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California's Chief Justice: Hard to Say the Death Penalty Is Working

By Scott Shafer

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California Supreme Court Chief Justice Tani Cantil-Sakauye speaks with KQED NEWSROOM Senior Correspondent Scott

Shafer in KQED studios on Oct. 16, 2013. (KQED)

The seven members of the California Supreme Court spend about 25 percent of their time on death penalty appeals, an extraordinary allocation of scarce resources that no doubt frustrates them.

In an interview with KQED this week, I asked Chief Justice Tani Cantil-Sakauye to assess the state of capital punishment in California, given that there hasn't been an execution since 2006 -- even though there are more than 700 inmates on **death row**.

"It's difficult to say it's working," she said in her typically cautious manner. "And there's no talk in the state Legislature of fixing it."

"Fixing it" would mean spending more public money to expedite appeals and reduce the average wait time of more than 20 years between convictions and executions. Faster executions? Of course that's the last thing Democrats want.

In some ways Cantil-Sakauye has seen the high court shift leftward right out from under her. When Republican Gov. Arnold Schwarzenegger chose her to replace retiring Chief Justice Ronald George in 2010, the court had just one member appointed by a Democratic governor -- Carlos Moreno.

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In Cantil-Sakauye's first week on the job, Moreno announced he was leaving (perhaps because his dream of being chief justice had evaporated). Gov. Jerry Brown replaced him with UC Berkeley law professor Goodwin Liu, whose nomination to the federal bench was **scuttled** by Republicans.

Since then, Brown has named two more associate justices, Stanford law professor **Mariano-Florentino Cuellar** and federal government attorney **Leondra Kruger**. Things are changing at a fast enough pace that the court's **website** says "photo to come" next to the bios of Cuellar and Kruger.

Long Talks With Jerry Brown

None of Brown's nominees had any previous experience as judges. All three are Yale Law

School grads like Brown. Will that matter?

"I think time will tell if that makes a difference or not," Cantil-Sakauye said, adding that Liu was "a wonderful colleague and brilliant."

As for the other two, "they appear so far to be very deferential to the trial courts and understanding of their role."

When asked what she thought Brown was looking for in appointing three inexperienced (on the bench) justices, she said she thought the governor was looking for "new thinkers, bigger thinkers" on the bench. "It's a diversity of sorts he's looking for."

When George retired in the middle of the 2010 gubernatorial election, he said he was stepping down so his replacement would be named by Schwarzenegger rather than Brown, who was widely favored to win.

It's doubtful Brown would have named Cantil-Sakauye to the high court. Nonetheless, she says, "I find him an interesting and fascinating person, and I can never judge where a conversation with him will go or where it will end. But it always lasts longer than we both anticipate."

*Scott Shafer's interview with Tani Cantil-Sakauye appears on The California Report this afternoon and evening, as well as **KQED NEWSROOM** tonight at 8 p.m.*

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