rendition and Publication of Decisions

All decisions of the Supreme Court must be in writing with reasons stated. [Cal. Const., Art. VI, §14.] All opinions are published. [Cal. Rules of Court, Rule 976(a).]

F. Personnel

Information on specific court personnel is provided in the following Sections: V, Judges; VI, Parajudicial Officers; and IX, Administration of the Courts. General information on California's non-judicial personnel system is contained in Section VII, Non-Judicial Personnel System.

## II. INTERMEDIATE APPELLATE COURT

### A. Name, Seat, Term

The intermediate courts of review in California are the Courts of Appeal. The state is divided into five appellate districts, each having a Court of Appeal composed of one or more divisions [Cal. Const., Art. VI, §3; Cal. Gov. Code, §§69100-69105]:

<u>District</u>	<u>Number of Judges</u>	<u>Seat</u>	<u>Statutory Reference</u>
I	16	San Francisco (Four Divisions)	Gov. Code, §69101
II	20	Los Angeles (Five Divisions)	Gov. Code, §69102
III	7	Sacramento (One Division)	Gov. Code, §69103
IV	9	San Diego (Division One) San Bernardino (Division Two) (Two Divisions)	Gov. Code, §69104
V	4	Fresno (One Division)	Gov. Code, §69105

The Courts of Appeal may transact business at any time. [Cal. Code Civ. Proc., §41.] Each Court of Appeal and each division thereof must hold regular sessions at least once in each quarter at times specified by the court. [Cal. Rules of Court, Rule 21(a).] A Court of Appeal, or division thereof, may hold special sessions in another appellate district when the causes scheduled for hearing during a special session have been transferred to the court by the Supreme Court from the appellate district in which the special session is to be held and the session has been approved by the Chief Justice. [Cal. Rules of Court, Rule 21(b).]



B. Jurisdiction

1. Original

Like the Supreme Court, the Courts of Appeal have original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. [Cal. Const., Art. VI, §10; see Cal. Rules of Court, Rule 56.]

2. Appellate

With the exception of death penalty cases which automatically are appealed directly to the California Supreme Court, the Courts of Appeal have appellate jurisdiction when superior courts have original jurisdiction and in other causes prescribed by statute. [Cal. Const., Art. VI, §11.] Cases arising in the municipal and justice courts and on appeal in the superior court may be transferred to and reviewed by the Court of Appeal when the superior court certifies or the Court of Appeal determines that such transfer appears necessary to secure uniformity of decision or to settle important questions of law. (Code Civ. Proc., §911; Pen. Code, §1471; Cal. Rules of Court, Rules 61-69; Burrus v. Municipal Court (1973) 36 Cal. App. 3d 233.)

Final orders of the California Agricultural Labor Relations Board are directly reviewable in the Court of Appeal. [Cal. Lab. Code, §1160.8.]

Decisions of the Workers' Compensation Appeals Board and of the Alcoholic Beverage Control Appeals Board are subject to limited review in the Court of Appeal pursuant to statutory writs of

review. [See Cal. Lab. Code, §§5950, 5952, 5953, 5955, Cal. Rules of Court, Rule 57 (Workers Compensation Appeals Board) and Cal. Bus. & Prof. Code, §§23089, 23090, 23090.2, 23090.5 (Alcoholic Beverage Control Appeals Board).]

### 3. Cases Transferred by Supreme Court

The Supreme Court may make two kinds of transfers to a Court of Appeal: (1) The Supreme Court may, before decision, transfer a cause from itself to a Court of Appeal. [Cal. Const., Art. VI, §12; see Rules of Court, Rule 20.] Thus, this provision permits the Supreme Court to transfer to a Court of Appeal for decision death penalty cases, cases in which the Supreme Court has original jurisdiction, and cases in which the Supreme Court has granted a hearing after a Court of Appeal decision. [See 1 Witkin, Cal. Procedure (2d ed. 1970) Courts, §218, p. 475.] (2) The Supreme Court may, before decision, transfer a cause from one Court of Appeal or division to another. [Cal. Const., Art. VI, §12.] This provision allows court congestion in particular courts to be alleviated by transferring cases from heavily burdened or backlogged districts and divisions to those with lighter case loads. The Court of Appeal to which the cause is transferred is expressly granted jurisdiction by the California Constitution. [Cal. Const., Art. VI, §12; see 1 Witkin, Cal. Procedure (2d ed. 1970) Courts, §219, pp. 475-476.]

### 4. Commencement of Appeal

An appeal from a judgment of a Superior Court, or from a particular part thereof, is taken by filing with the clerk of that court a notice of appeal. [Cal. Rules of Court, Rule 1.]

Except as otherwise specifically provided by law, the notice of appeal must be filed within 60 days after the date of mailing notice of entry of judgment by the clerk of the Superior Court, or within 60 days after the date of service of written notice of entry of judgment by any party upon the party filing the notice of appeal, or within 180 days after the date of entry of the judgment, whichever is earliest. [Cal. Rules of Court, Rule 2(a).]

C. Panels

Each of the five Courts of Appeal in California consists of one or more divisions. Each division consists of a Presiding Justice and two or more associate justices. [Cal. Const., Art. VI, §3.] The Court of Appeal conducts itself as a 3-judge court. Concurrence of two judges present at the argument is necessary for a judgment. [Cal. Const., Art. VI, §3.] Information on the number of justices per District and the seat of each District is contained in section III.A., above.

Each division presently consists of a presiding judge and three associate judges, with the exception of Division Two of District IV (San Bernardino) which consists of a presiding judge and four associate judges. [Cal. Gov. Code, §§69101-69105]

The counties comprising each district are set forth in section 69100 of the Government Code.

D. Rule-Making

The Judicial Council makes rules for court administration, practice and procedure, not inconsistent with statute. [Cal. Const., Art. VI, §6.] Every court of record may make rules for its own government and the government of its officers not inconsistent with law or with the rules adopted and prescribed by the Judicial Council. [Cal. Gov. Code, §68070.]

E. Rendition and Publication of Decisions

All decisions of the Supreme Court and Courts of Appeal that determine causes must be in writing with reasons stated. [Cal. Const., Art. VI, §14.] However, under the Constitution, only those opinions which the Supreme Court "deems appropriate" to be published must be published in the official reports. [Cal. Const., Art. VI, §14; see Gov. Code, §68902.] Pursuant to this authority the Supreme Court adopted Rule 976 of the California Rules of Court governing the publication of court opinions. All opinions of the Supreme Court are published. [Cal. Rules of Court, Rule 976(a).] No opinion of a Court of Appeal or of an appellate department of the Superior Court is published in the Official Reports unless the opinion: (1) establishes a new rule of law or alters or modifies an existing rule, (2) involves a legal issue of continuing public interest, or (3) criticizes existing law. [Cal. Rules of Court, Rule 976(b).]

If a majority of the court rendering the opinion certifies prior to the decision's becoming final in that court that the opinion meets the standards for publication specified in Rule 976(b) of the California Rules of Court, the opinion is published. [Cal. Rules of Court, Rule 976(c).] An opinion not so certified shall nevertheless be published in the Official Reports upon order of the Supreme Court. [Cal. Rules of Court, Rule 976(c).] Additionally, the Supreme Court may direct the Reporter of Decisions not to publish an opinion previously certified for publication. [Cal. Const., Art. VI, §14; Cal. Rules of Court, Rule 976.]

F. Appellate Settlement Conference

At any time after the notice of appeal is filed, the Presiding Justice may order the appellant to file a short statement of the nature of the case and the issues on appeal, and order counsel for the parties, and any other persons the Presiding Justice deems necessary, to appear before a justice of the Court of Appeal for a prehearing conference. [Cal. Rules of Court, Rule 19.5(a).] The purpose of such a conference is to consider the simplification of the issues on appeal, the possibility of settlement, and any other matters the designated conference judge determines may aid in the disposition of the appeal.

Matters agreed upon at the prehearing conference shall be reduced to writing and, when executed as a stipulation and approved by the conference judge, shall be filed with the clerk and shall control the subsequent course of the appeal, unless modified to prevent manifest injustice. [Cal. Rules of Court, Rule 19.5(a).]

The conference judge and any court attache who attends the conference may not participate in or do anything to influence the consideration or decision of the appeal on its merits. [Cal. Rules of Court, Rule 19.5(b).]

G. Personnel

Information on specific court personnel is provided in the following Sections: V, Judges; VI, Parajudicial Officers; and IX, Administration of the Courts. General information on California's non-judicial personnel system is contained in Section VII, Non-Judicial Personnel System.

### III. TRIAL COURT OF GENERAL JURISDICTION

#### A. Name, Seat, Terms

The trial court of general jurisdiction in California is the Superior Court. In each county there is a Superior Court of one or more judges. [Cal. Const., Art. VI, §4; see Cal. Gov. Code, §§69580 et seq.]

Generally, each Superior Court is required to hold sessions at the county seat and at such other locations, if any, as are provided by statute. [Cal. Gov. Code, §69741; see also Cal. Gov. Code, §§69742-69749; 69749.3.]

The statute provides that the Superior Court shall hold regular sessions commencing on the first Mondays of January, April, July, and October, and special sessions at such other times as may be prescribed by the judge or judges of the court, except that in the City and County of San Francisco the presiding judge shall prescribe the times of holding such special sessions. [Cal. Gov. Code, §69741.] In actual practice, the statutory terms of court have no significance; each court sits as its business requires.

There may be as many sessions of a Superior Court at the same time, as there are judges elected, appointed, or assigned to the court. [Cal. Gov. Code, §69741.5.]

Whenever in the opinion of the judge or a majority of the judges of the Superior Court of any county the public interests so justify or require, one or more sessions of the Superior Court, known as extra sessions, may be held in addition to and at the same time as the other sessions of the court. [Cal. Gov. Code, §69790, see Cal. Gov. Code, §§69791-69801.]

The board of supervisors of a county having a population of not less than 4,000,000 [Los Angeles County], by ordinance, may divide the county into not more than nine superior court districts, none of which may have a population of less than 250,000, within which one or more sessions of the Superior Court are held. [Cal. Gov. Code, §§69641, 69644.] The board of supervisors may in the same or subsequent ordinance designate one or more locations within each district at which sessions will be held. [Cal. Gov. Code, §69642; see also Cal. Gov. Code, §69741.] An ordinance creating additional districts may not result in more than eleven districts in the county. [Cal. Gov. Code, §69645.]

B. Jurisdiction

1. Original

The Superior Court has original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. [Cal. Const. Art. VI, §10; see also Cal. Code Civ. Proc., §1067 et seq.]

Additionally, the Superior Court has original jurisdiction in all causes "except those given by statute to other trial courts [i.e., Municipal and Justice Courts]." [Cal. Const., Art. VI, §10.] The Superior Court has trial jurisdiction in all felony cases. The Superior Court has jurisdiction in civil cases in which the amount involved exceeds \$5,000 (effective July 1, 1979, the jurisdictional amount will be \$15,000). The Superior Court also sits as a probate court, juvenile court, and conciliation court. [See Cal. Prob. Code, §301; Cal. Welf. & Inst. Code, §245; Cal. Code Civ. Proc., §17407.]

The Superior Court has exclusive trial jurisdiction in many cases in equity (however small the amount in controversy may be) because the Legislature has made only a limited grant of such jurisdiction to Municipal and Justice Courts. [See Cal. Code Civ. Proc., §86.] The Superior Court alone has the power to issue permanent injunctions. [1 Witkin, Cal. Procedure (2d ed. 1970) Courts, §173, p. 441.]

## 2. Appellate

The Superior Courts have appellate jurisdiction in causes prescribed by statute that arise in Municipal and Justice Courts in their counties. [Cal. Const., Art. VI, §11; see Cal. Code Civ. Proc., §§77, 904.2; Cal. Pen. Code, §§1469, 1466.]

Appeals on questions of law are heard by a three-judge appellate department. [Cal. Code Civ. Proc., §77(a).]

Where a Superior Court consists of three judges, those three judges make up the appellate department. In a county having more than three Superior Court judges, the Chairperson of the Judicial Council designates the three judges who shall sit in the appellate department.

In a county having fewer than three Superior Court judges, the Chairperson assigns the necessary additional judges to make up a three-judge panel. Such additional judges may be judges of the Superior Court of another county or judges retired from the Superior Court or state court of higher jurisdiction. [Cal. Code Civ. Proc., §§77(b), 77(c), 77(d).]



The presiding judge of the appellate department convenes the department at such times as may be necessary. The concurrence of two judges of the appellate department of the Superior Court is necessary to render a decision in any case. [Cal. Code Civ. Proc., §77(f).]

Appeals to the Superior Court are governed by rules adopted by the Judicial Council. [See Cal. Rules of Court, Rules 101 et seq.; Cal. Code Civ. Proc., §77(h).]

Appeals from decisions of the municipal and justice courts may also be transferred from the Superior Court to the Court of Appeal when the Superior Court certifies or the Court of Appeal determines that such transfer appears necessary to secure uniformity of decision or to settle important questions of law. [Cal. Code Civ. Proc., §911; Cal. Pen. Code, §1471; Cal. Rules of Court, Rules 61-69.]

Review of decisions of most administrative agencies is in the Superior Court, by means of a writ of mandamus based on the administrative record. [Cal. Code Civ. Proc., §1094.5.] However, the Supreme Court has exclusive jurisdiction for reviewing final decisions of the California Public Utilities Commission [Cal. Pub. Util. Code, §§1756, 1759; Cal. Rules of Court, Rule 58], and final orders and decisions of the California Agricultural Labor Relations Board, Workers Compensation Appeals Board, and Alcoholic Beverage Control Appeals Board are directly reviewable in the Courts of Appeal. [See Cal. Lab. Code, §1160.8 (ALRB); Cal. Lab. Code, §§5950, 5942, 5953, 5955; Cal. Rules of Court, Rule 57 (WCAB); and Cal. Bus. & Prof. Code, §23089, 23090, 23090.2, 23090.5 (Alcoholic Beverage Control Appeals Board).]

C. Coordination of Civil Actions Commenced in  
Different Trial Courts

When civil actions sharing a common question of fact or law are pending in different Superior Courts, the presiding or sole judge of any such court, on his own motion or the motion of any party, may request the Chairperson of the Judicial Council to assign a judge to determine whether coordination of the actions is appropriate and a judge must be so assigned to make that determination. [Cal. Code Civ. Proc., §404; see Cal. Code Civ. Proc., §§404.1-404.8; Cal. Rules of Court, Rules 1501 et seq.]

Coordination of civil actions sharing a common question of fact or law is appropriate if it will promote the ends of justice for one judge to hear all of the actions for all purposes in a selected site or sites. [Cal. Code Civ. Proc., §404.1.] Among the factors to be considered in determining the appropriateness of coordination are whether the common question of fact or law is predominating and significant to the litigation; the convenience of parties, witnesses, and counsel; the relative development of the actions and the work product of counsel; the efficient utilization of judicial facilities and manpower; the calendars of the courts; the disadvantages of duplicative and inconsistent rulings, orders, or judgments; and the likelihood of settlement of the actions without further litigation should coordination be denied. [Cal. Code Civ. Proc., §404.1; see Cal. Rules of Court, Rule 1521.]

D. Rule-Making

The Judicial Council makes rules for court administration, practice and procedure, not inconsistent with statute. [Cal. Const., Art. VI, §6.]

Every court of record may make rules for its own government and the government of its officers not inconsistent with law or with the rules adopted and prescribed by the Judicial Council. [Cal. Gov. Code, §68070.]

The Presiding Judge of each Superior Court is to prepare with the assistance of appropriate committees of the court such proposed local rules as are required to expedite and facilitate the business of the court. Such rules must be submitted to the local bar for consideration and recommendations, approved by a majority of the Superior Court judges, filed with the Judicial Council, and published for general distribution. [Cal. Rules of Court, Rule 244.(a)(1); see Cal. Gov. Code, §68071.]

E. Personnel

Information on specific court personnel is provided in the following Sections: V, Judges; VI, Parajudicial Officers; and IX, Administration of the Courts. General information on California's non-judicial personnel system is contained in Section VII, Non-Judicial Personnel System.

#### IV. TRIAL COURT OF LIMITED JURISDICTION

There are two types of trial courts below the Superior Court in California: Municipal Courts and Justice Courts. Municipal Courts are established in judicial districts having more than 40,000 residents. Justice Courts are established in judicial districts having 40,000 residents or less. [Cal. Const., Art. VI, §5.] The jurisdiction of these courts is the same and concurrent. [See Cal. Code Civ. Proc., §83; Cal. Pen. Code, §1462.1.]

##### A. Municipal Court

###### 1. Name, Seat, Terms

As public convenience requires, the board of supervisors of each county may divide the county into judicial districts. Except in San Diego County, no city may be divided so as to lie within more than one district. [Cal. Const., Art. VI, §5(b); Cal. Gov. Code, §71040.] A Municipal Court is to be established in each judicial district of more than 40,000 residents. [Cal. Const., Art. VI, §5; see also Cal. Gov. Code, §71043.]

Each judicial district shall be named by the board of supervisors of the county in which it is situated, and the court established in that district is designated by that name. [Cal. Gov. Code, §71045.] The board of supervisors selects a name which as nearly as possible identifies the communities embraced in the district. [Cal. Gov. Code, §71045.]

Sessions of a Municipal Court may be held at any place or places within the district for which the court is established. [Cal. Gov. Code, §71341.] Where a municipal court district embraces two or more cities, municipal court sessions are held at such places within the district as the board of

supervisors shall designate from time to time as the public convenience requires. [Cal. Gov. Code, §71342.]

There may be as many sessions of a Municipal Court at the same time as there are judges elected, appointed, or assigned to the court. [Cal. Gov. Code, §73140.]

## 2. Jurisdiction

The jurisdiction of the Municipal Court is prescribed by the Legislature. [Cal. Const., Art. VI, §5.] The civil actions and proceedings over which the Municipal Court has jurisdiction are enumerated in Code of Civil Procedure section 86. Generally, the Municipal Court has original trial jurisdiction in civil cases in which the amount involved is \$5,000 or less (effective July 1, 1979, the jurisdictional amount is \$15,000 or less). Municipal Courts have no general equity jurisdiction, but they do have jurisdiction over the limited number of equitable actions which are specified in section 86 of the Code of Civil Procedure. The Municipal Court also has jurisdiction in all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in the court. [Cal. Code Civ. Proc., §86, subd. (b)(2).] Municipal Courts also exercise jurisdiction in simplified small claims proceedings where the amount claimed does not exceed \$750. [Cal. Code Civ. Proc., §§116, 116.2, 117.]

Municipal Courts have trial jurisdiction in criminal misdemeanor and infraction cases. [Cal. Pen. Code, §1462.] In addition, Municipal Court judges act as magistrates conducting preliminary

hearings in felony cases to determine whether there is probable cause to hold a defendant for further proceedings or trial in the Superior Court. [See Cal. Const., Art. I, §14; Cal. Pen. Code, §§859-883.]

3. Rule-Making

The Judicial Council makes rules for court administration, practice and procedure, not inconsistent with statute. [Cal. Const., Art. VI, §6.]

Every court of record may make rules for its own government and the government of its officers, not inconsistent with law or with the rules adopted and prescribed by the Judicial Council. [Cal. Gov. Code, §68070.]

The Presiding Judge of each Municipal Court prepares with the assistance of appropriate committees of the court such proposed local rules as are required to expedite and facilitate the business of the court. Such proposed local rules must be submitted to the local bar for consideration and recommendations, approved by a majority of the judges of the court, filed with the Judicial Council, and published for general distribution. [Cal. Rules of Court, Rule 532.5; see also Cal. Rules of Court, Rule 981.]

4. Personnel

Information on specific court personnel is provided in the following Sections: V, Judges; VI, Parajudicial Officers; and IX, Administration of the Courts. General information on California's non-judicial personnel system is contained in Section VII, Non-Judicial Personnel System.

B. Justice Court

1. Name, Seat, Terms

As public convenience requires, the board of supervisors of each county may divide the county into judicial districts. Except in San Diego County, no city or city and county may be divided so as to lie within more than one district. [Cal. Const., Art. VI, §5(b); Cal. Gov. Code, §71040.] A Justice Court is established in each judicial district of 40,000 residents or less. [Cal. Const., Art. VI, §5.]

Each judicial district is named by the board of supervisors, and the court established in each district is designated by the name of the judicial district. [Cal. Gov. Code, §71045.] The board selects a name which as nearly as possible identifies the communities embraced in the district. [Cal. Gov. Code, §71045.]

The board of supervisors designates by ordinance the place or places within the district where sessions of the Justice Court are to be held. It may change the places if public convenience requires. [Cal. Gov. Code, §71341.]

There may be as many sessions of a Justice Court at the same time as there are judges elected, appointed, or assigned to the court. [Cal. Gov. Code, §71340.]

2. Jurisdiction

The jurisdiction of the Justice Courts is the same as and concurrent with that of the Municipal Courts. [Cal. Code Civ. Proc., §83; Cal. Pen. Code, §1462.1.]

See Section IV[A][2], supra.

3. Rule-Making

The rule-making authority of the Justice Courts is identical to that of the Municipal Court. Both have the authority to make local rules, not inconsistent with law or with the rules adopted and prescribed by the Judicial Council. [See Cal. Rules of Court, Rules 701; 532.5; 981.]

See Section IV[A][3], supra.

4. Personnel

Information on specific court personnel is provided in the following Sections: V, Judges; VI, Parajudicial Officers; and IX, Administration of the Courts. General information on California's non-judicial personnel system is contained in Section VII, Non-Judicial Personnel System.



V. JUDGES

A. Supreme Court

The Supreme Court consists of seven justices.  
[Cal. Const. Art. VI, §2]

1. Qualifications

a. Justices

A person is eligible to be a Justice of the Supreme Court if the person has been a member of the State Bar or served as a judge of a court of record in the state for 10 years immediately preceding selection to the Supreme Court.  
[Cal. Const., Art. VI, §15.]

b. Chief Justice

Same as for Justices; see [a] above.

2. Selection

a. Method

1) Justices

The Governor fills vacancies on the Supreme Court by appointment [Cal. Const., Art. VI, §16]; appointments are subject to confirmation by the Commission on Judicial Appointments, which is composed of the Chief Justice, the Attorney General, and when a nomination or appointment to the Supreme Court is to be considered, the Presiding Justice who has presided longest on any Court of Appeal. [Cal. Const., Art. VI, §§16, 7.]

## 2) Chief Justice

The method of selecting the Chief Justice is the same as that for the other Justices except that the Commission on Judicial Appointments then is composed of the Acting Chief Justice, the Attorney General, and the Presiding Justice who has presided longest on any Court of Appeal.

### b. Term and Election

The Chief Justice and Justices of the Supreme Court are elected at large at general elections at the same time and places as the Governor. They run unopposed on a nonpartisan ballot. [Cal. Const., Art. VI, §16(a) and (d); Cal. Elec. Code, §37.] Their terms of office are 12 years beginning the Monday after January 1 following their election. [Cal. Const., Art. VI, §16.] No Supreme Court justice has ever been defeated in a retention election.

## 3. Retirement

### a. Age

The Constitution empowers the Legislature to make provision for the retirement, "with reasonable allowance," of judges of courts of record for age or disability. [Cal. Const., Art. VI, §20.]

There is no mandatory retirement age for judges in California. However, a financial penalty is imposed upon judges who do not retire upon reaching age 70 in that their retirement allowance upon retiring later is less than if they retire, when otherwise qualified, by age 70. [See Cal. Gov. Code, §§75076(a), 75075.] Justices may retire at age 70 if they have served at least 10 years as a judge within the 15 years immediately preceding the effective date of retirement. [Cal. Gov. Code, §75025(a).] If otherwise qualified, a judge may retire as early as age 60. [See Cal. Gov. Code, §75025; see also Cal. Gov. Code, §75033.5]

b. Active Service After Retirement

A retired judge who consents may be assigned to any court by the Chief Justice. [Cal. Const., Art. VI, §6; see also Cal. Gov. Code, §§68540 et seq., 75028.] Recalled judges and justices, except Justice Court judges, are compensated at a rate of 92% of the salary for the position they occupy. The remaining 8% is paid into the retirement fund. Recalled Justice Court judges are paid 100% of the salary for the position they fill. [Cal. Gov. Code, §68543.5]

4. Compensation

a. Salaries/Rank

1) Justices

California ranks first in the nation for Supreme Court

salaries. [Survey of Judicial Salaries, p. 1.] Justices of the Supreme Court receive annual salaries of \$66,082. [Cal. Gov. Code, §68201(a).] They are entitled to an annual cost-of-living raise not to exceed five percent of their current salary. [Cal. Gov. Code, §68203.]

2) Chief Justice

The annual salary of the Chief Justice of California is \$70,212. [Cal. Gov. Code, §68200.] The Chief Justice is also entitled to an annual cost-of-living increase in salary not to exceed five percent. [Cal. Gov. Code, §68203.]

b. Fringe Benefits

1) Pension

Under the Judges' Retirement Law [Cal. Gov. Code, §75000 et seq.] retirement allowances are provided to judges of courts of record who have contributed to the Judges' Retirement Fund. The age and service requirements for eligibility are set forth in Government Code section 75025.

A judge who retires pursuant to section 75025, or who retires for physical or mental disability pursuant to Government Code section 75060, is entitled to

receive during the remainder of his life a retirement allowance equal to one-half the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he was last elected. [Cal. Gov. Code, §§75032, 75060.6.] However, a judge who retires on, or before, the day of attaining age 70 [see Cal. Gov. Code, §75075] receives a retirement allowance equal to 65 percent of the judicial salary payable for the office the judge held and if the judge has 20 or more years of retirement service credit, the judge receives a retirement allowance equal to 75 percent of salary. [Cal. Gov. Code, §75076(a).]

Judges may elect certain optional settlements in lieu of a retirement allowance. [See Cal. Gov. Code, §§75070-75072, but see, Cal. Gov. Code, §75079.]

2) Medical Insurance

Pursuant to section 22750 et seq. of the Government Code, all state employees receive medical insurance coverage.

3) Life Insurance

The surviving spouse of a judge who qualifies under Section 75075 of the

Government Code and who dies during retirement receives until death or remarriage, an allowance equal to one-half of the retirement allowance that would be payable to the judge were he living and receiving benefits. [Cal. Gov. Code, §75077; 35 Ops. Cal. Atty. Gen. 21 (1960).]

If a judge who is credited with at least 10 years of service but less than 20 years of service dies prior to retiring, and while serving as a judge, his surviving spouse receives a monthly allowance equal to 1.625 percent of the monthly salary payable for the office the judge held, multiplied by the number of years of service of the deceased judge. [Cal. Gov. Code, §75091; see Forde v. Cory (1977) 66 Cal. App. 3d 434.] If a judge credited with 20 years or more of service dies while serving as a judge, his surviving spouse receives a monthly allowance equal to 37-1/2 percent of the monthly salary payable for the office held by the judge. [Cal. Gov. Code, §75091.] The allowance is payable until the death or remarriage of the surviving spouse. [Cal. Gov. Code, §75091.] Notwithstanding any other provisions, the surviving spouse of any judge who dies in office may elect to receive a monthly

allowance equal to 25 percent of the monthly salary payable for the office held by the deceased judge. [Cal. Gov. Code, §75093.]

There are also provisions for survivor benefits for surviving dependent children. [See Cal. Gov. Code, §75095 et seq.; Forde v. Cory (1977) 66 Cal. App. 434.]

Should any judge die, resign, or cease to be a judge prior to his retirement, or die after electing to allow his accumulated contributions to remain in the Judges Retirement Fund pursuant to Section 75033 of the Government Code but prior to attaining age 65, the accumulated contribution is paid as a lump sum to his designated beneficiary or to him, as the case may be. [Cal. Gov. Code, §75104.]

c. Fixing of Judicial Compensation

Judicial salaries for courts of record are determined by the Legislature. [Cal. Const., Art. VI, §19.]

A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision. [Cal. Const., Art. VI, §19.]

B. Court of Appeals

The Constitution states that the Legislature shall divide the state into Court of Appeals districts. Each district can have one or more divisions, consisting of a presiding justice and two or more associate justices. [Cal. Const., Art. VI, §3] Statutes specify the number of justices in each district and division. [Cal. Gov. Code, §§69101-69105.]

1. Qualifications

a. Justices

The qualifications for Justices of the Courts of Appeal are the same as those for Justices of the Supreme Court. A person is eligible to be a judge of the Court of Appeal if the person has been a member of the State Bar or served as a judge of a court of record in the state for 10 years immediately preceding selection to the Court of Appeal. [Cal. Const., Art. VI, §15.]

b. Presiding Justice

Same as for Justices; see [a] above.

2. Selection

a. Method

1) Justices

The selection procedure for judges of the Court of Appeal is the same as that for judges of the Supreme Court. Vacancies on the Courts of Appeal are filled



by appointment by the Governor. [Cal. Const., Art. VI, §16.] Appointees are subject to confirmation by the Commission on Judicial Appointments. [Cal. Const., Art. VI, §16.] In the case of an appointment to the Court of Appeal, the Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the Presiding Justice of the Court of Appeal of the affected district. [Cal. Const., Art. VI, §7.] If there are two or more Presiding Justices in that district, the one who has presided longest shall sit on the Commission. [Cal. Const., Art. VI, §7.]

2) Presiding Justice

Same as for Justices; see [a] above.

b. Term and Election

Justices of the Courts of Appeal are elected in their districts at general elections at the same time and places as the Governor. They run unopposed on a non-partisan ballot. [Cal. Const., Art. VI, §16(a) and (d); Cal. Elec. Code, §37.] Their terms are 12 years beginning the Monday after January 1 following their election. [Cal. Const., Art. VI, §16(a).] No appellate judge has ever been defeated in a retention election.

3. Retirement

a. Age

Same as for the Supreme Court; see V.A.3.a., above.

b. Active Service After Retirement

Same as for the Supreme Court; see V.A.3.b., above.

4. Compensation

a. Salaries/Rank

1) Justices

Justices of the Courts of Appeal receive annual salaries of \$61,952. [Cal. Gov. Code, §68201.] They are entitled to an annual cost-of-living raise not to exceed five percent of their current salary. [Cal. Gov. Code, §68203.]

2) Presiding Justice

The Presiding Justice of a division of a Court of Appeal receives the same salary as the other justices. See [a] above.

b. Fringe Benefits

Same as Supreme Court Justices; see V.A.4.b., above.

c. Fixing Judicial Compensation

See V.A.4.c., above.

C. Superior Court

The Legislature is empowered by the Constitution to determine the number of judges in each Superior Court. [Cal. Const., Art. VI, §4; Cal. Gov. Code, §§69580-69615.]

1. Qualifications

a. Judges

A person is eligible to be a judge of the Superior Court if the person has been a member of the State Bar or served as a judge of a court of record in the state for 10 years immediately preceding selection to the Superior Court. [Cal. Const., Art. VI, §15.]

b. Presiding Judge

Same as for judges; see [a] above.

2. Selection

a. Method

1) Judges

Judges of the Superior Courts are chosen in their counties at general elections. [Cal. Const., Art. VI, §16(b).] The term of office is six years. [Cal. Const., Art. VI, §16(c).] A vacancy is filled by election to a full term at the next general election after the January 1

following the vacancy, but the Governor appoints a person to fill the vacancy temporarily until the elected judge's term begins. [Cal. Const., Art. VI, §16(c).] No confirmation of the appointment is required.

The special method of selecting appellate court judges by appointment of the Governor and confirmation by the Commission on Judicial Appointments may be made applicable to the Superior Courts in the manner authorized by statute in counties approving the plan by majority vote of the electors. [Cal. Const., Art. VI, §16(d); see Cal. Elec. Code, §§25330 et seq.; 1 Witkin, Cal. Procedure (2d ed. 1970) Courts, §3, p. 296.] In no county has the plan been implemented for trial courts.

## 2) Presiding Judge

The judges of each Superior Court having three or more judges choose from their own number a Presiding Judge who serves at their pleasure. [Cal. Gov. Code, §69508.]

In Superior Courts with two judges, a Presiding Judge is selected each calendar year. If a selection cannot be agreed upon, then the office of Presiding Judge is rotated each calendar year.

between the two judges,  
commencing with the senior  
judge. [Cal. Gov. Code,  
§69508.5.]

3. Retirement

a. Age

Same as for Appellate court  
judges. See V.A.3.a., above.

b. Active Service After Retirement

A retired judge who consents may  
be assigned to any court by the  
Chief Justice. [Cal. Const., Art.  
VI, §6; see also Cal. Gov. Code,  
§§68540 et seq., 75028.]

4. Compensation

a. Salaries/Rank

1) Judges

California ranks first in  
the nation in its salaries  
for trial courts of general  
jurisdiction. [Survey of  
Judicial Salaries, p. 1.]  
Judges of the Superior Court  
receive annual salaries of  
\$51,624. [Cal. Gov. Code,  
§68202.] They are entitled  
to an annual cost-of-living  
raise not to exceed five  
percent of their current  
salary. [Cal. Gov. Code,  
§68203.] A portion of the  
annual salary of each  
Superior Court judge is paid  
by the county for which the  
judge was elected or  
appointed. [Cal. Gov. Code,  
§68206.] The remainder is  
paid by the State.

2) Presiding Judge

The annual salary of the Presiding Judge is the same as that for the other judges.

b. Fringe Benefits

Superior Court judges may participate in both county and state health plans. [Cal. Gov. Code, §§22751 et seq.; 53200.3; 58 Ops. Cal. Atty. Gen. 695 (1975).] Otherwise, same as Supreme Court judges. See V.A.4.b., above.

c. Fixing Judicial Compensation

Same as for the Supreme Court; see V.A.4.c., above.

D. Trial Courts of Limited Jurisdiction

1. Municipal Court

The State Legislature is empowered by the Constitution to specify the number of judges in each Municipal Court. [Cal. Const., Art. VI, §5]

a. Qualifications

1) Judges

A person is eligible to be a judge of a Municipal Court if the person has been a member of the State Bar for 5 years immediately preceding selection to the Municipal Court. [Cal. Const., Art. VI, §15.]

A judge eligible for Municipal Court service may be assigned by the Chief Justice to serve on any court. [Cal. Const., §15.]

Section 71140 of the Government Code requires additionally that Municipal Court judges be residents eligible to vote in the judicial district or city and county in which they are elected or appointed for a period of at least 54 days prior to the date of their election or appointment. There are, however, some exceptions to the residence requirement. [See Cal. Gov. Code, §71140, 71140.3.]

2) Presiding Judge

Same as for judges; see [1] above.

b. Selection

1) Method

a) Judges

Municipal Court judges are elected by the electors in their respective districts at the general state election next preceding the expiration of the term for which the incumbent has been elected. [See Cal. Const., Art. VI, §16(b); Cal. Gov. Code, §71141.] The term of office of Municipal Court judges is six years. [Cal. Gov. Code, §71145.]

Vacancies in Municipal Courts are filled by appointment of the Governor. [Cal. Gov. Code, §71180.] No confirmation of the appointment is required.

2) Presiding Judge

Annually, the judges of a Municipal Court choose from their number a Presiding Judge. The Presiding Judge may be removed at any time and another chosen by majority vote of the judges. [Cal. Gov. Code, §72271.]

In Municipal Courts with two judges, a Presiding Judge is selected on the basis of administrative qualifications and interest each calendar year. If a selection cannot be agreed upon, then the office of Presiding Judge is rotated each calendar year between the two judges commencing with the senior judge. [Cal. Gov. Code, §72271.5.]

c. Retirement

1) Age

Same as for Supreme Court Justices; see V.A.3., above.



2) Active Service After Retirement

A retired judge who consents may be assigned to any court by the Chief Justice. [Cal. Const., Art. VI, §6; see also Cal. Gov. Code, §§68540 et seq., 75028.]

d. Compensation

1) Salaries

a) Judges

Judges of the Municipal Courts receive annual salaries of \$47,497. [Cal. Gov. Code, §68202.] They are entitled to an annual cost-of-living raise not to exceed five percent of their current salary. [Cal. Gov. Code, §68203.]

b) Presiding Judge

The annual salary of a Presiding Judge is the same as that of the other Municipal Court judges. See (a) above.

2) Fringe Benefits

a) Pension

Same as for Supreme Court Justices. See V.A.4.b.1., above. [See also Willens v. Commission on Judicial Qualifications (1973) 10 Cal. 3d 451.]

b) Medical Insurance

Municipal Court judges may participate in the state or county health care plans. [Cal. Gov. Code, §§22754.1; 53200.3.]

c) Life Insurance

Same as the Supreme Court; see V.A.4.b.3., above.

3) Fixing Judicial Compensation

See V.A.4.c., above.

2. Justice Court

The State Legislature is empowered by the Constitution to specify the number of judges in each Justice Court. [Cal. Const., Art. VI, §5]

a. Qualifications

The Legislature is empowered to specify the qualifications required for Justice Court judges [Cal. Const., Art. VI, §5] and after January 7, 1975, each Justice Court vacancy must be filled by an attorney judge who is at the time of his selection a resident of the county. [Cal. Gov. Code, §71701.] The statute was passed in response to the California Supreme Court's decision in Gordon v. Justice Court (1974) 12 Cal. 3d 323, which held that the use of non-attorney justice court judges in criminal cases involving possible imprisonment constituted a

violation of due process, unless the defendant consented to a non-attorney judge. [See Eu v. Chacon (1976) 16 Cal. 3d 465.]

b. Selection/Term

Justice Court judges are elected at general elections in their judicial districts. [Cal. Const., Art. VI, §16 (b).] They are elected at the general state election next preceding the expiration of the term for which the incumbent has been elected. [Cal. Gov. Code, §71141.] The office is nonpartisan. [Cal. Elec. Code, §41.] The Election Code provisions relating to the election of judicial officers apply to judges of the Justice Courts. [Cal. Gov. Code, §71143.] The term of office of a Justice Court judge is six years. [Cal. Gov. Code, §71145.]

When a vacancy occurs in the Justice Court, the board of supervisors of the county in which the court is located may either fill the office by appointment or call a special election. Any person so appointed or elected holds office until his successor is elected and qualifies. [Cal. Gov. Code, §71180.3.]

c. Retirement

Judges of the Justice Courts are not covered by the Judges Retirement Law. [Cal. Gov. Code, §75000 et seq.] As county employees, however, they participate in whatever retirement plans the counties provide.

d. Compensation

1) Salaries

Under section 71600 of the Government Code, the county boards of supervisors are required to "regulate the compensation" of Justice Court judges. Therefore, each county board of supervisors sets the compensation for a judge of the Justice Court. Their salaries differ widely from county to county.

[California Center for Judicial Education and Research, California Municipal and Justice Courts Manual (1974) §2.20, pp. 2-9.]

If, however, a Justice Court judge has been a member of the State Bar for the immediately preceding five years, has filed with the Judicial Council a certification of status as an inactive member of the State Bar, and the Chairperson of the Judicial Council has certified that the judge is acceptable for judicial assignments to other courts, the judge must receive an annual salary of \$38,409. [Cal. Gov. Code, §71702.]

E. Code of Judicial Conduct

The California Code of Judicial Conduct was adopted by the Conference of California Judges (now the California Judges Association) effective January 1, 1975. [See Cal. Rules of Court, appendix, div. II, Cal. Code Jud. Conduct.] The California Code is adapted from the American Bar Association Code of Judicial Conduct of 1972.

The following is a comparison of the ABA and California Codes:

1. Canons 1-4 of the California Code of Judicial Conduct are substantially the same as Canons 1-4 of the ABA Code.
2. California Canon 5C(2), relating to the financial activities of judges, expands on the ABA minimum standard by prohibiting a judge from participating in or permitting his name to be used in connection with any business venture or commercial advertising program, with or without compensation, in such a way as would justify a reasonable inference that the power or prestige of the office was being utilized to promote the business or commercial product. California Canon 5C(2) also adopts the ABA suggestion that judges be prohibited from engaging in certain types of businesses such as that of banks, public utilities, insurance companies, and other businesses affected with a public interest. California Canon 5C(2) states that a judge should not serve as an officer, director, manager or employee of a business affected with a public interest including, without limitation, a financial institution, insurance company, or public utility.

ABA Canon 5C(4)(c) requires that a judge report, in the same manner as he reports compensation in Canon 6C, any gift, bequest, favor, or loan given to either him or a member of his family residing in his household, where the value of the gift exceeds \$100. There is no such requirement under California Canon 5C(4)(c), or any other California Canon. [But see [3] below.]

California Canon 5C(7) expands upon ABA Canon 5C(7) by specifying that a judge must not disclose, in financial dealings or for any other purpose, his intentions with respect to rulings to be made by him, until such information is a matter of public record.

In other respects, ABA Canon 5 and California Canon 5 are substantially the same.

3. The California Canons do not require a judge to regularly file reports on compensation received by the judge for quasi-judicial and extra-judicial activities permitted by the Code. Thus California has not adopted ABA Canon 6C which states that: "A judge should report the date, place, and nature of any activity for which he received compensation, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. His report should be made at least annually and should be filed as a public document in the office of the clerk of the court on which he serves or other office designated by rule of court." (However, judges in California are subject to the even more stringent financial disclosure provisions of

sections 87200 et sequitur of the Government Code. [Political Reform Act of 1974 (added by Initiative Measure approved by the electors June 4, 1974).] See [6.] below.

In other respects, ABA Canon 5 and California Canon 5 are substantially the same.

4. California Canon 7 begins with the caveat, not expressly set forth in ABA Canon 7, that: "A judge is entitled to entertain his personal views on political questions. He is not required to surrender his rights or opinions as a citizen. He should avoid political activity which may give rise to a suspicion of political bias or impropriety."

Under the ABA Code, a judge may not solicit funds for, pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions (there are limited exceptions when the judge is a candidate for reelection to judicial office). [ABA Canon 7A(1)(c) and (2).]

The California Code is less restrictive. Attendance at political gatherings is not prohibited, and judges may make contributions to a political candidate but the total of such contributions may not exceed \$100 per year. [Cal. Code Jud. Conduct, Canon 7A(a)(c).] Subject to the \$100 limitation, a judge may purchase tickets for political dinners or other similar functions. Any admission price to such a political dinner or function, in excess of the actual cost of the meal, is considered a political contribution.

The California Canons do not state, as does ABA Canon 7A(3), that a judge should resign his office when he becomes a candidate either in a party primary or in a general election for a non-judicial office. This matter is governed by Article VI, section 17 of the California Constitution which provides, in part: "A judge of a court of record may not practice law and during the term for which the judge was selected is ineligible for public employment or public office other than judicial employment or judicial office. A judge of the superior or municipal court may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge." Additionally, under the California Canons of Judicial Ethics (originally adopted by the California Conference of Judges on August 30, 1949, amended thereafter, and still in effect), a judge "should not become a candidate for any office other than a judicial office. If a judge should decide to become a candidate for any office not judicial, he should resign. . . ." [California Canons of Judicial Ethics, Canon 26.]

With regard to the campaign conduct of persons seeking judicial office, including incumbent judges, California Canon 7B(1)(c) contains the additional prohibition that a judicial candidate should not refer publicly to pending litigation.

In all other respects, California Canon 7 conforms to ABA Canon 7.



5. The section entitled "Compliance with the Code of Judicial Conduct" in the California Code substantially conforms to the parallel section in the ABA Code. However, the California Code states that a retired judge, upon recall to judicial service and during such service, should comply with all the provisions of the Code.

6. In addition to the California Code of Judicial Conduct, judicial conduct and ethics in California are governed by additional rules found in the California Constitution, statutes, California Rules of Court, and the California Canons of Judicial Ethics. For example, Section 170, subdivision (2), of the California Code of Civil Procedure provides for the disqualification of any judge in any proceeding in which the judge is interested as a holder or owner of any stock, land, note, or other security issued by a corporation.

And, as stated above, California judges are subject to the financial disclosure provisions of the Political Reform Act of 1974. [Cal. Gov. Code, §§87200 et seq.] Every candidate for judicial office must file with his declaration of candidacy a statement disclosing his income, investments, and interests in real property, unless within 60 days prior to the filing of declaration of candidacy such a statement has been filed pursuant to Government Code sections 87202 or 87203. [See Cal. Gov. Code, §87201.] Within 30 days after election to office or within 10 days after appointment to judicial office, a judge must file a statement disclosing his income, investments and interests in real property. [Cal. Gov. Code, §87202.]

Annual financial disclosure statements are also required. [Cal. Gov. Code, §87203.] The income disclosure requirements include a statement of all gifts received, having a value of \$25 or more, the amount of the gift, and the date it was received. [Cal. Gov. Code, §87207; see also Cal. Admin. Code, tit. 2, §§18727, 18728.]

F. Discipline and Removal

The Supreme Court, on recommendation of the Commission on Judicial Performance, may suspend, retire, censure, or remove a judge for the reasons stated in Article VI, section 18(c) of the California Constitution. [See McComb v. Commission on Judicial Performance (1977) 19 Cal. 3d Spec. Trib. Supp. 1, 8.] Alternatively, judges are subject to impeachment for misconduct in office. [Cal. Const., Art. IV, §18, subd. (b); see McComb v. Commission on Judicial Performance, supra.]

1. Grounds

a. Forced Retirement

On recommendation of the Commission on Judicial Performance, the Supreme Court may retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent. [Cal. Const., Art. VI, §18(c); McComb v. Commission on Judicial Performance, supra.]

A judge retired by the Supreme Court shall be considered to have retired voluntarily. [Cal. Const., Art. VI, §18(d).]

b. Censure or Removal

On recommendation of the Commission, the Supreme Court may censure or remove a judge for action occurring not more than 6 years prior to the commencement of the judge's current term that constitutes wilful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. [Cal. Const., Art. VI, §18(c).]

A judge removed by the Supreme Court is ineligible for judicial office and pending further order of the court is suspended practicing law. [Cal. Const., Art. VI, §18(d).]

c. Private Admonition

The Commission on Judicial Performance may privately admonish a judge found to have engaged in an improper action or a dereliction of duty. Such admonition is subject to review in the Supreme Court in the manner provided for review of causes decided by a Court of Appeal. [Cal. Const., Art. VI, §18(d); see Cal. Rules of Court, Rules 904, 904.5, 917, 920.]

d. Disqualification

A judge is disqualified from acting as a judge, without loss of salary, while there is pending an

indictment or an information charging the judge with the commission of a state or federal crime, or while there is pending, a recommendation to the Supreme Court by the Commission on Judicial Performance for removal or retirement of the judge. [Cal. Const., Art. VI, §18(a).]

## 2. Procedure

The procedure to be followed and the rules governing the proceedings for the censure, removal, retirement, or private admonishment of judges are set forth in Rules 901-922, California Rules of Court.

Prior to any disciplinary recommendation, a hearing is held before the Commission on Judicial Performance or upon the Commission's request, before special masters appointed by the Supreme Court. [Cal. Rules of Court, Rule 907.] The special masters shall be judges of courts of record, except that when there are 3 special masters not more than 2 of them may be retired judges of courts of record. [Cal. Rules of Court, Rule 907.]

A recommendation by the Commission to censure, remove, or retire a judge is reviewed by the Supreme Court upon a petition to modify or reject the recommendation. [Cal. Rules of Court, Rule 919.] But where the disciplinary proceeding involves a Supreme Court justice, the Commission's recommendation to censure, remove, or retire is subject to review instead by a tribunal consisting of 7 Court of Appeal judges selected by lot. [Cal. Const., Art. VI, §18(e); Cal. Rules of Court, Rule 921; see McComb v. Commission on Judicial Performance, supra, 19 Cal. 3d Spec. Trib. Supp. 1, 7.]

3. Commission on Judicial Performance

The Commission on Judicial Performance is the constitutional body authorized to investigate complaints of alleged judicial misconduct. The Commission consists of 2 judges of the Courts of Appeal, 2 judges of the Superior Courts, one Municipal Court judge, each appointed by the Supreme Court; 2 members of the State Bar who have practiced law in the state for 10 years, appointed by the governing body of the State Bar; and 2 public members appointed by the Governor subject to approval by the Senate. [Cal. Const., Art. VI, §8.]

All terms are for four years. [Cal. Const., Art. VI, §8.]

G. Continuing Education

1. Judicial Council

One of the "functions prescribed by statute" [see Cal. Const., Art. VI, §6] for the California Judicial Council is to conduct institutes and seminars for the purpose of orienting new judges to their duties, keeping judges informed concerning new developments in the law and promoting uniformity in judicial procedure. [Cal. Gov. Code, §68551.] The Judicial Council also may publish and distribute manuals, guides, checklists, and other materials designed to assist the judiciary. [Cal. Gov. Code, §68552.] The first large-scale publication was the Justice Court Manual completed in 1969. [1 Witkin, Cal. Procedure (2d ed. 1971) Courts, §262, p. 510.] This publication was enlarged and revised in 1974 by the California Center for Judicial Education and Research (CJER) [see (2.) below] as the California Municipal and Justice Courts Manual.

The Judicial Council is required to conduct annual sentencing institutes for trial court judges toward the end of assisting such judges in imposing appropriate sentences. [Cal. Pen. Code, §1170.5.]

Pursuant to the California Rules of Court, promulgated by the Judicial Council, the Presiding Judges of Superior and Municipal Courts are required to provide for an appropriate orientation program for new judges as soon as feasible after appointment. [Cal. Rules of Court, Rules 244.5(a)(17); 532.5(a)(17).]

2. Center for Judicial Education and Research (CJER)

In 1973, the California Center for Judicial Education and Research (CJER), a joint project of the Judicial Council and the California Judges Association, was created with federal funds by the California Office of Criminal Justice Planning. The Center is now supported primarily by state funds.

CJER is governed by a committee of eight judges, four appointed by the Chief Justice and four by the California Judges Association. The Center staff consists of a director, two assistant directors and three secretaries. [1 Witkin, Cal. Procedure (2d ed. 1977 Supp.) Courts, §262A, p. 216; Arnold, California Courts and Judges Handbook (1977 Cum. Supp.) §§4.33, 4.34.]

CJER projects include preparing a master outline of educational subjects important to daily judicial work; publishing benchbooks for instruction and reference and a CJER Journal

furnishing information on legal developments and on the operations of courts; conducting educational programs for judges, including orientation programs, institutes and the annual two-week Trial Judges' College Session; and developing new methods and materials of judicial education, including audiotape and videotape cassettes. [1 Witkin, Cal. Procedure (2d ed. 1977 Supp.) Courts, §262A,; p. 216; Arnold, California Courts and Judges Handbook (1977 Cum. Supp.) §4.36, pp. 25-26.]

Among the books and materials published by CJER are the following:

- a. "California Municipal and Justice Courts Manual" (1974).
- b. Bigelow, "California Judges Benchbook, Evidence Objections" (1974).
- c. College Session Notebooks annually since 1973.
- d. Saeta and Sloan, "Checklist of Maximum and Minimum Sentences" (1974).
- e. "California Judges Benchguide-Mandatory Criminal Jury Instructions for Superior Courts" (1976).
- f. Witkin, "Manual on Appellate Court Opinions" (West Publishing Company, 1977).
- g. CJER Journal.

VI. PARAJUDICIAL OFFICERS

A. Supreme Court

The Supreme Court seldom uses parajudicial officers.

In the rare instances when the Supreme Court grants a request to take additional evidence on appeal [see Cal. Code Civ. Proc., §909; Cal. Rules of Court, Rule 23], evidence may be taken before a referee (usually an active or retired trial judge) appointed for that purpose, rather than by the court. [See Cal. Rules of Court, Rule 23(b).]

B. Court of Appeal

Same as Supreme Court [see (A) above.]

C. Superior Court

1. Trial Court Commissioners

The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties. [Cal. Const., Art. VI, §22.]

Pursuant to several statutes implementing the constitutional provision, the Superior Court may appoint court commissioners, the number and authority of the commissioners varying with the size of the county. [See Cal. Gov. Code, §§59894.1 (Los Angeles County); 59900 (San Francisco); 70141 et seq.; Rooney v. Vermont Investment Corp. (1973) 10 Cal. 3d 351.]

Every Superior Court Commissioner must be a citizen of the United States and a resident of the state. The appointing court may also require that the commissioner have been admitted to



practice before the Supreme Court for at least five years immediately preceding the appointment. A Superior Court Commissioner holds office during the pleasure of the court appointing the commissioner and may not engage in the private practice of law. [Cal. Gov. Code, §70142.] The appointment of a court commissioner shall be by minute order of the court [Cal. Gov. Code, §70144], and the official title is "court commissioner" for the particular county. [Cal. Gov. Code, §70141.]

The general powers of every Court Commissioner are set forth in section 259 of the Code of Civil Procedure. Every Court Commissioner has the following powers:

- a) in the absence or inability of the judge to act, to hear and determine ex parte motions for orders and writs (except injunctions);
- b) to take proof and report his conclusions as to any matter of fact other than an issue of fact raised by the pleadings;
- c) to take and approve bonds and examine sureties, administer oaths, take affidavits and depositions, take acknowledgements and proofs of instruments;
- d) to charge and collect the same fees for the performance of official acts as are allowed for notaries public, except where compensation is otherwise fixed by law; and
- e) to provide an official seal and authenticate his official acts with such seal.

In counties having a population of 900,000 or more, Court Commissioners have enlarged powers. [Cal. Gov. Code, §259a.] Subject to the supervision of the court, Court Commissioners in these counties may:

- a) hear and determine ex parte motions, for orders and alternative writs and writs of habeas corpus;
- b) take proof and make and report findings as to any matter of fact, subject to the right of a party to argue exceptions to the court;
- c) take and approve bonds and examine sureties; administer oaths; take affidavits and depositions; take acknowledgements and proof of instruments;
- d) act as judge pro tempore when otherwise qualified so to act;
- e) hear and report findings on 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 dissolution, maintenance and annulment of marriage cases; and

- f) hear, report on and determine all uncontested actions and proceedings other than actions for dissolution, maintenance, or annulment.

The salaries of trial court commissioners are set by statute; they vary from county to county. [See, e.g., Cal. Gov. Code, §§70141.4-70141.12, 70146.] The salaries are paid by the counties. [Cal. Gov. Code, §70147.]

## 2. Referees

A (voluntary) reference may be ordered upon the agreement of the parties to try any or all of the issues in an action or proceeding whether of fact or of law, and to report a finding and judgment (i.e., a general reference) or to ascertain some fact necessary to enable the court to determine an action or proceeding (i.e., a special reference). [Cal. Code Civ. Proc., §638.] In certain narrower cases, a compulsory reference may be directed by the court. [Cal. Code Civ. Proc., §639.]

One or more referees, not exceeding three, may be chosen by the parties or, if they fail to agree, by the court. [Cal. Code Civ. Proc., §640.] The referee must be a resident of the county and he may be the Court Commissioner. [Cal. Code Civ. Proc., §640.]

## 3. Temporary Judge

On stipulation of the parties litigant, the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to

act until final determination of the cause. [Cal. Const., Art. VI, §21; see 1 Witkin, Cal. Procedure (2d ed. 1970) Courts, §230, p. 486.]

Rule 244(a) of the California Rules of Court sets forth the qualification requirements and selection procedure for an attorney acting as a judge pro tempore in the Superior Court.

D. Municipal Court

1. Trial Court Commissioner

Within the jurisdiction of the Municipal Court and under the direction of the judges, Commissioners of Municipal Courts exercise the same powers and perform the same duties as are authorized by law to be performed by Commissioners of the Superior Courts and such additional powers and duties as may be prescribed by law. [Cal. Gov. Code, §72190.]

At the direction of the judges, Commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the Municipal Court with respect to any infraction. [Cal. Gov. Code, §72190.]

The Commissioners of Municipal Courts must possess the same qualifications the law requires of a judge. They hold office during the pleasure of the court appointing them and may not engage in the private practice of law. They are ex officio deputy clerks. [Cal. Gov. Code, §72190.]

A Commissioner of a Municipal Court may conduct arraignment proceedings if directed to perform such duties by the presiding or sole judge of the court. [Cal. Gov. Code, §72190.1]

## 2. Traffic Referee

The judges of a Municipal Court having three or more judges may appoint a traffic referee who shall hold office at the pleasure of the judges. A traffic referee must be a member of the California State Bar or have had five years' experience as a justice court judge in California immediately preceding his appointment as a traffic referee. [Cal. Gov. Code, §72400.]

At the direction of the court a traffic referee: (a) with respect to any misdemeanor violation of the Vehicle Code, may fix the amount of bail, grant continuances, arraign defendants, hear and recommend orders to be made on demurrers and motions other than continuances, take pleas and set cases for hearing or trial; (b) with respect to any misdemeanor violation under subdivision (b) of section 42001 of the Vehicle Code (failure to appear), in addition to the above duties, he may impose a fine following a plea of guilty or nolo contendere, may suspend payment of the fine, and may order the defendant to attend traffic school; (c) with respect to any infraction, he may have the same jurisdiction and exercise the same powers and duties as a judge of the court. [Cal. Gov. Code, §72401.]

In conducting arraignments, taking pleas, granting continuances, setting cases for trial and imposing penalties for traffic offenses a traffic referee has the same powers as a judge of the court. [Cal. Gov. Code, §72402.]

## 3. Referee

References and trial by referees appointed by the Municipal Court are authorized by Section 638-645 of the Code of Civil Procedure.

A reference may be ordered to the person or persons, not exceeding three, agreed upon by the parties. If the parties do not agree upon the referees, the court or judge must appoint one or more referees, not exceeding three, who reside in the county and against whom there is no legal objection, or the reference may be made to the court commissioner of the county. [Cal. Code Civ. Proc., §640.]

4. Temporary Judge

On stipulation of the parties, the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause. [Cal. Const., Art. VI, §21.]

Rule 532(a) of the California Rules of Court prescribes qualification requirements and selection procedure of an attorney acting as a temporary judge in the Municipal Court.

VII. NON-JUDICIAL PERSONNEL SYSTEM

A. Administrative Director of the Courts and Staff Employees

The Judicial Council appoints an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the Council or the Chief Justice, other than adopting rules of court administration, practice and procedure. [Cal. Const., Art. VI, §6.] The Administrative Director of the Courts serves as Secretary of the Judicial Council. [Cal. Rules of Court, Rule 990.] The Director also is in charge of the Administrative Office of the Courts, the staff agency created to assist the Judicial Council and its Chairperson in carrying out their duties. [Cal. Rules of Court, Rule 991.]

The Director must have the same qualifications as those required for a judge of a Court of Appeal - membership in the State Bar or service as a judge of a court of record in California for 10 years immediately preceding appointment. [See Cal. Gov. Code, §68500.5; Cal. Const., Art. VI, §15.]

The Administrative Director of the Courts is a state employee. The annual salary for the position is \$49,820, which is paid out of the funds appropriated by the state for the support of the Judicial Council. [Cal. Gov. Code, §68500.5.]

All staff employees are employees of the state. Their salaries are paid from the funds appropriated by the state for use of the Judicial Council. [Cal. Gov. Code, §68506.]

B. Supreme Court Employees

1. The Clerk of the Supreme Court is appointed by the Supreme Court and serves at its pleasure. In addition to the duties prescribed by law, the Clerk shall perform such duties as are required of him by the rules, orders, and practices of the Court.

[Cal. Gov. Code, §68840.] The Clerk appoints such deputy clerks as are required and a chief clerk who acts as clerk of the court in the absence of the Clerk.

The Clerk is an employee of the state. The annual salary for the office is \$38,988. [Cal. Gov. Code, §68841.]

The compensation of the deputy clerks is fixed by the Supreme Court. [Cal. Gov. Code, §68843.]

2. Reporter of Decisions

The Supreme Court appoints the Reporter of Decisions of the Supreme Court and of the Courts of Appeal and such other assistants as required. These officers serve at the pleasure of the Supreme Court. [Cal. Gov. Code, §68900.]

The annual salary of the Reporter of Decisions is \$36,276. [Cal. Gov. Code, §68901.]

3. Other Non-Judicial Personnel

The Supreme Court may appoint and employ during its pleasure such phonographic reporters, assistants, secretaries, librarians, bailiffs, and other employees as it deems necessary for the performance of its duties. [Cal. Gov. Code, §68806.] The bailiffs have the powers of a peace officer in all parts of the state. [Cal. Gov. Code, §68806.]

The Supreme Court employs approximately thirty-three research attorneys. One is Principal Attorney for the Supreme Court. The Chief Justice has six research attorneys (three permanent and three annual positions) and an



administrative assistant. The Chief Justice also administers a central staff of eight permanent research attorneys. Each Associate Justice has three research attorneys (either permanent or annual positions).

The Supreme Court determines the duties and fixes and pays the compensation of all such officers and employees. [Cal. Gov. Code, §68806.] The salaries are paid from the funds appropriated by the state for the use of the Supreme Court. [Cal. Gov. Code, §68807.]

C. Court of Appeal Employees

1. Clerk (5)

Each Court of Appeal appoints a Clerk who serves at its pleasure. [Cal. Gov. Code, §69140.] In addition to the duties prescribed by law, each clerk shall perform such duties as are required of him by the rules, orders, and practices of the appointing court. [Cal. Gov. Code, §69140.]

The annual salaries of the Clerks of the Courts of Appeal are as follows:

- a. Clerk of the First and Second Appellate Districts: \$32,064.
- b. Clerk of the Third and Fourth Appellate Districts: \$30,768.
- c. Clerk of the Fifth Appellate District: \$29,472.

[Cal. Gov. Code, §69140.]

## 2. Other Non-Judicial Personnel

Each Court of Appeal may appoint and employ during its pleasure such phonographic reporters, assistants, secretaries, librarians, and other employees as it deems necessary for the performance of its duties. [Cal. Gov. Code, §69141.] Except as otherwise provided by Chapter 4 of Title 8 of the Government Code, each such court may determine the duties of all such officers and employees. [Cal. Gov. Code, §69141.]

Approximately 95 research attorneys are employed by the five Courts of Appeal. Generally, each justice has one research attorney. Otherwise, each Court of Appeal varies in the number of attorneys employed and in its utilization of those attorneys.

As one illustration, the Court of Appeal for the First Appellate District which sits in San Francisco employs 27 research attorneys. Each of the justices has one research attorney (either a permanent or an annual position). In addition, each of the four divisions has one attorney who works primarily on extraordinary and statutory writs. This position is either a permanent or an annual one. There is also a Central Staff of 7 permanent attorneys, headed by the Principal Attorney for the Court.

The salaries of these employees are paid from the funds appropriated by the State for the use of the Courts of Appeal. [Cal. Gov. Code, §69141.]

In September 1977, the Judicial Attorneys of California, a voluntary association of attorneys employed by courts located in California was formed to enhance communication between the various courts within the state; to participate in the development of educational programs to further the judicial process; to provide a means of mutual assistance and professional development among judicial attorneys; and to explore and propose new programs which will contribute to the better administration of justice within the court systems of California.

D. Superior Court Employees

1. Executive Officer

Any Superior Court of three or more judges may appoint an Executive Officer who, while holding office at the pleasure of the court, exercises such administrative powers and performs such other duties as may be required of him by the court. [Cal. Gov. Code, §69898.]

The court fixes the qualifications of the Executive Officer and may delegate to him any administrative powers and duties required to be exercised by the court. [Cal. Gov. Code, §69898.]

The Executive Officer has the authority of a Clerk of the Superior Court and the Superior Court may, by local rule, specify which of the powers, duties and responsibilities of the County Clerk shall be exercised or performed by the Executive Officer. [Cal. Gov. Code, §§69898(c), 69898(d).]

The salaries of the Executive Officers of certain counties (e.g., Los Angeles) are set by statute. [See, e.g., Gov. Code, §69894.1] Otherwise, the salary of the Executive Officer of a county is fixed by the court and paid by the county in which the Executive Officer serves. [Cal. Gov. Code, §69898, subd. (a).]

2. Clerk

There is no separate office of Clerk of the Superior Court. Each county clerk is ex officio Clerk of the Superior Court of his county and it is one of his official duties as county clerk to act as clerk of the court.

[Cal. Const., Art. VI, §4; Cal. Gov. Code, §26800.]

The Clerk, as a county officer, has authority to appoint necessary deputies [Cal. Gov. Code, §24101], and under section 24100 of the Government Code, any statute conferring power or imposing duties or liabilities on the principal officer (the Clerk) is interpreted as including his deputies. Hence, a deputy county clerk is an ex officio Clerk of the Superior Court, with authority coextensive with that of the Clerk. [People v. Ramirez (1931) 112 Cal. App. 507, 510.]

The principal duties of the Clerk are set forth in Government Code section 69841 et sequitur. The Clerk must attend each session of the Superior Court in his county and each session of the judge or judges of the court in chambers when required. [Cal. Gov. Code, §69841] The Clerk must keep such indexes as will insure ready reference

to any action or proceeding filed in the court. [Cal. Gov. Code, §69842] The Clerk issues all process and notices required to be issued. [Cal. Gov. Code, §69843]

The Clerk keeps the minutes and other records of the court, entering at length within the time specified by law, or forthwith if no time is specified, any order, judgment, and decree of the court which is required to be entered and showing the date when each entry is made. [Cal. Gov. Code, §69844]

The Clerk may, in lieu of minute books, judgment books and orders and decrees, photograph, microphotograph or photocopy all Superior Court minutes, judgments, orders and decrees. [Cal. Gov. Code, §69844.5]

The Clerk keeps a register of actions in which is entered the title of each cause, with the date of its commencement and a memorandum of every subsequent proceeding in the action with its date. [Cal. Gov. Code, §69845] The Clerk may maintain a register of actions by means of photographing, microphotographing, or mechanically or electronically storing the whole content of all papers and records, or any portion thereof as will constitute a memorandum, necessary to the keeping of a register of actions so long as the completeness and chronological sequence of the register are not disturbed. [Cal. Gov. Code, §69845.5]

The Clerk is required to safely keep or dispose, according to law, of all papers and records filed or deposited in any action or proceeding before the court. [Cal. Gov. Code, §69846] The Clerk must endorse on each paper filed with the court the day, month, and year it is filed. [Cal. Gov. Code, §69846.5]

The Clerk must cooperate with the Judicial Council and keep such records and make such reports to the Council as its Chairperson requires with respect to the condition and manner of disposal of judicial business in the court. [Cal. Gov. Code, §68505]

3. Other Non-judicial Employees

The Legislature has authority to provide for the officers and employees of each Superior Court. [Cal. Const., Art. VI, §4.] Special statutes provide for the appointment and set the compensation, particularly in the larger counties, of various additional administrative employees including secretaries, research assistants, stenographers, clerks, and jury commissioners. [See Cal. Gov. Code, §69890 et seq.]

a. Research Assistants

In any county a majority of the judges of the Superior Court may, with the approval of a majority of the board of supervisors, appoint research assistants. The number and compensation of research assistants shall be set by the board of supervisors. [Cal. Gov. Code, §69905.]

The compensation is paid by the county in which they serve. [Cal. Gov. Code, §69905.]

b. Court Interpreters and Translators

In counties with a population of 900,000 or more, section 26806 of the Government Code provides for regularly employed court interpreters and translators of documents. [See also Cal. Gov. Code, §69894.5.]

c. Official Reporter

The judge or judges of any Superior Court may appoint a competent phonographic reporter, or as many such reporters as there are judges, to be known as official reporter or reporters of such court, and such pro tempore official reporters as the convenience of the court may require. These reporters hold office during the pleasure of the appointment judge or judges. [Cal. Gov. Code, §69941; see also Cal. Code, §69942 et seq.]

Generally, their salaries are set by statute and vary from county to county. [See, e.g., Cal. Gov. Code, §§69991, 69993, 69994.2, 69995, 70012, 70025.]

d. Sheriff

The Sheriff, like the Clerk of the County, is an independently elected county officer. The office is created by the California Constitution, but the selection and duties of the Sheriff are governed by statute. [Cal. Const. Art. XI, §5; Cal. Gov. Code, §24000(b).]

The Sheriff has the same power as other county officers to appoint deputies, and they have equal authority to perform the duties of the office. [Cal. Gov. Code, §24100, 24101.]

In addition to the Sheriff's many non-judicial functions, the Sheriff is responsible for service of process and notices of all kinds [see Cal. Gov. Code, §§26608 et seq., 26660 et seq.], acting as court crier and calling witnesses [Cal. Gov. Code, §26611], and attending court and obeying lawful court orders and directions [Cal. Gov. Code, §26603.]

E. Municipal Court Employees

1. Clerk

The Clerk of the Municipal Court is appointed by the judges of the court. [Cal. Gov. Code, §71181.] With respect to proceedings in the Municipal Court, the Clerk of the Municipal Court has the same powers which are conferred by law upon the Clerk of the Superior Court with respect to proceedings in that court. [Cal. Gov. Code, §72050; see also Cal. Gov. Code, §72050.2 et seq.]

The Clerk may appoint, with the approval of the judge, as many deputies as may be necessary, and vacancies in the Clerk's Office are filled by appointments made by the Clerk. [Cal. Gov. Code, §§71085(b), 71181, 71267 et seq.]

The salaries of the Clerk and deputy clerks are paid by the county in which the court is situated. [Cal. Gov. Code, §71220.]

2. Marshal

The Marshal of the Municipal Court is appointed by the judges of the court. [Cal. Gov. Code, §71181.]



Section 72110 of the Government Code provides that with respect to proceedings in the Municipal Court, the Marshal has the same powers and duties which are imposed by law upon the Sheriff with respect to proceedings in the Superior Court. [See also Cal. Gov. Code, §71265.]

Among other responsibilities, the Marshal has the duties of executing, serving and returning all writs, processes and notices in the manner prescribed by law. [Cal. Gov. Code, §71264.]

The Marshal may appoint, with the approval of the judge, as many deputy marshals as may be necessary [Cal. Gov. Code, §71085], and vacancies in the Marshal's office are filled by appointment of the Marshal. [Cal. Gov. Code, §71182.]

In any city and county having a consolidated city and county government [San Francisco only], the Sheriff of the city and county and his deputies are ex officio the marshal and deputy marshals of the Municipal Court; they perform all the duties imposed and exercise all the powers conferred upon the Marshal of the Municipal Court. [Cal. Gov. Code, §71089.] Various statutes make the Sheriff ex officio Marshal in a number of counties. [See, e.g., Cal. Gov. Code, §74667 (Santa Clara County).]

The salaries of the Marshal and deputy marshals are paid by the county in which the court is located. [Cal. Gov. Code, §71220]

3. Other Non-Judicial Employees

a. Official Reporters

A majority of the judges of the Municipal Court may appoint as many competent phonographic reporters as the business of the court requires. The official reporters shall hold office during the pleasure of the judges of the court. [Cal. Gov. Code, §72194.]

- b. There are several provisions in the Government Code relating to the appointment and duties of court officers, law clerks, reporters, interpreters and other municipal court employees in specific counties. [See, e.g., Cal. Gov. Code, §§72621 et seq. (Los Angeles County); and Cal. Gov. Code, §§73075 et seq. (Alameda County).]

F. Justice Court Employees

1. Clerk

The Clerk of the Justice Court is appointed by the court. [See Cal. Gov. Code, §71181.]

All vacancies in the Clerk's Office are filled by appointment by the Clerk. [Cal. Gov. Code, §71181.]

The salary of the Clerk is paid by the county in which the Justice Court is located. [Cal. Gov. Code, §71220.]

2. Constable

Except where otherwise provided by a charter of a county, the Constable for each judicial district in which a

Justice Court is established shall be elected by the electors of the Justice Court district. [Cal. Gov. Code, §71602.]

With respect to proceedings in the Justice Court, the Constable has the same powers and duties imposed by law upon the Sheriff with respect to proceedings in a Superior Court. [Cal. Gov. Code, §71604, see also Cal. Gov. Code, §§27820, 27824, 71264-71265.]

See Section III[E][6].

The salary of the Constable is paid by the county. [Cal. Gov. Code, §71220.]

## VIII. JUDICIAL POLICY-MAKING/ADVISORY BODIES

### A. Judicial Council of California

The major judicial policy-making body in California is the Judicial Council, created pursuant to Article VI, section 6, of the California Constitution.

In order to improve the administration of justice, the Judicial Council is required to survey judicial business and make recommendations annually to the Governor and the Legislature, adopt rules for court administration, practice, and procedure, not inconsistent with statute, and perform other functions prescribed by statute. [Cal. Const., Art. VI, §6]

The Judicial Council also appoints an Administrative Director of the Courts, who serves at its pleasure and who performs functions delegated by the Council or the Chief Justice, other than rule-making functions. [Cal. Const., Art. VI, §6]

The Judicial Council is authorized to conduct and coordinate educational programs for the judiciary and to publish and distribute educational materials designed to assist the judiciary. [Cal. Gov. Code, §§68551, 68552] The Judicial Council may prescribe by rule the form and content of forms used in the courts of the state, and when it has prescribed such forms, section 68511 of the Government Code provides that no court may use a different form. [Cal. Gov. Code, §68511] However, despite this authority to make its forms mandatory, most forms approved by the Judicial Council have been optional. [See 1 Witkin, Cal. Procedure (2d ed. 1977 Supp.) Courts, §261, p. 214; see also Cal. Rules of Court, Rule 982] The Judicial Council is required to report periodically to the Legislature any statutory changes needed to achieve uniformity in the forms used in the state courts. [Cal. Gov. Code, §68511]

The Judicial Council also is required to provide by rule for the entry, storage, and retrieval of court records, and to report periodically to the Legislature any statutory changes needed to achieve uniformity in the entry, storage, and retrieval of court records. [Cal. Gov. Code, §68511.2]

1. Composition of Council

The Judicial Council consists of 21 members: the Chief Justice, one Associate Justice of the Supreme Court, three Court of Appeal justices, five Superior Court judges, three Municipal Court judges, two Justice Court judges, four attorneys, and one member of each house of the Legislature. [Cal. Const., Art. VI, §6] The Chief Justice is Chairperson [Cal. Rules of Court, Rule 995] and appoints the judge members of the Council for two-year terms. The attorney members are appointed for two-year terms by the Board of Governors of the State Bar. The Assembly and Senate each designate one of its members as the legislative member of the Council. [Cal. Const., Art. VI, §6]

Judicial Council membership terminates if a member ceases to hold the position that qualified the member for appointment. Vacancies are filled by the appointing power for the remainder of the term. [Cal. Const., Art. VI, §6]

All members of the Council serve without compensation, but receive necessary expenses incurred in the performance of their duties. [Cal. Gov. Code, §68510]

2. Judicial Council Committees

The Chief Justice appoints committees composed of judges, retired judges, and attorneys and experts in specialized

fields, to study the condition of business in the courts and to suggest means for simplifying and improving the administration of justice. [Cal. Gov. Code, §68501] The committees are purely advisory; they may assemble information and make recommendations to the Judicial Council, but they do not exercise any of the powers vested in the Council. [Cal. Gov. Code, §68502]

At the present time, the Judicial Council Committees are as follows:

- a) Executive Committee
- b) Appellate Court Committee
- c) Superior Court Committee
- d) Court Management Committee
- e) Municipal and Justice Court Committee
- f) Committee of Administrative Presiding Justices
- g) Judicial Criminal Justice Planning Committee
- h) Advisory Committee on Selective Publication of Appellate Court Opinions
- i) Advisory Committee on Legal Forms
- j) Advisory Committee on Economical Litigation
- k) Advisory Committee for the Jury/Witness Management Standards Project
- l) Sentencing Practices Advisory Committee
- m) Governing Committee of the Center for Judicial Education and Research (a joint committee of the Judicial Council and Conference of California Judges)

[Judicial Council of California, 1978 Annual Report to the Governor and the Legislature, pp. vi-vii]

B. California Judges Association

The California Judges Association (which prior to 1976 was known as the Conference of California Judges) is a voluntary organization of the judges of all courts. Thus, members include judges of the Supreme Court, the Courts of Appeal, the Superior Courts, the Municipal Courts, and the Justice Courts; and almost all judges of these courts are members. [CJER, California Municipal and Justice Courts Manual (1974) §1.28, pp. 1-25-1-26] The Association was created in 1932 with the purposes of improving the administration of justice, formulating and interpreting canons of judicial ethics, considering matters which directly or indirectly affect the judiciary, and promoting the interchange of ideas and encouraging cooperation and social contacts among judges. [Arnold, California Courts and Judges Handbook (2d ed. 1973) §4.25, pp. 129-130]

The President of the Association has traditionally been invited by the Chief Justice to serve as an advisory member of the Judicial Council.

The Association sponsors and reviews legislation and Judicial Council rules affecting the judiciary, including those affecting judicial work, salaries and retirement. [CJER, California Municipal and Justice Courts Manual (1974) §1.28, p. 1-26]

In 1949, the Association adopted the California Canons of Judicial Ethics. The Canons, which have been amended several times since their adoption, are published in the Appendix to the California Rules of Court. Additionally, the California Code of Judicial Conduct (adapted from the American Bar Association Code of Judicial Conduct) was adopted by the California Judges Association in 1975. [See Section V.E. for additional information.] The Constitution of the Association provides for a Standing Committee on Judicial Ethics.

1. Executive Board

The California Judges Association is headed by an Executive Board consisting of 15 members, at least five of whom are required to be Municipal Court judges, elected by the membership, each for a term of three years, and the immediate past president. [Arnold, California Courts and Judges Handbook (2d ed. 1973) §4.23, p. 129]

2. Meetings

The Association meets annually at the same time as, and at the general location of, the annual meeting of the State Bar of California.

C. California Council on Criminal Justice

Since 1968, the United States Department of Justice, through the Law Enforcement Assistance Administration (LEAA), has provided federal funds for the improvement of criminal justice systems in the states. Some of the funds are allocated to court improvements. In California, the Office of Criminal Justice Planning [see Cal. Pen. Code, §§13820-13824] administers the program, under general policies established by the California Council on Criminal Justice [see Cal. Pen. Code, §§13810-13813].

The Council is composed of the State Attorney General, the Administrative Director of the Courts, 19 members appointed by the Governor, eight members appointed by the Senate Rules Committee, and eight members appointed by the Speaker of the Assembly. The appointees must be drawn from certain designated categories (e.g., peace officer, district attorney, private citizen). [Cal. Pen. Code, §13810]



The Council is required to act as the supervisory board of the state planning agency. It must annually review and approve, or review, revise and approve the comprehensive state plan for the improvement of criminal justice and delinquency prevention activities in California. [Cal. Pen. Code, §13813] The Council establishes priorities for the use of the federal funds and approves the expenditures of all funds. [Cal. Pen. Code, §13813]

1. Judicial Criminal Justice Planning Committee

Since the state court system would be directly affected by the comprehensive criminal justice planning being carried out by the executive Office of Criminal Justice Planning (OCJP), the Legislature, in 1973, created the Judicial Criminal Justice Planning Committee to review any plans affecting the California courts. [Cal. Pen. Code, §13830]

The Judicial Criminal Justice Planning Committee consists of seven members, who are appointed by the Judicial Council and who hold office at its pleasure. [Cal. Pen. Code, §13830]

The Office of Criminal Justice Planning is required to consult with and seek the advice of the Committee in carrying out its planning functions, insofar as those plans affect the California court system. [Cal. Pen. Code, §13832] Additionally, any grant of federal funds which is to be implemented in the state court system must be submitted to the Committee for its review and recommendations before being presented to the Council on Criminal Justice for its action. [Cal. Pen. Code, §13832]

The Committee is required to report annually to the Governor and the Legislature on items affecting judicial system improvements. [Cal. Pen. Code, §13834]

IX. ADMINISTRATION OF THE COURTS

A. Chief Justice

The Chief Justice is the administrative head of the court system. The Chief Justice serves as Chairperson of the Judicial Council [Cal. Rules of Court, Rules 995] and serves on the Commission on Judicial Appointments. [Cal. Const., Art. VI, §7]

Under the California Constitution, the Chief Justice must seek to expedite judicial business and to equalize the work of judges. The Chief Justice may assign any judge to another court, but only with the judge's consent if the court is of lower jurisdiction. Judges must report to the Judicial Council as the Chief Justice directs concerning the condition of judicial business in their courts. [Cal. Const., Art. VI, §6] The Chief Justice appoints the judicial members of the Judicial Council. [Cal. Const., Art. VI, §6]

In Courts of Appeal having more than one division, the Chief Justice may designate one of the Presiding Justices to act as an Administrative Presiding Justice, to serve at the pleasure of the Chief Justice. [Cal. Rules of Court, Rule 75]

B. The Judicial Council of California

The chief administrative body of the state judicial system is the Judicial Council. [see Cal. Const., Art. VI., §6] To improve the administration of justice, the Constitution directs the Judicial Council to survey judicial business and make recommendations to the courts and annual recommendations to the Governor and the Legislature. The Judicial Council also is required to adopt rules for court administration, practice and procedure, not inconsistent with statute. [Cal. Const., Art. VI, §6]

The rules of court administration, practice and procedure adopted by the Council are published as the California Rules of Court. The Rules of Court consist of the rules on appeal to the Supreme Court and Courts of Appeal; rules on appeal to the Superior Court; rules for the Superior Courts; rules for the Municipal Courts; rules for disciplinary proceedings against judges and attorneys; family law rules and forms; juvenile court rules; rules for coordination of civil actions; rules for publication of appellate opinions; and others.

The Judicial Council compiles statistics on all cases filed in or heard by the courts from reports that all courts are required to file with the Council. [CJER, California Municipal and Justice Courts Manual (1974) §1.20, p. 1-20; see Cal. Gov. Code, §68505; Judicial Council of California, 1978 Annual Report to the Governor and the Legislature] These statistics assist the Judicial Council in fulfilling its constitutional duty to survey the condition of business in the courts as well as aid the Chief Justice in meeting the constitutional obligation to expedite judicial business and equalize the work of judges. The data also are used in reporting to the Governor and the Legislature on judicial manpower needs and utilized in other matters of judicial administration. [CJER, California Municipal and Justice Courts Manual (1974) §1.20, p. 1-20]

For additional information on the Judicial Council, see Section VIII, "Judicial Policy-Making/Advisory Bodies" [A], above.

C. Administrative Director of the Courts

The Judicial Council appoints an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the Council or the Chief Justice, other than adopting rules of court administration, practice and procedure. [Cal. Const., Art. VI, §6]

The power conferred upon the Judicial Council of allocating state appropriations for the judiciary may be exercised on its behalf by the Director in the form of an order signed by him and approved by the Chairperson of the Judicial Council. [Cal. Rules of Court, Rule 992]

For additional information on the Administrative Director, see Section VII.A., above.

D. Administrative Office of the Courts

The Administrative Director of the Courts, under the supervision of the Chairperson of the Judicial Council, is authorized to employ, organize and direct a staff known as the Administrative Office of the Courts. [Cal. Rules of Court, Rule 991; see also Cal. Gov. Code, §68500] The staff agency, which consists of approximately 70 employees, assists the council and its Chairperson in carrying out their duties under the Constitution and laws of the state. [Cal. Rules of Court, Rule 991]

The research staff provides the Judicial Council with the legal research needed to recommend statutory changes necessary to improve the state judicial system. A legislation staff aids the Council and the Legislature in implementing the Council's legislative proposals and in evaluating other legislative measures affecting the judicial system. A statistical research staff collects and analyzes judicial statistics.

The Administrative Office of the Courts also prepares reports for the Legislature on the need for additional judges. It administers the funds appropriated for the state appellate courts. It organizes continuing education and court management programs for the judiciary.

The Administrative Office furnishes the public with information about the courts and the administration of justice, issuing news releases about Supreme Court decisions and about activities of the Judicial Council, the Commission on Judicial Performance, the Commission on Judicial Appointments and others. It also issues a weekly summary which lists the cases the Supreme Court has accepted for hearing, briefly stating the principal issues involved in the cases. It supervises the experimental projects designed to improve court administration that are funded by federal grants. Through the Administrative Office, the Judicial Council publishes the bimonthly "A.O.C. Newsletter," which reports to the judiciary on the Judicial Council's general programs, new judicial appointments, proposed or adopted Rules of Court, and other matters. [CJER, California Municipal and Justice Courts Manual (1974) §§1.18, 1.23, pp. 1-18, 1-23]

All staff employees are employees of the state. Their salaries are paid from the funds appropriated by the state for use of the Judicial Council. [Cal. Gov. Code, §68506]

E. Administration within Intermediate Appellate Court (Courts of Appeal)

1. Presiding Justice

Each division of each Court of Appeal has a Presiding Justice. [Cal. Const., Art. VI, §3]

There is a total of 13 presiding justices in the five Courts of Appeal.

2. Administrative Presiding Justice in Multi-Division Courts of Appeal

In a Court of Appeal having more than one division the Chief Justice may designate one of the Presiding Justices to act as an Administrative Presiding Justice for such period as the Chief Justice may specify. [Cal. Rules of Court, Rule 75]

An Administrative Presiding Justice performs those duties that are specified in rules adopted by the Judicial Council and, in addition, those duties that may be delegated to him with the concurrence of the Chief Justice by a majority of the judges of the court in the district he serves. [Cal. Rules of Court, Rule 75; see Rule 76] The Administrative Presiding Justice acts on behalf of the court, with the approval of a majority of the judges in the district, in connection with general court administration, including matters involving budgets and personnel. [Cal. Rules of Court, Rule 76 (5)]

3. Clerk (5)

Each Court of Appeal appoints a Clerk who serves at its pleasure. [Cal. Gov. Code, §69140] In addition to the duties prescribed by law, each clerk performs such duties as are required of him by the rules, orders, and practices of the appointing court. [Cal. Gov. Code, §69140]

The Clerk is required to cooperate with the Judicial Council and keep such records and make such reports to the Council as its Chairperson requires with respect to the condition and manner of disposal of judicial business in the court. [Cal. Gov. Code, §68505]

F. Administration Within the Trial Court of  
General Jurisdiction (Superior Courts)

1. Presiding Judge

The judges of each Superior Court having three or more judges choose from their own number a Presiding Judge who serves at their pleasure. Subject to the rules of the Judicial Council, he distributes the business of the court among the judges, and prescribes the order of business. [Cal. Gov. Code, §69508; see Cal. Rules of Court, Rule 244.5]

In Superior Courts with two judges a Presiding Judge shall be selected by the judges each calendar year and the selection should be on the basis of administrative qualifications and interest. If a selection cannot be agreed upon, then the office of Presiding Judge is rotated each calendar year between two judges, commencing with the senior judge. [Cal. Gov. Code, §69508.5]

The administrative duties of the Presiding Judge are set forth in California Rules of Court, Rule 244.5(a). The Presiding Judge is required to prepare, with the assistance of appropriate committees of the court, proposed local rules of court necessary to expedite and facilitate the business of the court. The Presiding Judge designates the judge to preside in each department, including a master calendar judge when that is appropriate, and designates a supervising judge for each district or branch court. The Presiding Judge assigns to the master calendar judge any of the duties that may be performed more appropriately by that department. The Presiding Judge



apportions the business of the court among the several departments of the court as equally as possible. The Presiding Judge causes to be published for general distribution copies of a current court calendar setting forth the assignments of the judges, the times and places assigned for hearing the various types of court business, and any special calendaring requirements adopted by the court for such hearings. [Cal. Rules of Court, rule 244.5]

The Presiding Judge may reassign cases assigned to one department to any other department as convenience or necessity requires. It is the responsibility of the Presiding Judge to prepare an orderly plan of vacations and attendance at schools, conference and workshops for judges and submit such plan to the judges for consideration. (California Rules of Court, Rule 244.5(a)(9) provides that 21 court days a year is a proper vacation period for Superior Court judges, and attendance at a California school, conference or workshop for judges is not deemed vacation time if such attendance is in accord with the plan and has the prior approval of the Presiding Judge.)

The Presiding Judge calls meetings of the judges as needed and appoints standing and special committees of judges to assist in the proper performance of the duties and functions of the court. The Presiding Judge supervises the administrative business of the court and has general direction and supervision of the attaches of the court. The Presiding Judge must provide for an appropriate orientation program for new judges as soon as is feasible after appointment or election. [Cal. Rules of Court, Rule 244.5]

California Rules of Court, Rule 244.5(a)(16) provides that the Presiding Judge of the Superior Court shall: "when appropriate, meet with or designate a judge or judges to meet with any committee of the bench, bar and news media to review problems and to promote understanding of the principles of fair trial and free press, under paragraph 9 of the 'Joint Declaration Regarding News Coverage of Criminal Proceedings in California,' as approved for submission on January 16, 1970, and adopted by the State Bar of California and the California Freedom of Information Committee."

[For other duties of the Presiding Judge, see Cal. Rules of Court, Rule 244.5]

2. Clerk

There is no separate office of Clerk of the Superior Court. Each county clerk is ex officio Clerk of the Superior Court of his county and it is one of his official duties as county clerk to act as clerk of the court. [Cal. Const., Art. VI, §4; Cal. Gov. Code, §26900]

For additional information on the Clerk, see Section VII.D.2., above.

3. Executive Officer

Any Superior Court of three or more judges may appoint an Executive Officer who shall hold office at the pleasure of the court and shall exercise such administrative powers and perform such other duties as may be required of him by the court. [Cal. Gov. Code, §69898]

The court fixes the qualifications of the Executive Officer and may delegate to him any administrative powers and duties required to be exercised by the court. [Cal. Gov. Code, §69898]

The Executive Officer has the authority of a Clerk of the Superior Court and the Superior Court may, by local rule, specify which of the powers, duties and responsibilities of the County Clerk shall be exercised or performed by the Executive Officer. [Cal. Gov. Code, §§69898(c), 69898(d)]

For additional information on the Executive Officer, see Section VII.D.1., above.

G. Administration Within Trial Court of Limited Jurisdiction (Municipal and Justice Courts)

1. Municipal Court

a. Presiding Judge

Annually, the judges of the Municipal Court choose a Presiding Judge. The Presiding Judge may be removed at any time and another chosen in his place by a majority vote of the judges of the court. [Cal. Gov. Code, §72271]

In Municipal Courts with two judges, a Presiding Judge is selected by the judges each calendar year, and the selection should be on the basis of administrative qualifications and interest. If a selection cannot be agreed upon, then the office of Presiding Judge is rotated each calendar year between the two judges. [Cal. Gov. Code, §72271.5]

The Presiding Judge assigns the judges to their respective departments. [Cal. Gov. Code, §72272] Subject to the regulations of the Judicial Council, the Presiding Judge apportions the business of the court among the several departments and transfers cases from one department to another if necessary or convenient to facilitate the dispatch of the business of the court. [Cal. Gov. Code, §72274; see Cal. Rules of court, Rule 533]

Other duties of the Presiding Judge are set forth in California Rules of Court, Rule 532.5. The Presiding Judge is required to prepare, with the assistance of appropriate committees of the court, proposed local rules of court necessary to expedite and facilitate the business of the court. The Presiding Judge designates the judge to preside in each department, including a master calendar judge when that is appropriate, and designates a supervising judge for each district or branch court. The Presiding Judge assigns to a master calendar judge any of the duties that may be performed more appropriately by that department. [Cal. Rules of Court, Rule 532.5]

The Presiding Judge is empowered to apportion the business of the court among the several departments of the court as equally as possible. The Presiding Judge causes to be published for general distribution

copies of a current court calendar setting forth the assignments of the judges, the times and places assigned for hearing the various types of court business, and any special calendaring requirements adopted by the court for such hearings. [Cal. Rules of Court, Rule 532.5]

The Presiding Judge may reassign cases assigned to one department to any other department as convenience or necessity requires. The Presiding Judge is to prepare an orderly plan of vacations and attendance at school, conferences and workshops for judges and submit such plan to the judges for consideration. (California Rules of Court, Rule 532.5 (a)(9) provides that 21 court days a year is a proper vacation period for Municipal Court judges, and attendance at a California school, conference or workshop for judges is not deemed vacation time if such attendance is in accord with the plan and has the prior approval of the Presiding Judge.)

The Presiding Judge calls meetings of the judges as needed and appoints standing and special committees of judges to assist in the proper performance of the duties and functions of the court. The Presiding Judge supervises the administrative business of the court and has general direction and supervision of the attaches of the court. The Presiding Judge is to provide for an appropriate orientation program for new judges as soon as is feasible after appointment or election. [Cal. Rules of Court, Rule 532.5]

California Rules of Court, Rule 532.5(a) (16) provides that the Presiding Judge of the Municipal Court shall: "when appropriate, meet with or designate a judge or judges to meet with any committee of the bench, bar, and news media to review problems and to promote understanding of the principles of fair trial and free press, under paragraph 9 of the 'Joint Declaration Regarding News Coverage of Criminal Proceedings in California,' as approved for submission on January 16, 1970, and adopted by the State Bar of California and the California Freedom of Information Committee."

b. Clerk

The Clerk of the Municipal Court is appointed by the judges of the court. [Cal. Gov. Code, §71181] With respect to proceedings in the Municipal Court, the Clerk of the Municipal Court has the same powers which are conferred by law upon the Clerk of the Superior Court with respect to proceedings in that court. [Cal. Gov. Code, §72050; see also Cal. Gov. Code, §72050.2 et seq] [See [E.] [2.] of this Section.]

The Clerk may appoint, with the approval of the judge, as many deputies as may be necessary, and vacancies in the Clerk's Office are filled by appointments made by the Clerk. [Cal. Gov. Code, §§71085(b), 71181, 71267 et seq]

2. Justice Court

a. Presiding Judge

Generally, each Justice Court has one judge only. Only one Justice Court has two judges.

b. Clerk

The Clerk of the Justice Court is appointed by the court. [See Cal. Gov. Code, §71181]

All vacancies in the Clerk's Office are filled by appointment by the Clerk. [Cal. Gov. Code, §71181]

X. COURT FINANCING

A. State Funding

In fiscal year 1977-78, the total court expenditures by the state and counties was approximately \$458,971,671. Of this amount, 11.2% was borne by the state. The state's expenditures of \$51,711,820 for the judiciary in fiscal year 1977-78 amounted to 0.4% of the total state budget.

The state pays for the operation of the Supreme Court, the Courts of Appeal, the Judicial Council, and the Commission on Judicial Performance. The state contributes to the Judges' Retirement Fund which funds retirement benefits for judges of all courts of record. [See Cal. Gov. Code, §§75101, 75107; State of California, Governor's Budget for 1977-78, p. 14] The state pays for a portion of the Superior Court judges' salaries and, in addition, provides a \$60,000 annual subvention towards the support cost for each new Superior Court judgeship created. [See State of California, Governor's Budget for 1977-78, pp. 13-14; Cal. Gov. Code, §68206] It also contributes to the National Center for State Courts. [State of California, Governor's Budget for 1977-78, p. 15]

B. Local Funding

Of the \$458,971,671 total court expenditures for 1977-78, the counties paid approximately \$407,259,851 (or 88.8%).

The counties pay for the operation of all trial courts (i.e., the Superior, Municipal, and Justice Courts) except for the state payments described above. The municipalities do not contribute any amount to the operation of the judicial system.



C. Budgetary Time Span

The state budget and county budgets are prepared on the basis of a fiscal year beginning July 1.

D. Budget Process

1. Preparation

Within the first 10 days of each calendar year, the Governor submits to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. [Cal. Const., Art. IV, §12] The Governor's budget includes provision for judicial branch expenditures. The proposed judicial budget is initially prepared by the Fiscal Services Office of the Judicial Council and is submitted to the Department of Finance (the executive branch budget office) for review and revision by the Department and the Governor.

2. Presentation and Approval

The Governor's Budget must be submitted to the Legislature within the first 10 days of the calendar year and must be accompanied by a budget bill itemizing the recommended expenditures. The bill is "introduced immediately in each house by the persons chairing the committees that consider appropriations." [Cal. Const., Art. 12, subd. (c)]

The bill is referred to the appropriate committees for hearing and is examined by the Legislative Analyst (who is appointed by the Joint Legislative Budget Committee) with a view toward

reducing the cost of state government and securing greater efficiency and economy. [See Cal. Gov. Code, §§9140-9143] The Legislative Analyst prepares an extensive written study of the bill which is published by the Legislature. The Legislature by a two-thirds majority must pass the budget bill by midnight on June 15 of each year. [Cal. Const., Art. IV, §12, subd, (c) and (d)] The Governor may delete or reduce any item of the bill. [Cal. Const., Art. IV, §10, subd. (b)]

E. Audit Authority

The audit of state appropriations is conducted by the Department of Finance, the Auditor General, and the State Controller. The audit of county appropriations is conducted by the county auditor-controller and the State Controller.

F. Revenues from Fines/Fees

A major portion of the revenue from fines and fees produced by the courts is transferred to city and county general and transportation funds. The remainder of such revenue is transferred to the state transportation and other special funds (e.g., driver education).

## XI. COURT RECORDS AND STATISTICS

### A. Records Management

#### 1. Retention Policies

The Clerk of the Superior Court must safely keep or dispose of, according to law, all papers and records filed or deposited in any action or proceeding before the court. [Cal. Gov. Code, §69846]

The Clerk must keep such indexes as will insure ready reference to any action or proceeding filed in the court. The clerk is required to keep separate indexes of plaintiffs and defendants in civil actions and of defendants in criminal actions. [Cal. Gov. Code, §69842]

The Clerk of the Supreme Court keeps the minutes and other records of the court, entering at length within the time specified by law, or forthwith if no time is specified, any order, judgment, and decree of the court which is required to be entered and showing the date when each entry is made. [Cal. Gov. Code, §69844]

The Clerk may, in lieu of minute book, judgment books and orders and decrees, photograph, microphotograph or photocopy all Superior Court minutes, judgments, orders and decrees. Such photograph, microphotograph or photocopy must be made in the manner and on such paper as will comply with the minimum standards of quality approved by the National Bureau of Standards. Every such reproduction shall be deemed and considered an original. [Cal. Gov. Code, §69844.5] All such photographs,

microphotographs, and photocopies must be properly indexed and placed in convenient, accessible files. Each roll of microfilm is deemed and constitutes a book and is designated and numbered. Provision must be made for preserving, examining and using it. A duplicate of each roll of microfilm must be made and kept in a safe and separate place. [Cal. Gov. Code, §69844.5]

In those counties where it is required by court order or rule that the Clerk of the Superior Court place individual minute orders in the court's file of actions in chronological order, and if it is otherwise required by law that as a prerequisite to destruction of such records a microfilm copy be made, the clerk need not keep a minute book but must keep minutes. [Cal. Gov. Code, §69844.7]

The Clerk must keep a register of actions in which is entered the title of each cause, with the date of its commencement and a memorandum of every subsequent proceeding in the action with its date. [Cal. Gov. Code, §69845] The Clerk may maintain a register of actions by means of photographing, microphotographing, or mechanically or electronically storing the whole content of all papers and records, or any portion thereof as will constitute a memorandum, necessary to the keeping of a register of actions so long as the completeness and chronological sequence of the register are not disturbed. All such reproductions must be placed in convenient, accessible files, and provision must be made for preserving, examining, and using them. [Cal. Gov. Code, §69845.5] All photographs, microphotographs or photocopies must be made in such a manner and on such paper as will comply with the minimum standards of quality approved by the National Bureau of Standards. [Cal. Gov. Code, §69845.5]

The Judicial Council has provided by rule that the Clerk of each Superior, Municipal or Justice Court may create, maintain, update and make accessible the indexes required by law by photographic, microphotographic, photocopy, mechanical, magnetic or electronic means. A single alphabetic index may be maintained as long as the plaintiff-defendant distinction is retained. The Clerk must provide for preserving the information on a medium that will insure its permanence and protect it from loss or damage arising from electronic failure or mechanical defect. The indexes maintained under automated procedures must be accessible for public information and use. [Cal. Rules of Court, Rule 1010]

The Judicial Council is required to report periodically to the Legislature any statutory changes needed to achieve uniformity in the entry, storage, and retrieval of court records. [Cal. Gov. Code, §68511.2]

## 2. Destruction Policies

The Clerk of the Superior Court may cause to be destroyed any documents, records, instruments, books, depositions, transcripts, or other papers filed in any action or proceeding, if the proceeding in which the papers were filed is not pending or on appeal in any court and any of the following has occurred:

- a) the dismissal of the entire action has been entered;
- b) a period of three years has elapsed since a deposition or transcript of a preliminary hearing or coroner's inquest was filed;

- c) a period of five years has elapsed since the papers in a domestic relations action or proceeding were filed;
- d) a period of eight years has elapsed since the papers in any other action or proceeding were filed. [Cal. Gov. Code, §69503, subd. (a)]

The Clerk may cause to be destroyed any will delivered to the Clerk pursuant to Section 320 of the Probate Code, if a period of eight years has elapsed since the delivery of the will. [Cal. Gov. Code, §69503, subd. (b)]

The Clerk must maintain for the use of the public a microphotograph film print or copy of each will, document, record, instrument, book, deposition, transcript, or other paper so destroyed. The Clerk must promptly seal and store at least one original negative of each microphotographic film print or copy in a manner and place that reasonably assures its preservation indefinitely against loss, theft, defacement, or destruction. [Cal. Gov. Code, §69503, subd. (c)]

The Clerk may not destroy any transcript of a preliminary hearing pursuant to section 69503, subdivision (a), of the Government Code without the written consent of the district attorney. [Cal. Gov. Code, §69503, subd. (d)]

Section 69503.1 of the Government Code provides for the destruction of Superior Court records over 30 years old in certain circumstances.

Upon order of the presiding or sole judge of a Municipal or Justice Court, the Clerk may destroy all records, papers, and exhibits filed or kept in the court in any civil action or special proceeding other than the register of actions and permanent indexes after the lapse of 10 years from the date on which judgment in such case became final, or if it has not been prosecuted to judgment, after a like period from the date of the commencement of the action or proceeding. [Cal. Gov. Code, §71008]

Upon order of the presiding or sole judge of a Municipal or Justice Court, the Clerk may photograph, microphotograph, microfilm, or photocopy the records required to be kept by section 71108 of the Government Code and section 1428b of the Penal Code at any time if:

- a) in civil proceedings, 10 years have elapsed from the date of the commencement of the action or proceeding;
- b) in criminal proceedings, five years have elapsed following the final determination of the proceeding or the forfeiture of bail in cases in which no other proceedings are had during a like period following such forfeiture.

Upon making reproductions of the court records, the originals may be destroyed. Reproductions of permanent judicial records may never be destroyed. Every reproduction shall be deemed an original record.

B. Court Statistics

The Judicial Council of California, under the State Constitution [Cal. Const., Art. VI, §6], has the responsibility for surveying judicial business to improve the administration of justice. Pursuant to Judicial Council regulations, prescribed statistical reports are submitted to the Council each month by the clerks of the Supreme Court, Courts of Appeal, Superior Courts and Municipal Courts. Justice Courts report on a quarterly basis. From these reports data are extracted, stored, retrieved and compiled for inclusion in an annual report and other special reports to the Governor, the Legislature and the courts, and made available to interested persons.

Data from the summary of court business reports, condition of calendar reports and assistance reports submitted by the Superior and Municipal Courts are key entered and stored in master files on a computer complex located in Sacramento, the state capital. Also stored are data from the summary of court business reports and assistance reports submitted by Justice Courts. Justice Courts do not submit condition of calendar reports. Data for Judicial Council reports are retrieved from the computer and the reports are prepared by the Administrative Office of the Courts, the staff agency for the Judicial Council.

The summary of court business reports contain data on filings and dispositions of the various types of case categories.

The condition of calendar reports provide data on case inventories, the age of matters for trial, and the age of cases tried in the previous month.

The assistance reports record in detail the amount of assistance rendered to the various courts by judges from other courts, retired judges, commissioners and referees.



From reports filed by the Supreme Court and the Courts of Appeal the Administrative Office of the Courts manually maintains similar data files for those courts.

The Council provides the Legislature with judgeship needs reports based on a system of caseweightings. These reports contain analyses of prior years' caseloads, projections for two years in the future, and findings as to the number of judicial positions which will be required to dispose of the projected caseloads.

The Judicial Council also collects individual sentencing reports for each criminal matter prosecuted to judgment in the Superior Courts. Data from these reports are collected and used for periodic sentencing trends reports.

The Municipal and Superior Courts also submit individual reports on each criminal matter disposed of to the State Department of Justice.

## XII. COURT REFORM

### A. Recent Developments

Among the most significant recent court reform measures taken in California are the following:

- 1) the equalization of Justice and Municipal Court jurisdiction [see Cal. Code Civ. Proc., §83; Cal. Pen. Code, §1462.1];
- 2) requiring Justice Court judges to be attorneys [see Cal. Gov. Code, §71701; Gordon v. Justice Court (1974) 12 Cal. 3d 323];
- 3) increasing the monetary jurisdiction ceiling of Municipal Courts and Justice Courts from \$5,000 to \$15,000, effective July 1, 1979 [see Cal. Code Civ. Proc., §86];
- 4) the institution of a system of optional arbitration in the Superior Courts in (a) any cause upon stipulation of the parties, or, (b) upon filing of an election by the plaintiff, in any cause in which the plaintiff agrees that the arbitration award will not exceed \$7,500 [see Cal. Code Civ. Proc., §§1141.10, 1141.20; Cal. Rules of Court, Rules 1601-1617]; and
- 5) the establishment of a three-year pilot project in two Municipal Courts and two Superior Courts to experiment with alternative methods of civil procedure, the ultimate objective of which is to reduce the cost of litigation. [see Cal. Code Civ. Proc., §1823 et seq.; Cal. Rules of Court, Rules 1701 et seq.]

B. Anticipated Developments

1. Trial Court Unification

There have been several attempts to unify the trial courts by merging the Municipal and Justice Courts into the Superior Courts. Although comprehensive legislation has not been obtained, trends in the direction of unification are visible; the increase in Municipal Court jurisdiction to \$15,000 and the requirement that Justice Court judges be lawyers may make it easier to obtain unification.

2. State Financing

Proposals of trial court unification have usually been linked with state financing. The property tax system is in crisis, and the political environment is judged to be somewhat favorable for a shift to state financing.

3. Administrative Adjudication of Traffic Offenses

It is likely that the handling of minor traffic matters (designated "infractions") will be removed from the courts and assigned to hearing officers of the Office of Administrative Hearings.

4. Increase Jurisdiction of Small Claims Courts

The \$750 monetary limit of small claims jurisdiction [Code Civ. Proc., §116.2] is likely to be increased, perhaps to \$2,000.

5. Neighborhood Justice Centers

Pending legislation to authorize and fund experimentation with neighborhood centers for informal resolution of disputes has broad support and appears likely to be enacted.

6. The Appellate System

Legislative and judicial leaders are becoming concerned that rising appellate caseload cannot continue to be accommodated by increasing the size of the appellate courts and by staff screening and other measures to increase productivity. Interest is being expressed in finding acceptable methods to motivate litigants (both civil and criminal) not to take appeals in hopeless cases. No specific solutions have been found, but discussion has centered around increasing the interest rate on civil judgments, and the discretionary imposition of indemnity costs in civil appeals.

LIST OF SOURCES

LIST OF SOURCES

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DEGREE OF SIMILARITY BETWEEN THE  
CALIFORNIA  
COURT SYSTEM AND THE ABA STANDARDS  
RELATING TO COURT ORGANIZATION

(With Cross Index to Profile)

STANDARDS OF COURT ORGANIZATION		DEGREE OF SIMILARITY			CROSS INDEX TO PROFILE
No.	Title	High	Med	Low	Section (Page)
1.11	UNIFIED COURT STRUCTURE		X		
	A. Uniform Jurisdiction	X			I.B. (27); II.B. (32); III.B. (38); IV.A.2. (44); IV.B.2. (46)
	B. Simple Jurisdictional Division		X		
	C. Uniform Standards of Justice	X			
	D. Clearly Vested Policy-Making Authority	X			I.D. (29); II.D. (34)
	E. Clearly Established Administrative Authority	X			III.D. (41); IV.A.3. (45); IV.B.3. (47); IX. (106)
1.12	COURT OF ORIGINAL PROCEEDINGS		X		
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