

# NOW

BGR's Spotlight on Local Government Issues

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## **A Defeat for Transparency**

March 26, 2015

In late 2013, BGR filed a lawsuit against a committee formed by the Louisiana Supreme Court to re-assess the number of judges needed at each of the state's courts. The lawsuit alleged that the committee (the HCR 143 Committee) was violating open meetings and public records laws by meeting behind closed doors and denying the public access to its records. The suit sought a court order requiring the committee's chairman to allow the public to view the committee's records and attend its meetings.

After BGR appealed an unfavorable district court ruling, the appellate court dismissed BGR's appeal, on jurisdictional grounds. The appellate court never reached the merits of BGR's case. The Supreme Court recently refused BGR's request that it consider the appellate court's dismissal. By doing so, it also avoided the merits of BGR's case – and thus tacitly blessed the HCR 143 Committee's violation of the public trust.

While the outcome represents a self-guaranteed victory for the Supreme Court, the public can view it only as a defeat. In effect, the court's decision allows it to ignore a principle that the court itself should be upholding and protecting: that public bodies should conduct their business transparently to ensure they are accountable to citizens.

The HCR 143 Committee's work was undertaken in response to the state Legislature's 2011 request to the Supreme Court for a comprehensive study on how many judges each of

the state's courts needs. The study was supposed to provide the Legislature, which sets the number of judgeships, with guidance in right-sizing the courts.

The HCR 143 Committee's work was clearly a matter of public concern. It is the public that pays for judgeships, and those costs are significant. [A 2013 BGR report](#) found that in Orleans the average cost to the public of just one judgeship, including the judge's staff, is \$3.4 million over a six-year term.

A workload formula used by the Supreme Court's Judicial Council suggests that New Orleans could have more than twice the number of judges it needs – 45 vs. 20. As BGR has noted, the data generated by the formula is not definitive. Rather it serves as an indicator light, letting officials know where a closer examination of the number of judgeships is needed.

Clearly, additional follow-up study by the HCR 143 Committee was needed. However, the committee simply kicked the can down the road. Although it had two and a half years to prepare its report, it waited until just three months before it was due to raise questions about the workload formula. By waiting until the 11<sup>th</sup> hour, the committee created a ready-made excuse for failing to reach conclusions on the number of judges the courts need. Instead of completing the critical task it had been assigned, the committee called for a study to overhaul and update the workload formula and for comprehensive and regular future assessments of the need for judgeships. The committee was subsequently dissolved.

Access to the HCR 143 committee's records and meetings would have helped the public hold the committee accountable for pursuing and protecting the public's interest in a properly scaled judiciary. That's exactly the type of thing for which the sunshine laws were created.

The Supreme Court's decision not to hear

BGR's lawsuit seeking transparency is yet another manifestation of its lack of interest in right-sizing the courts. In the wake of the Hurricane Katrina disaster's demographic upheaval, the court has issued more than a half-dozen reports on judgeships, but every one of them has come up with one excuse or another for not reaching any conclusions. This pattern of inconclusive reports and foot-dragging shows an utter disregard for the public's interest in the effective use of limited government resources.

And the foot-dragging continues. More than a year after the committee delivered its report, the Supreme Court has not entered into a contract with the National Center for State Courts or any other vendor to conduct the recommended study on the workload formula.

The public deserves better – much better. Given the financial constraints and unmet needs in New Orleans and across the state, we simply cannot afford to fund judgeships without determining that they are necessary.

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