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## HIGHLIGHTS

### *Legislative Branch*

#### Two Houses of Legislature

ASSEMBLY: 80 members

- Initial vote on bills introduced by Assembly members
- Secondary vote on bills introduced by senators
- Final vote on bills introduced by Assembly members

SENATE: 40 members

- Initial vote on bills introduced by senators
- Secondary vote on bills introduced by Assembly members
- Final vote on bills introduced by senators
- May act as the Special Court of Impeachment

#### Two Primary Governing Functions

LEGISLATIVE

- Establish and revise California codes of law
  - Superior courts hear cases involving violations of the following codes:
    - Penal Code
    - Probate Code
    - Code of Civil Procedure
    - Civil Code
    - Health and Safety Code
    - Welfare and Institutions Code
    - Vehicle Code
    - Fish and Game Code
    - Business and Professions Code
    - Streets and Highways Code

REGULATORY

- Set operational guidelines for state and local governments
- For superior courts:
  - Establish reporting and record-keeping requirements
  - Set the number of superior court judges and specify their salaries
  - Establish penalty assessments

## HIGHLIGHTS

### *Executive Branch*

#### GOVERNOR

- State's chief executive officer
- Directs all state business
- Appoints members of the Supreme Court
- Appoints judges of courts of appeal
- Appoints judges to vacancies in superior courts

#### ATTORNEY GENERAL

- Manages Office of the Attorney General and Department of Justice
- Office of Attorney General provides legal counsel to state agencies
- Department of Justice investigates violations of and enforces laws

#### OFFICE OF THE STATE PUBLIC DEFENDER

- Represents indigents in appeals of death penalty and serious felony convictions

#### YOUTH AND ADULT CORRECTIONAL AGENCY

- Manages Department of Corrections and California Youth Authority (CYA), whose services include:
  - State prisons
  - CYA custodial sites for juveniles
  - State mental hospitals

#### OTHER STATE LAW ENFORCEMENT AGENCIES

- Department of Motor Vehicles
- State Police
- California Highway Patrol
- State Park Rangers
- Department of Fish and Game

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## HIGHLIGHTS

### *Judicial Branch*

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#### TRIAL COURTS

- Conduct trials
- These courts are:
  - Superior courts
  - Appellate division in each superior court

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#### APPELLATE COURTS

- Review decisions of trial courts
  - These courts are:
    - Supreme Court
    - Courts of appeal
    - Appellate division in each superior court

### **Administration of State Judicial System**

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#### JUDICIAL COUNCIL

- Chief administrative body of the state judicial system
- Twenty-one members, chaired by Chief Justice
- Staffed and managed by Administrative Office of the Courts (AOC)
- AOC provides the Judicial Council with:
  - Legal research
  - Legislative review
  - Judicial assignments
  - Research and statistics
  - Trial court coordination
  - Training and educational services through the Center for Judicial Education and Research
  - Administration of the California Appellate Project

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#### COMMISSION ON JUDICIAL APPOINTMENTS

Confirms Governor's appointments to Supreme Court and courts of appeal

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#### COMMISSION ON JUDICIAL PERFORMANCE

Investigates, admonishes, removes, or retires judges for misconduct or disability

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## Legislative Branch

The California State Legislature consists of two houses: the 80-member Assembly, and the 40-member Senate. Members of each house are chosen by the people of California in general elections and are entrusted with two important areas of government operation: lawmaking and regulation.

### ➤ **Lawmaking**

The Legislature is mainly responsible for establishing and revising the various California **codes of law**\*. The following codes are of particular significance to the courts:

- Business and Professions Code
- California Code of Regulations
- California Uniform Commercial Code
- Civil Code
- Code of Civil Procedure
- Elections Code
- Evidence Code
- Family Code
- Government Code
- Health and Safety Code
- Penal Code
- Probate Code
- Vehicle Code
- Welfare and Institutions Code

The California Codes of Law are established according to standard legislative operating procedures, which include committee approval, Assembly vote, and Senate vote. Each house has committees established to review proposed new laws and proposed amendments to existing laws. These proposals are called bills and may originate in either the Assembly or the Senate.

On committee approval, a bill is sent to be voted on by the house in which it originated. If the bill passes the vote of the originating house, it is then sent to the other house for approval. For example, a bill originating within a committee of the Senate must first be approved by the committee, then sent to the full Senate for a vote. If passed by the Senate, the bill is presented to the Assembly for approval. If any changes are made by the Assembly, the bill must be returned to the Senate for a final vote.

Passage of the bill may be refused at any point during this process. Even if it is passed by both houses, it must still be signed by the Governor to become law. If the Governor vetoes the bill, it is returned to the Legislature, where it must be approved by a two-thirds majority in each house to become law.

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➤ **Regulation**

The Legislature is empowered to regulate all state agencies in the executive and judicial branches. Regulation involves setting guidelines for many crucial government operations, such as development of the state budget.

With respect to the judicial branch, the Legislature establishes all **judicial positions**, judicial salaries, and record-keeping responsibilities for **trial courts**, and determines **penalty assessments** for trial courts. The Legislature also establishes new courts of appeal.

To ensure proper regulation of the courts, the Legislature has a number of judicial committees that accept input on new bills from responsible court-related state agencies, including the Judicial Council, the State Bar, and support organizations such as the Superior Court Clerks Association of California and the California Court Clerks Association.

The Senate also becomes a Special Court of Impeachment if the Assembly votes to impeach a state officer for misconduct or wrongdoing while in office. If found guilty by the Special Court of Impeachment, the officer may be stripped of office, denied the privilege of future office, fined, or punished in other ways.

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## Executive Branch

The executive branch, with the Governor as its chief executive officer, is responsible for managing all nonjudicial state government business, including:

- Enforcement of laws established by the Legislature
- Administration of corrections ordered by the courts
- Planning and supervision of all state resources in accordance with existing laws and regulations

In addition, the Governor is empowered by law to appoint members to the Supreme Court and to the courts of appeal, and to appoint judges to local trial courts (or superior courts) until an election is held. These powers of appointment can significantly affect the administration of the courts at all levels.

### ➤ **Office of the Attorney General/Department of Justice**

The Attorney General is responsible for the enforcement of all laws in California. He or she is elected by the people of the state to serve as the head of the Department of Justice and to provide legal **counsel** to the state and most of its agencies. The Office of the Attorney General provides special assistance to local agencies in the form of reports, statistics, and recommendations, and may also help with the prosecution of sensitive criminal matters.

The Department of Justice, the enforcement arm of the Office of the Attorney General, provides legal and investigative services to state and local agencies and police departments to ensure adequate and uniform application of all state and federal laws and regulations. The department maintains an extensive computerized record-keeping system, California Law Enforcement Telecommunications (CLETS), which provides identification, information, investigation, statistical, and communications services to agencies that wish to investigate reports of illegal, unfair, or **fraudulent** activities in either the public or private sector.

### ➤ **Office of the State Public Defender**

The Office of the State Public Defender was created in 1976 to represent **indigent criminal defendants** in the **appeals** of their **convictions** in the California trial courts. The office's work is primarily in the state and federal **appellate courts**. Its current mandate is to act as **defense** counsel in death penalty cases and in the most complex and difficult **felony** appeals.

The agency has regional offices in Los Angeles and San Francisco, as well as in Sacramento, where its administrative offices are located.

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## Youth and Adult Correctional Agency

The Youth and Adult Correctional Agency is the umbrella agency for the Department of Corrections and the California Youth Authority.

The Department of Corrections is responsible for administering court-ordered sentences to state prisons and mental hospitals; it diagnoses, classifies, and processes all adults ordered under its supervision. The department reserves its prison services, which include a variety of minimum and maximum security facilities, for adult serious offenders who pose a genuine threat to others. Consequently, only offenders convicted of felonies with a **sentence** of one year or more are sent to state prison. Offenders with mental disorders are **incarcerated** separately in state mental hospitals.

The California Youth Authority provides a variety of custodial sites for juvenile offenders, including camps, ranches, schools, and correctional facilities with traditional security.

### ➤ Law Enforcement Agents and Peace Officers

Each agency involved in the regulation of commerce, trade, transportation, agriculture, or other state business may appoint peace officers who are empowered to act as law enforcement agents. In addition, California has numerous law enforcement agencies, including the State Police (a part of the Department of General Services), the California Highway Patrol (CHP), and the State Park Rangers. Any peace officer may investigate criminal, fraudulent, or illegal matters, and may serve **warrants**, issue **citations**, and make **arrests**.

The trial court (or superior court) may receive citations and complaints from any peace officer. However, the state law enforcement agency that most commonly reports to the courts is the California Highway Patrol; CHP officers patrol state roadways, check vehicle registrations, and inspect vehicles, reporting any violations to the trial court (or superior court) of **jurisdiction**.

### ➤ Department of Motor Vehicles

Information on all traffic convictions is reported by the courts to the Department of Motor Vehicles (DMV), which is responsible for administering the California Vehicle Code. This Code covers areas such as vehicle operator licensing, motor vehicle registration, and use of public roadways. Information that the courts provide on convictions is compiled by the DMV and incorporated into the driver's license records system.

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## Judicial Branch

### ➤ **California Court System**

*The judicial power of this State is vested in the Supreme Court, courts of appeal and superior courts all of which are courts of record.*

—California Constitution, article VI, section 1

The California court system is composed of two basic types of courts: trial and appellate. The trial courts conduct **trials**, and their decisions are reviewed by appellate courts, which are the courts of appeal and the Supreme Court. Superior courts are unique in that each functions as a trial court but also has an **appellate division** that may review trial decisions of the superior courts of that county handling limited civil cases, or misdemeanor or infraction cases. In that instance, the superior court is considered an inferior tribunal for review purposes.

The state Constitution also provides for three agencies that are responsible for the administration of the California justice system: the Judicial Council, the Commission on Judicial Appointments, and the Commission on Judicial Performance.

### ➤ **Judicial Council**

The Judicial Council has policy-making and rule-making authority over the state court system. It consists of 21 members, with the Chief Justice of the Supreme Court serving as the chairperson. To maintain and improve the administration of justice, the Council surveys all judicial business and makes recommendations regarding judicial policy to the courts, to the Governor, and to the Legislature. The Council also adopts and revises the California Rules of Court and exercises other powers as provided by law. The Chief Justice issues statistical reporting regulations to the courts.

The Administrative Office of the Courts (AOC) provides staff assistance to the Judicial Council. Supervised by the Administrative Director of the Courts, its task is to carry out the official actions and policies of the Council. The AOC consists of several divisions including Office of General Counsel (OGC), Center for Families, Children and the Courts (CFCC), Trial Court Programs (TCP), and Office of Governmental Affairs (OGA). The Education Division of the AOC, the Center for Judicial Education and Research (CJER), directs a comprehensive education program for state judges.

### ➤ **Commission on Judicial Appointments**

The Commission on Judicial Appointments confirms all judges that the Governor appoints to the Supreme Court and to the courts of appeal. This Commission consists of the Chief Justice, the Attorney

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General, and the **presiding justice** of the Court of Appeal of the affected district.

This commission meets whenever the Governor nominates or appoints a person to the Supreme Court or to one of the courts of appeal. The confirmation process includes solicitation of public comment followed by a public hearing at which the commission reviews the candidate's qualifications. The commission also reviews the recommendation of the Commission on Judicial Nominees Evaluation, the State Bar committee established to evaluate judicial candidates on behalf of the Governor. If the commission votes to confirm the Governor's appointee, the confirmation is filed with the Secretary of State.

### ➤ **Commission on Judicial Performance**

The Commission on Judicial Performance handles complaints involving judicial misconduct of state judges and State Bar Court judges; it also evaluates judges who have disabilities that seriously interfere with their performance. Founded in 1960, the Commission has 11 members: one justice of a court of appeal, and two judges of a superior court, all appointed by the Supreme Court; two attorneys appointed by the Governor; and six lay citizens, two appointed by the Governor, two appointed by the Senate Committee on Rules, and two appointed by the Speaker of the Assembly. Each member is appointed to a term of four years, and terms are staggered. The Commission meets every six to eight weeks.

The Commission's primary duty is to investigate charges of willful misconduct in office, persistent failure or inability to perform the duties of a judge, habitual intemperance in the use of intoxicants or drugs, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or other improper actions or derelictions of duty. "Willful misconduct" includes rudeness to litigants, lawyers, and court staff, gender and ethnic bias, abuse of contempt power, delays of decisions, **ex parte** communications, ticket fixing, systematic denial of litigants' rights, and improper off-bench activities.

The Commission is empowered to impose discipline and to issue public reprovls with the judge's consent. Cases of censure and removal are handled by the Supreme Court if petitioned by the Commission.

## HIGHLIGHTS

### *Appellate Courts*

#### **Supreme Court**

##### VENUE

- State of California

##### JURISDICTION

- Appeals:
  - Reviews appeals before/after courts of appeal
  - Hears appeals in all death penalty cases
  - Issues special writs
  - Reviews recommendations for discipline of judges and attorneys

#### **Courts of Appeal**

##### VENUE

- 1 of 6 appellate districts:
  - First Appellate District—San Francisco
  - Second Appellate District—Los Angeles
  - Third Appellate District—Sacramento
  - Fourth Appellate District—San Diego, San Bernardino, and Santa Ana
  - Fifth Appellate District—Fresno
  - Sixth Appellate District—San Jose

##### JURISDICTION

- Appeals:
  - Review of superior court decisions

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## HIGHLIGHTS

### *Trial Courts*

### Superior Courts

#### VENUE

- 1 of 58 Counties

#### GENERAL JURISDICTION

- Trials:
  - Criminal felonies, misdemeanors, infractions
  - Civil matters
  - Juvenile, family law, probate, and mental health
- Appeals:
  - Review of decisions of the superior court of that county handling:
    - Criminal infractions and misdemeanors
    - Civil matters of \$25,000 or less
    - Small claims matters of \$5000 or less
    - Traffic infractions and misdemeanors
    - Contested parking tickets

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**HIGHLIGHTS***Federal Courts in California*

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MATTERS FILED ONLY IN FEDERAL COURTS

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- Bankruptcy
- Suits against the U.S. government
- Interstate commerce regulations violations
- International commerce regulations violations
- Admiralty matters involving shipping
- Patent, trademark, and copyright matters

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## Jurisdiction and Venue

Each level of the state court system has constitutionally empowered jurisdiction, which is the authority, capacity, power, or right to hear matters pertaining to law. California law may be broadly divided into two categories: **criminal** and **civil**. The state judicial system is responsible for administering justice both in criminal matters, which involve **public offenses** and their punishments, and in civil matters, which involve private disputes, **contracts**, and **family** and **probate law**.

Each court in California serves one of four specific geographical areas or “venues”: the **judicial district**, the county, the **appellate** district, or the state. Generally, a court is considered the proper **trial court** if the criminal matter occurred within its venue. For civil matters, the proper venue may be where the defendant lives, where the accident or injury occurred, where the **contract** or obligation was to be performed, or where the real property is located.

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## Court Profiles

### ➤ **Supreme Court**

The Supreme Court of California is the state's highest court. Its venue is the entire state, and its decisions are binding on all other California state courts. Regular court sessions are held in Los Angeles, Sacramento, and at the court's headquarters in San Francisco.

The Supreme Court consists of the Chief Justice of California and six Associate Justices. All the justices are initially appointed by the Governor and confirmed first by the Commission on Judicial Appointments and later by the public at a general election. To be considered for appointment, a person must be an **attorney** admitted to practice law in California or have served as a judge of a **court of record** in this state for the ten years immediately preceding appointment.

The jurisdiction of the Supreme Court includes the following:

- *Reviewing decisions made by the state's courts of appeal*

This reviewing power enables the Supreme Court to decide important legal questions and to maintain uniformity in the law. The court may decide to review only specific issues of a **proceeding**, or it may choose to consider the entire **case**. In unusual situations involving matters of great importance, the Supreme Court can **transfer** a case from a court of appeal to itself without waiting for the court of appeal decision.

- *Deciding all appeals from cases in which a judgment of death has been pronounced by the trial court*

Under state law, these cases are automatically **appealed** directly to the Supreme Court without first going to a court of appeal.

- *Issuing special writs*

The Supreme Court has original jurisdiction in proceedings for *extraordinary* relief in the nature of **mandamus**, **certiorari**, and **prohibition**. It also has original jurisdiction in **habeas corpus** proceedings.

- *Reviewing recommendations on discipline of judges and attorneys*

The Supreme Court reviews the recommendations of the Commission on Judicial Performance and the State Bar of California concerning the discipline of **judges** and **attorneys** for misconduct.

Decisions of the Supreme Court are published in the *California Reports*.

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## ➤ Courts of Appeal

The courts of appeal, established by a constitutional amendment in 1904, are California's intermediate courts of review. They have appellate jurisdiction when **superior courts** have original jurisdiction and in certain other cases prescribed by **statute**. Like the Supreme Court, the courts of appeal have original jurisdiction in habeas corpus, mandamus, certiorari, and prohibition proceedings.

California has six appellate districts, each with at least one division. Each division is headed by a **presiding justice** and has two or more associate justices; all are appointed by the Governor and must be confirmed by the Commission on Judicial Appointments. The six appellate districts comprise 18 divisions and 93 justices. District locations are: First District, San Francisco; Second District, Los Angeles (with one division in Ventura); Third District, Sacramento; Fourth District, San Diego, San Bernardino, and Santa Ana; Fifth District, Fresno; and Sixth District, San Jose.

Cases are decided by three-judge panels. Decisions of the panels, known as opinions, are published in the *California Appellate Reports* if they meet certain criteria for publication. In general, opinions are published if they establish a new rule of law, involve a legal issue of continuing public interest, criticize existing law, or make a significant contribution to legal literature

## ➤ Superior Courts

Superior courts are California's trial courts of general jurisdiction. They are sometimes called the trial courts of residual jurisdiction because they accept all matters except those statutorily given to other trial courts.

Each of California's 58 counties has a superior court. The number of judges in each court ranges from one in sparsely populated counties to more than 200 in large metropolitan areas; the total number of authorized superior court judges statewide was 1480 as of August 1999.

Superior court judges serve six-year terms and are elected by county voters on a nonpartisan ballot at a general election. Judicial appointments can be made by the Governor when vacancies occur before the end of a term. A superior court judge must be an attorney admitted to practice law in California or have served as a judge of a court of record in this state for at least ten years immediately preceding election or appointment.

A superior court's jurisdiction includes **probate**, **juvenile**, mental health, and family law matters, **limited civil cases** and all other civil matters. It also includes all **felony**, **misdemeanor** and **infraction** cases. Superior courts also have the jurisdiction to hear cases asking for special relief, such as an **injunction** or a declaratory order.

In addition, the appellate division of superior court has jurisdiction over appeals from decisions in limited civil cases and misdemeanor and infraction cases. These appeals, other than those in **small claims cases**, are heard by a three-judge panel and are governed by rules adopted by the Judicial Council. Appeals may also be transferred to the courts of appeal.

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➤ **Limited Civil Cases**

Limited civil cases are civil cases similar to those cases that had original jurisdiction in the former **municipal courts**. These cases, in general, are civil cases with amounts in controversy of \$25,000 or less and include civil proceedings and actions related to those cases. Although original jurisdiction for limited civil cases rests with the county superior court, jurisdiction of an appeal of a limited civil cases rests with the appellate division of the superior court. For purposes of the appeal only, the superior court issuing the decision in a limited civil case is considered an inferior tribunal.

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## Federal Courts

Many matters may be filed in either state or federal courts. Certain matters, however, may be filed only in federal courts. If a person tries to file one of these matters in the **superior court**, he or she should be referred to the nearest federal court. Such matters include:

- Bankruptcy
- Suits against the U.S. government
- Violations of interstate commerce regulations
- Violations of international commerce regulations
- Admiralty matters involving shipping
- Patent, trademark, and copyright matters

The United States Court of Appeals, Ninth Circuit, maintains four district courts in California, listed below. Ask your supervisor which of these districts is the proper referral for your area.

- Northern District: San Francisco, CA 94102 (415) 522-2000
- Southern District: San Diego, CA 92101 (619) 557-6348
- Central District: Los Angeles, CA 90012 (213) 894-3535
- Eastern District: Sacramento, CA 95814 (916) 930-4000

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## HIGHLIGHTS

### *Associations and Organizations*

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#### STATE BAR

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- Examines, certifies, and licenses candidates to the practice of law
- Formulates rules of conduct for practicing lawyers
- Investigates allegations of misconduct by practicing lawyers and takes appropriate disciplinary action

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#### CALIFORNIA JUDGES ASSOCIATION

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- Conducts continuing education workshops for judges
- Sponsors and reviews legislation affecting the judiciary
- Formulates principles of ethical conduct for judges

#### CALIFORNIA ASSOCIATION OF TRIAL COURT ADMINISTRATORS,

#### SUPERIOR COURT CLERKS ASSOCIATION OF CALIFORNIA,

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#### CALIFORNIA COURT CLERKS ASSOCIATION

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- Represent clerks and executive officers
  - Conduct meetings and conferences for members
  - Distribute information of interest to all courts
  - Publish quarterly newsletters
  - Prepare and sponsor new legislation
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## Administration of Superior Courts

### ➤ **Executive Officer**

The executive officer is selected by a court in accordance with procedures adopted by the court. Acting under the direction of the presiding judge, the court executive officer is responsible for overseeing the management and administration of the nonjudicial operations of the court and allocating resources in a manner that promotes access to justice for all members of the public, provides a forum for the fair and expeditious resolution of disputes, maximizes the use of judicial and other resources, increases efficiency in court operations, and enhances service to the public.

Under direction of the presiding judge, the court executive officer shall perform some or all of the following duties:

- Provide general direction to and supervision of the employees of the court. The court executive officer is responsible for developing an employee personnel plan that contains the procedures and policies of the hiring, disciplining, and termination of nonjudicial employees of the court;
- Make recommendations to the presiding judge on budget priorities;
- Negotiate contracts on behalf of the court;
- Supervise and employ efficient calendar and case flow management systems;
- Analyze, evaluate and implement technological and automated systems;
- Manage the jury system in an efficient manner;
- Plan the court's physical space needs as well as purchase and manage equipment and supplies;
- Create and manage uniform record-keeping systems as well as collect data on completed judicial business and internal operations of the court;
- Provide a clearinghouse for news releases and other publications for the media and the public.

### ➤ **Jury Commissioner**

The jury commissioner manages the jury system under court supervision and is appointed by and serves at the pleasure of the majority of the judges of the superior court. The superior court executive or administrative officer is the ex-officio jury commissioner. Courts may appoint the court clerk or court administrator to serve as jury commissioner.

The jury commissioner is required to maintain a master jury list of persons who may be summoned to serve on a jury. Once summoned, a person may be required by the commissioner to answer under oath questions concerning matters of qualification for jury duty.

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## Local Justice System Agencies

### ➤ **Grand Jury**

Each county has a **grand jury**, which is an investigative body that looks into county matters of **civil** concern. The grand jury can also serve as the “watchdog” of local government; it conducts **audits** and investigations and recommends ways of improving governmental service and efficiency.

Each county may also have an additional grand jury that issues **indictments** in **criminal** matters. These indictment hearings are conducted to examine **evidence** and are held in secret to protect **witnesses** from undue publicity. An indictment is returned only if there is reasonable cause to believe that a crime was committed. All grand jury indictments are filed in superior court for trial.

There is no question that the grand jury has the power to investigate crimes and willful or corrupt misconduct in office of public officers of every description within a county (Penal Code §919(c)). There is a substantial issue of whether the grand jury has any jurisdiction to examine the administration or operation of the courts. Its charge, in addition to criminal matters, is to investigate county matters of civil concern. Because the superior court is not a county office, the court is not subject to grand jury investigation on administrative and operational matters.

Jurors of the *original* grand jury are either selected from the list of trial jurors or are nominated by judges of the superior court, or are chosen by a combination of the two methods. The court may also advertise for interested members of the community to submit applications from which it compiles a list of nominees. For the *additional* grand jury, jurors are selected from the list of trial jurors.

To be eligible to serve as a grand juror, a person must be a U.S. citizen, a county resident for at least one year, and 18 years of age or older; must possess ordinary intelligence; and must have a working knowledge of the English language.

### ➤ **District Attorney/Prosecuting Attorney**

Most criminal matters are prosecuted by a **district attorney**, who is an elected public official, in the name of the People of the State of California. The responsibilities of the district attorney include reviewing crime reports, filing criminal **complaints**, and prosecuting crimes. The district attorney may also prepare requests for **warrants** that are then ordered by the court.

Although the **prosecuting attorney** is usually from the county's district attorney's office, a city attorney or a representative of the state Office of the Attorney General may also prosecute minor types of cases.

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### ➤ **Public Defender/Defense Attorney**

The Constitution of the United States guarantees a **defendant's** right to **counsel** during a criminal trial in both **felony** and **misdemeanor** cases. Unless a defendant specifically **waives** this right and demands to act **in propria persona** (as his or her own lawyer), the defendant must have a **defense attorney**. If a person charged with a crime cannot afford a private defense attorney, a public defender is usually appointed to represent the defendant.

If the public defender declares a conflict of interest or time or is otherwise unable to represent a defendant, a member of the private bar is appointed using one of a variety of procedures.

The public defender directs and supervises attorneys who appear on behalf of defendants at all court trials, hearings, **sentencings**, **appeals**, and hearings for **revocation** of **probation**. A defendant's eligibility for a court-appointed paid defense attorney is determined by an examination of the defendant's personal financial statement.

### ➤ **Probation Department/Pretrial Services**

Each county has a probation officer, who is appointed by the judges of the superior court and is responsible for the administration of the probation department. The probation department may investigate defendants for pretrial release eligibility, prepare preplea reports, and, if a defendant is in custody while awaiting trial, conduct a personal and family investigation. As a result of the investigation, the probation department may recommend that the defendant be released before trial without posting **bail**. This action is known as releasing the defendant in his or her **own recognizance** (OR). In some jurisdictions the court, rather than the probation department, handles the processing and supervision of defendants released on their own recognizance.

After a **plea of guilty** or a **conviction** in a felony case, the court orders the probation department to investigate the defendant and to file a **presentence report**. Depending on the offense, the report may recommend state prison or probation. If the defendant is placed on probation, the terms of probation may require specific actions from the defendant, such as remaining drug free, attending counseling, participating in a community service program, or paying a **fine**. Defendants who are on **formal probation** must report regularly to a probation officer or to the court. In certain cases, the probation department may help a defendant prepare an application for a **pardon**.

### ➤ **Sheriff and Coroner**

The sheriff is elected by the citizens of a county to administer the county jail, to enforce the law, to serve warrants, and to hire deputy sheriffs. The sheriff's department also serves as the police department in unincorporated areas of a county. At the request of a person or another agency, the sheriff's office investigates **offenses** within the county and makes **arrests**.

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Deputy sheriffs guard the prisoners in the county jail and may serve as **bailiffs** to guard the superior court and transport prisoners to and from the court. Their status as full peace officers allows them to execute, serve, and return all **writs**, warrants, **processes**, and **notices** directed to them by the court, and to make an arrest when they observe a felony being committed.

Some counties have more than one jail site. Keep this in mind when you need to assist a member of the public who is trying to locate a friend or relative in the jail or if you must call the jail and request that a prisoner be transported to the court for a hearing.

Most counties also have a coroner, who is the first person called in the event of a death. The coroner performs autopsies, assists in investigations into causes of death, and certifies the cause of death. In some counties, the sheriff performs coroner duties.

### > **Marshal**

**Marshals** are peace officers who may execute, serve, and return all writs, warrants, processes, and **notices** directed to them by the superior court. As bailiffs, marshals provide security for the superior court and may transport prisoners to and from the county jail.

### > **Local Police**

In addition to having a county sheriff, most cities have a police department that is responsible for criminal investigation and law enforcement. Usually, the local police handle law enforcement within the city limits while the sheriff's office handles matters in the unincorporated county areas. The police prepare arrest and crime reports for the **prosecuting attorney's** office. They also file citations issued by them directly in the superior court. If a superior court district serves more than one city, numerous local police agencies may route criminal complaints to the prosecuting attorney.

Regional or local universities, parks, special districts, etc., also may have their own police forces.

### > **Social Services Agency/Children's Services**

A social services agency investigates allegations of child abuse and neglect and testifies and provides reports to the **juvenile court**. Child welfare workers are responsible for supervising children who are under the jurisdiction of the juvenile court because of abuse or neglect. These workers carry out the orders of the juvenile court, submit progress reports to the court, and make recommendations to the court regarding the future status of the children. County or city attorneys may represent the social services agency during court hearings.

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➤ **Mental Health Facilities**

A defendant may plead not guilty by reason of insanity, in which case he or she is certified to the superior court for sanity determination. The Welfare and Institutions Code gives superior court judges the authority to order a defendant to have a psychiatric examination. Consequently, all superior courts have some arrangement with a mental health facility to conduct psychiatric examinations of defendants.

In addition to these evaluation services, local mental health facilities may also provide drug or alcohol detoxification and rehabilitation centers, outpatient counseling, and other services to defendants, victims, or their families.

➤ **Alternative Dispute Resolution Providers**

There are processes for resolving disputes other than through the traditional adversarial **litigation** process. These alternative processes involve neutral parties who either resolve the dispute or help the parties resolve the dispute themselves. The various means used include **mediation**, judicial **arbitration**, and **early neutral evaluation**.

➤ **Law Libraries**

Most counties have a law library that is open to the public. This library may contain state **codes** and other legal references. When a person asks for a lawyer referral, you may also mention the existence of the law library.

Because at some point you will probably need to use the law library yourself to reference legal codes, you may want to visit it when you finish this course to become familiar with its setup.

➤ **Other Local Agencies**

Each county has additional agencies and offices that are part of the court network. Sometimes the court receives a request for information or assistance that would be more properly provided by another agency. The clerk should try to provide the agency's name and phone number. You should assemble a list of agencies in your county that may at times interact with the court so that you will be prepared to make referrals.