

Memorandum 93-75

Trial Court Unification: Miscellaneous Matters

STATISTICS ON JUDICIAL DIVERSITY

Issues of judicial diversity have arisen in connection with the concept that loss of municipal and justice courts may impair an avenue by which historically excluded groups such as women and minorities have been able to get access to judgeships. The available statistics are limited, but we have been able to obtain some from various sources. This memorandum discusses the statistics from the access perspective. For Voting Rights Act implications, see Memorandum 93-72.

Women

With respect to women in the judiciary, the data indicates that 218 judges are women. This represents approximately 16% of the trial court judge corps.

Thirteen percent of superior court judges are women, and eighteen percent of municipal court judges are women. We do not have statistics showing what percentage of women now sitting on the superior court began their judicial careers in the municipal court. We do know that about 50% of the superior court judge corps as a whole came through that route.

Of the 46 sitting justice court judges, only one is a woman; this undoubtedly reflects the fact that justice court judges are appointed by the county board of supervisors, whereas other trial court judges are appointed by the Governor.

Minorities

One hundred eighty-nine judges, or approximately 14% of the state trial court bench, is minority. Minority judges are divided about equally between the superior court and municipal court benches. We do not know how many of the superior judges began as municipal court judges.

Of the 46 justice court judges, only three are minority members, undoubtedly reflecting the difference in appointment process between justice court and superior and municipal courts.

Conclusion

The few available statistics are inconclusive on the question of whether unification will make it more difficult than it is now for women or minority lawyers to become judges as a general matter. The statistics do suggest that the shift of appointment authority of what are now justice court judges from the county boards of supervisors to the governor in a unified court system should result in a greater proportion of women and minority judges. However, this segment represents a small percentage (3%) of the total judge corps.

SELECTION CRITERIA FOR SUPERIOR COURT APPELLATE DIVISION

At the October 28-29 meeting the Commission concluded that there should be an appellate division in the unified trial court, and that the Judicial Council should promulgate rules to foster the independence of the appellate division and its judges. The Commission also requested the staff to ascertain what criteria are currently applied in selection of superior court judges to the appellate department of the superior court.

The staff is informed that there are no formal or written criteria. Appointments to the appellate department are made by the Chief Justice. The appointment process is personal and unique to each Chief Justice, and no Chief Justice has made known the criteria used by that Chief Justice. Observers have noted that appointment criteria appear to vary with the political and judicial philosophy of each Chief Justice.

BACKGROUND INFORMATION

The staff notes its review or acquisition of the following useful library materials relating to trial court unification, in addition to those earlier listed in Memorandum 93-55 and its First Supplement:

- The Judicial Article (Hefflin 1977)
- Literature on Court Unification: An Annotated Bibliography
(Carbon & Berkson 1978)
- Court Unification: History, Politics and Implementation
(Berkson & Carbon 1978)
- Pros and Cons of Unification (Lugton 1990)
- Administrative Unification (Los Angeles Superior and Municipal
Courts 1993)
- Voting Rights in Court (Reuben 1993)

DETAILS OF IMPLEMENTATION

We have received a few copies of a publication by the Los Angeles Superior and Municipal Courts, now operating as the Administratively Unified Courts of Los Angeles County, which are being circulated to Commission members for review. The report is too voluminous for easy reproduction.

The publication, dated March 1993, is a plan for the administrative unification of the superior and municipal courts. It provides detailed information concerning all aspects of the trial court operation in Los Angeles County, both superior and municipal, including administrative support, data processing, human resources, public information, and operations. The report makes specific suggestions for unification of every facet of the operation.

The staff thinks this material may provide a useful compendium of the types of practical details that will need to be dealt with by each county in the implementation of trial court unification.

WHAT, ME WORRY?

One of the abiding issues we face is whether all details of unification need to be spelled out before we can rationally adopt the principle of unification. The position of the staff has been that the principle must be established first, and the details thrashed out later, in order to make unification a political and practical reality. This view was also strongly expressed by legislators at the interim hearing on SCA 3.

We think there is a lot of wisdom in the comment of Samuel Johnson we recently happened upon: "Nothing will ever be attempted if all possible objections must be first overcome." Of course, persons who think we must be more circumspect could throw back the old saw, "Wed in haste, repent at leisure."

Respectfully submitted,

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