



Judicial Council of California

455 Golden Gate Ave.
San Francisco, CA
94102-3688

Meeting Minutes

Judicial Council

*Open to the Public Unless Indicated as Closed
(Cal. Rules of Court, rule 10.6(a))*

Friday, December 16, 2016

8:30 AM

2860 Gateway Oaks Drive, Suite 400
Sacramento, CA

CLOSED SESSION (RULE 10.6(B))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the closed session to order at 8:30 a.m.

OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA

Attendance

Council Members

Present: 28 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Justice Harry E. Hull, Jr., Justice James M. Humes, Justice Douglas P. Miller, Justice Marsha G. Slough, Presiding Judge Jeffrey B. Barton, Presiding Judge C. Todd Bottke, Presiding Judge Dean T. Stout, Judge Marla O. Anderson, Judge Kyle S. Brodie, Judge Stacy Boulware Eurie, Judge Daniel J. Buckley, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Kenneth K. So, Judge Dalila Corral Lyons, Judge Gary Nadler, Judge David M. Rubin, Commissioner David E. Gunn, Senator Hannah-Beth Jackson, Mr. Jake Chatters, Mr. Patrick M. Kelly, Mr. Richard D. Feldstein, Ms. Kimberly Flener, Ms. Audra Ibarra, Ms. Donna D. Melby, and Ms. Debra Elaine Pole

Absent: 2 - Judge Brian J. Back and Assembly Member Richard Bloom

Others Present

Ms. Mary Lou Aranguren, Ms. Logan Begneaud, Ms. Linda Clifford, Ms. Karissa Ellis, Mr. Alvaro Garcia, Mr. John Johnston, Ms. Peiqi Liu, and Ms. Elizabeth Moulton.

Call to Order

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the open session to order at 9:15 a.m. in Veranda Rooms A, B, and C on the fourth floor of the Sacramento office of the Judicial Council of California.

Opening Remarks

The Chief Justice welcomed listeners and viewers and noted that the meeting date marked the one-year anniversary of live video webcasting of the Judicial Council meetings. She thanked Justice Douglas P. Miller, chair of the Executive and Planning Committee, and Judicial Council staff for making this type of viewing possible. The Chief Justice remarked that the webcasts have served to increase public access to the deliberative processes and improve the public's understanding of the role and responsibilities of the council. The webcasts have provided an online forum for the council's discussion of issues facing the judicial branch and the policies that the council implements. They have served to enhance transparency, understanding, and ultimately the public's trust and confidence.

2016 Year in Review

The Chief Justice remarked that the December business meeting is the meeting that both concludes a year's worth of work by the council and also sets out the legislative and advocacy agenda for the coming year.

The Chief commented that 2016 has been a busy and challenging year. The courts continue to recover from the Great Recession and adapt to a new normal in state government. She pointed out that as a judicial branch, progress has been made on many fronts with the other branches of government to the benefit of the courts and the public. In particular, the council has worked diligently to bring a greater degree of stability to branch funding, to enhance the solid foundation of judicial branch governance, and to address the trust, confidence, and concerns for fairness of stakeholders and the public.

The Chief Justice recognized some of the year's activities, including a new state General Fund investment in the courts; \$25 million in grant funding for ongoing court innovations to promote innovative and efficient court programs that better serve the public; examination of the inequities in the state's fines and fees structure to fund vital services; and a grant to the council from the U.S. Department of Justice to identify issues related to defendants' inability to pay fines and fees. In addition, the Chief Justice named Mr. Martin Hoshino, Administrative Director of the Judicial Council, to a national task force on the ongoing impact of court fines, fees, and bail practices on economically disadvantaged communities across the United States.

The Chief Justice stated that, earlier this year, she requested a review of the current bail system to ensure that it adequately served the purpose of protecting the public while ensuring a person's appearance in court. She added that the Pretrial Detention Reform Work Group is studying current pretrial detention practices and will provide recommendations for potential reforms.

The Chief Justice commented that the judicial branch and local courts partnered to open to the public five much-needed courthouses this year to enhance access to justice and better serve the residents in Kings, Merced, Santa Clara, Sutter, and Tehama Counties. She pointed out that fund redirections during the state's fiscal crisis and a decline in funds resulting from reduced case filings have forced delays and holds on other projects around the state. She thanked Administrative Presiding Justice Brad R. Hill, chair of the Court Facilities Advisory Committee, and the impacted courts for the way they have conducted the process and dealt with the unavoidable outcomes. She also thanked Associate Justice Jeffrey W. Johnson, chair of the Courthouse Cost Reduction Subcommittee, as the committee strives to deliver still-needed courthouses under this new fiscal reality.

The Language Access Plan Implementation Task Force, under the leadership of Associate Justice Mariano-Florentino Cuéllar, continued its good work with the development of a pilot project for video remote interpreting and an online toolkit. The Chief Justice acknowledged that the Governor recognized the task force's work--and the language access need in the state--when he appropriated an additional \$7 million to reimburse courts for increased interpreter expenses for civil cases.

The Chief Justice pointed out that public access to judicial proceedings was also enhanced as the Supreme Court of California and the Court of Appeal, Fifth Appellate District, in Fresno, both began to webcast their oral argument sessions live. She added that the Supreme Court has real-time captioning in English and Spanish, and a captioned video archive.

In addition, this year, the Chief Justice's Civic Learning Initiative, under the stewardship of Administrative Presiding Justice Judith D. McConnell and the Power of Democracy Steering Committee, was a crucial player in establishing a new California History-Social Science Framework that now includes the judicial branch and the courts in a greater focus on civic learning in elementary through high school education.

The Chief Justice indicated that additional 2016 Judicial Council policy and governance actions are available on the California Courts website as an annual report on the Judicial Council's California Courts Newsroom webpage.

Public Comment

Mr. Mark Crossley, Ms. Mauri Fitzgibbon, Ms. Roberta Fitzpatrick, Mr. Matt Marchetti, Ms. Heidi Mayerhofer, Mr. Tyler Nguyen, Ms. Lori Parlin, Ms. Kathleen Russell, Ms. Mariana Sanchis, Mr. Kirk Smith, Ms. Camille Taiara, Ms. Sue Taylor, and Ms. Connie Valentine presented comments on judicial administration issues. Mr.

Michael Herald presented comments on item 16-242.

Approval of Minutes

16-246

Minutes of the October 27-28, 2016, Judicial Council Meeting.

A motion was made by Judge So, seconded by Judge Feng, that the minutes be approved. The motion carried by a unanimous vote with an abstention by Senator Jackson.

Chief Justice's Report

The Chief Justice summarized her engagements and outreach since the last meeting, which was October 27 and 28 in San Diego.

The Chief Justice shared that the Supreme Court of California's Committee on Judicial Ethics Opinions recently issued some oral advice for the judiciary that administering the oath of office to elected officials, including newly elected district attorneys, was authorized by law. The Chief Justice expressed her gratitude for this guidance because she believes in the importance of the public service oaths of office. She added that during this reporting period, she administered the oath of office to the senators-elect of the California State Senate, including Judicial Council member Hannah-Beth Jackson. She also administered the oath for new Sacramento mayor and former Judicial Council member Darrell Steinberg, and Sacramento Interim Chief of Police Brian Louie. Although oaths of office can be seen as oaths of constitutional allegiance and fidelity, the Chief Justice believes that they are also a public statement of personal commitment, of taking personal responsibility for duties and actions.

The Chief Justice traveled from Sacramento to Los Angeles for the Supreme Court's oral argument calendar. While in Los Angeles, the court held a special in memoriam program for recently deceased Chief Justice Malcolm M. Lucas. Many guests attended and spoke highly of the late Chief Justice, including Associate Justice Kathryn Mickle Werdegar, Associate Justice Ming W. Chin, retired Chief Justice Ronald M. George, retired Associate Justice Edward A. Panelli, retired Associate Justice Marvin R. Baxter, former principal attorney to the Chief Justice Beth Jay, and California State Librarian Greg Lucas, who is Chief Justice Lucas's son.

While in Los Angeles, the court also participated in two long-established annual engagements, the California Supreme Court and Court of Appeal luncheon of the Chancery Club of Los Angeles and the Italian American Lawyers Association's Supreme Court Night.

The Chief connected with the Women Lawyers of Sacramento with a reception at the Stanley Mosk Library and Courts Building that was attended by local judges and attorneys. The Chief Justice also attended the Unity Bar Association of Sacramento

Dinner, where she participated in a conversation on a wide range of topics with attorney Jerry Chong. The Unity Bar dinner brings together eight different bar associations and includes state and federal judges and attorneys, as well as law school faculty, staff, and students from the three local law schools—McGeorge School of Law, UC Davis School of Law, and Lincoln Law School of Sacramento. The event also included presentations, student scholarships, and community service awards. Also while in Sacramento, the Chief Justice presented the Sacramento Law Foundation's Access to Justice Scholarship at the Sacramento County Bar Association's Pro Bono Award Reception, recognizing volunteers at free legal aid clinics and hotlines.

The California Supreme Court Historical Society recognized the up-and-coming talent of law school students with its Selma Moidel Smith Law Student Writing Competition in California Legal History, the Chief reported. She added that the historical society also published a book, *Constitutional Governance and Judicial Power*, on the history of the California Supreme Court. She also participated in a conversation with former Chief Justice George, moderated by Ms. Molly Selvin, to compare the history of the court with the history and growth of California.

In a conversation with a former Judicial Council member, attorney Mark Robinson, at a “Save Our Juries Town Hall” organized by the Sacramento Valley Chapter of the American Board of Trial Advocates, the Chief Justice shared her experience this year of being called for jury duty, and her previous experiences serving as a juror on two separate juries. The discussion on the Seventh Amendment ranged from her experience as a prosecutor, judge, and juror to the importance of civic learning in helping people understand their roles and responsibilities in the judicial process.

The Chief Justice, along with many other judges from the Los Angeles area and Southern California, attended the 34th Annual Red Mass of the St. Thomas More Society of Los Angeles. She spoke about the importance of the rule of law; the good conscience modeled by St. Thomas More, the patron saint of lawyers and politicians; and an interfaith hope to use their skills to heal divisions and to recognize their responsibilities as leaders within the profession and communities in the upcoming years.

The Chief Justice held several meetings with the administration—the Department of Finance and the Legislature, including members of the assembly and senate budget committees—and discussed fiscal and policy issues.

The Chief Justice also congratulated Judge Daniel J. Buckley on his election as Presiding Judge of the Superior Court of Los Angeles County.

Administrative Director's Report

16-247

Administrative Director's Report

Mr. Martin Hoshino highlighted items from his written report and provided additional information about Judicial Council activities since the October council meeting.

Mr. Hoshino reported that the 2016 Summary of Court-Related Legislation identified 150 bills affecting the courts or legal community that were signed into law.

As a result of the November 8 election, Mr. Hoshino stated that the Legislature has many new members and at least another eight returning from previous office. The Judicial Council has begun to meet and greet the members to provide briefings on issues of the administration of justice. In addition to these meetings, some courts have also reached out to their legislative representatives at the local level to help orient them to local court issues.

Also following the election, Mr. Hoshino added that Judicial Council staff members, along with the courts, are developing ways to implement some of the propositions that passed. Staff members are currently focused on two of those propositions: one related to parole reform and the other to the legalization of marijuana. He added that information would be provided in the future once the initiative process progresses and a better understanding is gained as to how to implement these propositions throughout California in accordance with the will of the voters.

Mr. Hoshino referenced the list of advisory committee activities completed within the current reporting period. He added that staff also collaborated with committee chairs and members to finalize the 2017 annual agendas for the eight standing advisory committees for which the Rules and Projects Committee has oversight responsibility.

On behalf of the entire executive team, the Administrative Director acknowledged and expressed appreciation for the hard work by staff throughout 2016 in supporting the advisory committees, the council, and the entire judicial branch.

Mr. Hoshino introduced Mr. John Wordlaw, the Judicial Council's new chief administrative officer and member of the executive leadership team. His public service career spans more than 25 years and includes having recently served as the chief deputy director of the Office of Systems Integration within the California Health and Human Services Agency, with responsibility for strategic policy planning. He also served as deputy director of Fiscal Services for the California Department of Corrections and Rehabilitation and also managed the Employment Development Department's Legislative Liaison Office. As chief administrative officer, Mr. Wordlaw will oversee the council's Branch Accounting and Procurement, Information

Technology, Human Resources, Administrative Support, and Budget Services operations.

The Administrative Director reiterated that the Chief Justice referenced ongoing budget meetings, outreach, and activities that will continue through and after the January 10 deadline for the Governor's release of the proposed budget for the 2017-2018 fiscal year.

Mr. Hoshino commented that it will be another challenging budget cycle and restated what the chief economist of the Department of Finance expressed when she presented to the council in August: that revenues of the state and the state of the economy continue to improve but are not on track with the level of growth that is anticipated. He added that there is also considerable uncertainty and caution over possible changes in federal funding. Mr. Hoshino highlighted that staff is working very hard to advocate for the budget. Once the Governor's budget proposal is available, the next round of advocacy will begin with the Legislature. He added that staff have reached out and worked with presiding judges and court executives to try to identify where efficiencies can be achieved through statutory changes.

Judicial Council Committee Presentations

16-248 **Judicial Council Committee Reports**

Summary: Executive and Planning Committee
Hon. Douglas P. Miller, Chair
Policy Coordination and Liaison Committee
Hon. Kenneth K. So, Chair
Rules and Projects Committee
Hon. Harry E. Hull, Jr., Chair
Judicial Council Technology Committee
Hon. Marsha G. Slough, Chair
Judicial Branch Budget Committee
Hon. David M. Rubin, Chair

Executive and Planning Committee

Judge Marla O. Anderson, vice-chair, provided the report on behalf of Justice Miller, the committee's chair. Since the October council meeting, the committee has met twice by telephone, on November 10 (closed session) and November 17 (open session), and in person on October 27 (closed session). The closed sessions were held to review and develop recommendations for out-of-cycle appointments to advisory bodies. The committee also conducted three actions by e-mail, on November 22, December 6, and December 7, when the committee reviewed reports for the consent and discussion agendas that would otherwise have been discussed

during an open meeting.

Judge Anderson reported that during the November 17 meeting, and in the three actions by e-mail, the committee set the agenda for the council's December 16 business meeting. Also during the November 17 meeting, the committee received an update regarding the next AB 1058 Funding Allocation Joint Subcommittee report, which will be available for council review in January or February 2018.

In addition to agenda setting, the committee reviewed and approved subordinate judicial officer conversion requests from the Superior Court of Los Angeles County and the Superior Court of San Mateo County. The Superior Court of Los Angeles County requested to convert three vacant subordinate judicial officer positions to judgeships, and the Superior Court of San Mateo County requested a temporary exception to the conversion of two vacant subordinate judicial officer positions to judgeships. The committee also reviewed the report on public notices by the courts of closures or reduced office hours for clerks.

Policy Coordination and Liaison Committee

Judge Kenneth S. So, chair, reported that the Policy Coordination and Liaison Committee (PCLC) has met once since the last council meeting. During the meeting, the committee reviewed one proposal for Judicial Council sponsorship along with the council's 2017 legislative priorities. Judge So indicated that other items of council-sponsored legislation were approved at a prior PCLC meeting. He reiterated that the Legislature would reconvene the first week of January for the fiscal year 2017-2018 session.

Rules and Projects Committee

Associate Justice Harry E. Hull, Jr., chair of the Rules and Projects Committee (RUPRO), reported that the committee met once by teleconference, met once in person, and conducted one action by e-mail since the council meeting in October.

During the November 18 teleconference, the committee reviewed eight proposals, six of which were circulated for public comment. The remaining two proposals were for technical changes to rules and forms and minor revisions to civil jury instructions--proposals for which the council delegated authority to RUPRO. As a result, RUPRO recommended approval of all remaining seven proposals: items 16-207, 16-212, 16-226, 16-243, 16-251, and 16-252 on the December consent agenda and item 16-242 on the December discussion agenda. Justice Hull also provided additional background information related to item 16-226 and clarified that this item did not include elder abuse instructions at this time.

Justice Hull added that RUPRO met in person on December 15 and Judge Stacy Boulware Eurie chaired the meeting. The committee considered five rules and forms proposals to circulate for public comment during the winter cycle. One proposal that RUPRO recommended for consideration was related to the propositions recently passed and will be presented at the January Judicial Council business meeting. Another proposal that was also considered was for technical changes that will not be circulated for comment. RUPRO approved the proposals for circulation. After circulation and further review by the advisory committees and RUPRO, the proposals are expected to come before the council at the May business meeting.

Justice Hull also reported that RUPRO considered and approved the 2017 annual agendas for the advisory committees that it oversees.

Judicial Council Technology Committee

Associate Justice Marsha G. Slough, the Judicial Council Technology Committee (JCTC) chair, reported that the committee met three times since the last council meeting--twice by teleconference and once in person. In addition, the Information Technology Advisory Committee--under the leadership of Judge Sheila F. Hanson, chair, and Associate Justice Louis R. Mauro, vice-chair--met once.

Justice Slough reported that, at the October 31 meeting, the committee received an update regarding the potential budget change proposal for the Sustain Justice Edition case management system replacement and an update on the Placer Court Hosting Center consortium. Justice Slough added that these issues were critical to the judicial branch's moving forward as it relates to technology. She further explained that the court and staff involved in the projects have put in a tremendous amount of work on both of these initiatives. Also during the October 31 meeting, the committee reviewed a proposal for a one-time funding request for the information technology infrastructure for the Superior Courts of Humboldt and Madera Counties. The purpose of the proposal was to realize savings from migrating the Sustain Justice Edition courts off of the current technology center. As the committee reported, the majority of those courts are moving with the Placer consortium or to another platform, which leaves Humboldt County and Madera County as the last two courts at the technology center. Justice Slough expressed that it is critical that they are moved off the technology center. As a result, the committee approved those two projects.

JCTC met on November 14 and received progress on the work of the Information Technology Advisory Committee, including updates on the Tactical Plan for Technology, the California Tyler User Group, and the V3 case management system replacement program.

Justice Slough reported that JCTC also met on December 15 to discuss all of the

projects. She added that the committee also participated in an informational session to learn and discuss new ideas and best practices related to the use of the virtual courtroom. Justice Slough thanked Judge Buckley for leading that discussion; she was unable to participate because of a meeting conflict.

Justice Slough commented that the workstreams continue to make progress in their respective areas. She reported that the Data Exchange Workstream has wrapped up its initial deliverables and will be transitioning its work to the Judicial Council Information Technology-supported ongoing project beginning next year. In addition, the E-Filing Strategy Workstream, the Next Generation Hosting Strategy Workstream, the Self-Represented Litigants E-Services Workstream, and the Disaster Recovery Workstream continue to work and make progress. The Video Remote Interpreting Pilot Workstream also held a kickoff meeting to orient all of its members to that project.

Earlier in the week, JCTC members, including Justice Chin and Judge Buckley, along with Information Technology Director Robert Oyung, attended the annual e-Courts conference. Mr. Oyung presented on the topic “Good Public Policy for Innovation.”

Judicial Branch Budget Committee

Judge David M. Rubin, chair of the Judicial Branch Budget Committee, reiterated the committee’s charge, which is to administer the \$10 million branch emergency fund and the \$25 million court innovations grant, coordinate judicial branch budget change proposals that go to the Department of Finance, and any other budget tasks assigned to the committee. He added that the committee approaches its tasks from a branchwide perspective, mirroring an approach of the council’s. The committee promotes the efficient, fiscally prudent, effective, and fair allocation of limited resources, reflecting the judicial branch’s overall statewide interests.

Judge Rubin reported that since the October meeting, the committee has met twice-by telephone on November 28 and in person on December 14. The committee has focused primarily on the innovations grant program. He added that the Governor and Legislature appropriated to the judicial branch \$25 million for use on new and innovative programs aimed at creating efficiencies and bold new efforts to improve service to the public. The committee will award \$12 million for collaborative courts, \$8 million for self-help and family- and juvenile-oriented programs, and \$5 million for all other efficiencies. Judge Rubin noted the number of responses to and interest in the program: by the application deadline, the committee had received 118 requests from 42 trial and appellate courts requesting roughly \$70 million in funds. Judge Rubin commented that the committee is reviewing each application carefully, consistent with the grant review process. He elaborated on the grant review process and informed the council that before the December 14 meeting, committee members read but were not

allowed to discuss with each other any requests. The discussion on the requests occurred exclusively at the December 14 meeting. Once the meeting began, no member whose court submitted an application or whose court was part of a group of courts that submitted a request could be in the room when that application was discussed, nor could that person discuss her or his court's request later with another committee member. Judge Rubin added that the committee will continue to follow these rules when reviewing applications; it expects to complete its review by January 10 and provide recommendations for the council. He concluded that the public and the branch will be pleased with the committee's final proposal.

Judicial Council Members' Liaison Reports

16-249 **Judicial Council Members' Liaison Reports**

Summary: Judicial Council Members report on their visits to the Superior Courts of California.

Judge Buckley reported on his visit to the Superior Court of Santa Barbara County. Commissioner David E. Gunn presented on the Superior Courts of Modoc and Siskiyou Counties.

CONSENT AGENDA

Approval of the Consent Agenda

A motion was made by Justice Chin, seconded by Judge Nadler, to approve all the following items on the Consent Agenda. The motion carried by a unanimous vote with an abstention by Senator Jackson for legislative items on the Consent Agenda.

16-207 **Rules: Miscellaneous Technical Changes (Action Required)**

Summary: Various Judicial Council advisory committees, members of the public, and Judicial Council staff have identified errors in rules resulting from typographical errors, and changes resulting from legislation and previous rule amendments. The staff to the Judicial Council recommends making the necessary corrections to avoid confusing court users, clerks, and judicial officers.

Recommendation: The staff to the Judicial Council recommends that the council, effective January 1, 2017:

1. Effective January 1, 2013, the Judicial Council adopted rule 5.24. Joinder of Persons Claiming Interest, as part of the restructured and reorganized title V of the California Rules of Court. The council consolidated a series of joinder rules (rules 5.150, 5.152, 5.154, 5.156, 5.158, 5.160) under rule 5.24 and subsequently repealed them when rule 5.24 took effect. The Family and Juvenile Law Advisory Committee recently became aware of an error in the construction of subdivision (e)(1)(A) in rule 5.24. As currently written, subdivision (e)(1)(A) is an incomplete sentence, which has caused confusion about when a court must join a person as a party to

the proceeding. The committee recommends that subdivision (e)(1)(A) be clarified as provided in the attached.

2. Amend rules 5.340 and 10.701 of the California Rules of Court, which set forth the minimum education requirements of child support commissioners and of subordinate judicial officers respectively. The rules contain outdated references to rule 10.501. Rule 10.501, which replaced the former rule 970, effective June 30, 2006, as part of the council's reorganization of the rules, was repealed on October 20, 2006. At the August 31, 2007, and October 26, 2007, council meetings, a number of rules were adopted, amended, and/or renumbered to, among other things, address the minimum training requirements of subordinate judicial officers as laid out in the former rule 10.501. This included the adoption of rule 10.462, which contains the provisions previously addressed in former rule 10.501. The current rule 10.501, effective January 1, 2010, addresses the maintenance of budget and management information. Consequently, as rules 5.340 and 10.701 currently stand, they refer to an unrelated rule, which leads to confusion. As such, the references in rules 5.340 and 10.701 to rule 10.501 should be changed to reference rule 10.462.
3. Amend the advisory committee comment to rule 8.304 to correct a reference from "(rule 8.700 et seq.)" to "(rule 8.800 et seq.)"; and
4. Amend rule 8.528, which addresses disposition of a matter by the Supreme Court after grant of review. Prior to July 1, 2016, California Rules of Court, rule 8.1105(e) provided that when the Supreme Court granted review of a published Court of Appeal opinion, that opinion was automatically depublished: "Unless otherwise ordered . . . an opinion is no longer considered published if the Supreme Court grants review." Effective July 1, 2016, the Supreme Court amended rule 8.1105 to eliminate this automatic depublication provision and add a new provision stating instead that "Unless otherwise ordered . . . [g]rant of review by the Supreme Court of a decision by the Court of Appeal does not affect the appellate court's certification of the opinion for full or partial publication." Additional new language was also added to rule 8.1105 providing that, "The Supreme Court may also order depublication of part of an opinion at any time after granting review." Rule 8.528 was not modified in conjunction with the amendments to rule 8.1105. Subdivision (b)(3) of rule 8.528 should be amended to address what happens when the Supreme Court dismisses review of a case in which review is granted on or after July 1, 2016.

16-210

Court Facilities: Naming Request for the New Juvenile Courthouse in Murrieta (Action Required)

Summary: The Subcommittee on Courthouse Names of the Court Facilities Advisory Committee recommends approving the request to name the new juvenile courthouse in the Southwest Justice Center in the City of Murrieta as the

Southwest Juvenile Courthouse. This approval provides a name for the new courthouse that is currently under construction and scheduled for completion in summer 2017.

Recommendation: The Subcommittee on Courthouse Names of the Court Facilities Advisory Committee recommends that the Judicial Council, effective December 16, 2016, approve the request to name the new juvenile courthouse, which is under construction in the Southwest Justice Center in the City of Murrieta, as the *Southwest Juvenile Courthouse, Superior Court of California, Riverside County*.

[16-211](#)

Court Facilities: Senate Bill 1407 Project Funding Requests and Five-Year Infrastructure Plan for Fiscal Year 2017-2018 (Action Required)

Summary: The Court Facilities Advisory Committee recommends the submission to the state Department of Finance of funding requests for the next phase of Senate Bill 1407 projects eligible for available SB 1407 funds and the annual update of the *Judicial Branch AB 1473 Five-Year Infrastructure Plan* for fiscal year 2017-2018.

Recommendation: The Court Facilities Advisory Committee recommends that the Judicial Council, effective December 16, 2016, take the following action:

1. Submit to the state Department of Finance (DOF) the next phase of SB 1407 projects eligible for available SB 1407 funds (see table 1, page 10, of Attachment A) and the annual update (see Attachment A) of the *Judicial Branch AB 1473 Five-Year Infrastructure Plan* for fiscal year (FY) 2017-2018; and
2. Delegate to the Administrative Director the authority to make technical changes to the FY 2017-2018, SB 1407 project funding requests and five-year plan document for submission to the DOF, subject to the review and approval of the chair and vice-chair of the Court Facilities Advisory Committee.

[16-212](#)

Uniform Bail and Penalty Schedules: 2017 Edition (Action Required)

Summary: The Traffic Advisory Committee recommends revisions to the Uniform Bail and Penalty Schedules, effective January 1, 2017. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Under rule 4.102 of the California Rules of Court, trial courts, in performing their duty under Penal Code section 1269b, must revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions is established by the schedules approved by the Judicial Council. The recommended revisions bring the schedules into conformance with recent legislation and make technical corrective changes.

Recommendation: The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2017, adopt the revised *Uniform Bail and Penalty Schedules, 2017 Edition*.

[16-213](#)

Judicial Council Report to the Legislature: Insolvency of Senate Bill 1407's Immediate and Critical Needs Account (Action Required)

Summary: The Judicial Council Capital Program recommends approving the report that addresses the insolvency of Senate Bill 1407's Immediate and Critical Needs Account for the judicial branch courthouse construction program. This report will be submitted to the Legislature under language in the *Supplemental Report of the 2016-17 Budget Act, Item 0250-301-3138* (as published by the Legislative Analyst's Office) and captures reporting requirements that were adopted during deliberations on the fiscal year 2016-2017 budget package.

Recommendation: Judicial Council staff recommends that the Judicial Council, effective December 16, 2016, approve the *Plan to Address Insolvency of the Immediate and Critical Needs Account (ICNA)* (see Attachment A) and direct staff to submit it to the Legislature.

[16-214](#)

Judicial Council-Sponsored Legislation: Authorize Electronic Delivery of Notices of Hearing in Proceedings Under the Probate Code (Action Required)

Summary: The Policy Coordination and Liaison Committee, Information Technology Advisory Committee, and Probate and Mental Health Advisory Committee recommend that the Judicial Council sponsor legislation to modernize the Probate Code and two notice provisions of the Welfare and Institutions Code that are connected to or analogous to probate notice provisions. The proposed legislation would authorize the delivery of notices and other papers in uncontested or not-yet-contested proceedings under the Probate Code to persons by electronic means if the persons to receive notice have consented to electronic notice in the proceeding before the court and have provided electronic addresses.

Recommendation: The Policy Coordination and Liaison Committee, Information Technology Advisory Committee, and Probate and Mental Health Advisory Committee recommend that the Judicial Council sponsor legislation to authorize electronic notice in specified probate and probate-related Welfare and Institutions Code proceedings.

[16-215](#)

Trial Courts: Trial Court Financial Policies and Procedures Manual, 8th Edition (Action Required)

Summary: Judicial Council staff recommends adoption of the *Trial Court Financial Policies and Procedures Manual* (TCFPPM), 8th edition. The manual was last updated in 2011. The TCFPPM requires non-substantive revisions due to the unification of the Judicial Council and its staff under one name, as well as

substantive changes for clarity and improvement of the existing system of internal fiscal controls.

Recommendation: Judicial Council staff recommends the Judicial Council, effective December 16, 2016, adopt the 8th edition of the *Trial Court Financial Policies and Procedures Manual*, which:

1. Changes all references to “Administrative Office of the Courts” to “Judicial Council of California.”
2. Changes all references to “Administrative Director of the Courts” to “Administrative Director.”
3. Retires Section 6, Procurement, and Section 7, Contracts, because those policies and procedures are now contained in the *Judicial Branch Contracting Manual*.
4. Makes other substantive changes for clarity and improvement of the existing system of internal fiscal controls.

[16-217](#)

Judicial Council Report to the Legislature: Statewide Collection of Delinquent Court-Ordered Debt for Fiscal Year 2015-2016 (Action Required)

Summary: Judicial Council staff recommend approving the *Report on the Statewide Collection of Delinquent Court-Ordered Debt for Fiscal Year 2015-2016*. Penal Code section 1463.010(c) requires the Judicial Council to report the extent to which each court or county collections program is following best practices, the programs’ performance, and any changes necessary to improve performance of collection programs statewide.

Recommendation: Judicial Council staff recommend that the Judicial Council:

1. Approve the attached report; and
2. Direct Judicial Council staff to submit the report to the Legislature.

[16-218](#)

Judicial Council Report to the Legislature: Fee Revenue and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2015-2016 (Action Required)

Summary: Judicial Council staff recommend approving the *Report of Court Reporter Fees Collected and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2015-2016*. Government Code section 68086(f) requires that the Judicial Council report to the Joint Legislative Budget Committee annually, by February 1, information concerning court reporter fees collected under Government Code sections 68086(a)(1), 68086(a)(2), and 68086.1 and expenditures on court reporter services in superior court civil proceedings statewide.

Recommendation: Judicial Council staff recommend that the Judicial Council:

1. Approve the attached report; and
2. Direct Judicial Council staff to submit the report to the Legislature.

16-219**Judicial Council Report to the Legislature: Status Update of Judicial Branch Courthouse Construction Program for Fiscal Year 2015-2016 (Action Required)**

Summary: Judicial Council staff recommend approving the *Status Update of Judicial Branch Courthouse Construction Program for Fiscal Year 2015-2016*. Government Code section 70371.8 requires that the Judicial Council report to the Joint Legislative Budget Committee, the chairs of the Senate Committee on Budget and Fiscal Review, and the Assembly Committee on Budget annually, by March 1, information on the status of each project established by the State Public Works Board under section 70371.7. The report is also required to include an accounting of the revenues generated and expenditures made in the Immediate and Critical Needs Account.

Recommendation: Judicial Council staff recommend that the Judicial Council:

1. Approve the attached report; and
2. Direct Judicial Council staff to submit the report to the Legislature.

16-220**Judicial Council Report to the Legislature: State Trial Court Improvement and Modernization Fund Expenditures for Fiscal Year 2015-2016 (Action Required)**

Summary: Judicial Council staff recommend approving the *Report of State Trial Court Improvement and Modernization Fund Expenditures for Fiscal Year 2015-2016* for transmittal to the Legislature. Government Code section 77209(i) requires the Judicial Council to annually report to the Legislature on the use of the State Trial Court Improvement and Modernization Fund and include any appropriate recommendations.

Recommendation: Judicial Council staff recommend that the Judicial Council:

1. Approve the attached report; and
2. Direct Judicial Council staff to submit the report to the Legislature.

16-223**Judicial Council Report to the Legislature: Annual Report of Court Facilities Trust Fund Expenditures (Action Required)**

Summary: Judicial Council staff recommend approving the *Annual Report of Court Facilities Trust Fund Expenditures: FY 2015-2016 Report to the Legislature Pursuant to Government Code Section 70352(c)*. Government Code section 70352(c) requires that the Judicial Council report to the Legislature annually all expenditures from the Court Facilities Trust Fund after the end of each fiscal year.

Recommendation: Judicial Council staff recommends that the Judicial Council:

1. Approve the *Annual Report of Court Facilities Trust Fund Expenditures: FY 2015-2016 Report to the Legislature Pursuant to Government Code Section 70352(c)*; and
2. Direct Judicial Council staff to submit the report to the Legislature.

16-224**Judicial Council-Sponsored Legislation: Court Records**

Destruction Reporting Requirement (Action Required)

Summary: The Policy Coordination and Liaison Committee and Court Executives Advisory Committee recommend that the Judicial Council sponsor legislation to amend Government Code section 68153, the statute governing the destruction of court records, to eliminate the requirement that superior courts must report destroyed court records to the Judicial Council. Current law requires superior courts to provide lists of the court records destroyed within the jurisdiction of the superior court to the Judicial Council in accordance with the California Rules of Court. Eliminating the requirement for courts to provide the lists to the council would reduce the courts' workload and simplify the reporting process.

Recommendation: The Policy Coordination and Liaison Committee and Court Executives Advisory Committee recommend that the Judicial Council sponsor legislation to eliminate the statutory reporting requirement in Government Code section 68153.

16-225**Judicial Council Report to the Legislature: Receipts and Expenditures from Local Courthouse Construction Funds (Action Required)**

Summary: Judicial Council Budget Services recommends approving *Receipts and Expenditures from Local Courthouse Construction Funds: Report to the Budget and Fiscal Committees of the Legislature* for submission to the Legislature. The report provides information for the reporting period of July 1, 2015, to June 30, 2016, on receipts and expenditures from local courthouse construction funds, as reported by each county. The annual submission of this report is required under Government Code section 70403(d).

Recommendation: Budget Services recommends that the Judicial Council, effective December 16, 2016:

1. Approve the attached annual report for the period of July 1, 2015, to June 30, 2016, on receipts and expenditures from local courthouse construction funds, as reported by each county; and
2. Direct staff to submit the report to the Legislature.

16-226**Jury Instructions: New and Revised Civil Jury Instructions and Verdict Forms (Action Required)**

Summary: The Advisory Committee on Civil Jury Instructions recommends approving for publication the new and revised civil jury instructions and verdict forms prepared by the committee. These revisions bring the instructions up to date with developments in the law over the previous six months.

Recommendation: The Advisory Committee on Civil Jury Instructions recommends that the Judicial Council, effective December 16, 2016, approve for publication under rules 2.1050 and 10.58 of the California Rules of Court the civil jury instructions and verdict forms prepared by the committee. On Judicial Council approval, the instructions will be published in the official 2017 edition of the *Judicial Council of California Civil Jury Instructions*.

[16-231](#)**Judicial Council: 2016 Legislative Policy Summary (Action Required)**

Summary: The Policy Coordination and Liaison Committee recommends that the Judicial Council adopt the updated Legislative Policy Summary reflecting actions through the 2016 legislative year. Adoption of this updated summary of positions taken on court-related legislation will assist the council in making decisions about future legislation, consistent with the judicial branch's strategic plan goals.

Recommendation: The Policy Coordination and Liaison Committee recommends that the Judicial Council adopt the updated Legislative Policy Summary reflecting actions through the 2016 legislative year.

[16-232](#)**Judicial Council-Sponsored Legislation: Applying the Electronic Filing and Service Provisions of Code of Civ. Proc., § 1010.6(a) and (b) to Criminal Actions (Action Required)**

Summary: The Information Technology Advisory Committee is leading a modernization project to amend the statutes and California Rules of Court to facilitate electronic filing and service and to foster modern e-business practices. The Policy Coordination and Liaison Committee, Information Technology Advisory Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to add Penal Code section 690.5 to provide express authority for permissive electronic filing and service in criminal proceedings by applying the electronic filing and service provisions of Code of Civil Procedure section 1010.6 to criminal actions.

Recommendation: The Policy Coordination and Liaison Committee, Information Technology Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation enacting new Penal Code section 690.5, effective January 1, 2018.

[16-233](#)**Judicial Council-Sponsored Legislation (Criminal Procedure): Transfer Back to Receiving Court for Limited Purpose After Intercounty Transfer (Action Required)**

Summary: The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1203.9 to authorize a receiving court to transfer a case of a person on probation or mandatory supervision back to the transferring court for a limited purpose when needed to best suit the needs of the court, the litigation at issue, or the parties. The proposal was developed at the request of criminal judges who expressed concerns about the inability of transferring courts to do so under current law.

Recommendation: The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1203.9, as follows: Add subdivision (f) that reads: "The

receiving court may refer a particular hearing or other court proceeding back to the transferring court for the limited purpose of conducting the proceeding if the receiving court determines, based upon the geographic location of the parties, victims, witnesses, or evidence, or for any other reason, that the matter would more appropriately be conducted by the transferring court. The Judicial Council shall adopt rules of court to govern referrals under this subdivision, including factors for consideration when determining the propriety of the referral and related procedural requirements.”

16-234**Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures (Action Required)**

Summary: The Policy Coordination and Liaison Committee and Information Technology Advisory Committee recommend that the Judicial Council sponsor legislation to enact Code of Civil Procedure section 1013b and amend sections 664.5, 1010.6, and 1011. This legislative proposal would (1) authorize the use of electronic signatures for signatures made under penalty of perjury on electronically filed documents, (2) provide for a consistent effective date of electronic filing and service across courts and case types, (3) consolidate the mandatory electronic filing provisions, (4) clarify the application of section 1010.6’s electronic service provisions in sections 664.5 and 1011, and (5) codify provisions that are currently in the California Rules of Court on mandatory electronic service, effective date of electronic service, protections for self-represented persons, and proof of electronic service.

Recommendation: The Policy Coordination and Liaison Committee and Information Technology Advisory Committee recommend that the Judicial Council, effective January 1, 2018:

1. Sponsor legislation enacting new Code of Civil Procedure section 1013b; and
2. Sponsor legislation amending Code of Civil Procedure sections 664.5, 1010.6, and 1011.

16-235**Judicial Council-Sponsored Legislation: Electronic Filing and Service in Juvenile Proceedings (Action Required)**

Summary: The Policy Coordination and Liaison Committee, the Family and Juvenile Law Advisory Committee, the Information Technology Advisory Committee, and the Judicial Council Technology Committee recommend adding section 212.5 and amending various sections of the Welfare and Institutions Code to authorize electronic filing and electronic service in juvenile law proceedings and establish parameters for e-business in the juvenile court.

Recommendation: The Policy Coordination and Liaison Committee, Family and Juvenile Law Advisory Committee, the Information Technology Advisory Committee and the Judicial Council Technology Committee recommend that the Judicial Council sponsor legislation to enact section 212.5 and amend sections 248, 248.5, 290.1,

290.2, 291, 292, 293, 294, 295, 297, 302, 316.1, 342, 362.4, 364.05, 366.05, 366.21, 366.26, 387, 607.2, 630, 658, 660, 661, 727.4, 777, 778, 779, 785, and 903.45 of the Welfare and Institutions Code.

New section 212.5 of the Welfare and Institutions Code would expressly apply the provisions of section 1010.6 of the Code of Civil Procedure to all juvenile proceedings while setting limitations and conditions on the electronic service of parties and other persons. The limitations on electronic service include the following:

1. Electronic service is authorized only if the county and the court choose to permit electronic service.
2. Electronic service on a party or other person is permitted only upon consent to receive electronic service by the party or other person.
3. A party or other person may withdraw prior consent to electronic service.
4. Consent or withdrawal of prior consent to receive electronic service may be filed with the court only by a party or other person, or that person's attorney.
5. Electronic service is not permitted on minors who are under the age of 16.
6. If the party or other person to be served is a minor who is 16 years old or older, electronic service is permitted only upon consent by both the minor and the minor's attorney.
7. Electronic service of medical or psychological documentation relating to a minor is not permitted on a minor who is 16 years old or older.
8. The party or other person must be served by both electronic means and by other means specified in the statute if (1) the document to be served is the notice of hearing at which the social worker will recommend the termination of parental rights, or the appellate advisements required pursuant to Welfare and Institutions Code section 366.26(l)(3)(A); or (2) there is a citation issued pursuant to section 661, or a hearing is noticed under section 777(d).
9. If the minor is an Indian child, or the court has reason to know that an Indian child is involved, service shall be provided exclusively in accordance with Welfare and Institutions Code section 224.2.

In addition, new section 212.5 codifies paragraph (3) of subdivision (b) of rule 5.522 of the California Rules of Court, which provides that the confidentiality of juvenile records shall be preserved when these records are transmitted electronically through encryption. The requirement to apply encryption to ensure the confidentiality of records would apply to both electronic filing and electronic service.

[16-236](#)

**Judicial Council-Sponsored Legislation: Prearraignment Own
Recognizance Release Under Court-Operated or Approved
Pretrial Programs (Action Required)**

Summary: The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1319.5 to provide courts with discretion to approve own recognizance (OR) release for arrestees with three prior failures to appear, without holding a hearing in open court, under a court-operated or court-approved pretrial program. Penal Code section 1319.5 requires a hearing in open court before an offender arrested for a felony offense who has previously failed to appear in court three or more times over the preceding three years may be granted OR release. This proposal was developed at the request of courts actively developing and expanding pretrial programs in an effort to address impacts on court calendars as well as the effects of jail overcrowding. The proposal is intended to provide judges with greater flexibility in ordering supervised release, and increase access to justice in the earliest stages of a criminal proceeding.

Recommendation: The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1319.5(b)(2), as follows: Revise the definition of persons who may not be released on their own recognizance until a hearing is held in open court before a magistrate or a judge to exclude persons arrested for one of the designated offenses who have failed to appear in court as ordered three or more times over the preceding three years, if the person is released under a court-operated or court-approved pretrial release program.

[16-237](#)

Judicial Council-Sponsored Legislation: Retention of Court Records in Gun Violence Cases (Action Required)

Summary: The Policy Coordination and Liaison Committee and Court Executives Advisory Committee recommend that the Judicial Council sponsor legislation to amend Government Code section 68152(a)(6) to specify the retention period for court records in gun violence cases. This amendment is needed to eliminate the uncertainty regarding the retention period under current law. The amendment will enable courts to more effectively and efficiently implement their records retention and destruction policies with respect to records in gun violence cases. The committees also recommend a technical amendment to Government Code section 68150(a).

Recommendation: The Policy Coordination and Liaison Committee and Court Executives Advisory Committee recommend that the Judicial Council sponsor legislation to:

1. Amend Government Code section 68152(a)(6) to specify the retention period for court records in gun violence cases; and
2. Amend Government Code section 68150(a) to remove references to the future adoption of rules of court, pursuant subdivision (c).

[16-238](#)

Judicial Council-Sponsored Legislation (Subordinate Judicial Officers): Court Commissioners as Magistrates (Action)

Required)

Summary: The Policy Coordination and Liaison Committee, Trial Court Presiding Judges Advisory Committee, and the Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 808 to include “court commissioners,” a type of subordinate judicial officer, within the definition of those who may serve as a magistrate. Penal Code section 808 currently defines “magistrates” as the judges of the Supreme Court, Courts of Appeal, and superior courts. Since the duties of magistrates are easily distinguishable from the duties of judges, commissioner responsibilities could be increased to include magistrate duties without causing undue confusion. By expanding the pool of judicial officers who are authorized to exercise magistrate powers, the proposal is designed to promote court efficiencies, enhance access to justice, and provide court leadership with more flexibility to equitably address judicial workloads.

Recommendation: The Policy Coordination and Liaison Committee, the Criminal Law Advisory Committee, and the Trial Court Presiding Judges Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 808 as follows: Amend the statement in Penal Code section 808 defining those who may serve as magistrates by adding subdivision (d), “court commissioners” to the definitional statement.

[16-239](#)

Judicial Council-Sponsored Legislation: Multiple-County Sentencing Under Penal Code Section 1170(h) (Action Required)

Summary: The Policy Coordination and Liaison Committee and the Criminal Law Advisory Committee propose amendments to Penal Code sections 1170 and 1170.3 to promote uniformity and to clarify judicial sentencing authority when imposing concurrent or consecutive judgments under section 1170(h) implicating multiple counties. Specifically, the proposed amendment to section 1170 would direct that when the court imposes a judgment under section 1170(h) that is concurrent or consecutive to a judgment or judgments previously imposed in another county or counties, the court rendering the second or other subsequent judgment shall determine the county or counties of incarceration and supervision of the defendant. The proposed amendment to section 1170.3 would direct the Judicial Council to adopt rules providing criteria for courts to determine the appropriate county or counties of incarceration and supervision in such cases.

Recommendation: The Policy Coordination and Liaison Committee (PCLC) and Criminal Law Advisory Committee (CLAC) recommend that the Judicial Council sponsor legislation to amend Penal Code sections 1170 and 1170.3, as follows:

1. Amend section 1170(h)(6) to provide: “When the court is imposing a judgment pursuant to this subdivision concurrent or consecutive to a judgment or judgments previously imposed pursuant to this subdivision in another county or counties, the court rendering the second or other

subsequent judgment shall determine the county or counties of incarceration and county or counties supervision of the defendant. The court may determine that terms or portions of terms of incarceration and terms or portions of terms of supervision may be served in different counties.” Renumber current subdivisions (h)(6) and (h)(7) to (h)(7) and (h)(8) respectively.

2. Amend section 1170.3 by adding subdivision (a)(7), which reads: “Determine the county or counties of incarceration and supervision when the court is imposing a judgment pursuant to subdivision (h) of Section 1170 concurrent or consecutive to a judgment or judgments previously imposed pursuant to subdivision (h) of Section 1170 in another county or counties.”

16-243**Traffic: Installment Payment of Bail Forfeiture and Traffic Violator School Fees (Action Required)**

Summary: The Traffic Advisory Committee recommends revising forms TR-300 and TR-310 for installment payments for traffic infractions. These revisions would standardize and improve court procedures related to installment payment plans for infraction offenses and would expand the advisement of rights provided to defendants. The revised forms would inform defendants of their right to request a determination of their ability to pay at any time before their final payment. The committee developed the revised forms in response to Judicial Council directives to consider recommendations to promote access to justice in all infraction cases.

Recommendation: The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2017, with implementation as soon as reasonably possible, but no later than May 1, 2017:

1. Revise forms TR-300, *Agreement to Pay and Forfeit Bail in Installments*; and TR-310, *Agreement to Pay Traffic Violator School Fees in Installments*.

Courts must implement these provisions as soon as reasonably possible but no later than May 1, 2017.

16-244**Court Facilities: Disposition of Vacant Courthouses (Action Required)**

Summary: The Firebaugh, Reedley, and Clovis Courthouses in Fresno County and the Avenal and Corcoran Courthouses in Kings County have been permanently closed by their respective courts and are unsuitable to the needs of the judicial branch. To eliminate the Judicial Council’s continuing liability and expense in holding permanently closed court facilities and to realize the value of the assets in fair market value dispositions, the Facilities Policies Working Group (FPWG) recommends authorizing and approving the disposition of these facilities. The FPWG further recommends authorizing staff to lease or license all or a portion of

the Clovis facility pending its final disposition.

Recommendation: The Facilities Policies Working Group recommends that the Judicial Council, effective December 16, 2016:

1. Authorize and approve the disposition of the state's equity interest in, and title to, the Firebaugh, Reedley, and Clovis court facilities in Fresno County and the Avenal and Corcoran court facilities in Kings County in fair market value transactions;
2. Direct council staff to take all actions necessary to obtain statutory authorization to dispose of the facilities and to draft and negotiate appropriate agreements with prospective transferees;
3. Direct council staff to take all action necessary to lease or license all or a portion of the Clovis facility until such time as it can be permanently disposed of;
4. Delegate to the Administrative Director or his designee the authority to sign real property disposition agreements and any other related necessary documents, contingent on legislative authorization for the disposition of the properties; and
5. Delegate to the Administrative Director or his designee the authority to sign one or more leases or licenses for the Clovis court facility, pending its final disposition.

[16-245](#)

Judicial Council Report to the Legislature: Jobs and Economic Improvement Through Environmental Leadership Act (Action Required)

Summary: Legal Services recommends that the Judicial Council approve the report *Jobs and Economic Improvement Through Environmental Leadership Act: Report to the Legislature under Assembly Bill 900, Public Resources Code Section 21189.2*, and direct staff to transmit it to the Legislature. Doing so fulfills the requirements of Public Resources Code section 21189.2, which requires the Judicial Council to report to the Legislature on or before January 1, 2017, on the effects of the Jobs and Economic Improvement Through Environmental Leadership Act on the administration of justice.

Recommendation: Legal Services recommends that the Judicial Council approve the report *Jobs and Economic Improvement Through Environmental Leadership Act: Report to the Legislature under Assembly Bill 900, Public Resources Code Section 21189.2* (Attachment A), and direct staff to transmit it to the Legislature.

[16-250](#)

Juvenile Dependency: Proposed Allocation for Fiscal Year 2016-2017 for Juvenile Dependency Counsel Collections Program (Action Required)

Summary: Under the Juvenile Dependency Counsel Collections Program and as directed in Welfare and Institutions Code section 903.1, courts collect reimbursements from parents and other responsible persons liable for the cost of dependency-related

legal services to the extent that those persons are able to pay. The Trial Court Budget Advisory Committee recommends allocating \$629,077, the fiscal year 2015-2016 statutorily restricted funds remitted in excess of dependency counsel program administrative costs, to the trial courts calculated according to the methodology adopted by the Judicial Council at its August 23, 2013, business meeting.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council allocate \$629,077, the fiscal year (FY) 2015-2016 Juvenile Dependency Counsel Collections Program (JDCCP) funds remitted in excess of dependency counsel program administrative costs, to the trial courts calculated according to the methodology adopted by the Judicial Council at its August 23, 2013, business meeting. (Attachment A shows projected allocations based on information received at the time of this report.) The recommended allocation outlined in Attachment A has been determined using the methodology approved by the council at its August 23, 2013, meeting.

16-251

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees (Action Required)

Summary: The Traffic Advisory Committee recommends new forms and a companion rule of court for online installment payments for traffic infractions. Forms TR-300 (online) and TR-310 (online) are designed for use in online interfaces that allow defendants to enter into installment payment agreements under Vehicle Code sections 40510.5 and 42007. New companion rule 4.108 of the California Rules of Court would allow for the use of online interfaces to form installment payment agreements and would require that defendants be advised of their rights before entering into an agreement. It would also provide that forms TR-300 (online) and TR-310 (online) are alternative mandatory forms intended for use in these online interfaces. The committee developed this proposal as part of a larger effort to modernize rules and forms and in response to council directives to consider recommendations to promote access to justice in all infraction cases.

Recommendation: The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2017, with implementation as soon as reasonably possible, but no later than May 1, 2017:

1. Adopt rule 4.108 of the California Rules of Court; and
2. Adopt forms TR-300 (online), *Online Agreement to Pay and Forfeit Bail in Installments*; and TR-310 (online), *Online Agreement to Pay Traffic Violator School Fees in Installments*.

16-252

CEQA Actions: Technical Rule Amendments to Implement SB 836 (Action Required)

Summary: The Civil and Small Claims Advisory Committee and the Appellate Advisory Committee recommend amending the rules regarding expedited review of certain cases under the California Environmental Quality Act (CEQA). The amendments

will fulfill the Judicial Council's obligation under legislation enacted earlier this year to adopt rules to implement procedures for the expedited resolution of CEQA cases challenging "capitol annex projects."

Recommendation: The Civil and Small Claims Advisory Committee and the Appellate Advisory Committee recommend that the Judicial Council, effective January 1, 2017, amend Cal. Rules of Court, rules 3.2200, 3.2220-3.2223, and 8.700-8.703 relating to expedited review of CEQA challenges to "environmental leadership" and "Sacramento arena" projects by adding references to new statutory provisions establishing expedited review of such challenges to "capitol annex projects."

The Appellate Advisory Committee also recommends that the Judicial Council, effective January 1, 2017, amend rule 8.701 to ensure CEQA appellate rules conform to amendments to the appellate electronic filing rules approved by the Judicial Council at its October 2016 meeting.

[16-255](#)

Judicial Branch Administration: Unpaid Sabbatical Request for Hon. Gregory Alarcon (Action Required)

Summary: The Executive and Planning Committee recommends approval of an unpaid sabbatical leave for Judge Gregory Alarcon of the Superior Court of California, County of Los Angeles, for the period of February 1, 2017, to May 31, 2017 (see attachment 5). Judge Alarcon received a Fulbright Scholar Award to teach two law school classes, "Trial in History from Solomon to the Present" and "Trial Practice," at the University of Turku in Turku, Finland. As an adjunct professor at Pepperdine University of Law for 26 years and a frequent lecturer with the courts, his participation in this program would enhance his teaching abilities in judicial subjects for the courts in California.

Recommendation: The Executive and Planning Committee (E&P) recommends that the Judicial Council approve an unpaid sabbatical leave for the period February 1, 2017, to May 31, 2017, for Judge Gregory Alarcon of the Superior Court of California, County of Los Angeles.

[16-256](#)

Court Facilities: Lease of Chico Courthouse Pending Disposition and Confirmation of Authority for Leasing Other Closed Courthouses (Action Required)

Summary: The Facilities Policies Working Group (FPWG) recommends approving a short-term lease of the closed Chico Courthouse to the County of Butte pending the previously approved sale of the courthouse to the county. The proposed lease would, by its terms, shift all costs of operating and maintaining the property (a triple-net lease) to Butte County and thereby reduce the Judicial Council's continuing liability for that expense. To augment the ability of the Administrative Director and council staff to act quickly and decisively in identifying and finalizing opportunities to reduce the cost of other closed court facilities, the FPWG further

recommends confirming the authority of the Administrative Director or his designee to negotiate, document, and enter into triple-net leases or licenses with governmental entities of other closed California court facilities throughout the state with governmental entities for terms not to exceed five years without Judicial Council review and approval of each such lease.

Recommendation: The Facilities Policies Working Group recommends that the Judicial Council, effective December 16, 2016:

1. Approve a short-term triple-net lease of the closed Chico Courthouse with Butte County and confirm the authority of the Administrative Director or his designee to negotiate, document, and execute that lease; and
2. For court facilities throughout the state that are closed by their respective courts and that are unsuitable to the needs of the judicial branch, including those located in shared use buildings and subject to joint occupancy agreements (JOAs), confirm the authority of the Administrative Director or his designee to negotiate, document, and execute triple-net leases or licenses or JOA amendments with governmental entities for terms not to exceed five years without Judicial Council review and approval of each such lease, license or JOA amendments.

DISCUSSION AGENDA

16-221

Trial Court Allocations: Final Reduction Related to Statutory 1 Percent Cap on FY 2015-2016 Fund Balance Carryover (Action Required)

Summary: Under Government Code section 77203(b), a trial court may carry over unexpended funds in an amount not to exceed 1 percent of the court's operating budget from the prior fiscal year. The Judicial Council staff recommends approving a final reduction allocation of \$8,781,656 related to the fund balance in fiscal year 2015-2016 and prior-year excluded funds, as required by Government Code section 68502.5(c)(2)(A).

Speakers: Mr. Zlatko Theodorovic, Budget Services

Recommendation: The Judicial Council staff recommends that the Judicial Council adjust the preliminary 1 percent fund balance cap reduction allocation of \$9,438,587 approved by the council in July 2016 by a net \$657,281, for a final reduction allocation of \$8,781,306, to match the trial courts' final calculations of the amount above the 1 percent fund balance cap.

A motion was made by Judge Rubin, seconded by Judge Boulware Eurié, that this proposal be approved. The motion carried by a unanimous vote.

16-222

Trial Court Allocations: Trial Court Trust Fund Funds Held on Behalf of the Trial Courts (Action Required)

Summary: The Trial Court Budget Advisory Committee's Fiscal Planning Subcommittee recommends that the Judicial Council approve one request for Trial Court Trust Fund

(TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, courts may request funding reduced as a result of a court's exceeding the 1 percent fund balance cap, to be retained in the TCTF for the benefit of that court. The total amount requested that would be reduced from their fiscal year 2016-2017 allocations for exceeding the cap is \$732,981.

Speakers: Mr. Zlatko Theodorovic, Budget Services

Recommendation: Based on actions taken at its November 10, 2016, meeting, the Trial Court Budget Advisory Committee's (TCBAC's) Fiscal Planning Subcommittee recommends that the Judicial Council, effective December 15, 2016, allocate and designate \$732,981 in Trial Court Trust Fund fund balance to the Superior Court of Santa Barbara County from funding to be reduced from the court's allocation in fiscal year (FY) 2016-2017 as a result of the court's exceeding the 1 percent fund balance cap because of contracts that could not be encumbered in FY 2015-2016 due to delays in the implementation of its case management system. The funds would be distributed to the court in FY 2016-2017 (see Attachment B1).

Attachment A, *Summary of Requests for TCTF Funds to be Held on Behalf of the Court*, provides a summary of the court requests, including the amount of the request and other relevant information. Attachment C, *Judicial Council-Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*, provides the recommendations proposed by the TCBAC and approved by the Judicial Council at its April 15, 2016, business meeting.

A motion was made by Judge Bottke, seconded by Judge Nadler, that this proposal be approved. The motion carried by a unanimous vote.

16-228

Judicial Branch Budget: Budget Change Proposal Process (Action Required)

Summary: To promote the efficient, fiscally prudent, effective, and fair allocation of branch resources in advancing statewide judicial branch interests, the Judicial Branch Budget Committee recommends approving a new process for budget change proposal preparation, approval, and submission to the Department of Finance.

Speakers: Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Hon. James M. Humes, Vice-chair, Judicial Branch Budget Committee
Mr. Zlatko Theodorovic, Budget Services

Recommendation: The Judicial Branch Budget Committee (JBBC) recommends that the Judicial Council approve the following budget change proposal (BCP) process, effective immediately:

1. Between October and March, Initial Funding Requests (IFRs) (Attachment A) are submitted to the JBBC by Judicial Council advisory bodies and other requesting entities. The JBBC reviews the IFRs and determines which IFRs should be developed into BCPs or BCP concepts (Attachment B) as

necessary for further advisory committee consideration;

2. Between April and June, IFRs are developed into BCPs (Attachment C) and all applicable advisory bodies, as identified in the original IFR, are given the opportunity, as time permits, to provide input. Advisory bodies prioritize BCPs within their purview for submission to JBBC for its review;
3. No later than two weeks before the July Judicial Council meeting, the JBBC reviews unsuccessful BCPs from the prior fiscal year and suggests which old BCPs should be included as part of the new budget year package. The JBBC then organizes and prioritizes all BCPs for further review;
4. At the July Judicial Council meeting, the BCPs are presented to the Judicial Council for final prioritization and approval;
5. In August, after Judicial Council approval and prior to submission to the Department of Finance (DOF), Judicial Council staff completes the drafting of all BCP documents required by the DOF and submits them to the JBBC for review; and
6. In the first week of September, BCPs are signed by the Administrative Director, Judicial Council, and submitted to the DOF on the date determined by the DOF.

The time frames provided in the above process are estimates and may change in order to meet required deadlines or for other reasons identified by the JBBC.

A motion was made by Judge Feng, seconded by Judge So, that this proposal be approved. The motion carried by a unanimous vote.

16-240

Judicial Council: 2017 Legislative Priorities (Action Required)

Summary: Each year, the Judicial Council authorizes sponsorship of legislation to further key council objectives and establishes priorities for the upcoming legislative year. Last year, the council's legislative priorities focused on investment in the judicial branch and securing critically needed judgeships. The Policy Coordination and Liaison Committee recommends a similar approach for the 2017 legislative year.

Speakers: Mr. Cory Jasperson, Governmental Affairs

Recommendation: PCLC recommends that the Judicial Council consider the following as Judicial Council legislative priorities in 2017:

1. Advocate for continued investment in the judicial branch to include a method for stable and reliable funding for courts to address annual cost increases in baseline operations and plan for the future; and for sufficient additional resources to improve physical access to the courts by keeping courts open, to expand access by increasing the ability of court users to conduct branch business online, and to restore programs and services, including dependency counsel funding, that were reduced over the past few years. This priority also includes seeking the extension of sunset dates on increased fees implemented in the fiscal year (FY) 2012-2013 budget, as follows:
 - a. \$40 increase to first paper filing fees for unlimited civil cases, where

the amount in dispute is more than \$25,000 (Gov. Code, § 70602.6)

- b. \$40 increase to various probate and family law fees (Gov. Code, § 70602.6)
- c. \$20 increase to various motion fees (Gov. Code, §§ 70617, 70657, 70677)
- d. \$450 increase to the complex case fee (Gov. Code, § 70616)
- e. \$40 probate fee enacted in 2013, expiring on January 1, 2019 (Gov. Code, § 70662)

2. Increase the number of judgeships and judicial officers in superior courts with the greatest need.
 - a. Seek funding for 12 of the 50 authorized, but unfunded, judgeships to be allocated to the courts with the greatest need based on the most recently approved Judicial Needs Assessment.
 - b. Seek funding for two additional justices in Division Two of the Fourth Appellate District (Inyo, Riverside, and San Bernardino Counties), one in FY 2017-2018 and the second in FY 2018-2019.
 - c. Advocate for legislative ratification of the Judicial Council's authority to convert 16 subordinate judicial officer (SJO) positions to judgeships in eligible courts, and sponsor legislation for legislative ratification of the council's authority to convert up to 10 additional SJO positions to judgeships, in eligible courts, if the conversion will result in an additional judge sitting in a family or juvenile law assignment that was previously presided over by an SJO.
 - d. Work with the Administration and Legislature to resolve the concerns raised in the Governor's veto message of SB 229 (Roth, 2015), regarding vacant judgeships in courts with more authorized judges than their assessed judicial need.
3. Seek sufficient funding for the courthouse construction projects authorized by SB 1407 (Perata, Stats. 2008, ch. 311).
4. Seek legislative authorization for the disposition of the Chico, Corning, and San Diego courthouses as previously authorized by the Judicial Council and any remaining properties subsequently approved by the council in 2016. Also, identify the account or fund into which sales proceeds would be deposited--in this case, the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund, which funds the most critical judicial branch facilities projects--but with the understanding that the Legislature may choose to direct those sales proceeds elsewhere.
5. Continue to sponsor or support legislation to improve judicial branch operational efficiencies, including cost savings and cost recovery measures.
6. Advocate for a three-branch solution to ensure the fairness and efficiency of California's fines, fees, penalties and assessments structure.
7. Delegate to PCLC the authority to take positions or provide comments on behalf of the Judicial Council on proposed legislation (state and federal) and

administrative rules or regulations, after evaluating input from council advisory bodies, council staff, and the courts, provided that the input is consistent with the council's established policies and precedents.

A motion was made by Judge Nadler, seconded by Judge Feng and Judge Lyons, that this proposal be approved. The motion carried by a unanimous vote with an abstention by Senator Jackson.

16-242 Traffic and Criminal Procedure: Infraction Procedures Regarding Bail, Fines, Fees, and Assessments; Mandatory Courtesy Notices; and Ability-to-Pay Determinations (Action Required)

Summary: The Traffic Advisory Committee and Criminal Law Advisory Committee recommend amending one rule and adopting three new rules of the California Rules of Court to standardize and improve court procedures and improve notice to defendants regarding procedures in infraction cases, including specifically failures to appear and failures to pay bail and court-imposed fines, fees, and assessments for infraction offenses and ability-to-pay determinations. These rules are designed to promote procedural fairness in infraction cases, enhance guidance for defendants and courts, improve notice to defendants, and clarify procedures regarding ability-to-pay determinations, while also minimizing the need for court appearances by providing for written petitions where possible.

Speakers: Hon. Gail Dekreon, Chair, Traffic Advisory Committee
Hon. J. Richard Couzens, Vice-chair, Criminal Law Advisory Committee

Recommendation: The Criminal Law Advisory Committee and the Traffic Advisory Committee recommend that the Judicial Council, effective January 1, 2017:

1. Amend rule 4.105 of the California Rules of Court to require that trial court websites include a link to the statewide traffic self-help information posted on the California courts website;
2. Adopt rule 4.106 of the California Rules of Court to establish uniform procedures in infraction offenses for which the defendant has received a written notice to appear and has failed to appear or failed to pay;
3. Adopt rule 4.107 of the California Rules of Court to require that trial courts send reminder notices to traffic defendants before their initial appearance and specify what information must be provided in those notices;
4. Adopt rule 4.335 of the California Rules of Court to standardize and improve court procedures and notice to infraction defendants related to ability-to-pay determinations.
5. Repeal standard 4.41 of the California Standards of Judicial Administration, which currently provides recommendations regarding courtesy notices.

Courts must implement these provisions as soon as reasonably possible but no later than May 1, 2017.

A motion was made by Judge So, seconded by Judge Boulware Eurie, that this proposal be approved. The motion carried by a unanimous vote.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**16-205****Child Support: AB 1058 Funding Allocation Joint Subcommittee
Interim Report**

Summary: At its meeting on April 17, 2015, the Judicial Council approved the recommendation from the Family and Juvenile Law Advisory Committee that the AB 1058 Funding Allocation Joint Subcommittee be established to reconsider the allocation methodology developed in 1997 for the AB 1058 Child Support Commissioner and Family Law Facilitator Program. The subcommittee--which included representatives from the Family and Juvenile Law Advisory Committee, Trial Court Budget Advisory Committee, Workload Assessment Advisory Committee, and California Department of Child Support Services--was charged to reconsider the allocation methodology developed in 1997 and report back at the February 2016 Judicial Council meeting. At that meeting, the Judicial Council approved the subcommittee's recommendations, with modifications, to allocate funding using the historical funding methodology and to develop a workload-based funding methodology for implementation beginning in fiscal year (FY) 2018-2019. The Judicial Council additionally reconstituted the subcommittee and directed it to report back at the December 2016 council meeting on its progress in developing a recommendation for the Judicial Council on a workload-based funding methodology. This report is to provide an update to the council on the subcommittee's progress.

16-206**Trial Courts: Quarterly Investment Report for Third Quarter of 2016**

Summary: This *Trial Courts: Quarterly Investment Report for Third Quarter of 2016* covers the period of July 1, 2016, through September 30, 2016, and provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under agenda item 10, Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

16-208**Court Facilities: Trial Court Facility Modification Quarterly Activity Report for Quarter 1 of Fiscal Year 2016-2017**

Summary: The Trial Court Facility Modification Advisory Committee (TCFMAC) has completed its facility modification funding for the first quarter of fiscal year 2016-2017. In compliance with the Trial Court Facility Modifications Policy, the advisory body is submitting its *Trial Court Facility Modification Quarterly Activity Report: Quarter 1, Fiscal Year 2016-2017* as information for the council. This report summarizes the activities of the TCFMAC from July 1, 2016, to September 30, 2016.

16-209**Court Facilities: Trial Court Facility Modification Advisory Committee Fiscal Year 2015-2016 Annual Report**

Summary: The Trial Court Facility Modification Advisory Committee (TCFMAC) has completed its facility modification funding for fiscal year (FY) 2015-2016. In compliance with the *Trial Court Facility Modifications Policy* adopted by the Judicial Council on July 27, 2012, the TCFMAC is submitting the annual report for FY 2015-2016 as Attachment A.

[16-216](#)

Court Facilities: Lease-Revenue Bond Issuance, Fall 2015, Spring and Fall 2016

Summary: As authorized and directed by the Judicial Council, the Administrative Director presents this report on actions taken in connection with lease-revenue bonds issued by the State Public Works Board in fall 2015, and spring and fall 2016, for the financing of court facilities projects.

[16-229](#)

Court Records: Trial Court Records Manual Update--Superior Court Sampling Program

Summary: The Court Executives Advisory Committee presents the Judicial Council with the revised *Trial Court Records Manual*. The update to the manual contains the new superior court sampling program and the new rotation assignment that lists when courts must retain sample court records. The aim of the superior court sampling program is to preserve in perpetuity all superior court records filed before 1911 and a sample of superior court records filed after December 31, 1910, for study by historians and other researchers. The preserved records will document the progress and development of the judicial system and preserve evidence of significant events and social trends. The amendments to rule 10.855 of the California Rules of Court, effective July 1, 2016, eliminated the systematic, subjective, and augmented samples, and revised the longitudinal sample and comprehensive records requirements. The update also contains technical changes to align the manual with intervening legislative and rule changes.

[16-230](#)

Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106--Report No. 40)

Summary: Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This is the 40th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, two superior courts--Stanislaus and Alameda Counties--have issued new notices.

There were no Circulating Orders since the last business meeting.

There were no Appointment Orders since the last business meeting.

In Memoriam

The Chief Justice concluded the meeting with a remembrance of the following judicial colleagues recently deceased, honoring their service to their courts and to the cause of justice:

- Hon. Kenneth E. Conn (Ret.), Superior Court of California, County of Tulare
- Hon. Benjamin A. Diaz (Ret.), Superior Court of California, County of Sacramento
- Hon. Michael J. Farrell (Ret.), Superior Court of California, County of Los Angeles
- Hon. Joe S. Gray (Ret.), Superior Court of California, County of Sacramento
- Hon. William T. Ivey (Ret.), Superior Court of California, County of Merced
- Hon. Kurt J. Lewin (Ret.), Superior Court of California, County of Los Angeles
- Hon. Byron K. McMillan (Ret.), Superior Court of California, County of Orange
- Hon. Harold E. Neville, Jr. (Ret.), Superior Court of California, County of Humboldt
- Hon. Howard J. Schwab (Ret.), Superior Court of California, County of Los Angeles
- Hon. Vaino H. Spencer (Ret.), Court of Appeal, Second Appellate District
- Hon. Lawrence Storch (Ret.), Superior Court of California, County of Ventura
- Hon. Douglas E. Weathers (Ret.), Superior Court of California, County of Riverside

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:55 a.m.

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on January 19, 2017.