

Permanent file

LOS ANGELES COUNTY TRIAL COURTS

REVIEW OF

COURT PROCEDURES

JOINT LEGISLATIVE AUDIT COMMITTEE

VINCENT THOMAS, CHAIRMAN

ROOM 4126

STATE CAPITOL

4. Establish a mandatory retirement age beyond which a judge can serve only through annual reappointments by the Chief Justice.
5. Maintain a daily log for each courtroom, showing the clock time when each hearing begins and ends.
6. Require trial judges to submit monthly attendance reports to their presiding judge or to the Administrative Office of the Courts.
7. Assign each case to the same judge for all civil pre-trial hearings.
8. Establish a statewide training program to provide training for new judges.
9. Conduct felony preliminary hearings in the Superior Court rather than in the Municipal Courts.
10. Make the district attorney responsible for all misdemeanor prosecutions.
11. Prohibit refiling or re-indictment on charges dismissed at a preliminary hearing (except in unusual cases), but permit dismissals to be appealed by the prosecution.
12. Permit Superior Courts to hire their own court clerks and other supporting personnel.
13. Permit the Los Angeles Superior Court to hire its own bailiffs.
14. Combine the Los Angeles County Municipal and Superior Court bailiff systems.
15. Substantially reduce the size of the Los Angeles County Clerk's staff.
16. Increase jurors' compensation.
17. Place Municipal and Justice Courts under the administrative control of the Superior Court in each county.
18. Establish a case inventory system for Superior and Municipal Courts.
19. Provide for interest on judgments in personal injury, death, and property damage cases from the date of injury.

20. Reduce the size of juries used in minor criminal matters and in civil cases where a small amount is at dispute.

Implementation of the Auditor General's recommendations should enable the courts to reduce their backlogs without major increases in judicial manpower. This is of major importance to the taxpayer. The Auditor General informs us that each additional Los Angeles Superior Court judge, in addition to his \$33,396 salary and eventual retirement benefits, will require courtroom facilities costing about \$500,000 to construct and, at present staffing levels, nine supporting personnel which, together with certain incidental items, will cost approximately \$100,000 per year.

We recommend that this report be assigned to the Judiciary Committees of the Senate and Assembly for interim study.

Respectfully submitted,



Vincent Thomas, Chairman
Joint Legislative Audit Committee

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INTRODUCTION

THE PURPOSE OF THIS REVIEW

We have reviewed the operations and management of the trial courts in Los Angeles County. The purpose of our review was to find ways to improve the efficiency and effectiveness of the judicial system to the end that court backlogs could be reduced and the time from initiation to disposition of criminal and civil cases could be shortened.

WHAT WAS COVERED

Our examination centered on overall court organization and management and on the way the courts handle felony cases and civil suits.

We have not examined, in any detail, the Superior Court's handling of probate, eminent domain, family law (divorce), or insanity cases, or the Municipal Court's handling of other than felony preliminary hearings.

HOW THE REVIEW WAS CARRIED OUT

In conducting this review we have studied available court-related publications and research studies and have interviewed judges, court attaches, attorneys, and others. We have observed court proceedings, and we have reviewed court records.

ORGANIZATION OF THIS REPORT

This report consists of:

- A list of recommendations
- A list of areas where change seems desirable but which we have not explored sufficiently to make specific recommendations
- A description of the principal agencies involved in the justice system
- A description of the organization of the Los Angeles Superior Court
- A description of certain District Attorney policies affecting court workload
- A discussion of the reasons behind each of our recommendations.

SUMMARY OF RECOMMENDATIONS

Following is a list of recommendations for change which we believe would have a significant impact on the effectiveness of the state's trial courts. Each of these recommendations is discussed in detail elsewhere in this report.

1. Provide a longer term for presiding judges, and limit the power of the other judges to remove them once in office.
2. Rotate courtroom personnel among judges at reasonable intervals.
3. Establish training courses in courtroom procedure for newly-hired district attorney and public defender personnel.
4. Establish a mandatory retirement age beyond which a judge can serve only through annual reappointments by the Chief Justice.
5. Maintain a daily log for each courtroom, showing the clock time when each hearing begins and ends.
6. Require trial judges to submit monthly attendance reports to their presiding judge or to the Administrative Office of the Courts.
7. Assign each case to the same judge for all civil pre-trial hearings.
8. Establish a statewide training program to provide training for new judges.
9. Conduct felony preliminary hearings in the Superior Court rather than in the Municipal Courts.
10. Make the district attorney responsible for all misdemeanor prosecutions.

11. Prohibit refiling or re-indictment on charges dismissed at a preliminary hearing (except in unusual cases), but permit dismissals to be appealed by the prosecution.
12. Permit Superior Courts to hire their own court clerks and other supporting personnel.
13. Permit the Los Angeles Superior Court to hire its own bailiffs.
14. Combine the Los Angeles County Municipal and Superior Court bailiff systems.
15. Substantially reduce the size of the Los Angeles County Clerk's staff.
16. Increase jurors' compensation.
17. Place Municipal and Justice Courts under the administrative control of the Superior Court in each county.
18. Establish a case inventory system for Superior and Municipal Courts.
19. Provide for interest on judgments in personal injury, death, and property damage cases from the date of injury.
20. Reduce the size of juries used in minor criminal matters and in civil cases where a small amount is at dispute.

OBSERVATIONS

Listed below are observations we made during our review as to areas where change seems desirable or where problems exist. We have not explored these areas sufficiently to make concrete recommendations.

SMALL SUPERIOR COURT CIVIL CASES

A considerable number of Los Angeles personal injury and property damage suits result in judgments which are relatively small compared with the cost to litigants or the cost of the court's time.

FEEDBACK AS TO OUTCOME OF PAST DECISIONS

Judges have little or no feedback as to the results of their sentencing and commitment decisions or as to the predictive value of the opinions of the probation officers and psychiatrists upon whose opinions they base their decisions.

CONCENTRATION OF POWER IN THE PROBATION OFFICE

There is a potential conflict of interest in the duties of the probation department in juvenile cases. In Los Angeles County the probation office:

- Initiates juvenile proceedings
- Prepares a "social study" concerning the juvenile for use by the court
- Recommends to the court what disposition should be made of the case (pre-sentence report).
- Operates the county's juvenile detention facilities
- Provides the county's juvenile probation service.

JUVENILE CORRECTIONAL PROGRAMS

Although the Legislature has placed the main emphasis in the juvenile justice process on rehabilitation, little reliable information is available as to what, if any, rehabilitative effect the various juvenile correctional programs have had.

A COUNTY CORRECTIONS DEPARTMENT

County detention and correction facilities are operated by the County Sheriff. A state subsidy program encouraging retention of prisoners in local facilities has significantly increased the counties' correctional function. Counties are authorized to establish separate county correctional departments (Section 23013 of the Government Code), but have not done so. The Sheriff's main duty is to provide police service, and he is properly chosen and retained on the basis of his ability and success in the field of law enforcement. A separate correctional department could be headed by a person chosen and retained on the basis of his success in the area of corrections.

PROBATE

Savings in judicial time appear feasible through handling only contested probate cases through the courts.

PUBLIC DRUNKS

A review is needed of the "revolving door" effect of the present methods of handling public drunks.

JUDICIAL BRANCH EMPLOYEE
MERIT AND SECURITY SYSTEM

The judicial branch needs its own employee merit and security system to meet its special needs and to accommodate the major reorganization needed in the trial courts.

PROBATION REPORTS

Ways need to be devised to obtain probation reports sooner after conviction to reduce the time from conviction to sentencing.

PRE-SENTENCE REHABILITATIVE SERVICES

Since prisoners are likely to be most motivated during the two to three months between arrest and sentencing, consideration should be given to providing pre-sentence rehabilitative services.

ACCOUNTABILITY AND INCENTIVE SYSTEM
FOR CORRECTIONAL FACILITIES

Systems need to be developed to monitor the success of jail and prison authorities in rehabilitating prisoners and for sending prisoners to those institutions showing the greatest progress in rehabilitation.

DESCRIPTION OF COURTS AND RELATED AGENCIES

DISTINCTIVE FEATURES
OF THE JUDICIAL BRANCH

Distinctive features of the judicial branch of California government include those listed below:

Limited Administrative Structure

The judicial branch has a very limited administrative structure, and those in administrative positions have relatively little power.

Financing

Appellate courts are financed by the state. Trial courts, although state bodies, are financed primarily by the counties in which they are located. The facilities, equipment, and support personnel available to trial courts vary from county to county.

Dual Role of Judges

Judges are both constitutional officers and the primary production workers of the judicial branch.

Repetitive Nature of Work

In contrast with legislative or executive branch officials who deal primarily with broad policies, judges deal with specific cases and can delegate little of their judicial work. Thus, while they exercise great power and their decisions can be of major importance, much of their work is routine and repetitive.

Control Over Volume of Work

The volume of work a court has before it is determined largely by people and organizations outside the judicial branch. A court's jurisdiction begins only when someone else brings a case before it, and it must normally dispose of each case that comes before it.

STRUCTURE OF
THE JUDICIAL BRANCH

The judicial branch of government is made up of:

Courts-

- A Supreme Court
- Courts of Appeal each serving a separate geographical area
- Fifty-eight Superior Courts--one in each county
- Seventy-five Municipal Courts--each serving a county or a portion of a county
- Two hundred and forty-four Justice Courts serving certain rural portions of certain counties.

Administrative and Regulatory Bodies-

- A Judicial Council
- An Administrative Office of the Courts
- A Commission on Judicial Qualifications
- A Commission on Judicial Appointments
- A State Bar Association.

STRUCTURE OF
THE JUDICIAL SYSTEM

Organizations which are outside the judicial branch but which are part of or closely related to the judicial system include:

- County Clerks (act as clerks for the Superior Courts)
- Sheriffs' Offices (provide bailiffs for the Superior Courts, run county correctional facilities, and provide law enforcement services to county areas and certain cities)
- Marshals' Offices (provide bailiffs for the Municipal Courts)
- District Attorneys' Offices (prosecute all felonies and some misdemeanors)
- City Attorneys' Offices (in Los Angeles City and certain other cities they prosecute misdemeanors)
- Public Defenders (represent most criminal defendants)
- State Attorney General (handles criminal appeals to the Court of Appeal and the Supreme Courts)
- Probation Departments (provide the courts with pre-sentence information, supervise parolees, handle the charging function in juvenile cases, and run juvenile correctional facilities)
- Police and California Highway Patrol (initiate most criminal complaints).

SUPREME COURT

The Supreme Court is California's highest court and serves as the state's court of final appeal. It has original jurisdiction in writs of habeas corpus, mandamus, prohibition and certiorari. It hears appeals on those cases

in which the death penalty is imposed, and all cases determined by any of the several Courts of Appeal are subject to petition for hearing in the Supreme Court. It can transfer an appeal from a Court of Appeal to itself, from itself to a Court of Appeal, or between Courts of Appeal. It has power to remove or discipline judges upon recommendation of the Commission on Judicial Qualifications and to disbar or otherwise discipline attorneys upon recommendation of the State Bar Association.

The Supreme Court consists of a Chief Justice and six Associate Justices. All seven of the justices hear each case, and each case is decided by a majority vote.

Supreme Court Justices run unopposed against their own record with a majority of yes votes required for reelection. Their term of office is 12 years. Any vacancies are filled by the Governor.

COURTS OF APPEAL

The Courts of Appeal are California's intermediate appellate courts. The Constitution provides that Courts of Appeal have appellate jurisdiction when Superior Courts have original jurisdiction and in certain other cases prescribed by statute.

There are five Courts of Appeal, each serving a separate geographical area called a district. Each district is divided into one or more divisions. Each division is a separate administrative unit with its own presiding justice. The number of justices in each division is set by the Legislature and currently varies from three to five. Cases are decided by three-judge panels.

Following is a list of the Courts of Appeal:

<u>District</u>	<u>Location</u>	<u>Division</u>	<u>Justices</u>	
1	San Francisco	1	3	12
		2	3	
		3	3	
		4	<u>3</u>	
2	Los Angeles	1	4	20
		2	4	
		3	4	
		4	4	
		5	<u>4</u>	
3	Sacramento	1	<u>4</u>	4
4	San Diego	1	4	9
		2	<u>5</u>	
5	Fresno	1	<u>3</u>	<u>3</u>
Total				<u>48</u>

The term of office for Court of Appeals justices is 12 years. Any vacancies are filled by the Governor.

SUPERIOR COURT

The Superior Courts are the state's courts of general jurisdiction. They have original jurisdiction over all cases where jurisdiction has not been specifically given to another court.

The Superior Courts' jurisdiction includes:

- Original appellate jurisdiction in cases coming from Municipal and Justice Courts
- Civil suits over \$5,000 (in practice most disputes under \$5,000 except rent cases and small claims are inflated sufficiently to get them into Superior Court)

- Actions in equity
- Domestic relations
- Felony trials (the Superior Court can also hear felony preliminary hearings, but they are traditionally heard by lower courts)
- Juvenile court proceedings
- Psychiatric commitments
- Adoptions
- Writs
- Probate, guardianships, and conservatorships.

For each of the 58 counties in California, there is one Superior Court with at least one judge. The Legislature may require that very small counties share one judge; however, this is not the case at present. The number of judges in each county is established by the Legislature.

Superior Court judges must run for reelection each six years. The Governor fills vacancies occurring between elections, with approximately 95 percent of all Superior Court judges being appointed by the Governor to their first terms. They are seldom opposed at election time. Thus, in practice, most Superior Court judges are appointed by the Governor and serve life terms.

The salaries of Superior Court judges are set by the Legislature and currently are \$33,396 per year. The state pays a major portion of the salary with the counties contributing an amount determined by population:

<u>County Population</u>	<u>Contribution</u>
250,000 up	\$9,500
40,001 to 249,999	7,500
40,000 or less	<u>5,500</u>

Although the state pays the largest portion of Superior Court judges' salaries and for their retirement, the major portion of the cost of operating Superior Courts is borne by the counties, which provide or pay for bailiffs, reporters, clerks, other supporting staff, buildings, and equipment.

MUNICIPAL COURTS

The jurisdiction of the Municipal Courts is:

- Civil cases to \$5,000
- Criminal misdemeanor cases
- Preliminary examinations for felony cases
- Small claims court (actions under \$300).

The Municipal Courts are financed by the county within which they are located, with the exception of a state subsidy for judges' retirement. Municipal Court judges' salaries are fixed by the Legislature and are currently \$30,724 per year.

A county may have one or many Municipal Courts. Los Angeles County has 24. Each Municipal Court is a separate entity, administratively responsible only to the Judicial Council.

JUSTICE COURTS

Justice Courts have jurisdiction over:

- Civil cases involving \$1,000 or less
- Criminal misdemeanor with fine of not over \$1,000 or imprisonment of not over one year in jail.

Vacancies are filled by the Board of Supervisors in the county, who also fix judicial salaries. The salaries of California Justice Court judges range from about \$3,000 to about \$12,000.

Los Angeles County has two Justice Courts--in Malibu and at Santa Catalina Island. Justice Courts were not included in our study of Los Angeles trial courts.

JUDICIAL COUNCIL

The Judicial Council is the chief administrative body of the judiciary. The Constitution defines the council's responsibilities as:

- Providing rules for court administration, practice, and procedure
- Equalizing the workload of judges
- Making recommendations to the Legislature and Governor concerning needed court-related legislation.

The Council membership consists of:

- The Chief Justice as chairman
- One Associate Justice of the Supreme Court
- Three judges of the Courts of Appeal
- Five judges of the Superior Courts
- Three judges of the Municipal Courts
- Two judges of the Justice Courts
- Four attorneys
- One State Senator
- One State Assemblyman.

ADMINISTRATIVE OFFICE OF THE COURTS

The Judicial Council is required to survey judicial business and make recommendations annually to the Governor and Legislature. The Administrative Office of the Courts is the staff agency of the Council which:

- Collects and analyzes data
- Prepares statistical reports for the Council
- Represents the judicial branch before the Legislature and the Governor.

The chief of the Administrative Office of the Courts is the Administrative Director. He and his staff, in addition to the duties listed above:

- Prepare recommendations for improved court rules for consideration by the Judicial Council
- Prepare recommendations as to needed court-related legislation for submission upon Judicial Council approval to the Legislature

- Collect, analyze and issue an annual report of judicial statistics
- Prepare reports concerning the need for new judicial positions
- Administer state funds appropriated for the judicial branch (primarily the Appellate Courts and the Administrative Office of the Courts)
- Maintain budget and personnel controls for the Appellate Courts
- Organize workshops and provide educational support for the trial and Appellate Courts
- Conduct management studies of the operation of the state judicial system.

COMMISSION ON JUDICIAL QUALIFICATIONS

The Commission on Judicial Qualifications has the constitutional authority to investigate, hold hearings, and then recommend to the Supreme Court that a judge be removed, be retired, or be censured.

The Commission consists of:

- Five judges, appointed by the Supreme Court
- Two lawyers, appointed by the State Bar
- Two laymen, appointed by the Governor.

Its jurisdiction includes:

- Misconduct in office
- Willful and persistent failure to perform duties
- Habitual intemperance
- Conduct prejudicial to the administration of justice
- Character traits which interfere with the judge's duties.

Its jurisdiction does not extend to:

- A judge's knowledge of the law
- Any deficiencies in court administration.

In 1970, 181 complaints were filed against judges. Of these 181 complaints, 148 were closed without investigation as being outside the jurisdiction of the Commission, and 33 were investigated. Of the 33 cases investigated, two were recommended to the Supreme Court for public censure.

The Commission has the power but generally lacks the information necessary to proceed against judges who neglect their work.

COMMISSION ON JUDICIAL APPOINTMENTS

The Commission on Judicial Appointments has the power to veto nominees of the Governor for the appellate bench.

The Commission consists of:

- The Chief Justice
- The Attorney General
- The senior Presiding Judge in the appellate district in which the appointment is being made.

If the Commission feels from the written and oral evidence presented to it that further investigation is required, it may ask the State Bar for a formal investigation. No appellate appointment is final until the Commission has filed its approval with the Secretary of State. The approval of the Commission is not required for appointments to trial courts (Superior, Municipal, and Justice).

STATE BAR OF CALIFORNIA

State Bar membership is, by terms of the State Constitution, compulsory for all attorneys admitted to practice in California.

The State Bar Association is part of the Judicial Branch and is subject to the authority of the State Supreme Court in certain matters.

Functions of the State Bar include:

- Investigating the conduct of Bar members and recommending action to the Supreme Court
- Representing the interests of the legal profession before the Legislature
- Investigations for and recommendations to the Governor concerning judicial appointments.

COUNTY CLERK

The State Constitution provides for the County Clerk to serve as the clerk of the Superior Court in each county. In Los Angeles County over 95 percent of the County Clerk's resources are devoted to his Superior Court clerk function.

The County Clerk's responsibilities as ex officio clerk of the Superior Court are broadly defined in the Government Code to include:

- Serving the court in a ministerial capacity,
- Acting as custodian of records, and
- Performing such other duties as prescribed by law or the court.

In practice the County Clerk's services to the Superior Court can be grouped into two categories:

- Providing courtroom clerks
- Handling the receiving, recording, and filing of court documents.

The Los Angeles County Clerk has budgeted expenditures of \$8.2 million for the 1970-71 fiscal year, of which \$7.3 million is for salaries and employee benefits. He has a court-related staff of about 820 (at March 25, 1971) and about 32 employees assigned to handle his other duties. About 210 of his 820 court-related employees serve as courtroom clerks, and the remaining 610 handle filing, recording, and supervision, and provide assistance to the courtroom clerks.

SHERIFF

The Sheriff is the elected law enforcement officer of the county. His primary responsibility is to provide police service in unincorporated areas of the county. In Los Angeles County the Sheriff's department also provides police service on a contract basis to 29 of the 77 incorporated cities.

In addition to its police function, the Sheriff's department:

- Operates county adult detention facilities
- Provides transportation for prisoners
- Provides bailiffs for the Superior Court
- Serves civil process and criminal warrants.

The following table shows how the Sheriff's department staff is divided between administration and support, police service, detention facilities, prisoner transportation, and bailiffs and process servers:

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
 BUDGETED PERSONNEL
1970-71 YEAR

	<u>TOTAL PERSONNEL</u>	<u>PEACE OFFICERS</u>	<u>CIVILIAN SUPPORT</u>
<u>ADMINISTRATIVE AND SUPPORT</u>			
Executive	137	113	24
Administrative Division	531	476	55
Business Management	78	-	78
Technical Services Division (does not include transportation)	<u>503</u>	<u>150</u>	<u>353</u>
	<u>1,249</u>	<u>739</u>	<u>510</u>
<u>POLICE FUNCTION</u>			
Detective Division	583	518	65
Patrol Division	<u>2,488</u>	<u>2,139</u>	<u>349</u>
	<u>3,071</u>	<u>2,657</u>	<u>414</u>
<u>DETENTION FACILITIES</u>			
Jail Division	1,295	691	604
Correction Division	<u>696</u>	<u>308</u>	<u>388</u>
	<u>1,991</u>	<u>999</u>	<u>992</u>
<u>TRANSPORTATION OF PRISONERS</u>			
	<u>156</u>	<u>128</u>	<u>28</u>
<u>CIVIL DIVISION</u>			
Bailiffs and Process Servers	<u>349</u>	<u>309</u>	<u>40</u>
TOTAL PERSONNEL	<u>6,816</u>	<u>4,832</u>	<u>1,984</u>

Detention Facilities

Los Angeles County adult detention facilities are maintained by two divisions within the Sheriff's department: the Jail Division and the Corrections Division. In principle, the Jail Division is responsible for unsentenced prisoners and the Corrections Division for prisoners who have been sentenced. However, due to overcrowding and the length of sentences, the actual make-up of the institutions' population is as follows:

	<u>Pre-Sentenced Prisoners</u>	<u>Sentenced Prisoners</u>	<u>Totals</u>
Jail Division*	3,761	2,507	6,268
Corrections Division	<u>706</u>	<u>3,177</u>	<u>3,883</u>
Totals	<u>4,467</u>	<u>5,684</u>	<u>10,151</u>

*Proration between Jail Division sentenced and pre-sentenced prisoners is based on a Sheriff's department estimate of 60 percent pre-sentenced prisoners.

Prisoners are kept at three jail facilities, three county prisons, and seven detention camps. The expenditures and personnel budgeted for these facilities for 1970-71 are as follows:

Jail Division

	<u>Total</u>	<u>Central Jail</u>	<u>Hall of Justice Jail</u>	<u>Sybil Brand (Women)</u>
1970-71 appropriations	<u>\$16,371,000</u>	<u>\$9,823,000</u>	<u>\$3,511,000</u>	<u>\$3,037,000</u>
Personnel:				
Peace officers	691	365	167	159
Civilian support	<u>604</u>	<u>449</u>	<u>60</u>	<u>95</u>
Total	<u>1,295</u>	<u>814</u>	<u>227</u>	<u>254</u>

Correction Division

	<u>Total</u>	<u>Biscailuz Center</u>	<u>Mira Loma Facility</u>	<u>Wayside Honor Rancho</u>	<u>Detention Camps</u>
1970-71 appropriations	<u>\$9,399,000</u>	<u>\$1,560,000</u>	<u>\$2,221,000</u>	<u>\$4,526,000</u>	<u>\$1,092,000</u>
Personnel:					
Peace officers	308	79	37	151	41
Civilian support	<u>388</u>	<u>47</u>	<u>109</u>	<u>200</u>	<u>32</u>
Total	<u>696</u>	<u>126</u>	<u>146</u>	<u>351</u>	<u>73</u>

Transportation of Prisoners

There are 28 Superior, Municipal, or Justice courthouse locations throughout Los Angeles County. The transportation Bureau of the Sheriff's department moves the prisoners being held in county jails to these courthouses for arraignments and trials. From 700 to 1,000 prisoners are transported from Central and Hall of Justice Jail facilities to the courthouses daily. The Transportation Bureau uses 39 buses and a staff of 156 persons, of whom 128 are driver-guards.

Civil Division

The Los Angeles County Sheriff's Civil Division supplies bailiffs for the Superior Court and serves papers for civil litigants. Its function is virtually identical to the Los Angeles County Marshal's Office, which provides bailiffs for the Municipal Courts and also serves papers for civil litigants.

MARSHAL'S OFFICE

The Los Angeles County Marshal's office provides bailiffs for the county's 24 Municipal Courts and serves papers for civil litigants.

Normally there is one Marshal appointed by the judge or judges in each Municipal Court, who in turn employs a staff to fulfill the Marshal's responsibility. However, the Government Code requires a single consolidated Marshal's office in Los Angeles County. The judges from the 24 Municipal Courts elect one Marshal to jointly serve their courts. This arrangement has been in existence since 1952.

The appropriation for the Marshal for the fiscal year 1970-71 is \$7.5 million. This budget supports the following staff:

Administration and clerical:

Officers	74	
Deputies	<u>21</u>	95
Clerical personnel		<u>169</u>
		264
Deputies assigned as bailiffs		235
Deputies assigned to serve process		123
Deputies assigned to O.R. investigation*		<u>4</u>
Total		<u>626</u>

*Investigate applications for release without bail on the prisoner's "Own Recognizance".

The above is an actual count at January 28, 1971.

DISTRICT ATTORNEY

The District Attorney is easily the most powerful person in the criminal justice process:

- His actions control the volume of business reaching the Superior Court's criminal department.
- He has, for all practical purposes, the absolute power not to prosecute a case.
- He can drop or reduce charges in exchange for information.
- He can use a felony charge as a lever to compromise a guilty plea on a misdemeanor charge.

A District Attorney's decision to charge a person with a crime sets into motion a series of events which can produce a substantial degree of punitive action regardless of the ultimate disposition of the case. These include:

- Imprisonment while awaiting a court hearing
- A fine in the form of a bail premium
- The cost of defense counsel (if the accused has resources to pay for his own attorney).
- A permanent police record which may:
 - Affect future employment, or
 - Be considered by a judge sentencing him for a later (unrelated) offense.

The Los Angeles County District Attorney handles all felony prosecutions within his county. Most misdemeanor prosecutions in Los Angeles County are handled by city attorneys. This is because certain cities, including the City of Los Angeles, have chosen to handle the prosecution of misdemeanor violations of state law. Cities are responsible for the prosecution of violations of their own ordinances. Fifty-four of the 77 incorporated cities in Los Angeles County contract with the District Attorney to handle prosecution of violations of their city ordinances.

The 1970-71 fiscal year budget for the Los Angeles County District Attorney is \$14.9 million. This budget provides support for the following staff:

Deputy District Attorneys	409
Investigators	198
Administrative and clerical	400
Students	<u>17</u>
*Total	<u>1,024</u>

*Actual count at December 31, 1970.

Deputy District Attorneys are generally assigned by courtroom rather than by case, with the case file providing continuity. If a felony case is bound over to the Superior Court, an investigator is assigned to supplement the information contained in the police arrest report.

CITY ATTORNEY

The primary duty of the City Attorney is to be attorney and legal advisor to the city and prosecute violations of city ordinances. Some city charters also provide that the City Attorney prosecute misdemeanor violations of state law.

The Charter of the City of Los Angeles provides that the City Attorney may prosecute misdemeanor violations of state law. Currently a city ordinance requires the City Attorney to prosecute such cases. There are 23 cities throughout Los Angeles County in which the City Attorney prosecutes misdemeanor violations of state law.

The Los Angeles City Attorney's Criminal Division has a staff of 84 attorneys plus a support staff of 100. This represents approximately 50 percent of the total City Attorney's personnel.

PUBLIC DEFENDER

The majority of criminal defendants in Los Angeles County are represented by the Public Defender.

In counties which have one, the Public Defender is responsible for representing persons involved in criminal, juvenile, or mental health proceedings who are not financially able to employ private counsel. In other counties, assigned counsel perform these functions.

The Los Angeles County Public Defender is appointed by the Board of Supervisors. The 1970-71 budget for his office is \$8.5 million. This budget provides support for the following staff:

Deputy Public Defenders	325
Investigators	33
Senior law clerks	21
Administrative and clerical	<u>117</u>
*Total	<u>496</u>

*Actual Count at January 11, 1971.

The relatively small number of investigators on the Public Defender's staff (33) as compared with the District Attorney's (198) reflects the heavy reliance placed by the Public Defender on the case file prepared by the District Attorney.

The 21 senior law clerks are law school graduates who have not yet passed the bar examination.

Deputy Public Defenders are normally assigned by courtroom rather than by case (in a manner similar to the assignment of Deputy District Attorneys) with continuity provided by the case file.

Both the Public Defender and District Attorney have fairly heavy turnover among their deputies. The usual order of assignment for a new Deputy Public Defender is as follows:

1. Municipal Court - felony preliminary hearings
2. Superior Court - juvenile
3. Municipal Court branches - misdemeanor trials
4. Superior Court - felony trials.

The average period from first assignment to being assigned to Superior Court is about 18 months.

THE ATTORNEY GENERAL

The Attorney General is the elected head of the State Department of Justice.

The activities of the Department of Justice include:

- Defending civil actions brought against the state
(and its employees if due to their official acts)
- Interpreting state law for state agencies
- Enforcing narcotics laws
- Enforcing laws against certain "business" crimes
- Maintaining records of and reporting criminal statistics
- Maintaining criminal histories and gathering and
storing other types of information
- Providing laboratory and communication services for
local law enforcement agencies.

The Department of Justice is responsible for representing the people in criminal appeals to state and federal appellate courts (District Attorneys handle appeals to the Superior Courts from the Municipal Courts).

The Attorney General is also responsible for the uniform enforcement of state laws and may take over prosecution from a local District Attorney. This power, however, is rarely used.

The 1970-71 budget for the Department of Justice is \$28.4 million, allocated as follows:

Administration	\$ 1,710,000
Defending civil actions and interpreting state laws	5,509,000
Handling criminal appeals	2,967,000
Business crimes	1,761,000
Enforcing narcotics laws	3,417,000
Criminal statistics	1,101,000
Identification and communication	9,909,000
Investigation.	<u>2,008,000</u>
Total	<u>\$28,382,000</u>

PROBATION DEPARTMENT

The Los Angeles County Probation Department is responsible for:

- Preparing probation reports recommending to the sentencing judge the disposition of convicted adults
- Supervising adult probationers
- Initiating all juvenile court proceedings
- Preparing "social studies" recommending the disposition of juvenile cases
- Operating juvenile detention facilities.

The Government Code provides that in non-charter counties the juvenile probation officer be appointed by the judge of the juvenile court. In charter counties, the county charter rules determine the organization of the probation department. Los Angeles County's charter requires both adult and juvenile probation to be under the county probation department and that the probation officer be appointed by the Board of Supervisors.

The Los Angeles County Probation Department's 1970-71 budgeted expenditures are \$39.3 million.

POLICE AND CALIFORNIA HIGHWAY PATROL

Both of these agencies have the duty for day-to-day law enforcement and property protection. They differ from each other primarily in jurisdiction. The city police operate only within the boundaries of their city. The Highway Patrol, on the other hand, covers state highways and county roads. Neither have added duties comparable to the Sheriff and Marshal in terms of serving the courts.

Court scheduling problems and continuance policies can have a significant effect on the amount of police manpower diverted from enforcement duty for court appearances.

The training and competence of police officers, on the other hand, can affect the amount of court time required to dispose of criminal cases.

ORGANIZATION AND STAFF
OF THE LOS ANGELES SUPERIOR COURT

SUPPORT PERSONNEL
PROVIDED BY OTHER ORGANIZATIONS

As explained elsewhere in this report, Superior Court bailiffs are provided by the Sheriff, and Superior Court courtroom clerks are provided by the County Clerk, who also handles the filing and recording of court documents.

LOS ANGELES SUPERIOR COURT STAFF

The Los Angeles Superior Court employs directly a management and support staff of about 550 under the direction of an executive officer. Of these 550, about 190* are court reporters or interpreters. The remaining 360 include:

- A staff services and statistical staff (responsible for planning, analysis, and management reviews)	7
- A stenographic staff	64
- A finance section	16
- A personnel section	4
- A jury selection staff	39
- An Appellate Division staff	5
- A Conciliation Court staff	26
- A Domestic Relation Court staff	11
- A Criminal Courts and own recognizance bail staff	45

*Additional reporters will be hired for the 15 new judges authorized for 1971.

-	A Mental Health Court staff	11
-	A Juvenile Court staff	34
-	A Juvenile Traffic staff	50
-	A Probate Court staff	28
-	Other positions	<u>20</u>
	Total	<u>360</u>

EXECUTIVE OFFICER

The Executive Officer is responsible for the court's non-judicial personnel, for planning and analyzing court operations, and for implementing changes authorized by the Presiding Judge (or the Executive Committee through the Presiding Judge).

CAPABILITY OF ADMINISTRATIVE STAFF

Unlike the situation reported in some other courts, the Los Angeles Superior Court has an effective administrative staff.

JUDGES AND COMMISSIONERS

The Los Angeles Superior Court has 204 judicial positions consisting of:

- 149 judges (134 in 1970, 149 in 1971)
- 55 commissioners and referees

It also receives net assistance of about five judge-years from judges assigned from other Superior Courts.

PRESIDING JUDGE

The court is administered by a Presiding Judge who is elected for a one-year term and by an Assistant Presiding Judge also elected for one year. Traditionally, both are re-elected once and serve a total of two years. In administering the court, the Presiding Judge is subject to the policies established by the court's elective 14-member Executive Committee.

The Presiding Judge appoints supervising judges and appoints members to court committees other than the Executive Committee.

SUPERVISING JUDGES

There are 13 supervising judge positions, one for each of the eight branches and five for the Central Division. The 13 supervising judge positions are listed below:

- Branches (each has a supervising judge):
 - East District (Pomona)
 - North Central District (Glendale/Burbank)
 - Northeast District (Pasadena)
 - Northwest District (Van Nuys/Lancaster)
 - South District (Long Beach)
 - Southeast District (Norwalk)
 - Southwest District (Torrance)
 - West District (Santa Monica).
- Central District supervising judge positions:
 - Criminal
 - Family Law

- Juvenile
- Law and Motion
- Probate.

STANDING COMMITTEES

There are 15 standing committees, the most important being the Budget and Personnel Committee. These committees are listed below (numbers in parentheses are their 1970 membership):

- Personnel and Budget Committee (12)
- Bench and Bar Committee (12)
- Courthouse (Judges' Lounge) Committee (12)
- Criminal Courts' Committee (12)
- District Courts' Committee (10)
- Domestic Relation (Family Law) Committee (10)
- Grand and Trial Jurors' Committee (12)
- Judicial Orientation and Education Committee (12)
- Juvenile Court Committee (10)
- Legislation Committee (10)
- Mental Health Committee (8)
- Probate Committee (8)
- Rules Committee (12)
- Standard Jury Institutions Committee - Civil (5)
- Standard Jury Institutions Committee - Criminal (5)

**HOW LOS ANGELES SUPERIOR COURT
JUDICIAL MANPOWER IS ASSIGNED**

Following is an estimate prepared by the staff of the Los Angeles Superior Court of how the court's judges and commissioners are used. The estimate is based on assignments during the 12 months ended July 1970.

	<u>Total Judicial Positions</u>	<u>Judges</u>	<u>Commissioners and Referees</u>
Presiding Judge	1	1	
Probate	3	2	1
Domestic Relations	22	4	18
Civil:			
Personal injury, death, and property damage)			
Eminent domain)	70	62	8
Other civil complaints)			
Civil petitions)			
Insanity	2	1	1
Juvenile:			
Delinquency)			
Dependency)	27	3	24
Criminal	60	57	3
Appeals	4	4	-
Habeas Corpus (insignificant)	-	-	-
	<u>189</u>	<u>134</u>	<u>55</u>

The above table does not include judges temporarily assigned from other Superior Courts. It differs from the chart originally prepared by the Superior Court staff in that we have added the court's two juvenile court referees, whereas the original chart includes only judges and commissioners.

DISTRICT ATTORNEY'S POLICIES

AFFECTING COURT WORKLOAD

About 20 percent (1968) to 30 percent (1969) of the Los Angeles Superior Courts felony cases would, in other jurisdictions, have been disposed of at the Municipal Court level. Department of Justice data indicates that in Los Angeles about 50 percent (1968) to 60 percent (1969) of the persons charged with a felony who are convicted, are convicted of a misdemeanor or receive a misdemeanor sentence. The average for other counties is about 30 percent.

The Los Angeles County District Attorney assigns an experienced deputy to screen incoming cases, his newer deputies to preliminary hearing courtrooms, and experienced deputies to Superior Court trial departments. The net effect of this is that cases are screened based on information in the police report but are not subsequently re-evaluated until they reach the Superior Court.

The absence of experienced deputies at preliminary hearings plus a policy of filing as felonies certain offenses (possession of marijuana and bookmaking are examples) which can be prosecuted as felonies (or misdemeanors), but which in other jurisdictions are usually filed as misdemeanors and which in both Los Angeles and other jurisdictions usually result in misdemeanor sentences, has resulted in a shift in criminal workload in Los Angeles County from the Municipal to the Superior Courts. This has increased the overall work of the county's courts by substituting time-consuming felony proceedings for simpler misdemeanor proceedings.

Ninety percent of the 782 felony bookmaking charges reported as disposed of in Superior Court during the calendar year 1970, were filed in Los Angeles County. Only five percent of the Los Angeles County felony bookmaking cases reaching Superior Court actually resulted in felony convictions (73 percent resulted in misdemeanor convictions). These data are summarized below:

FELONY BOOKMAKING CHARGES
DISPOSED OF IN SUPERIOR COURT
CALENDAR YEAR 1970

	<u>Los Angeles County</u>		<u>Counties Other Than Los Angeles</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Superior Court cases	<u>710</u>	<u>100%</u>	<u>72</u>	<u>100%</u>
Felony convictions	39	5%	28	39%
Misdemeanor convictions	521	73	29	40
Acquitted, dismissed, or otherwise disposed of without conviction	<u>150</u>	<u>22</u>	<u>15</u>	<u>21</u>

Source: Reports to Bureau of Criminal Statistics

The effect of the District Attorney's charging policies is also suggested by the following data:

- Los Angeles County has 35 percent of the state's population, but 51 percent of the felony filings (1969-70)
- Los Angeles County had about 520 felony filings per 100,000 of population during 1969-70, while comparable metropolitan courts (Alameda, Sacramento, San Diego, and San Francisco) had about 330 felony filings per 100,000 of population during the same period.

- About 30 to 35 percent of Los Angeles Superior Court judicial positions are assigned to hear criminal cases, compared with about 20 to 25 percent in comparable metropolitan courts (Alameda, Sacramento, San Diego, and San Francisco).

RECOMMENDATIONS WITH DISCUSSION

In this section of the report we present our recommendations, together with a discussion stating the reasons for the recommendations and suggested methods of implementing them.

RECOMMENDATION NUMBER 1

PROVIDE A LONGER TERM FOR PRESIDING JUDGES, AND LIMIT THE POWER OF THE OTHER JUDGES TO REMOVE THEM ONCE IN OFFICE.

The presiding judges of Superior and Municipal Courts are elected by and serve at the pleasure of the judges in their courts. They have little real power other than what they obtain from the prestige of their positions. They receive the same compensation as other judges.

A longer term would:

1. Provide better administrative continuity
2. Better equip the courts to deal with long-term projects
3. Reduce the relative portion of a presiding judge's term spent in "learning the ropes".

More secure tenure would enable presiding judges to deal effectively with unproductive judges, and to more effectively administer their courts.

IMPLEMENTATION

The term, duties, method of selection, and removal of presiding judges can be established through local court rules, Judicial Council rules, or legislation.

We suggest the enactment of legislation which would:

- Establish a term of about six years for presiding judges
- Prohibit presiding judges from succeeding themselves
- Provide for the election of presiding judges by the judges in their courts, but require a majority vote and concurrence of the Chief Justice for removal.

RECOMMENDATION NUMBER 2

ROTATE COURTROOM PERSONNEL AMONG JUDGES AT REASONABLE INTERVALS.

Court clerks, bailiffs, and reporters often work for a single judge over a period of many years. This can have several adverse effects:

- Standardization of procedures suffer.
- Courtroom personnel can often count on considerable support from their judge, limiting the power of the presiding judge and his staff to manage the organization.
- Courtroom personnel are not encouraged to maintain their skills.
- Less competent court attaches may be retained due to a tolerant judge or one who is not aware of the level of skill he should expect.

Adoption of this recommendation would:

- Encourage court attaches, particularly court clerks, to maintain their skills.
- Avoid judge, clerk, reporter, bailiff cliques
- Facilitate standardization of procedures.
- Encourage termination of less competent court attaches.
- Allow better utilization of courtroom attaches when their judge is ill, on vacation, studying a complicated case, or engaged in some other activity that does not require the presence of courtroom attaches.

IMPLEMENTATION

Implementation of this recommendation could be achieved through local court rule, Judicial Council rule, or legislation.

RECOMMENDATION NUMBER 3

ESTABLISH TRAINING COURSES IN COURTROOM PROCEDURE FOR NEWLY-HIRED DISTRICT ATTORNEY AND PUBLIC DEFENDER PERSONNEL.

Both the district attorney and public defender have relatively high rates of turnover. Law schools typically offer little practical training in courtroom procedure. As a result, deputy district attorneys and deputy public defenders learn their courtroom procedure "on the job". Preliminary hearings are a major training ground for new public defenders and deputy district attorneys. However, the total hourly cost of a preliminary hearing is about \$500, and the time required for the preliminary hearing can be greatly affected by the courtroom ability of the opposing attorneys, making this a very expensive training program.

We do not know exactly what savings are possible through establishment of a training program. However, the presiding judge of one medium-sized Municipal Court suggested that preliminary hearing time would be cut about one-third through the use of experienced prosecutors. This seems a fair estimate based on our courtroom observations.

IMPLEMENTATION

We suggest the enactment of legislation to provide that a portion of the federal money available under the Federal Omnibus Crime Bill be earmarked for training of newly-hired district attorneys and public defenders in courtroom procedure and that these funds be allocated by the California Council on Criminal Justice as directed by the Administrative Office of the Courts.

In preparing such legislation, consideration should be given to whether the 25 percent to 40 percent matching contribution should be met by the state or counties.

RECOMMENDATION NUMBER 4

ESTABLISH A MANDATORY RETIREMENT AGE BEYOND WHICH A JUDGE CAN SERVE ONLY THROUGH ANNUAL REAPPOINTMENTS BY THE CHIEF JUSTICE.

There is presently no age at which a judge must retire. The judges' retirement plan does provide an incentive for retirement by age 70 but does not require such retirement.

The amount of work a court accomplishes depends to a significant extent on the judges' energy and enthusiasm. Some judges remain capable and productive to an advanced age. Others, however, are plagued with illness, poor health, and loss of vigor. Judges are not forced to retire by the Qualifications Commission because of poor health except in extreme cases.

The cost of a judge's salary is a small part of the total cost of operating a court. The major portion is in the cost of facilities and supporting personnel.

- Courtrooms cost about \$500,000 each (at current price levels); interest at seven percent per year on \$500,000 is \$35,000 per year, or about as much as a judge's salary.
- There are about nine court-related employees for each Los Angeles Superior Court judge and commissioner (County Clerk, 4; Sheriff, 1½; reporter, 1; Executive Office, except reporters, 2½).

Court productivity can be increased by the early retirement of judges who, because of health or other reasons, are not as effective as they could be. It is more economical overall to retire these judges early even though it increases the aggregate amount of retirement benefits paid.

Implementation of this recommendation would enable productive older judges to remain on the bench but would provide an effective non-prejudicial means for the early retirement of less productive judges.

IMPLEMENTATION

We suggest the enactment of legislation to require a trial judge to retire upon reaching his sixty-fifth birthday unless he requests, and the Chief Justice grants, a one-year postponement (with provision for subsequent annual postponements).

Consideration should be given to amending the Judges' Retirement Law to correct any inequities which may result from the establishment of a mandatory retirement age.

Consideration should be given to requiring an annual physical examination for judges as a condition of deferring their retirement dates.

RECOMMENDATION NUMBER 5

MAINTAIN A DAILY LOG FOR EACH COURTROOM SHOWING THE CLOCK TIME WHEN EACH HEARING BEGINS AND ENDS.

Courts currently maintain records showing for each day the hearings conducted by each judge or commissioner. These records do not show how long the hearings lasted, although it is a simple matter to enter clock times on present court records.

With court records showing the time each hearing began and ended, it would be possible to determine:

- The actual amount of hearing time per judge or commissioner, and
- The actual current average time per hearing by type of hearing.

Such data would enable courts to analyze their operations and determine where changes could best be made to speed court proceedings. Because time information is not now recorded in court records, effective analysis of the utilization of court time is difficult at best and often impossible.

With the beginning and ending times for hearings recorded, average hearing times could be obtained at low cost using statistically-evaluated random samples, while daily hearing time could easily be totaled and reported by court clerks. Data could be verified through spot checks.

IMPLEMENTATION

We suggest enactment of legislation to require that a daily log of all court activity be maintained by the clerks of the court, and that this log reflect the clock time that each hearing (or group of short related hearings such as master calendar appearances, etc.) began and ended.

RECOMMENDATION NUMBER 6

REQUIRE TRIAL JUDGES TO SUBMIT MONTHLY ATTENDANCE REPORTS TO THEIR PRESIDING JUDGE OR TO THE ADMINISTRATIVE OFFICE OF THE COURTS.

There is no present requirement that a judge report at the end of the month (or other period) which days he was actually present. The Executive Committee of the Los Angeles Superior Court recently considered, then decided against, a time reporting procedure that would have had each judge submit time reports showing the type of work he was doing to the nearest half day. Present Los Angeles Superior Court time reporting procedures are performed by a clerk in the Executive Officer's office who receives phone calls from judges who report their absences. Otherwise, they are recorded as present.

The California Rules of Court established by the Judicial Council require any judge who intends to be absent from his court for one-half day or more to notify the presiding judge of such intended absence well in advance. This requirement is generally not enforced.

IMPLEMENTATION

We suggest the enactment of legislation to require trial judges to submit monthly attendance reports to their presiding judge or to the Administrative Office of the Courts.

RECOMMENDATION NUMBER 7

ASSIGN EACH CASE TO THE SAME JUDGE FOR ALL CIVIL PRE-TRIAL HEARINGS.

Present procedure in the Los Angeles Superior Court is to use specialized departments for pre-trial motions with different judges handling each pre-trial hearing. When the case is ready for trial, it goes to the master calendar department and is assigned to an available judge.

There are disadvantages to this procedure.

- Each judge who handles the case must become familiar with it.
- Effective defense strategy in some cases is to postpone trial as long as possible. With a different judge handling a case each time, the judge is not in a position to know when an attorney is stalling.

IMPLEMENTATION

Implementation could be achieved through local court rule or Judicial Council rule.

RECOMMENDATION NUMBER 8

ESTABLISH A STATEWIDE TRAINING PROGRAM TO PROVIDE TRAINING FOR NEW JUDGES.

Most newly-appointed judges have backgrounds in civil law; however, much of the judicial workload is in the area of criminal law. Many of the responsibilities of a judge in both criminal and other areas of judicial work are quite unrelated to what he did as an attorney.

A relatively short, intensive training program for new judges utilizing experienced judges, law professors, and selected personnel from probation, corrections, and law enforcement agencies should increase judicial productivity.

IMPLEMENTATION

Implementation will require a state appropriation. We suggest administration through the Administrative Office of the Courts. Federal funding may be available for the start-up costs of the portion of the program concerning criminal procedure and related matters.

RECOMMENDATION NUMBER 9

CONDUCT FELONY PRELIMINARY HEARINGS IN THE SUPERIOR COURT RATHER THAN IN THE MUNICIPAL COURTS.

With very few exceptions, felony preliminary hearings are held in Municipal Courts. All felony trials must by law be held in Superior Court.

Elimination of the present split of responsibility between Superior and Municipal Courts for the disposition of felony cases could produce savings in judicial time, simplify record keeping, and provide more expeditious disposition of criminal cases.

Current procedure is as follows:

1. Defendant is arraigned in Municipal Court.
2. A preliminary hearing is held in Municipal Court.
3. Defendant is arraigned in Superior Court.
4. Pre-trial motions, if any, are heard in Superior Court.
5. If defendant does not plead guilty, trial is held in Superior Court.

Moving the preliminary hearing from the Municipal Courts to the Superior Court would offer the following advantages:

1. The Superior Court could handle the pre-trial motions during the preliminary hearings. As it is now, there is a separate Superior Court hearing on the pre-trial motions.

2. Since the Superior Court would have the final responsibility for disposing of the case, it would have an incentive (which the Municipal Courts do not have) to dispose of as many issues as possible at the preliminary hearing.
3. With a decisive preliminary hearing, the defendant would have no illusions as to the case against him. This should lead to a greater number of settlements at the end of the preliminary hearing. Defendants generally wait until after pre-trial motions have been heard in Superior Court before they plead guilty.
4. With the preliminary hearing in the Superior Court, the possibility of losing or misplacing evidence would be reduced. Evidence is initialed and sealed by the police until the time of the preliminary hearing. At the preliminary hearing, the seal is broken and the evidence is submitted for the record. At this point, the evidence is handled by the bailiff and a number of clerks before it gets to the Superior Court. By moving the preliminary hearing to the Superior Court, the amount of handling the evidence must receive would be greatly reduced.

5. Record keeping would be reduced. As the system now stands, every felony case, whether dismissed by the Superior Court or not, accumulates two sets of records, one in the Municipal Court and one in the Superior Court.
6. Control over the calendar of the Superior Court would be strengthened if the preliminary hearing were held there. (In Los Angeles County, there are 24 Municipal Courts sending cases into the Superior Court.)
7. The two-week delay which takes place between the preliminary hearing and the arraignment in Superior Court would be eliminated. Nothing of substantial value is accomplished during this delay. The Municipal Court merely transfers its records to the Superior Court. The evidence is also transferred. The defendant, if he cannot make bail, must wait in jail.

IMPLEMENTATION

We suggest enactment of legislation:

- Giving Superior Courts exclusive jurisdiction over felony preliminary hearings, and
- Making appropriate adjustments in the number of Superior and Municipal Court judgeships.

RECOMMENDATION NUMBER 10

MAKE THE DISTRICT ATTORNEY RESPONSIBLE FOR ALL MISDEMEANOR PROSECUTIONS.

District attorneys are responsible for felony complaints filed within their counties. The City Attorney of the City of Los Angeles and the city attorneys of certain other cities handle prosecution of misdemeanors filed within their cities. The district attorney handles misdemeanor prosecution for county areas and for the other municipalities.

A more efficient arrangement would be to have a single organization handle both misdemeanor and felony prosecutions. Such an arrangement would:

1. Provide efficient handling of cases where felony prosecution is technically possible but misdemeanor prosecution is more appropriate.
2. Provide a place other than felony preliminary hearings for deputy district attorneys to gain experience. (Significant reductions in the duration of felony preliminary hearings could be achieved if experienced prosecutors were used.)
3. Allow either better supervision or fewer supervisors at branch courts by eliminating parallel administrative organizations.

IMPLEMENTATION

Implementation will require legislation.

RECOMMENDATION NUMBER 11

PROHIBIT REFILEING OR RE-INDICTMENT ON CHARGES DISMISSED AT A PRELIMINARY HEARING (EXCEPT IN UNUSUAL CASES), BUT PERMIT DISMISSALS TO BE APPEALED BY THE PROSECUTION.

A judge when holding a preliminary hearing can dismiss a case for lack of evidence or "in the interest of justice". The prosecution, however, can refile as often as it wishes. The net effect of this is that a dismissal after a preliminary hearing is likely to be decisive in a small county with one or a few Municipal Court judges holding preliminary hearings, but indecisive in the larger counties.

In Los Angeles County, the district attorney uses his less-experienced deputies at preliminary hearings. This is rational from his point of view since if he loses he can always refile. However, the use of experienced prosecutors should permit most cases to be disposed of at or after the preliminary hearing by dismissal or plea with considerable system-wide savings.

Los Angeles County preliminary hearing deputies now generally do not have authority to drop or reduce charges.

We suggest granting the prosecutor the right to appeal to safeguard against arbitrary action by the preliminary hearing judge.

IMPLEMENTATION

Implementation will require legislation.

RECOMMENDATION NUMBER 12

PERMIT SUPERIOR COURTS TO HIRE THEIR OWN COURT CLERKS AND OTHER SUPPORTING PERSONNEL.

The county clerk serves as the clerk of the Superior Court. This is in contrast to the Municipal Courts, which are authorized by statute to appoint their own clerks.

The Los Angeles county clerk employs about 850 people, of which about 820 are engaged in court-related activities. Of this 820, about 200 serve in courtrooms; the remaining 620 are engaged in administrative activities and providing support for the courtroom clerks.

Placing the county clerks' court-related staff under the direct management of the court would provide:

- Increased flexibility
- Clear definition of responsibility, and a
- Better motivated work force.

Increased flexibility

Placing all support personnel under the management of the court would improve flexibility, since duties of the staff could be studied and realigned if found desirable, without regard to organizational boundaries.

Clear definition of responsibility

At present, the county clerk works for both the court and the Board of Supervisors. The court has the authority to direct the county clerk's activity relating to court operations, but has no effective means to enforce its directives.

The Board of Supervisors, on the other hand, is in a poor position to supervise the county clerk because of the interrelationship of his activities with the courts.

Better motivated work force

The motivation of the supportive staff would be improved since they would work directly for the court without the intervening insulation of another organization.

IMPLEMENTATION

Implementation of this recommendation could be achieved by amending the Government Code to:

1. Provide that the Superior Court, through its executive or administrative officer:
 - Have responsibility for all administrative and budgetary functions of the court
 - Have supervisory and fiscal responsibility and control over all staff providing in-court functions and accumulation and reporting of statistical and accounting data pertaining to court operation.

2. Define and limit the responsibilities of the county clerk as ex officio clerk of the Superior Court to:
 - Initially receiving and recording all filings with the court in a manner prescribed by the courts
 - Such other functions as assigned by the courts and approved by the Board of Supervisors.
3. Increase authorized Superior Court positions proportionately to the duties transferred from the county clerk.

An alternate method of implementation would be through amendment of Article 6, Section 4, of the State Constitution which now specifies "that the county clerk is ex officio clerk of the Superior Court in his county".

RECOMMENDATION NUMBER 13

PERMIT THE LOS ANGELES SUPERIOR COURT TO HIRE ITS OWN BAILIFFS.

Presently, each county sheriff provides bailiffs for the Superior Court in his county. This contrasts with Municipal Courts, which are allowed to hire their own staff, including bailiffs. Advantages of court-employed bailiffs include the following:

1. Motivation, morale, and job performance could be expected to improve since:
 - Bailiffs would work directly for the court without the intervening insulation of another organization.
 - Bailiffs would have only one boss to work for--the court.
 - The chain of command would be shorter and simpler.
2. Overhead costs could be reduced and supervision strengthened since:
 - In the smaller branches, and in other appropriate situations, a single administrator could supervise bailiffs and perform other duties (unrelated to bailiffs) as well.
 - Time-keeping, attendance reporting, and similar tasks could be handled by the courts' present system.

3. Greater flexibility in the assignment of personnel would be possible since:
 - Bailiffs could be cross-trained to handle court clerk duties.
 - Court clerks could be cross-trained as bailiffs.

Counties other than Los Angeles

Direct employment of Superior Court bailiffs should be advantageous in any of the larger counties; however, use of sheriff's deputies as bailiffs might continue to be desirable in the smallest counties.

It would be advantageous to transfer the bailiff function to the Los Angeles Superior Court as soon as possible, even if a similar change is not immediately made in some or all of the other counties:

- The Los Angeles Superior Court already has a strong administrative staff, which is lacking in many other Superior Courts.
- Los Angeles could serve as a pilot for other counties.

IMPLEMENTATION

Implementation of this recommendation will require legislation to:

- Amend Section 26603 of the Government Code which now provides that each county's sheriff "shall attend all superior courts held within his county".

- Authorize the employment of bailiffs by the
Los Angeles Superior Court.

RECOMMENDATION NUMBER 14

COMBINE THE LOS ANGELES COUNTY MUNICIPAL AND SUPERIOR COURT BAILIFF SYSTEMS.

Presently separate parallel organizations provide bailiffs and process servers for the Municipal Courts and for the Superior Court. Use of a common bailiff system for all Los Angeles County courts would eliminate the need for two separate parallel administrative staffs.

Municipal Courts are authorized by statute to hire their own bailiffs. In Los Angeles County, the 24 Municipal Courts have a county-wide marshal's office to provide Municipal Court bailiffs and serve papers for all Municipal Courts within the county. The sheriff's civil division performs a similar function for the Superior Court.

Elsewhere in this report we have recommended: combination of the Municipal Courts and the Superior Court for administrative purposes, and direct employment of bailiffs by the Superior Court. Adoption of these two recommendations would facilitate a single county-wide bailiff system; however, unification of the Superior and Municipal Court bailiff system could be accomplished even before other aspects of the administration of the courts were initiated.

IMPLEMENTATION

Implementation of this recommendation can be achieved through legislation establishing the present Los Angeles County marshal's office as the bailiff of the Superior and Municipal Courts. We suggest that the marshal be placed under the supervision and control of the Superior Court.

RECOMMENDATION NUMBER 15

SUBSTANTIALLY REDUCE THE SIZE OF THE LOS ANGELES COUNTY CLERK'S STAFF.

The Los Angeles County Clerk's office is staffed on the basis of approximately four court-related personnel per judicial position. The Sacramento County Clerk's office is staffed on the basis of approximately two court-related personnel per judicial position.

Both the Sacramento and Los Angeles County Clerks perform approximately the same functions for the Superior Courts in their counties. The difference in the number of county clerk staff per judicial position is not explained by differences in the relative size of the Executive (or Administrative) Officer's staffs employed by the two courts, nor by differences in the number of filings per judicial position, nor by differences in the level of service provided the two courts by their county clerks.

The 1970-71 budget for the Los Angeles County Clerk is \$8.2 million, of which \$7.3 million is for salaries, wages, and employee benefits. Over 95 percent of the county clerk's staff works on court-related activity. About five percent of his court-related staff is assigned to activities not directly comparable to Sacramento.

We believe that a worthwhile reduction could be made in the Los Angeles County Clerk's court-related staff if a determined effort were made to reduce the staff to a two-to-one ratio or to approach that goal as nearly as possible.

REORGANIZATION

Initial steps have been taken to improve the effectiveness of the Los Angeles County Clerk's operations. As of July 1, 1970, certain

administrative positions were realigned and a new Chief Deputy was brought from outside the department. Since then, procedures have been initiated which, when complete, may produce modest savings. However, to date, no staff reduction has been achieved.

IMPLEMENTATION

The staffing of the county clerk's office is the responsibility of the Board of Supervisors.

Elsewhere in this report we have recommended that personnel now performing county clerk functions be employed directly by the Superior Courts and that the definition of the county clerk's responsibility as ex officio clerk of the Superior Court be sharply reduced through statutory or constitutional change.

Staff reduction could be achieved either through action of the Board of Supervisors or by the Legislature in conjunction with the transfer of present county clerk personnel to direct employment by the Superior Court.

RECOMMENDATION NUMBER 16

INCREASE JURORS' COMPENSATION.

Jurors receive \$5 per day in California courts. Federal courts recently raised the amount paid their jurors to \$20 per day. The small amount paid state jurors is analogous to a special tax on those selected for jury duty. Higher compensation for jurors would:

- Cause civil litigants to pay closer to the true value of their jurors' time
- Encourage better utilization of jurors' time by courts
- Encourage civil litigants to seek trials without juries in cases where small amounts are involved
- Produce jury pools that are a better cross-section of the population than is now the case.

Value of jurors' time

A typical civil jury trial requires the services of a jury over a period of four or five days. At \$5 per juror per day for 12 jurors for four days, the jurors are paid a collective \$240 (excluding mileage). If their time is worth \$25 per day (\$500 per month), the cost of their collective time is \$1,200. On this basis, their subsidy to the civil litigants would be \$960.

Utilization of Jurors

It is not unusual to see 100 or more jurors waiting in the jury room of the central branch of the Los Angeles Superior Court at various times during the day. Attorneys in civil cases frequently settle only after the jury has been chosen.

IMPLEMENTATION

Implementation of this recommendation will require legislation to raise the jury fee.

RECOMMENDATION NUMBER 17

PLACE MUNICIPAL AND JUSTICE COURTS UNDER THE ADMINISTRATIVE CONTROL OF THE SUPERIOR COURT IN EACH COUNTY.

At present, each Municipal and Justice Court is a separate independent entity, administratively responsible only to the Judicial Council.

Placing lower trial courts under the administrative control of the Superior Court would:

- Facilitate consolidation of the supporting staffs of the two courts
- Establish a workable hierarchy at the trial-court level.

Consolidating supporting staffs

Elsewhere in this report we have recommended that Superior Courts be permitted to hire their own supporting staffs (as Municipal Courts now can) and that the Superior and Municipal Court bailiff systems be combined.

Many other functions could also be consolidated, including jury selection, interpreters, recordkeeping, and budgeting. A single support organization could be provided for each physical location, and duplications in administrative and supportive staff eliminated. Each individual court would not have to be staffed for peak loads, since personnel could be transferred to meet exceptional workload.

Consolidation of certain supportive functions has already been accomplished in certain courts. For example, the Sacramento Superior and Municipal Courts use a common court reporter system. The Los Angeles

Superior Court supplies interpreters both for itself and for the 24 Municipal Courts within the county, and provides jurors for certain of the Municipal Courts.

However, consolidation to date has been limited and sometimes is not carried out even when obviously advantageous. For example, even though most Los Angeles County Municipal Courts use the Superior Courts' jury pool, the Los Angeles Municipal Court, even though physically housed with the Superior Court central branch, does not use the pool, but instead maintains its own separate parallel system.

Establishing a workable hierarchy

In addition to the 58 Superior Courts in California, there are 75 Municipal Courts (24 of which are in Los Angeles County) and 244 Justice Courts as of June 30, 1970, each administratively responsible only to the Judicial Council. By giving the Superior Court in each county administrative responsibility for the lower courts in that county, the number of trial courts reporting directly to the Judicial Council would be reduced to a much more workable 58. The Judicial Council could look to each Superior Court for effective administration of the lower courts in its county.

Flexibility

The proposed recommendation would provide a flexible approach to the consolidation of trial court supportive staffs. Such consolidation could take place on a step-by-step basis, taking into account local conditions and the relative effectiveness of present personnel. Changes need be made only when a definite payoff is possible. Present separate staffs could remain intact until change was considered desirable.

IMPLEMENTATION

Implementation can be achieved by enactment of legislation:

- Transferring all present Municipal and Justice Court employees to the Superior Court in each county
- Placing responsibility upon the Superior Courts for providing support staffs for the Municipal and Justice Courts
- Providing that all present jobs, duties, and lines of supervision remain unchanged unless specifically changed by Superior Court rule or through Municipal Court rule in areas of responsibility delegated by the Superior Court.

We suggest that accompanying actions be taken by the Judicial Council to provide for temporary transfer of Municipal Court judges between courts in the same county at the request of the presiding judge of the Superior Court in that county.

RECOMMENDATION NUMBER 18

ESTABLISH A CASE INVENTORY SYSTEM FOR SUPERIOR AND MUNICIPAL COURTS.

Very basic information needed for the management of California trial courts is not available. Much of the information that is available is of questionable reliability because it is collected in a variety of ways, on a variety of different cases, and with little use of internal checks and controls in the data gathering and reporting process.

A case inventory system could provide much of the needed information and would increase the reliability of certain existing information. Such a system need not be elaborate to provide substantial improvement. In the smaller courts a handkept system could be used. In the larger courts the use of a computer would be desirable. Such a computer system need not be elaborate. It could use existing technology and standard proven programming approaches.

Using the same data base (same basic records), periodic reports could be made of the number and types of hearings held and their workload content estimated. Exception reports could be prepared identifying specific cases that are unusually old, have had an unusual number of continuances, or cases where some other exceptional circumstance exists. These reports would help court management eliminate bottlenecks as they occur.

Control totals would be used to maintain the accuracy of the records. For example, the number of cases in the beginning inventory, plus the number of cases filed, less the number of cases disposed of would equal the number of cases in the ending inventory. In a similar manner, case age data could be

checked by keeping track of the aggregate ages of cases in the inventories and aggregate ages of cases added and disposed of during the month.

The proposed system

The system we propose would consist of a record for each case showing its current status and containing a record of past actions. It would operate similar to inventory systems used by business firms to keep track of warehouse stock.

Daily or weekly, the actions taken on each case would be posted to its record. Once a week a status report would be prepared from case inventory records showing by type of case:

1. The cases filed (added to the inventory)
2. The cases disposed of by type of disposition
(taken from the inventory)
3. The ending inventory of cases:
 - By age, and
 - By status (discovery complete, trial date set, etc.)

The present system

Courts currently maintain case files, registers of actions, and other records that show case status and the proceedings that have taken place. The problem lies not in the fact that case information is not available somewhere, but rather that it is not maintained on a consistent, controlled basis and in a form from which management reports can be prepared readily.

Data are presently obtained through a variety of hand counts and certain computer tabulations. Data for different purposes are obtained separately and are not interrelated. Related statistics are kept independently and on a different basis and so are not comparable. Control devices such as control totals and balancing are not used to maintain the accuracy of data. Some data are available by type of case; other similar data are not.

Counties other than Los Angeles

Our work in conducting this study has been primarily in Los Angeles County. Limited contact with courts in other counties and inconsistencies in certain published data suggest that a case inventory system would be desirable on a statewide basis.

IMPLEMENTATION

Any individual court could establish a case inventory; however, implementation would be made easier if Judicial Council reporting requirements were modified.

We believe that implementation could best be achieved if based on statewide standards and procedures established by the Judicial Council after a field study of the way data are currently recorded and reported in selected trial courts.

RECOMMENDATION NUMBER 19

PROVIDE FOR INTEREST ON JUDGMENTS IN PERSONAL INJURY, DEATH, AND PROPERTY DAMAGE CASES FROM THE DATE OF INJURY.

The best defense strategy in some accident cases is to delay the case as long as possible. The defendant has an added advantage in that interest does not begin to accrue until judgment is entered. By charging interest from the date of the accident, one of the defendant's advantages in delaying a case will be eliminated. Delaying tactics consumes court time through continuances and law and motion appearances.

IMPLEMENTATION

Implementation will require legislation.

RECOMMENDATION NUMBER 20

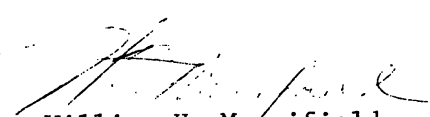
REDUCE THE SIZE OF JURIES USED IN MINOR CRIMINAL MATTERS AND IN CIVIL CASES WHERE A SMALL AMOUNT IS AT DISPUTE.

Twelve jurors are now required regardless of the amount in dispute or the size of the potential penalty.

The aggregate value of the jurors' time can exceed the amount in dispute or be out of proportion to the potential penalty in smaller cases.

IMPLEMENTATION

Implementation will require a state constitutional amendment.


William H. Merrifield
Auditor General

March 31, 1971