



Judicial Council of California

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

Meeting Minutes

Meeting materials
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the hyperlinks in
this document.

Judicial Council

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Friday, July 24, 2020

9:00 AM

Videoconference

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 9:00 a.m.

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

Attendance

Council Members

- Present:** 31 - Chief Justice Tani G. Cantil-Sakauye, Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Administrative Presiding Justice Brad R. Hill, Justice Carin T. Fujisaki, Justice Harry E. Hull Jr., Justice Marsha G. Slough, Presiding Judge Joyce D. Hinrichs, Presiding Judge Ann C. Moorman, Judge Marla O. Anderson, Judge C. Todd Bottke, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Jonathan B. Conklin, Judge Samuel K. Feng, Judge Harold W. Hopp, Judge Dalila Corral Lyons, Judge David M. Rubin, Judge Tam Nomoto Schumann (Ret.), Judge Eric C. Taylor, Commissioner Rebecca Wightman, Assembly Member Richard Bloom, Senator Richard Bloom, Ms. Nancy CS Eberhardt, Ms. Rachel W. Hill, Mr. Patrick M. Kelly, Ms. Gretchen Nelson, Mr. Michael M. Roddy, Ms. Andrea K. Wallin-Rohmann, Court Executive Officer Kevin Harrigan, and Mr. Maxwell V. Pritt
- Absent:** 1 - Senator Hannah-Beth Jackson

Call to Order

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the open session to order at 9:45 a.m.

Public Comment

Comments were submitted in writing and reviewed by the Judicial Council.

Approval of Minutes

[20-047](#)

Minutes of May 15, 2020 Judicial Council Meeting

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

Chief Justice's Report

Chief Justice Tani G. Cantil-Sakauye reported on her activities since the last council meeting.

Administrative Director's Report

[20-153](#)

Administrative Director's Report

Administrative Director Martin Hoshino reported on the council's activities since the last council meeting.

Judicial Council Internal Committee Written Reports

[20-154](#)

Judicial Council Internal Committee Written Reports

CONSENT AGENDA

Approval of the Consent Agenda

A motion was made by Judge Conklin, seconded by Judge Hopp, to approve all of the following items on the Consent Agenda. The motion carried by a unanimous vote.

[20-148](#)

Judicial Branch Administration | Judicial Branch Statistical Information System Felony Case Aging Update (Action Required)

Summary: The Court Executives Advisory Committee recommends that the Judicial Council approve the definition updates to the case aging sections of the Felony report in the Judicial Branch Statistical Information System (JBSIS). The case aging data in JBSIS is used in the *Court Statistics Report* (CSR), an annual publication released by the Judicial Council. The current definition in JBSIS does not include a data category that would make it possible to report to JBSIS on all cases that dispose in 12 months or fewer. This update would allow for clearer reporting to JBSIS regarding timeliness of felony case processing data to be included in the CSR.

Recommendation: The Court Executives Advisory Committee (CEAC) recommends that the Judicial Council adopt the definition updates to the reporting categories for the case aging section of the Felony report in the Judicial Branch Statistical Information System (JBSIS). If approved, the new definitions would become effective for data

reported to JBSIS on or after July 1, 2022.

[20-150](#)

Report to the Legislature | Pretrial Pilot Program (Action Required)

Summary: The Budget Act of 2019 earmarked \$75 million to the Judicial Council to launch and evaluate two-year pretrial projects in local trial courts. As directed by the Legislature, the projects aim to increase the safe and efficient release of arrestees before trial; use the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances; validate and expand the use of risk assessment tools; and assess any bias.

Judicial Council staff in Criminal Justice Services recommend that the Judicial Council receive *Pretrial Pilot Program: Report to the Legislature (July 2020)* and direct the Administrative Director to submit this report to the Joint Legislative Budget Committee and the Department of Finance. The Budget Act of 2019 mandates that this report be submitted each January and July through 2021. This is the second legislative report on the Judicial Council's Pretrial Pilot Program and documents the activities of pilot courts and Judicial Council administration of the program carried out between January and July 2020.

Recommendation: Criminal Justice Services staff recommend that the Judicial Council, effective July 24, 2020:

1. Receive *Pretrial Pilot Program: Report to the Legislature (July 2020)*; and
2. Direct the Administrative Director to submit this report to the Joint Legislative Budget Committee and the Department of Finance.

[20-127](#)

Trial Court Budget | Workload Formula Adjustment Request Process, Cluster Assignment Evaluation for the Superior Court of San Francisco County (Action Required)

Summary: The Trial Court Budget Advisory Committee recommends that the Judicial Council approve a revision of the Superior Court of San Francisco County's cluster assignment from cluster 4 to cluster 3 based on the court's current number of authorized judicial positions. The current four-cluster model was developed in the early 2000s for use in the Resource Assessment Study model and is based on each court's authorized judicial positions. While the number of authorized judicial positions at most courts has not changed significantly over the years, the Superior Court of San Francisco County has experienced the most significant change, having eliminated 10 subordinate judicial officer positions in 2014, 15% of its total authorized judicial positions.

Recommendation: In response to an Adjustment Request Proposal submitted by the Superior Court of San Francisco County, the Trial Court Budget Advisory Committee recommends that the Judicial Council approve changing the cluster assignment of

the Superior Court of San Francisco County from cluster 4 to cluster 3, effective July 1, 2020, for use in the fiscal year 2020-21 Resource Assessment Study model and Workload Formula allocations.

[20-089](#) **Trial Court Budget | Fiscal Year 2020-21 Allocation of Court-Appointed Juvenile Dependency Counsel Funding (Action Required)**

Summary: The Trial Court Budget Advisory Committee recommends allocation of \$156.7 million for fiscal year 2020-21 from the ongoing Trial Court Trust Fund to the trial courts for court-appointed juvenile dependency counsel.

Recommendation: The Trial Court Budget Advisory Committee recommends that the Judicial Council allocate \$156.7 million to the trial courts for court-appointed juvenile dependency counsel costs, effective July 1, 2020. The *FY 2020-21 Court-Appointed Juvenile Dependency Counsel Allocation* was prepared using the methodology specified by the Judicial Council.

[20-045](#) **Trial Court Budget | Minimum Operating and Emergency Fund Balance Policy (Action Required)**

Summary: The Judicial Council's suspension of the minimum operating and emergency fund balance policy expires as of June 30, 2020. The minimum operating and emergency fund balance policy, established by the Judicial Council in October 2006, requires trial courts to set aside a percentage of funds for use in emergency situations or when revenue shortages or budgetary imbalances may exist. This policy has been suspended by the Judicial Council since August 31, 2012, due to changes in statute and to provide for the opportunity to seek further statutory amendments. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve an extension to the suspension of the minimum operating and emergency fund balance policy.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) unanimously recommends that, effective July 1, 2020, the Judicial Council extend the suspension of the minimum operating and emergency fund balance policy for two fiscal years until June 30, 2022--or earlier if Government Code section 77203 is amended.

[20-042](#) **Trial Court Budget | Workload-Based Allocations and Calculation for Operating Expenses and Equipment (Action Required)**

Summary: The Trial Court Budget Advisory Committee recommends that the Judicial Council approve policy recommendations related to how workload formula-based allocations are calculated. These recommendations will increase the accuracy and transparency of the Workload Formula by updating the calculation for operating expenses and equipment and making updates to the general ledger accounts used in the Workload Formula. If the recommended

changes are approved, they would take effect with fiscal year 2020-21 allocations.

- Recommendation:** Effective with Workload Formula allocations for fiscal year 2020-21, the Trial Court Budget Advisory Committee recommends that the Judicial Council:
1. Approve recommended designations on accounts used in the Operating Expenses and Equipment computation and for general ledger accounts that did not previously receive a designation for inclusion/exclusion in the Workload Formula; and
 2. Direct staff to create a new project for Civil Transcripts so that it can be aligned with revenue for this workload.

[20-129](#)

Trial Courts | Interim Caseweight for Mental Health Certification Hearings for Use in Resource Assessment Study Model (Action Required)

Summary: The Workload Assessment Advisory Committee recommends the adoption of a new, interim caseweight to measure the workload of mental health certification hearings under Welfare and Institutions Code section 5250 that are performed by court staff. As of July 1, 2018, this type of matter is now counted as a filing in the Judicial Branch Statistical Information System but has a very different workload profile than that of other mental health filings. Establishing an interim, separate weight for this workload until a more permanent weight can be developed (during the next Resource Assessment Study update) will help ensure that the workload for this case type is captured as part of the Resource Assessment Study and the Workload Formula for fiscal year 2020-21.

Recommendation: The Workload Assessment Advisory Committee recommends that the Judicial Council, effective July 24, 2020, adopt a new, interim caseweight to be applied to mental health certification hearings under Welfare and Institutions Code section 5250. If approved, this interim caseweight will be applied for use in the fiscal year 2020-21 Resource Assessment Study estimate of fulltime equivalent staff in the trial courts, which is the basis for the Workload Formula. This interim caseweight would remain effective until the workload can be more fully studied during the Resource Assessment Study model update to be conducted in approximately fiscal year 2021-22.

[20-050](#)

Trial Courts | 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 approving six amended requests from five trial courts for Trial Court Trust Fund funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, a court may request reduced funding as a result of a court's exceeding the 3 percent fund balance cap, to be retained in the Trial Court Trust Fund for the benefit of that court.

Recommendation: Based on actions taken at its meetings on May 21, 2020, the Fiscal Planning

Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 24, 2020:

1. Approve the following amended requests totaling \$1,891,503 (Attachment A):
 - a. Superior Court of Sierra County request of \$15,346, which increases its original request of \$12,457 by \$2,889 for new furniture (Attachment B);
 - b. Superior Court of Sierra County request of \$21,732, which decreases its original request of \$24,621 by \$2,889 for facility repairs and maintenance; (Attachment C)
 - c. Superior Court of Napa County request to amend the fiscal year to expend the remaining \$14,038 balance of its original \$418,000 request from 2019-20 to 2020-21 for a case management system (CMS) (Attachment D);
 - d. Superior Court of San Benito County request to add \$98,824 to its original \$415,801 request for a CMS, and to revise the fiscal years for expenditure to \$205,850 in 2019-20, \$154,387.50 in 2020-21, and \$154,387.50 in 2021-22 (Attachment E);
 - e. Superior Court of Sutter County request to amend the fiscal year to expend the balance of its \$245,112 request for a CMS from 2019-20 to 2020-21 (Attachment F); and
 - f. Superior Court of Kern County request to amend the fiscal year to expend its \$676,688 request for a CMS from 2019-20 to 2021-22 (Attachment G).

[20-151](#)

Trial Courts | Update to the Children's Waiting Room Distribution and Fund Balance Policy (Action Required)

Summary: The Trial Court Budget Advisory Committee recommends changes to the Children's Waiting Room Distribution and Fund Balance Policy to streamline the review process, including eliminating the requirement for annual reporting by courts that have Judicial Council-approved adjustments to their Children's Waiting Room fund balance caps.

Recommendation: The Trial Court Budget Advisory Committee unanimously recommends that, effective July 24, 2020, the Judicial Council adopt the following revisions to the Children's Waiting Room Distribution and Fund Balance Policy:

1. Direct that recommendations to the council on each court's Children's Waiting Room request come directly from the Fiscal Planning Subcommittee;
2. Remove the requirement for annual reporting by courts that receive a Children's Waiting Room cap adjustment; and
3. Direct Judicial Council Budget Services staff to revise forms that meet

policy requirements based on action taken by the Judicial Council when considering Trial Court Budget Advisory Committee recommendations.

DISCUSSION AGENDA

[20-146](#)

Court Facilities | Judicial Branch Five-Year Infrastructure Plan for Fiscal Year 2021-22 (Action Required)

Summary: The Court Facilities Advisory Committee recommends approval of the *Judicial Branch Five-Year Infrastructure Plan for Fiscal Year 2021-22* and submission of the plan to the state Department of Finance. This five-year plan for trial court capital-outlay projects forms the basis for capital project funding requests for the upcoming and outlying fiscal years.

Recommendation: The Court Facilities Advisory Committee recommends that the Judicial Council, effective July 24, 2020, take the following actions:

1. Approve the *Judicial Branch Five-Year Infrastructure Plan for Fiscal Year 2021-22* (see Attachment 1); and
2. Direct staff to submit the plan to the state Department of Finance.

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

[20-052](#)

Judicial Branch Budget | 2021-22 Budget Change Proposals for Supreme Court, Courts of Appeal, Superior Courts, Judicial Branch Facilities Program, Habeas Corpus Resource Center, and Judicial Council (Action Required)

Summary: To continue responsible reinvestment in the judicial branch allowing for greater access to justice for California's citizens, while acknowledging the impact on the state budget of the COVID-19 pandemic, the Judicial Branch Budget Committee unanimously recommends the approval of the 2021-22 budget change proposals for submission to the state Department of Finance.

Recommendation: The Judicial Branch Budget Committee recommends that the Judicial Council, effective July 24, 2020, approve the following 2021-22 budget change proposals (not in priority order) for submission to the state Department of Finance on September 4, 2020:

- Proposition 66 Costs in the Courts of Appeal, Trial Courts, and Habeas Corpus Resource Center: \$18.5 million
- Self-Help Centers in Trial Courts--Continuing Funding: \$19.1 million
- Insolvency Resolution for State Court Facilities Construction Fund: \$90 million
- Trial Court and Court of Appeal Facility Operations and Maintenance, Leased Space, and Deferred Maintenance: \$164.8 million
- Inflationary Adjustment for Trial Courts: \$50-\$70 million
- Various Capital Outlay Projects: \$TBD

Previously the Judicial Branch Budget Committee recommended submission to the Department of Finance of two budget change proposals for technology upgrades:

- Judicial Branch Office of Information Security: \$5.1 million
- Virtual Courthouse Critical Needs: \$12.3 million

As contemplated, since the 2020-21 enacted budget includes \$25 million for technology upgrades, the budget committee deleted the above proposals.

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

[20-053](#)

Trial Court Budget | Allocations from the Trial Court Trust Fund and Trial Court Allocations for Fiscal Year 2020-21 (Action Required)

Summary: For the 2020-21 fiscal year, the Trial Court Budget Advisory Committee (TCBAC) recommends the Judicial Council allocate \$2.207 billion to the trial courts from the Trial Court Trust Fund (TCTF), \$68.8 million from the state General Fund for employee benefits, and \$50.0 million in Immediate and Critical Needs Account (ICNA) for support for operation of the trial courts. This allocation incorporates \$50 million in one-time funding for COVID-19 backlog and an ongoing reduction of \$167.831 million. The TCBAC also recommends the Judicial Council approve the Workload Formula allocation of \$1.951 billion based on methodologies approved by the Judicial Council. Assuming approval of the allocations, current revenue projections, and estimated savings from 2019-20 appropriations, the TCTF will end 2020-21 with a fund balance of \$54.8 million, of which approximately \$26.4 million will be unrestricted. Due to the ongoing COVID-19 pandemic and subsequent recession, these allocations may change based on available state revenues and additional budget decisions.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective July 24, 2020:

1. Approve allocation of the one-time \$50 million for COVID-19 backlog;
2. Approve allocation of the ongoing reduction amount of \$167.831 million;
3. Approve the base, discretionary, and nondiscretionary program allocations from the TCTF in the amount of \$2.207 billion (Attachment A, line 68);
4. Approve a General Fund allocation in the amount of \$68.8 million for employee benefits (Attachment A, line 8);
5. Approve an ICNA allocation in the amount of \$50.0 million for support for operation of the trial courts (Attachment A, line 9); and
6. Approve the total Workload Allocation of \$1.951 billion based on methodologies approved by the Judicial Council (Attachment B, column W).

A motion was made by Judge Rubin, seconded by Ms. Nelson, that recommendation 1 be approved as amended. The following amendments were made, to be included under recommendation 1:

- (a) Of the \$50 million appropriated to the judicial branch for trial court backlogs related to COVID-19, the council allocates \$25 million immediately using the pro rata method proposed by the Trial Court Budget Advisory Committee (TCBAC).
- (b) TCBAC will develop precise definitions and practices for documenting and reporting backlogs related to COVID-19 and report its recommendations to the council prior to distribution of the second \$25 million.
- (c) TCBAC will gather data on trial court spending of the first \$25 million and report back to the council prior to allocation of the second \$25 million.
- (d) In consultation with the Judicial Branch Budget Committee, TCBAC will develop recommendations for allocating the remaining \$25 million on a demonstrated needs basis. TCBAC will report the recommendations to the Judicial Council.

A motion was made by Justice Hill, seconded by Commissioner Wightman, that recommendation 2 be approved.

A motion was made by Ms. Nelson, seconded by Judge Bottke, that recommendations 3 through 6 be approved.

All motions carried by a unanimous vote.

[20-051](#)

Trial Courts | State Trial Court Improvement and Modernization Fund for 2020-21 (Action Required)

Summary: The Trial Court Budget Advisory Committee recommends that the Judicial Council approve allocations for 2020-21 from the State Trial Court Improvement and Modernization Fund in the amount of \$54,488,999. This amount represents updated costs for current service levels. Due to the ongoing COVID-19 crisis and subsequent recession, modifications to the allocations may be necessary based on available state revenues.

Recommendation: The Trial Court Budget Advisory Committee unanimously recommends that the Judicial Council, effective July 24, 2020, approve a total of \$54,488,999 in allocations for 2020-21 from the State Trial Court Improvement and Modernization Fund. The committee further recommends that the offices should be cautious about obligating these allocations as they may be subject to mid-year allocation reductions in light of the current budget situation.

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

[20-114](#)

Trial Courts | Futures Commission Directive for Remote Video Appearances for Many Noncriminal Proceedings (Action Required)

Summary: Following the final recommendations in the *Report to the Chief Justice: Commission on the Future of California's Court System*, Chief Justice Tani G. Cantil-Sakauye directed the Information Technology Advisory Committee (ITAC) to consider for presentation to the Judicial Council the feasibility of a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings and, where implemented, to report back on outcomes and make

recommendations for statewide expansion. To that end, ITAC recommends the Judicial Council accept the report from its Remote Video Appearances Workstream. The report includes guidance for early-adopter courts and policy recommendations. The report represents only the beginning of the work to enable remote video appearances in California courts. ITAC and other interested advisory committees have continued development of policies for civil proceedings including circulating a legislative proposal for public comment. ITAC was also directed by the Judicial Council Technology Committee (JCTC) to explore remote appearances in criminal proceedings.

Recommendation: The Information Technology Advisory Committee recommends that the Judicial Council accept the attached workstream report to satisfy the Chief Justice’s directive resulting from the Future Commission’s final report, effective September 25, 2020.

This item was moved to the September Judicial Council meeting agenda for consideration and action.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[20-152](#)

Allocations and Reimbursements to Trial Courts | Model Self-Help Pilot Program Report on Midyear Reallocation and Funding for 2020-2021

Summary: The Model Self-Help Pilot Program has been operating in five California courts since 2002. The program testing technological solutions has determined not to continue its participation, and the Judicial Council approved making a midyear reallocation to the remaining projects for 2019-20 to expand their Model Self-Help Pilot Projects using technology. This report describes the results of that reallocation.

[20-147](#)

Court Facilities | Trial Court Facility Modifications Report for Quarter 3 of Fiscal Year 2019-20

Summary: This informational report to the Judicial Council outlines the allocations of facility modification funding made to improve trial court facilities in the third quarter (January through March) of fiscal year 2019-20. To determine allocations, the Trial Court Facility Modification Advisory Committee reviews and approves facility modification requests from across the state in accordance with the council’s *Trial Court Facility Modifications Policy*.

[20-097](#)

Judicial Branch Budget | Court Innovations Grant Program, Fiscal Year 2019-20, Quarter 3 Report

Summary: This report summarizes Judicial Council Court Innovations Grant Program activity for the third quarter of fiscal year (FY) 2019-20.

[20-055](#)

Report to the Legislature | Electronic Recording Equipment

Summary: Government Code section 69958 requires the Judicial Council to report to the Legislature semiannually on the purchase and lease of any electronic recording

equipment that will be used to record superior court proceedings. Government Code 69957(a) allows the purchase and or lease of electronic recording equipment for limited civil, misdemeanor, infraction, and small claims cases. Additionally, Government Code section 69957(c) requires the courts to obtain advance approval from the Judicial Council before purchasing or leasing any such equipment. Approval is subject to the equipment being used only in the manner and for the purposes authorized under this section. During the July 1 through December 31, 2019 reporting period, five courts spent a combined total of \$160,937 for equipment or related items.

The Superior Court of Kern County spent \$34,800 to purchase electronic recording equipment and software. These purchases, which were approved by Judicial Council staff on March 16, 2019, are for official court records in limited civil, misdemeanor, infraction, and small claims case types. The Superior Court of Los Angeles County spent \$36,116 to purchase electronic recording equipment and For the Record (FTR) Gold software. These purchases, approved by Judicial Council staff on April 11, 2019, are for official court records in limited civil and infraction case types. The Superior Court of Orange County spent \$44,484 to purchase three FTR Gold hardware and software systems to be used in traffic and misdemeanor case types. These purchases were approved by Judicial Council staff on July 12, 2019. The Superior Court of San Mateo County spent \$41,321 to purchase electronic recording equipment and software. These purchases, approved by Judicial Council staff on June 26, 2019, are for official court records in arraignments and pretrials. The Superior Court of Santa Barbara County spent \$4,216 to purchase an FTR Reporter Suite 6.2 software license, approved by Judicial Council staff. This software is used for small claims, infractions, misdemeanors, and limited civil case types.

[20-054](#)

Trial Courts | Quarterly Investment Report for First Quarter 2020

Summary: This *Trial Courts: Quarterly Investment Report for First Quarter of 2020* covers the period of January 1, 2020, through March 31, 2020, 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.

Circulating Orders

[20-156](#)

Circulating Orders since the last business meeting.

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:50 a.m.

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on September 25, 2020.