

LOS ANGELES COUNTY

ECONOMY AND EFFICIENCY COMMISSION

ROOM 163, HALL OF ADMINISTRATION / 500 WEST TEMPLE / LOS ANGELES, CALIFORNIA 90012 / 974-1491

June 25, 1982

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Honorable Board of Supervisors
Los Angeles County
383 Hall of Administration
Los Angeles, California 90012

Dear Supervisors:

Status of Economy and Efficiency Commission
Recommendations on Court System

On November 10, 1981, the Board of Supervisors adopted our report and recommendations on the court system. The Board asked our commission to report on implementation progress. The attached contains our review of the status of each recommendation.

In adopting our recommendations, the Board recognized that collaboration of bench, bar and administrative agencies would be essential to their effectiveness and asked all affected organizations to assist in implementation planning. Judges, bar associations, the Judicial Procedures Commission, County Counsel and the Chief Administrative Office would formulate detailed implementation plans. In those cases where the bar or other organization opposes our recommendation, we asked for a proposed alternative to meet the same objective.

The Chief Administrative Office, County Counsel and other internal County agencies have taken those steps necessary, within County authority, to implement the recommendations. We commend their supportive and responsive actions.

The response from the Judiciary, the Bar, and related County commissions has been mixed. Substantial progress has been made in the following:

- The Executive Committee of Superior Court Judges decided to oppose legislation establishing a specific fee for court reporter services (SB 1936). It supported a general court user fee and plans to propose implementing legislation in the near future. The committee has endorsed the jury panel fee, to be implemented by AB 2386 (Konnyu).
- The Presiding Judge of the Superior Court has implemented an effective case management program, reducing backlog inventory from the 73,000 caseload level to the 35,000 level.
- The Los Angeles County Bar Association has designed a program to implement telephone conferencing in law and motion courts at no cost to the taxpayer. The affected Superior Court Judges are reviewing this proposal, which is modeled on a successful program in San Francisco.
- The Los Angeles County Bar Association has sponsored a constitutional amendment to index the interest rates on judgments to market rates (ACA 83).
- The Los Angeles County Bar Association has opposed legislation establishing a fee for court reporter services (SB 1936). It has assigned the responsibility for designing alternative court system financing plans to the Association's Committee on Court Improvements.

Generally, however, the response of the legal community has been positive in terms of supportive position-taking rather than implementation planning. In his memorandum to the Board dated April 15, 1982, Richard Coleman, President of the Bar Association, said "our Association will be able to assist the Board of Supervisors in a more substantive way when the specific proposals are more narrowly defined."

Establishing appropriate narrow definitions - legislative or otherwise - will require collaborative effort of the Board, the Judiciary and interested bar associations. Our task force is therefore working to organize a coalition of Superior Court, Municipal Court, County, and Bar personnel to prepare detailed implementation plans.

Very truly yours,



Thomas F. Kranz
Chairman of Task Force



Joe Crail
Chairman of Economy and Efficiency
Commission

TFK:JC:yh

Attachment

STATUS OF ECONOMY AND EFFICIENCY COMMISSION

RECOMMENDATIONS ON THE COURT SYSTEM

In November, 1981, the Board of Supervisors adopted the Economy and Efficiency Commission report on the court system. The Board asked our Commission to monitor implementation of the recommendations.

This report contains a brief review of the status of each recommendation. We have organized this review to address several related recommendations in each section. We have retained the recommendation numbering from our Summary Report. We paraphrase the recommendations from the report. Page numbers refer to our Summary Report.

I. Recommendations: Revenue and Incentives

Several of our recommendations were designed to further progress toward two related objectives: 1) to increase and stabilize revenue available to the court system and 2) to create incentives in the legal community to implement procedural reforms which have been frustrated for decades in the legislature.

The trial courts are already partly supported by a fee system and by State subsidies. These components of the financing system are deficient. They bear no relationship to costs. Their levels are consistently outpaced by inflation.

We include three task force recommendations in this group. They are:

Recommendation 3 (User Financing)

Obtain legislation to require full cost-recovery fees for jury panels, court reporting and process serving. Obtain legislation to change the fee system to specify that 1) fees are proportional to cost and 2) fees are set at cost recovery levels when those demanding a service have a choice of lower cost alternatives. (Page 22)

Recommendation 9 (State Subsidy)

Obtain legislation to index State subsidy support to a fixed proportion of total court system costs and to the full incremental costs attributable to new laws affecting the courts. (Page 23)

Recommendation 13 (Courtroom Technology)

Place top priority on obtaining legislation permitting increases of courtroom technology applications: telephone conferencing, computer assisted transcription, video-conferencing, video taped testimony and electronic court reporting. (Page 29)

A. Status - User Financing

Bills have been introduced to modify the fees for jury panels, court reporting and process serving.

SB 1936 (Russell) would establish fees for court reporting. The following groups opposed this bill: The Board of Trustees of the Los Angeles County Bar Association, the Executive Committee of the Superior Court Judges, the Trial Lawyers Association, and the Court Reporters' Association. The bill was defeated in the Senate Judiciary Committee at its hearing on Tuesday, May 4, with three committee members present.

AB 2386 (Konnyu) would permit the court to charge for all jurors called to a panel. The Assembly Judiciary Committee recommended the bill which was signed by the Governor on June 21, 1982. The Executive Committee of Superior Court Judges supported it.

SB 1801 (Russell) would permit the County to charge the full cost of civil process serving by the Sheriff or Marshall if the parties

using the service could use a private process server. The Senate Judiciary Committee heard this bill in mid-April, retained it and referred it to the Rules Committee for assignment to a study committee.

On the more general component of our recommendation, to modify the system of user financing in the courts, the Executive Officer of the Superior Court prepared an analysis of court financing and a policy recommendation for consideration by the Executive Committee of the Superior Court Judges.

The Executive Committee rejected the specific legislative proposal establishing user fees for court reporter services priced at the per diem rate after the first day of trial. The committee supports the concept of fees. The committee's discussions indicated preference for pursuing two alternatives: 1) charges for use of courtrooms in civil, family law, and probate cases, and 2) increasing the State subsidy. The Executive Officer and the Executive Committee have indicated an interest in collaborating with the Board and our Commission to promote specific new legislation on court financing.

B. Status - State Subsidy

Following the recommendation of the Post Commission, the Judicial Council has been designing a proposal to shift trial court financing to the State. On November 18, 1981, the Assembly Judiciary Committee held an investigatory hearing to consider the desirability of State funding and to hear testimony on such specifics of a State system as the computation of costs, the distribution of fines and forfeitures, and the transfer of administrative responsibilities.

Except for the work of the Superior Court Executive Committee referred to above, we know of no further work to implement this recommendation.

C. Status - Courtroom Technology

Major gains are possible from carefully designed applications of current technology, particularly telecommunications technology: television arraignments, testimony by closed circuit television or videotape, recordings of court proceedings.

While there appears to be some general support for introducing these technologies, and they have been implemented in other states, the specific design of new systems can be controversial and the legal system slow to change.

Two specific examples are relevant.

In a bold, innovative action, the Los Angeles County Bar Association and the Bar Foundation have designed a program to introduce optional telephone conferencing in law and motion matters in Superior Court at no cost to the taxpayer. We believe this effort deserves the full support and participation of all County and court officials.

The use of electronic tape recording as a substitute for court reporting, in instances determined appropriate by the Superior Court, would require permissive legislation. It has been proposed and defeated for years in the Legislature despite the universal support of court administrators. Even with the financial crisis in the courts, such legislation has little chance without the added incentive of court reporter fees and charges.

II. Recommendations: Court System Administration

Several of our recommendations were designed to relieve congestion by improving administrative systems. Action would take three forms. First, reducing costs in one system component would release resources for use elsewhere in the system. Second, improving information systems would make available to the Judiciary and court administrators an improved basis for making local resource allocation decisions. Third, direct case management by the Judiciary would both eliminate inactive cases from the backlog inventory and speed up the production of decisions on active cases.

We include four task force recommendations in this group:

Recommendation 2 (Cost Accounting)

Implement, throughout the court system, the program, performance and cost accounting modules of the County's Financial Information and Resources Management System (FIRM). (Page 11)

Recommendation 4 (Contract Security)

Incorporate contracting in security plans where judged feasible by the courts and the Board of Supervisors. (Page 15)

Recommendation 6 (Case Management)

Recognize and support action by the Superior Court to reduce backlog and collaborate to design and evaluate experiments in branch courts to test the effectiveness of alternative intervention strategies, calendaring techniques, and case management methods (e.g., programs recommended by Judge Reginald Watt and by the National Center for State Courts). (Page 17)

Recommendation 7 (Judicial Arbitration)

Compensate arbitrators on a per-case rather than per-day basis, index the jurisdiction of arbitration and the compensation of arbitrators to inflation, and enforce sanctions on litigants requiring trials de novo after arbitration when chosen by election or stipulation. (Page 19)

A. Status - Cost Accounting

The Superior Court, County Clerk, Chief Administrative Officer, and Auditor Controller are working on detailed plans to implement cost accounting in the offices of the County Clerk and the Superior Court. We know of no progress on this recommendation in the Municipal Courts.

B. Status - Contract Security

According to the Chief Administrative Office, the Mechanical Department has identified security functions which can be contracted and plans to issue a Request for Quotation (RFQ). The RFQ is in final review and release stages.

C. Status - Case Management

The Presiding Judge's program in the Superior Court in Los Angeles has reduced ready case inventories from levels near 73,000 cases last year to levels near 35,000 at present. Although preliminary plans have been discussed to implement Judge Watt's program and the National Center's program, we know of no formal experimental program designed to compare the effectiveness of the three alternatives.

As we explained in our report, experts have found that the major ingredient in reducing backlog is that the court, not litigants or lawyers, take control of the calendars. Experts disagree on the specific techniques that are most effective for taking that control. Some experts told us that any change can be effective. The point of our recommendation was therefore a practical, empirical approach. Some techniques have been shown effective in other courts. Once the basic

decision has been made to manage caseload, but there is uncertainty or disagreement over method, then try alternative methods and compare their effectiveness in a strictly monitored experimental design.

In February, 1982, the American University conducted a study of civil calendaring techniques in the Los Angeles Superior Court. The consultants found that the programs in the Superior Court are consistent with case management standards promulgated by the American Bar Association. The report recommends enhancements to the application of those principles in Los Angeles, including some similar to our recommendation: namely, close case status monitoring and time-specific statistical evaluation of dispositions. The suggested approaches are similar to the programs found effective by the National Center for State Courts. They are also similar in some elements to the techniques suggested by Judge Watt, although they differ sharply in the detail of calendaring technique.

If the Court implements the program enhancements suggested in the American University report, then that will meet the intent of our recommendation - that is, to empirically determine the most effective elements of the various contending methods.

D. Status - Judicial Arbitration

Our recommendation to index the jurisdiction of arbitration and compensation of arbitrators has not been implemented. However, the objective of our recommendation will be met temporarily by the passage of AB 841 (Chapter 110 Statutes of 1981) which increased the jurisdiction of arbitration to \$25,000 from \$15,000. The court now permits for per-case

rather than per day compensation. We have no information on the effectiveness of court attempts to enforce sanctions on de novo trials. The Court is presently conducting an analysis of the cost effectiveness of arbitration.

III. Recommendations: Role of Private Sector

Several of our recommendations were designed to support private sector initiatives in the court system. Such initiatives would reduce congestion in some instances by directly supporting the operations of the current system, and in others by providing alternatives to adjudication in the publicly financed system.

We include three recommendations in this group. They are:

Recommendation 5 (Information Management)

Increase data processing support of clerical functions of the court system and evaluate opportunities to contract for information management functions. (Page 16)

Recommendation 8 (Private Judges)

Establish a policy of support and encouragement of the use of private judges and propose that the State require payment by the parties of additional appeals or trial costs they generate. (Page 21)

Recommendation 12 (Neighborhood Justice Centers)

Support the development and financing of neighborhood justice centers if supported by cost-benefit assessment of their effectiveness in reducing court congestion. (Page 27)

A. Status - Information Management

Much of the work conducted in the court system is functionally similar to information storage and retrieval, even though the end product of the system is judicial decision making. In the Superior Court, information handling is the function of the County Clerk. In the Municipal

Courts, the function is performed by administrative officers of each district. The providers and end users of the information, in civil cases, are private individuals and corporations involved in litigation.

The support of the County Clerk's functions with electronic data processing systems has not kept pace with the state-of-the art and rapid public-sector progress is considered unlikely because of the financial situation. On the other hand, the situation has entrepreneurial possibilities: litigants, lawyers and the courts need information about current cases on a timely basis. Just as the Bar Association has acted to improve communications technology by installing a telephone system, those in the information systems business could develop, finance, and operate data base management networks on a profit or cost recovery basis to support this court function. Alternatively, lease-back or tax credit purchasing could be used to finance systems development and operations in the public system.

The County-Wide Criminal Justice Coordination Committee, the Judicial Procedures Commission, and affected County departments are conducting requirements studies for new information systems. The Presiding Judges' Association of the Municipal Courts and affected departments have been implementing improved systems in the Municipal Courts. We know of no concrete private sector activity. We have no information on the schedules for conclusion of the requirements analysis or on plans for financing the development of new systems.

B. Status - Private Judges

Support for the private adjudication process is broadly based, but expanding its use is controversial. Some have opposed its use

because of the potential for development of an alternative civil justice system accessible only to the wealthy. To counter this concern, we pointed out that inequities could be legislatively corrected and recommended fees as one such correction should the problems become severe enough.

Statistics show that the problem is not severe. Fewer than 0.1% of the cases filed for judgment are referred to private judges, and so far only two cases have been appealed to higher courts after private judgment. Therefore, major efforts to change this system are unnecessary at this time.

C. Status - Neighborhood Justice Centers

Neighborhood Justice Centers were financed by the U. S. Department of Justice (Law Enforcement Assistance Administration). They provide mediation services as an alternative to adjudication: mediators seek agreement between parties rather than a decision imposed on the parties. Local centers were sponsored and administered by the Los Angeles County Bar Association.

The information we reviewed and Bar Association findings led us to question definitive cost-effectiveness assessments for these programs. Nevertheless, in our judgment, they have significant major potential to divert some cases from the courts - namely, any cases which can be effectively mediated. Therefore, the Bar Association has restructured its program to work with City Attorneys to identify cases that can be diverted.

IV. Recommendations: System Structure

Several of our recommendations addressed structural or organizational issues which have been considered by some as an essential precondition for correcting congestion and reducing costs - for example, unification, consolidation, and citizen court-watching.

We include two recommendations in this group:

Recommendation 1 (Court Watching)

Dissolve the Blue Ribbon Committee on Courts and assign its function to the Judicial Procedures Commission. (Page 10)

Recommendation 10 (Unification-Consolidation)

Put top priority on short term strategies to correct backlog and reduce costs and develop local initiatives to achieve administrative consolidation of court functions.

A. Status - Court Watching

The Judicial Procedures Commission continues to perform its functions effectively. We see no point in duplicating its efforts with another committee or commission. We believe the County would be well served if that commission would take up projects to assist in the implementation of the American University study, the findings on cost-effectiveness of arbitration, and the plans for data processing, and evaluation of smaller juries.

B. Status - Unification/Consolidation

Proposals to unify the Superior Court and Municipal Courts into a single trial court and proposals to consolidate all Municipal Court Districts into a single jurisdiction are periodically presented and consistently defeated. The cooperation of the Judiciary would be essential for the effectiveness of any such plan, and general support of the Judiciary has never materialized, for good reasons.

Our recommendation referred explicitly to the efforts of the Presiding Judges Association (led by Judge Marion Gubler of Burbank) to achieve material improvements through local coordination and cooperation.

Such coordination can be informal, could be arranged by the County, or could be arranged by some form of formal agreement between the court agencies. Using such devices, it could include the Superior Court and such County agencies as the County Clerk. We were not referring to a system of unification by "local option", on which our commission has no position.

Recently, a specific example surfaced of a situation that may be amenable to the shared resources approach: the conditions at the Mental Health Court facility (Department 95 of the Superior Court). The need for correction of those conditions has been recognized for some time. Action has been deferred because of a lack of space for County functions, a lack of money, a lack of priority, and so forth. We have conducted no detailed review of the needs. We are suggesting that an alternative to alteration of the facility might be an exchange of space with Municipal Courts or a move to some other available County space.

Action on this recommendation requires long-term sustained effort. The Chief Administrative Office is coordinating that effort.

V. Recommendations: Judicial Procedures

Several of our recommendations supported contemporary efforts to modify parts of the underlying assumptions of judicial processes, particularly where the judiciary and the bar have collaborated on experimental programs to determine the effectiveness of such changes and their impact, if any, on due process.

We include in this group:

Recommendation 11 (Interest Rates)

Increase post-judgment interest rates to 10% and support a constitutional amendment replacing the interest ceiling with market rates. (Page 26)

Recommendation 14 (Size of Civil Juries)

Seek approval of methods of reducing costs and delay by reducing jury size. (Page 30)

Recommendation 15 (Experimental Projects)

Evaluate and support the Economical Litigation Project, the El Cajon Project and the alternatives for probate reform. (Page 31)

A. Status - Interest Rates

The Board of Trustees of the Los Angeles County Bar has sponsored a constitutional amendment (ACA 83) which would fix interest rates on judgments relative to the discount rate of the Federal Reserve Bank of San Francisco and require the Legislature to set a rate annually.

In our view, this proposal should have full County support.

B. Status - Size of Civil Juries

Reducing jury size as a method of reducing delay is highly controversial. The Bar Association has opposed it. Nevertheless, smaller juries will be available in the Los Angeles Municipal Court for the next few years. The pilot project provides an excellent opportunity for an empirical analysis of the effectiveness and impacts of this strategy, provided that the analysis is designed carefully with the evaluation objective in mind. The courts have experience with an experimental program - the Economic Litigation Project. We believe that the Board should support their efforts to determine the degree to which reduced jury size can improve efficiency.

C. Status - Experimental Projects

The Economic Litigation Project has been evaluated and redesigned. AB 3170 would implement it throughout the State.

The central feature of the El Cajon project was the authority of Municipal Court Judges to sentence felons on a guilty plea rather than refer them to Superior Court. The Presiding Judge of the Superior Court has issued an order authorizing all Municipal Court Judges to sentence. Therefore, a comparison study can be initiated to evaluate any effects this has on congestion in the criminal courts.