

REFERENCES FOR CLERKS

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INTRODUCTION

The job of the deputy clerk in the court is complex and many faceted. More than just a "filler-out-of-forms" or a "pusher-of paper", the responsibilities of these court personnel are much greater. First, the deputy clerk bears the major responsibility for preparing and maintaining the variety of records that accumulate each judicial day. In addition, the deputy clerk is also the representative of the court with whom the public most often comes in contact, whether over the telephone or in person.

The nature of these two facets of the job make it crucial that the deputy clerk is both accurate in preparing and maintaining the court's records, and able to obtain information when it is needed.

In both these job situations, the deputy clerk is frequently called upon to research and find a variety of information on laws, codes, and procedures. In performing their own recordkeeping responsibilities, the clerk might want to look up and verify specific code section numbers from the California Penal Code. Or there might be a need to check a section in one of California's Codes of Procedure, to make sure that the processing of a particular case or the filling out of a special form is being done properly. Or, members of the public may frequently ask the deputy clerk to look up information about particular laws and procedures for them.

The sources of this information are numerous and may include a variety of Code books and Manuals of Procedure. Unfortunately, at first glance,

these sources are rather foreboding, appearing as thick legal tomes with hundreds of pages of fine print. They are, however, the major reference books for the court and the court's staff, and for that reason, every deputy clerk should become familiar with them.

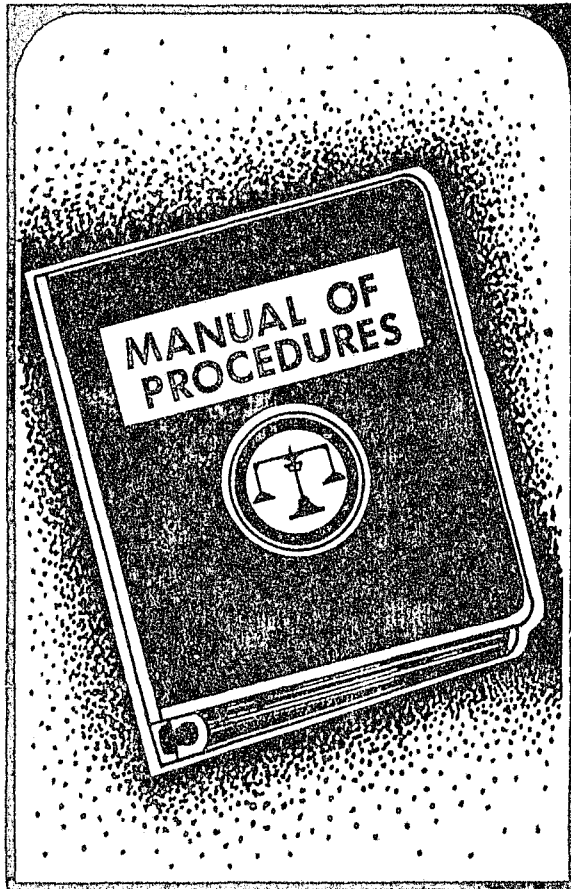
To help make the subject of "References for Clerks" a little less foreboding, we've designed this booklet to be a "reference book" on reference books. Its purpose is simply to provide court personnel with a working knowledge of the variety of reference books used in the court, with the types of information they contain, and with some practical guidelines on when and how these books should be used.

COMMENTARY

MANUALS OF PROCEDURE

Among the reference books used most frequently by Municipal Court Deputy Clerks are the various Manuals of Procedure. Published by the Municipal Courts Clerks Association of California, Inc., there are manuals for Criminal, Civil, Small Claims and Administration and Bookkeeping procedures. As the first three are the most commonly used, we'll focus exclusively on them.

MANUAL OF CRIMINAL PROCEDURE



One of the most important references for clerks is the Manual of Criminal Procedures. As its introduction states, "...it was compiled to help the Deputy Clerk understand the background and procedures in processing criminal action." For clarity, it might be useful to explain that the Court's criminal action is started only when a criminal complaint (e.g., assault and battery, theft, etc.) is filed by the District Attorney.

If there is any confusion by a Deputy Clerk on how to proceed with a criminal complaint, it is almost certain the Manual of Criminal Procedures will contain the answer, if the clerk knows where to look. A good place to start is with the introduction of the manual. This introduction defines the jurisdiction of the Municipal Court, and describes the various types of criminal actions, such as Felonies, Misdemeanors and Infractions, that are filed with the court. The introduction also contains a valuable section, listing the Penal Code numbers with their corresponding subjects. This section could be a time saver if a Deputy Clerk had to, or wanted to, look up something in the California Penal Code volumes and knew the subject but not the Penal Code number. Since the Penal Code is compiled in numerical order it would require a search of the Penal Code's index to find a subject's Code number, followed by a search in the volume that includes that Code number. Try instead the Manual of Criminal Procedure's shortened index, "Criminal Procedure for Municipal Courts and Justice Courts--Penal Code Section," starting on page 8. Let's take a look at this index and see how it is used.

CRIMINAL PROCEDURE FOR MUNICIPAL COURTS AND JUSTICE COURTS
PENAL CODE SECTIONS

I.	<u>JURISDICTION:</u>	
	1. 1462, .1 & .2	Criminal Jurisdiction
II.	<u>BAIL:</u>	
	1. 823, 829 & 1269	Taking of or accepting Bail

Say, for instance, a Deputy Clerk wants to know the authority for

accepting bail. The Criminal Manual's Penal Code Section has a major heading titled "Bail"(1) and under that heading is listed "Taking of or accepting bail."(2) On the same line as "Taking of or accepting bail" are the Penal Code numbers (3) that apply. All a clerk need do is go to the volume of California Penal Codes that contains those numbers (in this case, Codes 823, 829 and 1269) and look up the authoritative source on the subject of taking or accepting bail.

The main body of the Manual of Criminal Procedures is devoted to describing the legally required procedure for each phase of criminal action as it pertains to the Municipal Courts. Keep in mind that although procedure must always comply with Code, each court achieves this end in its own manner. Following are two examples of the types of information you can expect to find in the Manual of Criminal Procedures:

1. Imagine that a Deputy Clerk has a question as to exactly what information must appear on an arrest warrant for a misdemeanor. The clerk could go to the Table of Contents of the Manual of Criminal Procedures and look up "Warrant of arrest (Misdemeanor)." From there the clerk will be directed to page 31 and find, under the marginal heading "Essential Allegations" a check list that states:

A warrant of arrest shall specify:

ESSENTIAL
ALLEGATIONS

1. Name of the defendant
(if it is unknown, the defendant may be designated therein by any name)
2. Public offense charged in the complaint
3. Time of issuing the warrant
4. City or County where it is issued
5. Signed by magistrate, judge, justice, or other issuing authority
6. Title of his office
7. Name of the court or other issuing agency
(P.C. 815)

Note that the P.C. 815 Penal Code number indicates that by law this particular information must be included on the arrest warrant. A new clerk who is aware of these requirements will know exactly how to verify a "proper" arrest warrant, without having to ask a senior Deputy Clerk for help.

2. The Manual of Criminal Procedures must also be frequently used as a "quick reference" when members of the public call or come in with questions for the deputy clerk. Suppose that John Smith is notified that a complaint had just been filed against him for a misdemeanor that he allegedly committed over six months ago. Thinking that there must be some time limit on how long after the commission of a crime a complaint can be filed, Mr. Smith calls the court to find out whether the complaint against him is valid. The deputy clerk turns once again to the Table of Contents of the Manual of Criminal Procedure. Looking under "Misdemeanor - Time to File" the clerk would be referred to page 18 of the Manual where the answer to Mr. Smith's inquiry would be clearly stated:

<u>801 P.C.; 1426a</u>	<u>MISDEMEANOR - TIME TO FILE</u>
As indictment for any misdemeanor must be found or an information or complaint filed within one year after its commission. (P.C. 801).	MUNICIPAL COURT
A complaint for any misdemeanor triable in a justice court must be filed within one year after its commission. (P.C. 1426a).	JUSTICE COURT

Note again that the entries (P.C. 801 and P.C. 1426a) indicate the Penal Code Sections that give legal authority to these procedures.

Those two examples provide only a limited idea of what the Manual of Criminal Procedures contains. Experienced clerks working in the Criminal division of either Municipal or Justice Court might well consider this book their most valuable reference tool. It would be wise for a new Deputy Clerk working in the Criminal Division to become as familiar with the book as possible. Doing so will enable even the most inexperienced of Deputy Clerks to answer many questions without relying on a superior who may be absent or busy.

MANUAL OF CIVIL PROCEDURES

Like its counterpart for Criminal Procedures, the Manual of Civil Procedures serves as a valuable reference for the Deputy Clerk working in the Civil Division of the court. While the content of the two manuals is naturally, very different, the format and the way each is used as a reference, are also unique.

For example, the Manual of Civil Procedure has no Table of Contents. It does, however, have an extensive Index at the back, which provides a complete listing of the subjects contained and the pages on which they can be found.

Turning back to the front of the Manual, the reader will find a Forward entitled "An Outline of Basic Civil Procedure." This forward defines the Municipal Court's jurisdiction in a civil case and proceeds chronologically from the filing of a complaint by the plaintiff, through a possible answer by the defendant, to the trial (if there is one), to the judgment and appeal (again, if there is one). Civil cases can be very complex and the basic outline presented in the forward was meant

only to deal with the "more fundamental aspects of a civil procedure..." For new deputy clerks, however, a reading of the Forward and an understanding of the basic civil process are essential for their work in the Civil Division.

The main body of the Manual describes in detail each stage of a civil case, in the same chronological order that stage would occur in an actual case. It should be noted that not every civil case will contain every single component that could arise in a civil proceeding. Some civil cases will be simpler than others and some will be more complex.

The first action in a civil case is the filing of a complaint. Although each court will have its own complaint form, California Civil Procedures requires that all complaints contain certain basic information. A Checklist on page 1 of the Manual lists this information for the benefit of the deputy clerk. Following the Checklist is a section under "Note" that alerts the clerk to any special problems that might arise in filing a complaint.

Next comes a section with the very simple yet direct title, "Do This." This section tells the clerk exactly what procedural steps to take in correctly handling the paperwork. For example, under "Do This" in complaint filing, the clerk is told to:

---"Apply file stamps to original and sign."	DO THIS
---"Apply case number to original and all copies."	
---"Collect filing fee and receipt for same. (see fee schedule for proper fee)"	
---"Endorse file and conform copies if requested."	

This format, which provides a checklist, notes special problems to be aware of and gives specific procedural instructions, is repeated throughout the book, to aid the deputy clerk at each stage of the civil procedure. With this help, a deputy clerk should ideally be able to process all the paperwork in even the most complex civil cases. Of course, no case is ever the "ideal" one and local procedures will vary. But in general, the Manual of Civil Procedures will provide the clerk with the necessary information and guidelines to accurately process a civil case.

MANUAL OF PROCEDURES IN SMALL CLAIM CASES

Similar in many ways to civil cases are small claims cases. Both are civil actions that involve one party directly suing another person or organization. However, while civil cases in Municipal Court jurisdiction may award the plaintiff up to a maximum of \$5,000, Small Claims Court can only award the plaintiff up to \$500. Therefore, small claims cases are usually much less complicated than civil cases, and correspondingly the Manual of Procedures in Small Claims Cases is a much smaller, less complex book than the Manual of Civil Procedures.

The Table of Contents in the Small Claims Manual is a straightforward, simple description of what the Manual contains. Like the Civil Procedures Manual, the Manual for Small Claims follows the case chronologically, describing the procedures required at each stage along the way.

The Manual is divided into eight major chapters. Chapter I is devoted to a very brief history of the Small Claims Court. The Small Claims Court goes back in English legal history to 1605 when the Court

decided that "the reduction of the (legal) expense and delay...where the amount claimed is small," would be an innovation worth instituting. Until then, each small claim had to be heard in the same manner as would a large civil suit.

The "General Provision of the Law," section of Chapter I enumerates the various provisions in our laws that allow for small claims action. In addition, the chapter provides the deputy clerk with a good introduction to the subjects of jurisdiction, venue (proper location), judges, attorneys, assignees and attachments, in small claims.

In the small claims process, "Commencing A Small Claims Action" is the first stage. Chapter II begins at this point, describing how a small claims action is initiated and what procedures must be followed by the deputy clerks to make sure it is properly filed. For example, the chapter notes that, although courts use different filing forms, the information that, by law, must be filled in, is the same. A checklist of this "required information" is included in the chapter, to help the deputy clerk check all incoming small claims forms and verify that they are properly filled out.

Subsequent chapters of the Manual provide similar procedural descriptions and guidelines to be followed, at each stage of the small claims process. For example, in Chapter III, "Proceedings Prior to Trial," the section 33 entitled "Off Calendar or Dismissed Cases," explains what the clerk is to do if a defendant was never served with a summons to appear in court.

"If a defendant has not been served:

- 1) Inform the plaintiff that his action will go off the (Judge's) calendar automatically upon non-appearance of the parties.
- 2) Place the case file with other unserved actions.
- 3) If neither party appears at the trial, the Judge will order the action off the calendar. Record the order in the Register of Actions.
- 4) File the case with the other completed cases, pending further action by the plaintiff."

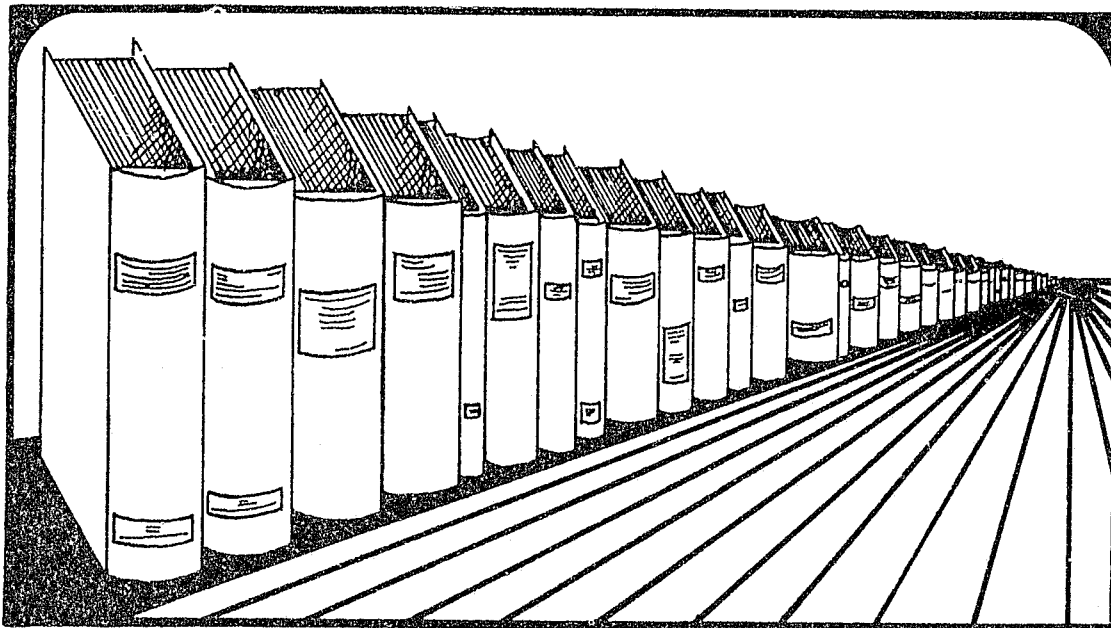
Another example is section 35, "Preparation of Trial Calendars." Here the deputy clerk is given instructions on how to properly set up a docket for the Small Claims Judge.

"Before each session the clerk should:

- 1) Remove from the file all cases set for trial, or other proceeding, at that session.
- 2) Arrange the cases in order of the date of filing--place in one group all cases in which service has not been made. Group all the cases having the same plaintiff.
- 3) Deliver to the bench (all that day's cases) at the time for hearing."

The final chapters of the Manual complete the picture of the small claims process and its procedures. Chapter IV deals with the "Trial and Judgment," procedures, Chapter V with "Appeals From A Small Claims Court," and VI explains the procedures for the "Enforcement of a Small Claims Judgment."

As a deputy clerk new to the Small Claims Division of the court, you need not wait for a more experienced colleague to explain how to use the Small Claims Manual. A little initiative in deciding to read the Manual on your own will give you a wealth of information on the Small Claims process and the deputy clerk's role in its smooth functioning.



STANDARD CALIFORNIA CODES

All of the Manuals described above are vital to the functioning of the deputy clerk and hence, to the entire court. They are not, however, the original source of information. All the procedures described in the Manuals originate from the California Codes of Law.

There are 27 distinct Codes in California, ranging alphabetically from the Agriculture Code to the Welfare and Institutions Code. Some more than others are more commonly used by the deputy clerk. Those include:

1. The Civil Code
2. The Code of Civil Procedure
3. The Health and Safety Code
4. The Penal Code
5. The Probate Code
6. The Vehicle Code
7. The Welfare and Institutions Code

While some Codes can be contained in a single volume, many of the Codes, such as the Penal Code or Code of Civil Procedure, require multiple volumes. Fortunately for the deputy clerk, there is no need to search the original, multi-volume Codes every time a procedural question

arises. The more simplified and abridged Manuals of Procedure, which were covered earlier, usually are an adequate and considerably more convenient reference source to use. There are times, however, when the Manuals may not be sufficient and the clerk will want to consult the original source, the Code itself. To do that, some understanding of just how to find information in them is essential.

Perhaps the first problem for the deputy clerk is to be able to recognize the common abbreviations that stand for each Code. This information is important as most of the violations of the Codes that the clerk will see each day, are in abbreviated form. For example, all incoming complaints from the District Attorney's office will include an abbreviated code number indicating the violation charged, such as 23102 V.C. To look up the exact wording of this violation, the clerk would have to know that V.C. stands for Vehicle Code, and that the 23102 indicates the section number of the Code where a description of the violation can be found.

Another common reference problem arises when a deputy clerk knows the common name of an offense, but does not know what Code or section it is a violation of. When this situation occurs, the best reference source is the General Index.

The General Index provides a comprehensive, alphabetical listing of the contents of all the California Codes. To illustrate how the General Index is used, let's say that a deputy clerk wanted to find out the code and section number for a drunk driving violation. (For this example, we are using the General Index to Deering's California Codes.)

First the clerk would look up "Drunk Driving" in the General Index. Under that heading the clerk would find:

Drunk Driving.	Automobiles and Other Vehicles (this index)
----------------	--

meaning that the subject of drunk driving is indexed under "Automobiles and other Vehicles." Turning to that heading and locating the sub-heading "Drunk Driving," the clerk would see:

drunk driving, see infra, intoxicated persons.
--

Turning to this other heading under "Automobiles and Other Vehicles," the clerk would at last, find the appropriate code and section. In this case, it's sections 23101 and 23102 of the Vehicle Code:

		Deering's
Automobiles and other vehicles - Cont'd		
intoxicated persons.	Veh. 23101, 23102	

As an alternative to the huge General Index, each of the Codes have their own index. In those instances when the clerk knows the Code but not the exact section number of a particular offense, these smaller indexes are handier to use. To use them, the clerk simply looks up the descriptive heading of the violation to find the appropriate section number.

Besides the General Index, another feature of the California Codes worth noting is the "Pocket Supplement" inside the back cover of each volume. This "supplement" contains an annual update of any new laws

that have been passed since publication of the General Index or the Codes themselves. To make sure that no new laws are overlooked, the deputy clerk should make a habit of checking the Index of the "update" section, whenever looking up entries in the Codes.

BAIL SCHEDULE

SAN MATEO COUNTY

This schedule is adopted by Superior and Municipal Courts of the County of San Mateo pursuant to Section 1269b of the Penal Code and is to be utilized pursuant to Section 1269b, Penal Code, in setting bail for the release of prisoners arrested on felony charges, without warrant, for the alleged commission of any bailable offense.

THIS SCHEDULE IS EFFECTIVE BEGINNING JANUARY 1, 1976.

FOR ANY FELONY CHARGE WHICH IS NOT LISTED HEREIN, THE BAIL SHALL BE \$5,000.

NONBAILABLE OFFENSES ARE AS FOLLOWS:

MURDER
KIDNAPPING
TRAIN WRECKING (SECTION 219 PENAL CODE)
ESCAPE
FUGITIVE

	RECOMMENDED AMOUNT
ARSON	
a. Section 447a Penal Code	\$ 10,000
b. Section 448a Penal Code - Unoccupied	5,000
c. Section 448a Penal Code - Occupied	10,000
d. Section 452 Penal Code (Fire bomb possession)	5,000

Another frequently used reference is the Bail Schedule. By law, every court within a county must adopt a uniform schedule designating the amount of bail that should be set for all felonies, misdemeanors, and infractions that are considered "bailable." As the sample schedule

from San Mateo County shows, the schedule itself contains:

1. a list of the "bailable" offenses,
2. the recommended amount of bail, and
3. a specified amount of bail for all offenses not specifically listed on the schedule.

The bail schedule is extremely useful, as it provides the deputy clerk with a quick and ready reference to consult whenever there is a question of "What is a bailable offense?" or "What is the appropriate amount of bail to set for a particular offense?"

CALIFORNIA COURTS DIRECTORY

While this reference does not deal with either procedures or Codes, it does have a wealth of information useful to the deputy clerk. First, it provides a comprehensive listing of addresses and phone numbers of the over 400 courts in California; The United States Courts of Appeal, the California Appellate Courts, and each of the Superior, Municipal, and Justice Courts throughout the state. In addition, the directory contains an index of California cities and towns with the county and Judicial District they are located within. Finally, a schedule of the various filing fees and fees for court services are listed for each of the major types of courts.

CONCLUSION

The References discussed in this booklet were just a small sample of the multitude of reference materials available to the legal profession. As a glance into any law library will confirm, descriptions of all the possible references would easily fill a book. In selecting this small sample, we tried to focus on those references most frequently used by deputy clerks. We realize that many of these sources are complicated and that no one should expect to be an instant expert in using references after reading this booklet. More realistically, we hope "References for Clerks" has provided you with at least an introduction to some of the problems and procedures involved in using reference materials. We also hope we have stressed enough the importance of properly and efficiently utilizing references in the day to day business of the court. Hopefully, every deputy clerk who sees their job as a professional one, will use this booklet as a starting point--and work on their own to develop the skills and knowledge necessary to utilize these vital "tools" of the legal trade.

LIST OF REFERENCES

California Courts Directory and Fee Schedule, Association of Municipal Court Clerks of California, Bellflower, CA.

Deering's California Codes, Bancroft-Whitney Co., San Francisco, CA.

Manual of Civil Procedures, Association of Municipal Court Clerks of California, Inc., Los Angeles, CA.

Manual of Criminal Procedures, Association of Municipal Court Clerks of California, Inc., Los Angeles, CA.

Manual of Procedures in Small Claim Cases, Association of Municipal Court Clerks of California, Inc., Los Angeles, CA.

West's Annotated California Codes, West Publishing Co., Saint Paul, Minnesota.

ABBREVIATIONS OF CALIFORNIA CODES

Agric	Agricultural Code
Bus & P	Business and Profession's Code
CC	Civil Code
CCP	Code of Civil Procedure
Com	Commercial Code
Corp	Corporation Code
Educ	Education Code
Elec	Elections Code
Evid	Evidence Code
Fin	Financial Code
Fish & G	Fish and Game Code
Gov	Government Code
Harb & N	Harbors and Navigation Code
Health & S	Health and Safety Code
Ins	Insurance Code
Labor	Labor Code
Mil & V	Military and Veterans Code
Pen	Penal Code
Prob	Probate Code
Pub R	Public Resources Code
Rev & T	Revenue and Taxation Code
Str & H	Streets and Highways Code
Un Ins	Unemployment Insurance Code
Veh	Vehicle Code
Water	Water Code
Welf & Inst	Welfare and Institution Code

END

7 pages more