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May 1993

Special Report

EFFECTS OF PROPOSITION 115 ON CALIFORNIA TRIAL COURT CASELOADS

SUMMARY

Hypotheses Tested

Proposition 115 resulted in:

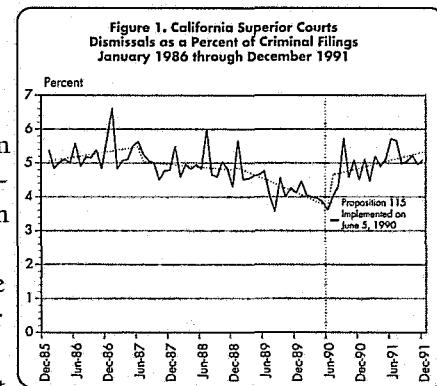
1. A reduction in the number of municipal court felony filings.
2. Fewer preliminary hearings being held.
3. More criminal cases being dismissed in superior courts.
4. An increase in the number of superior court criminal trials.
5. An increase in the rate of acquittals for criminal trials.

Conclusions Reached

1. Although the number of felony filings in municipal courts decreased after June 1990, the decrease was not large enough to attribute to Proposition 115.
2. Reduction in the number of felony cases filed in municipal courts, not the passage of Proposition 115, was responsible for the decline in the number of preliminary hearings held since June 1990.
3. A significant increase in the rate of felony dismissals in superior courts was seen after passage of Proposition 115 (Figure 1). No corresponding impact in the decrease in municipal court dismissals could be attributed to Proposition 115.

4. Passage of Proposition 115 appears to have had an opposite effect to that predicted: court and jury trial rates in superior courts decreased rather than increased.

5. Proposition 115 may have effected an increase in the probability of acquittal in felony jury trials in superior courts. The rate of acquittals for felony jury trials increased significantly immediately after June 1990. The new law appears not to have affected the acquittal rate for felony court trials.



This report is the first of hopefully many more publications by the Research & Statistics Unit of the Administrative Office of the Courts. This report attempts to measure the impact of Proposition 115 on the California trial courts caseload but further studies are necessary to examine the other provisions of the law that may have impacted the criminal court system. This report may answer some questions, while raising other important issues regarding the impact of Proposition 115.

GENERAL BACKGROUND

Provisions of Proposition 115

Proposition 115, titled the "Crime Victims Justice Reform Act," was adopted by California voters in the June 5, 1990, California primary election. Its provisions took effect June 6, 1990. The stated goals of Proposition 115 were "to restore balance to our criminal justice system, to create a system in

which justice is swift and fair, . . . in which violent criminals receive just punishment, in which crime victims and witnesses are treated with care and respect, and in which society as a whole can be free from the fear of crime in our homes, neighborhoods, and schools." [Cite]

A summary of the provisions of Proposition 115 that changed substantive criminal law and procedure via amendments to the California Constitution and statutory law follows.

1. Constitutional Construction: Proposition 115 required that certain specified constitutional criminal law rights be construed consistently with, and not to afford greater rights than, the United States Constitution.

2. Due Process and Speedy Trial: Proposition 115 purported to create due process of law and speedy public trial constitutional rights for the People of the State of California in criminal cases. To aid in speedy disposition of criminal cases, Proposition 115 required that only counsel willing and able to proceed with a preliminary hearing and/or trial of felony cases be appointed by the court, and that felony trials must occur within 60 days of arraignment unless there is a showing of good cause for a later date. A preferential writ of review process regarding issues related to the setting or continuance of trial dates was also created.

3. Joinder and Severance of Cases: Proposition 115 mandated that the state Constitution not be construed to prohibit joinder of criminal cases, that jointly charged offenses need not be cross-admissible for joinder at trial, that a continuance granted to one co-defendant be considered good cause for continuance of the entire case, and that severance of jointly charged cases shall not be allowed except for impossibility of all co-defendants being prepared and available at the same time.

4. Preliminary Hearings: Hearsay evidence was made admissible at preliminary hearings by Proposition 115. It also provided that the defense could be required to make an offer of proof of defense witness testimony at preliminary hearings and such testimony would not be allowed unless it met specified probative value criteria. Proposition 115 limited the purpose of the preliminary hearing to the determination of probable cause only and disavowed its use as an opportunity for the parties to conduct discovery. The right of a criminal defendant to a post-indictment preliminary hearing was also repealed.

5. Discovery: Proposition 115 made discovery in criminal cases "reciprocal" by providing specific rules governing the types and exchange of information between the prosecution and defense.

6. Jury Selection: Proposition 115 generally required that the questioning of prospective jurors (*voir dire*) be conducted by the court unless good cause is shown for limited additional inquiry by counsel.

7. Felony-Murder Statute: Kidnapping, train wrecking, and various sex offenses were added to the list of felonies supporting a charge of first degree murder.

8. Special Circumstances Statutes: Proposition 115 extended the witness-murder statute to juvenile proceedings; deleted proof of infliction of extreme physical pain as an element of the torture-murder offense; dispensed with

the requirement that the actual killer have intent to kill except as to those special circumstances expressly requiring such intent; imposed the death penalty or life imprisonment without possibility of parole for aiders and abettors of felony murder; dispensed with proof of felony-murder special circumstance independent from a defendant's out-of-court statement; extended the penalty of life imprisonment without parole, or a term of 25 years to life, to 16- or 17-year-olds who commit first degree murder with special circumstances; and prohibited judges from striking or dismissing a special circumstance finding.

Court Decisions Construing Proposition 115

Since Proposition 115 took effect in June of 1990, the California Supreme Court has issued opinions in seven cases interpreting its provisions. The issues addressed by and holdings of the Supreme Court relating to Proposition 115 are summarized below.



In *Raven v. Deukmejian* (1990) 52 Cal.3d 336 [276 Cal.Rptr. 326, 801 P.2d 1077], the Supreme Court ruled that Proposition 115 did not violate the California Constitution, article II, section 8, subdivision (d) requirement that initiative measures embrace only a single subject.

The court specifically found that all Proposition 115 provisions reasonably related to each other and many were intended to restrict prior Supreme Court rulings. The court also held that the section of the initiative that purported to limit the construction of the state Constitution to the parameters of the federal Constitution was a "qualitative revision" to the state Constitution that, by its terms, must be accomplished by constitutional convention and not through ballot initiative. Therefore, this portion of Proposition 115 was invalidated and severed from the remaining provisions that did take effect.

In *Tapia v. Superior Court* (1991) 53 Cal.3d 282 [279 Cal.Rptr. 592, 807 P.2d 434], the Supreme Court held that the provisions of Proposition 115 that addressed the conduct of future trials could be applied retrospectively to criminal defendants whose cases were pending at the time Proposition 115 became effective. Conversely, the court held that any of Proposition 115's provisions that changed (to the detriment of the defendant) the legal consequences of the criminal conduct that occurred before Proposition 115 passed could only be applied prospectively. Retrospective application of such provisions would violate the constitutional prohibition against *ex post facto* laws.

In *Izagaza v. Superior Court* (1991) 54 Cal.3d 356 [285 Cal.Rptr. 231, 815 P.2d 304], the Supreme Court ruled that the "reciprocal" discovery requirements enacted in Proposition 115 do not violate the federal and state constitutional

rights of a criminal defendant against self-incrimination, do not violate the constitutional guarantees of due process of law, do not "chill" defense counsel's trial preparation in violation of the constitutional right to effective counsel, and do not violate the Proposition 115-protected attorney work product doctrine, which the court determined is not a constitutionally based privilege.

In *Whitman v. Superior Court* (1991) 54 Cal.3d 1063 [2 Cal.Rptr.2d 160, 820 P.2d 262], the Supreme Court considered the scope of the Proposition 115 hearsay exception created for evidence admitted at preliminary hearings. It held that the intent of Proposition 115 called for limited use of hearsay by an appropriately qualified or trained investigating or other officer personally familiar with the extrajudicial statements being testified to. The court also specifically determined that a finding of probable cause at the preliminary hearing cannot be based solely on an officer's "reading" the contents of an investigative report, but that, for the hearsay to be admissible, the testifying officer must have sufficient knowledge of the crime or the circumstances under which the out-of-court statement was made so as to meaningfully assist the magistrate in assessing the credibility of the statement. It was also held that the authorized use of hearsay at a preliminary hearing does not violate defendants' right to confront witnesses, is not a denial of defendants' right of due process, and does not violate the separation of powers doctrine.

In *Bowens v. Superior Court* (1991) 1 Cal.4th 36, the Supreme Court upheld the abolition of post-indictment preliminary hearings as being well within the framework of both the federal and state Constitutions.

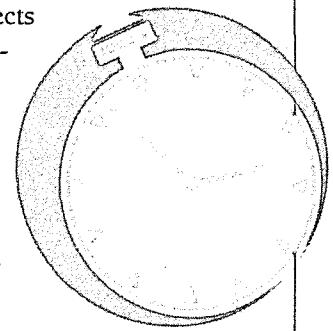
In *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978, the court construed applications of Propositions 114 and 115, both of which purported to amend Penal Code section 190.2, and both of which were passed by the electorate in the June 5, 1990, primary election. The court determined that the changes proposed by both propositions were not conflicting so that they could be read together, and both were given effect.

In *Cummisky v. Superior Court* (1992) 3 Cal.4th 1018, the court determined that the standard of proof required for grand jury indictment is a finding of "probable cause" to believe the defendant committed the crime and should stand trial. The court also held that prosecutors are not bound to advise the grand jury of its right to indict on lesser charges nor to remind it of its independent powers to seek more evidence. The court did not reach the question of whether a prosecutor is bound to disclose exculpatory evidence to the grand jury, since no such evidence was proved to exist in this case.

At the time of this writing, one additional case is pend-

ing decision before the California Supreme Court. The court has granted review of a Second District Court of Appeal decision, *Montez v. Superior Court* (1991) 233 Cal.App.3d 917, to rule on further reciprocal discovery issues. Specifically, the court will consider whether the prosecution is bound to release the names and addresses of murder case eyewitnesses if there is concern about reprisal against witnesses.

Other legal issues related to the application of Proposition 115 are still being tested at the trial court level. Some of those issues include further refinement of and resolution of questions regarding the "reciprocal discovery" and limited voir dire requirements. For example, some of the questions to be resolved include: Who provides discovery first, the prosecution or defense? Are oral interviews discoverable? Under what circumstances must lawyers still be allowed to ask at least some voir dire questions? Further challenges to the effects of Proposition 115 are being mounted through trial court challenges to the sufficiency of the grand jury indictment process. All of these issues will affect criminal case processing and will continue to involve the trial and appellate courts for years to come.



Expected Effects of Proposition 115

Legal observers, including the Judicial Council of the State of California, judges, attorneys, legal scholars, and journalists, have considered in detail the anticipated effects of Proposition 115 on trial practice in California. General opinions have been expressed that Proposition 115's changes to criminal procedure will significantly affect criminal case processing in the trial and appellate courts. Generally, it has been expected that the workloads between municipal/justice courts and the superior courts in each county would be reallocated or redistributed, and that a change in case disposition types and rates in superior court would occur. Specifically, some of the predicted effects of Proposition 115 include the following:

1. Proposition 115 proponents' predictions focus on reducing delay and increasing the speed at which criminal cases are processed through the criminal justice system for the protection of crime victims. Some of the effects of the mechanisms created in the initiative on case-processing time anticipated by the proponents of the measure included:

a. Anticipated Decrease in Filings in Municipal and Justice Courts and Correlated Increase in Filings in Superior Courts. Because of Proposition 115's prohibition against post-indictment preliminary hearings, it has been

anticipated that more felony cases would be prosecuted by indictment, resulting in increased initial filings in superior courts and decreased filings by information in municipal/justice courts.

b. Anticipated Increase in Pleas in Superior Court. Because of the anticipated increase in initial filings via indictment in superior court, cases that previously would have been prosecuted via information in municipal/justice courts, and that would have been disposed by pleas there, would now cause an overall increase in the number of pleas entered in superior courts.

c. Reduced Number and Length of Preliminary Hearings. The assumed increased number of filings via indictment, causing reduced filings in municipal/justice courts, would result overall in fewer preliminary hearings being held. Also, because of the allowed use of hearsay evidence at preliminary hearings, the restriction of admissible defense testimony at preliminary hearings, and the prohibition against using preliminary hearings as "discovery" tools, the length of preliminary hearings in municipal/justice courts would shorten.

d. Court-Controlled Voir Dire. The change in voir dire practice (requiring the court, not counsel, to conduct most jury questioning) could result in shortened times for jury selection, resulting in shorter overall trial length.

2. Proposition 115 opponents predicted longer case-processing time and increased delay in the criminal justice system because of the measure's provisions. Some of those predictions included:

a. Hung Juries. Because of the change in voir dire practice required by Proposition 115, potential jurors would not be adequately examined before being allowed to sit on a jury. The potential inadequacy of such voir dire would result in more instances of juries not being able to reach unanimous verdicts, thereby increasing the number of mistrials.

b. Increase in the Number and Length of Trials, and the Number of Acquittals in Superior Court. The restriction on the use of preliminary hearings for "discovery" might result in an increased number of trials instead of pleas in superior courts. The use of indictments without preliminary hearings might also result in increased acquittals after trial in superior court because the prosecution would not have its traditional "testing ground" for its evidence at preliminary hearing. If the rate of trials resulting in hung juries increased, then the rate of retrials would likely increase, resulting in an overall increased number of jury trials in superior courts.

c. Appeals. There would likely be more appeals and reversals on appeal based on the restrictions to attorney voir dire. Also, allowing preferential status for writs of

Table 1. Quantitative Hypotheses

1. The number of municipal court felony filings are reduced.
2. Fewer preliminary hearings are being held.
3. The use of grand jury indictments are increasing.
4. The lengths of preliminary hearings have shortened.
5. There are fewer felony guilty pleas at preliminary hearings.
6. There are more writs from preliminary hearings.
7. The lengths of criminal trials have shortened.
8. Criminal case disposition times are reduced.
9. The length of jury selection is reduced
10. The superior court criminal trial rates are increasing.
11. More criminal trials are resulting in acquittals.
12. The rates of mistrials and hung juries are increasing.
13. Criminal case dismissals in superior courts are increasing.
14. Death penalty appeals in Supreme Court cases are increasing.
15. More criminal cases that would have been dismissed or pleaded out at preliminary hearings are going to trial.
16. The increases superior court criminal trial rates are causing delay in both the civil and criminal calendars.
17. The requirement of trial within 60 days of arraignment is causing a backlog in superior court civil caseloads.
18. Criminal appeal statutory preferences are leading to delays of other cases pending on both the trial and appellate courts' calendars.

review regarding the setting of trial dates within 60 days of arraignment, and prohibitions against continuances without a showing of good cause, would result in an increase in criminal appeals. There could also be an increase in the number of appeals and/or reversals on appeal due to inadequacy of counsel because of limited preparation time.

d. Dismissals. The difficulty in appointing counsel who could be prepared for trial within 60 days of arraignment would result in more dismissals. The increase in superior court felony caseloads occasioned by the increased use of indictments and fewer pleas in municipal/justice courts would result in increased dismissals for lack of court resources to try all the cases within the 60-day time limit.

e. First Degree Murder, Death Penalty Amendments, and Life Imprisonment. Workloads attendant to the complexity of death penalty cases would increase due to the addition of five more offenses to the first degree felony

murder category. The increase in death penalty cases could result in a backlog of cases at both the trial court and appellate court levels.

STATISTICAL ANALYSIS

Determining Hypotheses

Based on the anticipated effects identified by the legal community in commenting on Proposition 115, the Research and Statistics unit of the Administrative Office of the Courts undertook to formulate quantitative hypotheses to determine whether Proposition 115 had, in fact, affected courts as anticipated. Some of these hypotheses are listed in Table 1 on page 4.

Specific Hypotheses Analyzed

Due to the large number of provisions in Proposition 115 and the limitations of available data, this study was restricted to an evaluation of the effects of Proposition 115 on readily measurable aspects of the municipal and superior courts' workloads. The information analyzed in this study relates to numbers of felony filings and preliminary hearings; criminal case dismissals; and criminal trials and their outcomes. The specific hypotheses tested in this study are:

1. The number of municipal court felony filings are reduced.
2. Fewer preliminary hearings are being held.
3. Criminal case dismissals in superior courts are increasing.
4. The superior court criminal trial rates are increasing.
5. More criminal trials are resulting in acquittals.

Data Source, Availability, and Limitations

The source of quantitative data for this study is the information reported by the courts to the Judicial Council and maintained by the Research and Statistics unit of the Administrative Office of the Courts (AOC). The Judicial Council of the State of California is constitutionally mandated to survey the work of the California courts and to report that information to the Governor, the Legislature, and the public. One of the methods used to accomplish those duties is regular reporting by the courts to the Judicial Council.

The data reported are limited to certain specific, readily quantifiable aspects or events in case processing. The current trial court caseload information collected, and therefore the data available for this study, is limited to general aggregate information about filings and dispositions in

felony cases. Each court is required to submit monthly or quarterly "Summary Reports" regarding case filings and dispositions.

Filings: Felony filings are those cases that allege an offense punishable by imprisonment in a state prison or by death. Felony cases charged by information are filed in municipal/justice courts. Felonies can also be charged by the filing of an indictment in superior court, in which case no preliminary hearing is held.

On a monthly basis, the superior courts report aggregate felony filings but do not distinguish the type of filing, i.e., whether by held to answer from municipal/justice court or by filing of initial indictment in superior court. The municipal/justice courts also report an aggregate number of felony filings without distinction about the method of prosecution.

Dispositions: The disposition data reported refer to cases that reached final disposition during the reporting month regardless of when the case began. The types of dispositions reported by superior courts include dismissal, transfer, plea, sentence after jury or court trial, and acquittal and whether, at the time of disposition, the originally charged felony had been reduced to a misdemeanor. Felony dispositions in municipal/justice courts are reported as pleas, dismissals, transfers, bound over to superior court (either after preliminary hearing or after waiver thereof), and sentence after jury or court trial conviction.

Analysis Possible from Reported Information

Felony filing rates in municipal/justice courts and the number of defendants bound over after preliminary hearing (or waiver thereof) to superior courts are ascertainable from the currently reported trial court data. In municipal/justice court felony cases, the court either accepts a guilty plea or a waiver of preliminary hearing, or conducts a preliminary hearing to determine whether the defendant should be held to answer the charges at trial in superior court. Current data reported indicate only whether a case is disposed in the municipal/justice courts by "certified plea" or "held to answer." The held to answer category includes all cases bound over to the superior court after a preliminary hearing is held. Dispositions in which "not guilty pleas" are entered but preliminary hearings are waived are reported in the same aggregate category as "guilty pleas" because of the similarity in workload involved. Therefore, from current data it is impossible to identify directly the number of cases in which preliminary hearings were waived.

The superior court reporting requirements do not include information about the form of the felony filing, i.e., whether it is by certification from municipal/justice court or indictment filed initially in superior court. Although

analysis regarding the increased usage of indictments is not possible from the data reported to the Judicial Council, the courts do report indictment information to the California Department of Justice (on the JUS 8715 form). That agency provided the data regarding the number of felony cases prosecuted by indictment used in preparing this report.

Court data regarding felony cases do not include information about particular felonies or Penal Code sections. Therefore, any analysis of Proposition 115's effects related to the new felony murder and special circumstances provisions is not possible from the reported data.

Municipal/justice and superior court disposition information can be analyzed as it relates to rates of guilty pleas, numbers of dismissals, numbers of trials, and numbers of acquittals. Information about the overall age of cases at the time of disposition is available, but length of trials is not an available subset of that information.

Current information available from appellate courts and superior court appellate departments does not provide sufficient detail to assess the impact of the preferential writs provisions of Proposition 115, nor does it identify the number of cases dealing with legal issues related to the implementation of Proposition 115.

ANALYSIS

The tables on the following pages show the annual statewide felony or criminal data for the last five calendar years, covering the pre-Proposition 115 period (January 1987–May 1990) and the post-Proposition 115 period (June 1990–December 1991) and showing the frequency of events such as preliminary hearings, dismissals, criminal trials, and trial outcomes. From the data, we attempt to determine whether any notable changes in these four areas can be observed after the implementation of Proposition 115 on June 5, 1990.

The best method for looking for pre- and post-Proposition 115 trends is to break out the yearly data into monthly data. Monthly data allow us to observe more data points during the periods before and after Proposition 115 was passed. Thus, a change can be seen as gradual and incremental, rather than abrupt and sharp. By analyzing monthly data, there is less chance of attributing any observed changes to Proposition 115 that may have, in fact, been part of an earlier trend.¹

A method for determining whether Proposition 115 was responsible for a change is to compare the rate of change before and after Proposition 115 was passed. This is done by analyzing pre-115 and post-115 trend lines. The trend lines are simple regression lines plotted over the two time

periods. For each of these regression lines we are able to obtain the rate of change, such as the rate of change in the number of preliminary hearings. The trend line describes the average growth, such as the average annual growth.

To determine whether the difference in the rates of change for the pre-115 and post-115 trend lines is statistically significant, we cannot apply standard statistical tests but must apply special time-series tests.²

With time-series statistical techniques, we can test whether the trend line is significantly different after the passage of Proposition 115 in June 1990. By applying time-series statistical techniques to the data, the effects of seasonal and irregular fluctuations are removed and an estimate of the trend remains. All parameters for the time series models were statistically tested for significance at the 95 percent confidence level.

Table 1. California municipal courts, preliminary hearings held, as a percent of felony filings, calendar years 1987 through 1991

| Calendar year | Felony filings | | Preliminary hearings held | | Percent preliminary hearings |
|---------------|----------------|----------------|---------------------------|----------------|------------------------------|
| | Total | Percent Change | Total | Percent Change | |
| 1987 | 192,301 | – | 67,815 | – | 35.3% |
| 1988 | 202,297 | 5.2% | 72,064 | 6.3% | 35.6% |
| 1989 | 221,165 | 9.3% | 78,986 | 9.6% | 35.7% |
| 1990 | 225,726 | 2.1% | 80,699 | 2.2% | 35.8% |
| 1991 | 221,200 | -2.0% | 79,026 | -2.1% | 35.7% |

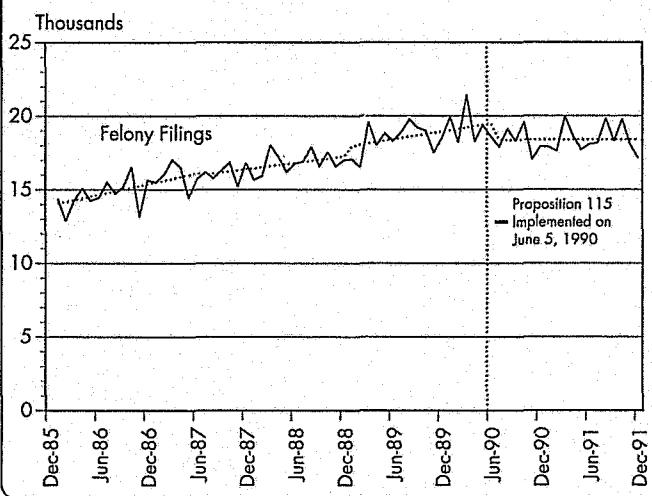
Quantitative Findings

The number of municipal court felony filings are reduced/fewer preliminary hearings are being held

Early critics of Proposition 115 predicted that the "hearsay evidence" provision and the prohibited use of preliminary hearing "for purpose of discovery" would encourage defense attorneys to waive the preliminary exam. If this were the case, we would expect that the rate of felony cases going to preliminary hearing would have declined following the passage of Proposition 115 in June 1990. Because waivers of preliminary hearings (from a workload perspective) are reported in the same aggregate category as guilty pleas, a direct source of information regarding waivers of preliminary hearings is not available from reported data.

In table 1, we attempt to determine whether the new law resulted in increased waivers by comparing statewide data on the number of felony cases filed, the number of prelimi-

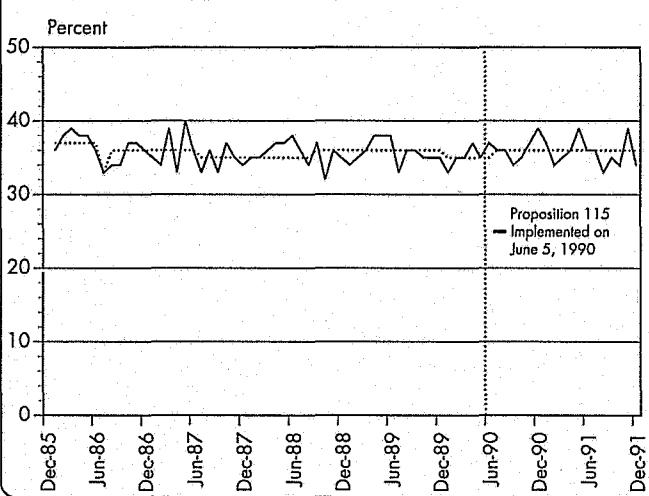
**Figure 1A. California Municipal Courts
Felony Filings from January 1986 through December 1991**



nary hearings held, and the percentage of felony cases going to preliminary hearing in municipal courts during calendar years 1987 through 1991. The data show that the rate of preliminary hearings declined negligibly in 1991, after having increased during the prior four years.

The statewide monthly data, from January 1986 through December 1991, for felony filings and preliminary hearings held, along with their regression or trend lines, are displayed in figure 1A and figure 1B.

**Figure 2. California Municipal Courts
Preliminary Hearings as a Percent of Felony Filings
January 1986 through December 1991**



Proponents of Proposition 115 predicted a decrease in felony filings in municipal courts because of the law's prohibition against post-indictment preliminary hearings. The California Department of Justice reported a jump in the number of indictments in superior courts, statewide, during 1991, from 36 to 264. Over the four years prior to 1991, the average annual number of indictments was 21. The increased indictments in superior courts in 1991 may be indicative of a change in prosecuting practices—decreased filings via information in municipal courts and increased filings via indictment in superior courts.

The trend lines shown in figure 1B for preliminary hearings show a pattern similar to that for felony filings. Following a rise during the pre-115 period, the trend lines declined during the post-115 period.

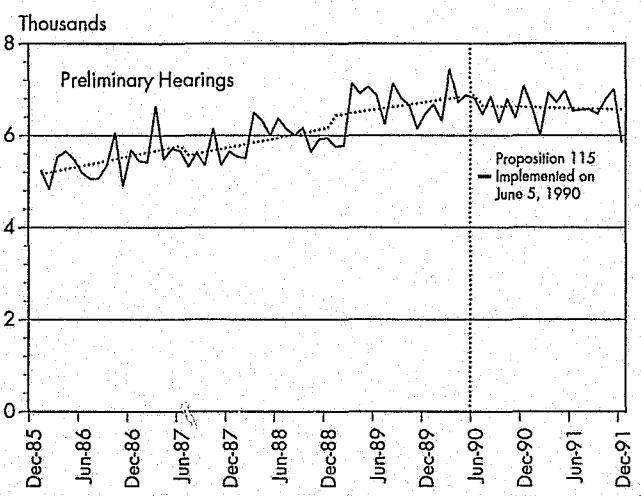
However, the trend lines in figure 2 for the rates of preliminary hearings to felony filings, from January 1986 through December 1991, show that the proportion of felony cases going to preliminary hearing remained stable during the post-115 period, after a slight increase in July 1990.

The time-series statistical test found no significance to the increased rate of felony cases going to preliminary hearings during July 1990. Therefore, with the stable post-115 trend line—i.e., preliminary hearings declined at the same rate as felony filings—we can conclude that the reduction in the number of felony cases filed in municipal courts, and not the passage of Proposition 115, was responsible for the decline in the number of preliminary hearings held.

Criminal case dismissals in superior courts are increasing

Concern was expressed that the section of Proposition 115 limiting the discovery process during preliminary hearings would result in weak cases going to superior courts, i.e., those cases that normally would have been filtered out

**Figure 1B. California Municipal Courts
Preliminary Hearings
from January 1986 through December 1991**



As seen in figure 1A, the slopes of the felony filings trend lines generally rose during the pre-Proposition 115 period, with a sharp rise from January 1989 through June 1990, and then declined slightly during the post-Proposition 115 period. The post-115 decrease was not found to be statistically significant.

Table 2. California municipal courts and superior courts, dismissals as a percent of criminal filings, calendar years 1987 through 1991

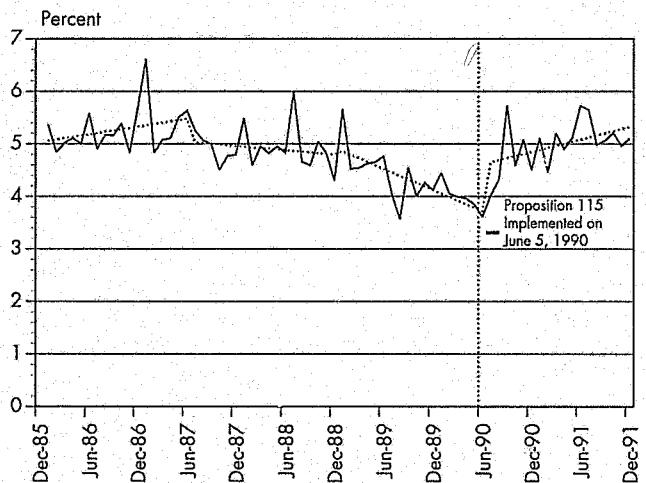
| Calendar year | Municipal courts | | Superior courts | |
|---------------|------------------|--------------------|-----------------|--------------------|
| | Dismissals | Percent of filings | Dismissals | Percent of filings |
| 1987 | 35,850 | 13.8% | 5,994 | 5.2% |
| 1988 | 35,393 | 13.7% | 6,531 | 4.9% |
| 1989 | 35,054 | 12.7% | 6,644 | 4.4% |
| 1990 | 36,022 | 12.8% | 7,178 | 4.3% |
| 1991 | 30,417 | 11.0% | 8,740 | 5.1% |

in municipal court would now go to superior court. If this were occurring, we would expect to see the superior court rate of dismissal for criminal cases increasing and the municipal court dismissal rate for felony cases decreasing after the passage of Proposition 115 in June 1990.

As can be seen in table 2, the rate of felony cases dismissed in municipal courts dropped from 12.8 percent to 11.0 percent in 1991. During the same period, the rate of criminal cases dismissed in superior courts significantly increased from 4.3 percent to 5.1 percent. The increase in the superior court dismissal rate is the first increase during the five-year period. The data seems to suggest a possible shift in criminal cases dismissed from municipal court to superior court in 1991.

To determine whether the shift in location of dismissals from municipal courts to superior courts was real and what effect Proposition 115 had on the shift, monthly data, from January 1986 through December 1991, on the rate of dis-

Figure 3. California Superior Courts Dismissals as a Percent of Criminal Filings January 1986 through December 1991

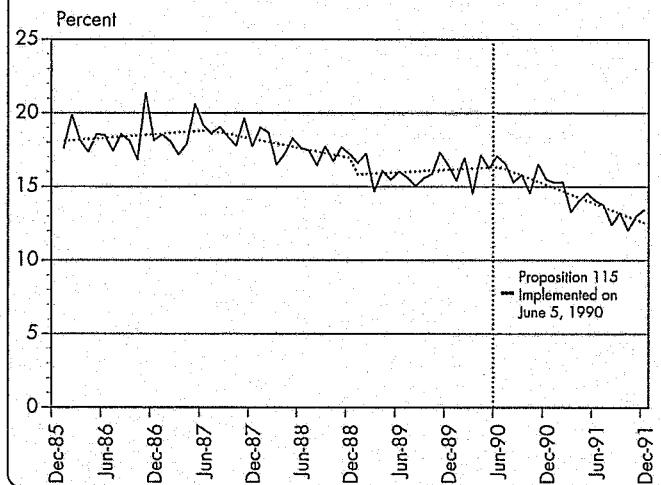


missals in the superior courts and the rate of dismissals in the municipal courts are presented in figures 3 and 4, respectively.

The trend lines in figure 3 show that the rate of criminal cases dismissed in superior courts had increased in the early portion of the pre-115 period but began to steadily decrease in January 1989 and then increase sharply during the post-115 period. The analysis found that the increased dismissal rate during the post-115 period was significant, suggesting that there was a greater tendency to dismiss cases in superior courts after the law was passed.

Figure 4 shows that the trend lines for the rate of felony cases dismissed in municipal courts had, overall, gradually declined during the three-year period from July 1987 through June 1990. The downward trend continued during the post-115 period but the rate of decline was more abrupt. We could find no significance to the decreased dismissal rate during the post-115 period. Since we were unable to detect a significant impact of Proposition 115 on the felony dismissal rate, we can only surmise that Proposition 115 may have amplified a pre-existing downward trend in the rate of felony cases dismissed in municipal courts.

Figure 4. California Municipal Courts Dismissals as a Percent of Felony Filings January 1986 through December 1991



The data does not fully support the hypothesis that Proposition 115 caused a shift in the dismissal of criminal cases from municipal court to superior court. The data does confirm that Proposition 115 may have had the effect of increasing the rate of dismissals of criminal cases in superior courts. Because we could find no corresponding significance in the decreased dismissal rate for felony cases in municipal courts, we cannot conclude at this point that the decrease was connected to Proposition 115.

Table 3. California superior courts, criminal trials, calendar years 1987 through 1991

| Calendar year | Total filings | Criminal trials | | |
|--------------------|---------------|-----------------|-------|--------|
| | | Total | Jury | Court |
| 1987 | 116,153 | 7,706 | 5,214 | 2,492 |
| 1988 | 133,125 | 8,170 | 5,465 | 2,705 |
| 1989 | 150,666 | 8,301 | 5,924 | 2,377 |
| 1990 | 165,284 | 7,722 | 5,863 | 1,859 |
| 1991 | 170,633 | 7,069 | 5,758 | 1,311 |
| Percent change | | | | |
| 1987 | - | - | - | - |
| 1988 | 14.6% | 6.0% | 4.8% | 8.5% |
| 1989 | 13.2% | 1.6% | 8.4% | -12.1% |
| 1990 | 9.7% | -7.0% | -1.0% | -21.8% |
| 1991 | 3.2% | -8.5% | -1.8% | -29.5% |
| Percent of filings | | | | |
| 1987 | - | 6.6% | 4.5% | 2.1% |
| 1988 | - | 6.1% | 4.1% | 2.0% |
| 1989 | - | 5.5% | 3.9% | 1.6% |
| 1990 | - | 4.7% | 3.5% | 1.1% |
| 1991 | - | 4.1% | 3.4% | 0.8% |

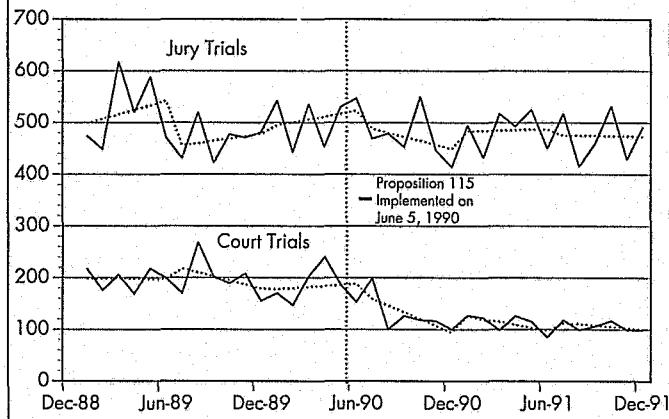
Superior court criminal trial rates are increasing

In table 3 we attempt to determine whether any significant changes can be observed in the superior court criminal trial rate after passage of Proposition 115. The statewide data show reductions in the number of criminal trials during calendar years 1990 and 1991. These reductions, although not found to be statistically significant, are contrary to what critics of Proposition 115 predicted when they warned that the new law would lead to an increase in the number of criminal trials.

Looking at the "percent change" data (Table 3), we see that the rate of decline for criminal case adjudicated through a court trial is significantly greater than the rate for criminal cases adjudicated through a jury trial. The data lend further support to the conclusion that Proposition 115 did not affect an increase in the criminal trial rate as warned by Proposition 115 critics.

The monthly data displayed in figure 5 represent the number of jury trials and the number of court trials, along with the pre-115 and post-115 trend lines, from January 1989 through December 1991. Looking only at the post-115 portion, we see from the trend lines that the sharpest decrease in jury and court trials occurred during June-December 1990. The trend line for court trials was already declining prior to June 1990.

The time-series statistical test applied to monthly data from January 1986 through December 1991 found the

Figure 5. California Superior Courts Criminal Trials from January 1989 through December 1991

decreased number of court trials in the post-115 period to be significant. Despite the prior 12-month upward trend, no significance could be detected in the decreased number of jury trials after June 1990.

We do not attempt an explanation for the decrease in the number of criminal trials, especially the reduction in court trials, during the post-115 period. The only interpretation we can make is that the passage of Proposition 115—the "intervention" point—appears to have affected the court trial rate for criminal cases. The effect was the opposite of what was expected by critics of Proposition 115—rather than increasing, the number of court trials significantly declined after June 1990.

One aspect of note from figure 5: with significantly fewer criminal cases disposed by a court trial, the gap between the numbers of jury trials and court trials has widened since June 1990.

More criminal trials are resulting in acquittals

Critics of Proposition 115 expressed concern that with the provision eliminating post-indictment preliminary hearings, the courts would no longer have the means of clearing out cases that would result only in an acquittal. These "reasonable doubt" cases would now have to be concluded in superior court. It was predicted that Proposition 115 would cause a dramatic increase in the rate of acquittals in criminal trials for the superior courts.

The data in table 4 indicate that the percentage of criminal defendants acquitted by jury trial in superior courts increased one percent during each of the calendar years 1990 and 1991. Prior to 1990, the acquittal rate for jury trials had been declining.

The percentage of criminal defendants acquitted by court trial, following a two-year decline throughout 1989 and 1990, increased by less than one percent in 1991.

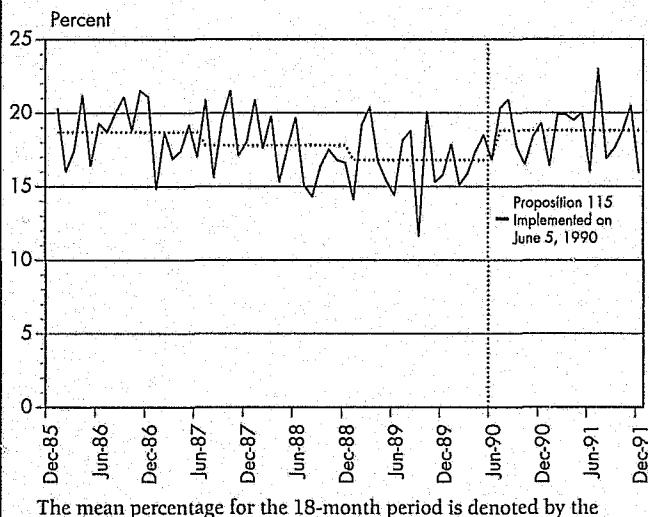
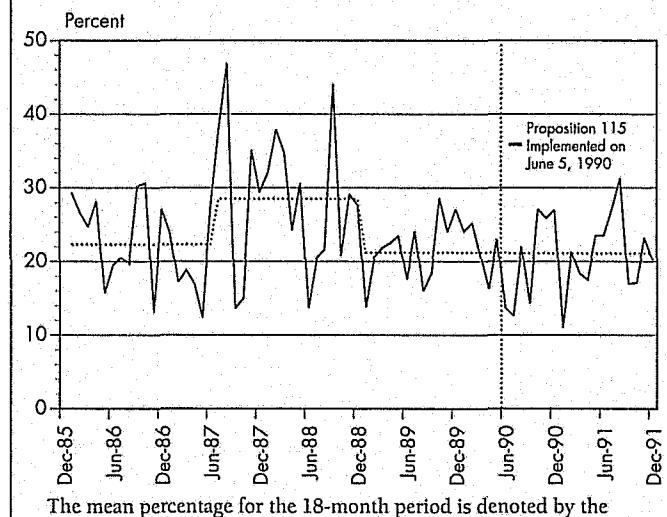
Table 4. California superior courts, trial acquittals and convictions, calendar years 1987 through 1991

| Calendar year | Jury trials | | | Court trials | | | Acquittals | |
|---------------|-------------|-------------|--------|--------------|-------------|--------|------------|---------------|
| | Total | Acquittals | | Total | Convictions | | Number | Pct. of total |
| | | Convictions | Number | | Convictions | Number | | Pct. of total |
| 1987 | 5,214 | 4,270 | 944 | 2,492 | 1,879 | 613 | 24.6% | |
| 1988 | 5,465 | 4,520 | 945 | 2,705 | 1,957 | 748 | 27.7% | |
| 1989 | 5,924 | 4,930 | 994 | 2,377 | 1,875 | 502 | 21.1% | |
| 1990 | 5,863 | 4,817 | 1,046 | 1,859 | 1,482 | 377 | 20.3% | |
| 1991 | 5,758 | 4,678 | 1,080 | 1,311 | 1,040 | 271 | 20.7% | |

To determine whether the increased acquittal rates were caused by Proposition 115, we examined monthly data on the acquittal rates from January 1986 through December 1991 for both jury trials and court trials. The analysis found both time-series data to be nonstationary,³ which can be seen from the periodic patterns in the plots of the acquittal rates shown in figures 6 and 7.

The large month-to-month fluctuations are due to the small frequency of acquittals. Nonetheless, as can be seen from the means of the time series in figure 6, the acquittal rate resulting from jury trials increased substantially after the passage of Proposition 115 in June 1990. It appears that the initial dramatic increase in the jury trial acquittal rate was followed by a general stabilization in the rate. Because of the large periodic variations in the court trial series, the data in figure 7 do not show a recognizable trend.

To determine the impact that Proposition 115 may have had on both acquittal rates, the periodic or seasonal variations were removed from both time-series data. Once the adjustments were made, the time-series statistical tests found that the impact immediately after passage of Proposition 115 had the effect of raising the value of the post-115 means over the pre-115 means for the jury trial acquittal rate. There was a significant increase in the rate of jury trial acquittals in the first month following the passage of Proposition 115. However, it appears that the initial increase in the acquittal rate may have leveled off. No significant impact was found for the court trial acquittal rate. Thus, we can conclude at this point that Proposition 115 may have increased the probability of an acquittal for the criminal cases tried by jury, but we can't conclude that the law had an effect on the outcome of criminal trials conducted by the courts.

**Figure 6. California Superior Courts
Jury Acquittals as a Percentage of Total Jury Trials
January 1986 through December 1991****Figure 7. California Superior Courts
Court Acquittals as a Percentage of Total Court Trials
January 1986 through December 1991**

CONCLUSIONS

In this study, using time-series statistical techniques, we sought to determine the impact Proposition 115 had on felony filings, preliminary hearings, dismissals of criminal cases, criminal trials, and their outcomes. During the time period studied, there have been a number of changes in the California trial court system that may have confounded the data—mainly, the delay reduction program, trial court coordination, budget constraints, and the absence of new judgeships created since 1987.

With this analysis, we found that Proposition 115 apparently had little effect on the filing practices of felony cases in municipal courts. Because of the law's prohibition against post-indictment preliminary hearings, it had been anticipated that more felony cases would be prosecuted by indictment, resulting in decreased filings by information in municipal courts. Although the number of felony filings in municipal courts decreased after June 1990, the decrease could be attributed to randomness rather than to Proposition 115.

We found that the number of preliminary hearings held in municipal courts abruptly decreased after the passage of Proposition 115 on June 5, 1990, as had been expected by some. The post-115 decrease was not found to be statistically significant. Analysis showed that the decrease in the number of preliminary hearings during calendar year 1991 was apparently due to a reduction in the number of felony cases filed in municipal courts during that period.

The analysis found a significant increase in the rate of dismissals for criminal cases in superior courts after June 1990, suggesting that there was a greater tendency to dismiss criminal cases in superior courts following the passage of Proposition 115. While the dismissal rate for felony cases in municipal courts declined, it is not clear whether the decrease was beyond the level that would have been attained had Proposition 115 not been passed. Proposition 115 may have merely hastened a downward trend that was already under way. Therefore, we cannot support the hypothesis that Proposition 115 caused a shift in criminal cases dismissed out of the municipal courts into the superior courts.

We found no support for the prediction that Proposition 115 would result in more criminal trials. In fact, the data showed a significant decrease in the number of criminal court trials after June 1990. The data also showed a decline in the number of criminal jury trials after June 1990. Although this decline was not found to be significant, this data, along with the decreased number of court trials, is evidence that Proposition 115 did not result in a surge of criminal trials in the superior courts.

We determined that Proposition 115 may have had the effect of increasing the probability of an acquittal for criminal cases tried by jury beyond the level that would have been attained had the law not been passed. The rate of acquittals for criminal jury trials increased substantially on June 1990 and the impact was found to be significant. Further analysis showed that the full impact was felt immediately after the law was passed and that the initial dramatic increase in the jury trial acquittal rate may have leveled off. As for the court trials, we found no significant impact due to the new law. Thus, we can conclude that the outcome of court trials in the superior courts was not affected by Proposition 115.

During the time period studied, a number of changes in California laws were enacted that affected the criminal justice system, such as the delay reduction program. The courts need to make adjustments in order to accommodate these changes. Therefore, periodic studies are needed to evaluate the impacts of Proposition 115 in relation to the changes in the California criminal court system.

In addition to further studies examining other provisions of Proposition 115 that may have affected the criminal court system, follow-up studies are needed to isolate the specific contribution of Proposition 115 to observed trends, and to measure its impact by comparing cases that should have been affected by the law with those that should not.

¹Data arranged in this manner is referred to as time-series data. Time-series data are affected at any point in time by a combination of trend (i.e., normal growth), seasonal, and irregular (i.e., random fluctuations) factors. For example, at any given month, the number of criminal filings is influenced by the normal growth of criminal cases, by the seasonal nature of criminal cases filed, and by some random fluctuation.

²One of the assumptions underlying time-series data is that the observations are autocorrelated, i.e., the value of one data point is affected by the values of other data points. The autocorrelation in time-series data does not affect ordinary least squares regression, which was used in the study to determine trend lines, but does have a biasing effect on any statistical tests of significance. Standard statistical tests of significance assume that the observations are independent. Thus, we cannot apply statistical tests of significance comparing the differences in the slopes to determine whether any post-115 change in the trend line can be attributed to Proposition 115. Because of the autocorrelation, we used an ARIMA (Auto-Regressive Integrated Moving Average) model to fit the pre-Proposition 115 time-series data. The fitted model represents the pre-intervention series (January 1987–May 1990). To determine whether the series was substantially different after June 1990 (the “intervention point”), we introduce another variable into the model that represents the “intervention.” We now apply time-series statistical techniques to assess the inclusion of the “intervention point” by testing whether the series is significantly different after June 1990.

³Nonstationarity is a condition that may be present in time-series data. In general, a nonstationary series exhibits cyclical or periodic variations. To describe time-series data in terms of a model, the time series typically should be stationary. A full discussion of nonstationary series can be found elsewhere. For our description here, by removing the nonstationary component of the time-series data, we made the series stationary.

In This Report

This special report measures and identifies some of the quantifiable effects of Proposition 115—the Crime Victims Justice Reform Act, adopted by California voters on June 5, 1990—on California trial court caseloads. This report is the first of many special analysis and reports the Research and Statistics Unit of the Administrative Office of the Courts, California Judicial Council hopes to prepare in the future. While answering some important questions, this report also serves to identify other important issues

needing further study. Because data for this initial analysis was limited, additional studies are needed to examine other provisions of the law that may have impacted the criminal justice system in California since its passage in June 1990. If you have any questions about the statistical analysis conducted or if you would like additional information about California trial court caseloads, please contact Ron Titus, Manager, Research & Statistics Unit, (415) 396-9331.

Special Report
Effects of Proposition 115
on California Trial Court
Caseloads May 1993

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