Study J-1320 February 9, 2000

Memorandum 2000-8

Trial Court Unification: Review of Civil Procedures

In preparing the implementing legislation for trial court unification, the Law Revision Commission carefully preserved existing procedural distinctions between traditional superior court cases (now known as "unlimited civil cases"), traditional municipal court cases (now known as "limited civil cases"), and small claims cases. The Commission recommended, however, "that the Legislature direct a study reexamining this three-track system and its underlying policies in light of unification." *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 82 (1998). "Such a study may entail elimination of unnecessary procedural distinctions, reassessment of the jurisdictional limits for small claims procedures and economic litigation procedures, and reevaluation of which procedures apply to which type of case." *Id.* at 82-83 (footnotes omitted). The Legislature directed the Law Revision Commission and the Judicial Council to jointly undertake this study of civil procedure. Gov't Code § 70219. This memorandum is an update on the status of the study.

DECISIONMAKING PROCESS

The Commission and the Administrative Office of the Courts ("AOC") have been attempting to develop a decisionmaking process for this joint study. At the November meeting, the Commission considered AOC's suggestion that each agency follow its usual procedures, supplemented by extensive cooperation and communication between AOC staff and Commission staff. AOC gave the following example of how it might implement this approach:

- The joint staff team (Alice Vilardi and Janet Grove for AOC; Nathaniel Sterling and Barbara Gaal for CLRC) would first decide on an issue-by-issue basis whether one or the other agency would take the lead at gathering data or researching each issue, or whether the work should proceed jointly.

- Whether it had the lead in gathering data, received a preliminary report, or assisted in preparing a joint report, once the initial work

had been completed and shared with CLRC staff, AOC staff would see that the issue was put on the agenda of the appropriate committee(s), for its review and comment.

- AOC staff would report to CLRC staff the results of the committee review and the joint staff team would determine if any further or additional research or analysis was appropriate.

- When necessary staff work had been completed, AOC staff would present the issue to the Judicial Council, including in its report both the positions of the CLRC staff (and Commission input, if available) and its own advisory committee(s).

- If a difference between the two decision-making bodies became apparent, the difference would be reported and reconsideration calendared, as appropriate.

The Commission decided that this decisionmaking process may be acceptable, but directed staff to seek assurance that (1) proposed legislation is an anticipated end-product of the study and (2) the Judicial Council will engage in reconciliation efforts if the Commission and the Judicial Council ultimately reach different conclusions in the study.

The staff has since conveyed these concerns to AOC staff, who report that proposed legislation is definitely an anticipated end-product of this study, although perhaps not the only end-product. With regard to reconciliation efforts, AOC staff restated that a joint recommendation is the intended goal of the study.

AOC staff also explained that in the proposed process, the joint staff group would develop a proposal collectively and then present it to our respective decisionmakers for consideration. Commission staff initially expressed reservations about this approach, but have since suggested the following refinements:

- Each topic on our list of issues would be assigned to either AOC staff or CLRC staff for primary responsibility in gathering data and literature and ensuring that the research is done.

- The joint staff group would develop a comprehensive working paper outlining the issues, relevant background information, policy considerations, and pros and cons, and perhaps recommending courses of action. Staff at one agency would be primarily responsible for the initial drafting, but editing and input would come from both.

- Before taking the working paper to the Commission or the Judicial Council, it would be circulated to the panel of experts previously assembled for this study, for any new ideas they may add, and for their comments on advantages and disadvantages of proposals. Another meeting of the panel might be held, rather than circulating papers by mail.

- The working paper would go through the usual review process at both agencies. AOC staff and CLRC staff would coordinate so that responses on each side are communicated to the other agency. Cross-attendance at meetings may be included.

- Some of the simpler issues would be run through this process first to check how it works.

AOC staff and Commission staff have been proceeding on this basis.

SUBSTANTIVE PROGRESS

The joint staff group has worked to refine and prioritize the list of issues and ideas for this study, which was initially developed after a brainstorming session with the panel of experts selected for this study. A version of the list reflecting decisions made is attached as Exhibit pages 1-14. As shown on the list, the first phase of this study would focus on three areas:

> (1) *Jurisdictional Limits and Distinctions/Case Management*. This project will include reexamination of small claims procedures and economic litigation procedures and the criteria for application of those procedures.
>
> (2) *Simplification of Procedures*. This project will examine whether there are opportunities to simplify procedures in a unified court (e.g., opportunities to eliminate some of the distinctions between limited civil cases and unlimited civil cases).
>
> (3) *Small Claims Appeals*. This project will assess how a small claims appeal should be handled in a unified court.

Topics that may be addressed in a later phase of this study include discovery reform, multidoor courthouse/ADR, appellate issues, and implementation of unification. Consideration of these topics was deferred as premature, because of other ongoing work and because it is too early to assess the impact of unification.

For each of the potential topics, the joint staff group has identified empirical research and background work to conduct (see Exhibit pp. 1-12). We are in the process of developing project descriptions for some of this work and attempting to find judicial administration and law students interested in undertaking these projects. Some background work has already been completed by Prof. David Jung of Hastings Law School and his students. Other work is in progress, including projects supervised by Prof. J. Clark Kelso of the Legislative Practice Institute, and a survey of ADR programs being conducted by researchers from RAND's Institute for Civil Justice (at no cost to the Commission or the Judicial Council).

Commission staff and AOC staff have also tentatively divided the work among themselves, with Commission staff assuming primary responsibility for some tasks and AOC staff having initial responsibility for other tasks. Commission staff and AOC staff have begun examining issues relating to simplification of procedures, which is likely to be the pilot project for testing our decisionmaking process.

We will elaborate on these matters at the Commission's meeting.

Respectfully submitted,

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Staff Counsel

ISSUES AND IDEAS FOR JOINT STUDY

List as revised by teleconference on December 8, 1999

PART 1.
Phase #1 Issues and Ideas
(to study now)[1]

A. JURISDICTIONAL LIMITS AND DISTINCTIONS/CASE MANAGEMENT

Policy questions

1. Should there be separate rules for small cases? If so, is there a theoretical and/or empirical basis for specifying the criteria (e.g., setting an amount-in-controversy limit)? (p. 12)[2]

2. Would changes in small claims or economic litigation limits or other procedural changes increase the number of pro per actions? Is that desirable or not? (pp. 6, 18-19)

3. If small claims procedures are used for more cases (cases with higher amounts-in-controversy) what is the tradeoff in quality of justice? What if economic litigation procedures are used in more cases? (p. 19)

Further background work

1. What types of procedures are used in civil cases in states that have unified their trial courts?

    a. Are these procedures similar to our economic litigation procedures, our general procedures for civil cases, or a combination of the two?

There is some information on this in the working paper that Prof. Jung and his students prepared for the brainstorming session in June ("Trial Court Unification and Procedural Reform"). There does not seem to have been any other work along these lines. One of Prof. Jung's students (Chad Jacobs) has begun to assemble a collection of the rules applicable in civil cases in states that have unified their trial courts.

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1. In general, study of the ideas listed under "Discovery Reform" and "Multidoor Courthouse/ADR" is being deferred (see "Phase #2 Issues and Ideas", *infra*). Those ideas may be included in Phase #1, however, to the extent that they are integral in reassessing jurisdictional limits and distinctions. (9/28/99 Minutes.)

2. Page number references are to pages in the summarized transcript of the brainstorming discussion on June 9, 1999, third version (Jun9tapemin3.doc).

Empirical research[3]

1. What is the break-even point for cost of litigation versus recovery? (p. 12)

This is a difficult topic to research, not feasible within the resources allocated for this study. Experts on game theory may have pertinent information. The American Arbitration Association might also have data. Ms. Vilardi has seen articles on this by economists in the context of business disputes. These are theory pieces, not empirical work. Mr. Sterling suggested surveying attorneys regarding how much they bill for a case and how much they recover. Prof. Jung proposed asking attorneys what cases they turn down as too expensive to litigate, too costly to take to trial.

The group agreed to keep an eye out for resources relevant to this topic (including anecdotal pieces) and to share these resources with each other.

2. How many traditional superior court cases result in a judgment of $25,000 or less (the maximum for a limited civil case)?

Prof. Kelso stated that information on this can be obtained from the jury verdict reports on LEXIS and Westlaw. Care is necessary to properly interpret the data. Prof. Kelso will have students pursue this topic by creating a database.

3. How many cases that could be decided in small claims court are being taken to municipal court (or filed as limited civil cases and not as small claims cases)? How many cases that are over $5,000 are being taken to small claims courts? How many cases that could be brought as limited civil cases are being filed as unlimited civil cases? (pp. 5-6, 10, 18-19)

The focus of this study is on whether the jurisdictional limits are in the right places. Examining when and why parties attempt to avoid these limits may shed light on the situation. The three questions raised here are directed to that point.

Profs. Jung and Kelso do not consider these projects appropriate for law students. The issues are better-suited for someone studying judicial administration or social sciences, perhaps as a thesis topic. Commission staff and AOC staff will discuss this further.

According to Prof. Kelso, computer personnel at the Los Angeles Superior Court may have information on the second question ("How many cases that are over $5,000 are being taken to small claims courts?"). Information may also be available from the Civil and Small Claims Advisory Committee. Mr. Sterling reminded the group that two published articles distributed earlier in this study allege that cases are being filed in small claims court even though they involve more than $5,000. Perhaps this could be confirmed by talking with small claims judges. Ms. Vilardi suggested examining the $2,500 small claims limit, not just the $5,000 limit.

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3. The Small Claims and Limited Cases Subcommittee of the Civil and Small Claims Committee may also be interested in collecting or obtaining this data.

On the third question ("How many cases that could be brought as limited civil cases are being filed as unlimited civil cases?"), there are published decisions involving cases that could have been brought in municipal court, but instead were filed in superior court. Further information could be obtained by gathering statistics on reclassification motions, and interviewing plaintiffs' counsel and judges.

4. Who is using small claims procedures in California? (There is data on this but it is not current.) (p. 19)

a. Are there cases filed as limited civil cases that are within the small claims jurisdictional limit? (pp. 10, 18-19)

This topic requires a well-conducted survey. It would be perfect for someone studying judicial administration, perhaps as a thesis topic. Commission staff and AOC staff will discuss this further.

5. To what extent have parties, attorneys, and courts been satisfied with economic litigation procedures? (p. 16)

a. How do economic litigation procedures affect litigation costs?

b. To what extent are limited civil cases withdrawn from economic litigation procedures?

This would be a good project for someone studying judicial administration or social sciences, perhaps as a thesis topic. Commission staff and AOC staff will discuss this further. The 1976 and 1986 studies of economic litigation procedures may be a good starting point for this project.

6. How do the effects of economic litigation differ from/relate to the effects of delay reduction? Could a "hybrid" be developed? (pp. 6-7)

Prof. Jung and his students have prepared a background paper on this topic.

7. How much discovery actually occurs in cases subject to economic litigation procedures? (pp. 12, 17)

a. How much discovery occurs in other cases in California? (pp. 17-18)

b. To what extent does the amount-in-controversy relate to the amount of discovery in a case? (pp. 12, 17)

According to Prof. Jung, the amount of discovery has been studied extensively in other jurisdictions (e.g., a Wisconsin civil litigation project). There is a lot of literature on the

subject. A literature review would be useful. Prof. Jung will send Commission staff and AOC staff a 1995 paper on the topic.

8. What percentages of what kinds of cases filed actually go to trial? (p. 23)

Prof. Marcus has written an article on this. There are other articles too. We should check whether one of Prof. Kelso's students could do a synopsis.

Possible reforms, recommendations

1. Keep the amount-in-controversy trigger because it is a good proxy and easy to apply. (pp. 15, 17-18)

2. Apply the same procedures to all civil cases other than small claims cases. (p. 12; 11/1/99 meeting)

3. Raise the small claims jurisdictional limit so more people will have that option. (pp. 18-19)

4. Raise the amount-in-controversy limit for economic litigation procedures. (p. 6)

5. Experiment with the small claims procedure Judge Schwarzer proposed for federal court, or some variant of this procedure.[4] (p. 19)

6. Raise the small claims limit to $15,000 and eliminate unlimited civil cases as a separate category. Under this proposal, the small claims court should be staffed by judges and commissioners and not temporary judges, at least for cases over $10,000. (Suggestion received by AOC staff)

7. Index the jurisdictional limit for small claims cases, or other jurisdictional limits. (9/28/99 Minutes)

8. Permit parties to consent to use of economic litigation procedures. (p. 17)

9. Apply a modified version of economic litigation procedures to all cases except small claims cases, with numbers adjusted so most cases would not exceed allowable pretrial activities, and with exception if judge orders or parties agree. (pp. 12, 16-18)

    a. Limits should be low enough to have an impact, but getting political support might require adjusting upward. (p. 18)

10. Streamline the pleading phase of a civil suit by broader application of procedures similar to economic litigation procedures. (Slomanson letter, 10/25/99)

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4. Staff will review Judge Schwarzer's article and consider the proposed approach in a later meeting. (11/1/99 Meeting.)

11. Require more specificity in pleading claims and defenses. (Slomanson letter, 10/25/99)

12. Use simplified evidentiary rules or other simplified procedures in cases that are not economic to litigate, to help enable parties to pursue such cases without incurring prohibitive litigation expenses. (CLRC Minutes)

13. After all the trial courts have unified, revisit the question of whether the law/equity distinction makes sense for purposes of jurisdictional classification. (CLRC Minutes)

14. Create a hybrid of delay reduction and economic litigation procedures, perhaps linking quick trial dates to use of economic litigation procedures. (pp. 7, 16-17)

15. Use criteria other than amount-in-controversy to determine which procedures apply to a case. This is already done in some areas (for example, unlawful detainer, family law, administrative cases). (pp. 12, 15)

a. There is a risk of creating artificial distinctions and more work. (p. 15)

16. Permit greater flexibility in determining which set of procedures applies to a case (small claims procedures, economic litigation procedures, etc.). (CLRC Minutes)

17. Allow the judge to determine which procedures apply to a case, based on (1) specified criteria, or (2) all the facts and circumstances of the case.

a. Best track "in light of all the circumstances" allows judge to use various/intangible factors. (p. 16)

B. SIMPLIFICATION OF PROCEDURES

Policy questions

1. Are there opportunities to simplify procedures in a unified court? E.g., Is it necessary to differentiate between a limited civil case and an unlimited civil case in setting terms and conditions for payment of a money judgment? *Cf.* Code Civ. Proc. § 85 (broad discretion to set terms and conditions in limited civil case) *with* Code Civ. Proc. § 667.7 (judgment for periodic payments allowed in certain circumstances in actions for injury or damages against health care providers). (9/28/99 Minutes)

2. How does the complexity of California's rules of civil procedure compare with that in other states? (p. 25)

Prof. Jung's students have collected some information on this. Prof. Jung is not sure whether they will pursue this further.

Prof. Kelso would attack the question by examining (1) which states address civil procedure in rules, and which use statutes, (2) which states model their rules or statutes on the Federal Rules of Civil Procedure, and (3) how many civil procedure provisions each state has and how these are organized. The National Center for State Courts may have done some of this. We should ask them for information.

Further background work

1. Solicit suggestions from judges on opportunities for simplification. (9/28/99 Minutes)

This project is not suitable for student research. Commission staff and AOC staff will discuss it further.

2. Review statutes cited in table on consequences of classification as a limited civil case (9/28/99 Minutes, Exhibit p. 11) to identify opportunities for simplification. (9/28/99 Minutes)

This project is not suitable for student research. Commission staff and AOC staff will discuss it further.

3. Review Prof. Slomanson's book on civil procedure (California Civil Practice Handbook: The Choice Between State and Federal Courts) to identify opportunities for simplification.

This project is not suitable for student research. Commission staff and AOC staff will discuss it further.

Possible reforms, recommendations

1. Simplify the Code of Civil Procedure. (pp. 15, 24-25)

    a. The Federal Rules of Civil Procedure may provide a good model; many states base their rules on these.

    b. Simpler rules may improve case management because the judge has more room for discretion. (pp. 15, 24-25)

2. Move delay reduction and similar provisions out of the Government Code and into the Code of Civil Procedure. (p. 9)

3. Simplify procedures wherever possible, eliminating unnecessary distinctions and complexities. (CLRC Minutes)

C. SMALL CLAIMS APPEALS

Policy questions

1. How should small claims appeals be handled in a unified superior court? Is trial de novo before a new judicial officer, with legal representation, a sufficient review opportunity for the litigants? Would some other manner of review be more appropriate? (*Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 75 (1998))

PART 2.

Phase #2 Issues and Ideas

(to study later, if needed)

A. DISCOVERY REFORM[5]

Policy questions

1. How much "should" be spent on discovery? This is a policy question; data won't answer it. (p. 15)

Further background work

1. Compare discovery rules, economic litigation rules, and delay reduction rules.

Prof. Jung and his students have completed this project. See their working paper ("Where Do We Go From Here? — California Procedure After Trial Court Unification").

Empirical research

1. To what extent does the cost of discovery prevent some cases from being litigated, or fully litigated? (pp. 5-6, 18)

This is a hard but important topic. Prof. Kelso suggested asking civil justice reform groups (both California and national) for data on this. We should also check whether the Judicial Council has done any work in this area. Ms. Vilardi suggested surveying attorneys to gain insight on the topic.

Prof. Jung commented that people are very fond of the case questionnaire option under economic litigation procedures. There has also been much debate over mandatory disclosure requirements as an alternative to traditional discovery. Prof. Jung does not consider this project appropriate for students.

The staff group should do some homework on this topic and then address it again.

2. How much discovery abuse occurs in California? (p. 14)

   a. In what kinds of cases is abuse most common? (p. 14)

   b. In what kinds of cases is discovery most often used well? (p. 14)

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5. Study of these questions has been deferred because of overlap with (1) work of the Discovery Subcommittee of the Civil and Small Claims Advisory Committee, and (2) an ongoing study of the Law Revision Commission. (9/28/99 Minutes.) The ideas may be included in Phase #1, however, to the extent that they are integral in reassessing jurisdictional limits and distinctions. See note 1, *supra*.

Judge Brazil did a study on this many years ago, which is cited in the Bruggman paper that Prof. Jung agreed to send to Commission staff and AOC staff.

The Judicial Council has also looked into this topic. Prof. Jung prepared a paper on it for the Council in 1995. Mr. Sterling suggested that we take a look at what was done. Ms. Vilardi agreed to follow-up on this.

3. What is the impact of discovery referees? (p. 11)

a. Is there any data on incentives to keep costs down?

A lot of work has been and is being done on this topic. We should not get into the area now, but may want to consider it later in this study.

4. What has been the impact of broad discovery limitations (such as Illinois' waivable 3-hour limit on depositions) in other jurisdictions? (pp. 18-19)

Other groups are working on this topic. We should not get into the area now, but may want to consider it later in this study.

5. What are the effects of mandatory disclosure requirements used in some jurisdictions?

Other groups are working on this topic. We should not get into the area now, but may want to consider it later in this study.

Possible reforms, recommendations

1. Impose waivable limits on discovery (for example, Illinois 3-hour limit on depositions, proposed federal 7-hour limit on depositions). (p. 18)

2. Limit discovery in large cases, where discovery abuse is most common. (p. 18)

3. Eliminate discovery referees or tighten restrictions on use of discovery referees. (pp. 9, 11)

B. MULTIDOOR COURTHOUSE/ADR[6]

A lot of work is being done on ADR issues, many resources are available. As previously agreed, we will defer work on these issues in light of the various other ongoing projects.

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6. Study of these questions has been deferred because of overlap with work of (1) Task Force on the Quality of Justice, Subcommittee on Alternative Dispute Resolution and the Judicial System, and (2) Civil and Small Claims Advisory Committee, Subcommittee on Alternative Dispute Resolution. (9/28/99 Minutes.) The ideas may be included in Phase #1, however, to the extent that they are integral in reassessing jurisdictional limits and distinctions. See note 1, *supra*.

Prof. Kelso will be meeting with an ADR expert soon and will use the opportunity to seek information on ADR issues.

Policy questions

1. What role should ADR play in a revision of civil procedures? (pp. 19-23)

    a. Quality of procedure should not be compromised simply because less money is at stake. (p. 20)

    b. How should remuneration for neutrals be structured so that the incentives are appropriate? (p. 23)

    c. Should certain kinds of cases be encouraged to use certain kinds of ADR? (p. 23)

Further background work

1. How do ADR programs in use in California compare with ADR used in other jurisdictions? What are the trends? (pp. 20-21)

Empirical research

1. To what extent have parties, attorneys, and courts been satisfied with judicial arbitration procedures? (pp. 20, 22)

2. What ADR programs are in use in California (including those developed at the local level)? How are they working? (ADR Subcommittee is doing some work on this.) (pp. 19-21)

    a. How do they vary in practice in different counties? (pp. 20-21)

    b. Has unification changed the types of ADR actually available, or how the programs work? (p. 20)

    c. What are the trends?

3. How do judicially arbitrated cases in which there is a request for a trial de novo differ from cases in which there is no such request? (p. 22)

4. What are the financial incentives for neutrals in ADR programs? How do those financial incentives affect the programs? (pp. 10, 22-23)

Methodology

1. Mediation, early neutral arbitration, judicial arbitration, and perhaps other ADR programs should be studied as a unit, not in isolation. (p. 21)

2. Develop a survey to ask courts what ADR programs they have. (p. 21)

3. Collect information on ADR programs at a statewide conference of judges and court administrators who have oversight of ADR programs. (p. 21)

Possible reforms, recommendations

1. Make judicial arbitration optional. (p. 22)

2. Use criteria other than amount-in-controversy to determine which ADR procedures apply to a case (p. 20)

3. Have mediators donate their time for the first 1-2 hours of mandatory mediation; parties would have to pay the mediator's normal rate if they decide to continue to mediate. (p. 23)

C. APPELLATE ISSUES[7]

Possible reforms, recommendations

1. Make the appeal path for a case dependent upon the result obtained, at least to some extent. (CLRC Minutes)

2. Create regional appellate divisions (CLRC Minutes)

3. Increase the extent to which appellate divisions render written opinions. (CLRC Minutes)

D. IMPLEMENTATION OF UNIFICATION

Policy questions

1. If procedures are revised for unified courts, how should that affect courts that are still divided as municipal and superior? Consider LA.[8] (p. 3)

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7. Study of these proposals has been deferred because of overlap with work of the Appellate Advisory Committee and the Ad Hoc Task Force on the Appellate Division of the Superior Court. (9/28/99 Minutes.)

8. This issue will be addressed after Phase #1, if necessary. (9/28/99 Minutes.)

Empirical research

1. Do former municipal court judges enforce procedural rules differently from judges who were on the superior court prior to unification? (p. 27)

The Judicial Council will be studying the operation of unified courts. Ms. Vilardi did not know whether that study would examine this issue. Commission staff and AOC staff agreed to defer consideration of this issue and reexamine it at a later time.

2. Are there practices (as opposed to statutorily or rule-mandated structures, such as ADR, economic litigation, delay reduction) that play a role in the efficiency and/or effectiveness of some California courts? What are they and how well do they work? How are they affected by unification? (p. 7)

The Judicial Council will be studying the operation of unified courts. Commission staff and AOC staff agreed to defer consideration of this issue and reexamine it at a later time. Conducting a survey of judges may be a good way to approach the issue.

3. To what extent have unified superior courts actually implemented unification in practical terms? (pp. 7, 27-28)

a. Which courts in California are "truly unified"?

b. Which courts are unified in name but not fully in substance? In what ways?

c. How do courts in these two categories compare?

The Judicial Council will be studying the operation of unified courts. Commission staff and AOC staff agreed to defer consideration of these issues and reexamine them at a later time. Conducting a survey of judges may be a good way to approach the issues.

OTHER ISSUES

Empirical research

1. Why has the total number of cases filed decreased in current years, in California and elsewhere? What factors correlate with, and could explain, this change? (p. 11)

This is a hard issue. Lots of literature exists. The issue is too broad to tackle in this study, but it would be helpful to know what is being said about it. Prof. Jung will consider having a student do a literature survey on the topic.

PART 3.
Guiding Principles for this Study

1. Legislate for the middle, not for the extremes. (p. 14)

2. Before requesting data from courts or other sources, we should identify all of the different types of data we want to collect, rather than subjecting sources to multiple requests for information. (p. 21)

3. Use incentives in gathering information, such as conferences (for cross-fertilization of ideas) or summary of data in exchange for survey information. (p. 21)

4. Generate ideas, open up to various perspectives before we start winnowing out suggestions and narrowing proposals. (p. 5)

PART 4.

Items Deleted From List

(items deleted for various reasons — e.g., approach is unlikely to be politically viable)

1. Apply different amount-in-controversy requirements to different types of cases (for example, employment disputes versus contract disputes).

2. Expand use of the single assignment system. This lets the judge get to know the case better and thus manage it better.[9] (p. 15)

3. User's fees in some form/some cases. (Incentives are contrary for private referees.) (p. 10)

4. Is there a role for user fees as a way to regulate and/or generate revenue? (p. 10)

5. Create a new Code of Civil Procedure, perhaps in bite-size chunks. (CLRC Minutes)

6. Increase the extent to which procedures are specified in court rules, rather than legislation. (CLRC Minutes)

7. Attempt to have more procedures put in the Rules of Court rather than statutes (pp. 15-16, 24-26)

   a. Interest groups have an interest in keeping procedures in the statutes. This may be even stronger if some procedural rules are specific to certain types of cases. (p. 16)

   b. Appellate rules used to be in statute but are now in Rules of Court. (pp. 25-26)

8. Use smaller juries for smaller cases. (CLRC Minutes)

9. Use a "notice of intended action" approach in specified circumstances, as is done in bankruptcy cases. (CLRC Minutes)

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9. This may already be provided for by rule.