Memorandum 93-57

Trial Court Unification: District Court

The existing California trial court system of superior and inferior courts is established by the California Constitution.

Article 6, Section 4 provides for a superior court in each county:

> Sec. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.
>
> The county clerk is ex officio clerk of the superior court in the county.

Article 6, Section 5 provides for division of the county into municipal and justice court districts by the Legislature, with jurisdiction prescribed by statute:

> Sec. 5. (a) Each county shall be divided into municipal court and justice court districts as provided by statute, but a city may not be divided into more than one district. Each municipal and justice court shall have one or more judges.
>
> There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.
>
> The Legislature shall provide for the organization and prescribe the jurisdiction of municipal and justice courts. It shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees.
>
> (b) Notwithstanding the provisions of subdivision (a), any city in San Diego County may be divided into more than one municipal court or justice court district if the Legislature determines that unusual geographic conditions warrant such division.

SCA 3 would replace this trial court system with a single trial level court in each county called the district court:

Sec. 4. In each county there is a district court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each district court. The Legislature may provide that one or more judges serve more than one district court, or that two or more district courts may be organized into one or more circuits for regional resource sharing or administrative purposes.

The Legislature may divide the district court into one or more branches.

The county clerk is ex officio clerk of the district court in the county.

Combination of the superior, municipal, and justice courts in a single court system raises a number of obvious and practical issues. These include such matters as basic control of the court system (is it a county system or state system or something else?), geographical location of the courts, practice and procedure in the court system, personnel and compensation questions, and the like. Many of these will prove to be matters for resolution by statute or court rule, that we need not finally resolve at this time. Others will be limited transitional issues, discussed also in Memorandum 93-63 (transitional provisions). In any event, we must review the issues to determine whether enabling language is required in the Constitution.

The discussion in this memorandum follows this organization:

FUNDING AND CONTROL

The district courts are courts of the state, and there is one in each county. Are they state courts or county courts? Who ultimately controls them and makes decisions concerning them? Who owns and controls the physical facility in which the court holds its sessions? Are the court's employees county employees or state employees (or autonomous court employees)? The Legislature does not want to become involved with internal management issues in the court system, but should the county remain involved? What are the relative roles of the Judicial Council and the individual county courts? Will unification result in an undesirable loss of local control and inattention to important matters that may seem small or insignificant to a state bureaucracy running the court system? These issues permeate the discussion throughout this memorandum.

Trial court control is dependent in part on trial court funding. The discussion in Memorandum 93-55 (general issues) notes that most trial court unification proposals have included state funding as part of the package. SCA 3 does not do this, but it proposes trial court unification against a background of movement toward state funding of the trial courts in California.

The present policy of the Legislature is ultimately to achieve 100% state funding of trial court operations. The state is gradually assuming a greater share of trial court funding, increasing its share by about 5% annually. It is now at about the 45 or 50% level, and has been affected by the state's fiscal deficit the past several years.

In the past the state element of trial court funding has been made on a block grant basis. Beginning this year it will be by line item appropriation, submitted by the Judicial Council and subject to the same legislative budgeting process as other items in the state budget.

Witkin equivocates on the issue whether the superior court is a state court or a county court. He ultimately concludes that the correct view is that there are 58 superior courts, one in each county, and that the designation as "state court",

while entirely proper, is intended to refer only to jurisdiction and not to organization. 2 B. Witkin, California Procedure *Courts* § 161 (3d ed. 1985).

We will be called on to make recommendations to the Legislature concerning decisionmaking authority on each of many practical issues involved in unification of the municipal and justice courts with the superior courts. Some of the major court structure issues are discussed below.

COUNTY ORGANIZATION

The trial court structure under existing law is based on a county organizational scheme. At present, each superior court's territorial jurisdiction follows county lines, and, by statute, counties are further divided into municipal and justice court districts. SCA 3 would continue the county-based structure.

Other structures have been proposed, including division of the state into several very large trial court districts, and division into many small districts. The South Bay Judicial District Municipal Court, for example, proposes a district court organization without reference to county lines:

> The organization of district courts along county lines is artificial and unwise. We would propose that districts be organized without reference to existing county or municipal boundary lines. In other words, in the northern part of the state a district might be composed of a number of counties. In a large county, such as Los Angeles, there might be 10 or 15 districts *within* the county. This method, as opposed to the one in the current version of SCA 3, would provide the following benefits:
>
> (1) It would allow the establishment of an "optimum" size of court. A district organized out of a two-judge county, such as Mariposa County, would not be particularly efficient. A district composed of hundreds of judges, such as would result in Los Angeles, would be unmanageable. Current thinking in judicial administration indicates that a court containing 20-40 judges is the optimum size for efficient management. Our proposal would meet this goal. The formulation of SCA 3 which allows the division of a district court into various "branches" does not solve the problem of unmanageability, since one "district" court remains as a distinct entity. This is the current problem, indeed, with the existing Los Angeles Superior Court. At the same time, having a district composed of two or three or four judges, as would result in Northern California, would be likewise inefficient.
>
> (2) It would take away from the local boards of supervisors the option to construct districts. The division into local branch courts should not be made optional. To do so strikes directly at one-

person-one-vote constitutional principles. Local voters should be able to elect local judges. This can be accomplished without reference to local governmental entity boundaries.

(3) It would allow the current infrastructure of county jails, county sheriffs' administrations, and county grand juries to remain intact. If a district covered several counties, for instance, prisoners could be committed to the county jail for the county in which the crime was committed.

(4) It would solve the problem of deciding what current municipal and superior court bench officers are assigned to what branches of large district courts. We have no interest, for instance, and may be constitutionally prohibited, from automatically, by passage of a state constitutional amendment, becoming representatives of voters in far-reaching parts of Los Angeles County. Nor do we have any interest in having to travel out of the South Bay to perform our elected and appointed functions.

(5) It would solve the problem of judicial specialization. Within each district court there would be enough judges to allow specialized departments, such as probate and family law, to be staffed with judges who had the expertise to handle the specialized types of work.

This matter is reviewed in the 1993 Judicial Council Report, which notes that a trial court's territorial jurisdiction should generally depend upon (1) the distribution of population centers; (2) geographic features; and (3) political boundaries. Many county lines in California properly reflect population distribution and geographic features. But many other county lines poorly account for widely dispersed populations and different geographies, and in these counties, different jurisdictional lines for the trial court may be justified.

Notwithstanding this fact, the Judicial Council concludes that the unified trial courts should follow county lines for the following reasons:

(1) Ever since 1879, county lines have been used as the jurisdictional boundary for California's trial court of general jurisdiction.

(2) County lines are a familiar governmental unit for members of the public who must deal with the courts and vote in elections.

(3) Superior court administrative structures are based upon county lines, and any change in the territorial jurisdiction would require a fresh analysis of the administrative needs of every trial court.

(4) Public agencies that frequently interact with trial courts (e.g., prosecutors, public defenders, corrections, and law enforcement agencies) are organized on a county basis.

(5) Continued county funding of some court operations makes county lines the most natural division between district courts.

The staff finds the Judicial Council argument compelling and perceives that there is widespread agreement with the county-based trial court structure. It is the historical pattern, it is generally workable, it doesn't require a massive reorganization task, and it conforms with current concepts of proper trial court structure. See, e.g., ABA Standards Relating to Court Organization § 1.12(c) (trial courts geographic structure). The staff believes that the county-based approach of SCA 3 is sound:

> In each county there is a ~~superior~~ district court of one or more judges.
>
> **Comment.** The first sentence of Section 4 is amended to reflect unification of the superior courts, municipal courts, and justice courts in a single trial level court. See also former Section 5 (municipal court and justice court). This provision preserves the county-based trial court structure for the district court.

GEOGRAPHIC DISTRICTS

The problems with a county organization for the district court occur at the extremes—the very large counties and the very small counties.

Very Large Counties

There are logistical problems in a county structure where either the physical geography is very large (e.g. San Bernardino) or the population served is very large (i.e., Los Angeles).

Physically Large Counties. Remote parts of physically large counties may currently be served by branch superior courts or by municipal or justice courts. Unification should not affect this, since the existing courts would become part of the unified court system. SCA 3 provides as a transitional matter that, "each preexisting superior, municipal, and justice court location shall be retained as a district court location." This appears to be the simplest and most direct way to deal with the matter, and the staff draft recommends it.

But what happens after the transition period ends? A number of judges have expressed concern that in a unified court system the smaller branches will be left out and not receive adequate resources. Who will control staffing and funding of the branches? Who will decide whether the branches should continue in

operation? Who will decide what judge and what personnel get assigned to the outlying branch?

Under Article 6, Section 5 of the California Constitution, the Legislature may provide for municipal and justice court organization, and the Legislature by statute largely delegates decisions concerning the court structure to the counties. The Constitution is silent as to superior court locations and branches. Presumably, then, this is a matter for decision by the court. Nonetheless, statutes purport to control superior court districts and sessions.

SCA 3 would resolve this issue by providing that the Legislature may divide the district court into one or more branches. The Senate Judiciary Committee consultant's analysis on this matter states that, "while ultimately districts should be defined in statute, it would seem proper that the Legislature exercise only a role of ratification in this regard."

The 1993 Judicial Council Report is silent on this issue. Their general position is that internal control of court functions is a matter properly left to the judicial branch. Whether the issue of branch operations and assignment of resources to the branches falls within this category is unclear. Their draft of the constitutional amendment does not deal with the matter, which presumably would leave it to the judicial branch (either the court or the Administrative Office of the Courts).

The staff believes this matter should be addressed directly in the Constitution. Because historically the Legislature has retained ultimate control of trial court structure, the staff would continue this arrangement. However, the staff would make clear that the Legislature may delegate authority on this matter to the court or to the county.

We would add the following language to Article 6, Section 4:

> The Legislature shall provide for the organization of district courts.
>
> **Comment**. This provision of Section 4 continues a provision of former Section 5 relating to the organization of municipal and justice courts and extends it to district courts. Under this provision the Legislature may prescribe court organization, for example branch operations and sessions, or may provide for it by delegating authority concerning these matters, for example to the courts, the Judicial Council, or the county boards of supervisors.

This of course does not finally resolve the matter, since we still must deal with the statutory delegation. But at least the Constitution will be clear on the lines of authority and on the ability to delegate authority.

Populous Counties (i.e., Los Angeles). SCA 3 enables the Legislature to divide the district court into one or more branches in a county. Many commentators on court unification have made the point that Los Angeles County is so large in population and the number of judges serving it is so great that a unified trial court for that county would be unmanageable. See, e.g., comments of South Bay Judicial District Municipal Court, above. There have been a number of suggestions that at least the Los Angeles County district court should not be countywide but should be divided into several independent districts. How this might be done mechanically is addressed in Size of Judicial Divisions Within a Unified Court (Birdlebough 1981), Exhibit pp. 1-6 (suggesting that the optimal autonomous court size is a maximum of 40 judges).

The Senate Judiciary Committee consultant's analysis of SCA 3 remarks that, "The largest counties, notably Los Angeles, may be better served by the creation of two or more independent districts rather than the branches suggested by this measure. In the case of Los Angeles, the judicial cohort is huge (427 judges); assignments might better be made and administration more efficiently undertaken if fewer numbers are involved. Diseconomies of scale may occur if the size becomes overwhelming."

The 1993 Judicial Council Report considers the concept of independent districts within the county and rejects it for the same reasons a county structure for the trial courts is preferred generally—historical jurisdictional boundaries of the court of general jurisdiction, familiarity of the public with the county as a governmental and electoral unit, existing administrative structures based on county lines, other county entities involved in the judicial process, and county funding of court operations. In addition the presiding judges and court administrators from Los Angeles involved in the Judicial Council study felt that the citizens of Los Angeles would be better served by one court district than by multiple courts. "Moreover, the fact that Los Angeles County will be served by one district court does not mean judicial services will be centralized; to the contrary, there was general recognition of the need to maintain existing facilities and to decentralize the provision of judicial services as necessary to serve the public and to achieve maximum efficiencies."

The staff thinks the same results in terms of operating efficiency could be achieved either way—by creating separate court districts within the county or by creating branches within the countywide court district. However, the staff sees a number of obvious problems with creating separate court districts within the county—how will people know which court district they are in? will boundary lines be clear? how will boundary lines be established? will judges have to move to homes within the boundary of the district they sit in? The staff sees no real advantage to creating independent judicial districts rather than branches within a large county. We therefore concur with the approach of SCA 3 and the Judicial Council to provide for branches rather than independent districts.

The question still remains, who will determine the need for and location of branches? The obvious possibilities are to establish branches by statute, to delegate the matter to the counties, or to leave it to the judiciary (either the Judicial Council or the individual district court).

SCA 3 provides that the *Legislature* may divide the district court into one or more branches. (As introduced the measure would have required concurrence of the county, but this was deleted in the July amendment in the Assembly.) The Senate Judiciary Committee consultant's analysis remarks that, "this would seem appropriately the decision of *local governments and the local bench.*" The 1993 Judicial Council Report would leave it exclusively to the *judiciary*—"In those districts where population and geography require the use of multiple court facilities, the district court should itself establish the proper location for those additional facilities pursuant to standards promulgated by the Judicial Council."

The staff would take the same approach on the issue of branches in populous counties as on the issue of operations in geographically large counties—the Legislature has ultimate responsibility but may delegate it to the county or the judicial branch.

> The Legislature may provide for division of the district court into one or more branches.
>
> **Comment.** This provision of Section 4 is a specific instance of the general authority of the Legislature to provide for court organization. The Legislature may prescribe branch divisions by statute or may provide for them by delegating authority concerning this matter, for example to the courts, the Judicial Council, or the county board of supervisors.

The staff believes that the Legislature should delegate this matter by statute, but we are not yet in a position to make a recommendation on whether this should be to the counties or the judicial branch.

Very Small Counties

SCA 3 deals with the question of achieving efficiency in the unified court in small rural counties: "The Legislature may provide that one or more judges serve more than one district court, or that two or more district courts may be organized into one or more circuits for regional resource sharing or administrative purposes."

The Senate Judiciary Committee consultant's analysis of SCA 3 observes that this provision offers the opportunity for countywide districts to join into circuits served by the same judges, but would appear to require that each county remain a separate district. "It might be argued that districts themselves should be allowed to unify: two or more mountain counties may find that a single district represents the best scale for optimal efficiency."

A number of judges in smaller counties have expressed concern about the possibility of multi-county districts. They worry that it will result in consolidation of facilities in the name of efficiency that will make the courts inconvenient and inaccessible for many persons, and make the judicial officers too remote from their electoral constituency.

The 1993 Judicial Council Report suggests that multi-county consolidation authority is unnecessary. Section 4 currently enables the Legislature to provide that one or more judges serve more than one superior court, with the consent of the governing body of each of the counties. But this authority is unused, and it is unnecessary in light of the Chief Justice's more flexible authority to make judicial assignments as needed to address changing workloads. See Article 6, Section 6 ("The Chief Justice may provide for the assignment of any judge to another court.")

The Judicial Council states that, while in some areas a district court encompassing more than a single county may appear more cost effective, they have found little support for multi-county districts. In addition, administrative flexibility can be achieved by multi-district coordination activities (including cross-assignments of judges).

The staff's sense is that authority to create multi-county districts is not needed. The arguments that favor making the district court coterminous with the

county are not overridden by the possibility that efficiency could be improved by creating multi-county districts. Unification itself should make each small county court system more efficient than it is now.

The staff thinks that the present approach of SCA 3 to enable administrative consolidation among counties is about right. However, it again raises the question of the authority of the various branches of government. Who controls coordination between counties—the Legislature, the counties, the Judicial Council, the district courts. The staff would resolve this the same way the other issues are resolved—making clear the authority but postponing decision on implementing legislation.

> ~~If the governing body of each affect county concurs, the Legislature may provide that one or more judges serve more than one superior court.~~ The Legislature may provide that two or more district courts may be organized into one or more circuits for regional resource sharing or administrative purposes.
>
> **Comment.** The third sentence of Section 4 is deleted because it is unused and unnecessary. See Article 6, Section 6 ("The Chief Justice may provide for the assignment of any judge to another court.")
>
> The third sentence is replaced by authority of the Legislature to prescribe district court circuits by statute or provide for them by delegating authority concerning this matter, for example to the courts, the Judicial Council, or the county board of supervisors.

FACILITIES

While most trial court unification proposals have provided for state funding of the trial courts, most also provide for county funding of the physical facility in which the court holds its sessions. This is because in practice the county courthouse building also houses other county offices. It is conceivable, however, that as state funding of the trial courts increases and as the trial courts continue to evolve from local courts to state courts, the physical facilities will gradually become state facilities subject to state control. We are not there yet, however, and maintenance of the status quo on funding and control of court facilities seems like the most sensible approach.

A related question is the location of the physical facilities. It is quite possible that in a unified trial court the existing courthouse locations will not yield the most efficient allocation of judicial resources. Certainly as an interim matter the existing locations should be maintained. SCA 3 provides a simple transitional

provision to the effect that "each preexisting superior, municipal, and justice court location shall be retained as a district court location". Section 16.5.

Must the location be maintained indefinitely, or at least until the expiration date of the transitional provision? Who ultimately makes decisions concerning the location of the facility? Once again we get into difficult questions of shared responsibility of the counties, the State, and the judiciary. Arguably the Judicial Council should have a role in prescribing standards, and a number of unification proposals have suggested this. The 1993 Judicial Council Report recommends that the district court itself should have the authority to establish the location of court facilities.

It appears appropriate at this point in the evolution of the trial courts to continue to leave the matter to local control. This will also partly address the concern that trial court unification will destroy the local people's court aspect of the lower courts. The staff would adopt a transitional provision along the lines of SCA 3:

> Sec. 23. On the operative date of this section, until otherwise determined pursuant to statute, each preexisting superior, municipal, and justice court location and facility shall be retained as a district court location and facility.
>
> This section shall be operative only until July 1, 2000, and as of that date is repealed.
>
> **Comment.** Section 23 converts existing trial court facilities into district court facilities. The counties may alter this configuration pursuant to statutory authority.

PRACTICE AND PROCEDURE

In a unified trial court system, differences between practices and procedures in the preexisting courts will need to be harmonized. This is largely a question of statute and court rule, although there are a few issues that may raise constitutional questions. We will here review briefly some of the main problem areas.

Court Rules

Statewide Judicial Council rules for the superior courts and the municipal and justice courts will need to be consolidated. Variant local rules will need to be unified within each district. This matter is discussed in Memorandum 93-58 (Judicial Council).

Economic Litigation

The expedited process followed in municipal and justice courts under the Economic Litigation procedures will need to be preserved in the unified court or the system will gridlock. As an initial matter it will probably be necessary simply to provide that cases formerly within the jurisdiction of the municipal and justice courts are governed by the Economic Litigation rules. In the long run it will make sense to prescribe the scope and application of the Economic Litigation procedures directly by statute.

A transitional provision should be in place when court unification becomes operative. A general provision along the lines set out in Memorandum 93-56 (judicial power) is too broad for this purpose, since it states that all provisions governing superior, municipal, and justice courts apply to the district court, and in case of a conflict the superior court provision prevails.

The staff would revise the proposed general provision to cover this matter:

> Gov't Code § 71001 (amended). Laws relating to municipal and justice courts
>
> 71001. (a) All laws relating to the municipal and justice courts, and to the judges and other officers or attaches of those courts, in effect on July 1, 1995, shall apply to district courts, and to the judges and other officers or attaches of the district courts.
>
> (b) However, if inconsistent provisions relating to superior, municipal, and justice courts are applicable to a district court, the provisions relating to superior courts shall prevail. If inconsistent provisions relating to municipal and justice courts are both applicable to a district court, the provisions relating to municipal courts shall prevail.
>
> (c) Notwithstanding subdivision (b), inconsistent provisions relating to superior courts do not prevail over any of the following provisions, which shall remain applicable to causes in the district courts of a type that would be within the jurisdiction of the municipal and justice courts as it existed on June 30, 1995:
>
> (1) The economic litigation procedures provided by Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure.
>
> (2) Any other provision relating to the municipal and justice courts that the district court determines is necessary because application of the provision applicable to superior courts would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons.
>
> Comment. Subdivision (c) is added to Section 71001 in recognition of the necessity that some rules applicable to municipal

and justice courts continue to apply to causes formerly within the jurisdiction of those courts.

Paragraph (1) preserves the Economic Litigation procedures.

Paragraph (2) is drawn from transitional provisions in Probate Code Section 3 and Family Code Section 4.

An alternate approach would be to limit the general transitional provision so that laws governing superior courts do not override laws governing municipal and justice courts in case of a conflict.

> If inconsistent provisions relating to superior, municipal, and justice courts are applicable to a district court, the provisions relating to superior courts shall prevail, except that an inconsistent provision of practice or procedure of the superior courts otherwise applicable to a cause in the district court does not prevail if the cause is of a type that would be within the jurisdiction of the municipal or justice courts as it existed on June 30, 1995.

This would provide an opportunity to review the applicable procedural statutes with some care before applying new rules across the board.

Of course, provisions such as these should really not be necessary, since we intend to complete our statutory review and revision before court unification becomes operative. These provisions are designed to fill the gap in the event the necessary legislation is not enacted (or in the event a key provision is somehow missed).

Criminal Procedure

The dual system of municipal or justice court preliminary decision and superior court review for some criminal procedures is discussed in Memorandum 93-60 (appellate jurisdiction). This system can function without an immediate change in law since a district court judge's preliminary decision could be reviewed by another district court judge. However, this statutory scheme ultimately should be reconsidered in connection with the general statutory overhaul necessitated by unification.

Judicial Arbitration

Existing statutes governing judicial arbitration vary with the size and jurisdiction of the court. These will need to be reviewed. The staff has no sense of the scope of the problem or directions for a solution at this point.

DIVISIONS

We anticipate that divisions in the unified court, such as small claims, traffic, probate, family law, etc. will continue to exist as creatures of statute or court rule. No constitutional revision is necessary for this purpose. See discussion in Memorandum 93-59 (original jurisdiction).

It has been suggested that there be upper and lower (or horizontal) divisions within the district court, in addition to subject matter (or vertical) divisions. The upper divisions would have jurisdiction parallel to that of superior courts and the lower division parallel to that of municipal and justice courts. This concept is discussed in Memorandum 93-60 (appellate jurisdiction).

PRESIDING JUDGE

The presiding judge plays a critical rule in the unified trial court since the presiding judge is expected to cure the most serious problems of unification—dealing with the varied levels of competence of judicial personnel from three different trial court levels and assigning them to cases appropriate to their abilities.

The presiding judge is chosen by the other judges of the court. At unification, the various judges may not be sufficiently familiar with each other's qualifications to have a sufficient basis for selection. The staff suggests that as a transitional matter the presiding judge of the superior court should continue as presiding judge of the district court.

> Sec. 23. On the operative date of this section, the presiding judge of the preexisting superior court shall become the presiding judge of the district court for a term not exceeding one year. The presiding judge shall distribute the business of the of the court among the judges according to the presiding judge's estimation of their abilities, without regard to whether a particular judge was a former judge of the superior court, municipal court, or justice court.
>
> This section is operative only until July 1, 2000, and as of that date is repealed.
>
> **Comment.** It is important to proper implementation of trial court unification that the presiding judge ensure appropriate judicial assignments. This section prescribes a subjective standard—the presiding judge's estimation of the abilities of the district court judges.
>
> Nothing in this section precludes the court from replacing the presiding judge during the one year transitional term or precludes

the presiding judge from serving as presiding judge of the district court beyond the transitional term if so selected.

Note. This draft assumes that existing superior court judges will be eligible for assignment to any cause, including causes formerly within the municipal and justice court jurisdiction. If a decision is made to grandparent them, this section would be made subject to that provision.

This draft includes a subjective standard for assignment in the hope that it will discourage judges from challenging their assignments by writ procedures.

COURT ADMINISTRATOR

Most trial court unification proposals require that the unified court appoint a court administrator to help manage operations. Most judges are not trained administrators, and the presiding judge should have this type of assistance in a larger unified court with more extensive operations, more employees, and greater problems.

This is not part of SCA 3, nor does the 1993 Judicial Council Report suggest it. Existing statutes require appointment of a court administrator in Los Angles County, and there is adequate authority for a court to employ a court administrator in other counties. Since the need for a court administrator will vary with the size of the court, we would be reluctant to mandate this.

Where there are existing court administrators in the superior court and municipal courts within the county, the district court will need to select among them. The transitional provisions should make clear the authority to make this decision in advance of the operative date of SCA 3, so that the district court administrator will be in a position to coordinate necessary transitional activities.

COURT CLERK

Article 6, Section 4 of the Constitution provides that "The county clerk is ex officio clerk of the superior court in the county." But the municipal and justice courts by statute may appoint their own clerks. These provisions must be reconciled in the unified court.

Despite the constitutional provision that the county clerk is the clerk of the superior court, legislation provides that where a superior court has an executive or administrative officer, the officer has the authority of a clerk of the superior court. Gov't Code § 69898. The superior court also may delegate powers and duties of the county clerk to an executive or administrative officer under this

section. A number of courts have done this, and legal challenges by the county clerks have been unsuccessful.

A 1976 Judicial Council Report on trial court unification states:

> The Council believes that this anachronism should be removed from the Constitution and that the position of clerk of the superior court should be handled by statute as are the other nonjudicial positions in the court system. In some counties, particularly the smaller ones, it may be desirable or necessary to authorize the county clerk to act as superior court clerk or to combine the positions, but the situation varies from county to county. It is the Council's view that the problem should be handled on an individual county basis rather than being "frozen" in the Constitution.

The staff agrees with this assessment, as does the County Clerks Association. See Exhibit pp. 7-8. The 1993 Judicial Council Report adopts a comparable position.

The staff would delete the constitutional provision. Government Code Section 69898 authorizes the superior court to appoint an administrative officer to act as court clerk, and also authorizes the court to appoint the county clerk to this position. The Government Code provision should be amended to refer to the district court.

> ~~The county clerk is ex officio clerk of the superior court in the county.~~
>
> **Comment.** The last sentence of Section 4, relating to the county clerk as ex officio court clerk of the superior court is deleted. The district court may appoint a clerk which may, but need not, be the county clerk. This continues existing statute and case law. See, e.g., Gov't Code §§ 69898 (superior court appointment of executive officer as clerk), 71181 (municipal and justice court appointment of clerk); Zumwalt v. Superior Court, 49 Cal. 3d 167 (1989).

A conforming change is needed to make clear that, absent appointment of another person by the court, the county clerk is the clerk of the district court. Perhaps this is most easily done in the transitional provision, with permanent legislation adopted as part of the unification package.

Once again we need to make a choice. In the transition should the district court clerk be the superior court clerk or the municipal or justice court clerk? Again, the staff would go with the superior court clerk for a term of one year.

Sec. 23. On the operative date of this section, the clerk or administrative officer of the superior court shall become the clerk or administrative officer of the district court for a term not exceeding one year.

Comment. Nothing in this section precludes the court from replacing the clerk or administrative officer during the one year transitional term or from appointing the clerk or administrative officer to serve beyond the transitional term.

COURT OFFICERS

Article 6, Section 4 of the Constitution states that the Legislature shall provide for the officers of each superior court. Article 6, Section 5 states that the Legislature shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of officers.

We have discussed the court administrator and court clerk. What other court officers are there? Other ministerial court officers include the sheriff, marshal, or constable, the court reporter, and interpreters and translators. Subordinate judicial officers (commissioners, referees, temporary judges) are discussed in Memorandum 93-66 (commissioners).

Sheriff, Marshal, or Constable

The sheriff is a county officer who has nonjudicial as well as judicial functions. The sheriff provides superior court services such as service of process and notices, execution and return of enforcement writs, acting as crier and calling witnesses, and attending court and obeying lawful court orders and directions.

With respect to proceedings in the municipal or justice court, the marshal or constable of the court has all the powers and duties imposed by law upon the sheriff with respect to proceedings in the superior court.

It is clear that bailiffing functions need to be unified in the unified court, but how? The court unification studies diverge on this issue, some assigning the job to the sheriff and merging the other two officers, others assigning it to the marshal exclusively, and others doing a combination. There is some sense that the court should be served by a court officer rather than a county officer, and many proposals would convert the marshal to a court rather than a county officer to serve the bailiffing functions.

The Cobey Commission report addresses this matter:

> At the local court level, the Commission recommends that all trial court support services be performed by persons responsible

> solely to the court, under the supervision of the trial court administrator, including persons performing services traditionally performed by county clerks, bailiffs and court reporters. Proper court administration requires the ability and authority to arrange all court services from the single view of the administration of justice, unencumbered by possible conflicting demands of other mandated functions not related to court operations. Court employees cannot best function if required to answer to two or more "masters" whose demands may at times be in opposition to each other.

The 1993 Judicial Council Report takes a similar position, noting that the current situation blurs the separation of powers. Subject to budget constraints and legislative oversight, courts should have the power to select their own officers.

But there are practical concerns. The sheriffs, marshals, and constables are peace officers, with concomitant rights and responsibilities, including arrest and deadly weapon authority, as well as writ enforcement power. Do we want really to create another peace officer operation, in the judicial branch?

Those officers serve both court and noncourt functions. If the court functions are removed from them and given to the courts to control, how will that impact their operations? Will there be a transfer of personnel and funding from the counties to the courts to accommodate court control of these functions?

The staff is inclined to think that the bailiffing functions are unique. It is proper to consolidate them in one office (e.g. marshal), but it may be more appropriate that the officer be a county officer than a court officer. We could deal with personnel consolidation issues by means of the process proposed below for resolving general court employee issues.

Court Reporter

All trial courts are currently courts of record, so unification should not result in any increased costs for official court reports. As a transitional matter, the existing trial court reporters should be made court reporters in the district court.

Interpreters and Translators

These officers appear to present no particular issues relating to trial court unification. The existing trial court interpreters and translators should be assigned to the district court.

COURT EMPLOYEES

In addition to the judges, subordinate judicial officers, and nonjudicial officers of the courts, there are numerous court employees of each existing trial court that will be affected by unification. What happens to them as a result of unification? One of the major benefits of unification is thought to be a reduction in the need for court personnel as a result of consolidation of functions. Who determines the need for the personnel, and their compensation and benefits; who makes personnel management decisions? To what extent must these issues be addressed at the constitutional stage, and to what extent may they be left to statute or court rule?

Control of Court Personnel

Under Article 6, Section 4 the Legislature shall provide for the officers and employees of each superior court. The Legislature also shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees. Article 6, Section 5.

These provisions have been construed to require the Legislature to *prescribe* for the municipal courts by statute, and to *provide for* the superior and justice courts either directly by statute or by indirectly by delegation. Pursuant to this authority, existing statutes, at great length and in excruciating detail, prescribe the number of positions, classification, salary ranges, and benefits of court personnel of all kinds in some courts, and delegate authority to the county board of supervisors or the court in others.

The employees appointed pursuant to this personnel system are in the peculiar position of being considered court employees for some purposes and county employees for other purposes, while half the funding for their positions is provided by the state and half by the counties (in part out of revenues generated by the courts).

Unification proposals in the past have been all over the board on the proper personnel system for the unified court. Many would make trial court employees state employees on the state pay scale. This would have the benefit of achieving uniformity in pay, benefits, and other terms of employment. It would also recognize the movement toward state funding of trial court operations.

Other proposals would keep the court employees part of the county personnel system. This would preserve the existing awkward arrangement

where the employee serves the court employer but is ultimately answerable to the county. The Cobey Commission report criticizes this arrangement:

> The existing system provides that nonjudicial agencies—the boards of supervisors of the counties with respect to the superior and justice courts, and the Legislature with respect to the municipal courts—be responsible for the staffing of the trial courts. It is, of course, appropriate for the usual budgetary involvement of the legislative and executive branches of government to occur in the consideration of appropriations for the support of the courts, but separation of powers considerations should make it obvious that the judicial branch of government should make its own staffing decisions within the confines of budget appropriations. The Legislature does not delineate the staff of the executive, nor does the Governor tell the Legislature how many employees it should hire. The same policy considerations apply equally to the courts.

Many unification proposals conclude that the judicial branch should provide for nonjudicial employee classifications, qualifications, selection, compensation, pay rate schedules, promotion, discipline, dismissal, and retirement. This system would be administered by the individual courts, with perhaps the Administrative Office of the Courts setting standards.

The 1993 Judicial Council Report is consistent with this approach:

> In a state-wide system of courts, good management principles require that courts have authority to provide for their own employees within the limits of resources provided to the courts. It is for this reason that the proposed amendments delete language specifically authorizing the Legislature to provide for court employees and language providing that the county clerk is the clerk ex officio of the superior court. With respect to the provision for officers and employees of the superior court, the current language blurs the separation between the judicial branch and legislative branch. Subject to budget constraints and legislative oversight, courts should have the power to decide what positions are necessary and to select their own employees.

The staff understands that some local court employee bargaining units would prefer to see legislative control of court employment continue. Apparently they believe this gives them some political protection from prejudicial local decisionmaking. Nonetheless, the staff is convinced that nonjudicial personnel matters are properly within the control of the judicial branch, and the Legislature should not be required to micro-manage at this level.

Our only question is how the Constitution should be revised. It could state that the Legislature may "provide for" employees, and leave it to implementing legislation to delegate this matter in an appropriate way, e.g., to the individual courts or the Administrative Office of the Courts. Alternatively, it could be amended simply to omit the reference to legislative control, with the effect that handling of the matter is left to the judicial branch.

One problem with leaving the Constitution silent on the issue is that it would necessarily result in establishment of an independent court personnel system under the separation of powers doctrine. Do the courts really want to spend their resources developing their own trial court personnel system and supervising personnel administration? If need be, they could tie into the existing state or county systems of personnel administration by contract. On the other hand, the Administrative Office of the Courts right now administers a small personnel system for its own employees, employees of other constitutional agencies in the judicial branch, and the appellate courts.

The Commission should also understand that a consequence of leaving the Constitution silent is that there can be no legislative direction that these matters be delegated, for example to the individual courts. The Judicial Council, which is the administrative arm of the courts, would determine whether the matter is subject to centralized or individual court control. We foresee the likelihood of an argument from the local courts that they need to maintain local control of personnel—it should not be left to a remote statewide bureaucracy.

Note, however, that Article 6, Section 6 gives administrative authority to the Judicial Council "not inconsistent with statute". Arguably the Legislature could if necessary continue to control the personnel process under this provision, even though the express language on court employees is deleted from Section 4. The 1993 Judicial Council Report would remove from Section 6 the limitation that administration be not inconsistent with statute. See discussion in Memorandum 93-58 (Judicial Council).

The alternative of leaving authority in the Legislature to "provide for" court employees could assuage some political concerns about the constitutional amendment, leaving it to the legislative process to resolve the ultimate issue of control of personnel. But the Legislature might appreciate having the issue taken off its plate by removal of its authority in this area from the Constitution.

Unification of the courts requires unification of personnel, which in turn demands a decision concerning the various personnel approaches that now exist.

The staff tentatively concludes that we ought to recommend that the Legislature leave this matter to the judicial branch. However, we will need to hear more from all affected parties on the issue.

> The Legislature shall prescribe the number of judges ~~and provide for the officers and employees~~ of each ~~superior~~ district court.
>
> **Comment.** The second sentence of Section 4 is revised to delete the authority of the Legislature to provide for officers and employees of the trial courts. This leaves personnel matters to internal control by the judicial branch, subject to funding limitations. See Section 6 (Judicial Council may adopt rules for court administration not inconsistent with statute).
>
> **Note.** The 1993 Judicial Council Report would delete the "not inconsistent with statute" limitation on the authority of the Judicial Council to govern court administration. See discussion in Memorandum 93-58 (Judicial Council).

Transitional Matters

The transitional issues concerning personnel will be the most time consuming and difficult in the whole unification process. Once we decide who controls the personnel system—the state, the counties, the courts, the Administrative Office of the Courts—we must then address the innumerable practical problems.

Will existing county employees have to give up seniority rights, retirement plans, accrued benefits, etc. in order to become judicial branch employees? Can we require the current employer to cover these, and if so, how will they be coordinated with rights under judicial branch employment?

Will anyone get laid off if the unified court system will require fewer combined employees than the individual trial courts? If so, how will layoff decisions be made? Note that civil service seniority provisions may be difficult to apply from one court to the next. Perhaps the best solution is a phased-in reduction, with attrition resolving the problem.

Will unification require relocation of some employees to other courts within the district? How will it be determined who gets relocated? What about relocation expense reimbursement?

How are differences in pay, benefits, retirement plans, etc. to be resolved? The ultimate goal should be to get all persons who are in the same class on the same pay scale and with the same benefits. Will this mean a pay cut for some people?

If so, can we phase it in? Will it mean a pay raise for other people? Can that be phased in?

Are there any collective bargaining agreements or memoranda of understanding applicable in a particular court that limit the ability to resolve any of these problems logically?

We cannot settle these issues now, nor can we address them specifically in the Constitution or by statute. They will take intensive work by affected presiding judges, court administrators, and others who may be involved in personnel administration in the unified court.

What we can do now is develop a statutory or constitutional mechanism for resolving the issues. SCA 3 provides simply that the previously selected employees in each former superior, municipal and justice court district become the employees of the district court. This is appropriate as far as it goes.

The staff believes that a process needs to be established to settle personnel questions in advance of the operative date of unification. This can be done either in the constitutional transition provision or by statute enacted immediately. The location of the provision depends in part on whether there are any constitutional civil service provisions that could affect rights of existing court employees.

Assuming the proposal is adopted to leave these matters to the judicial branch, the staff would suggest that the presiding judges and court administrators in each county, along with representatives of the Administrative Office of the Courts, county representatives, and employee representatives confer concerning the personnel needs of the unified court, any necessary personnel reduction or relocation plans, proposed salary, benefits, and retirement plan arrangements, and other personnel matters. These persons should have authority to act for the unified court, pending the operative date of unification, in making assignments, giving notices, and the like that will be effective on the operative date of unification.

The staff does not propose specific language at this time. We solicit suggestions on the transition process from interested persons. We will propose a more fully articulated scheme later.

Filing Fees

The elaborate statutory filing fee scheme will need to be reviewed before unification becomes operative.

Venue

Venue provisions for municipal and justice courts distinguish among districts within the county. The staff is not yet in a position to make any recommendations concerning whether these sub-venue distinctions should be eliminated in the statutory revision implementing trial court unification. To the extent sub-venue provisions are retained, this may help with the concept that unification ought not to destroy the "local justice" character of the municipal and justice courts. The 1993 Judicial Council Report recommends that venue within the district be determined by local court rule.

Sessions

The days and hours of business are statutory and differ for the different courts and for different types of jurisdiction, particularly criminal jurisdiction. These provisions will need to be reviewed and revised before unification becomes operative.

Forms

Forms will need to be unified in the unified court. The Judicial Council has adequate authority in this regard, and no transitional provisions appear necessary in order to enable promulgation of new forms for publication in advance of unification.

Records

Record storage and retention in the unified court may be a problem, but this is mainly a logistical one. Statutes will need to be conformed. SCA 3 provides appropriately that "the records of the preexisting court[s] shall become records of the district court".

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

M E M O R A N D U M

TO: Each Member of Judicial Council Advisory Committee to Study Legislative Proposals on Trial Court Unification

FROM: Stephen C. Birdlebough,
Administrative Office of the Courts, Sacramento

DATE: October 7, 1981

SUBJECT: Size of Judicial Divisions Within a Unified Court

At the September 16th Committee meeting, the chairman requested a written suggestion concerning the appropriate size of administrative units (herein called judicial divisions) in a unified court.

BACKGROUND:

Proponents of court unification state that one of their objectives is to eliminate the inherently less efficient smaller courts.[1/] However, it has been pointed out that it would be unfortunate to establish courts through a unification process, which are so large as to be cumbersome. Judge Egly indicated that in his experience some of the most productive courts are those having about 10 judicial positions, and that in his judgment the Los Angeles Superior Court was too large to be effective. Judge Butler of the San Diego Superior Court indicated during the lunch-time debate on unification that it

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1/ Classical economic theory is that 'economies of scale' are realized as organizations grow larger, up to a certain point, where 'diseconomies of scale' or 'diminishing returns' begin to make further increases in size counter-productive. See, e.g., Ammes, Dictionary of Business and Economics, p. 376.

would be difficult for a presiding judge to keep track of the activity of more than 40 courtrooms. If these observations are correct, the Judicial Council should recommend steps to avoid the problems of excessive size under any unification measure.

PROPOSED RECOMMENDATION:

Any proposal for trial court unification should include statutory provisions which would:

1. Require the establishment of separate divisions in any court having more than 40 judges, with no division to exceed 40 courtrooms.

2. Establish a divisional structure for optional use by courts having more than 10 judges, each division to consist of 6 to 12 judges, together with appropriate staff. Each division would be responsible for a designated part of the court's workload.

DISCUSSION:

A) Optimum size of judicial divisions.

Although there is little published material on the subject, most experienced court administrators seem to agree that the optimum size for a trial court or judicial division is somewhere between 4 judges and 30 judges. Outstanding performances tend to be turned in most frequently by groups of 6 to 12 judges.

Various reasons are advanced for this phenomenon. Ernest Friesen pointed out during the California Western School of Law debate that judges are best motivated to high levels of productivity by their own sense of responsibility to the public and to their peers. In a court, priorities must continually be selected and reselected, and it is unusual for judges to accept bureaucratic or authoritarian direction. Friesen indicates that courts are most effective when all of the judges can meet frequently to work out solutions to the most current problems facing them. When a judicial division exceeds about 12 judges,

he believes, that court may become less responsive to current problems simply because it is difficult for all of the judges to meet and become committed to solutions.[2/]

From an organizational perspective, courts having 5 to 12 judges can afford professional managers to take up some of the more routine aspects of court operations. Judges in such a court can have sufficiently specialized assignments to develop sophisticated case-handling methods, but rotation of assignments usually occurs frequently enough so that all of the judges understand what is happening in the court as a whole, and can attend to deficiencies, such as caseload imbalance, attorney calendar conflicts, incompetent or under-employed nonjudicial staff, and under-utilization of jurors.[3/]

Arthur Young and Company has studied the municipal courts in Los Angeles and addressed the question of optimum size based on the somewhat limited information available from the 24 courts in the study. The report concludes that the smallest optimum-size court is about 6 judicial officers and that a county-wide court would be too "unwieldly to administer, stifle the introduction of innovative policy changes; and be difficult to operate within the context of a judicial consensus." The report adds that such a court could result in

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2/Friesen thinks that a 4 to 12 judge judicial sub-division may facilitate optimum performance, but emphasizes that size does not guarantee optimum performance. Someone must exercise leadership within the group, and the judges must be willing to address themselves creatively to the problems facing the court, to the utilization of small scraps of judicial time, and to working cooperatively with the court staff.

3/ It appears that a well organized court of 15 judges can double in size without obvious losses in effectiveness. However, such courts may find it more difficult to adapt to changes in the significance of a particular caseload or to changes in the district attorney's charging or plea bargaining practices, for example.

a complex administrative bureaucracy. It also appears from the report that the Los Angeles judicial district, with over 60 judicial officers is in excess of the optimum size.[4/]

B. Conversion to a Unified Court with Divisions.

Although local conditions will vary, it may be useful to outline the steps which might be necessary to convert a court in a county with 50 judges[5/] from the present organizational structure to a unified structure with optimum sized judicial divisions, utilizing 'vertical' case processing.[6/]

A logical first step would be to break the total caseload of the county into sections which could be handled by groups of 6 to 12 judges, considering the location of existing courthouses, city boundaries, jury assembly requirements, and case subject matter.[7/] To the extent possible, each caseload grouping would contain sufficient variety that the judges of the subdivision hearing those cases would not 'burn out' on a single type of litigation.

4/ Los Angeles County 1980-1981 Grand Jury Contract Auditor Report, pp. 6-8.

5/ The March 26th version of SB 978 (Rains) would create 4 new courts with more than 50 judges (Alameda - 61, Orange - 82, San Diego - 81, and Santa Clara - 53). It would also create a court of more than 400 judges in Los Angeles County,and a number of courts in the size range of 30 to 50 (Riverside, Sacramento, San Bernardino, and San Francisco).

6/ The term 'vertical' case processing is used to denote a system where the same judge, prosecutor, and defense attorney normally hear criminal cases from preliminary arraignment through final disposition. On the civil side, cases of any monetary size would be heard in the same courtroom.

7/ SCA 25 (Rains) would require the establishment of separate civil and criminal divisions "where feasible."

Judicial divisions would then be established to serve each geographically compact part of the case-flow. Several of these 6 to 9 divisions would be located in a single centrally located courthouse with a combined administrative staff providing jury panels and support services. In the central courthouse, there would be some civil and some criminal divisions. In the outlying courts, most divisions would have combined civil and criminal caseloads. In the initial distribution of judges to divisions, present superior court judges would be included in all divisions, together with the present municipal court judges, achieving roughly equal levels of seniority and experience in each judicial division.

It would be necessary to decide upon the method of providing continuing policy leadership and case assignment responsibility for the court, such as an administrative council of the division presiding judges. Such a committee should adopt local rules equally applicable to all divisions of the court (there should be no rules peculiar to individual divisions), and uniform bail schedules.[8/] The administrative presiding judge for the court as a whole could be selected by the committee or by vote of the entire court. Although most staff responsibilities would be in the divisions and combined divisions, it would be necessary to select certain administrative staff personnel to be responsible for budgeting and support services to the court as a whole.

C. Statutory Options.

A key question is the extent to which any unification statute should require the establishment of divisions of any particular size, or prescribe the details of local organization.

8/ An appropriate amendment of Penal Code Section 1269b would be required.

Much of the success of any unification effort would depend on the manner in which the constituent parts of the new superior courts become organized. It would therefore seem a desirable precaution to specify by statute the benchmarks of an adequate organization. In counties with fewer than a dozen judges, local efforts will probably resolve the issues minimum statutory guidance. In larger counties, statutory guidelines would seem desirable.

Since it appears that experience has shown the optimum size of an autonomous court to be under 40 judicial positions, the statute should call for establishment of divisions of fewer than 40 judicial positions in all counties where the number of judicial positions exceeds 40. A statute should also establish an optional framework within which all courts with more than 10 judges can establish divisions to meet particular local conditions.

It may be useful to specify the roles of the division presiding judges and of an executive committee or administrative council in large unified courts (as in adopting bail schedules). However these matters may be subject to local variation, and legislation should only reflect those institutions which are generally accepted in the courts at present.

COUNTY CLERKS ASSOCIATION OF CALIFORNIA
Established 1988

August 11, 1993

Honorable Roger K. Warren, Chair
Trial Court Presiding Judges Standing
Advisory Committee
Judicial Council of California
Administrative Office of the Courts
303 Second Street, South Tower
San Francisco, CA 94107

Attn: Scott M. Beseda

Dear Judge Warren:

Re: Report on Trial Court Unification

Thank you for giving me the opportunity to comment on behalf of the County Clerks Association, on the draft Report for Trial Court Unification. Based on conversations with some key members of the Association who are clerks of the court, I have the following comments:

1. Item 12 contained in Part 2 - General Recommendations states "The district court will select a clerk of the court". The County Clerks Association recognizes, of course, that this issue has been decided by past court decisions. We therefore, are not opposed to the constitutional amendments on this issue that were proposed jointly by the Presiding Judges and Court Administrators Standing Advisory Committees which merely reflects current case law.

   However, in Part 3 - Amendments to the California Constitution and Commentary, the report states with regard to employees of the district court: "The clerk of the district court should be an employee only of the district court and answerable only to the court."

The County Clerks Association believes strongly that the district court's authority to select the clerk of the court not be burdened with any such restriction. Local conditions may cause the district court to go a somewhat different direction than that which is contained in the recommendation. For example, the court may decide that its interests, and the interests of the public, are best served by designating the county clerk as the clerk of the court. This may be particularly appropriate in small counties.

In any case, we would hope that qualified county clerks who have been serving well as clerks of the court will be considered for appointment as clerk of the district court.

2. SCA 3 specifies that its provisions shall take effect on July 1, 1995. Given the fact that the proposed constitutional amendments will not appear on the ballot until June 1994, the Judicial Council may want to request that SCA 3 be amended to provide a somewhat longer implementation period. Everyone involved in California's judicial system will want to ensure that court unification proceeds in an orderly manner and that the final product is a good one.

Page 2 of your July 23 cover memo refers to "specific issues 1 through 15 provided in Part 2, pages 3 and 4" of the draft report. The copy of the report mailed to me on August 4 contains only items 1 through 15. If there is an item 16, I would appreciate AOC staff sending me a corrected Page 4.

Again, I appreciate the opportunity to comment on the draft report. The County Clerks Association is committed to working cooperatively with the Council on this important issue.

If you wish to discuss any of my comments, please call me at (213) 974-1401.

Very truly yours,

Larry J. Monteilh
President

LM:nl/[illegible]

c: All Members, Board of Directors