



Judicial Council of California

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

Meeting Minutes

Judicial Council

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Friday, July 28, 2017

8:30 AM

San Francisco

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 Daniel J. Buckley, Presiding Judge Dean T. Stout, Judge Marla O. Anderson, Judge Brian J. Back, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Dalila Corral Lyons, Judge Gary Nadler, Judge David M. Rubin, Judge Kenneth K. So, Commissioner David E. Gunn, 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 - Assembly Member Richard Bloom, and Senator Hannah-Beth Jackson

Media Representatives

Ms. Maria Dinzeo, *Courthouse News Service*

Others Present

Ms. Shelley Admir, Ms. Logan Begneaud, Mr. Chad Finke, Ms. Marci Harness, Ms. Elizabeth Henderson, and Ms. Lilia Luciano

Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 8:35 a.m. in the Judicial Council Board Room.

Public Comment

Ms. Catherine Campbell, Mr. Hebé Garcia-Bolio, Mr. Jeff Perry, Ms. Jaclyn Qirreh, Ms. Kathleen Russell, Ms. Khlood Salah, Mr. Mitchel Smith, Ms. Connie Valentine, and Mr. Brendon Woods presented comments on general administration.

Approval of Minutes

[17-111](#)

Minutes of the May 18-19, 2017, Judicial Council meeting.

A motion was made by Ms. Ibarra, seconded by Judge Rubin, that the minutes be approved. The motion carried by a unanimous vote.

Chief Justice's Report

The Chief Justice summarized her engagements since the last meeting in May. During this reporting period, she spoke with Senate President pro Tempore Kevin de León, Senator Robert M. Hertzberg (D-Van Nuys), Senator Hannah-Beth Jackson (D-Santa Barbara), and other members about issues of interest to the judicial branch pertaining to the budget, policy, funding, and need.

The Chief Justice participated in many discussions with the fourth estate--the public press--including attending the California Newspaper Publishers Association Press Summit in Santa Monica, where she had a Q&A session with their president, Mr. Bill Johnson. Topics of discussion included underfunded courts, self-represented litigants, and the need for civic learning and engagement for children and adults to combat the school-to-prison pipeline and the impact of "fake news." At a Sacramento Press Club event in May, Sacramento Bee Editorial Page Editor Dan Morain moderated a Q&A session with the Chief Justice. They discussed the need for dependency counsel funding and court funding and the Chief's stance on immigration issues in the state. The event included the presentation of scholarships to the next generation of promising journalists. The Chief Justice was also interviewed by the New York Times and the Wall Street Journal on some of the same topics.

The Chief served as the commencement speaker at Southwestern Law School's 102nd commencement ceremony--her second time delivering the school's commencement address, she noted, and added that Justice Chin has given the address many times as well. She reported that Southwestern students contribute over 10,000 hours of pro bono legal services annually and are committed to racial diversity and public law externships. Betty Trier Berry, who graduated from Southwestern in 1915, became the nation's first female public defender, the Chief noted.

At the American Jewish Committee's Judge Learned Hand Award Dinner in San Francisco in June, the Chief delivered a keynote speech on the importance of the third branch of government to constitutional democracy. Trial lawyer Joe Cotchett was honored with the award, and Alameda County District Attorney Nancy O'Malley and California Supreme Court Justice Kathryn M. Werdergar were recognized for their contributions and accomplishments in support of justice, freedom, and fairness.

The Chief Justice also attended the Ninth Circuit Judicial Conference in San Francisco and participated in the circuit judges' business meeting, where they discussed civic education, habeas proceedings, and certification of questions from the Ninth Circuit to the California Supreme Court; they also shared their Civic Center safety concerns.

The Chief Justice reported that the National Association of Women Judges held their midyear meeting in Los Angeles, where she met with their board members. The Chief noted that the California judiciary is well represented in the organization: Judge Diana Becton, Superior Court of Contra Costa County, serves as their president; Judge Anita Santos, from the same court, is the district director; and Judge Tamila Ipema, Superior Court of San Diego County, serves as treasurer.

The Chief Justice also participated in bar association-related events, including an Asian-Pacific Bar Association of Sacramento Law Foundation event with keynote speaker Dale Minami, who focused on his work in the Fred Korematsu case, empowering the community, and educating the public through law. She also attended the Beverly Hills Bar Association's 63rd Annual Supreme Court Luncheon with bench officers, attorneys, law school deans, and law school scholarship recipients. In San Jose, the Chief Justice attended the National Asian Pacific American Bar Association Western Regional Conference and discussed the judicial branch and her career choice in a panel hosted by a former law school classmate.

During a planning meeting with the Power of Democracy Steering Committee, the Chief stated that the benefits of civic learning and engagement were clear, with an increased state and federal judicial officer membership and a focus on opportunities for judicial branch involvement at the local and state level. She added that civic education at the statewide level was the theme at the Foundation for Justice and Democracy board meeting, and at the local level with Superior Court of Sacramento County Judge Laurie Earl's Democracy in Action Academy at California State University, Sacramento.

The Chief Justice participated in the dedication of the new San Diego Central Courthouse. The county's single largest capital construction project, it consolidates operations, addresses seismic issues, and delivers an improved court experience to the people of San Diego County.

Also during this reporting period, the Chief Justice and Administrative Director Martin Hoshino met with three groups of new judges participating in the council's New Judge Orientation program. They also met with Judicial Council staff in Sacramento and San Francisco who had achieved service milestones.

She reported that the Supreme Court held oral argument in San Francisco in May and in Los Angeles in June. She added that the June session was the last for Justice

Werdegar, who will retire at the end of August. The Chief acknowledged Justice Werdegar's 55 years of dedicated public service, starting under Robert Kennedy in the civil rights department at the U.S. Department of Justice in Washington, D.C., and culminating in her 23-year tenure on the California Supreme Court.

Administrative Director's Report

[17-112](#)

Administrative Director's Report

Mr. Martin Hoshino highlighted some items from his written report and provided additional information. He stated the report chronicles the activities of 22 advisory committees and their workgroups, and noted that there were groups that were competing to address the charges and the directions that the Chief had given them in response to some of the recommendations in the report delivered by the Futures Commission. The Ability to Pay Workgroup is looking at improving practices to more effectively address fairness and proportionality issues relative to the current fines and fees structure and its impact on low-income and vulnerable groups. Another workgroup is addressing pretrial detention reform and will provide reports as it concludes its work at the end of the year.

Mr. Hoshino reported that more than 30 live and online education and training programs were conducted for judges and court employees on a diverse range of topics, including new judge orientation, felony sentencing, the overuse of psychotropic medication on children in foster care, and business process reengineering. He added that over the last several months there has also been a focus on internal training on diversity, sensitivity, and implicit bias, and he expects more of that type of training going forward. Mr. Hoshino emphasized that the very first and most important goal of the Judicial Council is access, fairness, and diversity; it is essentially the council's DNA.

Mr. Hoshino reported that the fiscal year 2016-2017 budget has closed and staff has prepared reports and data necessary for the council's consideration for the fiscal year 2017-2018 budget. He added that the Governor signed the Budget Act for the new fiscal year and stated that the majority of the meeting agenda includes presentations on allocations for this current fiscal year and next year's budget change proposals. Mr. Hoshino also acknowledged the leadership and support of Judge Jonathan Conklin, chair of the Trial Court Budget Advisory Committee, as well as the support that he is receiving from Mr. Zlatko Theodorovic, Fiscal Services Director, and Ms. Lucy Fogarty, Deputy Director, and their staff.

Mr. Hoshino mentioned the appointment of Ms. Charlene Depner as the council's new director of the Center for Families, Children & Courts (CFCC). Ms. Depner has been the assistant director for 13 years and has dedicated her life to public service. He added that she has been integral to and is intimately familiar with the operations of

the Judicial Council's programs and services.

Lastly, Mr. Hoshino remarked that the 12th Annual Youth Court Summit took place at the end of June. This program was spearheaded by the council through CFCC, in partnership with the California Association of Youth Courts. The goal of youth courts is to act as a diversion program to help prevent youth from entering the juvenile justice system. He added that nearly 300 youth and adults participated in this summit: teens between the ages of 12 and 17; judges, attorneys, probation officers, other law enforcement officials; teachers, counselors, and education staff; and community leaders. The summit provides programs on juvenile court diversion, truancy prevention, civics education, and best practices. The keynote speaker, Kimberly Jade Norwood, is a law professor at Washington University School of Law in St. Louis and an editor of the book "Ferguson's Fault Lines: The Race Earthquake That Rocked the Nation." The presentation focused on research on implicit bias, her work in Ferguson, Missouri, and how youth court can make a difference in communities. Mr. Hoshino also highlighted some of the programs that exemplified important discussions taking place around youth courts. More than 70 high schools in California operate youth courts. He added that Judge David Wesley of the Superior Court of Los Angeles County, who also serves as the president of the California Association of Youth Courts, shared that anecdotal evidence suggests less than five percent of offenders tried in teen courts repeat their crimes, which is a lower rate than juveniles tried in traditional courts. Mr. Hoshino concluded that since the first summit 12 years ago with 26 participating courts, thousands of teens across the state have benefited from this innovative approach to administering justice.

Judicial Council Committee Presentations

[17-113](#)

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 of the Executive and Planning (E&P) Committee, reported that in recent meetings the committee has reviewed hundreds of

nominations for Judicial Council advisory bodies. She noted that one of the tasks of the committee is to recommend candidates to the Chief Justice for appointment to the Judicial Council and its advisory bodies. The Judicial Council relies on the knowledge and service of justices and judges, commissioners and referees, court professionals, and attorneys and justice system partners, to volunteer and serve on the council, the internal and advisory committees, task forces, and working groups, all with the support, resources, and expertise of the Judicial Council staff. Judge Anderson stated that more than 350 applications were reviewed to fill 138 vacancies on 20 advisory bodies, keeping in mind the Chief's emphasis on ensuring diversity of experience, gender, ethnic background, and geography. The committee's recommendations were forwarded to the Chief Justice and candidates will be notified in the upcoming months.

Judge Anderson also announced this year's Distinguished Service Award recipients. She stated that this award is the Judicial Council's highest honor and is a way of recognizing role models throughout the state who have excelled in providing access to justice and furthering the strategic goals of the Judicial Council. She added that each year for more than 20 years, the Judicial Council has honored individual judges, court administrators, and justice system partners for extraordinary service to the judicial branch. Each of the honorees has demonstrated extraordinary leadership and dedication to ensuring public access to justice in California. They have made significant contributions to the administration of justice throughout the state. Judge Anderson noted that the nominating committee includes the five chairs of the Judicial Council internal committees as well as the chairs of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. Upon review of the nominations, the nominating committee sends the recommendations to the Chief Justice for final selection.

This year's Distinguished Service Award recipients include:

- Justice Jeffrey W. Johnson from the Court of Appeal, Second Appellate District, for his work leading the Courthouse Cost Reduction Subcommittee, which helped reduce the costs of courthouse projects and prioritize courthouse construction;
- Judge Erica R. Yew from the Superior Court of Santa Clara County and Judge Mark A. Juhas from the Superior Court of Los Angeles County, with a joint award for their outstanding commitment and effort in improving access to justice;
- Mr. Snorri Ogata, Chief Information Officer, Superior Court of Los Angeles County (formerly the Chief Information Officer for the Superior Court of Orange County), for his work in both courts and in statewide committees that have helped make the justice system more efficient; and
- Bet Tzedek, a nonprofit legal organization in Los Angeles serving low-income people and their families for over 40 years.

Judge Anderson noted that we will learn more about these recipients during the council's awards program on September 14 in San Francisco.

Policy Coordination and Liaison Committee

Judge Kenneth K. So, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee met four times since the last meeting and has taken positions on eight separate pieces of legislation. The committee has also authorized a submission of comments to the Department of Environmental Services on proposed regulations. Judge So highlighted a few of the bills that the committee has taken positions on. The committee took a No position on Assembly Bill 1541 dealing with the examination of prospective jurors. The committee has worked diligently with the author in order to fix upon language that would work for judges in selecting jurors, he reported. On June 29, the committee dealt with probate matters and approved a staff letter concerning Senate Bill 10, an initiative on bail and pretrial release. Judge So reminded the council of the Chief Justice's major initiatives looking into bail practices and pretrial release. He added that the PCLC is in negotiations with the author and a letter was sent out indicating concerns that the council might have with the bill that is currently in print. Judge So added that staff has been directed to continue to negotiate amendments to address those concerns. On July 20, the committee voted to support AB 1450 dealing with court reporter transcripts. Judge So reported that four of the council-sponsored bills continued to move through the Legislature. One of the four is AB 1443 dealing with court records, which is awaiting the Governor's signature; another is AB 1452, which has been enacted and removes references to "the Administrative Office of the Courts" and essentially says that the phrase means "the Judicial Council." Judge So added that the Legislature recessed for the summer break on July 21 and will return on August 21 for the final push for action on the bills before the session concludes September 15.

Rules and Projects Committee

Justice Harry E. Hull, Jr., chair of the Rules and Projects Committee (RUPRO), reported that the committee met twice and conducted one action by e-mail since the council meeting in May. On June 14, the committee acted by e-mail and recommended approval of a proposal to amend rule 10.63 of the California Rules of Court regarding the Advisory Committee on Audits and Financial Accountability for the Judicial Branch. Justice Hull added that the proposal circulated for public comment on a special cycle earlier this year and was recommended for approval on the July 28 consent agenda as item 17-102. During the July 12 teleconference, RUPRO met to consider a proposal regarding two optional forms to assist in implementing rule 4.335 on ability-to-pay determinations in traffic and other infraction cases. The committee approved and circulated that proposal for comment on a

special cycle. After review of the comments received, RUPRO expects the proposal to come before the council at the November 2017 business meeting. On July 26, the committee met to consider 23 proposals that circulated for comment during the spring public comment cycle and two proposals for technical amendments to rules and forms. RUPRO recommended approval of the proposals expected to come before the council at the September 2017 business meeting.

Judicial Council Technology Committee

Justice Marsha Slough, the Judicial Council Technology Committee (JCTC) chair, reported on the activities of JCTC since the May meeting. On May 25, the California Trial Court Consortium and JCTC hosted a Small Court Technology Summit. Justice Slough reported that the event was very successful, with over 80 attendees representing 30 courts. She acknowledged court executive officers Richard D. Feldstein with the Superior Court of Napa County, Jake Chatters with the Superior Court of Placer County, Linda Romero-Soles with the Superior Court of Merced County, and Jeannette Vannoy with the Superior Court of Napa County for their participation and leadership role in organizing the meeting. She also acknowledged attendance by the chair of the Information Technology Advisory Committee (ITAC), Judge Sheila F. Hanson from the Superior Court of Orange County; the vice-chair of ITAC, Associate Justice Louis R. Mauro; and Justice Ming W. Chin, Judge Daniel J. Buckley, and Judge Kyle S. Brodie. Justice Slough described some of the breakout sessions that were designed to be interactive for participants. She appreciated seeing court representatives come together and collaborate on a day designed to help solve problems and seek solutions together. She added that the needs of the smaller courts will be heard and represented at the upcoming statewide Technology Summit in August 2017.

Justice Slough reported that ITAC held an in-person meeting on June 9 in which the Disaster Recovery and Next Generation Hosting Strategy workstreams presented their proposals and recommendations regarding the work they have been completing. Both workstreams will present a final report to ITAC later this year.

Justice Slough noted that ITAC was one of the committees that received a specific directive from the Chief Justice related to the report of the Commission on the Future of California's Court System. Specifically, the Chief Justice directed that ITAC report on the feasibility of and resources necessary for three pilot projects: (1) remote appearances for most noncriminal court proceedings; (2) voice-to-text language interpretation services at court filing service counters and self-help centers; and (3) intelligent chat technology to provide online self-help services. She mentioned that Judicial Council staff met with volunteers from among the trial courts' chief information officers (CIOs) for an all-day planning session to draft a high-level outline of a workplan for each of the three areas. Webinars were held to share the workplan with

branch CIOs and court executive officers for input. She added that the next steps include input and approvals from ITAC and JCTC.

At their June 12 meeting, JCTC members received an update on ITAC activities, court innovations grants related to technology, the Small Court Technology Summit, and the upcoming statewide Technology Summit. Also during this meeting, Justice Slough mentioned that there was one action item related to amending ITAC's annual agenda to authorize the creation of a digital evidence workstream. The committee reviewed and approved the amendment of the annual agenda.

The committee also met by teleconference on July 10. During this meeting, the committee received updates from ITAC on its workstreams: the V3 case management system (CMS) replacement project and the Sustain Justice Edition CMS replacement project, the Placer Court Hosting Center, and the Technology Summit. During this meeting, the committee also reviewed an action item related to a legislative proposal to amend various Civil Code and Code of Civil Procedure sections related to electronic service.

Justice Slough stated that additional committee work included the distribution of a survey to courts to gauge interest and the need for upgrading to modern CMSs: 12 courts expressed interest in participating in the next wave of CMSs. Justice Slough added that she participated in the kickoff meeting on July 18 for the budget change proposals (BCPs) for the next wave of CMS replacements.

Justice Slough reported that she and Mr. Feldstein participated in a July 20 kickoff meeting for the Sustain Justice Edition courts to implement replacement of their legacy systems with a more modern CMS funded by the most recent BCP. Those courts included the Superior Courts of Humboldt, Lake, Madera, Modoc, Plumas, Sierra, San Benito, Trinity, and Tuolumne Counties.

Justice Slough reiterated that the statewide Technology Summit is scheduled for August 2017 in conjunction with the statewide Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee business meetings. She explained that the purpose of the Technology Summit is to bring together judicial branch stakeholders to discuss technology needs and issues, and noted that the summit has a capacity of 150 people. Within a matter of days, she noted, there were over 140 people signed up. She looks forward to reporting back on the success of that summit.

Justice Slough concluded her report by thanking all the members of JCTC on the Judicial Council for their good, hard work and for the work of the local courts who provided additional effort, time, and energy to the initiatives and, most importantly, the staff who make it all possible.

Judicial Branch Budget Committee

Judge David Rubin, chair of the Judicial Branch Budget Committee (JBBC), reported on the activities of the JBBC since the May meeting. Judge Rubin explained the committee's charge, which is to administer the \$10 million branch emergency fund and the \$25 million Court Innovations Grant Program, to coordinate judicial branch budget change proposals (BCPs) that go to the Department of Finance, and to perform any other budget tasks assigned to the committee by the council. The committee approaches its tasks from a branchwide perspective, he noted, promoting the efficient, fiscally prudent, effective, and fair allocation of limited resources reflecting the judicial branch's overall statewide interests.

Judge Rubin reported that the committee met twice since the last council meeting. He explained that most of the business in both meetings concerned analyzing and prioritizing the BCPs, which he presented later in the meeting. On July 6, the council approved a circulating order delegating to the committee the ability to make adjustments to the court innovations grant budgets. The recommendation was made to reduce delays in implementing the important programs. Judge Rubin added that there have been requests for adjustments to grant budgets and confirmed that he will report back to the council on any adjustments at the next scheduled quarterly report. With regard to the grant program progress, he noted that council staff have been working with the trial and appellate courts who received the grant awards: there were 51 such programs; 45 of those have received their initial funding and the remaining programs will receive funding in the near future.

Judge Rubin stated that the committee also had an opportunity to learn about issues related to information technology in the branch. The committee noticed that many of the BCPs involved technology issues either directly or had a component that was a technology issue. As a result, Justice Slough, chair of the Judicial Council Technology Committee, and Ms. Jamel Jones, a supervisor in the Judicial Council's Information Technology office and staff to the Information Technology Advisory Committee, conducted a presentation on leveraging the partnership between the budget and technology committees, as well as on how the technology committee develops its proposals.

Judge Rubin thanked the nine committee members for devoting their time to budget committee work and acknowledged Judicial Council staff who continue to provide assistance to the committee.

CONSENT AGENDA

Approval of the Consent Agenda

A motion was made by Justice Chin, seconded by Judge Boulware Eurie, Mr. Kelly, and Judge Brodie, to approve all of the following items on the Consent Agenda. The motion carried by a unanimous vote.

[17-064](#)

Equal Access Fund: Status Report and Technical Correction (Action Required)

Summary: Since 2014, the Legal Services Trust Fund Commission has been engaged in work to streamline and improve the efficacy of its grant making, including instituting new data collection protocols designed to determine the outcomes of the legal services provided through the Equal Access and Interest on Lawyers' Trust Account Funds. This report describes this effort to document the impact of legal services and demonstrate accountability in use of resources. The multiyear transition to a new grant-making platform also resulted in short-term challenges, and this report also contains technical corrections to previous reports prepared for the Judicial Council regarding the distribution of the Equal Access Fund.

Recommendation: The State Bar's Legal Services Trust Fund Commission (the "Commission") recommends that the Judicial Council:

1. Endorse ongoing efforts by the Commission to enhance efficiency and document the impact of the Equal Access Fund; and
2. Approve the following technical corrections to previously approved reports entitled *Equal Access Fund: Distribution of Funds for Partnership Grants and IOLTA-Formula Grants*:
 - a. For the report submitted for the October 27, 2014 Judicial Council business meeting, accept revised Attachment C that inadvertently did not include one of the grantees whose funding was approved by the Judicial Council.
 - b. For the report submitted for the October 26, 2015 Judicial Council business meeting, accept Attachment D that sets out the individual grant awards for each recipient of IOLTA-formula grants, which was inadvertently not included in the report. The report should be further corrected to note that the approved amount for the partnership grant award for the Alameda County Bar Volunteer Legal Services Unlawful Detainer Project was \$25,000, not \$55,000. Lastly, because of the tight timing of the grant cycles, the report did not include subsequent adjustments to a requested IOLTA-formula grant of \$23,000; the distribution amount should be reduced from \$12,773,000 to \$12,750,000 to reflect that fact.

- c. For the report submitted for the October 27, 2016 Judicial Council business meeting, approve the revised Attachment E that has been corrected to remove an allocation to a grantee that withdrew its application after the report to the Judicial Council was submitted. The total recommended distribution of IOLTA-formula grants is \$17,199,592.

[17-098](#)**Judicial Council Report to the Legislature: 2017 Report on the California Community Corrections Performance Incentives Act (Action Required)**

Summary: The Criminal Justice Services office recommends that the Judicial Council receive the 2017 *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* and direct the Administrative Director to submit this annual report to the California Legislature and Governor, as mandated by Penal Code section 1232. Under the statute, the Judicial Council is required to submit a comprehensive report on the implementation of the program--including information on the effectiveness of the act and specific recommendations regarding resource allocations and additional collaboration--no later than 18 months after the initial receipt of funding under the act and annually thereafter.

Recommendation: The staff of the Judicial Council, Criminal Justice Services office, recommends that the Judicial Council, effective July 28, 2017:

1. Receive the attached 2017 *Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program* documenting program history, findings, and recommendations related to the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678); and
2. Direct the Administrative Director to submit this report to the California Legislature and Governor by July 31, 2017, including information on the effectiveness of the program and policy recommendations regarding resource allocation for improvements to the SB 678 program, to comply with Penal Code section 1232.

[17-101](#)**Judicial Branch Administration: Judicial Branch Contracting Manual (Action Required)**

Summary: The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch recommends revising the *Judicial Branch Contracting Manual*. The revisions are necessary to reflect new section 2010 of the Public Contract Code, effective January 1, 2017, requiring new certifications regarding compliance with the Unruh Civil Rights Act and the Fair Employment and Housing Act. The committee also recommends some additional revisions, including updated nomenclature, that would make the manual more effective and workable for judicial branch entities in their procurement and contracting activities.

Recommendation: The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch recommends that the Judicial Council, effective August 1, 2017, revise the *Judicial Branch Contracting Manual*.

[17-102](#)

Judicial Council Administration: Rule for the Advisory Committee on Audits and Financial Accountability for the Judicial Branch (Action Required)

Summary: The internal chairs of the Judicial Council recommend that rule 10.63, on an advisory committee on fiscal affairs, be amended to rename the committee the “Advisory Committee on Audits and Financial Accountability for the Judicial Branch.” An important function of government is to ensure that public funds are properly spent and accounted for. Rule 10.63 would be amended to more clearly prescribe the duties of the committee. The amendments to the rule would also expand the membership of the committee to include at least one appellate clerk/executive officer and at least one nonvoting advisory member who has significant governmental auditing experience.

Recommendation: The internal chairs of the Judicial Council recommend that the council amend California Rules of Court, rule 10.63, effective July 28, 2017, to:

1. Rename the committee the “Advisory Committee on Audits and Financial Accountability for the Judicial Branch”;
2. Prescribe the committee’s duties more clearly; and
3. Expand the membership to include at least one appellate clerk/executive officer and at least one nonvoting advisory member who has significant governmental auditing experience.

[17-105](#)

Access to Visitation Grant Program: Program Funding Reallocation from Lead Grantee Court to Collaborative Partner Court in Final Year of Three-Year Funding Cycle (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the reallocation and distribution of a maximum of \$45,000 from the funds previously awarded to the lead administering court, the Superior Court of Mendocino County, to their collaborative partner court, the Superior Court of Del Norte County, for the contract period of fiscal year (FY) 2017-2018. The Access to Visitation contract period for FY 2017-2018 began on April 1, 2017, and ends on March 31, 2018. The funding reallocation will support and facilitate the continuation of Access to Visitation Grant Program services for noncustodial parents and their children through supervised visitation and exchange services, and parent education. Family Code section 3204(b)(2) requires the Judicial Council to determine funding allocation awards to the superior courts.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council reallocate a maximum of \$45,000 from the lead administering court, the Superior Court of Mendocino County, to their collaborative partner court, the

Superior Court of Del Norte County, for the contract period of April 1, 2017, through March 31, 2018.

[17-108](#)

Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

Summary: The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch and Judicial Council staff recommend that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Kern* (August 2016). This acceptance is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promotes transparent accountability and provides the courts with information to minimize future financial, compliance, and operational risk.

Recommendation: The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch and Judicial Council staff recommend that the Judicial Council, effective July 28, 2017, accept the pending audit report, *Audit of the Superior Court of California, County of Kern* (August 2016). This acceptance will result in the report progressing from “pending” to “final” status and its publication on the California Courts public website.

[17-117](#)

Juvenile Dependency: Proposed Allocation for Fiscal Year 2017-2018 for Court Appointed Special Advocate Local Assistance (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends approving Court Appointed Special Advocate (CASA) program grant funding allocations for fiscal year 2017-2018. The recommended allocations were calculated based on the CASA funding methodology approved by the Judicial Council at its August 2013 business meeting. Allocations will fund 45 programs serving 50 counties.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 28, 2017, allocate \$2.213 million for CASA local assistance grants to 45 CASA programs serving 50 counties using the council’s funding methodology (established in 2013).

[17-119](#)

Court Facilities: Disposition of Equity Interests in Courthouse Annex in Tehama County and old Falasco Justice Center in Merced County (Action Required)

Summary: Following completion of construction of new courthouses, and at other times for operational reasons, courts vacate one or more court facilities that are no longer suitable to the needs of the judicial branch. Often the vacated court facilities are located in county-owned buildings, but the Judicial Council remains liable for, and obligated to pay its share of the cost of operations and maintenance of its equity

interest in the closed court facility. The Courthouse Annex in Tehama County and the former Falasco Justice Center in Merced County are two current examples. To eliminate the continuing liability and cost associated with permanently closed court facilities in county-owned buildings, the Facilities Policies Working Group recommends authorizing the permanent disposition of the Judicial Council's equity interests in the Tehama and Merced court facilities, and delegating to the Administrative Director authority to sign the equity disposition agreements for these two facilities and all other related documents needed to complete the transactions.

Recommendation: The Facilities Policies Working Group recommends that the Judicial Council, effective July 28, 2017, take the following actions:

1. Authorize and approve the disposition of the state's equity interests in the Courthouse Annex in Tehama County and the former Falasco Justice Center in Merced County; and
2. Delegate to the Administrative Director or his designee the authority to sign the equity disposition agreements for these two facilities and all other related documents needed to complete the transactions.

[17-121](#)

Judicial Council: Delegation to Administrative Director for Approval of Americans with Disabilities Act Grievance Procedure (Action Required)

Summary: Judicial Council staff recommends that the Judicial Council delegate authority to the Administrative Director to approve and maintain a grievance procedure drafted pursuant to the Americans with Disabilities Act (ADA) in order to reduce delays in implementing this required procedure. Consistent with the requirements of the ADA, the grievance procedure will provide members of the public with information about how to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Judicial Council, as well as procedures for Judicial Council staff to resolve such complaints.

Recommendation: Judicial Council staff recommends that the Judicial Council delegate authority to the Administrative Director to approve the ADA Grievance Procedure, drafted pursuant to the requirements of the ADA, and to maintain the procedure.

DISCUSSION AGENDA

[17-095](#)

Trial Court Allocations: General Court Operations and Specific Costs for Fiscal Year 2017-2018 (Action Required)

Summary: For 2017-2018, the Trial Court Budget Advisory Committee recommends the Judicial Council allocate \$1.849 billion to the trial courts from the Trial Court Trust Fund (TCTF) and state General Fund for general court operations and specific costs. The recommended allocations include \$1.821 billion in 2017-2018 beginning base funding for general court operations, each court's share of \$4.8 million in new funding

for non-interpreter employee benefits, a statewide net reallocation of \$720.2 million for general court operations using the Workload-Based Allocation and Funding Methodology (WAFM), a net zero allocation for the WAFM funding-floor adjustment, a preliminary one-time allocation reduction related to the 1 percent cap on trial court fund balances, \$22 million in new funding for reimbursement of court-appointed dependency counsel costs, and \$9.2 million for criminal justice realignment costs. Assuming approval of the allocations and given current revenue projections and estimated savings from appropriations, the TCTF will end 2017-2018 with a fund balance of \$27.2 million, of which approximately \$10.4 million will be unrestricted.

Speakers: Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Mr. Zlatko Theodorovic, Budget Services

Recommendation: The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 28, 2017:

1. Approve the 2017-2018 beginning base allocation for court operations of \$1.821 billion (see Attachment 1F, column 9), which carries forward the ending 2016-2017 TCTF base allocation (column 6), and adds the General Fund benefits base allocation (column 7) and adjustments to annualize partial-year allocations made in 2016-2017 (column 8) (see Attachment 1B, column 1).
2. Allocate a total of \$4.8 million for non-interpreter employee benefits funding from the TCTF for each court's share of 2016-2017 cost changes in the Budget Act of 2017 (the remaining \$174,000 provided for 2016-2017 court interpreter benefits cost changes would be added to the TCTF Court Interpreter Program 0150037). (See Attachment 1B, column 2.)
3. Allocate each court's share from the TCTF using the 2017-2018 WAFM consisting of a reallocation of 50 percent (\$720.2 million) and an additional \$233.8 million of courts' historical WAFM-related base allocation of \$1.44 billion, and reallocation of \$233.8 million in new funding provided from 2013-2014 through 2016-2017 for general court operations for general court operations for a net zero total allocation (see Attachment 1B, column 3).
4. Allocate each court's share of the 2017-2018 WAFM funding-floor allocation adjustment, which includes funding-floor allocations in which six courts receive a total of \$321,949 in floor adjustments and all other courts are allocated a reduction totaling \$321,949, for a net zero total allocation (see Attachment 1B, column 4).
5. Approve a one-time allocation of \$9.2 million for criminal justice realignment costs from the TCTF based on the most current available postrelease community supervision (PRCS) and parole workload data submitted to the Judicial Council's Criminal Justice Services office pursuant to Penal Code section 13155 (see Attachment 1B, column 5).
6. Approve a preliminary one-time allocation reduction of \$7.77 million to 16 courts that are projecting the portion of their 2016-2017 ending fund balance

that is subject to the 1 percent fund balance cap to exceed the cap by \$7.77 million, as required by statute (see Attachment 1B, column 6).

7. Approve an allocation of \$22 million in new funding from the Trial Court Trust Fund for reimbursement of court-appointed dependency counsel costs based on the Judicial Council-approved allocation methodology as follows: Allocate \$22 million to trial courts with a ratio of 2017-2018 base funding to their workload-based funding need that is below the statewide ratio of 2017-2018 base funding to funding needed to meet the workload standard for juvenile dependency (see Attachment 1B, column 7).
8. Allocate \$14.66 million from the Programs 0140010 and 0150095 TCTF Judicial Council and Trial Court Operations appropriations (see Attachment 1D, column F) and \$157.6 million from the Program 0150010-Support for Operation of the Trial Courts appropriation (see Attachment 1E, column C, rows 21-28).

A motion was made by Ms. Ibarra, seconded by Mr. Kelly, that this proposal be approved. The motion carried by a unanimous vote.

[17-114](#)

Trial Court Allocations: Revisions to the Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures (Action Required)

Summary: The Judicial Council established the *Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures* in August 2013 as a means for trial courts to request changes to the WAFM model for factors not included in its calculations and/or to request ongoing adjustments. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve revisions to the WAFM adjustment request procedures to better serve the needs of the trial courts.

Speakers: Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Ms. Rebecca Fleming, Co-Chair, Funding Methodology Subcommittee

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) unanimously recommends that the Judicial Council, effective July 28, 2017, approve the following revisions to the *Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures*:

1. Make technical changes to reflect organizational changes within the Judicial Council of California;
2. Change the submittal date and review timelines by the Funding Methodology Subcommittee (FMS) and the TCBAC;
3. Formalize that no changes to the WAFM formulae can occur after the March/April Judicial Council meeting if they impact the subsequent fiscal year; and
4. Allow the FMS to take expedited action on the request, if directed by the TCBAC.

A motion was made by Justice Hull, seconded by Judge Gordon, that this

proposal be approved. The motion carried by a unanimous vote.

[17-115](#)

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

Summary: The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council approve two new requests and two amended requests for Trial Court Trust Fund (TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, a court may request funding reduced as a result of a court exceeding its 1 percent fund balance cap be retained in the TCTF for the benefit of that court. The total estimated amount requested by the trial courts that would be reduced from their 2017-2018 allocations for exceeding the cap is \$448,133. The council will be informed of any final adjustments to the estimated amounts after 2016-2017 year-end.

Speakers: Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Mr. Zlatko Theodorovic, Budget Services

Recommendation: Based on actions taken at its July 7, 2017, meeting, the Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 28, 2017:

1. Allocate and designate \$448,133 in Trial Court Trust Fund fund balance to be held on behalf of the following courts:
 - a. \$115,000 to be held for the Superior Court of Mono County
 - b. \$333,133 to be held for the Superior Court of Sacramento County
2. These funds will be reduced from the courts' allocations as a result of those courts exceeding the 1 percent fund balance cap. The funds would be distributed back to the courts over three fiscal years, as delineated in Attachment A.
3. Approve the amended requests of the Superior Court of Alameda County and the Superior Court of Orange County. These funds have been reduced and reallocated from the courts' allocations in 2016-2017 as a result of those courts exceeding the 1 percent fund balance cap. The funds would be adjusted and distributed back to the courts over two fiscal years, as delineated in Attachment D.

A motion was made by Judge Brodie, seconded by Justice Chin and Mr. Kelly, that this proposal be approved. The motion carried by a unanimous vote.

[17-097](#)

Budget: Fiscal Year 2018-2019 Budget Change Proposals for Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities Program, Trial Courts, and Habeas Corpus Resource Center (Action Required)

Summary: The branch's fiscal year 2018-2019 budget change proposals (BCP) aim to alleviate financial pressures on the judicial branch due to continued underfunding. The BCPs seen as a whole demonstrate that the branch's current budget challenges disproportionately impact our most vulnerable populations such as the poor, people

with limited English proficiency, children, and the elderly. The 2018-2019 BCPs below therefore reflect a branch-wide effort to improve the public's access to justice through adequate staffing, expanded language access, safe, secure courthouses, and modern case filing and management technology. Each of the 2018-2019 BCPs should be fully funded, but given the state's limited available resources, the Judicial Branch Budget Committee recognizes there must be prioritization. The Committee recommends adoption of the list in the order provided for submission to the Department of Finance by its September 1, 2017, deadline.

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 Office

Recommendation: As of June 15, 2017, the Judicial Branch Budget Committee, upon recommendation of the delegated committees of the Judicial Council, recommend that the Judicial Council approve and prioritize the fiscal year (FY) 2018-2019 budget proposals for submission to the state Department of Finance. Further, the Administrative Director recommends that the Judicial Council:

1. Delegate authority to the Administrative Director to make technical changes to budget change proposals (BCPs) as necessary.
2. Prioritize all approved BCPs for submission to the state Department of Finance as follows:
 - a. Support for Trial Court Operations
 - b. Stabilization of Civil Assessment Revenue
 - c. Sustainability of the Immediate and Critical Needs Account
 - d. Trial Court Facilities Operations Costs/Statewide Security System and Equipment - Maintenance and Replacement
 - e. Court-Appointed Dependency Counsel
 - f. New Judgeships (AB 159) and Appellate Court Justices
 - g. Sustain Justice Edition Case Management System Replacement
 - h. Information Technology Projects
 - i. General Fund Support of Essential Statewide Programs and Services
 - j. Implementation of Language Access Plan
 - k. Supreme Court and Appellate Courts - California Court Appointed Counsel Projects
 - l. Appellate Court Facility Maintenance Program
 - m. Appellate Court Security
 - n. Self-Help Centers in Trial Courts
 - o. Self-Represented Litigants Statewide e-Services Solution
 - p. Court Appointed Special Advocate (CASA) in Juvenile Dependency Counsel
 - q. Single Sign-on Solution
 - r. Habeas Corpus Resource Center--Case Teams Staffing. Although the Judicial Council submits requests on behalf of the HCRC it was not prioritized, as the HCRC operates as an independent entity.

- s. Funding for New Mandates (Trial Court Workload). This request is a placeholder as a portion of the request has not gone into effect.

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

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[17-107](#)

Court Facilities: Trial Court Facility Modification Quarterly Activity Report for Quarter 3 of Fiscal Year 2016-2017

Summary: The Trial Court Facility Modification Advisory Committee (TCFMAC) has completed its facility modification funding for the third 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 3, Fiscal Year 2016-2017* as information for the council. This report summarizes the activities of the TCFMAC from January 1, 2017, to March 31, 2017.

[17-109](#)

Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Report No. 42)

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 42nd report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, five superior courts--Tulare, Stanislaus, San Diego, San Joaquin, and Siskiyou Counties--have issued new notices.

Circulating Orders

[17-110](#)

Circulating Orders since the last business meeting.

Summary: Judicial Branch: Request for Delegation to Judicial Branch Budget Committee for Court Innovations Grants (CO-17-04)

Appointment Orders

[17-120](#)

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. Steven A. Brick (Ret.), Superior Court of California, County of Alameda

- Hon. William D. Curtis (Ret.), Superior Court of California, County of Monterey
- Hon. William H. Hartley (Ret.), Superior Court of California, County of San Mateo
- Hon. John W. Holmdahl (Ret.), Court of Appeal, First Appellate District, Division One
- Hon. Eugene L. Huseman (Ret.), Superior Court of California, County of Santa Barbara
- Hon. Joseph E. Johnston (Ret.), Superior Court of California, County of San Bernardino
- Hon. Richard C. Kirkpatrick (Ret.), Superior Court of California, County of San Luis Obispo
- Hon. Lucy K. McCabe (Ret.), Superior Court of California, County of San Francisco
- Hon. Charles A. McGahan (Ret.), Superior Court of California, County of Yolo
- Hon. Charles P. McNutt (Ret.), Superior Court of California, County of Kern
- Hon. Beauford H. Phelps (Ret.), Superior Court of California, County of Los Angeles
- Hon. Armando O. Rodriguez (Ret.), Superior Court of California, County of Fresno
- Hon. Bernard S. Selber (Ret.), Superior Court of California, County of Los Angeles
- Hon. Thomas W. Stoeber (Ret.), Superior Court of California, County of Los Angeles
- Hon. Zook Sutton (Ret.), Superior Court of California, County of Alameda
- Hon. Gary W. Thomas (Ret.), Superior Court of California, County of Marin
- Hon. Paul A. Turner, Court of Appeal, Second Appellate District, Division Five
- Hon. David B. Walker (Ret.), Superior Court of California, County of San Diego
- Hon. Derek Woodhouse, Superior Court of California, County of Santa Clara

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:00 a.m.

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on September 15, 2017.