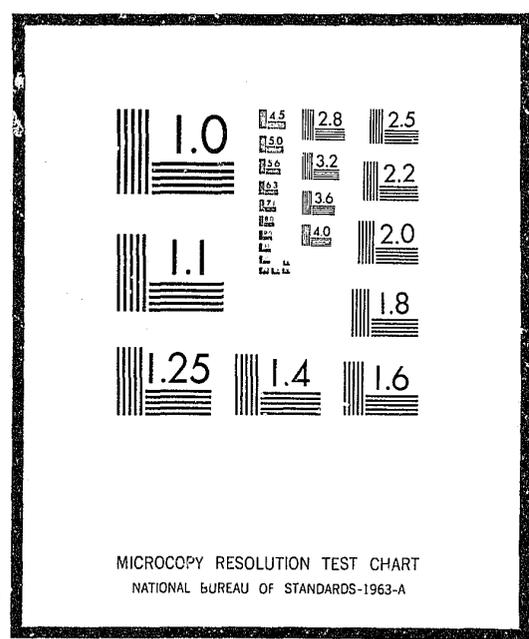


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SELECT COMMITTEE ON TRIAL COURT DELAY REPORT 1

SUPERIOR COURT ADMINISTRATORS

July, 1971

25105

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Select Committee on Trial Court Delay
Suite 7212 State Building
San Francisco, California 94102

“JUSTICE DELAYED IS JUSTICE DENIED.”

FACT – From 1962 to 1970 the number of civil cases awaiting trial in California's 18 largest counties practically doubled.*

FACT – From 1965 to 1970 the number of criminal cases awaiting trial in California's 16 largest counties nearly tripled.*

FACT – Each year the number of civil cases filed in California exceeds the number of cases disposed of by the courts.*

FACT – The average delay in civil jury cases filed in either San Francisco or Los Angeles during 1970 is almost 3 years from filing of the complaint until trial.*

FACT – The Chief Justice of California has appointed the Select Committee on Trial Court Delay to propose solutions for delay in the trial courts of our State.

*See 1971 Report of the Administrative Office of the California Courts, pp. 100-26.

MEMBERS

Honorable Homer B. Thompson – Chairman
Judge of the Superior Court
Santa Clara County

Loren A. Beckley
Chief Probation Officer
San Mateo County Probation Department

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Chief of Police
City of Fullerton

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Judge of the Superior Court
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Honorable Malcolm M. Lucas
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Honorable Jack R. Fenton
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Larry L. Sipes - Director
Attorney at Law

Patrick J. Clark
Counsel

Charles G. McBurney
Counsel

Christine Shook
Secretary

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 Judiciary, Governor, Legislature and people of California. For these purposes the Committee has formed the following Subcommittees:

- Civil* Judge William M. Gallagher (Chairman)
Bennett W. Priest
George R. McClenahan
- Penal* Judge Malcolm M. Lucas (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 will be retained for any needed assistance.

This initial report by the Committee contains the first of several interim proposals which the Committee will recommend to alleviate immediate delay problems. These interim proposals will be followed by the Committee's major proposals for long-term resolution of trial court delay.

RECOMMENDATION

THE COMMITTEE RECOMMENDS THAT COURT ADMINISTRATORS BE EMPLOYED BY THE LARGER SUPERIOR COURTS IN CALIFORNIA. TO IMPLEMENT THIS RECOMMENDATION THE COMMITTEE ENDORSES SENATE BILL 804 WHICH HAS BEEN INTRODUCED IN THE 1971 SESSION OF THE LEGISLATURE.

COMMENT

To effectively perform its *judicial* duties a trial court must effectively discharge its *nonjudicial* duties. These nonjudicial duties compel a court to:

- prepare, administer and obtain county approval of an annual budget;
- recruit, train, classify, supervise and discipline personnel;
- arrange court accommodations and procure necessary books, equipment and supplies;
- maintain accounting, personnel and judicial assignment records;
- prepare and report judicial statistics;
- maintain liaison with other public or private agencies concerned with the court;
- furnish information services to news media and other groups;
- evaluate and recommend improvements in the court's administrative system and procedures.

A trial court administrator can perform these duties. If there is no administrator a judge must perform them at the expense of more important judicial duties.

For these reasons the importance of administrators in our judicial system has been frequently emphasized by noted experts, including Chief Justice Warren Burger of the United States Supreme Court who recently stated:

As litigation has grown and multiple-judge courts have steadily enlarged, the continued use of the old equipment and old methods has brought about a virtual breakdown in many places and a slowdown everywhere in the efficiency and functioning of courts. The judicial system and all its components have been subjected to the same stresses and strains as hospitals and other enterprises. The difference is that, thirty or forty years ago, doctors and nurses recognized the importance of system and management in order to deliver to the patients adequate medical care. This resulted, as I have pointed out on other occasions, in the development of hospital administrators and today there is no hospital of any size in this country without a trained hospital administrator who is the chief executive officer dealing with the management and efficient utilization of all of the resources of the institution. Courts and

judges have, with few exceptions, not responded in this way. To some extent, imaginative and resourceful judges and court clerks have moved partially into the vacuum, but the function of a clerk and the function of a court executive are very different, and a court clerk cannot be expected to perform both functions.*

California has partially recognized the value of court administrators by providing them for the Superior Courts in ten urban counties. In three of these counties the Legislature created the positions directly while in the remaining seven counties the positions were created by local action, usually with express authorization from the Legislature.** The counties pay the administrators' salaries which range from an authorized minimum of \$1050 per month to an authorized maximum of \$2662.

The aid of a court administrator has improved conditions in each of the ten Superior Courts which have one. Often the impact upon delay has been particularly dramatic as reported by the Presiding Judge of a major California Superior Court:

... the most significant and important change that has been effected is the reduction in number of cases on the civil active list, and the tremendous reduction of time in delay. Several years ago, it was common for the delay from filing of complaint to trial to take from 2½ to 3 years. The interval at this time is eleven months from Memo to date of trial, and contested civil jury cases are often tried within one year from filing of the complaint. The short cause civil matters (those estimated to take one day or less) are set for trial within 45 days from the filing of the At-Issue Memo.

Another important improvement is that through efficient Calendar Management, we are able to more effectively schedule, thereby eliminating the Dark-Court situation and have increased dispositions. However, it should be mentioned that since September, 1967, there have been fewer than twenty cases that did not proceed to trial on the date set or the following day due to non-availability of a court.

It should also be mentioned that the last Superior Court department authorized by the Legislature was in 1968, and due to the changes that have been made, it is our present estimate that another department will not be requested until the 1973 or possible the 1974 Legislative Session. This is despite the fact that we have already experienced in excess of 15% increase in filings since the last department was created.

*"Deferred Maintenance of Judicial Machinery," address to the National Conference on the Judiciary, March 12, 1971; 54 Judicature 410, 414 (May, 1971).

**See Appendix A.

The foregoing considerations persuade the Committee that the larger Superior Courts in California should have court administrators. In this connection the Committee has reviewed, and endorses, Senate Bill 804 by Senator Grunsky introduced on March 31, 1971 in the California Legislature.* It provides, among other things, that any Superior Court of seven or more judges may appoint an executive officer who shall hold office at the pleasure of the court and shall exercise the administrative powers and other duties required by the court.

Superior Courts in the following counties, which presently do not have court administrators, would thereby be authorized to employ them: Fresno (8 judges); Riverside (12 judges); Santa Barbara (7 judges); and Ventura (7 judges). The following counties without court administrators probably will come within the scope of the proposed legislation in the near future: Kern (6 judges); Marin (5 judges); San Joaquin (6 judges); Solano (4 judges); Sonoma (4 judges); and Stanislaus (5 judges).

In endorsing Senate Bill 804 the Committee notes that since 1968 the Judicial Council of California, in its recommended standards of judicial administration, has specified the following duties and qualifications for trial court administrators which should be of great assistance to courts employing administrators pursuant to this legislation:

(a) [Qualifications] A trial court administrator should be a graduate 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 one year's experience in a responsible management capacity in a public agency or in private business.

(b) [Functions] A trial court administrator should, under the direction of the presiding judge, organize and administer the nonjudicial activities of the court. He should supervise and assign work to a staff that serves the judges in the execution of the court's business; assist in the dispatch of judicial business particularly in calendar management; provide or supervise administrative services in the selection and supervision of jurors; prepare and submit for court approval a personnel plan or merit system for the classification, recruitment, promotion, discipline and removal of persons employed by the court; assist in arranging for court accommodations and be responsible for procuring necessary books, equipment and supplies; assist in the preparation and administration of the court budget; prepare judicial statistics; maintain accounting, personnel and judicial

assignment records; assist in providing information services to news media and other groups; assist in maintaining liaison with other public or private agencies concerned with the court; evaluate and recommend improvements in the court's administrative system and procedures; prepare an annual report, and such other reports as are directed by the court.

* See Appendix B.

APPENDIX A

Superior Court Administrative Officers and Authorization for Appointment

County	Title	Authorization
Alameda	Secretary of the Superior Court	Gov. Code § 69903
Contra Costa	Superior Court Secretary	Gov. Code § 69890
Los Angeles	Executive Officer	Gov. Code § 69892.1
Orange	Court Administrator-Jury Commissioner	Code Civ. Proc. § 204a
Sacramento	Court Administrator	Gov. Code § 69893.5
San Bernardino	Superior Court Coordinator & Jury Commissioner	County Ordinance
San Diego	Secretary to Superior Court & Jury Commissioner	Gov. Code § 69893
San Francisco	Secretary of the Superior Court	Gov. Code § 69895
San Mateo	Court Administrator	Gov. Code § 69893
Santa Clara	Court Administrator	Local Ordinance

APPENDIX B

AMENDED IN SENATE MAY 28, 1971

SENATE BILL

No. 804

*An act to add Section 69898 to the Government
Code, relating to courts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 804, as amended, Grunsky (G.O.). Superior courts.
Adds Sec. 69898, Gov. C.

Authorizes superior courts of seven or more judges to appoint executive officer, exempt from civil service, to serve at pleasure of court. Such officer is required to act as court secretary and to act as, or to supervise, the jury commissioner. Provides that salary shall be fixed by court and be paid by county. If this authorization is utilized, prohibits use also of other provisions authorizing executive or administrative officers.

Vote — Majority; Appropriation — No; Fiscal Committee — No.

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

SECTION 1. Section 69898 is added to the Government Code, to read:

69898. (a) Any superior court of seven or more judges may appoint an executive officer who shall hold office at the pleasure of the court and shall exercise such administrative powers and perform such other duties as may be required of him by the court. The court shall fix the qualifications of the executive officer and may delegate to him any administrative powers and duties required to be exercised by the court. He shall act as secretary to the judges of the court and perform, or supervise the performance of, the duties of jury commissioner. The salary of the executive officer shall be fixed by the court and shall be paid by the county in which he serves. Each such position shall be exempt from civil service laws.

(b) Any superior court for which a specific authorization to have an executive or administrative officer has been enacted by the Legislature may elect to proceed under its specific authorization or under this section, but not under both.

END

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