

Date of Meeting: September 5-6, 1958

Date of Memo: August 19, 1958

Memorandum No. 6

Subject: Study No. 58 - Recodification of laws relating
to Grand Juries.

About a year ago the Commission entered into a contract with the Legislative Counsel whereby ~~we~~ undertook to compile and codify, without substantive change, all of the laws relating to grand juries, as contemplated by Resolution Chapter 266 of the Statutes of 1957 which gave this assignment to the Law Revision Commission.

Attached is a new Title 4, Part 2 of the Penal Code drafted by the Legislative Counsel pursuant to this agreement and submitted for the Commission's consideration. The Legislative Counsel desires to have the Commission's views concerning this work as soon as possible so that any further work which may be necessary can be done before the pressure of pre-Session work becomes heavier. Accordingly, it is placed on the agenda for the September, 1958 meeting.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

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Proceedings of the Grand Jury

An act to repeal Title 4 (commencing with Section 894) of Part 2 of the Penal Code, to add Title 4 (commencing with Section 900) to Part 2 of the Penal Code, to repeal Section 169 of the Penal Code, to repeal Sections 65.2, 241, 242, and 243 of the Code of Civil Procedure, to repeal Section 12551 of the Government Code, to amend Sections 192, 196, 199, 204, 204b, 204d, 209, and 211 of the Code of Civil Procedure, to amend Sections 167, 168, 1324, and 1326 of the Penal Code, and to amend Section 12552 of the Government Code, relating to grand juries.

The people of the State of California do enact as follows:

Section 1. Title 4 (commencing with Section 894), Part 2 of the Penal Code is hereby repealed.

Sec. 2. Title 4 (commencing with Section 900) is added to Part 2 of the Penal Code, to read:

Title 4. Proceedings of the Grand Jury

Chapter 1. General Provisions

900. 192. A grand jury is a body of nineteen persons, ~~nineteen~~ in number, returned in pursuance of law, from the citizens of a county, or a city and county, before a court of competent jurisdiction, and sworn to inquire of public offenses committed or triable within the county or city and county.

(C.C.P. 192, 1917:692)

Note: As used in the Penal Code "county" includes "city and county" (Pen. C. Sec. 7).

Note: C.C.P. Sec. 192 will be amended to delete all the existing language thereof and to insert a cross reference to this title. See Sec. 4 of bill.

900. 91. ~~917.~~ An indictment is an accusation in writing, presented by the grand jury to a competent court, charging a person with a public offense.

(Pen. C. Sec. 917, 1872 Pen. C.)

900.02. 196. Jurors' fees in civil cases, Unless a higher fee or rate of mileage is otherwise provided by law, the fees for grand jurors are five dollars (\$5) a day for each day's attendance as a grand juror for attending, as a grand juror or juror in the superior court or municipal court, for each day's attendance, per day, five dollars (\$5), and fifteen cents (\$0.15) a mile, in going only, for each mile actually traveled in attending court as a grand juror or juror in the superior or municipal court, in going only, per mile, fifteen cents (\$0.15).

(New section, based on C.C.P. Sec. 196, 1957:1406.)

Note: Sec. 196 will be amended to delete reference to grand jurors. See Sec. 5 of bill.

900.03. 167. Every person who, by any means whatsoever, wilfully and knowingly, and without knowledge and consent of the grand jury, records, or attempts to record, all or part of the proceedings or any portion thereof of any grand or trial jury while such jury it is deliberating or voting, or listens to or observes, or attempts to listen to or observe, the proceedings of any grand or trial jury of which he is not a member while such jury is deliberating or voting is guilty of a misdemeanor.

This section is not intended to prohibit the taking of notes by a grand or trial juror in connection with and solely for the purpose of assisting him in the performance of his duties as such juror.

(New section, based on Pen. C. Sec. 167.)

Note: Pen. C. Sec. 167 will be amended to delete all reference to grand juries. See Sec. 6 of bill.

900.04. and also The per diem and mileage of grand jurors where allowed by law, of the grand jurors, shall be paid by the treasurer of the county out of the general fund of the said county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the in said county.

(Part of last paragraph of Pen. C. Sec. 928, 1957:1364.)

Note: See Secs. 921 to 921.07 for remainder of Pen. C. Sec. 928.

900.05. The grand jury may proceed against a corporation pursuant to Penal Code Section 1395.

(New section.)

Note: Section 1395 of the Penal Code reads:

"1395. If the magistrate returns a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed, or the District Attorney file an information thereon, as in case of a natural person held to answer."

Chapter 2. Formation of Grand Jury

Article 1. Qualifications of Grand Jurors

910. A person is competent to act as a grand juror if he meets the requirements of Section 198 of the Code of Civil Procedure. A person is not competent to act as a grand juror who does not possess the qualifications prescribed by such section.

(New section. The 2nd sent. is based on C.C.P. Sec. 199, subd. (c), para. (1), 1953:1292. See following section, and note thereto.)

Note: C.C.P. Sec. 198 reads:

"198. A person is competent to act as juror if he be:

1. A citizen of the United States of the age of twenty-one years who shall have been a resident of the state and of the county or city and county for one year immediately before being selected and returned;

2. In possession of his natural faculties and of ordinary intelligence and not decrepit;

3. Possessed of sufficient knowledge of the English language."

910.01. 199- (a) A person is not competent to act as a trial juror+

1- Who does not possess the qualifications prescribed by the preceding section;

2. Who has been convicted of malfeasance in office or any felony or other high crime, or

3. Who has been discharged as a trial juror by any court of record in this State within a year, as provided in Section 200 of this code, or who has been drawn as a grand juror in any such court and served as such within a year and been discharged; or who, in a county or city and county containing a population of not less than three hundred thousand as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, during the preceding two years shall have actually served on 20 days as a trial juror in the trial of cases in a court of record in this State, but a juror must in any event complete his service as such juror in the trial of a case in which he may be actually engaged. The clerk shall immediately remove from the jury list the name of any juror who becomes disqualified under this section.

(b) A person who is serving as a grand juror in any court of record in this State is not competent to act as a trial juror in any such court. Any person who is serving as a trial juror in any court of this State is not competent to act as a grand juror in any such court. A person is not competent to act as a grand juror in any court of this State who has been discharged as a grand juror in any such court within a year.

(c) A person is not competent to act as a grand juror:

1. Who does not possess the qualifications prescribed by the preceding section;

2. who has been convicted of malfeasance in office or any felony or other high crime.

(New section, based on C.C.P. Sec. 199, subd. (b) and part of subd. (c), 1953:1292.)

Note: The first portion of subd. (c) has been transferred to Sec. 910, above. Section 199 will be amended to delete references to grand jurors. See Sec. 7 of bill.

910.02. Sections 200, 201, and 202 of the Code of Civil Procedure govern the exemption of a person from liability to serve as a grand juror and the excusing of a grand juror.

(New section.)

Note: Sections 200, 201, and 202 of the Code of Civil Procedure read:

"200. A person is exempt from liability to act as a juror if he be:

1. A judicial, civil, naval or military officer of the United States, or of this State while on active duty;
2. A person holding a county, city and county, city, town or township office of profit;
3. An attorney at law, or the clerk, secretary, or stenographer of an attorney at law;
4. A minister of the gospel, or a priest of any denomination following his profession;
5. A teacher in a university, college, academy, or school;
6. A practicing physician, or practicing licensed dentist, practicing chiropodist, or practicing registered optometrist, or druggist, actually engaged in the business of dispensing medicines;
7. An officer, keeper or attendant of an almshouse, hospital, or other charitable institution;
8. Engaged in the performance of duty as officer or attendant of the state prison or of a county jail;
9. Employed on board of a vessel navigating the waters of this State.
10. An express agent, mail carrier, or a superintendent, employee, or operator of a telegraph or telephone company, doing a general telegraph or telephone business in this State, or keeper of a public ferry or tollgate;

11. An active member of the National Guard of California, or an active member of a paid fire department of any city and county, city, town or village in this State, or any exempt member of a duly authorized fire company;

12. A superintendent, engineer, fireman, brakeman, motorman, or conductor on a railroad;

13. A person drawn as a juror in any court of record in this State, upon a regular panel, who has served as such within a year, or a person drawn or summoned as a juror in any such court, who has been discharged as a juror within a year as hereinafter provided; or a person who is incompetent under subdivision 3 of the preceding section; provided, however, that in counties having less than 5,000 population the exemption provided by this subdivision shall not apply; or,

14. A practitioner who treats the sick by prayer in the practice of the religion of any well-recognized church or denomination, or a reader whose duty is to conduct regular religious services of such church or denomination.

15. A member of a religious order which is part of any well-recognized church or denomination who devotes his life to a cloistered contemplative existence."

(C.C.P. Sec. 200, 1957:1868)

"201. A juror shall not be excused by a court for slight or trivial causes, or for hardship, or for inconvenience to said juror's business, but only when material injury or destruction to said juror's property or of property entrusted to said juror is threatened, or when said juror's health, or when the health or proper care of said juror's own family, or when the sickness or death of a member of said juror's family make it necessary for said juror to be excused."

(C.C.P. Sec. 201, 1917:692)

"202. If a person, exempt from liability to act as a juror as provided in section two hundred, be summoned as a juror, he may make and transmit his affidavit to the Clerk of the Court for which he is summoned, stating his office, occupation, or employment; and such affidavit shall be delivered by the Clerk to the Judge of the Court where the name of such person is called, and if sufficient in substance, shall be received as an excuse for non-attendance in person. The affidavit shall then be filed by the clerk."

(C.C.P. Sec. 202, C.A. 1880:35)

Article 2. Listing and Selection of Grand Jurors

911. 204. In the month of During January in each year it shall be the duty of the superior court in each of the counties of this State to of each county shall make an order designating the estimated number of grand jurors and also the number of trial jurors, that will, in the opinion of said the court, be required for the transaction of the business of the court, and the trial of causes therein, during the ensuing year.

(New section, based on part of C.C.P. Sec. 204, 1953:793.)

Note: Section 204 will be amended to delete references to the grand jury. See Sec. 8 of bill.

911.01. and Immediately after said such order designating the estimated number of grand jurors shall be is made, the court shall select and list the grand jurors required by said the order to serve as grand jurors in said the superior court during the ensuing year, or until new lists of ^{grand} jurors shall be are provided, and said. The selections and listings shall be made of men and women suitable and competent to serve as jurors, as set forth and required in pursuant to Sections 205 and 206 of this code, ^{911.08} 911.07/and 911.09. The which list of persons so selected shall at once be placed in the possession of the county clerk, and immediately after said order designating the estimated number of trial jurors shall be made, the board of supervisors shall select, as provided in Sections 205 and 206 of this code, a list of men and women to serve as trial jurors in the superior court of said county during the ensuing year, or until a new list of jurors shall be provided.

In counties and cities and counties having a population of 80,000 inhabitants or over, such selection shall be made by a

majority of the judges of the superior court, provided further, that in counties of the first class, where a session or sessions of the superior court are held in cities other than the county seat, it shall be the duty of the judge presiding in each such respective session, to make an order in the manner and within the time above specified, designating the estimated number of trial jurors that will, in his opinion, be required for the transaction of the business of said session of said court and the trial of causes therein during the ensuing year, or until new lists of jurors shall be provided, and it shall also be the duty of said judge to make such selections and listings of men and women suitable and competent to serve as jurors from men and women residing within the judicial district within which said city is located.

Provided further, that in counties and cities and counties having a population of 300,000 inhabitants or over, such order designating the number of trial jurors, and such selections and listings of men and women suitable and competent to serve as trial jurors, shall be made by a majority of the judges of the superior court and shall be made in the months of January and July of each year, or in the December and June immediately preceding said months.

(New section, based on part of C.C.P. Sec. 204, 1953:793.)

Note: The deleted portions appear to relate to trial juries (See Martin v. Superior Court, 194 Cal. 93, and Winchell v. Lorenzen, 123 Cal. App. 2d 704. See note to Sec. 911.

911.03. 204b. Annually, and pursuant to written rules or instructions adopted by a majority of the judges of such court,

the jury commissioner shall furnish the judges of the court a list of persons qualified to serve as trial jurors or grand jurors during the ensuing year, or until a new list of jurors shall be required. In each county in which there is a jury commissioner a majority of the judges of the superior court may, from time to time, adopt such rules and or instructions as may be necessary for the guidance of the jury commissioner, who shall at all times be under the supervision and control of the judges of the court.

(New section, based on part of C.C.P. Sec. 204b.)

Note: Sec. 204b will be amended to delete references to grand jurors. See Sec. 9 of bill. A portion of the first sentence is transferred to Sec. 911.05.

911.04. 204e. It shall be the duty of The jury commissioner shall diligently to inquire and inform himself in respect to the qualifications of persons resident in his county ~~or city and county~~ who may be liable under the provisions of the laws of this State to be summoned for grand jury duty. He may require any person to answer, under oath to be administered by him, all such questions as he may address to such person, touching his name, age, residence, occupation, and qualifications as a grand juror, and also all questions as to similar matters concerning other persons of whose qualifications for grand jury duty he has knowledge.

The commissioner and his assistants as provided under Section 204e shall have power to administer oaths. He and his assistants as provided for in Section 204e shall be allowed actual traveling expenses incurred in the performance of their duties, such traveling expenses to be audited, allowed and paid out of the general fund of the county.

(New section, based on C.C.P. Sec. 204c, 1943:1039)

Note: Sec. 204c will remain in the Code of Civil Procedure.

911.05. ~~204d.~~ Annually in each county in which there is a jury commissioner, and pursuant to the rules and or instructions adopted by a majority of the judges of the superior court, the jury commissioner shall return to the judges the a lists of persons who are qualified to serve as grand jurors during the ensuing year, or until a new list of jurors is required and who are recommended by him for grand jury duty. The judges of said the superior court shall examine the jury lists so returned and from such lists a majority of said the judges may select, to serve as trial jurors and grand jurors, respectively, in the superior court of said the county or city and county during the ensuing year, or until a new list of jurors is required, such persons as, in their opinion, should be selected for such jury duties, grand jury duty. provided, however, that The persons so selected shall, in the opinion of the judges selecting the same then, be persons suitable and competent to serve as jurors, as set forth and required in this code by law.

(New section, based on part of C.C.P. Secs. 204b and 204d, 1917:665)

Note: Sec. 204d will be amended to delete reference to grand jurors. See Sec. 10 of bill.

911.06. ~~The judges, however, shall~~ are not be bound required to select any names from said the lists returned by the jury commissioner, but may, if in their judgment the due administration of justice requires, make all or any selections from among the body of persons in the county or city and county suitable and competent to serve as grand jurors regardless of the lists returned by the

jury commissioner.

(New section, based on part of C.C.P. Sec. 204d,
1917:665.)

See note to preceding section.

911.07. 205. The selections and listings shall be made of persons suitable and competent to serve as jurors, and in making such selections they there shall be taken only the names of such only as persons who are not exempt from serving, who are in the possession of their natural faculties, and who are not infirm or decrepit, who are of fair character and approved integrity, and who are of sound judgment.

(New section, based on C.C.P. 205, 1915:496)

Note: C.C.P. Sec. 205 will remain in the Code of Civil Procedure, without amendment.

911.08. 206. The lists of grand jurors, to be made in a county counties of the first class, shall contain the number of persons which shall have has been designated by the court in its order.

(New section, based on part of C.C.P. Sec. 206,
1951:1495)

See note to Section 911.09.

911.09. The names for ~~such~~ the grand jury lists shall be selected from the different wards or judicial districts of the respective counties in proportion to the number of inhabitants therein, as nearly as the same can be estimated by the persons making ~~said~~ the lists. The grand jury list and said lists shall be kept separate and distinct ~~one~~ from the other trial jury lists. provided further, that in counties of the first class, where sessions of the superior court are held in cities therein, other than the county seat, the names for such lists to serve in said city shall

all be selected from the district in which said city is located and provided further, that no names from said district shall be selected to serve as trial jurors for any other part of the county.

(New section, based on ^{part of} C.C.P. Sec. 206,
1951:1495)

Note: The last portion of the section, shown in ~~strikeout~~, does not appear to relate to grand juries. Apparently the first sentence (in new Sec. 911.09) applies generally and is not limited to Los Angeles County (See People v. Tennant, 32 Cal. App. 2d 1, at 8). Sec. 206 will remain in the Code of Civil Procedure, without amendment.

911.10. ~~209.~~ On receiving such the lists of persons selected by the court, the County Clerk shall file the same it in his office, and write down the names contained thereon on separate pieces of paper, of the same size and appearance, and fold each piece so as to conceal the name thereon. He shall deposit the pieces of paper having on them the names of the persons selected to serve as grand jurors in a box to be called the "Grand Jury Box", and those having on them the names of the persons selected to serve as trial jurors in a box to be called the "Trial Jury Box."

(New section, based on C.C.P. Sec. 209, 1881:60)

Note: Sec. 209 will be amended to delete reference to grand juries. See Sec. 11 of bill.

911.11. ~~210.~~ The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned.

(New section, based on C.C.P. 210, C.A. 1880:35)

Note: Sec. 210 will remain in the Code of Civil Procedure, without amendment.

911.12. ~~211.~~ The names of persons drawn for grand jurors shall be drawn from the "Grand Jury Box" and the names

of persons for trial jurors shall be drawn from the Trial Jury Box,¹ and. If, at the end of the year, there shall be are the names of persons in either of the said grand jury boxes who may not who have not been drawn during the year to serve, and have not served as jurors, the names of such persons may be placed on the list of jurors drawn for the succeeding year.

(New section, based on C.C.P. Sec. 211, 1881:60)

Note: C.C.P. Sec. 211 will be amended to delete references to grand juries. See Sec. 12 of bill.

Article 3. Impaneling of Grand Jury

912. ~~241.~~ Every superior court, whenever in the its opinion ~~of the court~~ the public interest so requires ~~it~~, ~~must~~ shall make and file with the county clerk, an order directing a grand jury to be drawn, ~~and~~. Such order shall designate the number of grand jurors to be drawn, which, in case of a grand jury, shall not be less than twenty-five nor more than thirty.

(Part of C.C.P. Sec. 241, 1905:137.)

Note: Sec. 241 applies only to grand juries, not to trial juries. See C.C.P. Secs. 214 and 230, which apply to trial juries.

912.01. In all counties there shall be at least one grand jury drawn and impaneled in each year.

(Part of C.C.P. Sec. 241, 1905:137)

See note to Sec. 912.

912.02. ~~Such~~ The order ~~must~~ shall designate the time at which the drawing will take place. The names of ~~such~~ the grand jurors shall be drawn, the list of names certified and summoned, as is provided for drawing and summoning trial jurors, ~~and~~. The

names of any persons drawn, who may are not be impaneled upon the grand jury, may be again placed in the grand jury box.

(Part of C.C.P. Sec. 241, 1905:137)

See note to Sec. 912.

912.03. ~~238.~~ Any grand juror summoned, who wilfully and without reasonable excuse fails to attend, may be attached and compelled to attend, and the court may also impose a fine not exceeding fifty dollars, upon which execution may issue. If the grand juror was not personally served, the fine must ^{shall} ~~not~~ be imposed until upon an order to show cause an opportunity has been offered the grand juror to be heard.

(New section, based on C.C.P. Sec. 238, C.A. 1880:35)

Note: Sec. 238 will remain in the Code of Civil Procedure.

912.04. ~~242.~~ When, If nineteen of the persons summoned as grand jurors are present and not excused, such nineteen are present, they shall constitute the grand jury. If more than nineteen of such persons are present, the clerk shall write their names on separate ballots, which he ~~must~~ shall fold so that the names cannot be seen, place them in a box, and draw out nineteen of them, and. The persons whose names are on the ballots so drawn shall constitute the grand jury. If less than nineteen of such persons are present, the panel may be filled as provided in Section ~~two hundred and twenty-six~~ 226 of ~~this~~ the Code of Civil Procedure. And whenever, If more of the persons summoned to complete a grand jury, ~~more~~ shall attend than are required, the requisite number shall be obtained by writing the names of those summoned and not excused on ballots, depositing them

in a box, and drawing as above provided.

(C.C.P. Sec. 242, C.A. 1880:35)

243. Thereafter such proceedings shall be had in impaneling the grand jury as are prescribed in part two of the Penal Code.

(C.C.P. Sec. 243, C.A. 1880:35, omitted, unnecessary)

912.05. ~~894.~~ Before accepting a person drawn as a grand juror, the court ~~must~~ shall be satisfied that such person is duly qualified to act as such juror, ~~but.~~ When a person is drawn and found qualified he must shall be accepted unless the court, on the application of the juror and before he is sworn, ~~shall~~ excuses him from such service for any of the reasons prescribed in this title or in Chapter I (commencing with Section 190), Title 3, Part 1 (sections 190-254) of the Code of Civil Procedure.

(Pen. C. Sec. 894, 1911:252)

912.06. ~~895.~~ No challenge shall be made or allowed to the panel from which the grand jury is drawn, nor to an individual grand juror, ~~unless~~ except when made by the court for want of qualification, as prescribed in the ~~next preceding~~ Section 912.05.

(Pen. C. Sec. 895, 1911:253)

912.07. ~~903.~~ The following oath ~~must~~ be administered ~~to~~ shall be taken by each member of the grand jury: "You, and each of you, I will support the Constitution of the United States and of the State of California, and all laws made in pursuance thereof and in conformity therewith, will diligently inquire into, and true presentment make, of all public offenses against the people of this State, committed or triable within this county, of which you the grand jury shall have or can obtain legal evidence. You I will

keep ~~your~~ my own counsel, and that of ~~your~~ my fellows grand jurors and of the government, and will not, except when required in the due course of judicial proceedings, disclose the testimony of any witness examined before ~~you~~ the grand jury, nor anything which ~~you~~ I or any other grand juror may have said, nor the manner in which ~~you~~ I or any other grand juror may have voted on any matter before ~~you~~ the grand jury. ~~You~~ I will present no person through malice, hatred or ill-will, nor leave any unrepresented through fear, favor, or affection, or for any reward, or the promise or hope thereof; but in all ~~your~~ my presentments ~~you~~ I will present the truth, the whole truth, and nothing but the truth, according to the best of ~~your~~ my skill and understanding, so help me God."

(Pen. C. Sec. 903, 1933:83)

912.08. 902. From the persons summoned to serve as grand jurors and appearing, the court ~~must~~ shall appoint a foreman. The court ~~must~~ shall also appoint a foreman when the person already appointed is excused or discharged before the grand jury is dismissed.

(Pen. C. Sec. 902, 1872 Pen. C.)

912.09. 12552. If a ~~county~~ grand jury is not in existence, the Attorney General may demand the impaneling of a grand jury by those charged with the duty to do so, and upon such demand by him, it shall be their duty to do so.

The Attorney General may also file informations.

(New, based on part of Gov. C. Sec. 12552, 1945:111)

Note: Sec. 12552 will be amended to delete the first paragraph. See Sec. 13 of bill.

Chapter 3. Powers and Duties of Grand Jury

Article 1. General Provisions

920. 905. When the grand jury being is impaneled and sworn, it shall must be charged by the court. In doing so, the court must shall give them the grand jurors such information as it may deems proper, or as is required by law, as to their duties, and as to any charges for public offenses returned to the court or likely to come before the grand jury.

(Pen. C. Sec. 905, 1872 Pen. C.)

920.01. 65.2. Whenever a grand jury is impaneled, the judge of the superior court of each the county, in addition to other matters requiring action, shall call its attention to the provisions of Chapter 1 (commencing with Section 23000), Division 1, Title 3, and Sections 24054 and 26525 of the Government Code, and instruct it to ascertain by a careful and diligent investigation whether the such provisions thereof have been complied with, and to note the result of such investigation in its report.

(C.C.P. Sec. 65.2, 1957:43)

920.02. 906. When the grand jury has been impaneled, sworn, and charged, it shall must then retire to a private room, and inquire into the offenses cognizable by them it. On the completion of the business before them, they must be discharged by the court, but whether the business is completed or not, they are discharged by the final adjournment of the court the grand jury, the court shall discharge it.

(Pen. C. Sec. 906, 1872 Pen. C.)

Note: The last clause of the section is no longer effective (Halsey v. Superior Court, 152 Cal. 71).

920.03. 904. Each grand jury shall choose its officers, except the foreman, and shall determine the its rules of its proceeding.

(Pen. C. Sec. 904, 1933:354)

920.04. 930. In the absence of If the foreman of a grand jury is absent from any meeting of the same or in the event of his disqualification if he is disqualified to act, the grand jury may select a member of that body to act as foreman pro tem tempore, who shall perform the duties of, and have all the powers, of the regularly appointed foreman in the his absence or disqualification of such foreman.

(Pen. C. 930, 1915:30)

920.05. 915. The grand jury may inquire into all public offenses committed or triable within the county, and present them to the court by indictment.

(Pen. C. Sec. 915, 1927:684)

920.06. 922. If a member of a grand jury knows, or has reason to believe, that a public offense, triable within the county, has been committed, he must shall declare it the same to his fellow jurors, who must shall thereupon investigate it the same.

(Pen. C. Sec. 922, 1872 Pen. C.)

920.07. 923. The grand jury must shall inquire into:

(a) The case of every person imprisoned in the jail of the county on a criminal charge and not indicted.

(b) into The condition and management of the public prisons within the county.

(c) and into The wilful or corrupt misconduct in office of public officers of every description within the county.

(Pen. C. Sec. 923, 1905:531)

920.08. 931. It shall be the duty of The grand jury shall to investigate and inquire into all sales and transfers of land, and into the ownership of land, which, under the State laws of the State of California, might or should escheat to the State of California, and to this end to. For this purpose, the grand jury shall summon witnesses before it, and examine the same them and the records, and when in their opinion the evidence justifies it to The grand jury shall direct that proper escheat proceedings be commenced when, in the opinion of the grand jury, the evidence justifies such proceedings.

(Pen. C. Sec. 931, 1921:73)

920.09. 924. They are also The grand jury is entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county.

(Pen. C. Sec. 924, 1872 Pen. C.)

920.10. The powers and duties of the grand jury in connection with proceedings for the removal of district, county, or city officers are prescribed in Article 3 (commencing with Section 3060), Chapter 7, Division 4, Title 1, of the Government Code.

(New section.)

Note: The functions of the grand jury in connection with such proceedings are set forth in Gov. C. Secs. 3060, 3062, and 3073.

920.11. 12551. Whenever the Attorney General considers the public interest requires, he may, with or without the concurrence of the district attorney, direct the county grand jury to convene for the investigation and consideration of such matters of a criminal nature

as he desires to submit to it, and. He may take full charge of the presentation of such matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.

(Gov. C. Sec. 12551, 1945:111)

920.12. ~~168.~~ Every grand juror, district attorney, clerk, judge or other officer who, except by issuing or in executing a warrant of arrest, wilfully discloses the fact of an information or indictment having been made for a felony, until the defendant has been arrested, is guilty of a misdemeanor.

(New section, based on Pen.C. 168, 1905:489.)

Note: Sec. 168 will be amended to delete reference to grand jurors. See Sec. 14 of bill.

920.13. ~~169.~~ Every grand juror who, except when required by a court, wilfully discloses any evidence adduced before the grand jury, or anything which he himself or any other member of the grand jury may have has said, or in what manner he or any other grand juror may have has voted on a matter before them, is guilty of a misdemeanor.

(Pen.C. Sec. 169, 1872 Pen. C.)

920.14. ~~926.~~ Each grand juror shall every member of the Grand Jury must keep secret whatever he himself or any other grand juror may have has said, or in what manner he or any other grand juror may have has voted on a matter before them, but may, however, be required by any court may require a grand juror to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before them the grand jury by any person, upon a charge against

such person for perjury in giving his testimony or upon trial therefor.

(Pen. C. Sec. 926, 1872 Pen. C.)

920.15. ~~927.~~ A grand juror cannot be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before the jury, except for a perjury of which he may have been guilty, in making an accusation or giving testimony to his fellow jurors.

(Pen. C. Sec. 927, 1872 Pen. C.)

Article 2. Investigations of County, District,
and Housing Authority Affairs

921. ~~928.~~ It shall be the duty of The grand jury shall annually to make a careful and complete examination of the books, records, and accounts, especially those pertaining to revenue, of all the officers of the county, and of all hospital districts which were organized in the county, and especially those pertaining to the revenue, and report as to the facts they have it has found, with such recommendations as they it may deem proper and fit, and.

(Part of Pen. C. Sec. 928, 1957:1364)

921.01. If, in ~~their~~ the judgment of the grand jury, the services of an expert are necessary for the purpose of Section 921, they shall have power to the grand jury may employ one, at an agreed compensation, to be first approved by the court, and. If, in ~~their~~ the judgment of the grand jury, the services of assistants to such expert are required, they shall have power to the grand jury may employ such assistants, at a compensation to be agreed upon and approved by the court.

(Part of Pen. C. Sec. 928, 1957:1364)

Note: See Fresno Co. v. Robertson Martin & Co. (1954), 124 Cal. App. 2d Supp. 888.

921.02. It shall be the duty of Every grand jury first impaneled in even-numbered years to shall investigate, upon request to grant personal interviews to the officials concerned, and to report upon the needs for increase or decrease in salaries of the county supervisors, the district attorney, and the auditor, and it Upon request, each such grand jury shall grant personal interviews with the officials concerned. Each such grand jury shall cause a copy of such report to be transmitted to each Member of the Legislature representing the county in which it has been impaneled before the commencement of the regular session of the Legislature in odd-numbered years.

(Part of Pen. C. Sec. 928, 1957:1364)

921.03. It shall also be the duty of Every grand jury to shall investigate and report upon the needs of all county officers in ~~its~~ the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices, and. It shall cause a copy of such report to be transmitted to each member of the board of supervisors ~~in its~~ of the county.

(Part of Pen. C. Sec. 928, 1957:1364)

921.04. It shall be the duty of the grand jury, When making an examination of the books, records, and accounts of all the officers of the county and when investigating and reporting upon the needs of all county officers in its county, the grand jury shall ~~to~~ include an examination and report upon all the books, records, and accounts of all the officers of such county which are kept in their ex officio capacity, as incumbents or officers of any special legislative district or other district in the county, created by ~~or~~ under the laws of the

State of California, in their respective counties pursuant to State law.

(Part of Pen. C. Sec. 928, 1957:1364)

921.05. ~~The judge,~~ On impanelment of the grand jury, the judge shall charge them the grand jury especially as to their its duties under this section article.

(Part of Pen. C. Sec. 928, 1957:1364)

921.06. ~~provided,~~ that If any grand jury shall, in the report above mentioned, comment upon any person or official who has not been indicted by the said such grand jury the said such comments shall not be deemed to be privileged.

(Part of Pen. C. Sec. 928, 1957:1364)

921.07. ~~Any and~~All expenses of the grand jurors incurred under this section article, and also the per diem and mileage where allowed by law, of the grand jurors, shall be paid by the treasurer of the county out of the general fund of said the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court in said of the county.

(Part of Pen. C. Sec. 928, 1957:1364)

Note: The portion relating to per diem and mileage is codified as Sec. 900.04.

921.08. ~~929.~~ The grand jury, After having investigated investigating the books and accounts of the various officials of the county, as provided in the foregoing sections of this article provided, the grand jury may order the district attorney of the said county to institute suit to recover any moneys that, in the judgment of the said grand jury, may from any cause be due the county, and The order of the said grand jury, certified by the foreman of the said grand jury, and filed with the county clerk

of the said county, shall be full authority for the said district attorney to institute and maintain any such suit.

(Pen. C. Sec. 929, 1897:142)

921.09. ~~928a.~~ The grand jury shall have full and complete authority, at any time, to examine the books, records, and accounts of any housing authority in the county and, to investigate the operations of any such housing authority, and to report as to the facts they have it has found, with such recommendations as they it may deem proper and fit.

In making such examination, the grand jury shall have all the powers granted by Section 928 of this code Sections 921 to 921.07, inclusive, and any expenses incurred shall be paid from the same fund and in the same manner as expenses incurred under Section 928 of this code Sections 921 to 921.07, inclusive.

(Pen. C. Sec. 928a, 1953:1804)

Article 3. Legal and Other Assistants for
Grand Juries

922. ~~925.~~ The grand jury may, at all times, ask the advice of the court, or the judge thereof, or of the district attorney, but Unless such advice is asked, the judge of the court ~~must~~ shall not be present during the sessions of the grand jury.

(Pt. of 1st par., Pen. C. Sec. 925, 1941:497)

Note: All of Pen. C. Sec. 925 is codified in this article except for a part of the 4th paragraph of Sec. 925, which is recodified as Sec. 923.

922.01. The district attorney of the county may at all times appear before the grand jury for the purpose of giving

information or advice relative to any matter cognizable by them the grand jury, and may interrogate witnesses before them the grand jury whenever he thinks it necessary, except that. When a charge against or involving the district attorney, or assistant district attorney, or deputy district attorney, or any one employed by or connected with the office of the district attorney, is being investigated by the grand jury, such district attorney, or assistant district attorney, or deputy district attorney, or either or all or any one or more of them, shall not be allowed to be present before such grand jury when such charge is being investigated, in an official capacity but only as a witness, and he shall only be present while a witness and after his appearance as such witness ~~must~~ shall leave the place where the said grand jury is holding its session.

(Pt. of 1st par., Pen. C. Sec. 925, 1941:497)

922.02. The Attorney General is empowered When requested so to do by the grand jury of any county ~~or city and county~~, to, the Attorney General may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence in such investigation to the said such grand jury of such county ~~or city and county~~.

The services of such special counsel and special investigators shall be a county charge of such county ~~or city and county~~.

(Pt. of 1st par. and 2nd par., Pen. C. Sec. 925, 1941:497)

922.03. The grand jury or district attorney may require by subpoena the attendance of any person before the grand jury as interpreter, and. While his services are necessary, such interpreter

may, while his services are necessary, be present at the examination of witnesses before the grand jury. The compensation for services of such interpreter constitutes a charge against the county, and shall be fixed by the grand jury, in an amount not to exceed ten dollars (\$10) a day and paid out of the county treasury on a warrant of the county auditor upon an order of the judge of the superior court.

(Pt. of 4th par., Pen. C. Sec. 925, 1941:497)

922.04. ~~The grand jury, Whenever criminal causes are being investigated before them, must~~ the grand jury, it shall appoint a competent stenographic reporter. He shall ~~to~~ be sworn and ~~to~~ shall report in shorthand the testimony that ~~may be given~~ in such causes ~~in shorthand, and to~~ and shall transcribe the same shorthand in all cases where an indictment is returned or accusation presented.

(Pt. of 3rd par., Pen. C. Sec. 925, 1941:497)

922.05. If an indictment has been found or accusation presented against a defendant, ~~the said~~ such stenographic reporter shall, within 10 days thereafter, unless the court for good cause shall make an order extending the time, which time shall not be extended more than 20 days, certify and file with the county clerk an original transcription of his shorthand notes and as many copies as there are defendants ~~(, other than fictitious defendants),~~ regardless of the number of charges or fictitious defendants included in the same investigation. The reporter shall complete such certification and filing within ten days after the indictment has been found or the accusation presented unless the court for good cause makes an order extending the time. The time shall not be extended more than 20 days. The county clerk shall deliver the

original of ~~said~~ the transcript so filed with him to the district attorney immediately upon his receipt thereof and shall deliver a copy of ~~said~~ such transcript upon each such defendant or his attorney, provided, that. If the copy of the testimony shall not be is not served as ~~herein~~ provided in this section the court shall on motion of the defendant continue the trial to such time as may be necessary to secure to the defendant receipt of a copy of such testimony 10 days before such trial. The county clerk shall not exhibit ~~said~~ the transcript to any person other than the district attorney nor divulge any of ~~the~~ its contents thereof until after the defendant is in custody. If several criminal charges ~~be~~ are investigated against a defendant on one investigation and thereafter separate indictments are returned or accusations presented upon said several charges, the delivery to ~~said~~ such defendant or his attorney of one copy of the transcript of ~~said~~ such investigation shall be a compliance with this section as to all of ~~said~~ such indictments or accusations.

(Pt. of 3rd par., Pen. C. Sec. 925, 1941:497)

922.06. The stenographic reporter shall draw no salary or fees from the county for preparing ~~said~~ such transcript in any case until all such transcripts of testimony in ~~said~~ such case so taken by him are written up and delivered. Before making the order for payment to the reporter as ~~hereinafter~~ set forth, the judge of the superior court shall require the reporter to show by affidavit or otherwise that he has written up and delivered all testimony taken by him, in accordance with ~~this section~~ Sections 922.04 and 922.05.

(Pt. of 4th par., Pen. C. Sec. 925, 1941:497)

922.07. The services of such stenographic reporter shall constitute a charge against the county, and such stenographic reporter shall be compensated for reporting and transcribing at the same rates as prescribed in Section 274, Code of Civil Procedure Sections 69947 to 69953, inclusive, of the Government Code, to be paid out of the county treasury on a warrant of the county auditor when ordered by the judge of the superior court.

(Pt. of 4th par., Pen. C. Sec. 925, 1941:497)

See note to Sec. 922.

Article 4. Conduct of Investigations

923. No person other than those specified in ~~this and the succeeding section~~ Article 3 (commencing with Section 922), Chapter 3 of this title and in Section 923.01 is permitted to be present during the session of the grand jury except the members and witnesses actually under examination, and. No person ~~must~~ shall be permitted to be present during the expression of ~~their~~ the opinions of the grand jurors, or the giving of their votes upon any matter before them.

(Pt. of 4th par., Pen. C. Sec. 925, 1941:497)

See Secs. 922 to 922.07, inclusive, for remainder of Sec. 925.

923.01. 925a. ~~The grand jury shall conduct its investigation in a session or sessions open to the public when directed to do so by an order of the superior court, or the judge thereof, finding~~ The grand jury acting through its foreman and the attorney general or the district attorney may make a joint written request for public sessions of the grand jury. The request shall be filed with the superior court. If the court, or the judge thereof, finds that the subject matter of the investigation is one affecting affects the

general public welfare, respecting matters involving the alleged corruption, or misfeasance, or malfeasance in office or dereliction of duty of public officials or public employees or of any person allegedly acting in conjunction or conspiracy with such officials or employees in such alleged acts, the court or judge may make an order directing the grand jury to conduct its investigation in a session or sessions open to the public. The order shall state the finding of the court. The grand jury shall comply with the order. and entered upon the filed written joint request of the Attorney General, or of the district attorney and the grand jury acting through its foreman.

The conduct of such investigation, and the examination of witnesses shall be by the members of the grand jury and the district attorney.

The deliberation of the grand jury and the its voting of the grand jury upon such investigation shall be in private session. The grand jury may find and indictments based, in whole or in part, wholly or partially upon the evidence introduced at such public session may be found by the grand jury.

(Pen. C. 925a, 1937:322)

923.02. 1326. The process by which the attendance of a witness before a court or magistrate is required is a subpoena; it may be signed and issued by:

1. A magistrate before whom a complaint is laid, for witnesses in the State, either on behalf of the people or of the defendant.

2. A subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the district attorney, or,

upon request of the grand jury, by any judge of the superior court, for witnesses in the State, in support of the prosecution, for those witnesses whose testimony, in his opinion, is material in an investigation before the grand jury, and for such other witnesses as the grand jury, upon an investigation pending before them, may direct.

3. The district attorney, or upon request of the grand jury, any judge of the superior court, for witnesses in the State, in support of an indictment or information, to appear before the court in which it is to be tried.

4. The clerk of the court in which a criminal action is to be tried, or if there is no clerk, the judge of the court, and he must, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by him, for witnesses in the State, as the defendant may require.

New, based on
(Pt. of Pen. C. Sec. 1326, 1953:613)

Note: Sec. 1326 will be amended to delete paragraph 2. See Sec. 15 of bill.

923.03. ~~1324.~~ In any felony proceeding or If, in any investigation or proceeding before a grand jury for any felony offense, if a person refuses to answer a question or produce evidence of any other kind on the ground that he may be incriminated thereby, and if the district attorney of the county in writing requests the superior court ~~in and for that~~ of the county to order that person to answer the question or produce the evidence, a judge of the superior court shall set a time for hearing and order the person to appear before the court and shew cause, if any, why the question should not be answered or the evidence produced, and. The court shall order the

question answered or the evidence produced unless it finds that to do so would be clearly contrary to the public interest, or could subject the witness to a criminal prosecution in another jurisdiction, and. That person shall comply with the order. After complying, and if, but for this section, he would have been privileged to withhold the answer given or the evidence produced by him, that person shall not be prosecuted or subjected to penalty or forfeiture for or on account of any fact or act concerning which, in accordance with the order, he was required to answer or produce evidence. But he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing, or failing to produce, evidence in accordance with the order.

(New section, based on Pen C. Sec. 1324, 1957:2395)

Note: Pen. C. Sec. 1324 will be amended to delete reference to grand juries. See Sec. 16 of bill.

923.04. ~~918.~~ The foreman may administer an oath to any witness appearing before the grand jury.

(Pen. C. Sec. 918, 1872 Pen. C.)

923.05. ~~907.~~ Before considering a charge against any person, the foreman of the grand jury shall state to those present the matter to be considered and the person to be charged with an offense in connection therewith, and. He shall direct any member of the grand jury who has a state of mind in reference to the case or to either party which will prevent him from acting impartially and without prejudice to the substantial rights of the party to retire. Any violation of this section by the foreman or any member of the grand jury is punishable by the court as a contempt.

(Pen. C. Sec. 907, 1911:269)

923.06. 919. In the investigation of a charge, the grand jury ~~can~~ shall receive no other evidence than such as is given by witnesses produced and sworn before ~~them~~ the grand jury, or furnished by legal documentary evidence, or the deposition of a witness in the cases mentioned in ~~the third~~ Subdivision 3 of Section ~~six~~ hundred and eighty-six 686. The grand jury ~~can~~ shall receive none but legal evidence, and the best evidence in degree, to the exclusion of hearsay or secondary evidence.

(Pen. C. Sec. 919, 1905:531)

923.07. 920. The grand jury is not bound required to hear evidence for the defendant, ~~but it is their duty to~~ shall weigh all the evidence submitted to ~~them~~ it, and when ~~they~~ it has reason to believe that other evidence within ~~their~~ its reach will explain away the charge, ~~they should~~ it shall order ~~such~~ the evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

(Pen. C. Sec. 920, 1872 Pen. C.)

923.08. 921. The grand jury ~~ought to~~ may find an indictment when all the evidence before ~~them~~ it, taken together, if unexplained or uncontradicted, would, in ~~their~~ its judgment, warrant a conviction by a trial jury.

(Pen. C. Sec. 921, 1872 Pen. C.)

923.09. 932. A grand jury shall make no report, declaration, or recommendation on any matter except on the basis of its own investigation of the matter made by such grand jury. A grand jury shall not adopt as its own the recommendation of another grand jury unless the grand jury adopting such recommendation does so after its own investigation of the matter as to which

the recommendation is made, as required by this section.

(Pen. C. Sec. 932, 1951:1784)

Sec. 3. The following sections are hereby repealed:

Penal Code Section 169

Code of Civil Procedure Sections 65.2, 241, 242, and 243

Government Code Section 12551

Sec. 4. Section 192 of the Code of Civil Procedure is amended to read:

192. A grand jury is a body of persons, provided for and defined in Title 4 (commencing with Section 900), Part 2 of the Penal Code. nineteen in number, returned in pursuance of law, from the citizens of a county, or a city and county, before a court of competent jurisdiction, and sworn to inquire of public offense committed or triable within the county or city and county.

Note: See Sec. 900

Sec. 5. Section 196 of the Code of Civil Procedure is amended to read:

196. Jurors' fees in civil cases, unless a higher fee or rate of mileage is otherwise provided by law, are for attending, as a ~~grand juror~~ or juror in the superior court or municipal court, for each day's attendance, per day, five dollars (\$5), and for each mile actually traveled in attending court as a ~~grand juror~~ ^{or} juror in the superior or municipal court, in going only, per mile, fifteen cents (\$0.15).

Note: See Sec. 900.02.

Sec. 6. Section 167 of the Penal Code is amended to read:

167. Every person who, by any means whatsoever, wilfully and knowingly, and without knowledge and consent of the jury, records, or attempts to record, the proceedings or any portion thereof of any grand or trial jury while such jury is deliberating or voting, or listens to or observes, or attempts to listen to or observe, the proceedings of any grand or trial jury of which he is not a member while such jury is deliberating or voting is guilty of a misdemeanor.

This section is not intended to prohibit the taking of notes by a grand or trial juror in connection with and solely for the purpose of assisting him in the performance of his duties as such juror.

Note: See Sec. 900.03

Sec. 7. Section 199 of the Code of Civil Procedure is amended to read:

199. (a) A person is not competent to act as a trial juror:

1. Who does not possess the qualifications prescribed by the preceding section;

2. Who has been convicted of malfeasance in office or any felony or other high crime; or

3. Who has been discharged as a trial juror by any court of record in this State within a year, as provided in Section 200 of this code, or who has been drawn as a grand juror in any such court and served as such within a year and been discharged; or who, in a county or city and county containing a population of not less

than three hundred thousand as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, during the preceding two years shall have actually served on 20 days as a trial juror in the trial of cases in a court of record in this State; but a juror must in any event complete his service as such juror in the trial of a case in which he may be actually engaged. The clerk shall immediately remove from the jury list the name of any juror who becomes disqualified under this section.

(b) A person who is serving as a grand juror in any court of record in this State is not competent to act as a trial juror in any such court. Any person who is serving as a trial juror in any court of this State is not competent to act as a grand juror in any such court. A person is not competent to act as a grand juror in any court of this State who has been discharged as a grand juror in any such court within a year.

(c) A person is not competent to act as a grand juror.

1. Who does not possess the qualifications prescribed by the preceding section;

2. Who has been convicted of malfeasance in office or any felony or other high crime.

Note: See Sec. 910.01

Sec. 8. Section 204 of the Code of Civil Procedure is amended to read:

204. In the month of January in each year it shall be the duty of the superior court in each of the counties of this State to make an order designating the estimated number of grand

jurors and also the number of trial jurors, that will, in the opinion of said court, be required for the transaction of the business of the court, and the trial of causes therein, during the ensuing year; and immediately after said order designating the estimated number of grand jurors shall be made, the court shall select and list the grand jurors required by said order to serve as grand jurors in said superior court during the ensuing year, or until new lists of jurors shall be provided, and said selections and listings shall be made of men and women suitable and competent to serve as jurors, as set forth and required in Sections 205 and 206 of this code, which list of persons so selected shall at once be placed in the possession of the county clerk, and immediately after said order designating the estimated number of trial jurors shall be made, the board of supervisors shall select, as provided in Sections 205 and 206 of this code, a list of men and women to serve as trial jurors in the superior court of said county during the ensuing year, or until a new list of jurors shall be provided.

In counties and cities and counties having a population of 80,000 inhabitants or over, such selection shall be made by a majority of the judges of the superior court; provided further, that in counties of the first class, where a session or sessions of the superior court are held in cities other than the county seat, it shall be the duty of the judge presiding in each such respective session, to make an order in the manner and within the time above specified, designating the estimated number of trial jurors that will, in his opinion, be required for the transaction

of the business of said session of said court and the trial of causes therein during the ensuing year, or until new lists of jurors shall be provided, and it shall also be the duty of said judge to make such selections and listings of men and women suitable and competent to serve as jurors from men and women residing within the judicial district within which said city is located.

Provided further, that in counties and cities and counties having a population of 300,000 inhabitants or over, such order designating the number of trial jurors, and such selections and listings of men and women suitable and competent to serve as trial jurors, shall be made by a majority of the judges of the superior court and shall be made in the months of January and July of each year, or in the December and June immediately preceding said months.

Note: See Sec. 911

Sec. 9. Section 204b of the Code of Civil Procedure is amended to read:

204b. Annually, and pursuant to written rules or instructions adopted by a majority of the judges of such court, the jury commissioner shall furnish the judges of the court a list of persons qualified to serve as trial jurors ~~or grand jurors~~ during the ensuing year, or until a new list of jurors shall be required. A majority of the judges of the court may, from time to time, adopt such rules and instructions as may be necessary for the guidance of the jury commissioner, who shall at all times be under the supervision and control of the judges of the court.

Note: See Sec. 911.03

Sec. 10. Section 204d of the Code of Civil Procedure is amended to read:

204d. Pursuant to the rules and instructions adopted by a majority of the judges of the court, the jury commissioner shall return to the judges the lists of persons recommended by him for jury duty. The judges of said superior court shall examine the jury lists so returned and from such lists a majority of said judges may select, to serve as trial jurors and grand jurors, respectively, in the superior court of said county or city and county during the ensuing year, or until a new list of jurors is required, such persons as, in their opinion, should be selected for such jury duties; provided, however, that the persons so selected shall, in the opinion of the judges selecting the same, be persons suitable and competent to serve as jurors, as set forth and required in this code. The judges, however, shall not be bound to select any names from said lists, but may, if in their judgment the due administration of justice requires, make all or any selections from among the body of persons in the county or city and county suitable and competent to serve as jurors regardless of the lists returned by the jury commissioner.

Note: See Sec. 911.05 and Sec. 911.06.

Sec. 11. Section 209 of the Code of Civil Procedure is amended to read:

209. On receiving such lists the county clerk shall file the same in his office, and write down the names contained thereon on separate pieces of paper, of the same size and appearance, and fold each piece so as to conceal the name thereon. He shall deposit the pieces of paper having on them the names of the persons selected

to serve as Grand Jurors in a box to be called the "Grand Jury Box," and those having on them the names of the persons selected to serve as trial jurors in a box to be called the "Trial Jury Box."

Note: See Sec. 911.10

Sec. 12. Section 211 of the Code of Civil Procedure is amended to read:

211. The names of persons drawn for Grand Jurors shall be drawn from the "Grand Jury Box," and the names of persons^{for}/trial jurors shall be drawn from the "Trial Jury Box"; and if, at the end of the year, there shall be the names of persons in either of the said jury boxes who may not have been drawn during the year to serve, and have not served as jurors, the names of such persons may be placed on the list of jurors drawn for the succeeding year.

Note: See Sec. 911.12

Sec. 13. Section 12552 of the Government Code is amended to read:

12552. The powers and duties of the Attorney General with respect to grand juries are prescribed in Sections 912.09^{and 920.11} of the Penal Code. If a county grand jury is not in existence, the Attorney General may demand the impaneling of a grand jury by those charged with the duty to do so, and upon such demand by him, it shall be their duty to do so.

The Attorney General may also file informations.

Note: See Sec. 912.09

Sec. 14. Section 168 of the Penal Code is amended to read:

168. Every grand juror, district attorney, clerk, judge or other officer who, except by issuing or in executing a warrant

of arrest, wilfully discloses the fact of an information or indictment having been made for a felony, until the defendant has been arrested, is guilty of a misdemeanor.

Note: See Sec. 920.12

Sec. 15. Section 1326 of the Penal Code is amended to read:

1326. The process by which the attendance of a witness before a court or magistrate is required is a subpoena; it may be signed and issued by:

1. A magistrate before whom a complaint is laid, for witnesses in the State, either on behalf of the people or of the defendant.

2. The district attorney, or, upon request of the grand jury, any judge of the superior court, for witnesses in the State, in support of the prosecution, for those witnesses whose testimony, in his opinion, is material in an investigation before the grand jury, and for such other witnesses as the grand jury, upon an investigation pending before them, may direct.

2. 3. The district attorney, or, upon request of the grand jury, any judge of the superior court, for witnesses in the State, in support of an indictment or information, to appear before the court in which it is to be tried.

3. 4. The clerk of the court in which a criminal action is to be tried, or if there is no clerk, the judge of the court; and he must, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by him, for witnesses in the State, as the defendant may require.

Note: See Sec. 923.02

Sec. 16. Section 1324 of the Penal Code is amended to read:

1324. In any felony proceeding or in any investigation or proceeding before a grand jury for any felony offense if a person refuses to answer a question or produce evidence of any other kind on the ground that he may be incriminated thereby, and if the district attorney of the county in writing requests the superior court in and for that county to order that person to answer the question or produce the evidence, a judge of the superior court shall set a time for hearing and order the person to appear before the court and show cause, if any, why the question should not be answered or the evidence produced, and the court shall order the question answered or the evidence produced unless it finds that to do so would be clearly contrary to the public interest, or could subject the witness to a criminal prosecution in another jurisdiction, and that person shall comply with the order. After complying, and if, but for this section, he would have been privileged to withhold the answer given or the evidence produced by him, that person shall not be prosecuted or subjected to penalty or forfeiture for or on account of any fact or act concerning which, in accordance with the order, he was required to answer or produce evidence. But he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing, or failing to produce, evidence in accordance with the order.

Note: See Sec. 923.03

Disposition of Present Code Sections in Proposed Draft

Code Section	Proposed Draft Section
<u>Code of Civil Procedure</u>	
65.2	920.01
192	900
196 based on	900.02
198 based on	910
199 subd. (b), based on	910.01
subd. (c), par. (1), based on	910
subd. (c), par. (2), based on	910.01
204 based on part of	911
	911.01
204b based on part of	911.03
	911.05
204c based on part of	911.04
204d based on part of	911.05
	911.06
205 based on	911.07
206 based on	911.08
	911.09
209 based on	911.10
210 based on	911.11
211 based on	911.12
238 based on	912.03
241	912
	912.01
	912.02
242	912.04
243	Omitted-unnecessary
<u>Government Code</u>	
12551	920.11
12552	912.09
<u>Penal Code</u>	
167 based on part of	900.03
168 based on part of	920.12
169	920.13
894	912.05
895	912.06
902	912.08
903	912.07
904	920.03
905	920
906	920.02

Disposition of Present Code Sections in Proposed Draft
(Continued)

Code Section	Proposed Draft Section
Penal Code (Continued)	
907	923.05
915	920.05
917	900.01
918	923.04
919	923.06
920	923.07
921	923.08
922	920.06
923	920.07
924	920.09
925	922
	922.01
	922.02
	922.03
	922.04
	922.05
	922.06
	922.07
	923
925a	923.01
926	920.14
927	920.15
928	900.04
	921
	921.01
	921.02
	921.03
	921.04
	921.05
	921.06
	921.07
928a	921.09
929	921.08
930	920.04
931	920.08
932	923.09
1324 based on part of	923.03
1326 based on part of	923.02