

California —

SELECT COMMITTEE ON TRIAL COURT DELAY--

REPORT 4

*Unified Trial Court System
Calendar Management*

February, 1972

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California's trial courts are the keystone of the state's system of criminal and civil justice. In addition, they have considerable impact on the financing of various local governmental services through the generation and distribution of court revenues. The importance of the trial courts to the people of California cannot be over-estimated; it is a matter of vital concern that they operate efficiently, effectively and according to the highest standards of judicial administration.*

* Booz, Allen & Hamilton, Inc., "California Unified Trial Court Feasibility Study," page 3 (December 3, 1971).

MEMBERS

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THE WORK OF THE SELECT COMMITTEE ON TRIAL COURT DELAY

The Committee was appointed by Chief Justice Donald R. Wright on March 26, 1971. It is investigating the causes of trial court delay in California and between now and May 1, 1972 will report recommended solutions to the people of California and the public officials concerned with our system of justice. For these purposes the Committee has formed the following Subcommittees:

Civil	Judge William M. Gallagher (Chairman) Bennett W. Priest George R. McClenahan
Penal	Judge Charles H. Older (Chairman) Loren A. Beckley Wayne H. Bornhoft
Court Administration	Judge Homer B. Thompson (Chairman) John H. Finger George M. Murchison

The Committee is assisted in its deliberations by the following officials who have been designated by their respective governmental bodies to participate in the Committee's deliberations: Senator Robert Lagomarsino; Assemblyman Jack Fenton; and Mr. Herbert Ellingwood, Legal Affairs Secretary to the Governor of California.

The Committee also is assisted by a fulltime professional staff: Larry L. Sipes, Director and Counsel to the Court Administration Subcommittee; Patrick J. Clark, Counsel to the Penal Subcommittee; and Charles G. McBurney, Counsel to the Civil Subcommittee. In addition, expert consultants are retained for any needed assistance.

The Committee's initial report was published in July of 1971 and recommended that court administrators be employed by the larger Superior Courts in California. To implement this recommendation the Committee endorsed Senate Bill 801, providing for administrators in all Superior Courts with seven or more judges, which now has been passed by both houses of the Legislature and signed into law by the Governor.

The second report, published in October, 1971, concerned the following subjects and contained proposals which were intended to alleviate some immediate delay problems: duties of presiding judges, procedures to induce more settlements of civil litigation, limitation of

disqualification of judges for prejudice pursuant to Code of Civil Procedure Section 170.6, and sanctions for failure to appear at trial or at pretrial, trial setting, and settlement conferences.

The Committee's third report, dated February, 1972, contains the following recommendations pertaining to penal proceedings: expand the infraction category of public offenses, revise the voir dire procedure for selection of a criminal jury, reduce jury size in selected criminal cases, revise the number of available peremptory challenges in criminal cases, institute statewide uniformity in certain aspects of jury service in criminal cases, authorize majority verdicts in selected criminal cases, require certification of counsel for participation in felony trial proceedings, enact an alibi statute, and transfer selected criminal prosecutions from the superior court to the municipal or justice court.

This fourth report sets forth recommendations, regarded by the Committee to be of major importance, for unification of California's trial courts and for improved management of Superior Court calendars.

The Committee was assisted in the preparation of these proposals by staff prepared background materials as well as by the experience and expertise of the Committee members and advisors. These resources were supplemented by studies from these retained consultants: Booz, Allen & Hamilton (unified trial court feasibility study); Mr. Stanley Friedman, attorney, San Francisco (infractions). In addition, no proposal was submitted for consideration by the full Committee until it had been evaluated by the appropriate Subcommittee and recommended for full Committee approval. Although confronted with a one year deadline the Committee in this manner intends to assure that each improvement it recommends is preceded by thorough and informed deliberations.

The Committee acknowledges with appreciation that its operations are funded from Law Enforcement Assistance Administration funds through a grant by the California Council on Criminal Justice, supplemented to the extent of 10% by State funds.

UNIFIED TRIAL COURT SYSTEM

INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

Early in its deliberations the Committee decided to investigate the unification of trial courts to determine if unification could relieve court congestion and delay. The "California Lower Court Study," by the consulting firm of Booz, Allen & Hamilton, was in progress at the time of this decision. The Committee followed the development of that study and concluded that additional information would be necessary since the Judicial Council's contract with that consultant confined the study to the Municipal and Justice Courts. Therefore, in conjunction with the Judicial Council, the Committee retained Booz, Allen & Hamilton to conduct a supplemental study to determine the feasibility of unifying all trial courts in California. Members of the Committee's Court Administration Subcommittee, aided by staff, acted as advisors to the consultant during this study which was published on December 3, 1971 under the title "California Unified Trial Court Feasibility Study."

Based upon the extensive information and recommendations furnished by Booz, Allen & Hamilton the Committee has concluded that a unified trial court system is necessary in California and so recommends. The major features of the Committee's proposed system, which are discussed in detail in subsequent sections, are as follows:

Administration. The trial court system would be centrally administered with appointment by the Chief Justice of a Chief Judge in each county, subject to the recommendations set forth below for Los Angeles County and counties with small caseloads. The State also would be divided into five regions in which the Chief Justice would appoint an Administrative Judge to supervise and assist the courts within the region. All of these appointed terms would be for one year and would be renewable. Provision would be made for an administrator in each of the five regions as well as an administrator in each county. Los Angeles County by itself would become one of the five administrative regions, divided into nine districts paralleling the existing branch court system with an Administrative Judge and administrator for the entire County and a Chief Judge and administrator in each of the nine districts. In addition, counties with low volume caseloads would be consolidated for administrative purposes.

Court Structure. A single trial court would be created in each county encompassing the present jurisdiction of Justice, Municipal and Superior Courts. If a county presently has a Municipal Court or Justice Court Judge who is a qualified attorney there would be two classes of judges: Superior Court Judges (incumbent Superior

Court Judges) and Associate Superior Court Judges (incumbent Municipal Court Judges and Justice Court Judges who have been members of the California Bar for at least 5 years). The Chief Judge could assign Associate Judges to sit on all matters on a case by case basis, subject to the recommendation that Associate Judges generally be responsible for matters currently within the jurisdiction of Municipal Courts.

The Area Administrative Judge could appoint Associate Judges to sit as Superior Court Judges for semi-permanent terms from one month to one year, during which time they would receive the salary of a Superior Court Judge. Counties with two levels of judges would gradually become completely unified with one level of judge by a prohibition against appointments to fill future vacancies in Associate Judge positions and by a prohibition against the future creation of new Associate Judge positions.

Commissioners. The position of Commissioner would be created as the sole type of subordinate judicial position (encompassing present commissioners, juvenile court referees, traffic court referees, non-attorney justice court judges, attorney justice court judges admitted to practice less than five years or those unwilling to become full-time judges) to perform subordinate judicial duties in fields such as traffic, small claims, minor misdemeanors, probate and family relations.

Staff. Except for judges, all judicial and non-judicial court personnel such as administrators, clerks, deputy clerks, bailiffs, court reporters, jury commissioners, marshals, and legal secretaries would become court employees under a statewide system in which the Administrative Office of the Courts would classify positions, prescribe qualifications, set salaries, and provide for selection, promotion, dismissal and retirement.

Financing. The operating costs of the court system would be assumed by the State including salaries and fringe benefits of all personnel, services, supplies, equipment, training costs, and any administrative expenses. Capital costs of the trial court system would continue to be funded by the counties.

ADMINISTRATION

Regional Level

—A regional administrative structure should be established within the California trial court system by dividing the State into five administrative areas and creating the position of Area Administrative Judge.

- In each of these five areas the Chief Justice should appoint a judge, currently in office in that area, to serve as Area Administrative Judge for a one-year renewable term during which the Area Administrative Judge would receive the salary of a Court of Appeals Justice.
- The Area Administrative Judge should be responsible to the Chief Justice and on behalf of the Chief Justice should provide direction and coordination in management of trial courts within the area.
- The position of Area Court Administrator should be created, and in each of the five areas the Director of the Administrative Office of the Courts, with approval of the Area Administrative Judge, should appoint the Area Administrator who would serve at the pleasure of the Area Administrative Judge.
- The Area Court Administrator should be responsible to the Area Administrative Judge and should provide staff and technical support in court management to the Area Administrative Judge in the performance of that Judge's responsibilities. He also should function as a resource person in court management for trial court administrators in his area.

COMMENT

The size of our judicial system combined with the widely varying geographic, social and economic characteristics of areas within our State, make statewide administration of this system very difficult. The difficulties are increased by an administrative void in our system between the trial courts at the local level and the Administrative Office of the Courts and Judicial Council at the state level.

The above recommendation is intended to improve this situation by creating regional administrative judges and regional administrators to assist the Chief Justice, as head of the judicial branch of our government, in implementing statewide judicial policies embodied in Statutes, Rules of Court and Standards of Judicial Administration. These area administrative officials also will assist local trial courts with problems of planning, organization and management. Detailed duties for these respective positions, and recommended qualifications, are set forth in Appendix A (Area Administrative Judges) and Appendix B (Area Court Administrators).

The salary of a Court of Appeals Justice is recommended for the Area Administrative Judge in order to compensate for the substantial burdens of the position and to enhance his position as the Chief Justice's representative.

The boundaries of the proposed areas are set forth in Appendix C. They reflect consideration of the following factors: a reasonable degree

of geographic proximity and accessibility; a relatively even distribution of court workload; and a reasonably equal number of judges on the trial courts within the area.

County Level

- At the local level each county should constitute an *administrative unit* except: (1) Los Angeles County which should be divided into nine administrative units with the same boundaries as existing branch court districts; and (2) counties with an insufficient judicial workload to justify a full-time judge which should be combined with comparable adjacent counties to form multi-county administrative units.
- In each administrative unit the Chief Justice should appoint a trial court judge currently serving within that unit to serve as Chief Judge for a one-year renewable term.
- The Chief Judge should be responsible to the Area Administrative Judge and should control the daily management of the trial court.
- In each administrative unit a Superior Court Administrator should be appointed by the Chief Judge from a list of qualified candidates prepared by the Administrative Office of the Courts and this Administrator should serve at the pleasure of the Chief Judge.
- The Superior Court Administrator should be responsible to the Chief Judge and should provide the Chief Judge with the staff assistance needed to perform the Judge's court management responsibilities.

COMMENT

Adequate control of all court resources at the primary administrative level is essential to an effective trial court system. Just as the Committee believes that the recommended regional structure is one of the keys to successful trial court operation, it believes that effective management exercised at the county level is another key.

Thirty-eight counties now have sufficient workloads, as measured by the Judicial Council's weighted caseload system, to justify their own administrative units on a countywide basis.* The remaining 20 counties need to be grouped together for purposes of effective judicial administration. Therefore, the Judicial Council should be authorized by the Legislature to create multi-county administrative units, subject to the exercise of legislative veto, along the boundaries set forth in Appendix D. The criteria used to determine the need for multi-county organizations are: sufficient workload to justify at least one full-time judge,

* This and subsequent references to the weighted caseload system are based upon the weighted caseload system in effect in 1971 and do not reflect any changes proposed by the firm of Arthur Young & Co. in its current study of the system.

geographic proximity, ease of transportation and common demographic interests.

Los Angeles County would be an administrative area by itself and would be further divided into administrative units along the lines of its present nine districts. The reasons for this unusual treatment are the complex operating problems in this County, the large and diversified judicial workload, the need for manageable administrative units, and the problems in managing the calendar of such a large court with its numerous judges and court locations.

Effective leadership is required to direct the operations of a trial court system under a centralized management and administrative support system. Therefore, the direct responsibility for effective operations and the quality of judicial services should be delegated by the Chief Justice to a single individual in each administrative unit. For these reasons, the position of Chief Judge for each trial court unit should be created and assigned broad authority for administering trial court operations. Detailed duties, and recommended qualifications, are set forth in Appendix E.

Because this is such a critical position the Chief Justice should appoint all Chief Judges for a one-year term, subject to renewal. A number of methods are available to aid the Chief Justice in the task of selecting the Chief Judge such as nomination by secret ballot of the judges on the trial court from which the Chief Justice could make his selection. Selection of an effective method or combination of methods is left to the judgment of the Chief Justice.

Skilled court administrators, utilizing modern court management systems, techniques and equipment can provide needed assistance to Chief Judges in a number of areas including: planning and achieving more effective use of court personnel, equipment and facilities; streamlining case scheduling, processing and control; supervising the daily flow of cases; coordinating information needed for administrative decisions; and providing a continuous program of training for nonjudicial personnel.

For these reasons, the position of Superior Court Administrator should be authorized for every administrative unit, and the person in that position should have the qualifications and perform the detailed duties set forth in Appendix F. The Superior Court Administrator would be under the general supervision of the Chief Judge and would be responsible for directing all non-judicial business of the court and assisting judges in supervising all court attachés. The Chief Judge, relieved of these time-consuming administrative and supervisory tasks, should be better able to concentrate on judicial operating problems and practices.

COURT STRUCTURE

- A single trial court should be established in each county encompassing the jurisdiction of existing Superior, Municipal and Justice Courts. This unified court should be named the "Superior Court."
- Initially there should be two classes of judges in most of the 25 counties which now have Municipal or Justice Courts: one class (Superior Court Judges) comprised of incumbent Superior Court Judges and the other class (Associate Superior Court Judges) comprised of incumbent Municipal Court Judges and Justice Court Judges who have been members of the California Bar for five or more years.
- In multi-county administrative units with a judicial workload adequate to justify only one judge, that judge should serve as the Superior Court Judge for each county within the unit.
- Associate Superior Court Judges should receive the salary of Municipal Court Judges in effect at the time the unified trial courts are created.
- The class of Associate Superior Court Judges should gradually be eliminated following creation of the unified trial courts by prohibiting the creation of new positions for Associate Superior Court Judges and by prohibiting appointments to fill vacancies which occur in these positions.
- The Judicial Council should adopt a Standard of Judicial Administration directing that Associate Superior Court Judges be confined to matters currently within the jurisdiction of Municipal Courts, subject to the power of the Chief Judge to assign any matter to an Associate Superior Court Judge.
- The Area Administrative Judge should be authorized, within his area, to assign one or more Associate Superior Court Judges to serve as Acting Superior Court Judges for terms of not less than one month or more than 12 months during which they would receive the salary of a Superior Court Judge.

COMMENT

Problem

Fragmentation, isolation and absence of coordination are prominent characteristics of our trial court system.

Structure.

There are three types of trial courts presently operating in California: the Superior, Municipal and Justice Courts. Each differs from the other in jurisdiction, organization, staffing, financing and operation. This structure in its present form was established through the following acts: the creation of a Superior Court in each county, as the state court of general jurisdiction, by the Constitutional Convention of 1879 with an organization that has remained fundamentally unchanged up to the present; and the judicial reorganization of 1950 which reduced the types of lower courts of limited jurisdiction from six to two, the existing Municipal and Justice Courts.

The California Constitution provides that there shall be one Superior Court in each county. It also provides that each county shall have at least one court of limited jurisdiction. Presently, the Board of Supervisors in each county has complete discretion as to the number and boundaries of lower court judicial districts, subject only to these constitutional requirements: that a district with 40,000 or more residents be made a Municipal Court; and a prohibition against splitting a municipality into more than one judicial district. Judicial districts with less than 40,000 residents are made Justice Courts. The jurisdiction of the lower courts is prescribed by the Legislature, and the Superior Court has original jurisdiction over all matters not specifically assigned by the Constitution or by statute to other courts (i.e., the appellate or lower courts). The Superior Court also hears appeals from lower court decisions. The present major categories of cases handled by these three trial courts are summarized as follows:

<i>Superior Court</i>	<i>Municipal Court</i>	<i>Justice Court</i>
Felonies	Misdemeanors	Minor misdemeanors
Juvenile matters	Small claims	Small claims
Marriage dissolution and annulment proceedings	Traffic	Traffic
Probate	Felony preliminary hearing	Felony preliminary hearings
Civil suits when the amount in controversy exceeds \$5,000	Extradition	Extradition
Equity actions	Civil cases when the amount in controversy is \$5,000 or less	Civil cases when the amount in controversy is \$1,000 or less
Habeas corpus	-----	-----

Management.

In addition to these jurisdictional differences among the three levels of courts they are administered, staffed and financed in various and differing ways. Moreover, each unit in the trial court system generally

determines its own managerial and operational policies subject only to the Rules of Court adopted by the Judicial Council and statutes enacted by the Legislature.

Not only does each trial court level generally function independently of the others, but each judge is relatively autonomous in matters of court management. The administrative authority in each court which can be exercised by the presiding judge is based primarily on his persuasive powers or on an agreed consensus among fellow judges. In practice, the administrative direction of a presiding judge can be ignored by individual judges who feel that, as elected officials, they are entitled to operate with complete independence on such matters as working hours or work assignments. This particular problem is largely redressed by the Committee's recommendations concerning Area Administrative Judges and Chief Judges but it also requires improvements in court structure.

Organization.

Each level of trial court in the various counties generally is organized in a different manner, further complicating the problems created by differing management practices. For example, some Superior Courts have branches, some have separate criminal and civil proceedings located in different buildings, and some have internal departments with judges specializing in certain types of cases. The Municipal Courts are unified in Ventura and San Francisco Counties and divided into 24 districts in Los Angeles County. Practically all Justice Courts are part-time because of their low caseloads. Sierra County has only one judicial district and San Bernardino County has 18 Justice Court judicial districts. Some of these organizational differences can be attributed to different judicial service requirements in the various counties, but many are the result of historical factors, vested interests or resistance to change and cannot be justified in terms of logic, need, efficiency or effectiveness. As can be expected, the desired coordination of workload and maximum use of judicial and non-judicial resources among different court levels and judicial districts are extremely difficult to achieve with the work outputs for each of these resources fluctuating significantly from court to court.

And, finally, although Municipal and Justice Courts handle basically similar cases, decision-making regarding these courts, particularly the appointment of judges, staffing, and compensation of judicial and non-judicial personnel is fragmented among different units and levels of government. It is difficult, therefore, to hold any single governmental unit fully accountable for the adequacy of these courts in terms of the quality and quantity of their manpower resources.

Size.

The sheer magnitude of our trial court system inflates these structural and operational problems. In fiscal year 1969-1970 there were 58 Superior Courts, 75 Municipal Courts and 244 Justice Courts in existence. Two hundred and eighty-two or 74% were one-judge courts, including 23 Superior Courts, 15 Municipal Courts and 244 Justice Courts. This large number of administratively separate judicial units creates several problems, including:

- Unnecessary expense in maintaining duplicate administrative and judicial support services among the Superior and lower courts in the same county.
- Under-utilization of existing judicial manpower, in some instances, in meeting the trial court caseload.
- Difficulties in achieving efficient distribution of judicial and non-judicial manpower among the courts since the transfer of cases among the courts is so limited that its effect on the equalization of workload is negligible.
- Difficulties in providing coordinated statewide administration of over 360 separate units. Effective communication between the Judicial Council and such a large number of districts is necessarily limited.
- Limited opportunity in the smaller courts, as compared with large metropolitan counties, for judicial specialization and for achieving economies of scale.
- Organization of the lower courts presently into more than 300 separate judicial districts which restricts the balancing of caseloads among courts and the economies and efficiencies which can be achieved in larger judicial service units.
- A large number of lower courts which are low-volume and part-time in nature, which fragments the financial resources available to courts, provides conflicting occupation situations, and limits opportunities for attracting attorneys to these judgeships.
- Insufficient uniformity in court procedures and practices among judicial districts. This lack of uniformity requires the regular users of the courts to become familiar with various procedures in the Superior Courts and each lower court district and adds to the cost of producing different forms and maintaining different records.
- Uncoordinated use of the court facilities available to the various types of trial courts. The fragmented control over court facilities also has resulted in an illogical positioning of these court facilities. In some areas, court facilities are located a short distance from each other but

their use is not coordinated because they belong to different judicial districts.

- When workload and staff assignments are restricted to one judicial unit, it is difficult to shift non-judicial personnel to another court where they might be better used.

Demands Upon the System.

The foregoing inherent problems are aggravated by increased caseloads, increased backlogs, inefficient distribution of judicial resources, and other external factors beyond the control of the trial courts.

The caseload problem is reflected in the fact that trial court filings increased approximately 50% from 1960 to 1970 while the number of judges expanded 22%. In specific terms the number of Superior Court filings per judge from 1960 to 1970 increased from 1,098 to 1,222.

In fiscal year 1969-1970, the number of weighted judicial workload units per judicial position exceeded the 50,000 guideline used by the Judicial Council in the seven largest counties of California.

The judicial management and staffing problems created by the increase in caseload are underscored by the fact that the most significant increases have occurred in the more time-consuming judicial matters, such as felony criminal cases, which have the greatest "weight" in terms of judicial time requirements rather than in the more routine ones, like traffic.

The backlog of cases is growing with the greatest increase in the demand for judicial services occurring in the urban areas. In spite of efforts to meet this demand:

- The number of Superior Court civil cases awaiting trial in California's 18 largest counties has almost doubled during the past 10 years.
- The number of criminal cases awaiting trial has nearly tripled since 1965.
- There are approximately 211 Superior Court civil cases per judge awaiting trial in California's 18 largest counties each year.
- In several large counties it takes nearly three years, from the filing of complaint to time of trial, for the disposal of a Superior Court civil jury case.
- As of July 1, 1970, Los Angeles County had 41,019 civil cases awaiting trial, or 306 per judge, and San Francisco had 7,804 cases awaiting trial, or 325 per judge.
- This backlog may well continue to increase, because each year the courts dispose of fewer cases than are filed.

Part of the increased backlog in the Superior Courts has been attributed to the priority assigned in recent years to the hearing of criminal cases. In this connection it should be noted that in the state's 16 largest counties, which hear approximately 90% of the criminal cases, the number of criminal cases awaiting trial has nearly tripled and, in spite of the priority, only 50% of the juries are sworn within 60 days from the filing of indictment or information.

Judicial resources are not concentrated in the large urban areas where major backlog problems exist. About 39 predominantly low population counties have fewer weighted units per judge than the 50,000 guideline.

Using the Judicial Council formula of 50,000 weighted units per Superior Court judge, 21 counties did not have caseloads in fiscal year 1969-1970 sufficient to justify a full-time judge. This creates problems in judicial administration since these judges must be assigned to other courts to achieve the best use of judicial resources, but also must be available to handle matters that come before the court in their own counties. If a Superior Court judge is reluctant to accept a temporary assignment to another county, whether nearby or far removed, the problem of efficient manpower utilization is further compounded.

The ability of the trial courts to cope with service needs are affected by many additional factors outside of the courts, including the operation of other governmental agencies and social and demographic changes. For example:

- Population increases, urbanization, economic slumps, and crime rates bring a concomitant growth in legal and caseload problems.
- Demographic shifts in the size and character of the state's population, as well as changing traffic patterns, create a fluctuating workload among courts in various geographic areas.
- Decisions by higher state courts or federal courts affect the procedural operation and requirements of the trial courts.
- The district attorney and defense counsel staffs can have a dramatic impact upon trial court workload by their manner of processing cases.
- Law enforcement agencies affect court operations by the number and type of offenses for which arrests are made.
- Trial attorneys have impact on the courts by their willingness to settle cases out of court and types of trial tactics which they employ.
- Legislative bodies affect court workload and efficiency by creating or changing the laws and determining the financial resources which will be made available to the courts.

- Changing patterns of social behavior determine the degree to which specific laws are obeyed.

Conclusion

The Committee recommends the unification of our trial courts as a major step toward combating the existing problems of trial court structure, management, organization, size, caseload, backlog, and distribution of judicial resources. The primary advantages of unification are:

- Simplified court structure;
- Comprehensive jurisdiction and elimination of the multiplicity of existing judicial entities;
- Centralized administration of all judicial resources at the county level which is the most important administrative level;
- Maximum utilization of judicial resources at the county level;
- Consistent and coordinated trial court management when combined with the recommended regional and county administrative system; and
- Increased uniformity in court procedures.

COMMISSIONERS

- The position of Commissioner should be created as the sole subordinate judicial position within the trial court system.
- One or more Commissioners should be provided in each judicial administrative unit.
- Commissioners should be appointed by the Chief Judge, subject to approval by a majority of the judges on the court, from a list of qualified candidates prepared by a committee of judges serving within the judicial administrative unit.
- Commissioners should serve at the pleasure of the Chief Judge.
- To qualify for the position of Commissioner a person should be an attorney admitted to practice in California and should have been a member of the bar in California or elsewhere not less than 5 years.
- Matters to be handled by Commissioners should be provided by statute and be confined to the following minor judicial duties:
 - (1) Infractions;
 - (2) Small claims;
 - (3) Misdemeanors in which the maximum possible sentence is a fine or imprisonment not exceeding six months;
 - (4) Uncontested probate matters, except applications for extraordinary fees;

- (5) Family relations, except contested trials and contempt hearings;
- (6) Preliminary hearings in felony cases;
- (7) Juvenile Court proceedings, upon the condition that juvenile proceedings before Commissioners are subject to all existing safeguards such as the right to appeal to a Superior Court Judge.

—The following existing positions should be encompassed within the position of Commissioner and persons serving in those positions at the time, including non-lawyers, should be appointed as Commissioners: juvenile court referees, traffic court referees, Justice Court judges who are non-lawyers or who either are lawyers admitted to practice less than five years or are unwilling to become full-time judges.

COMMENT

The new position of Commissioner is recommended to relieve experienced judges of routine matters and to prepare a foundation for ultimately achieving unified trial courts with a single class of judge.

Encompassed within this position would be the assortment of subordinate judicial positions in our present system such as juvenile court referees, traffic court referees, and Commissioners as well as Justice Court judges who at the time of unification do not qualify or do not choose to become Associate Superior Court Judges.

It is recommended that Commissioners be restricted to routine and less serious judicial matters. However, the resulting savings in the time of judges would be substantial. Felony preliminary hearings are a striking example because it is estimated that Municipal Courts now spend one-third of their time on these hearings which time could be devoted to trials if Commissioners were available to handle these hearings.

Recognizing the importance of the proposed Commissioners in the daily work of the trial courts, the Committee has recommended a selection process involving participation by the judges who will approve and by committee will screen candidates, and the Chief Judge, who in discharging his administrative duties will select and if necessary dismiss Commissioners.

STAFF

- All judicial and non-judicial personnel serving the trial courts, other than elected judges, should become court employees.
- These personnel should be employed within a statewide system, confined to court employees, in which the Administrative Office of the Courts would provide for positions, qualifications, compensation, selection, promotion, discipline, dismissal, and retirement.

COMMENT

The Committee has concluded that effective judicial management requires that personnel upon whom court operations depend be court employees.

Present staffing patterns place judicial personnel beyond the control of the courts and are the result of piecemeal evolution rather than rational manpower planning. The mere fact that the counties pay and provide non-judicial personnel assures widely varying practices, qualifications and quality of performance. This situation is aggravated by the lack of a continuous, statewide training program for court attachés and absence of a system for evaluating or improving performance of court personnel.

The proposed statewide personnel system would introduce uniform standards in the critical areas of qualifications, compensation, selection and performance. Deficiencies in any of these areas would be remedied by the courts through the Administrative Office of the Courts thus terminating the present anomaly of judicial dependence upon personnel who are employed by and answerable to non-judicial units of local government.

Although a statewide personnel system would be created it is contemplated that supervision of the employees servicing each court would be exercised at the local level.

FINANCE

—The State of California should pay the expense of operating the trial court system.

—The counties should continue to pay the capital expenses required to operate the trial court system provided that the Judicial Council should approve the location and adequacy of facilities furnished for use in the trial court system.

COMMENT

The present methods of financing our trial courts are a patchwork. The counties bear all capital costs. Salaries for Superior Court Judges are primarily state expenses, while Municipal and Justice Court Judges are paid entirely by the counties in which they sit. The Legislature prescribes the salaries of Superior and Municipal Court Judges but each county determines the salaries for its Justice Court Judges. Likewise, the counties finance any retirement benefits for Justice Court Judges but the State financially supports and administers the retirement system for Superior and Municipal Court Judges. And, as noted above, the counties bear the expense of all non-judicial court personnel.

The Committee concluded that capital costs should remain with the counties, primarily because trial courts customarily are situated in multi-purpose county buildings which house local agencies such as the offices of the district attorney and public defender whose convenience is served by being in the same building with the courts.

For the following reasons, among others, the Committee recommends that the operating costs of the trial court system be assumed by the State:

- It provides an opportunity to use the State's broader revenue base thereby affording some property tax relief and avoiding underfunding of courts in counties with marginal financial resources for supporting judicial services or in counties which are unwilling to provide adequate financing.
- It provides a vehicle for insuring that county expenditures for such items as salaries, retirement and training are uniform throughout the State. As a result, opportunities are increased for upgrading the caliber of both judicial and non-judicial personnel.
- It provides an approach for the State to unify, strengthen and assert its expanded policymaking and management role over California's trial courts. It also fixes financial responsibility with the State to fund the decisions it makes regarding judicial policies and management.
- It reinforces the fact that judicial services, although provided locally, are of statewide importance.
- It can be used as a financial subvention to county governments, depending on how court revenues are used, at least in avoiding future court cost increases.
- Without State financing, it is doubtful if a unified trial court concept will receive the impetus needed to insure its eventual implementation.

This recommendation contemplates that the following types of expenses will be State financed:

- Salaries and fringe benefits of all personnel (judicial, non-judicial, and administrative);
- Services and supplies required in the normal operation of the court system which were previously funded by the counties;
- Equipment requirements;
- Training costs involved in the professional development of judicial and non-judicial personnel;
- Other related expenses required for circuit-riding and judicial administration.

Although the Committee recommends no plan with respect to disbursement of the approximately \$161 million in court revenue (fiscal year 1969-1970), it is important to note that those revenues exceed the estimated \$137 million required to cover the operations of the unified court system.

PROCEDURE

—The Judicial Council, subject to veto by the Legislature, should prescribe rules for practice and procedure in the courts; and should prescribe rules to govern administrative procedures in the court such as court hours, calendar management, and personnel.

COMMENT

The power to make rules of procedure and rules of administration places responsibility in the judicial branch of government—where it should be. This recommendation, aside from its importance as part of unifying the trial courts, is well supported by precedent in other jurisdictions. As of June, 1970, 21 states had authorized their Supreme Courts to exercise complete supervisory rule-making power. And, in several additional states the rule-making power is limited only by the possibility of legislative modification or veto.

The above recommendation has two important safeguards. First, the power may be exercised only by the Judicial Council whose membership is representative of each court level within our system as well as the State Bar. Second, any exercise of the power is subject to veto by the Legislature which provides a check and balance.

TIMETABLE

1972

1. Provide for judicial regions, Area Administrative Judges appointed by the Chief Justice and Area Administrators.
2. Authorize the Legislature to unify the lower courts and to create a unified trial court with one or two classes of judges on a county-by-county basis.
3. Authorize the Chief Justice to appoint the Chief Judges.
4. Authorize the Judicial Council to prescribe rules of practice and procedure and rules of administrative practice.
5. Establish the single subordinate judicial position of Commissioner.
6. Authorize creation of a statewide system of judicial employees.

1973

1. Provide State financing for the operating costs of the unified trial court system.

2. Establish a unified trial court in each county, each multi-county organization and each district in Los Angeles County.
3. Appoint Area Administrative Judges and employ Area Administrators.
4. Appoint Chief Judges and employ Superior Court Administrators.
5. Establish in the appropriate counties the position of Associate Judge and appoint the incumbent Municipal Court Judges and qualified Justice Court Judges to those positions.
6. Establish the statewide system of judicial employees.

COMMENT

The Committee recognizes that the proposed improvement of our trial court system cannot be achieved immediately and therefore proposes the foregoing stages for implementation.

IMPLEMENTATION

Set forth in Appendix G are suggested constitutional, statutory and rule changes to implement the foregoing recommendations for a unified trial court system.

CALENDAR MANAGEMENT

INTRODUCTION

The Committee has concluded that our courts can dispose of judicial business more expeditiously. This conclusion is reflected in the following recommendations to adopt statewide Rules of Court applicable to the scheduling of trial dates, certificates of readiness, pretrial and trial setting conferences, settlement conferences, continuances, calendars, utilization of judges, and penal proceedings.

It should be noted that this conclusion was preceded by an extensive effort to gather relevant information. The Committee recognized early in its deliberations that advice and information from the trial courts would be essential to its efforts. Acknowledging limitations on its time and resources, the Committee concluded that it would not be feasible to visit more than the 14 largest, metropolitan Superior Courts: Alameda, Contra Costa, Fresno, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Mateo, San Francisco, San Diego, Santa Barbara, Santa Clara and Ventura. Appointments were made with the Presiding Judges in each of those courts for a meeting with one of the Judges on the Committee and a staff attorney. At least one week prior to the appointment a questionnaire, which had been reviewed by the Committee, containing questions pertinent to several topics, including those covered by the following recommendations, was sent to each Presiding Judge thereby furnishing him an opportunity to consider and gather the information requested by the Committee. In the cases of Los Angeles, Sacramento and Santa Clara Counties the Judges on the Committee from those Counties obtained their responses to the questionnaire.

Without the superb assistance and cooperation of these Presiding Judges the Committee's efforts in this and other areas would have been seriously hampered.

Combining the information obtained from this program with an analysis of existing statutes, Rules of Court and Standards of Judicial Administration the Committee was able to identify those areas in which a statewide system of calendar management would be feasible and desirable. This system is proposed for adoption immediately, with the intention that it be modified for use in the unified trial courts upon their creation.

TRIAL DATES

- All courts shall adhere to a system of assigning firm trial dates to cases that are ready for trial which shall be determined by certificates of readiness and trial setting conferences or pretrial conferences.
- Trial dates shall be scheduled in a manner which assures that the trial commences on the specified trial date.

—If extraordinary circumstances prevent a trial from commencing as scheduled it may not trail upon the court's calendar more than 4 court days beyond the specified trial date.

—The availability and control of trial dates shall be the responsibility of the court administrator, or his designated representative, acting under the supervision of the Presiding Judge or master calendar judge.

COMMENT

Nothing compels our courts to schedule trials in a manner which assures that the trials commence on the designated date. Most courts, of course, voluntarily attempt to do so. In those courts which do not the resulting delays and impositions upon judges, parties, attorneys, jurors and witnesses are inexcusable.

The proposal remedies this situation by implementing in rule form Standards of Judicial Administration adopted by the Judicial Council. This approach also was endorsed as follows at the last Workshop for Presiding Judges of the Metropolitan Superior Courts: "To maximize the pretrial disposition of civil cases and to conserve the judicial resources of courts for the cases that must be tried, the Superior Courts should adopt the practice of assigning firm trial dates, but to ready cases only."*

In addition to furnishing the court and all interested persons with a reliable schedule, the proposed rules will eliminate the practice in some courts of "trailing" cases from week to week following the dates they were scheduled to commence trial. Recognizing that some flexibility is warranted an exception is permitted which allows a court to trail a case up to four days beyond the scheduled trial date if required by extraordinary circumstances.

The availability and control of trial dates, particularly in a system of firm trial dates, are matters which should be controlled by the Presiding Judge or master calendar judge since they are the administrative leaders in any court. The proposed rules effect this by placing responsibility for trial dates on the court administrator, or his designated representative, subject to the controlling supervision of the Presiding Judge or the master calendar judge.

CERTIFICATES OF READINESS

—In courts with 5 or more judges a certificate of readiness shall be filed in every action.

—When a court can give a trial date within the 12 months following the filing of an at-issue memorandum that court may require that the certificate of readiness be filed with the at-issue memorandum.

* Statement of Participants' Recommendations, Item No. 2 (March 27, 1971).

—When a court cannot give a trial date within the 12 months following the filing of an at-issue memorandum that court shall invite parties whose actions are on the civil active list to file a certificate of readiness when the court can give a trial date within the next 6 months. If no certificate is filed within 30 days of the invitation the action shall be removed from the civil active list and may be returned to the list only by filing a new at-issue memorandum.

—The certificate may be filed by any party to the action but, in order to file, the party must certify that all discovery in the action will be completed and all motions disposed of by the time of the pretrial or trial setting conference.

—All parties shall complete discovery and obtain disposition of all motions prior to the pretrial or trial setting conference.

—Any other party who objects to the statements in the certificate of readiness may file a written motion to strike the certificate, supported by a declaration setting forth his objections.

—The pretrial or trial setting conference must be held within 90 days of the trial.

—Discovery may be conducted subsequent to the pretrial or trial setting conference only (1) upon stipulation of the parties, (2) if permitted by the court, for good cause shown, by granting an oral or written motion made at the time of the pretrial or trial setting conference, and (3) if permitted by the court subsequent to the conference by granting a written, noticed motion supported by written declarations demonstrating good cause.

—If the trial is not scheduled to commence within 90 days of the conference or the court acting on its own motion causes the trial to commence more than 90 days after the conference discovery shall automatically reopen and continue to within 30 days of trial.

COMMENT

This proposal is intended to assure that when a court allocates time and other judicial resources to a case that those resources will not be squandered because the case is not ready to proceed. Our court system can no longer afford the luxury of scheduling trials, and conferences prior to trial, for cases in which the parties or the attorneys have not completed their preparation. By requiring that discovery and pretrial motions be completed prior to the first appointment with the court, at the pretrial or trial setting conference, the proposed rule will furnish the court with business which is ready for disposition.

The proposal is not inflexible. Unrealistic certificates of readiness may be stricken upon the motion of an objecting party, and discovery may be conducted subsequent to the trial setting or pretrial conference by stipulation or by court order for good cause.

The proposal also acknowledges the responsibility of the courts to expedite judicial business and compels trials to be scheduled within 90 days of the pretrial or trial setting conference. If a court fails to do so or fails to commence the trial within that period the parties may resume discovery until 30 days prior to trial.

The present rules merely furnish local courts the option of requiring readiness certificates and then the parties need only certify that discovery will be completed 30 days prior to trial. In the five metropolitan Superior Courts which presently require such certificates, three of the Presiding Judges advised the Committee that this type of certificate does not help in assuring that the court is dealing only with ready cases at the time of trial.

PRETRIAL AND TRIAL SETTING CONFERENCES

- Following the filing of a certificate of readiness courts with 5 or more judges shall schedule a pretrial conference or a trial setting conference which shall be held not more than 90 days prior to trial.
- The parties must receive notice of the conference at least 60 days prior to the date of the conference.
- Trial setting conferences shall not be required in cases which require one day or less for trial.
- Pretrial conferences shall be held only if ordered by the court prior to sending notice of the trial setting conference or if requested by one of the parties in the certificate of readiness.
- At the trial setting or pretrial conference the attorneys for the parties must appear and furnish the court, in a manner prescribed by the court, with the information necessary to complete a conference order.
- The trial setting conference order shall determine:
 - (a) The number of sides and the peremptory jury challenges to be allocated to each side if a jury is demanded;
 - (b) The fact that the case is at issue and that all parties necessary to its disposition have been served or have appeared;
 - (c) That fictitious named defendants are dismissed, or severed from the action and ordered off calendar;
 - (d) That discovery and all motion matters are completed or what additional discovery and motions have been permitted for good cause;

- (e) The name of the attorney who actually will try the case, if this information is required by the court;
- (f) The date for a settlement conference;
- (g) A firm trial date not less than 30 or more than 90 days after the conference and the time estimated for trial; and
- (h) Any other appropriate matter which does not conflict with statutes or other rules.

—As noted in the conference order, firm trial dates shall be set by the court not less than 30 days or more than 90 days after the conference.

COMMENT

The foregoing procedures are substantially similar to existing procedures with several notable exceptions. Compulsory trial setting conferences presently are required only in courts with 10 or more judges; the proposal applies to courts with 5 or more judges. Present rules do not require the court to enter a conference order but this is recommended by the Judicial Council's Standards of Judicial Administration and already is the practice in the major metropolitan courts. To implement this change the proposal contemplates statements from the parties. With these statements the parties also will comply with the new requirement that the trial attorney be specified if requested by the local court. Finally, the proposal compels a party to request a pretrial conference in his readiness certificate or waive the right to such a conference thereby eliminating the need to conduct both a pretrial and trial setting conference which can occur under existing rules.

The proposal furnishes the courts and parties with an opportunity to come together to jointly assess the case's readiness for trial and to agree upon dates for the settlement conference and trial thus providing the court and parties with a firm schedule. It also should be noted that the proposal is reinforced by the Committee's prior recommendation to impose sanctions as follows in connection with pretrial or trial setting conferences:

Rule 217. Sanctions in respect to proceedings before trial and at trial

Any failure of a person to prepare for, appear at, or participate in a scheduled pretrial conference, trial setting conference, settlement conference, or trial, unless good cause is shown for the failure, is an unlawful interference with the proceedings of the court. The court may, on its own motion or on the motion of any party, impose these sanctions for the interference: contempt citations; fines; and awards of costs, actual expenses, attorneys' fees, or any thereof arising from the interference. Report 2, p. 26, (October, 1971).

SETTLEMENT CONFERENCES

—At the trial setting conference or pretrial conference the court shall set a mandatory settlement conference which shall be conducted not less than 3 or more than 30 days prior to trial in all cases in which money damages are sought, except cases which require one day or less for trial.

COMMENT

In every civil case disposed of by trial rather than by pretrial settlement, there is an expenditure of judicial time and taxpayer money which is wasted if the case could have been fairly and justly settled short of trial. The Committee believes that this kind of waste is substantial, since a significant number of civil cases apparently go to trial when they could have been fairly settled had the appropriate conditions existed.

In view of overcrowded court calendars and in order to use our limited judicial resources efficiently, it seems imperative that the Legislature and the courts foster what the Committee believes are appropriate conditions for pretrial settlements in civil litigation: good faith negotiations between informed parties advised by experienced attorneys and, if necessary, by an experienced judge. The Committee therefore recommends the above rule and further recommends that the settlement conference be attended by all attorneys, all parties, and a representative with authority to settle from any insurance company involved, with each party required to file all experts' reports, list all special damages and make settlement offers and demands. These recommendations should be considered in conjunction with the Committee's earlier proposals to encourage pretrial settlement and penalize parties who unreasonably refuse to settle.*

California Rule of Court 207.5 provides for a "settlement conference" in any Superior Court civil case in which a conference is requested by any party to the case. The settlement conference contemplated in the present rule consists of an informal meeting of all attorneys in the case before a judge who attempts to achieve a settlement of the case at that time. A properly conducted settlement conference very often results in a settlement, and the Committee has concluded that the conference can be an even more useful and successful procedure for encouraging settlement if its scope and content are enlarged and it is required in all civil cases except short causes.

A settlement conference gives the court itself a definite opportunity to encourage settlement and to lend its expertise and persuasion to settlement negotiations. The judge often provides the exact catalyst necessary to accomplish an acceptable settlement. The attorneys and the

* Select Committee on Trial Court Delay, Report 3, pages 10-19 (October 1971).

parties, in formulating their settlement postures, usually give great weight to a judge's reaction to the case as it is presented by the pleadings and by the persons at the settlement conference. It is the rare case that does not warrant the most serious effort at settlement, and the extra judicial time required for settlement conferences should be far outweighed by the significant number of cases in which trial is avoided by settlement. The court should be afforded this opportunity to lend its expertise and encouragement to settlement in every civil case, with the exception of short causes, which can be disposed of more efficiently without a settlement conference.

The timing of settlement conferences is very important. The conference is not designed to settle cases immediately after filing, nor to settle cases before discovery has been completed. It is designed to provide a forum in which it can be determined upon complete information and final analysis whether the case can be settled or whether it must be tried. Its purpose is not to start negotiations, but to complete them. The Committee therefore recommends holding the settlement conference not more than four weeks and not less than three days prior to the trial date, since only at this time will each party have prepared his case to a point where accurate analysis and evaluation is possible, without the additional expenditure of time and money necessary for final trial preparations.

CONTINUANCES

- Continuances of pretrial conferences, trial setting conferences, settlement conferences and trials may not be permitted except upon noticed, written motions supported by written declarations which show to the satisfaction of the court that there is good cause for the continuance.
- Cases may not be placed off calendar except upon stipulation by the parties and a demonstration of good cause which satisfies the court or upon written, noticed motion supported by written declarations which show good cause. If a cause is removed from the calendar it may be returned to the civil active list only upon the filing of a new at-issue memorandum.
- Only the Presiding Judge or Master Calendar Judge shall hear and determine these and other matters which affect the calendar, such as motions to advance, reset, consolidate or strike an at-issue memorandum or certificate of readiness.
- If attorneys' vacations are to be accommodated counsel shall advise the court at the trial setting or pretrial conference of the dates they will be unavailable while on vacation which may be considered in

setting the trial date. The vacations of attorneys or parties engaged in an action shall not be grounds for a continuance after the trial date is set.

COMMENT

In March of 1971 the Presiding Judges of the Metropolitan Superior Courts agreed as follows:

As part of the practice of maintaining a firm trial date for each ready case, the superior courts should adopt a firm policy regarding any continuance of these cases. This policy should emphasize that the dates assigned for a trial setting or pretrial conference, a settlement conference, and for trial must be regarded by counsel as definite court appointments. Any continuance, whether contested or uncontested or stipulated to by the parties, must be applied for by noticed motion, with supporting declarations, to be heard by the presiding judge only or by a judge designated by him. No continuance otherwise requested should be granted except in emergencies.*

The Judicial Council subsequently adopted this recommendation as a Standard of Judicial Administration.

The Committee found, by contrast, that local practices with respect to continuances are lenient, vary widely, and fall far short of the objectives endorsed by the Presiding Judges' Workshop and the Judicial Council.

Trial dates, by stipulation of the parties, may be continued in 5 metropolitan Superior Courts or placed off calendar in 9 of them. By stipulation parties also are permitted, without court consent, to continue pretrial conferences, trial setting conferences or settlement conferences in at least 8 metropolitan Superior Courts. An even greater number of courts permit these conferences to be placed off calendar by stipulation. And, when trial continuances are sought by motion, only 7 metropolitan Superior Courts require written motions or supporting declarations. If the requested continuance involves a pretrial or trial setting conference a written motion with supporting declarations is required in only 2 of these courts and none of them requires a written motion to continue a settlement conference.

The result is simple. In the great majority of urban Superior Courts the parties and their attorneys control the court's schedule. The proposed rules place that control where it should be—in the hands of the court.

* Workshop for Presiding Judges of the Metropolitan Superior Courts, Statement of Participants' Recommendations, Item No. 3 (March 12, 1971).

COURT CALENDARS

- Courts with 5 or more judges shall maintain a master civil calendar and a master criminal calendar.
- All counsel whose trials are scheduled to commence must appear personally on the specified trial date, unless excused by the Presiding Judge or master calendar judge.
- Cases which are not assigned to trial on the date specified will not be required to report on following days but parties and counsel must be available for notification by telephone that a department is ready for the commencement of their trial.

COMMENT

The Committee has concluded that separate master calendars for civil and criminal cases would be a desirable management tool in our courts in view of the differing problems characteristic of penal and civil actions.

The proposal also requires attorneys to be present, unless excused by the Presiding Judge or the master calendar judge, on the date set for trial. There is no comparable statewide Rule of Court and local practices vary. The proposed rule corrects this and reflects the conclusion that courts should have all counsel present on the date of trial to adjust for settlements, to determine which trials actually are ready to commence, and to assign as much business as possible to the available judges. In addition, this furnishes the litigants the opportunity to reach settlements, sometimes with the assistance of the court, which previously have not been possible. As recognized by the proposal regarding firm trial dates, extraordinary circumstances may require that a case trail for a short time beyond the specified trial date. In those instances, daily appearances will not be required so long as the parties and counsel are available by telephone for notification that their trial may commence.

UTILIZATION OF JUDGES

- The utilization of judges for the trial of cases, particularly jury cases, should be maximized. To achieve this, all departments (with the exception of those with specialized full-time duty assignments such as domestic and juvenile courts) should be used for jury trials. Unless a court trial is of a priority nature it should follow the assignment of all available jury cases. The provisions of Rule of Court 248, concerning distribution of criminal business in Los Angeles and San Francisco Counties, are an approved exception.
- Trials shall be conducted in all available departments, Monday through

Friday, commencing not later than 9:30 a.m., continuing until 12:00 noon, reconvening at 1:30 p.m. and continuing at least until 4:30 p.m.

- The Presiding Judge shall assign for hearing at 9:00 a.m. or earlier, to continue until the hour specified by the Presiding Judge, the following civil matters to be handled as part-time assignments by one or more judges prior to commencement of the trial schedule: adoptions, probate, civil law and motion, defaults, minors' compromises, and mental health conservatorship hearings.
- The appellate department shall convene at least one day per month. Additional sessions may be convened but only if ordered by the Presiding Judge.
- Matters which must be heard by a specific judge, such as motions for a new trial or continued law and motion matters, shall be scheduled at 4:30 p.m. or at other times which do not interfere with the foregoing part-time assignments or the trial schedule.
- Cases shall be assigned to commence at any time a trial department becomes available between 9:30 a.m. and 4:30 p.m. Each department shall notify the Presiding Judge or person designated by him such as the master calendar secretary immediately upon becoming available (1) upon completion of any trial or hearing, (2) when a jury retires to deliberate, or (3) when the judge can proceed no further with his present assigned matter.
- A judge to whose department a trial or other matter is assigned shall accept that assignment unless he is disqualified or unless he deems that in the interest of justice the trial or matter should not be heard before him for other cause which must be stated in writing to and concurred in by the master calendar judge or the Presiding Judge.

COMMENT

This proposal remedies several deficiencies in existing Rules. There is no compulsion by rule at the present time designed to maximize the number of judges available to try cases—particularly jury cases. Court hours are a matter of local discretion and vary considerably around the State. Individual judges who have business which only they can perform are not required to schedule it in a manner that does not interfere with the overall schedule of the court. And, finally, some court business can be disposed of efficiently on a daily basis as a part-time assignment rather than a full-time assignment, and the proposal so provides. The remaining recommendations reinforce existing rules and the Committee's prior recommendations concerning the duties of the Presiding Judge,* particularly his duty to:

* Select Committee on Trial Court Delay, Report 2, pages 8-10 (October 1971).

(a) have prepared with the assistance of appropriate committees of the court such local rules as are required to expedite and facilitate the business of the court, including the establishment of times for convening regular sessions of the court not later than 9:30 a.m. for commencement of trials which shall continue to 12:00 noon, reconvene at 1:30 p.m. and continue at least until 4:30 p.m. except for other judicial assignments ordered by the presiding judge; submit such proposed rules for consideration of the judges of the court and upon approval have the proposed rules published and submitted to the local bar for consideration and recommendations; and thereafter have the court officially adopt the rules and file a copy with the Judicial Council as required by Section 68071 of the Government Code . . .

(g) require that the judge to whose department a case is assigned for trial shall accept such assignment unless he is disqualified therein or unless he deems that in the interest of justice the case should not be tried before him for other good cause, stated in writing to and concurred in by the master calendar judge or the presiding judge;

(h) require that when a judge has finished or continued the trial of a case or any special matter assigned to him, he shall immediately notify the master calendar judge or the presiding judge of that fact

PENAL PROCEEDINGS

- Time limits should be prescribed in penal proceedings to supplement existing statutes and rules to achieve the following maximum timetable in felony cases:
 1. Arrest to arraignment in Municipal Court—2 days (as provided by statute);
 2. Arraignment to plea—the defendant shall plead at the time of arraignment or the court shall enter a plea of not guilty except in those cases in which a sanity hearing is necessary or a demurrer is filed in which case the court may make an appropriate order;
 3. Arraignment to preliminary hearing—10 days (as provided by statute);
 4. Preliminary hearing to filing in the Superior Court—15 days (as provided by statute);
 5. Filing information in Superior Court to arraignment—3 days;
 6. Arraignment to plea in the Superior Court—the same rule as in the Municipal Court;

7. Arraignment in Superior Court to trial—60 days (as provided by statute);
8. Mandatory pretrial negotiating conference—to be held no more than 21 days prior to trial, unless combined with an omnibus hearing;
9. Pretrial negotiating conference:
 - (a) A date for the pretrial conference would be set during the Superior Court arraignment;
 - (b) The pretrial conference would follow disposition of pretrial motions;
 - (c) The conference would be conducted by the judge or judges designated by the Presiding Judge;
 - (d) The attendance of the defendant would be mandatory;
 - (e) Counsel for both sides would be required to attend, to be familiar with the contents of the transcript of the preliminary examination, and be prepared to discuss disposition of the case other than by trial;
 - (f) The prosecuting attorney assigned to the case would be prepared to state what disposition, if any other than trial, he is authorized to make, and would have the necessary authority on the date of the pretrial conference;
 - (g) Any arrangements arrived at during the negotiation would be entered on the case record in conformance with constitutional, statutory, and decisional guidelines;
 - (h) Following a mutual arrangement at the pretrial conference, the judge shall commit himself as to the maximum penalty to be imposed, provided, however, the defendant be advised that if the judge later decides that such a sentence would be inappropriate in light of the probation report and other available information, the defendant shall be allowed to withdraw his guilty plea prior to the actual sentencing.
 - (i) In the event approval of a plea is sought after the case is assigned to trial the case shall then be assigned back to the judge who conducted the plea bargaining at the pretrial conference, unless the case is otherwise assigned by the Presiding Judge.
10. Omnibus hearing—between the plea and no later than one week prior to the negotiating conference, unless combined with the conference, a hearing shall be held at which all pretrial motions shall be heard, subject to appropriate orders for good cause shown made by the judge hearing the motions.
11. At the time of arraignment and plea the court shall set the dates for the omnibus hearing, the pretrial negotiating conference, and the trial.

COMMENT

This proposal is intended to furnish a firm timetable for processing and disposing of criminal cases. There is an obvious management need for this and the resulting benefits to defendants and society are equally apparent. In addition, all but one Superior Court Presiding Judge contacted by the Committee favored such a system of time limits for completion of each stage of criminal proceedings. Implementation of the recommendations is relatively simple since several existing statutes and rules already pertain to many stages covered by the proposal.

The most notable changes embodied in the proposal are compulsory pretrial negotiating conferences and compulsory omnibus hearings. A majority of the Superior Court Presiding Judges contacted by the Committee favored this approach and it is consistent with the conclusions reached at the National Conference on the Judiciary:

Omnibus hearings should be used to screen cases which do not justify trial and to streamline those in which trial is necessary.

Plea bargaining, when the accused is properly represented and when adequate safeguards such as those recommended in the Standards of Criminal Justice are provided, is practical and proper where the court is assured through its own inquiry that the ultimate plea is a just one.*

GENERAL RECOMMENDATIONS AND

PROPOSED STANDARDS OF JUDICIAL ADMINISTRATION

The following proposals set forth self-explanatory rules and standards of judicial administration which the Committee has investigated and endorsed.

—Proposed rule

The Judicial Council should adopt a rule or take appropriate action to assure that each court has a civil active list as provided in Rule of Court 207 or a card file index of cases in which at-issue memoranda have been filed in order to furnish to the Presiding Judge or the master calendar judge that information which is necessary to manage the court's calendar.

—Proposed rule

The Judicial Council should adopt a rule similar to existing Rule 207 requiring each court to have a criminal active list which would be prepared monthly in the form of a list or card file index and which would provide the Presiding Judge or judge in charge of the master criminal calendar with that information which is necessary to manage the criminal cases on the court's calendar.

* National Conference on the Judiciary, Consensus Statement of Findings and Conclusions, Williamsburg, Virginia (March 11-14, 1971).

—*Proposed rule*

The Judicial Council should adopt a rule to obtain from each Superior Court a monthly statistical report of jury and nonjury cases set, continued, settled, placed off calendar, decided by the court and decided by a jury which shall be compiled and published annually by the Council.

—*Proposed rule*

The Judicial Council should adopt rules as authorized by the Welfare and Institutions Code, governing practice, procedure and calendar management in juvenile court proceedings.

—*Proposed Standard*

Whenever and wherever possible trial setting conferences and pre-trial conferences should be conducted by the Presiding Judge or Master Calendar Judge.

—*Proposed Standard*

The number of judges in branch court locations should be kept to a minimum. For maximum efficiency both cases and judges should be freely transferred between the main and branch court locations as needed.

—*Proposed Standard*

Each court should have an adequate number of research assistants to assist with such matters as law and motion and appellate decisions. The appropriate number of assistants for courts of varying sizes should be specified by the Council.

—*Proposed Standard*

To assist each court to comply with the proposed rules regarding utilization of judges, especially on part-time assignments, each court should have a sufficient number of paralegal personnel to permit the court to dispose of business in the following areas on a part-time basis utilizing one or more judges: i.e., probate, law and motion, adoptions, defaults, minors' compromises, and mental conservatorships.

—*Proposed Standard*

Each court should have a calendar secretary responsible for all matters relating to the trial calendar employed by the court and acting under the supervision of the Presiding Judge or Master Calendar Judge and the Court Administrator.

IMPLEMENTATION

Set forth in Appendix H are suggested changes in Rules of Court to implement the foregoing recommendations concerning calendar management.

APPENDICES

APPENDIX A

AREA ADMINISTRATIVE JUDGE

Reports to: Chief Justice

Supervises: Chief Judges of Superior Courts within a judicial administrative area

Area Court Administrator

Basic Function:

The Area Administrative Judge, acting on behalf of the Chief Justice, is responsible for providing direction and coordination of the management of Superior Courts within his administrative area including: balancing workloads among courts and judges; insuring statewide court policy implementation; identifying problem areas in court operations; coordinating efforts to improve judicial services; and assisting in the professional development of judicial personnel.

Principal Duties and Responsibilities:

1. Interprets statewide court objectives and operating policies to Superior Courts and reviews and approves plans and programs to meet these objectives and policies. Recommends changes to the Chief Justice, when needed, in statewide court objectives and policies based upon area conditions.
2. Reviews and recommends to the Chief Justice the number and boundaries of single and multicounty organizations within his administrative area and administrative divisions within Superior Courts and assists County Boards of Supervisors, as requested, in court location decisions.
3. Reviews court operations of each Superior Court to assure adherence to statewide court operating policies as well as to identify improvement opportunities in court management. Coordinates the development and implementation of court operational improvement programs through visitation teams, on-site counsel, and other approaches.
4. Advises and consults with the Chief Justice on all significant matters relating to the management and operations of courts within his area.
5. Assists Chief Judges in the selection, assignment and training of Commissioners. Coordinates professional development activities for all Judges and subordinate judicial officers within the area. Identifies replacement needs in judicial personnel due to anticipated attrition.

6. Evaluates the administrative performance of each Chief Judge and reports to the Chief Justice. Counsels with the Chief Justice on the appointment of Chief Judges.
7. Assigns, under authority of the Chief Justice, individual Judges and Commissioners among the courts within his area to maintain an appropriate balance in court workload.
8. Supervises the activities of the Area Court Administrator in his staff support role.
9. Reviews judicial and commissioner staffing levels proposed for each Superior Court and recommends judicial staffing plans to the Judicial Council.
10. Cooperates and works closely with other Area Administrative Judges in balancing workloads among areas and exchanging information relative to the improvement of court management and operations.
11. Keeps informed and disseminates information on all matters which can contribute to the efficiency and effectiveness of court management and operations, including new court management approaches and technologies.
12. Represents the Chief Justice in community, civic, and professional affairs relating to judicial administration in Superior Courts as well as to improve communications between the courts and the public they serve.
13. Reviews and recommends budgets to the Chief Justice concerning area administrative functions.

Principal Working Relationships:

1. Works closely with the Chief Justice in identifying the problems in Superior Court management and determining the corrective action required.
2. Works closely with staff support and resource personnel in the Administrative Office of the Courts to prepare organization and staffing recommendations relative to Superior Courts.
3. Works closely with other Area Administrative Judges to solve common court management problems.
4. Works closely with the Chief Judges of the Superior Courts in his area to provide support in internal court administrative matters.

Qualifications:

The Area Administrative Judge is a judge with demonstrated administrative ability and interest designated by the Chief Justice.

APPENDIX B

AREA COURT ADMINISTRATOR

Reports to: Area Administrative Judge

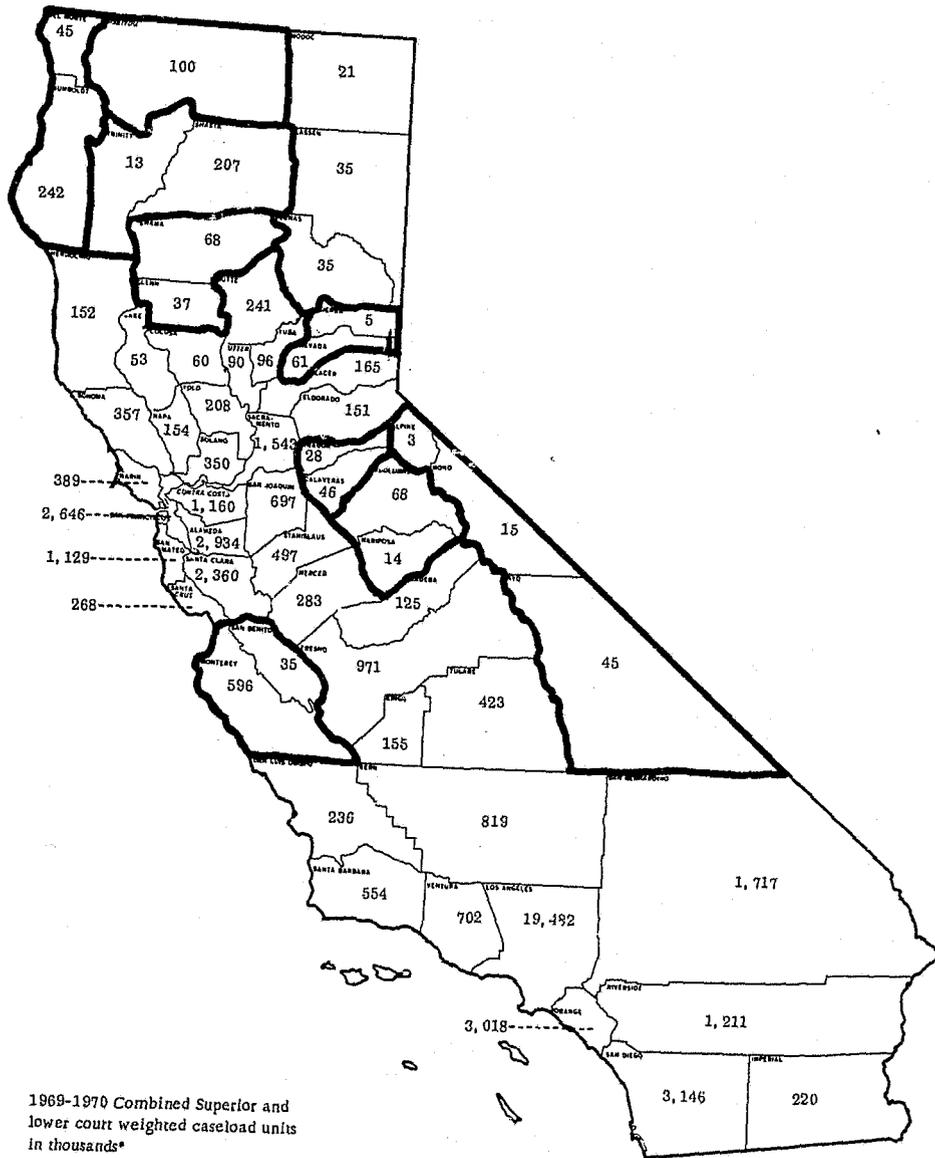
Basic Function:

The Area Court Administrator is responsible for providing staff and technical support in court management to the Area Administrative Judge in the performance of his area responsibilities. He also functions as a resource person in court management for Superior Court Administrators in his area.

Principal Duties and Responsibilities:

1. Assists the Area Administrative Judge in coordinating the management of Superior Courts within the area, including:
 - Preparation and analysis of regular reports on the status of calendar control in each of the courts.
 - Preparation and analysis of short-term plans pertaining to the assignment of judicial personnel and subordinate judicial officers among Superior Courts.
 - Preparation and analysis of reports on the compatibility of Superior Court plans and programs to statewide policies.
 - Preparation and analysis of plans regarding possible changes in the number and boundaries of multi-county organizations, administrative division within courts and court locations.
 - Assisting in the development and implementation of court operational improvement programs, including use of visitation teams, as coordinated by the Area Administrative Judge.
2. Advises and consults with Superior Court Administrators on new programs, systems, and techniques for improving court management and the processing of court workloads.
3. Coordinates the preparation and review of operating budgets, including judicial staffing levels, for Superior Courts. Counsels with Superior Court Administrators, as required, on the preparation and analysis of operating and capital outlay budgets.
4. Advises Superior Court Administrators on methods and procedures of collecting, handling, recording and distributing court revenues.
5. Counsels on the utilization of court facilities and automated data processing systems within the area to identify opportunities for improvement and, as required, coordinated usage.
6. Counsels with Superior Court Administrators in the selection and training of court attachés as well as replacement planning. Assists

APPENDIX D



1969-1970 Combined Superior and lower court weighted caseload units in thousands*

— Single county organization
 - - - Multi-county organization

* Justice Court workload is based on 1968-1969 filings

APPENDIX E

CHIEF JUDGE

Reports to: Area Administrative Judge

Supervises: Supervising Judges (As required)
 Judges
 Commissioners
 Superior Court Administrator

Basic Function:

The Chief Judge, acting on behalf of the Chief Justice, is responsible for planning and controlling the day-to-day management of his Superior Court, including: assigning and balancing caseloads among Judges and Commissioners; developing for approval and implementing court plans and programs consistent with statewide policies; selecting and training Commissioners; identifying and correcting problems in court operations; and directing, through the Superior Court Administrator, judicial and staff support activities.

Principal Duties and Responsibilities:

1. Develops for the approval of the Area Administrative Judge the annual plans and programs of the Superior Court for meeting statewide policies.
2. Establishes the administrative framework within the Superior Court and appoints Judges to administrative assignments as well as to standing and ad hoc committees. Assists County Boards of Supervisors, as requested, in court location decisions. Ensures court facilities meet minimum facility standards as established by the Judicial Council.
3. Working with the Area Administrative Judge, develops and implements a court operational and improvement program consistent with the unique operating requirements of the county.
4. Advises and consults with the Area Administrative Judge on all significant matters relating to the overall management of the Court.
5. Appoints and removes Commissioners, upon recommendations by a committee of Superior Court Judges, and assigns and trains Commissioners. Assists the Area Administrative Judge in professional development activities for Judges, as requested.
6. Evaluates, formally, the overall performance of each Commissioner annually and reviews his appraisal with the respective individual.
7. Assigns individual Judges and Commissioners to specialized divisions and court locations and supervises the calendaring of matters requiring hearing or trial.

8. Appoints the Superior Court Administrator from a list of qualified candidates supplied by the Administrative Office of the Courts and directs his judicial and staff support activities.
9. Directs the preparation of the Superior Court operating budget, including court staffing levels.
10. Designates another Judge in the Superior Court to act as Chief Judge in the case of his absence or disability.

Principal Working Relationships:

1. Works closely with the Area Administrative Judge in evaluating court performance, identifying problems and taking corrective action.
2. Works with other Chief Judges in surrounding Superior Courts in sharing resources to handle court workload and participates in inter-court or area court improvement projects.
3. Works with the staff support and resource personnel in the Administrative Office of the Courts, as required, in the development and implementation of new judicial plans and programs.
4. Works closely with various court related personnel such as the District Attorney, Public Defender, and law enforcement officials, and correction officials, to solve common problems which relate to the effectiveness of the criminal justice system.
5. Works closely with his Supervising Judge or Judges in expediting the business of the court.

Qualifications:

The Chief Judge is a judge with demonstrated administrative ability and interest designated by the Chief Justice, for a one year renewable term. The Chief Justice should appoint a Chief Judge in each county, except in counties within multicounty Superior Court administrative districts in which case he would appoint one for the entire district, and except in Los Angeles County in which he would appoint one for each district within the County.

APPENDIX F

SUPERIOR COURT ADMINISTRATOR

Reports to: Chief Judge

Supervises: Bailiffs
 Clerks
 Court Reporters
 Other Court Attachés

Basic Function:

The Superior Court Administrator, under the direction of the Chief Judge, is responsible for administering the staff and technical support functions of the court. He supervises the day-to-day activities of all court attachés to ensure that Judges and Commissioners receive the support required to render judicial services. He assists the Chief Judge, as required, in the overall planning and control of court management activities.

Principal Duties and Responsibilities:

1. Assists the Chief Judge in efficiently handling the judicial business within the court, including:
 - Preparation and analysis of basic information necessary in calendar management.
 - Preparation and analysis of short-term plans for the assignment of Judges and Commissioners within the court and the internal administrative organization within the Superior Court.
 - Preparation and analysis of plans regarding court locations and facilities, as required.
 - Assisting in the development and implementation of operational improvement programs within the court.
2. Selects, assigns, trains, and evaluates the performance of Bailiffs, Clerks, Court Reporters and other court attachés under the direction of the Chief Judge.
3. Assists the judges in supervising the activities of Bailiffs, Clerks, Court Reporters and all other court attachés under the direction of the Chief Judge.
4. Advises and consults with the Chief Judge on all significant matters relating to the management of the Superior Court.
5. Prepares and recommends the annual operating and capital outlay budget for the Superior Court, including manpower levels, for approval by the Chief Judge.
6. Directs the collection, handling, recording, and distributing of all court revenues according to established procedures.

7. Monitors the utilization and adequacy of court facilities and recommends needed improvements to the Chief Judge.
8. Develops and implements plans pertaining to automated data processing activities within the court consistent with area or statewide coordinated data processing ventures.
9. Maintains an adequate and up-to-date law library to be used for legal research and makes these resources available to all judicial personnel.
10. Collects, screens and disseminates information on judicial administration improvements and coordinates meetings within the court on these subjects.
11. Directs the activities and procedures pertaining to jury selection.
12. Serves as the public information officer for the Superior Court and provides information as approved by the Chief Judge, to external groups.
13. Collects, analyzes, and disseminates judicial statistics required by the Judicial Council and needed within the Superior Court for assessing court performance.
14. Conducts special studies, as requested by the Chief Judge.

Principal Working Relationships:

1. Works closely with other Superior Court Administrators to ensure that effective working relationships are maintained.
2. Works closely with the Area Court Administrator to ensure that good communication exists and court management problems are solved.

Qualifications:

The Superior Court Administrator should have at least five years of significant administrative experience and a degree in law, public or business administration or its equivalent.

APPENDIX G

**UNIFIED TRIAL COURT
PROPOSED LEGISLATION**

Preface

The following provisions set forth suggested changes in the California Constitution, statutes, and rules of court to implement the Committee's unified trial court proposal.

The constitutional provisions concerning associate superior court judges are transitional in that this class of judges eventually will terminate as will the need for these provisions. For this reason these provisions are placed in Article XXII (Schedule) which is designed for this purpose rather than in Article VI (Judiciary).

The statutory provisions are appended to the existing Government Code sections concerning the courts. However, it will be necessary at some future time to repeal existing statutory provisions which are inconsistent with or superseded by these new sections. Assuming adoption of the proposed constitutional and statutory provisions, it may prove desirable to create a Judicial Code containing all statutes pertaining to the courts and at that time eliminate those provisions in the Government Code which are no longer appropriate.

In addition to the statutes proposed here it will be necessary to (1) condition their enactment upon voter approval of the proposed constitutional changes, and (2) provide for funding of the area administrative system in the 1972 legislation which furnishes funds for the Judicial Council.

Article VI

JUDICIAL*

SECTION 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, *and* superior courts. ~~municipal courts, and justice courts. All except justice courts are courts of record.~~

SEC. 2. The Supreme Court consists of the Chief Justice of California and 6 associate justices. The Chief Justice may convene the court at any time. Concurrence of 4 judges present at the argument is necessary for a judgment.

An acting Chief Justice shall perform all functions of the Chief Justice when he is absent or unable to act. The Chief Justice or, if he fails to do so, the court shall select an associate justice as acting Chief Justice. (No change.)

SEC. 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division con-

* Changes in existing provisions are identified by striking out deletions and italicizing additions.

sists of a presiding justice and 2 or more associate justices. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges present at the argument is necessary for a judgment.

An acting presiding justice shall perform all functions of the presiding justice when he is absent or unable to act. The presiding justice or, if he fails to do so, the Chief Justice shall select an associate justice of that division as acting presiding justice. (No change.)

SEC. 4. In each county there is a superior court. ~~of one or more judges.~~ The Legislature shall prescribe the number of *superior court* judges, *provide for the organization of the superior courts*, and *provide for the officers and employees of each the superior courts.* ~~If the governing body of each affected county concurs, The Legislature may provide that one or more judges serve more than one superior court.~~

~~The county clerk is ex officio clerk of the superior court in his county.~~

SEC. 5. ~~Each county shall be divided into municipal court and justice court districts as provided by statute, but a city may not be divided into more than one district. Each municipal and justice court shall have one or more judges.~~

~~There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.~~

~~The Legislature shall provide for the organization and prescribe the jurisdiction of municipal and justice courts. It shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees.~~

SEC. 6.5. The Judicial Council consists of the Chief Justice as chairman and one other judge of the Supreme Court. 3 judges of courts of appeal, 5-10 judges of superior courts, 3 judges of municipal courts, and 2 judges of justice courts, each appointed by the chairman for a 2-year term; 4 members of the State Bar appointed by its governing body for 2-year terms; and one member of each house of the Legislature appointed as provided by the house.

Council membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council ~~may~~ shall appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or its chairman, other than adopting rules of court administration, practice and procedure, or *judicial reorganization plans*.

The council shall adopt rules for court administration, practice, and procedure, and may adopt judicial reorganization plans. These rules and

plans shall be consistent with this Constitution. An adopted plan or rule which conflicts with a statute may not take effect if disapproved in writing by the Legislature, a majority of the membership concurring, within 6 months following the date of submission to the Legislature.

~~To improve the administration of justice~~ The council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, ~~adopt rules for court administration, practice and procedure, not inconsistent with statute,~~ and perform other functions prescribed by statute.

The chairman shall seek to expedite judicial business and to equalize the work of judges; he may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the chairman as he directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

SEC. 7.6. The Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district or, if there are 2 or more presiding justices, the one who has presided longest or, when a nomination or appointment to the Supreme Court is to be considered, the presiding justice who has presided longest on any court of appeal. (No change.)

SEC. 8.7. The Commission on Judicial Qualifications consists of 2 judges of courts of appeal, and 2-3 judges of superior courts, ~~and one judge of a municipal court,~~ each appointed by the Supreme Court; 2 members of the State Bar who have practiced law in this State for 10 years, appointed by its governing body; and 2 citizens who are not judges, retired judges, or members of the State Bar, appointed by the Governor and approved by the Senate, a majority of the membership concurring. All terms are 4 years.

Commission membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

SEC. 9.8. The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge ~~of a court of record~~.

SEC. 10.9. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.

Superior courts have original jurisdiction in all other causes. ~~except those given by statute to other trial courts.~~

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

SEC. ~~11~~ 10. The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. ~~With that exception~~ Courts of appeal have appellate jurisdiction ~~when superior courts have original jurisdiction and in~~ in all other causes ~~prescribed by statute, except that each superior court has~~ has appellate jurisdiction in causes ~~prescribed by statute that arise in municipal and justice courts in their counties, determined by commissioners.~~

The Legislature may permit appellate courts to take evidence and make findings of fact when jury trial is waived or not a matter of right.

SEC. ~~12~~ 11. The Supreme Court may, before decision becomes final, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction. (No change.)

SEC. ~~13~~ 12. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice. (No change.)

SEC. ~~14~~ 13. The Legislature shall provide for the prompt publication of such opinions of the Supreme Court and courts of appeal as the Supreme Court deems appropriate, and those opinions shall be available for publication by any person.

Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated. (No change.)

SEC. ~~15~~ 14. A person is ineligible to become a judge of a court of record unless for ~~5 years immediately preceding selection to a municipal court or 10 years immediately preceding selection to other courts,~~ he has been a member of the State Bar. ~~or served as a judge of a court of record in this State. A judge eligible for municipal court service may be assigned by the chairman of the Judicial Council to serve on any court.~~

SEC. ~~16~~ 15. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their election, except that a judge elected to an unexpired term serves the remainder of the term. In creating a new court of appeal district

or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) Judge of ~~other superior~~ superior courts shall be elected in their counties ~~or districts~~ at general elections. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

(c) Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) Within 30 days before August 16 preceding the expiration of his term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed himself. If he does not, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether he shall be elected. If he receives a majority of the votes on the question he is elected. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which he had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.

SEC. ~~17~~ 16. A judge of a court of record may not practice law and during the term for which he was selected is ineligible for public employment or public office other than judicial employment or judicial office. A judge of the superior ~~or municipal~~ court may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge.

A judicial officer may not receive fines or fees for his own use.

SEC. ~~18~~ 17. (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging him in the United States with a crime punishable as a felony under California or federal law, or (2) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his removal or retirement.

(b) On recommendation of the Commission on Judicial Qualifications or on its own motion, the Supreme Court may suspend a judge from office without salary when in the United States he pleads guilty or no contest or is found guilty of a crime punishable as a felony under California or federal law or of any other crime that involves moral turpitude under that law. If his conviction is reversed suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final the Supreme Court shall remove him from office.

(c) On recommendation of the Commission on Judicial Qualifications the Supreme Court may (1) retire a judge for disability that seriously interferes with the performance of his duties and is or is likely to become permanent, and (2) censure or remove a judge for action occurring not more than 6 years prior to the commencement of his current term that constitutes wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(d) A judge retired by the Supreme Court shall be considered to have retired voluntarily. A judge removed by the Supreme Court is ineligible for judicial office and pending further order of the court he is suspended from practicing law in this State.

(e) The Judicial Council shall make rules implementing this section and providing for confidentiality of proceedings. (No change.)

~~SEC. 19-18.~~ The Legislature shall prescribe compensation for judges of courts of record.

A judge of a court of record may not receive his salary while any cause before him remains pending and undetermined for 90 days after it has been submitted for decision.

~~SEC. 20-19.~~ The Legislature shall provide for retirement, with reasonable allowance, of judges of courts of record for age or disability.

~~SEC. 21-20.~~ On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause. (No change.)

~~SEC. 22-21.~~ The Legislature may shall provide for the appointment by trial superior courts of record of officers such as commissioners to perform subordinate judicial duties. No other subordinate judicial position may be created.

~~SEC. 22.~~ The Legislature shall provide for a statewide system of court employees.

Article XXII SCHEDULE

SECTION 8. Judges serving on Municipal Courts on January 1, 1974, shall on that date become associate superior court judges in the county in which they are serving. Judges serving on Justice Courts on January 1, 1974, shall on that date become associate superior court judges in the county in which they are serving if they have been a member of the State Bar for the immediately preceding 5 years. Associate superior court judges are qualified to become superior court judges. A person may not become an associate superior court judge except as prescribed in this section, and the Legislature may not create additional positions for associate superior court judges nor may the Governor appoint a person to fill a vacant position for an associate superior court judge. The terms are 6 years beginning the Monday after January 1, 1974, and their salary shall at least equal the salary of a municipal court judge on January 1, 1974, but may not exceed the salary of a superior court judge. The provisions applicable to superior court judges in Article VI, Sections 5, 7, 15 (b), and 15 (c), except the provision for filling vacancies, apply to associate superior court judges. Justice court judges who do not become associate superior court judges shall on January 1, 1974, become superior court commissioners in the county in which they are serving.

CALIFORNIA GOVERNMENT CODE

Title 8, Chapter 11

Section 75110. Trial Court Administrative Areas

The Judicial Council shall adopt rules dividing the State into 5 or more trial court administrative areas consisting of one or more entire counties.

Section 75111. Area Administrative Judge

The Chairman of the Judicial Council shall appoint a judge serving in each trial court administrative area to serve as area administrative judge for a term of one year during which he shall receive the same salary as a court of appeal justice.

Section 75112. Area Court Administrator

An area court administrator, approved by the area administrative judge, shall be appointed by the Administrative Director of the Courts in each trial court administrative area to serve at the pleasure of the area administrative judge.

Section 75113. Compensation and Expenses of Area System

The expense of the trial court administrative area system including offices and the salaries of area administrative judges, area court admin-

istrators, and staffs shall be paid from funds appropriated for support of the Judicial Council.

Section 75114. Superior Court Administrative Districts

Each county shall constitute a superior court administrative district, except as provided in Sections 75115 and 75116.

Section 75115. Multi-County Superior Court Administrative Districts

A county which has insufficient judicial business, as measured by statewide standards which shall be adopted by the Judicial Council, to require the full-time services of a superior court judge may be combined with an adjacent county or counties into a multi-county superior court administrative district which shall have sufficient judicial business to require the full-time services of one or more superior court judges.

Section 75116. Los Angeles County

Los Angeles County shall be divided into 2 or more superior court administrative districts.

Section 75117. Creation of Districts by Rule

Superior court administrative districts within Los Angeles County or districts encompassing multiple counties may only be created by rules adopted by the Judicial Council.

Section 75118. Chief Judges

The Chairman of the Judicial Council shall appoint a judge serving in each superior court administrative district to serve as chief judge for a term of one year.

Section 75119. Superior Court Administrators

The chief judge in each superior court administrative district shall appoint a superior court administrator from a list of qualified persons prepared by the Administrative Office of the Courts to serve at the pleasure of the chief judge.

Section 75120. Qualifications and Duties

The Judicial Council shall by rule prescribe the qualifications and duties of area administrative judges, area court administrators, chief judges, and superior court administrators.

Section 75121. Acting Superior Court Judges

An area administrative judge may assign one or more associate superior court judges within his area to serve as acting superior court judges for terms of not less than one month or more than 12 months during which they shall receive the same salary as a superior court judge.

Section 75122. Commissioners

The chief judge in each superior court administrative district shall appoint one or more commissioners, approved by a majority of the judges serving within that district, from a list of qualified persons prepared by a committee of judges serving within that district. Commissioners shall serve at the pleasure of the chief judge.

Section 75123. Number of Commissioners

The Judicial Council shall prescribe the number of commissioners to be appointed in each superior court administrative district according to statewide standards which the Judicial Council shall adopt for the measurement of judicial business.

Section 75124. Commissioner Qualifications

A commissioner must be a member of the State Bar when appointed and must have been authorized to practice law in California or another state for at least 5 years immediately preceding his appointment, except that persons serving on January 1, 1974, as juvenile court referees, traffic court referees, or commissioners shall on that date become commissioners in the superior court administrative district encompassing the court by which they were employed.

Section 75126. Extraordinary Appointments

The Judicial Council may authorize the appointment of a person as a full-time or part-time commissioner, if the Council determines that no qualified person is available in a county for appointment as a commissioner or that it would be impractical for a judge or full-time commissioner to hold court sessions in a particular location. A practicing attorney may not be appointed as a part-time commissioner. To qualify for appointment under this section, a person must pass an examination administered by the Judicial Council.

Section 75127. Prohibition Against Practice of Law

Commissioners may not practice law.

Section 75128. Commissioners' Duties

The subordinate judicial duties which commissioners may perform are to hear, decide, and enter orders in causes involving infractions; small claims; preliminary felony hearings; misdemeanors in which the maximum possible sentence is a fine or imprisonment not exceeding 6 months; uncontested probate matters, except applications for extraordinary fees; family relations, except contested trials and contempt hearings; and proceedings in juvenile court, subject to the provisions in the Juvenile Court Law, Welfare and Institutions Code, §§500-930.

Section 75129. Court Employees

The Administrative Office of the Courts shall by June 1, 1973, submit for approval by the Legislature a statewide system of all court employees and commissioners which shall provide for classified positions, qualifications, selection, compensation, promotion, discipline, dismissal, and retirement. This system shall become effective January 1, 1974 and shall be administered by the Administrative Office of the Courts.

Section 75130. Court Finances

The Judicial Council shall by June 1, 1973, submit for adoption by the Legislature a proposed statute to become effective January 1, 1974 providing for funding by the State of the non-capital expenses of the court system.

Section 75131. Court Facilities

The location and adequacy of facilities furnished by a county for use by a superior court in that county are subject to approval by the Judicial Council.

Section 75132. Administrative Office of the Courts

The Administrative Director of the Courts, under the supervision of the Chairman of the Judicial Council, shall employ, organize and direct a staff which shall be known as the Administrative Office of the Courts and which shall be operated as the staff agency to assist the Council and its chairman in carrying out their duties under the Constitution and laws of the state.

DIVISION II

RULES FOR TRIAL COURT ADMINISTRATION

CHAPTER I. TRIAL COURT ADMINISTRATIVE AREAS

Rule 1401. Establishment of Administrative Areas

The state is divided into the following trial court administrative areas, each area to consist of the following entire counties:

Area I —*Los Angeles*

Area II —*South*

Imperial, Orange, Riverside, San Bernardino and San Diego Counties.

Area III—*Central*

Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, Stanislaus, Tulare, Tuolumne and Ventura Counties.

Area IV—*Bay Area*

Alameda, Contra Costa, San Francisco, San Mateo and Santa Clara Counties.

Area V—*North*

Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Sierra, Shasta, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba Counties.

Rule 1402. Headquarters of Administrative Areas

Headquarters for each administrative area shall be established in the following cities:

Area I —*Los Angeles*

Area II —*San Diego*

Area III—*Fresno*

Area IV—*San Francisco*

Area V—*Sacramento*

CHAPTER II. QUALIFICATIONS AND DUTIES OF AREA ADMINISTRATIVE JUDGES

Rule 1406. *Qualifications*

Area administrative judges shall be selected on the basis of their administrative qualifications and interest in matters of judicial administration. While serving as administrative judges they shall be relieved of their regular duties and shall devote their full time to their duties and responsibilities as area administrative judges.

Rule 1407. *Duties of Area Administrative Judges*

The basic function of an area administrative judge is to act on behalf of the Chief Justice of California, in his capacity as Chairman of the Judicial Council. The area administrative judge shall provide policy direction and coordination in the management of superior courts within his administrative area including: balancing workloads among courts and judges; insuring that statewide court policies are implemented; identifying problem areas in court operations; coordinating efforts to improve judicial services; and assisting in the professional development of judicial personnel. The specific duties and responsibilities of an area administrative judge are as follows:

- (1) Communicates to superior courts, on behalf of the Judicial Council, statewide court objectives and operating policies. Reviews and approves superior court plans and programs to meet these objectives and conform with these policies. Recommends changes to the Judicial Council, when needed, in statewide court objectives and operating policies based upon area conditions.
- (2) Reviews and recommends to the Judicial Council the number and boundaries of judicial districts within his administrative area. Assists County Boards of Supervisors, as requested, in decisions concerning the location and adequacy of superior court facilities.
- (3) Reviews superior court operations as to conformity with statewide court operating policies and assists in identifying improvement opportunities in trial court management. Coordinates the development and implementation of superior court operational improvement programs through visitation teams, on-site counsel, and other approaches.
- (4) Advises and consults with the Chairman of the Judicial Council on all significant matters relating to the management and operations of superior courts within his area, including evaluating the performance of each Chief Judge and counseling with the Chief Justice on the appointment of Chief Judges.
- (5) Assists superior courts in the selection, assignment and training of commissioners. Coordinates professional development activities

for judges and commissioners. Consults with individual courts regarding need for additional judicial and nonjudicial personnel.

- (6) Assigns, under a delegation of authority from the Chairman of the Judicial Council, individual judges among superior courts to maintain an appropriate balance in court workload.
- (7) Supervises the activities of the area court administrator in his staff support role.
- (8) Reviews judicial and commissioner staffing levels proposed for each superior court and recommends judicial staffing plans to the Chairman of the Judicial Council.
- (9) Cooperates and works closely with other area administrative judges in balancing workloads among areas and exchanging information relative to the improvement of superior court management and operations.
- (10) Keeps informed and disseminates information on all matters which can contribute to the efficiency and effectiveness of trial court management and operations, including new court management approaches and technologies.
- (11) Represents the Judicial Council in community, civic, and professional affairs relating to judicial administration in trial courts and endeavors to improve communications between the courts and the public.
- (12) Reviews and recommends budgets to the Judicial Council concerning area administrative functions.
- (13) Performs such other duties as may be assigned or delegated to him by the Chairman of the Judicial Council.

CHAPTER III. APPOINTMENT AND DUTIES OF AREA COURT ADMINISTRATORS

Rule 1411. *Appointment*

After consultation with, and subject to the approval of, the area administrative judge for each trial court administrative area, the Administrative Director of the Courts shall appoint a person in each area to serve at the pleasure of the area administrative judge as area court administrator. In the selection of area court administrators preference shall be given to persons who are graduates of an accredited university or college with a degree in law, public administration, business administration, personnel, accounting, or related fields and have a minimum of five years' experience in a responsible management capacity in a public agency or in private business, coupled with specialized training as court administrators.

Rule 1412. Duties

The basic function of an area court administrator is to provide staff and technical support in court management to the area administrative judge in the performance of his area responsibilities and to function as a resource person in court management for trial court administrators in his area. The specific duties and responsibilities of an area court administrator are as follows:

- (1) Assists the area administrative judge in coordinating the management of superior courts within the area, including:
 - a. Preparation and analysis of regular reports on the status of calendar control in each of the superior courts.
 - b. Preparation and analysis of short-term plans pertaining to the assignment of judicial personnel and subordinate judicial officers among superior courts.
 - c. Preparation and analysis of reports on the compatibility of superior court plans and programs to statewide policies.
 - d. Preparation and analysis of possible changes in the number and boundaries of multicounty districts, administrative divisions within courts and court locations.
 - e. Assisting in the development and implementation of court operational improvement programs, including use of visitation teams, as coordinated by the area administrative judge.
- (2) Advises and consults with trial court administrators on new programs, systems and techniques for improving court management and the processing of court workloads.
- (3) Coordinates the preparation and review of operating budgets which are state financed for the superior courts. Counsels with superior court administrators, as required, on the preparation and analysis of capital budgets which are county finances.
- (4) Advises superior court administrators on methods and procedures of collecting, handling, recording and distributing court revenues.
- (5) Counsels on the utilization of court facilities and automated data processing systems within the area to identify opportunities for improvement and, as required, coordinated usage.
- (6) Counsels with superior court administrators in the training of court attachés as well as replacement planning. Assists the area administrative judge in professional development activities for judges and commissioners.
- (7) Coordinates the flow of information regarding changes in statewide court operating policies, new laws, new court decisions and statistical reporting.

- (8) Provides advice and counsel to superior courts on jury selection techniques and procedures.
- (9) Coordinates the public information activities among superior courts in the area and acts as spokesman for the area administrative judge, as delegated.
- (10) Conducts special studies as requested by the area administrative judge or Director of the Administrative Office of the Courts.
- (11) Counsels with chief judges on the appointment of superior court administrators.
- (12) Performs such other duties as may be assigned to him by the area administrative judge.

CHAPTER IV. SUPERIOR COURT ADMINISTRATIVE DISTRICTS

Rule 1421. Single County Districts

Each of the following counties is a superior court administrative district:

1. Alameda	13. Merced	25. Santa Barbara
2. Butte	14. Napa	26. Santa Clara
3. Colusa	15. Orange	27. Santa Cruz
4. Contra Costa	16. Placer	28. Siskiyou
5. Fresno	17. Riverside	29. Solano
6. Imperial	18. Sacramento	30. Sonoma
7. Kern	19. San Bernardino	31. Stanislaus
8. Kings	20. San Diego	32. Sutter
9. Lake	21. San Francisco	33. Tulare
10. Madera	22. San Luis Obispo	34. Ventura
11. Marin	23. San Joaquin	35. Yolo
12. Mendocino	24. San Mateo	36. Yuba

Each of the following combinations of counties is a multicounty superior court administrative district:

1. Alpine-El Dorado	6. San Benito-Monterey
2. Mono-Inyo	7. Shasta-Trinity
3. Amador-Calaveras	8. Sierra-Nevada
4. Humboldt-Del Norte	9. Tehama-Glenn
5. Modoc-Lassen-Plumas	10. Tuolumne-Mariposa

Rule 1423. Divided County Districts

Los Angeles County is divided into nine superior court administrative districts with the same boundaries as that County's branch court districts as of January 1, 1973.

CHAPTER V. QUALIFICATIONS AND DUTIES OF CHIEF JUDGES

Rule 1431. Qualifications

Chief judges shall be selected on the basis of their administrative qualifications and interest in matters of judicial administration.

Rule 1432. Duties

The basic function of the chief judge is to be responsible for planning and controlling the day-to-day management of his court including: assigning and balancing caseloads among judges and commissioners; developing for approval and implementing court plans and programs consistent with statewide policies; selecting and training commissioners; identifying and correcting problems in court operations; and directing, through the superior court administrator, judicial and staff support activities. The specific duties and responsibilities of the chief judge are as follows:

- (1) Develops for the approval of the area administrative judge the annual plans and programs of his court for meeting statewide policies.
- (2) Establishes the administrative framework within the court and appoints judges to assignments as well as to standing and temporary committees. Assists county boards of supervisors, as requested, in court location decisions. Insures that court facilities meet minimum facility standards as established by the Judicial Council.
- (3) Working with the area administrative judge, develops and implements a court operational and improvement program consistent with the unique operating requirements of the district.
- (4) Advises and consults with the area administrative judge on all significant matters relating to the overall management of the court.
- (5) Appoints and removes commissioners, upon recommendations by a committee of superior court judges, and assigns and trains commissioners. Assists the area administrative judge in professional development activities for judges, as requested.
- (6) Evaluates, formally, the overall performance of each commissioner annually and reviews his appraisals with the respective individuals.
- (7) Assigns individual judges and commissioners to specialized divisions and court locations and supervises the calendaring of matters requiring hearing or trial.
- (8) Appoints the superior court administrator from a list of qualified candidates supplied by the Administrative Office of the Courts and directs the administrator's activities.
- (9) Directs the preparation of the superior court operating budget.
- (10) Designates another judge in the superior court to act as chief judge in the case of his absence or disability.

CHAPTER VI. SUPERIOR COURT ADMINISTRATOR

Rule 1436. Appointment

The chief judge shall appoint a court administrator from a list of qualified candidates provided by the Administrative Office of the Courts. In the selection of area court administrators preference shall be given to persons who are graduates of an accredited university or college with a degree in law, public administration, business administration, personnel, accounting, or related fields and have a minimum of five years' experience in a responsible management capacity in a public agency or in private business, coupled with specialized training as court administrators.

Rule 1437. Duties

The basic function of the superior court administrator acting under the direction of the chief judge, is to be responsible for administering the staff and technical support functions of the court. He assists the chief judge, as required, in the overall planning and control of court management activities. The specific duties and responsibilities of a superior court administrator are as follows:

- (1) Assists the chief judge in efficiently handling the judicial business within the court, including:
 - a. Preparation and analysis of basic information necessary in calendar management.
 - b. Preparation and analysis of short-term plans for the assignment of judges and commissioners within the court and the internal administrative organization within the superior court.
 - c. Preparation and analysis of plans regarding court locations and facilities, as required.
 - d. Assisting in the development and implementation of operational improvement programs within the court.
- (2) Under the direction of the chief judge selects, assigns, trains and evaluates the performance of bailiffs, clerks, court reporters and other court attachés.
- (3) Assists the judges in supervising the activities of bailiffs, clerks, court reporters and all other court attachés, and communicates all matters involving court plans and procedures to court attachés.
- (4) Advises and consults with the chief judge on all significant matters relating to the management of the superior court.
- (5) Prepares and recommends the annual operating and capital outlay budget for the superior court for approval by the chief judge.

- (6) Directs the collecting, handling, recording, and distributing of all court revenues according to established procedures.
- (7) Monitors the utilization and adequacy of court facilities and recommends needed improvements to the chief judge.
- (8) Develops and implements plans pertaining to automated data processing activities within the court consistent with area or state-wide coordinated data processing ventures.
- (9) Maintains an adequate and up-to-date law library to be used for legal research and makes these resources available to all judicial personnel.
- (10) Collects, screens and disseminates information on judicial administration and coordinates meetings within the court on these subjects.
- (11) Directs the activities and procedures pertaining to jury selection.
- (12) Serves as the public information officer for the superior court and provides information, as approved by the chief judge, to external groups.
- (13) Collects, analyzes, and disseminates judicial statistics required by the Judicial Council and needed within the superior court for assessing court performance.
- (14) Conducts special studies, as requested by the Chief Judge.

STANDARDS OF JUDICIAL ADMINISTRATION

The chief judge in each superior court administrative district may assign an associate superior court judge to any department or to hear any matter but, when possible, matters within the jurisdiction of the Municipal Courts on December 31, 1974, shall be assigned to associate superior court judges.

APPENDIX H
CALENDAR MANAGEMENT
PROPOSED RULES
OF COURT

Preface

This appendix contains suggested rules of court which will implement the Committee's calendar management proposals if adopted by the Judicial Council.

The proposed rules affecting civil cases are recommended for inclusion in Title 2, Division I, of the Rules for the Superior Courts. The proposed rules commence with number 201 simply because that is the first number in the applicable existing rules.

It is important to note that these proposed rules, together with recommendations in the other reports by this Committee, affect and in many cases supersede existing rules of court. The Committee contemplates that the Judicial Council will take this opportunity to review and revise its rules of court to incorporate new proposals and to eliminate provisions which are superseded, inconsistent or obsolete.

In this connection the Committee recommends creation of a new division IV in the Superior Court rules devoted to penal proceedings.

TITLE TWO. DIVISION I.
Rules for the Superior Courts
CIVIL

Rule 201. Trial Dates

- (a) Each court shall assign firm trial dates to cases which are ready for trial and assure that trials commence on the assigned date.
- (b) If extraordinary circumstances prevent a trial from commencing the court may trail the case no more than 4 court days beyond the assigned date.
- (c) The court administrator, or his designated representative, acting under supervision of the presiding judge or master calendar judge, is responsible for the availability and control of trial dates.

Rule 202. Certificates of Readiness

- (a) A certificate of readiness shall be filed in every case in a court with 5 or more judges.
- (b) A court may require that the certificate be filed with the at-issue memorandum if a trial date within 12 months of filing the at-issue memorandum can be assigned. Other courts shall invite

parties with actions on the civil active list to file a certificate of readiness when a trial date within the next 6 months can be assigned. If a certificate is not filed within 30 days following the date of that invitation the case shall be removed from the civil active list and may be returned to that list only by filing a new at-issue memorandum.

- (c) Any party may file a certificate if the party certifies that all discovery and motions in the case will be concluded prior to the pretrial or trial setting conference.
- (d) A party who objects to statements in the certificate may within 10 days after service of the certificate file a written motion to strike the certificate, supported by a declaration setting forth the objections.

Rule 203. Completion of Discovery

- (a) Parties shall conclude discovery and motions prior to the pretrial or trial setting conference.
- (b) Discovery may be conducted subsequent to the conference only:
 - (1) By stipulation among the parties;
 - (2) If permitted by the court, for good cause shown, by granting a motion made at the conference;
 - (3) If permitted by the court subsequent to the conference by granting a written, noticed motion supported by a written declaration showing good cause; or
 - (4) If the trial is not scheduled to commence within 90 days of the conference or the court on its own motion causes the trial to commence more than 90 days after the conference in which instance discovery is reopened to within 30 days of the trial date.

Rule 204. Pretrial and Trial Setting Conferences

- (a) A court with 5 or more judges shall promptly schedule a pretrial or trial setting conference when a certificate of readiness is filed in a case requiring more than one trial day.
- (b) The court shall notify the parties at least 60 days prior to the date of the conference which shall be conducted within 90 days of trial.
- (c) The attorneys for the parties shall appear at the conference and, in a manner prescribed by the court, furnish the information necessary to complete a conference order.
- (d) The court shall enter a trial setting conference order which shall determine:
 - (1) The number of sides and the peremptory jury challenges to be allocated to each side if a jury is demanded;

- (2) That the case is at issue and that all parties necessary to its disposition have been served or have appeared;
 - (3) That fictitious named defendants are dismissed, or severed from the action and ordered off calendar;
 - (4) That all discovery and motions are concluded;
 - (5) Additional discovery and motions which have been permitted for good cause;
 - (6) The name of the attorney who actually will try the case, if this information is required by the court;
 - (7) The date for a mandatory settlement conference not less than 3 or more than 30 days prior to trial, if the case involves a prayer for monetary damages;
 - (8) A firm trial date not less than 30 or more than 90 days after the conference and the time estimated for trial; and
 - (9) Any additional matter which does not conflict with statutes or other rules.
- (e) Pretrial conferences may be conducted only if ordered by the court prior to notice of the trial setting conference or if requested by a party in a certificate of readiness.

Rule 205. Settlement Conferences

Each court shall conduct a settlement conference not less than 3 or more 30 days prior to trial if a case involves a prayer for money damages and requires more than one trial day.*

Rule 206. Continuances

- (a) Trials and pretrial, trial setting, or settlement conferences may not be continued beyond their assigned dates unless the court grants a written, noticed motion supported by a written declaration showing good cause.
- (b) A case may not be placed off the court's calendar unless the parties so stipulate for a good cause which is accepted by the court or unless the court grants a written, noticed motion supported by a written declaration showing good cause.
- (c) A case shall be removed from the civil active list when placed off the court's calendar and may be returned to the list only by filing a new at-issue memorandum.
- (d) The presiding judge or master calendar judge shall hear and determine all motions affecting the court's calendar including motions to continue, place off calendar, advance, reset, consolidate, or strike an at-issue memorandum or certificate of readiness.
- (e) Attorneys shall advise the court at the pretrial or trial setting conference of their vacation dates which may be considered in

* For more detailed proposals concerning settlement conferences see the Committee's Report 2, pages 10-19 (October 1971).

assigning the trial date. A trial may not be continued beyond the assigned trial date because an attorney or party is or will be on vacation at that time.

Rule 207. Court Calendars

- (a) A court with 5 or more judges shall maintain a master civil calendar and a master criminal calendar.
- (b) Attorneys in a case shall appear on the assigned trial date unless excused by the presiding judge or master calendar judge.
- (c) Attorneys and parties in a case which does not commence trial on the assigned date must be available by telephone on subsequent days but may not be required to appear again until the court is able to commence the trial.

Rule 208. Utilization of Judges

- (a) Each court shall maximize the number of judges available to try cases, particularly cases in which a jury is requested, by:
 - (1) Assigning jury cases to each department, except those with other specialized, full-time assignments; and
 - (2) Assigning jury cases to available departments before non-jury cases, except nonjury cases entitled to priority.
- (b) Trials shall be conducted in each available department, Monday through Friday, commencing not later than 9:30 a.m., continuing until 12:00 noon, reconvening at 1:30 p.m. and continuing at least until 4:30 p.m.
- (c) The presiding judge shall assign for hearing at 9:00 a.m. or earlier, to continue until the hour specified by the presiding judge, the following civil matters to be handled as part-time assignments by one or more judges prior to commencement of the trial schedule: adoptions, probate, civil law and motion, defaults, minors' compromises, and mental health conservatorship hearings.
- (d) The appellate department shall convene one day per month. Additional sessions may be convened if ordered by the presiding judge.
- (e) Matters which must be heard by a specific judge, such as motions for a new trial or continued law and motion matters, shall be scheduled at 4:30 p.m. or other times which do not interfere with part-time assignments or the trial schedule.
- (f) Cases shall be assigned to commence at any time a trial department becomes available between 9:30 a.m. and 4:30 p.m.
- (g) Each department shall notify the presiding judge, or person designated by him, immediately upon becoming available upon

completion of any trial or hearing, when a jury retires to deliberate, or when the judge can proceed no further with his present assigned matter.

- (h) A judge shall accept the assignment of any matter unless he is disqualified or deems that in the interest of justice the matter should not be heard before him for a cause which shall be stated in writing to, and concurred in by, the master calendar judge or the presiding judge.
- (i) Rule 248 is an exception to subdivision (a) of this Rule.

TITLE TWO. DIVISION IV

Penal Proceedings

Rule 901. Arraignment in Municipal or Justice Court

When a defendant is charged with the commission of a public offense, over which the superior court has original jurisdiction, by a written complaint subscribed under oath and on file in a court within the county in which the public offense is triable and the defendant is arrested in that county, the defendant shall be arraigned before a magistrate of the court in which the complaint is on file without unnecessary delay, and, in any event, within 2 days after his arrest, excluding Sundays and holidays. If the prescribed 2 days expire when the court is not in session, the time for arraignment shall be extended to include the next regular court session on the judicial day immediately following.

Rule 902. Entry of Plea

If the public offense charged is a felony, not punishable with death, the magistrate at the arraignment shall have the complaint read to the defendant and ask him whether he pleads guilty or not guilty to the offense charged. The defendant then may enter a plea to the offense charged, and if the defendant declines the magistrate shall enter a plea of not guilty on behalf of the defendant; except in cases requiring a sanity hearing or involving a demurrer to the complaint in which instances, and other instances provided by statute, the court may make an appropriate order.

Rule 903. Preliminary Examination

The magistrate at the arraignment shall set a time for the preliminary examination of the case which shall be conducted not less than 2 or more than 10 days from the date of arraignment, excluding Sundays and holidays, unless the right to preliminary examination within 10 court days is waived by the defendant.

Rule 904. Filing of Information

The district attorney shall file an information in the superior court within the statutory 15 day period following the order of a magistrate holding the defendant to answer for a public offense.

Rule 905. Arraignment in Superior Court

When an information or indictment charging a felony offense is filed, the defendant shall be arraigned not more than 3 days after filing.

Rule 906. Entry of Plea in Superior Court

The judge at the time of arraignment in superior court shall have the information or indictment read to the defendant and ask him to plead to the offense charged. The defendant then may enter a plea to the offense charged, and if the defendant declines the court shall enter a plea of not guilty on behalf of the defendant; except in cases requiring a sanity hearing or involving a demurrer to the information, in which instances, and other instances provided by statute, the court may make an appropriate order.

Rule 907. Scheduling of Trial, Omnibus Hearing and Pretrial Negotiating Conference

The superior court at the arraignment shall assign a firm trial date not more than 60 days following the finding of the indictment or filing of the information and in each case shall assign dates for a pretrial omnibus hearing and a pretrial negotiating conference.

Rule 908. Mandatory Pretrial Negotiating Conference

- (1) The court shall schedule the pretrial negotiating conference not more than 21 days prior to the assigned trial date.
- (2) The conference shall follow disposition of all pretrial motions made at the omnibus hearing.
- (3) The presiding judge shall designate the judge who shall conduct the conference.
- (4) The defendant shall be present at the conference.
- (5) Counsel for the parties shall attend the conference, be familiar with the contents of the transcript of the preliminary examination, and be prepared to discuss disposition of the case other than by trial. The prosecuting attorney shall be prepared to state what disposition, if any, other than by trial he is authorized to make, and shall obtain any authorization necessary to act on the date of the conference.
- (6) Any arrangements for disposition without trial arrived at during the conference shall be entered on the case record in conformance with constitutional, statutory, and decisional guidelines.

- (7) If disposition without trial is agreed upon at the conference, the judge shall commit himself to the maximum offense, and advise the defendant that if the judge later decides that the maximum sentence would be inappropriate in light of the probation report and other available information, the defendant shall be allowed to withdraw his guilty plea prior to the actual sentencing.
- (8) If approval of a guilty plea is sought after the case is assigned to a department for trial, the case shall be returned to the judge who conducted the pretrial negotiating conference, unless the case is otherwise assigned by the presiding judge.

Rule 909. *Mandatory Pretrial Omnibus Hearing*

- (1) The court shall schedule the pretrial omnibus hearing to be held promptly following arraignment and not less than 5 court days prior to the pretrial negotiating conference, unless the court combines that hearing and the pretrial negotiating conference.
- (2) All pretrial motions shall be made to and heard by the court at the omnibus hearing unless the court orders otherwise for good cause shown.
- (3) All pretrial motions shall be in writing and shall be filed and served not more than 10 days preceding the hearing date. All notices of motion shall be accompanied by statements of the points relied upon and citations of authorities. All motions made under Penal Code §1538.5 shall contain designations of the precise matters sought to be suppressed.

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