



# 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))*

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Friday, May 19, 2017

9:00 AM

San Francisco

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

### Attendance

#### Council Members

**Present:** 26 - 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, Mr. Jake Chatters, Mr. Richard D. Feldstein, Ms. Kimberly Flener, Ms. Audra Ibarra, Mr. Patrick M. Kelly, and Ms. Donna D. Melby

**Absent:** 4 - Assembly Member Richard Bloom, Commissioner David E. Gunn, Senator Hannah-Beth Jackson, and Ms. Debra Elaine Pole

#### Media Representatives

Mr. Kevin Lee, Daily Journal

#### Others Present

Mr. Logan Begneaud, Ms. Angie Birchfield, Ms. Veronica Ebert, Mr. Bob Fleshman, Ms. Elizabeth Ichikawa, Mr. James Kim, Ms. Julianne Lowe, Ms. Heather Lui, Ms. Kathleen Russell, and Mr. Lindsay Vurek.

#### Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 9:00 a.m. in the Judicial Council Board Room.

#### Public Comment

Ms. Michelle Chan presented comments on item 17-075. Ms. Catherine Campbell, Mr. Rene M. Garcia, Mr. Mohammad Haider Hasan, Ms. Kimberly R. Sweidy, and

Ms. Connie Valentine presented comments on general administration.

## Approval of Minutes

[17-067](#)

### **Minutes of the March 24, 2017, Judicial Council meeting.**

**A motion was made by Justice Chin, seconded by Judge Lyons, 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 March. She accepted an invitation from Senate President pro Tempore Kevin de León and Speaker of the Assembly Anthony Rendon to deliver the State of the Judiciary address. Her address to the Legislature also provided an opportunity to recognize publicly the retirements of Justice Ming W. Chin and Justice Kathryn Mickle Werdegar. Justice Werdegar retires after 55 years of dedicated public service, 23 of those spent on the Supreme Court of California. The Chief remarked that over the years she has learned that Justice Werdegar embodies the three principles that Governor Jerry Brown urged Californians to be guided by in his State of the State address: truth, perseverance, and civility. She noted that her address also included another principle, the rule of law, because the state relies on laws and rules to function and thrive as a constitutional democracy that serves all Californians.

The Chief Justice explained that civic learning helps further develop the public's understanding of the judicial branch and that the Civic Learning Awards, now in its fifth year, give her optimism. The civics initiative and Civic Learning Awards are in partnership with State Superintendent of Public Instruction Tom Torlakson and continue to grow. She noted that 180 schools in 26 counties have been recognized since the program began, and all California public schools are invited to apply for the awards. The Chief Justice visited three schools that won the top awards. They were Eastman Avenue Elementary School in Los Angeles County, Natomas Pacific Pathways Preparatory Middle/High School in Sacramento County, and Pacifica High School in Orange County. The Chief underscored that a key benefit of the program is that the judicial branch can participate in the awards at a local level, which promotes greater understanding of the judiciary and connects the courts with communities in a positive way. She noted that the program relies on volunteers and acknowledged the judicial officers who personally volunteered to present awards to students in their local communities. They include Presiding Justice Tricia Ann Bigelow; Justice William S. Dato; Presiding Judge Raymond L. Haight III, accompanied by Court Executive Officer Nancy Eberhardt and Chief Deputy Court Executive Officer Mary Davis; Justice Judith L. Haller; Presiding Judge Joyce D. Hinrichs; Presiding Justice James M. Humes; Presiding Justice Dennis M. Perluss; and Justice Marsha G. Slough.

The Chief Justice mentioned that another opportunity for courts to participate in civics is through local county Civic Learning Partnerships. There have been six pilot

partnerships that connect judicial officers with education and business leaders to promote civic learning and engagement for the students in their communities. The six pilot partnerships are in Alameda, Butte, Fresno, Los Angeles, Sacramento, and San Diego Counties, and other counties have expressed interest. The Chief Justice chose to recognize one of these partnerships, the Butte County Civic Learning Partnership, with the Award for Exemplary Service and Leadership on Law Day in Butte County. The Chief remarked that Judge Kristen Lucena has had an elementary school mock trial program at her courthouse for the last 10 years. The Butte partnership also includes Butte County Superintendent of Schools Tim Taylor and Mr. Jack Danielson, a local business leader. Butte was the first county to pass a Civic Learning Resolution in all 14 of its school districts, involving 31,000 students.

The Chief Justice reported that protecting the integrity of democratic institutions was also the theme at events in San Francisco and San Diego. In San Diego, the American Bar Association Section of Litigation conference attendees were keen to hear about the checks and balances at the federal level. They are also active in promoting diversity and inclusion in the profession and they joined with many California judges and lawyers in an internship program that places 165 students every year with state and federal judges. During the conference, the Informed Voters Project of the National Association of Women Judges hosted a “Happy Hour for the Balance of Power” event in support of impartial courts led by Justice Judith McConnell.

The Chief mentioned that she also had the unusual experience of receiving the Women of Influence Inspiration Award from the Sacramento Kings Foundation at half court during halftime of a Kings basketball game.

The Chief Justice attended Qualifying Ethics training as part of the Appellate Justices Institute alongside other judges and justices. With Justice Chin and Justice Miller, she formed part of the program with a conversation moderated by Administrative Presiding Justice Brad R. Hill. She also joined Justice Miller and Justice Slough in Indian Wells at the joint meeting of the Inland Empire Inns of Court, where a major topic was why one should care about the Judicial Council and the judicial branch. The Chief Justice attended the Arab American Lawyers Association of Southern California annual awards reception in Los Angeles. She also joined Presiding Judge Buckley in the enrobing ceremony for 10 of the newest state judges in the Superior Court of Los Angeles County. In Sacramento, at the Sacramento County Bar Association Past Presidents Luncheon she introduced a panel of seasoned judges that included Administrative Presiding Justice Vance W. Raye, U.S. District Judge Kimberly Mueller, Presiding Judge Kevin R. Culhane, and retired Justice Arthur G. Scotland. The panel discussed the role of judges. Also in Sacramento, she was honored to participate alongside Governor Brown, Attorney General Xavier Becerra, Senator Cathleen Galgiani (D-Stockton), and California Peace Officers Memorial Foundation Executive Director Wayne J. Quint, Jr., in the 41st annual California

Peace Officers' Memorial Ceremony honoring those who have made the ultimate sacrifice.

## Administrative Director's Report

[17-068](#)

### Administrative Director's Report

Mr. Martin Hoshino highlighted items from his written report. He noted that it contains a summary of advisory committee activities, including more than 20 committee meetings in the reporting period. The updates cover an expansive range of work by the committees on matters of judicial administration, child support guidelines, evaluation of mental health legislation, development of intelligent court forms, legal help centers, grant fund activity, and seismic risk assessments. Mr. Hoshino reported that since the last council meeting there have been almost 50 different education programs, trainings, and resources for judges and court personnel on myriad topics including courtroom simulation of jury voir dire and improving permanency outcomes.

Mr. Hoshino commented on the advocacy efforts that have been occurring related to the branch budget for the new fiscal year beginning July 1. The budget, as proposed in the May revision, contains \$3.6 million for the branch at large, or approximately 1.9 percent of the total state budget, and 1.3 percent of the General Fund, which composes the major part of the budget. He mentioned that there are no reductions proposed for the judicial branch, even though a \$3.3 billion deficit is projected for the next fiscal year. Still, he noted, there are positive and negative implications. Legislation, bills, and propositions passed by the voters impose additional work demands and workload on the courts that are not funded in the budget. However, the budget maintains \$35.4 million in new funding from the initial January proposal, which is a recognition of some of the general cost increases as well as technology initiatives. Mr. Hoshino stated that another positive is the added funding for enhancing the IT infrastructure for statewide e-filing initiatives and the migration of Judicial Council services to a state fiscal system, as well as implementation of the appellate document management system. Additionally, the administration continues its commitment to backfill the Trial Court Trust Fund for revenues that are eroding related to filings, fees, and assessments. If fiscal impacts resulting from the driver's license suspension proposal are contained in the Governor's budget, he added, the administration would provide relief through some of the existing budget processes and tools. There is also some provisional language included that limits the amount the State Controller's Office is allowed to charge trial courts for audits.

The Chief noted in her statement after the release of the budget that the proposed funding is not enough, as the California court system is receiving little more than a penny for every General Fund tax dollar. Chronic underfunding and the absence of stable funding for courts does not allow courts to maintain the service levels and access for the public that they have today. Mr. Hoshino commented that this is nearly

the same story nationally, where budgets for the judiciary constitute only a fraction of state spending and yet are expected to effectively and efficiently deliver constitutionally assured services to the public. He stated that the fundamental central message for sister branches of government is that greater funding stability is needed in order to fulfill the judiciary's constitutional responsibilities. Advocacy efforts will continue to require strong support from Judicial Council members, court leaders, stakeholders, and partners throughout California to highlight the vulnerabilities and impacts of a chronically underfunded judicial system and the effect that will have on foster kids, families, self-represented litigants, limited-English speakers, the elderly, veterans, and other populations.

Mr. Hoshino reported that two committee hearings were held following the May Revision that were ably supported and attended by staff as well as members, with another set of hearings scheduled for the following week as they work toward the June 15 constitutional deadline. He will update the council at the July meeting, at which time council members will make budget allocation decisions.

## Judicial Council Committee Presentations

[17-069](#)

### 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

Justice Douglas P. Miller, chair of the Executive and Planning Committee (E&P), reported on the nomination process for membership on the Judicial Council and its advisory committees. He noted that nominees are volunteers from the judicial branch who offer their knowledge, experience, and expertise to the council and they are what makes it possible for the council to be informed and effectively carry out its duties. He stated that the council would not be able to consider the volume of policy and rule changes required of the judicial branch without the over 400 volunteers who commit to a second job. The Chief noted in her 2017 State of the Judiciary address that since she became Chief, there have been 6,408 new laws made, and new laws can have an impact on rules of court, processes, policies, and the budget. Justice Miller commented that as part of the ongoing Judicial Council membership cycle, the committee met to review nominations for upcoming vacancies. E&P developed

recommendations that they will provide to the Chief for her appointments. They have also been soliciting nominations to fill vacancies on a number of Judicial Council advisory bodies, with a deadline of May 12. Justice Miller also reported that nominations for the 2017 Judicial Council Distinguished Service Awards were underway and the deadline for nominations is May 29. He encouraged the council to think of leaders to nominate who have advanced the goals of the judicial branch to improve the administration of justice in California, who have overcome great challenges, or who are truly committed to access and fairness. Honorees will be announced in July and honored in September.

### **Policy Coordination and Liaison Committee**

Judge Kenneth K. So, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met twice since the last meeting and taken positions on 12 separate pieces of legislation including civil, probate, criminal law and procedure bills, and veteran treatment bills. He highlighted a few. On March 30, they took a No position on Assembly Bill 83, which would make the Ralph C. Dills Act applicable to employees of the Judicial Council. Additionally, the committee has voted to oppose Assembly Bill 1128, which would impose on the trial courts the requirement to keep exhibits. This concerns many of the trial courts, he noted, because they do not have the storage room, ability, or technical expertise--with, for example, DNA evidence--to retain exhibits. Judge So reported that PCLC has also taken positions on jury selection bills, both civil and criminal. He thanked Presiding Judge Bottke and the California Judges Association for helping the committee and Presiding Judges Buckley and Barton for helping to discuss the jury selection bills with the appropriate interest groups. Judge So added that they have been helpful in crafting a bill that will allow for efficient handling of cases.

### **Rules and Projects Committee**

Justice Harry E. Hull, Jr., chair of the Rules and Projects Committee (RUPRO), reported that the committee had met twice since the last meeting. On April 4, the committee met by telephone to consider a proposal to amend rule 10.63 of the California Rules of Court and to change the name of the committee established by the rule to "Advisory Committee on Audits and Financial Accountability for the Judicial Branch." The rule will circulate on a special cycle following the public circulation and review by the proponent committees and is expected to come before the council at the July 28 business meeting. Justice Hull reported that RUPRO met by telephone on April 19 to consider six items that circulated for public comment during the winter cycle and a proposal for technical amendments. RUPRO recommends approval of items 17-076 and 17-079 through 17-084 on the consent agenda. During the April 19 meeting, Justice Hull reported, RUPRO approved amendments to the annual agendas of five committees that it oversees to allow them to form a joint ad hoc subcommittee to develop rules for remote access to records. The committee also approved a proposal on a special cycle and a proposal that makes minor revisions to

civil jury instructions.

### **Judicial Council Technology Committee**

Justice Marsha G. Slough, chair of the Judicial Council Technology Committee (JCTC), reported that the committee had three meetings since the last council meeting. At the April 10 JCTC meeting, members received an update of activities from the Information Technology Advisory Committee (ITAC) and an update regarding the video remote interpreting project. JCTC reviewed and approved the initial funding request and concepts for technology-related budget change proposals.

At the May 8 meeting, Justice Slough reported that they received an update on activities from ITAC, particularly regarding the work streams that provide increased access to justice. The meeting included two action items that were approved by JCTC. The first was a request to amend the annual agenda for ITAC to authorize it to form a joint ad hoc subcommittee to develop rules on remote access to court records by parties, attorneys, and justice partners. The second was a review of the ITAC-approved case management system and data exchange work stream, which included a final governance and operation plan.

At the May 18 JCTC meeting, members reviewed and discussed technology budget change proposals for fiscal year 2018-2019. They prioritized and ranked those proposals to submit to the budget committee and then to present to the council at the July meeting. Justice Slough reported that preparations continue for the Small Court Technology Summit, which will be held in Sacramento on May 25. Then, there will be a larger branchwide state Technology Summit in August. She noted that the committee has been meeting with technology stakeholders, including the chief information officers, chief executive officers, presiding judges, and appellate court representatives to gather information for the summit. The last branchwide Technology Summit occurred in October 2012 and served as the launch for the council's approved Court Technology Governance and Strategic Plan, which has served as the foundation for success over the last couple of years. Justice Slough is hopeful that the upcoming summit will be just as successful and that it will serve as the kickoff for the branch to update its technology strategic plan.

She added that JCTC looks forward to continuing to build relationships with the trial courts, the courts of review, and sister branches of government, and to learn what their technology needs are so that they can work together to provide better access.

### **Judicial Branch Budget Committee**

Judge David Rubin, chair of the Judicial Branch Budget Committee, explained that the committee's charge is to administer the \$10 million branch emergency fund, coordinate the branch's budget change proposals that go to the state Department of Finance, and to administer the \$25 million Court Innovations Grant Program and any other budget tasks assigned to the committee. The budget committee takes a

branchwide approach to its work, he stated, meaning that the committee promotes the efficient, fiscally prudent, effective, and fair allocation of limited resources reflecting the branch's overall statewide interests.

Judge Rubin reported that the committee met once since the last council meeting. Members received an update regarding the Governor's revised budget and heard about progress made by Judicial Council staff on drafting the fiscal year 2018-2019 budget change proposal (BCP) concepts that the committee is considering. The BCP concepts are being presented to all applicable advisory bodies for their review and will be further analyzed and prioritized for the budget committee for their June 15 meeting. The concepts will be presented to the bodies for discussion and approval for the July council meeting. Following that meeting, counsel staff will create the BCPs, which will be submitted to the Department of Finance in the first week of September as they begin advocacy for the 2018-2019 budget.

Judge Rubin mentioned that the committee also received an educational session about the Workload-Based Allocation and Funding Methodology (WAFM) presented by Judge Laurie M. Earl of the Superior Court of Sacramento County and Jake Chatters, Court Executive Officer of the Superior Court of Placer County. They provided an overview of the WAFM design and origins. He noted that Judge Earl chaired the Trial Court Budget Working Group- as the committee was then known -at the time WAFM was approved by the council, and many branch leaders assisted in that effort, including Mr. Chatters, who was instrumental in getting the landmark policy approved.

Judge Rubin reported that the innovation grant recipients will be providing the council with quarterly progress reports on their projects. Of the 53 grants that were made, four courts have re-approached the budget committee seeking changes regarding four grants. Those courts--in Contra Costa, Mendocino, San Diego, and San Joaquin Counties--are seeking augmentation of their project budgets. The budget committee is in the process of informing those courts of the committee's preliminary decisions or seeking more information about their requests. He noted that neither he nor Judge Barton participated in any discussion regarding the request from the San Diego court, as that is their home court. Contra Costa has asked to withdraw one of their four approved grants so that the other courts can benefit from that allocation. Given outcome data they gathered very recently from a similar collaborative court program that they have, Judge Rubin reported, Contra Costa determined that the grant money could be better utilized by other counties, and the committee was pleased that they were notified of this early on, as that money will go into the reserve fund for the collaborative court programs.

## **CONSENT AGENDA**

### **Approval of the Consent Agenda**



A motion was made by Ms. Ibarra, seconded by Mr. Kelly, to approve all of the following items on the Consent Agenda. The motion carried by a unanimous vote.

[17-073](#)

**Judicial Council Report to the Legislature: Electronic Recording Equipment (Action Required)**

**Summary:** Judicial Council staff recommends approval of the *Report on Purchase or Lease of Electronic Recording Equipment by Superior Courts (July 1-December 31, 2016)*. Government Code section 69958 requires that the Judicial Council report to the Legislature semiannually on all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

**Recommendation:** Judicial Council staff recommends that the Judicial Council, effective May 19, 2017:

1. Approve the Report on Purchase or Lease of Electronic Recording Equipment by Superior Courts (July 1, 2016-December 31, 2016); and
2. Direct staff to submit the report to the Legislature.

[17-076](#)

**Jury Instructions: New, Revised, and Renumbered Civil Jury Instructions and Verdict Forms (Action Required)**

**Summary:** The Advisory Committee on Civil Jury Instructions recommends approving for publication the new, revised, and renumbered 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 May 19, 2017, 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 midyear supplement to the 2017 edition of the *Judicial Council of California Civil Jury Instructions*.

[17-078](#)

**Judicial Branch Administration: Judicial Branch Workers' Compensation Program (Action Required)**

**Summary:** The Judicial Branch Workers' Compensation Program Advisory Committee recommends approval of the workers' compensation cost allocation for fiscal year 2017-2018, approval of a statewide workers' compensation settlement authority policy, and initiation of cost containment projects to reduce the deficit of the workers' compensation program.

**Recommendation:** The JBWCP Advisory Committee recommends that the Judicial Council, effective May 19, 2017:

1. Approve the workers' compensation premium allocation for FY 2017-2018 for participating trial courts and the state judiciary (Attachment A: Member Premium Allocation for Fiscal Year 2017-2018 (Draft));
2. Accept the Bickmore Actuarial Analysis Report for FY 2017-2018

- (Attachment B: 2016-2017 vs. 2017-18 Member Premium Calculation Comparison (Draft));
3. Accept the workers' compensation excess insurance proposal from Arch Insurance Company (Arch) (Attachment C: Excess Workers' Compensation Program insurance rate sheet);
  4. Approve the JBWCP Claims Settlement Authority Policy (Attachment D: Claims Settlement Authority Policy and Settlement Authority Request/Notification) for all program members; and
  5. Review recommendations from the JBWCP Advisory Committee to reduce the overall program deficit.

[17-079](#)**Rules and Forms: Miscellaneous Technical Changes (Action Required)**

**Summary:** Various members of the branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors, and changes resulting from legislation and previous rule amendments and form revisions. Judicial Council staff recommends making the necessary corrections to avoid confusing court users, clerks, and judicial officers.

**Recommendation:** Judicial Council staff recommends that the council, effective September 1, 2017:

1. Amend rule 1.31(e) to reflect the sunset of rule 7.101.5. Rule 7.101.5 was repealed by its own provisions effective January 1, 2012.
2. Amend rule 3.1546(c)(3) to correctly reference the title of form EJT-004.
3. Amend rule 4.155(a) to correct a reference from "Penal Code section 1037c" to "Penal Code section 1037."
4. Amend rule 5.130(c) to correct a reference from "5.92(a)(6)(A)-(C)" to "5.92(f)(1)-(3)." Rule 5.92 was amended effective July 1, 2016, to eliminate paragraph (a)(6) and move the service requirements to a new subdivision (f).
5. Amend rule 10.3(b) to correctly reference rule 10.10(e).
6. Revise form DV-800/JV-252, footer on page 1, to change a reference from "5.488" to "5.495."
7. Revise form FW-008, item 5(a), to correct "our" to "your."
8. Revise forms MC-010 and MC-011 to reflect changes to Code of Civil Procedure, section 1033.5, regarding fees for interpreters and electronic filing or service, as well as a change from the word "blowups" to "enlargements."
9. Revise form WG-005 to correct the instructions on page 1 from "the mailing information above" to "the mailing information below."

[17-080](#)**Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64 (Action Required)**

**Summary:** The Criminal Law Advisory Committee recommends that the Judicial Council

revoke form CR-187; approve forms CR-400, CR-401, and CR-402; and renumber forms CR-188 as CR-403. The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revoke form JV-745; approve forms JV-744A, JV-745, and JV-746; and revise form JV-744. These forms are designed to implement the “Control, Regulate and Tax Adult Use of Marijuana Act” (“Proposition 64”). The Judicial Council approved the current forms effective January 23, 2017, while they circulated for public comment. In response to public comments received, the committees modified the current forms, which required renumbering and/or retitling in four instances; and, developed four additional forms. These eight proposed forms are intended to modify and replace the four forms that were approved in January 2017.

**Recommendation:** The Criminal Law Advisory Committee and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council, effective July 1, 2017:

1. Revoke *Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-187) and approve *Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-400), which changes the current form CR-187 as follows:
  - a. Deletes the integrated proof of service;
  - b. Deletes the prosecuting agency response; and
  - c. Simplifies it by reducing the amount of information required of the petitioner/applicant;
2. Approve *Proof of Service for Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-401) for use by petitioners/applicants;
3. Approve *Prosecuting Agency Response to Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-402) for use by the prosecuting agency to respond to petitioner’s requested relief or to request a contested hearing;
4. Renumber *Order After Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-188) as CR-403, since the creation of the proof of service and the prosecuting agency response changed the sequencing of the forms;
5. Revise *Request to Reduce Juvenile Marijuana Offense (Prop. 64--Health and Safety Code, § 11361.8(m))* (form JV-744) to:
  - a. Delete the prosecuting agency response;
  - b. Include a request for interpreter services;
  - c. Provide direction on when to use the attachment form, JV-744A; and
  - d. Include information about where to go to learn more about record sealing;
6. Approve *Attachment to Request to Reduce Juvenile Marijuana Offense (Health and Safety Code, § 11361.8)* (form JV-744A) for applicants to list additional juvenile marijuana offenses related to the same

- petition number;
7. Approve *Prosecuting Agency Response to Request to Reduce Juvenile Marijuana Offense (Health and Safety Code, § 11361.8)* (form JV-745) to provide the prosecuting agency with a simple and efficient way to provide and file a response to the request for a new disposition or redesignation; and
  8. Revoke *Juvenile Order After Request to Reduce Marijuana Offense* (form JV-745) and approve *Order After Request to Reduce Juvenile Marijuana Offense (Prop. 64-Health and Safety Code, § 11361.8(m))* (form JV-746), which changes what is currently form JV-745 as follows:
    - a. Renumbers the form as JV-746, since the creation of the prosecuting agency response changed the sequencing of the forms;
    - b. Includes a checkbox allowing the court to reseal previously sealed files; and
    - c. Deletes the checkboxes in the header.

[17-081](#)**Juvenile Law: Implementation of Proposition 57, the Public Safety and Rehabilitation Act of 2016 (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend or repeal six California Rules of Court and revise five forms to be consistent with the recently enacted provisions of Proposition 57, the Public Safety and Rehabilitation Act of 2016. Proposition 57, which became effective on November 9, 2016, substantially amends the process by which juvenile offenders may be transferred to the jurisdiction of the criminal court by (1) eliminating the authority of prosecutors to directly file petitions in criminal court, and (2) requiring that the juvenile court hold a hearing and determine if a transfer is appropriate.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective May 22, 2017:

1. Amend rule 4.116 of the California Rules of Court concerning certification to juvenile court to delete obsolete statutory references;
2. Amend rule 5.664 of the California Rules of Court concerning training for children's counsel in delinquency proceedings to update terminology from "fitness" to "transfer of jurisdiction to criminal court";
3. Amend rules 5.766, 5.768, and 5.770 of the California Rules of Court concerning the procedures for transfer of cases from juvenile to criminal court jurisdiction to conform them to the revisions in Proposition 57;
4. Repeal rule 5.772 of the California Rules of Court concerning specified juvenile fitness hearings because its provisions are obsolete;
5. Revise *Promise to Appear--Juvenile Delinquency (Juvenile 14 Years or Older)* (form JV-635) to replace the words "police officer" with "peace officer" to be consistent with the authorizing statute;
6. Revise and retitle *Juvenile Fitness Hearing Order* (form JV-710) to

*Order to Transfer Juvenile to Criminal Court Jurisdiction (Welfare and Institutions Code, § 707)* to conform the form to the changes enacted by Proposition 57; and

7. Revise *Juvenile Wardship Petition* (form JV-600), *Initial Appearance Hearing-Juvenile Delinquency* (form JV-642), and *Juvenile Notice of Violation of Probation* (form JV-735) to delete obsolete statutory references and references to juvenile fitness hearings.

### [17-082](#)

#### **Juvenile Law: Commitment to Department of Corrections and Rehabilitation (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee proposes revising the Judicial Council order form for the commitment of a person found to be a ward eligible for commitment to the California Department of Corrections and Rehabilitation's Division of Juvenile Facilities (DJF) to ensure that the form reflects legally accurate commitment procedures. The form revisions would ensure that the court provides complete and accurate information needed for the acceptance of youth by the Division of Juvenile Facilities, thus avoiding unnecessary delays in the court's disposition orders.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective September 1, 2017, revise *Commitment to the California Department of Corrections and Rehabilitation, Division of Juvenile Facilities* (form JV-732) to guide the court in providing complete and accurate information needed for the acceptance of youth by the California Department of Corrections and Rehabilitation's Division of Juvenile Facilities, thus avoiding unnecessary delays in the court's disposition orders.

### [17-083](#)

#### **Juvenile Law: Sealing of Records (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends revising forms to conform to recently enacted statutory provisions concerning the sealing of juvenile records. The revisions would update recently adopted forms to implement sealing of records for cases sealed under Welfare and Institutions Code section 786 to include changes to that section that went into effect on January 1, 2017. In addition, two other forms with information on the sealing of juvenile records would be revised to be consistent with the current state of the law.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective September 1, 2017:

1. Revise *Juvenile Court--Information for Parents* (form JV-060) to accurately reflect recent changes in the law concerning sealing of juvenile records, transfer to criminal court jurisdiction, and commitment to the Division of Juvenile Justice (DJJ);
2. Revise *How to Ask the Court to Seal Your Records* (form JV-595-INFO) to add information about recently enacted restrictions on employers inquiring about or considering juvenile criminal history

- information;
3. Revise *Dismissal and Sealing of Records--Welfare and Institutions Code Section 786* (form JV-596) to reflect recent statutory changes allowing child welfare agencies to access sealed records in specified circumstances;
  4. Revise *Sealing of Records for Satisfactory Completion of Probation* (form JV-596-INFO) to alert those whose records are sealed that child welfare agencies may access these records when selecting a placement or services, and to add information about recently enacted restrictions on employers inquiring about or considering juvenile criminal history information; and
  5. Revise *Petition to Terminate Wardship and Order* (form JV-794) to delete an outdated notice concerning record sealing, update the findings on the form to reflect the new standard for sealing and dismissal, and add a finding that the ward has been provided mandatory information forms concerning sealing.

[17-084](#)**Family Law: Simplifying Limited Scope Representation Forms and Procedures (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends amending rule 5.425 of the California Rules of Court, approving two new forms, and revising four existing forms to simplify the procedures for an attorney to withdraw from limited scope representation upon completing the work agreed on with the client in a family law matter. The recommended simplified withdrawal procedures are likely to promote more limited scope representation in family law matters, reduce the number of hearings regarding withdrawal of counsel, and reduce the impact on case management systems in family courts.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective September 1, 2017:

1. Amend rule 5.425 to reflect the new, simplified procedures for an attorney to withdraw from representation, as well as the obligations of the client who opposes the withdrawal;
2. Revise *Notice of Limited Scope Representation* (form FL-950) to include minor formatting changes and to reflect that the limited scope attorney is expected to prepare the form;
3. Revise *Notice of Completion of Limited Scope Representation* (form FL-955) to implement the new withdrawal procedures specified in the amendments to rule 5.425;
4. Approve *Information for Client About Notice of Completion of Limited Scope Representation* (form FL-955-INFO) to provide specific information to a client about how to respond to a proposed *Notice of Completion of Limited Scope Representation* (form FL-955) and, if applicable, file and serve an *Objection to Proposed Notice of*

- Completion of Limited Scope Representation* (form FL-956);
5. Revise *Objection to Application to be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-956) to:
    - a. Retitle it to “Objection to Proposed Notice of Completion of Limited Scope Representation”;
    - b. Include hearing date information to be completed by the court clerk on filing;
    - c. Serve as the method for the client to identify the services that he or she believes the attorney has not completed; and
    - d. Include notices to the client to reduce the likelihood of disclosing information that could potentially compromise the attorney-client privilege;
  6. Approve *Response to Objection to Proposed Notice of Completion of Limited Scope Representation* (form FL-957) to be used by the limited scope attorney to indicate whether he or she agrees to continue representation or requests an order to be relieved as counsel; and
  7. Revise *Order on Application to Be Relieved as Counsel Upon Completion of Limited Scope Representation* (form FL-958) to implement the proposed new process to withdraw from limited scope representation, changing the title of the form to “Order on Completion of Limited Scope Representation” and adding new sections for the court’s findings and orders, as well as a section to note the client’s last-known address and contact information.

[17-085](#)

**Family Law: Request to Continue Hearing and Declaration Regarding Notice of Request for Temporary Emergency Orders (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends revising the form used to ask for an order to continue a hearing by expanding its use beyond cases in which temporary emergency (ex parte) orders had been previously issued. The committee also recommends revising the form used to show compliance with the notice and service requirements when requesting a temporary emergency (ex parte) order by including a new space for the date, time, and location of the proposed emergency hearing or submission of documents. The changes respond to specific suggestions from court professionals and help increase efficiencies in the way courts process requests to continue hearings and requests for temporary emergency orders.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective September 1, 2017:

1. Amend rule 5.94 of the California Rules of Court to:
  - a. Remove “and extend temporary emergency (ex parte) orders” from the title; and
  - b. Reflect revised procedures relating to continuances and use of



forms FL-306 and FL-307;

2. Revise *Declaration Regarding Notice of Service and Request for Temporary Emergency (Ex Parte) Orders* (form FL-303) to provide a space for a party to specify the hearing date requested for the no-notice hearing or the date that the party will submit the request for the court to decide based on declarations; and
3. Revoke *Request and Order to Continue Hearing and Extend Temporary Emergency (Ex Parte) Orders* (form FL-306) and replace it with two new forms, *Request to Continue Hearing* (form FL-306) and *Order on Request to Continue Hearing* (form FL-307).

### [17-091](#)

#### **Trial Court Allocations: Continued Children's Waiting Room Funds Distribution (Action Required)**

**Summary:** Effective July 1, 2014, the Superior Court of Monterey County began receiving funds to establish and maintain a children's waiting room (CWR). The court anticipated that the CWR would open during 2015-2016. However, due to lower than expected collections, the court has insufficient funds to open the CWR. The Superior Court of Monterey County is requesting to continue to receive CWR funds so that its balance can build to a sufficient level to begin operations. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve the continuation of the distribution of funds to allow the court to begin operating its CWR.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 1, 2017, approve the continuation of the distribution of CWR funds to the Superior Court of Monterey County to allow it to accumulate sufficient funding for start-up costs as well as the ongoing costs to begin operating its CWR.

### [17-092](#)

#### **Trial Court Allocations: Children's Waiting Room Funds Distribution Request (Action Required)**

**Summary:** The Superior Court of San Joaquin County is requesting a children's waiting room (CWR) distribution of \$5 per applicable paid first paper civil fee for filings within the county, effective July 1, 2017, to open a CWR in the new Stockton Courthouse beginning in 2017-2018. The Trial Court Budget Advisory Committee unanimously recommends that the Judicial Council approve a distribution of CWR funds to provide these services for the first time in San Joaquin County.

**Recommendation:** The Trial Court Budget Advisory Committee unanimously recommends that the Judicial Council, effective July 1, 2017, approve a distribution of CWR funds to the Superior Court of San Joaquin County to facilitate the opening of the court's CWR to provide these services for the first time in San Joaquin County.

## **DISCUSSION AGENDA**



[17-075](#)**Juvenile Dependency: Small Court Dependency Workload Working Group Final Recommendations (Action Required)**

**Summary:** In July 2016 the Judicial Council directed the Executive and Planning Committee to form a working group to consider changes to the court-appointed juvenile dependency counsel funding methodology as it relates to small courts. The working group recommends that the funding methodology be modified for the next two years to suspend reallocation-related budget reductions for the 23 smallest courts, adjust the local economic index for all 30 small courts, and adjust the funding allocations of those larger courts receiving increases related to the reallocation to compensate for these increases. The Judicial Council has directed the Family and Juvenile Law Advisory Committee to consider a comprehensive update of the attorney workload data and time standards used in the current workload model, and permanent revisions to the funding methodology could follow from that update and subsequent steps directed by the Judicial Council.

**Speakers:** Hon. David Rosenberg, Chair, Small Court Dependency Workload Working Group  
Mr. Don Will, Center for Families, Children & the Courts

**Recommendation:** The Small Court Dependency Workload (SCDW) Working Group recommends that:

- A. “Small courts” be defined as the 30 courts in California with the lowest child welfare caseloads. All of these courts have caseloads of fewer than 400 children in child welfare.
- B. “Smallest courts” be defined as the 23 smallest courts who were identified by the Judicial Council as exempt from reallocation-related budget reductions in fiscal year 2016-2017. All of these courts have caseloads of fewer than 200; and
- C. “Larger courts” be defined as the 28 courts not in the “small courts” group.

The SCDW Working Group also recommends, effective July 1, 2017, that:

1. Modifications be made to the Judicial Council dependency counsel workload and funding methodology as detailed in *Juvenile Dependency: Court-Appointed Dependency Counsel Workload and Funding Methodology* (Apr. 1, 2016) for fiscal years 2017-2018 and 2018-2019;
2. The 23 smallest courts continue to be exempt from reallocation-related budget reductions;
3. The Bureau of Labor Statistics employment and wages index that is less than 1.0 for any of the 30 small courts be adjusted to 1.0;
4. If the impact of these adjustments results in a small court being allocated more than 100 percent of the total need calculated through the workload and funding methodology, the court will receive an allocation equal to 100 percent of total need;
5. The budget increase for small courts related to recommendations 2 and 3 be offset by reducing the funding allocations of those larger courts receiving increases related to the ongoing reallocation; and

6. The \$100,000 reserve for caseload fluctuations in small courts be continued.

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

### 17-072

#### **Fiscal Year 2017-2018 Allocations from the State Trial Court Improvement and Modernization Fund (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee recommends that the Judicial Council approve \$73.457 million in allocations from the State Trial Court Improvement and Modernization Fund for fiscal year 2017-2018.

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

**Recommendation:** The Trial Court Budget Advisory Committee (TCBAC) is unanimously recommending that the Judicial Council adopt the following recommendation:

1. Adopt the following in fiscal year 2017-2018 from the State Trial Court Improvement and Modernization Fund (IMF): allocate \$73.457 million; \$6.194 million from State Operations and \$67.263 million from Local Assistance. (see Attachment B, columns G, E and F).
  - a. TCBAC recommendation to the council related to 2017-2018 IMF allocations are contingent upon the Budget Act of 2017, including \$4.1 million General Fund monies for the Sustain Justice Edition Case Management System BCP.
  - b. 2017-2018 Allocations for All Programs except Legal Services Office and Information Technology (IT)
    - i. Approve allocation levels as provided in Attachment B (column G), totaling \$11,416,969.
    - ii. Approve adjustments within the Center for Judiciary Education and Research (CJER) allocations for a net zero increase in CJER's total allocation: Increase CJER Faculty by \$17,000; increase Essential Court Personnel by \$42,000; increase Judicial Education by \$39,000 and decrease Distance Education by \$98,000.
    - iii. Approve decrease of \$45,532 in the IT element of the Phoenix Program to recognize cost savings.
  - c. 2017-2018 Allocations of \$7,070,000 for Legal Services Office
    - i. Approve increase of \$183,400 in Judicial Performance Defense Insurance allocation to address anticipated increase in premium costs.
    - ii. Approve increase of \$252,080 in the Litigation Management Program to address costly on-going cases as well as increased litigation fees and costs.
    - iii. Approve decrease of \$350,000 to the Regional Office Assistance Program to reflect savings from position

- vacancies.
- iv. Total allocation reflects a net increase of \$85,480 over 2016-2017 allocation level.
- d. 2017-2018 Allocations for Information Technology (including the Telecommunications Office)
- i. Approve total allocation of \$54,970,011 for Information Technology.
  - ii. This allocation includes one-time funding of \$9,200,000 for the Case Management System V3 replacement BCP and \$572,622 for the Madera Superior Court transition. It also includes the reversal of \$13,535,611 in 2016-2017 one-time allocations of \$12.3 million for the V3 replacement BCP, \$736,500 for the Placer Court Hosting Project and \$399,111 for the Humboldt transition funding.
  - iii. The amount of \$4.1 million for the Sustain Justice CMS BCP that is in the proposed 2017-2018 Budget Act is included in the allocation.
  - iv. This allocation includes the net decrease of \$4,265,611 in on-going funding, including a projected savings of \$864,029 in the Telecommunications Program. IT indicates that these savings will be needed in future years for the Telecommunications Program.
  - v. This allocation includes revised funding levels for the California Court Protective Order Registry (CCPOR). The proposed allocation in 2017- 2018 reflects anticipated savings of \$23,886 from the 2016-2017 funding level and includes the proposed expansion of CCPOR into the superior courts of Orange county and Sacramento county.

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

### [17-093](#)

#### **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 seven new requests from six trial courts and three amended requests from three trial courts for Trial Court Trust Fund 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 Trial Court Trust Fund 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 \$7.8 million. The council will be informed of any final adjustments to the estimated amounts after 2016-2017 year-end.

**Speakers:** Mr. Zlatko Theodorovic, Budget Services

**Recommendation:** Based on actions taken at its April 13, 2017, meeting, the Trial Court Budget Advisory Committee's (TCBAC's) Fiscal Planning Subcommittee recommends that the Judicial Council, effective May 19, 2017:

1. Allocate and designate \$7,845,184 in Trial Court Trust Fund fund balance to be held on behalf of the following courts:
  - a. \$350,000 to be held for the Superior Court of Colusa County;
  - b. \$2,000,000 and \$3,200,000 to be held for the Superior Court of Los Angeles County;
  - c. \$1,718,000 to be held for the Superior Court of San Bernardino County;
  - d. \$447,147 to be held for the Superior Court of San Francisco County;
  - e. \$80,837 to be held for the Superior Court of Sutter County; and
  - f. \$49,200 to be held for the Superior Court of Tulare County.

These funds will be reduced from the courts' allocation as a result of the 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.

2. Approve the amended requests of the Superior Court of Glenn County, Superior Court of Placer County, and Superior Court of Sonoma County. These funds have been reduced and reallocated from the courts' allocation in 2016-2017 as a result of the 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 1.

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

## INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[17-063](#)

### **California's Language Access Plan: Update on Language Access in the Courts of Appeal and Supreme Court**

**Summary:** Recommendation 67 of the Judicial Council's *Strategic Plan for Language Access in the California Courts* states that the "California Courts of Appeal and Supreme Court of California should discuss and adopt applicable parts of [the] Language Access Plan [LAP] with necessary modifications." The Language Access Plan Implementation Task Force and Judicial Council staff convened the Ad Hoc Working Group on Language Access in the Supreme Court and Appellate Courts, consisting of appellate court justices and appellate and supreme court staff, to identify LAP recommendations that would be suitable for adoption by the Courts of Appeal and Supreme Court. This update describes the group's findings and next steps.

[17-071](#)

### **Trial Courts: Quarterly Investment Report for First Quarter of 2017**

**Summary:** This *Trial Courts: Quarterly Investment Report for First Quarter of 2017* covers the period of January 1, 2017, through March 31, 2017, 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.

[17-087](#)

**Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, 68106-Report No. 41)**

**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 41st report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, three superior courts--Santa Clara, Yuba, and Kings Counties--have issued new notices.

**There were no Circulating Orders since the last business meeting.**

### Appointment Orders

[17-090](#)

**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. Terry K. Cole (Ret.), Superior Court of California, County of Stanislaus
- Hon. Donald B. Constine (Ret.), Superior Court of California, County of San Francisco
- Hon., Daniel A. Curry (Ret.), Court of Appeal, Second Appellate District, Division Four
- Hon. Robert L. La Font (Ret.), Superior Court of California, County of Los Angeles
- Hon. John W. McOwen (Ret.), Superior Court of California, County of Orange
- Hon. John G. O'Rourke (Ret.), Superior Court of California, County of Kings
- Hon. Richard Schauer (Ret.), Court of Appeal, Second Appellate District, Division Seven
- Hon. Jerome A. Smith (Ret.), Court of Appeal, First Appellate District, Division Two

- Hon. Lillian M. Stevens (Ret.), Superior Court of California, County of Los Angeles

## Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:40 a.m.

*Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on July 28, 2017.*