



Judicial Council of California

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

Meeting Minutes

Meeting materials
are available through
the hyperlinks in
this document.

Judicial Council

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

*Requests for ADA accommodation should be directed to
JCCAccessCoordinator@jud.ca.gov*

Thursday, November 16, 2017

12:45 PM

Sacramento

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 12:45 p.m.

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

Attendance

Council Members

- Present:** 26 - Chief Justice Tani G. Cantil-Sakauye, Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Justice Marsha G. Slough, Presiding Judge Patricia M. Lucas, Presiding Judge C. Todd Bottke, Assistant Presiding Judge Gary Nadler, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Harold W. Hopp, Judge Stuart M. Rice, Judge David M. Rubin, Judge Kenneth K. So, Senator Hannah-Beth Jackson, Commissioner Shama Hakim Mesiwala, Mr. Jake Chatters, Ms. Kimberly Flener, Mr. Michael M. Roddy, Ms. Andrea K. Wallin-Rohmann, Ms. Rachel W. Hill, Ms. Audra Ibarra, Mr. Patrick M. Kelly, and Ms. Gretchen Nelson
- Absent:** 5 - Justice Ming W. Chin, Assistant Presiding Judge Kevin C. Brazile, Judge Marla O. Anderson, Judge Dalila Corral Lyons, and Assembly Member Richard Bloom

Others Present

Mr. Glenn Bacler, Mr. Donté Bhia, Ms. Stanicia Boatner, Ms. K. Brianey Boatner, Mr. Nick Brow, Mr. Daniel Felizzatto, Ms. Adlemy Garcia, Mr. Sean Hoffman, Mr. Chase Hopkins, Ms. Jennifer Lentz Snyder, Ms. Pam Reynolds, Mr. Curt Soderlund, Ms. Carolyn Veal-Hunter, Ms. Zoe Willmott, and Ms. Ja Zhue Ull

Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 2:45 p.m. in Veranda Rooms A, B, and C on the fourth floor of the Sacramento office of the Judicial Council of California.

Opening Remarks

The Chief Justice opened the first day of the two-day session by providing remarks related to an issue that has been a concern to her, which is money bail. She voiced her concern about its disproportionately negative impact on the poor and Californians from certain ethnic backgrounds. The Chief Justice appointed the Pretrial Detention Reform Workgroup in October 2016 to study pretrial detention practices and to provide recommendations for potential reforms. The workgroup's charge was to seek input from criminal justice stakeholders, advocacy organizations, and bail industry representatives, and to report back to her by December 2017. The workgroup accomplished this charge and delivered the report and recommendations to her ahead of time in mid-October. The workgroup consisted of 12 members with a variety of backgrounds. The Chief added that the dedicated group spent a year studying the current bail system from every angle, hearing from more than 40 groups. The Chief acknowledged the authors of the comprehensive report, a report she noted that has never been done before in California, and expressed her gratitude to the Judicial Council staff who also assisted the workgroup.

The Chief Justice reported that after much study and discussion, the workgroup reached a unanimous conclusion: that California's pretrial system compromises victim and public safety and that the current system of money bail should be replaced with one based on an accused's risk to the public. The recommendations would also expand the information and tools available to judges while ensuring that judges keep and retain their final authority over who is released or detained before trial. The Chief Justice added that the recommendations will serve as a much-needed framework as Governor Brown and the Legislature are consulted to create a solution that protects the public and ensures court appearances while promoting fair and equal access to justice for all Californians. Lastly, the Chief Justice confirmed her support for the workgroup's conclusions that a pretrial system that relies on the financial resources of the accused is inherently unsafe and unjust.

Public Comment

Ms. Mica Doctoroff, Ms. Robin Lipetzky, Ms. Krista Niemczyk, Mr. Stephen Wagstaffe, and Ms. Tiffany Whiten presented comments on Discussion Agenda Item 17-185--Pretrial Detention Reform Workgroup: Recommendations.

DISCUSSION AGENDA

[17-185](#)

Pretrial Detention Reform Workgroup: Recommendations (No Action Required)

Summary: The Chief Justice appointed the Pretrial Detention Reform (PDR) Workgroup in October 2016 to look at ways that courts may identify ways to make better release decisions that will treat people fairly, protect the public, and ensure court

appearances. The workgroup presented its report to the Chief Justice on October 16, 2017. At the Chief Justice's request, the Workgroup will present their process, findings, and recommendations to the Judicial Council.

Speakers: Hon. Brian J. Back, Cochair, Pretrial Detention Reform Workgroup
Hon. Lisa R. Rodriguez, Cochair, Pretrial Detention Reform Workgroup
Hon. Brian L. McCabe, Superior Court of Merced County
Ms. Shelley Curran, Criminal Justice Services

No action required for this discussion agenda item at this time.

Retirement of Judicial Council Chief of Staff

The Chief Justice acknowledged the retirement of Ms. Jody Patel, the Judicial Council's Chief of Staff, who had dedicated over 40 years of public service to California's executive and judicial branches. The Chief presented a Judicial Council resolution to Ms. Patel symbolic of the branch's gratitude. Ms. Patel oversaw many changes and difficult projects, such as the Phoenix Financial System, Open Meetings, the Resource Allocation Study, Workload Allocation Funding Methodology, Court Innovations Grant Program, and the Future of California's Court System. The Chief added that Ms. Patel served an invaluable role and made a tremendous contribution to those projects and others, especially to the latest--the Commission on the Future of California's Court System--as she has seen so much of the court system and knows where the branch needs to go in the future.

Administrative Director Martin Hoshino also thanked Ms. Patel for her accomplishments and contributions in public service. He recognized her as a true American female pioneer of Indian descent, who had achieved high levels of accomplishment in government service over a 40-year career. Many Judicial Council members also expressed their gratitude to Ms. Patel for her years of service.

Ms. Patel accepted the Judicial Council's resolution and thanked the many people who have come into her life and influenced her. She expressed her deepest appreciation to the Judicial Council staff, recognizing their resiliency and dedication, as well as colleagues she has worked with and who helped her tremendously throughout her career and today are some of her closest friends. Ms. Patel also acknowledged past council members, judges, justices, court executive officers, and staff. She added that she has had the honor to have had great leadership and has been blessed to work with some of the best in the court system. Lastly, Ms. Patel also recognized the support from her family and friends.

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 4:20 p.m.



Judicial Council of California

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

Meeting Minutes

Judicial Council

Meeting materials
are available through
the hyperlinks in
this document.

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

*Requests for ADA accommodation should be directed to
JCCAccessCoordinator@jud.ca.gov*

Friday, November 17, 2017

9:00 AM

Sacramento

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

Attendance

Council Members

- Present:** 26 - Chief Justice Tani G. Cantil-Sakauye, Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Presiding Judge Patricia M. Lucas, Presiding Judge C. Todd Bottke, Assistant Presiding Judge Gary Nadler, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Harold W. Hopp, Judge Stuart M. Rice, Judge David M. Rubin, Judge Kenneth K. So, Senator Hannah-Beth Jackson, Assembly Member Richard Bloom, Commissioner Shama Hakim Mesiwala, Mr. Jake Chatters, Ms. Kimberly Flener, Mr. Michael M. Roddy, Ms. Andrea K. Wallin-Rohmann, Ms. Rachel W. Hill, Ms. Audra Ibarra, Mr. Patrick M. Kelly, and Ms. Gretchen Nelson
- Absent:** 5 - Justice Ming W. Chin, Justice Marsha G. Slough, Assistant Presiding Judge Kevin C. Brazile, Judge Marla O. Anderson, and Judge Dalila Corral Lyons

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 Veranda Rooms A, B, and C on the fourth floor of the Sacramento office of the Judicial Council of California.

Public Comment

Ms. Barbara Bartoshuk, Ms. Lynn Gavin, Ms. Kathleen Russell, and Mr. Hazart Sanker presented comments on general judicial administration.

Approval of Minutes

[17-173](#)

Minutes of the September 14-15, 2017, Judicial Council meeting.

A motion was made by Presiding Judge Bottke, seconded by Mr. Kelly, that this proposal be approved. The motion carried by a unanimous vote with an abstention by Judge Rubin and Senator Jackson.

Chief Justice's Report

The Chief Justice summarized her engagements since the last meeting in September and began her comments by acknowledging that the national, state, and local bar associations and organizations have been key stakeholders and supporters of the efforts in the judicial branch for the last decade. She added that these associations and organizations have supported the advocacy efforts in the capital and the access to justice programs and services locally and statewide in the courts and communities.

In Chicago, the Chief Justice was a panelist for a celebration of Constitution Day hosted by the American Bar Association Business Law Section where she spoke about the Judicial Council's Commission for Impartial Courts and the ongoing need for outreach and education about the role of an impartial court, as well as on the California Task Force on K-12 Civic Learning.

The Chief Justice noted that civic judicial education was also an important theme at the California Chapters of the American Board of Trial Advocates (Cal-ABOTA) Teachers Law School at the Anthony M. Kennedy Library and Learning Center in Sacramento. The educators were interested in the judicial branch, civic engagement efforts, and topics relating to the separation of powers and checks and balances, trial by jury, and a career path to being a judge. Also, while in Sacramento during the November oral argument, the Chief attended the Women Lawyers of Sacramento reception for the Supreme Court of California. The Chief reported that she also participated in a Q&A session in Sacramento with fellow colleagues from the Court of Appeal as part of their Third Appellate District Conference. The discussion topics included the duties of a Chief Justice, diversity on the courts, recent developments in the judicial branch, and civics education.

In San Francisco, the Chief Justice participated in a panel discussion hosted by the Women Attorneys Advocacy Project and the Federal Bar Association's Northern District of California Chapter titled "Views from the Court: When Judges Talk, Lawyers Listen." The Chief, along with other panelists, shared their insights and issues specific to women attorneys, as well as general practice tips. Also in San Francisco, the Chief Justice swore in the new officers and board at the 43rd Annual Dinner of the California Women Lawyers. She also participated in an interview during the Inaugural Litigation Summit held by the Litigation Section of the State Bar.

In Berkeley, the Chief Justice attended the "Federalism Now" conference hosted by Berkeley Law in partnership with the Institute of Governmental Studies, the Federalist Society, the American Constitution Society, the bar associations of San Francisco and Alameda, and the Aspen Institute. She had a conversation with California Constitution Center Director David Carillo and discussed current event topics including the interplay between the state and federal Constitutions and the impact of federal policies

on local and state jurisdictions.

While in Southern California, the Chief Justice attended the Orange County Bar Association's and Pacific Club's Distinguished Speakers Series in Newport Beach. She had a Q&A session with retired Justice William Rylaarsdam, Court of Appeal, Fourth Appellate District, titled "The Status and Future of the California Supreme Court." She also participated in the Long Beach Bar Association's 100th Anniversary Celebration, which was dedicated to former Governor George Deukmejian.

Serving as an honorary member on the board of the directors of the Foundation for Democracy and Justice, the Chief Justice participated in a reception in Los Angeles honoring the judicial officers of the Superior Court of Los Angeles County and Presiding Judge Daniel Buckley. She recognized them for their service to the community inside and outside of the courtroom. While in Los Angeles, the Chief Justice also received the Legal Aid Foundation of Los Angeles Maynard Toll Award, which recognizes public service.

In Pomona, the Chief Justice participated in a Q&A session as part of the 2017 Assigned Judges Program Conference. The conferences, held every three years, ensure that assigned judges are up to date on substantive law and procedural topics. This year's featured sessions included qualifying ethics, updates on all case types, and workshops on topics including search and seizure and domestic violence restraining orders. The Chief expressed her gratitude for the participation of approximately 170 judges and the work of the faculty of 15 active and retired judicial officers in maintaining the high quality of education and service of the program.

The Chief Justice, along with Administrative Director Martin Hoshino, attended the Judicial Council staff 2017 Management Team Meeting, which provided her an opportunity to share the council's collective gratitude for the work that the Judicial Council staff does on behalf of the initiatives, advisory committees, and council meetings.

As part of learning and education outside of the courtroom, the Chief Justice participated in two appellate practice webinars hosted by the Judicial Council's Center for Judicial Education and Research. Lastly, the Chief Justice contributed to a post to the inaugural *Harvard Law Review* blog on the topic of the cost of money bail to justice.

Administrative Director's Report

[17-174](#)

Administrative Director's Report

Administrative Director Martin Hoshino highlighted several items from his written

report and provided additional background. Mr. Hoshino reported on some of the budget activities since the last meeting, which included sending the council-approved budget change proposals to the Department of Finance in time for the fall development process of the state budget, building up to the Governor's Proposed Budget to be released on January 10, 2018. He added that budget discussions have been productive and noted the support by the trial courts and appellate courts in responding to inquiries.

Mr. Hoshino shared with members the most recent *Court Statistics Report* currently published on the California Courts website. He stated that the report shows that there were 6.2 million cases filed statewide in fiscal year 2015-16, which represents a 9% decline over the past year. Mr. Hoshino explained that the 9% is a gross decline, the majority of which is driven by limited jurisdiction cases such as criminal infractions and traffic matters that tend to be, on average, much less complex and resource-intensive for courts. He added that these cases also represent a higher volume and, as a result, reduce the overall gross number.

Mr. Hoshino also highlighted some of the activities of Judicial Council staff in court facilities operations. The vast portfolio of facilities managed by the Facilities Services office, 21 million square feet, consists of courthouses ranging in size from one courtroom to 100 courtrooms. The staff is managing more than 500 different facility modifications and service orders. Mr. Hoshino expressed his gratitude for the work of the facilities staff who provide statewide court construction and maintenance to keep the court facilities operational.

Remarks from the Chief Justice and the Administrative Director on the Northern California Wildfires

The Chief Justice reported that the Northern California wildfires burned an estimated 200,000 acres, destroyed more than 8,400 homes and businesses, changed the lives of thousands of people, and claimed the lives of approximately 43 people. She noted that the fires had a devastating impact on local communities in Butte, Lake, Napa, Sonoma, and Yuba Counties. She stated that the local courts are a vital part of all the communities and confirmed that no court facilities were destroyed, but the fires forced certain court closures and home evacuations for many court employees and staff. Various Judicial Council offices worked to assist the courts to determine what they needed and how they could receive services on the ground. This included providing legal advice on emergency orders and powers for presiding judges, extending court filings and hearing deadlines, assisting employees on benefits, addressing IT issues, overseeing facility needs, environmental testing of court buildings affected by the fires, and the like.

Mr. Hoshino added that at least 13 members of the extended court family lost their homes in the fires in Sonoma and Mendocino Counties. In an effort to provide some

direct assistance, Mr. Hoshino informed members that a fundraising drive run by Judicial Council staff will be coordinated for donation efforts to provide direct assistance to those employees who lost their homes.

Judicial Council Statewide Update

[17-228](#)

Judicial Council Members' Statewide Updates

Summary: Judicial Council members present updates on statewide judicial branch initiatives outside of internal committee or other advisory body work.

Assistant Presiding Judge Gary Nadler reported on an overview of the Northern California wildfires.

Judicial Council Committee Presentations

[17-175](#)

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 Stacy Boulware Eurie, member of the Executive and Planning (E&P) Committee, reported that one of the oversight roles of E&P is to review nominations to the council and its committees before sending recommendations to the Chief Justice. She added how critically important the committees are as they provide recommendations and leadership that are not only representative of the branch's goals, but also reflective of the dynamic and varied backgrounds of the members of the branch. During this period, E&P sent one recommendation to fill a vacancy in one council-affiliated committee, the Tribal Court-State Court Forum. As a result, the Chief Justice has appointed Ms. Heather Hostler, Director, Office of Tribal Affairs at the California Department of Social Services, to the forum. Judge Boulware Eurie provided additional information on the committee, including establishment, charge, and member information.

Policy Coordination and Liaison Committee

Judge Kenneth K. So, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee met twice since the last meeting. On October 5,

the committee approved the Judicial Council's 2017 legislative priorities and adopted the 2017 Legislative Policy Summary. During the same meeting, Judge So reported that the committee approved the submission of a council report by the Dual-Status Youth Data Standards Working Group. He added that these items and other council-sponsored legislation that were approved at a previous PCLC meeting are on the November 17 business meeting agenda. PCLC also met on November 16 and reviewed one proposal for Judicial Council sponsorship on interpreters and small claims cases and a report to the Legislature on the child support guideline review study. Judge So reported that both were approved and will be presented to the council at the January 2018 business meeting. Judge So added that the Governor signed six of the Judicial Council-sponsored measures and indicated that five of the Judicial Council-sponsored bills became two-year bills. He concluded his report with a reminder that the Legislature will reconvene January 3, 2018, for the second year of the 2017-18 session.

Rules and Projects Committee

Justice Harry E. Hull, Jr., chair of the Rules and Projects Committee (RUPRO), reported that the committee met twice by conference call and conducted one action by e-mail since the council meeting in September. During the October 3 teleconference, RUPRO met to consider a proposal related to the Language Access Representative and language access services complaints. RUPRO recommended approval of the proposal, which is on the November 17 business meeting agenda as consent item 17-183. On October 24, RUPRO met by telephone to consider the annual agendas of the advisory committees that RUPRO oversees. RUPRO also considered eight proposals, four of which had circulated for public comment. Justice Hull noted that three proposals dealt with technical changes to rules and forms and one proposal dealt with making minor revisions to civil jury instructions, a proposal for which the council has delegated authority to RUPRO to approve. RUPRO approved all advisory committee annual agendas and recommended approval of the seven proposals on the November 17 business meeting agenda as consent items 17-213, 17-214, 17-215, 17-216, 17-217, 17-200, and 17-222. On November 13, RUPRO acted by e-mail to approve the Uniform Bail and Penalty Schedules for 2018. In addition, newly appointed RUPRO members met in person on November 15 for a new member orientation.

Justice Hull reported that RUPRO has begun the process of creating and organizing a Proposition 66 work group that, due to the short timeline as required by the law, will report directly to RUPRO. He added that the passage of Proposition 66 in 2016 brought changes in California law relating to death penalty cases. Known as the Death Penalty Reform and Savings Act of 2016, the law became effective on October 25, 2017. The law was immediately challenged in *Briggs v. Brown*, which was decided by the California Supreme Court in August 2017. The act requires the Judicial Council to adopt, within 18 months of the act's effective date, court initial rules and

standards of administration designed to expedite the processing of capital appeals and state habeas corpus review. The Proposition 66 Rules Working Group will assist the council in fulfilling its rule-making obligation under the act.

Judicial Council Technology Committee

Judge Kyle S. Brodie, the Judicial Council Technology Committee (JCTC) vice-chair, reported on the activities of JCTC since the September meeting. On October 16, the JCTC met by conference call and received an update on the Information Technology Advisory Committee's (ITAC's) activities and their continued progress on the Placer Court Hosting Consortium. The committee also reviewed amendments to the California Rules of Court that are designed to improve consistency between the rules and Code of Civil Procedure sections governing electronic service and electronic filing. Judge Brodie confirmed that the committee recommended approval of those amendments that were on the November 17 business meeting agenda.

Judge Brodie reported that ITAC had met twice during this reporting period. During one of the meetings, they reviewed the final deliverables for the Disaster Recovery Framework Workstream, which includes a Disaster Recovery Framework, Adaptable Disaster Recovery Plan, a "how-to guide," and budget change proposal recommendations.

During this reporting period, Justice Slough, chair of the JCTC, attended the quarterly Chief Information Technology Management Forum for court chief information officers (CIOs) held in the new courthouse in Alameda County.

On November 6, JCTC and ITAC held a joint orientation for members by teleconference. The agenda included information on the committee's charge, the council's committee governance structure, and strategic and tactical plans for technology, as well as the ITAC annual agenda. Judge Brodie reported that on November 16, ITAC met in person for an educational session focusing on strategic and tactical plans, which are due for revision in 2018. He added that the committee has invited courts to participate in three different initiatives: updating the strategic and tactical Plans, a pilot program for five courts to digitize their paper case files, and the Jury Management System Grant Program.

Judicial Branch Budget Committee

Judge David M. Rubin, chair of the Judicial Branch Budget Committee (JBBC), reported on the activities of the JBBC during the presentation on discussion agenda item 17-211: Quarterly Report on the Judicial Council's Court Innovations Grant Program, Fiscal Year 2017-18, Quarter 1. During his presentation, he 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. Judge Rubin also acknowledged new and outgoing members of the committee. Since the September meeting, JBBC held one meeting on November 15, in which the committee discussed issues related to the Court Innovations Grant Program, Judge Rubin reported. The committee also received an overview of the work of the Trial Court Budget Advisory Committee presented by the committee chair Judge Jonathan Conklin. Judge Rubin added that Ms. Rebecca Fleming, who cochairs the Funding Methodology Subcommittee, presented information on the new funding methodology for trial courts that will be implemented in 2018-19.

Judicial Council Members' Liaison Reports

[17-177](#)

Judicial Council Members' Liaison Reports

Summary: Judicial Council members report on their visits to the superior courts.

Justice James M. Humes reported on his visit to the Superior Court of Marin County. Judge Boulware Eurie presented on the Superior Courts of Butte and Sutter Counties.

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 with an abstention by Senator Jackson for items 17-202, 17-203, 17-204, 17-205, 17-206, 17-207, and 17-208 on the Consent Agenda.

[17-182](#)

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

Summary: The Judicial Branch Workers' Compensation Program Advisory Committee recommends approval to revise the workers' compensation premium methodology for fiscal year 2018-19. This change will result in stabilizing program administrative costs.

Recommendation: The Judicial Branch Workers' Compensation Program (JBWCP) Advisory Committee (Committee) recommends that the Judicial Council, effective November 17, 2017:

1. Approve the revised premium formula for calculating:
 - a. Claims Handling Fees. Allocate based on 80 percent of losses and 20 percent of percent of payroll to trial courts and the state judiciary, with trial court judges now included with the state judiciary.
 - b. Brokerage and Consulting Fees. Allocated based on percentage of payroll to trial courts and state judiciary, with trial court judges now included with the state judiciary.

[17-183](#)

Language Access: Language Access Representatives and

Language Access Services Complaints (Action Required)

Summary: The Language Access Plan Implementation Task Force recommends that the Judicial Council adopt rules 2.850 and 2.851 of the California Rules of Court to require each superior court to (1) designate a Language Access Representative, and (2) adopt a language access services complaint form and complaint procedures. The new rules support Recommendations 25, 62, and 63 in the *Strategic Plan for Language Access in the California Courts*, adopted by the council in January 2015.

Recommendation: The Language Access Plan Implementation Task Force (Task Force) recommends that the Judicial Council, effective January 1, 2018, adopt:

1. Rule 2.850 of the California Rules of Court to require each superior court to designate a Language Access Representative; and
2. Rule 2.851 of the California Rules of Court to require each superior court to establish a complaint form and procedures to allow limited English proficient (LEP) court users, their advocates and attorneys, or other interested persons to submit a complaint to the Language Access Representative about the court's provision of, or failure to provide, appropriate language access services, including issues related to superior court-produced translations.

[17-188](#)**Judicial Council Report to the Legislature: Annual Report of Court Facilities Trust Fund Expenditures, 2016-17 (Action Required)**

Summary: Judicial Council staff recommend approving the *Annual Report of Court Facilities Trust Fund Expenditures: 2016-17 Report to the Legislature Under Government Code Section 70352(c)*. Government Code Section 70352(c) requires that the Judicial Council report to the Legislature annually all expenditures from the Court Facilities Trust Fund after the end of each fiscal year.

Recommendation: Judicial Council staff recommend that the Judicial Council:

1. Approve the *Annual Report of Court Facilities Trust Fund Expenditures: 2016-17 Report to the Legislature Under Government Code Section 70352(c)*; and
2. Direct Judicial Council staff to submit the report to the Legislature.

[17-189](#)**Judicial Council Report to the Legislature: Dual-Status Youth Data Standards Working Group Report (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the report of the Dual-Status Youth Standards Working Group (the Working Group) for submission to the Legislature. Assembly Bill 1911 ([Eggman]; Stats. 2016, ch. 637) required the council to convene a prescribed group of stakeholders to define data elements and outcome tracking for youth involved in the dependency and delinquency system, and report to the Legislature by January 1, 2018. In compliance with that mandate, members of the committee

volunteered to participate in the Working Group along with various justice partners.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the report of the Working Group, entitled *Dual-Status Youth Data Standards (AB 1911): 2017 Report to the Legislature*, for submission to the Legislature by January 1, 2018.

[17-191](#)

Judicial Council Report to the Legislature: State Trial Court Improvement and Modernization Fund Expenditures for 2016-17 (Action Required)

Summary: Judicial Council staff recommend approval of the *Report of State Trial Court Improvement and Modernization Fund Expenditures for 2016-17* for transmittal to the Legislature. Government Code section 77209(i) requires the Judicial Council to report annually to the Legislature on the use of the State Trial Court Improvement and Modernization Fund and include any appropriate recommendations.

Recommendation: Judicial Council staff recommend that the Judicial Council, effective November 17, 2017:

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

[17-192](#)

Judicial Council Report to the Legislature: Statewide Collection of Delinquent Court-Ordered Debt for Fiscal Year 2016-17 (Action Required)

Summary: Penal Code section 1463.010(c) requires the Judicial Council to report the extent to which each court or county collections program is following best practices, the programs' performance, and any changes necessary to improve performance of collection programs statewide.

Recommendation: Judicial Council staff recommend that the Judicial Council:

1. Approve the attached report, *Report on the Statewide Collection of Delinquent Court-Ordered Debt for FY 2016-2017*; and
2. Direct Judicial Council staff to submit the report to the Legislature.

[17-196](#)

Uniform Bail and Penalty Schedules: 2018 Edition (Action Required)

Summary: The Traffic Advisory Committee recommends revisions to the Uniform Bail and Penalty Schedules, effective January 1, 2018. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Under rule 4.102 of the California Rules of Court, trial courts, in performing their duty under Penal Code section 1269b, must revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions is established by the schedules adopted by the

Judicial Council (the council).

Recommendation: The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2018, adopt the revised *Uniform Bail and Penalty Schedules, 2018 Edition*.

17-200

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

Summary: The Advisory Committee on Civil Jury Instructions recommends approving for publication the new, revised, renumbered, and revoked 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 November 17, 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 2018 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

17-202

Judicial Council-Sponsored Legislation: Access to Juvenile Case File for Purposes of Appellate Proceedings (Action Required)

Summary: The Policy Coordination and Liaison Committee and Appellate Advisory Committee recommend that the Judicial Council sponsor legislation to amend Welfare and Institutions Code section 827, which specifies who may access and copy records in a juvenile case file, to clarify that people who are entitled to seek review of certain orders in juvenile proceedings or who are respondents in such appellate proceedings may, for purposes of those appellate proceedings, access and copy those records to which they were previously given access by the juvenile court. The proposed amendment would also clarify that either the juvenile court or the Court of Appeal may permit such individuals to access and copy additional records in the juvenile case file.

Recommendation: The Policy Coordination and Liaison Committee and Appellate Advisory Committee recommend that the Judicial Council sponsor legislation to amend Welfare and Institutions Code section 827 to provide that:

1. Any individual not otherwise entitled under section 827 to access a juvenile court case file who files a notice of appeal or writ petition challenging a juvenile court order, or who is a respondent in such an appeal or writ proceeding, may, for purposes of the appeal or writ proceeding, inspect and copy any records in the juvenile case file to which the individual was previously granted access by the juvenile court, including any such records or portions thereof that are made a part of the appellate record;
2. The current requirements of section 827(a)(3) regarding release of a

juvenile court case file to individuals not otherwise entitled to access under the statute apply if the individual seeks access to any other record or portion thereof in the juvenile case file or made a part of the appellate record, except that a petition seeking release may be filed in, and release of records ordered by, either the juvenile court or the Court of Appeal; and

3. Documents received under this proposed amendment are subject to the confidentiality requirements established by section 827(a)(4).

[17-203](#)

Judicial Council-Sponsored Legislation: Temporary Emergency Gun Violence Restraining Orders (Action Required)

Summary: The Policy Coordination and Liaison Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council sponsor legislation to amend the statutes setting forth the procedure for issuing a temporary emergency gun violence restraining order, specifically Penal Code sections 18140 and 18145. The amendments would replace the procedural requirement for obtaining an order orally with requirements set forth directly within the gun violence prevention statutes, which would parallel the requirements for emergency orders obtained in domestic violence cases and clarify the procedures for law enforcement officers and the court to follow. This change, which was initiated as the result of concerns expressed by a judicial officer as to whether the current procedure complied with the statute, would not in any way change the factual assertions required of the officer or the findings required of the judicial officer for the order to issue.

Recommendation: The Policy Coordination and Liaison Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council sponsor legislation to:

1. Amend subdivision (a) of Penal Code section 18145 by switching the order of current paragraphs (1) and (2) to place *oral* issuance of emergency orders in the primary position with a written process authorized if time and circumstances permit.
2. Further amend subdivision (a) of Penal Code section 18145 to provide that a judicial officer may orally issue an emergency order based on the statements of a law enforcement officer in accordance with the amended subdivision (a) of Penal Code section 18140.
3. Amend subdivision (a) of Penal Code section 18140 to require that, if the emergency order is obtained orally, the law enforcement officer “sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer” on the Judicial Council form, as well as memorialize the order, as already required.

[17-204](#)

Judicial Council-Sponsored Legislation: Authorization for Fees for Electronic Filing and Service in the Appellate Courts (Action Required)

Summary: The Policy Coordination and Liaison Committee and the Administrative Presiding Justices Advisory Committee recommend that the Judicial Council sponsor legislation to amend the Government Code sections relating to appellate court fees to (1) clarify that an appellate court or its electronic filing service provider may charge a reasonable fee for e-filing services; (2) allow an appellate court in a contract with an e-filing service provider to contract to receive a portion of the fees collected by that provider; and (3) authorize the appellate courts to charge a fee to recover costs incurred for providing e-filing. People entitled to fee waivers would not be subject to any of the fees provided for in the legislation.

Recommendation: The Policy Coordination and Liaison Committee and Administrative Presiding Justices Advisory Committee recommend, effective November 17, 2017, that the Judicial Council sponsor legislation to:

1. Amend Government Code section 68930 to provide that:
 - a. An appellate court that contracts, individually or jointly with other courts, with an electronic filing service provider to furnish and maintain an e-filing and service system may allow the provider to charge electronic filers a reasonable fee in addition to the court's filing fee and may contract with the e-filing service provider to receive a portion of those fee revenues;
 - b. The court may also charge a fee to recover its costs; and
 - c. These authorized fees may not be charged to any party who has been granted a fee waiver and may be waived in other circumstances on a finding of good cause;
2. Amend Government Code section 68929 to relocate the provision for the fee for certification from section 68930 to subdivision (a) of section 68929 and move the current provisions in section 68929 on the fee for comparing documents to subdivision (b) of that section; and
3. Amend Government Code section 68933, which establishes the Appellate Court Trust Fund and identifies the fees collected by the Courts of Appeal and the Supreme Court that are to be deposited in that fund, to specify that any fee revenue from amended section 68930(a)(1) must be placed in the fund.

[17-205](#)

Judicial Council-Sponsored Legislation (Criminal Procedure): Electronic Arrest and Search Warrants (Action Required)

Summary: The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend amending Penal Code sections 817 and 1526 to make more efficient the process for electronically issuing arrest and search warrants, respectively. This recommendation would allow magistrates to issue arrest and search warrants electronically without communicating with the officer telephonically by eliminating the requirement of an oral statement under oath. It would also make amendments to align Penal Code section 817 with Penal Code section 1526.

Recommendation: The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend amending Penal Code sections 817 and 1526 to eliminate the requirement of an oral statement under oath and all telephonic conversations between the magistrate and the officer. The committees also recommend amending section 817 to provide that the warrant signed by the magistrate and received by the officer be deemed the original warrant.

[17-206](#)

Judicial Council-Sponsored Legislation: Uniform Hourly Rate for Community Service in Lieu of Infraction Fine (Action Required)

Summary: The Policy Coordination and Liaison Committee and the Traffic Advisory Committee recommend that Penal Code section 1209.5 be amended to provide a uniform rate throughout the state for converting infraction fines into community service hours. Specifically, the committees propose a uniform hourly rate of double the California state minimum wage for community service performed in lieu of paying infraction fines. This proposal is in response to Judicial Council directives to consider recommendations to promote access to justice in infraction cases.

Recommendation: The Policy Coordination and Liaison Committee and Traffic Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1209.5, as follows:

1. Provide a uniform hourly rate for infractions of double the lowest schedule for California minimum wage.
2. Permit a court by local rule to increase the uniform rate.

[17-207](#)

Judicial Council-Sponsored Legislation: Modernization of Civil Statutes (Action Required)

Summary: The Policy Coordination and Liaison Committee and Information Technology Advisory Committee recommend that the Judicial Council sponsor legislation to amend section 1719 of the Civil Code and sections 594, 659, 660, and 663a of the Code of Civil Procedure. This legislative proposal is needed to modernize the statutes and would (1) authorize the courts to electronically serve a written demand for payment on the drawer of a bad check, (2) authorize electronic service of notices of intention to move for a new trial or vacate judgment, and (3) amend certain deadlines tied to dates of “mailing” to be tied instead to dates of “service.”

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

1. Amend Civil Code section 1719 to redesignate subdivision (g) as (g)(1) and add new subdivision (g)(2), which would allow a court to electronically serve a written demand for payment on the drawer of a bad check when the court is the payee of the check and the drawer of the check is already accepting electronic service in the matter to which the

- check pertains.
2. Amend Code of Civil Procedure section 594 to include electronic service as an option for service of a notice of a trial or hearing.
 3. Amend subdivisions (a)(2) and (b) of Code of Civil Procedure section 659. The amendment to subdivision (a)(2) would strike “mailing” and replace it with “service” to ensure consistency with Code of Civil Procedure section 664.5, which section 659 references. The amendment to subdivision (b) would add language that the time to file a notice of intention to move for a new trial is not extended by electronic service, which is consistent with Code of Civil Procedure section 1010.6(a)(4)(A) (i).
 4. Amend Code of Civil Procedure section 660 to strike “mailing” and replace it with “service” to ensure consistency with Code of Civil Procedure section 664.5, which section 660 references.
 5. Amend subdivisions (a)(2), (b) and (c) of Code of Civil Procedure section 663a. The amendments to subdivisions (a)(2) and (b) would strike references to “mailing” and replace them with “service” to ensure consistency with Code of Civil Procedure section 664.5, which section 663a references. The amendment to subdivision (c) would add language that electronic service does not extend time for exercising a right or doing an act, consistent with Code of Civil Procedure section 1010.6(a)(4)(A) (ii).

[17-208](#)**Judicial Council: 2017 Legislative Policy Summary (Action Required)**

Summary: The Policy Coordination and Liaison Committee recommends that the Judicial Council adopt the updated Legislative Policy Summary reflecting actions through the 2017 legislative year. Adoption of this updated summary of positions taken on court-related legislation will assist the council in making decisions about future legislation, consistent with the judicial branch’s strategic plan goals.

Recommendation: The Policy Coordination and Liaison Committee (PCLC) recommends that the Judicial Council adopt the updated Legislative Policy Summary reflecting actions through the 2017 legislative year.

[17-212](#)**Access to Visitation Grant Program: Funding Allocation for Federal Grant Fiscal Years 2018-19 through 2020-21 (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve Access to Visitation Grant Program funding allocation and distribution of approximately \$755,000 to \$770,000 statewide for federal grant fiscal years 2018-19 through 2020-21. The Access to Visitation contract period for federal grant fiscal years 2018-19 through 2020-21 begins on April 1 and ends on March 31 (each fiscal year). The funding allocations will be directed to

11 superior courts representing 18 counties and involving 15 subcontractor agencies (i.e., local community nonprofit service providers) to support and facilitate noncustodial parents' access to and visitation with their children through supervised visitation and exchange services, parent education, and group counseling services for family law cases. Family Code section 3204(b)(2) requires the Judicial Council to determine the final number and amount of grants to be awarded to the superior courts.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective November 17, 2017:

1. Approve the funding allocation and distribution of approximately \$755,000 to \$770,000 to the 11 superior courts for federal grant fiscal years 2018-19 through 2020-21 (each federal fiscal year), as set forth in Attachment A.
2. Delegate authority to the Family and Juvenile Law Advisory Committee to reallocate and distribute any excess grant funds to any of the 12 applicant courts based on need and justification within the scope of the grant program if any of the selected courts decline their grant award amount after the Judicial Council allocation approval but before execution of a funding contract with the Judicial Council.
3. Modify the current midyear reallocation process to delegate authority to the Family and Juvenile Law Advisory Committee to approve reallocation and distribution of any unspent funds to those eligible courts that spent the full grant award allocation and were approved for Access to Visitation funding based on the current midyear funding reallocation methodology approved by the council in 2014, or to any court that applied for funding but did not receive an award based on need and a justification that falls within the scope of the grant program.
4. Authorize Judicial Council staff to develop a plan to expend any remaining unspent grant funds to provide statewide services that will benefit all courts when unused funds exceed the requested funds from those eligible courts to receive additional funding through the midyear reallocation process and to report on the plan to the Family and Juvenile Law Advisory Committee.

[17-213](#)

Family Law: Technical Changes to Bifurcation Forms (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends technical revisions to two forms - an application and an order for the early termination of marital or partnership status. Specifically, the list of the conditions of granting the bifurcation of the case and ending status early upon a separate trial will be changed to track the language used in Family Code section 2337. This change will ensure that the conditions of granting the bifurcation last until the judgment has been entered on all remaining issues and has become final.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Revise *Request or Response to Request for Separate Trial* (form FL-315) to clarify that the conditions enumerated in item 4b(2) through (5) last “until judgment has been entered on all remaining issues and has become final.”
2. Revise *Bifurcation of Status of Marriage or Domestic Partnership-Attachment* (form FL-347) to clarify that the conditions enumerated item 5b-e of form FL-347 last “until judgment has been entered on all remaining issues and has become final.”

[17-214](#)

Family Law: Technical Changes to Limited Scope Representation Rule and Form (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends technical revisions to a rule of court and an order form used in limited scope representation cases. The technical changes will respond to the concerns recently raised by court clerks about the change in procedure needed because the order form, as amended effective September 1, 2017, includes a proof of service, requiring clerks to process the order twice. The revisions will ensure that court clerks need process the order only once.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend subdivision (e)(3)(G) of rule 5.425 of the California Rules of Court to specify that, if the court finds that the attorney has completed the agreed-upon work, his or her representation is concluded on the date determined by the court upon service of the signed *Order on Completion of Limited Scope Representation* (form FL-958); and
2. Revise *Order on Completion of Limited Scope Representation* (form FL-958) by:
 - a. Deleting the proof of service on page 2; and
 - b. Revising item 3e to reflect that the attorney must serve the parties in the case and file the proof of service unless otherwise directed by the court.

[17-215](#)

Child Support: Revise Income Withholding for Support and Related Instructions (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve revisions to *Income Withholding for Support* (form FL-195/OMB 0970-0154) and *Income Withholding for Support-Instructions* (form FL-196/OMB 0970-0154) to comply with Family Code section 5208 and federal law.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018, approve revisions to *Income Withholding for*

Support (form FL-195/OMB 0970-0154) and *Income Withholding for Support-Instructions* (form FL-196/OMB 0970-0154) to comply with Family Code section 5208 and federal law.

[17-216](#) **Rules: Electronic Filing and Service (Action Required)**

Summary: As part of the Rules Modernization Project, the Information Technology Advisory Committee and the Civil and Small Claims Advisory Committee recommend amending several California Rules of Court related to electronic service and electronic filing. The amendments are intended to improve the organization of the rules; improve the rules' consistency with the Code of Civil Procedure, including consistency with recently enacted legislation; and reduce redundancies between the rules and the Code of Civil Procedure.

Recommendation: The Information Technology Advisory Committee and Small Claims Advisory Committee recommend that the Judicial Council, effective January 1, 2018, amend rules 2.250, 2.251, 2.252, 2.253, 2.254, 2.255, 2.256, 2.257, and 2.259 to ensure consistency, improve clarity, and reduce redundancy between the California Rules of Court and the Code of Civil Procedure.

[17-217](#) **Rules and Forms: Miscellaneous Technical Changes (Action Required)**

Summary: Various members of the judicial 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 recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

Recommendation: Judicial Council staff recommend that the council, effective January 1, 2018:

1. Amend rule 3.2300 of the California Rules of Court to conform to new law. Assembly Bill 90 (Weber), signed by the Governor on October 12, 2017, and effective January 1, 2018, amends Penal Code sections 186.34 and 186.35, which set out procedures for requesting the removal of an individual's name from a shared gang database, and for petitioning the court to review a law enforcement agency's denial of such a request. Among other things, the amendments provide that a law enforcement agency's failure to respond to a written request for removal may be considered a "deemed denial" and be subject to court review just as a written denial is. The proposed amendments to rule 3.200 reflect this change in the law. The rule's cross-references to the statute and statutory text quoted in the Advisory Committee Comment have also been amended to reflect the amended statutes. The Judicial Council form used in conjunction with these rules also needs to be changed, but the changes are more extensive than may appropriately be done as technical changes.
2. Amend rule 10.855 to strike subdivision (j) entirely and reletter

subdivision (k) as (j) and revoke form REC-003, *Report to The Judicial Council: Superior Court Records Destroyed, Preserved, and Transferred*, to conform to recent changes to statute. Assembly Bill 1443 (Levine), effective January 1, 2018, deletes the following sentence from Government Code section 68153(b): “A list of the court records destroyed within the jurisdiction of the superior court shall be provided to the Judicial Council in accordance with the California Rules of Court.” The proposed amendment would delete subdivision (j) of rule 10.855, which details the reporting requirement that has been eliminated by statute and revoke the form used to make the report.

3. Revise *Claim Opposing Forfeiture* (form MC-200) to comply with recent changes to statute addressing when a claim must be made. Specifically, in the Notice box, item 1 is revised so the last lines read “your claim within 30 days after the last time notice is first published in a newspaper.” The underlined text has been added, and the stricken text deleted. The same change has been made to the Spanish version of the notice.
4. Renumber forms MC-245, *Motion to Vacate Conviction or Sentence*, and MC-246, *Order on Motion to Vacate Conviction or Sentence*, which are two new optional forms, effective January 1, 2018. These forms are designed to assist self-represented individuals and the courts in implementing recent legislation that permits criminally convicted individuals no longer in custody to file a motion to vacate a conviction or sentence, and withdraw the plea of guilty or nolo contendere based on prejudicial errors related to immigration consequences or newly discovered evidence of actual innocence.
These forms were originally designated as “Miscellaneous” forms, with “MC” preceding the form numbers, but it is more appropriate for them to be designated as “Criminal” forms, with “CR” preceding the form numbers because they address postconviction relief for criminally convicted individuals. In this way, the new forms are similar to forms CR-180, CR-181, CR-183, CR-184, CR-185, and CR-186, all of which address postconviction relief or relief following arrest. It is especially appropriate to include these forms as “Criminal” forms because it is anticipated that self-represented individuals are likely to be the most common users of these forms, and it would be intuitive for those individuals, who are interested in obtaining postconviction relief, to look for the forms to accomplish that request in the “Criminal” section. For these reasons, form MC-245 should be renumbered as CR-187 and form MC-246 should be renumbered as CR-188.

[17-218](#)

Trial Courts: Children’s Waiting Room Fund Balance Cap Adjustments (Action Required)

Summary: The Trial Court Budget Advisory Committee recommends the Judicial Council

approve three requests to adjust the requesting trial courts' Children's Waiting Room fund balance cap. The Judicial Council revised its Children's Waiting Room (CWR) Distribution and Fund Balance Policy on June 26, 2015, placing a cap on the amount of CWR fund balance that courts can accumulate. Courts with fund balances that exceed the cap are required to return the amount above the cap to the Trial Court Trust Fund by the end of the fiscal year, unless the council approves a court's request for a cap adjustment. The Judicial Council approved additional revisions to the policy on March 24, 2017, to extend the review and adjustment of CWR fund balances from an annual to a biennial schedule, beginning with the 2016-17 fund balances. The total amount requested by the trial courts that would increase their CWR fund balance cap is \$862,289.

Recommendation: Based on actions taken at its October 12, 2017 meeting, the Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective November 17, 2017:

1. Increase the amount of the 2016-17 cap on the CWR fund balance the courts can carry forward from one fiscal year to the next by \$66,981 for the Superior Court of Contra Costa County, \$351,922 for the Superior Court of Orange County, and \$443,386 for the Superior Court of Santa Barbara County (see Attachments C1, C2, and C3).

[17-219](#)

Judicial Branch Administration: Sabbatical Request for Hon. John P. Doyle (Action Requested)

Summary: The Executive and Planning Committee recommends the approval of an unpaid sabbatical leave for Judge John P. Doyle of the Superior Court of Los Angeles County, for the period of August 6, 2018, to December 3, 2018. During this sabbatical leave, Judge Doyle intends to teach classes at the Pepperdine Law School London Program, in London, England. As adjunct faculty, Judge Doyle's experience in this program will enhance his ability to continue serving effectively as a trial court judge and thereby benefit the administration of justice.

Recommendation: The Executive and Planning Committee recommends that the Judicial Council approve the request for an unpaid sabbatical leave for the period August 6, 2018, through December 3, 2018, for Judge John P. Doyle of the Superior Court of Los Angeles County.

[17-220](#)

Judicial Council Report to the Legislature: Disposition of Criminal Cases According to Race and Ethnicity of the Defendant (Action Requested)

Summary: Since 2001 the Judicial Council's Office of Court Research has produced the report, *Disposition of Criminal Cases According to the Race and Ethnicity of the Defendant: 2017 Report to the California Legislature as Required by Penal Code Section 1170.45*, by analyzing the disposition of felony cases using data provided by the California Department of Justice. Doing so fulfills the requirements of Penal Code section 1170.45, which requires the Judicial Council

to report annually on the disposition of criminal cases statewide according to the defendants' race and ethnicity. The 2017 report indicates that when grouping defendants according to the extensiveness of their prior criminal records and types of offense, the data show a complex pattern in the severity of sentences that defendants receive. When directly comparing defendant groups in the context of the severity of their criminal offenses and prior criminal histories, sentencing outcomes are variable and appear to be primarily associated with defendants' prior criminal record and offense type. Due to data limitations that are outlined in the report and also highlighted by the Criminal Justice Statistics Center (CJSC) of the California Department of Justice (DOJ), we encourage the reader to exercise caution in attempting to attribute causes for the observed differences in sentencing among racial/ethnic groups.

Recommendation: The Office of Court Research (OCR) recommends that the Judicial Council approve the report *Disposition of Criminal Cases According to the Race and Ethnicity of the Defendant: 2017 Report to the California Legislature as Required by Penal Code Section 1170.45*, and direct staff to transmit it to the Legislature.

[17-222](#)

Appellate Procedure: Format for Reporters' Transcripts Delivered in Electronic Form (Action Required)

Summary: To implement recent legislation, the Appellate Advisory Committee recommends amending rule 8.144 of the California Rules of Court, which governs the format of reporters' transcripts to incorporate requirements for transcripts that are delivered in electronic form and to reorganize the provisions so that the formatting requirements applicable to all transcripts including those in paper form are easier to find. The committee also recommends amending several other rules to conform to the new legislation and to correct cross-references in the rules.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend California Rules of Court, rule 8.144 to:
 - a. Add a new subdivision addressing requirements for reporters' transcripts in delivered in electronic form, including that the transcript:
 - i. Be in a full-text searchable PDF or other searchable format approved by the court;
 - ii. Include an electronic bookmark to each heading, subheading, and specified components of the transcript; and
 - iii. Permit users to copy and paste, keeping the original formatting.
 - b. Consolidate the current subdivisions that establish general formatting requirements for reporters' and clerks' transcripts into new subdivision (b);

- c. Consolidate the current provisions that specifically relate to transcripts that are in paper form in a new subdivision (c); and
 - d. Make other nonsubstantive changes.
2. Amend California Rules of Court, rules 8.124, 8.130, 8.336, 8.409, 8.416, 8.613, 8.619, 8.622, 8.625, 8.834, 8.838, 8.866 and 8.919 to:
 - a. Delete language that is inconsistent with newly amended Code of Civil Procedure section 271.
 - b. Change references to transcripts in computer-readable form to instead refer to transcripts delivered in electronic form, to be consistent with newly amended Code of Civil Procedure section 271.
 - c. Correct cross-references to the proposed, amended version of rule 8.144.

[17-223](#)**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 three 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 that 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 2017-18 allocations for exceeding the cap is \$989,112. The council will be informed of any final adjustments to the estimated amounts after the 2016-17, 1 percent fund balance cap has been finalized.

Recommendation: Based on actions taken at its October 4, 2017, meeting, the Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council, effective November 15, 2017:

1. Allocate and designate \$97,561 in Trial Court Trust Fund fund balance to be held on behalf of the following courts:
 - a. \$53,561 to be held for the Superior Court of Butte County;
 - b. \$44,000 to be held for the Superior Court of Siskiyou County;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 in 2017-18, as delineated in Attachment A.
2. Approve the amended request of the Superior Court of Mono County, which adds an additional \$18,279 in Trial Court Trust Fund fund balance to be held on behalf to its original request of \$115,000. The funds would be distributed back to the court over two fiscal years, as delineated in Attachment B.
3. Approve the amended requests of the Superior Court of San Bernardino

County, and the Superior Court of Sutter County. These courts have reduced their original requests by \$1,040,565. The amended request total of \$758,272 will be reduced from the courts' allocations as a result of those courts exceeding the 1 percent fund balance cap. The funds would be adjusted and distributed back to the courts in 2017-18, as delineated in Attachment B.

[17-224](#)

Subordinate Judicial Officers: Deferrals of Conversions to Judgeships (Action Required)

Summary: The Executive and Planning Committee (E&P) of the Judicial Council has authority to confirm conversions of subordinate judicial officer positions to judgeships under the Government Code using uniform criteria adopted by the Judicial Council to identify positions eligible for conversion. Under certain circumstances, E&P may grant a temporary exception to conversion at the request of a court that wishes to defer a conversion until a later time. E&P now proposes the refinement of an existing criterion for granting exceptions that would allow for a one-year extension of an original deferral if good cause can be shown by the court.

Recommendation: The Executive and Planning Committee recommends that the Judicial Council refine existing policy concerning the granting of deferrals of subordinate judicial officer (SJO) conversions in order to allow a court that has previously been granted a one-year deferral to extend the deferral for an additional year, if the court can show good cause for this action.

[17-226](#)

Tri-Annual Review of Judicial Council Governance Policies and Principles (Action Required)

Summary: The Executive and Planning Committee recommends revising the *Judicial Council Governance Policies*. The Judicial Council revises these policies every three years. A recent analysis of both the California Rules of Court and the governance policies revealed substantially similar verbiage. The 2017 revisions include simplified language in the governance policies and inclusion of the *Operating Standards for Judicial Council Advisory Bodies*.

Recommendation: The Executive and Planning Committee recommends revising the *Judicial Council Governance Policies* to remove language that is verbatim or substantially similar to language used in the California Rules of Court. The revised governance policies are designed to be more general in their description of the Judicial Council and its internal committees. The Judicial Council also recommends appending the *Operating Standards for Judicial Council Advisory Bodies* to the governance policies. The operating standards support the general parameters within which Judicial Council advisory bodies operate under the direction and oversight of the Chief Justice and the Judicial Council.

EDUCATIONAL AGENDA

17-198 Family Law: Judicial Council Education Session

Summary: At the request of the Judicial Council, this educational session reviews milestone developments in family courts; services provided by the Center for Families, Children & the Courts and other Judicial Council offices; projects in development; and work that still needs to be done.

Speakers: Hon. Mark A. Juhas, Cochair, Family and Juvenile Law Advisory Committee
Ms. Charlene Depner, Center for Families, Children & the Courts
Ms. Bonnie Rose Hough, Center for Families, Children & the Courts

No action required for this educational agenda item at this time.

DISCUSSION AGENDA**17-211 Judicial Branch: Quarterly Report on the Judicial Council's Court Innovations Grant Program, Fiscal Year 2017-2018, Quarter 1 (No Action Required)**

Summary: This report summarizes activities of the Judicial Council's Court Innovations Grant Program since March 2017, when the Judicial Council approved grants for 52 innovative projects for 28 superior courts and one appellate court.

Speakers: Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Hon. James M. Humes, Vice-Chair, Judicial Branch Budget Committee

No action required for this discussion agenda item at this time.

17-209 Judicial Council: 2018 Legislative Priorities (Action Required)

Summary: Each year, the Judicial Council authorizes sponsorship of legislation to further key council objectives and establishes priorities for the upcoming legislative year. For the last several years, the council's legislative priorities have focused on implementation of efficiencies in the courts, investment in the judicial branch, and securing critically needed judgeships. The Policy Coordination and Liaison Committee recommends a similar approach for the 2018 legislative year to the Judicial Council.

Speakers: Mr. Cory T. Jasperson, Office of Governmental Affairs

Recommendation: The Policy Coordination and Liaison Committee (PCLC) recommends that the Judicial Council take the following actions as Judicial Council legislative priorities in 2018:

1. Advocate for continued investment in the judicial branch to include a method for stable and reliable funding for courts to address annual cost increases in baseline operations and plan for the future; and for sufficient additional resources to (1) improve physical access to the courts by keeping courts open, (2) expand access by increasing the ability of court users to conduct branch business online, and (3) restore programs and services that were reduced over the past few years. This priority also includes seeking the extension of sunset dates on increased fees implemented in the fiscal year

(FY) 2012-13 budget, as follows:

- a. \$40 increase to first paper filing fees for unlimited civil cases, where the amount in dispute is more than \$25,000 (Gov. Code, § 70602.6).
 - b. \$40 increase to various probate and family law fees (Gov. Code, § 70602.6).
 - c. \$20 increase to various motion fees (Gov. Code, §§ 70617, 70657, 70677).
 - d. \$450 increase to the complex case fee (Gov. Code, § 70616).
 - e. \$40 probate fee enacted in 2013, expiring on January 1, 2019 (Gov. Code, § 70662).
2. Increase the number of judgeships and judicial officers in superior courts with the greatest need.
 - a. Seek funding for 12 of the 50 authorized but unfunded judgeships, to be allocated to the courts with the greatest need based on the most recently approved Judicial Needs Assessment.
 - b. Seek funding for two additional justices in Division Two of the Fourth Appellate District (Inyo, Riverside, and San Bernardino Counties), one in FY 2017-18 and the second in FY 2018-19.
 - c. Advocate for legislative ratification of the Judicial Council's authority to convert 16 subordinate judicial officer (SJO) positions to judgeships in eligible courts, and sponsor legislation for legislative ratification of the council's authority to convert up to 10 additional SJO positions to judgeships, in eligible courts, if the conversion will result in an additional judge sitting in a family or juvenile law assignment that was previously presided over by an SJO.
 3. Seek sufficient funding for the courthouse construction projects authorized by Senate Bill 1407 (Perata; Stats. 2008, ch. 311).
 4. Seek legislative authorization for the disposition of the West Los Angeles courthouse as previously authorized by the Judicial Council and any remaining properties subsequently approved by the council in 2018 in a fair market value transaction, with the proceeds to be directed to the Immediate Critical Needs Account of the State Court Facilities Construction Fund established by Senate Bill 1407 (Perata; Stats. 2008, ch. 311) or any other Judicial Council facilities fund authorized by the Legislature.
 5. Continue to sponsor or support legislation to improve judicial branch operational efficiencies, including cost savings and cost recovery measures.
 6. Advocate for a three-branch solution to ensure the fairness and efficiency of California's fines, fees, penalties, and assessments structure. Work to ensure that any solutions include sufficient revenue backfill for the branch.
 7. Advocate for legislation to implement the recommendations of the Commission the Future of California's Court System as recommended by the Judicial Council and its advisory bodies.
 - a. **Civil adjudication of minor traffic infractions.** The Chief Justice

appointed the Futures Traffic Working Group to collaborate with the Judicial Council's Traffic Advisory Committee, the Civil and Small Claims Advisory Committee, the Advisory Committee on Providing Access and Fairness, and the Criminal Law Advisory Committee, to develop for Judicial Council consideration a proposal to implement and evaluate a civil model for adjudication of minor vehicle infractions.

b. Revision of civil case tiers and streamlined civil procedures.

The Judicial Council's Civil and Small Claims Advisory Committee is directed to assess and make recommendations to the Judicial Council on advancing a legislative proposal for increasing the maximum jurisdictional dollar amounts for limited civil cases to \$50,000, creating a new intermediate civil case track with a maximum jurisdictional dollar amount of \$250,000, and streamlining methods for litigating and managing all types of civil cases.

c. Assistance for self-represented litigants. The Judicial Council's Advisory Committee on Providing Access and Fairness is directed to develop a proposal for Judicial Council consideration of the structure, content, and resource requirements for an education program to aid the growing number of self-represented litigants (SRLs) in small claims and civil cases where SRLs are most common.

d. Expansion of technology in the courts. The Judicial Council's Information Technology Advisory Committee is directed to consider, for presentation to the Judicial Council, the feasibility of and resource requirements for developing and implementing a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings. Further, the committee is directed to explore available technologies and make recommendations to the Judicial Council on the potential for a pilot project using voice-to-text language interpretation services at court filing and service counters and in self-help centers. Finally, the committee is directed to explore and make recommendations to the council on the potential for a pilot project using intelligent chat technology to provide information and self-help services.

8. Advocate for legislation to implement the recommendations of the Pretrial Detention Reform Work Group.
9. Delegate to PCLC the authority to take positions or provide comments on behalf of the Judicial Council on proposed legislation (state and federal) and administrative rules or regulations, after evaluating input from council advisory bodies, council staff, and the courts, provided that the input is consistent with the council's established policies and precedents.

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

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)[17-127](#)**Judicial Council Report to the Legislature: Report of Allocations and Reimbursements to the Trial Courts**

Summary: Government Code section 77202.5(a) requires that the Judicial Council report to the Legislature annually on allocations and reimbursements to the trial courts. The Judicial Council staff submitted to the Legislature on September 30, 2017, the *Report of Allocations and Reimbursements to the Trial Courts in Fiscal Year 2016-17*.

[17-128](#)**Judicial Council Report to the Legislature: Allocation of the State Level Reserve in the Trial Court Trust Fund**

Summary: As required in Government Code section 68502.5(c)(2)(B), funds are set aside in the Trial Court Trust Fund to be allocated by the Judicial Council and used by the trial courts for unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable funding shortfalls. The Judicial Council staff submitted to the Legislature on October 1, 2017, the *Report of Allocation of the State Level Reserve in the Trial Court Trust Fund for Fiscal Year 2016-17*.

[17-179](#)**Court Facilities: Lease-Revenue Bond Issuance, Fall 2016 and Spring 2017**

Summary: As authorized and directed by the Judicial Council, the Administrative Director presents this report on actions taken in connection with lease-revenue bonds issued by the State Public Works Board (SPWB) in fall 2016 and spring 2017, for the financing of court facilities projects.

[17-181](#)**Judicial Council Report to the Legislature: Status of the Phoenix Program, 2016**

Summary: In accordance with Government Code section 68511.8, the Judicial Council will submit its annual status report to the Legislature on the Phoenix Program. This status report includes a description and discussion of major activities undertaken in 2016 for the Phoenix Program, project accomplishments to date, and annual revenues and expenditures for these projects. The following summary of the report is provided under the requirements of Government Code section 9795: the Phoenix Program's primary focus in 2016 was on continuing to provide each trial court with full comprehensive administrative support. This report presents annual service metrics for the various fiscal and human capital management areas the program supports. These areas specifically include Accounts Payable, General Ledger, Purchasing, Payroll, and Trust and Treasury Services. The Phoenix Program provides daily administrative support to all 58 trial courts.

[17-186](#)**Judicial Council Report to the Legislature: Electronic Recording Equipment**

Summary: 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.

[17-187](#)**Judicial Council Report to the Legislature: Recidivism Reduction Fund Court Grant Program**

Summary: The Budget Act of 2015 (Assem. Bill 93; Stats. 2015, ch. 10) requires the Judicial Council to submit an annual report to the Joint Legislative Budget Committee (JLBC) and the Department of Finance (DOF) on the Recidivism Reduction Fund Court Grant Program. The *Recidivism Reduction Fund Court Grant Program: Annual Report, 2017* documents the activities of the Judicial Council and the grantees, details court grant program implementation at the local level, and provides updates on the status of data analysis including some preliminary findings.

[17-195](#)**Trial Courts: Quarterly Investment Report for Third Quarter of 2017**

Summary: This *Trial Courts: Quarterly Investment Report for Third Quarter of 2017* covers the period of July 1, 2017, through September 30, 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.

[17-201](#)**Court Facilities: 2016-17 Trial Court Facility Modification Advisory Committee Annual Report**

Summary: The Trial Court Facility Modification Advisory Committee has completed allocating facility modification funding for fiscal year 2016-17 and submits its *Annual Report of the Trial Court Facility Modification Advisory Committee for Fiscal Year 2016-17* for informational purposes.

[17-210](#)**Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Report No. 44)**

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 44th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, one superior court, Kings County, has issued a new notice.

[17-221](#)**Court Records: Trial Court Records Manual Update**

Summary: The Court Executives Advisory Committee presents the Judicial Council with the revised *Trial Court Records Manual*. The update to the manual contains changes required by Assembly Bill 1443 (Stats. 2017, ch. 172) to reflect the addition of gun

violence record retention requirements as well as the elimination of the statutory reporting requirement for destroyed or transferred court records. The update also contains technical changes to align the manual with intervening legislative and rule changes.

Appointment Orders

[17-225](#)

Appointment Orders

Summary: Appointment Orders since the last business meeting.

In Memoriam

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

- Hon. Kenneth W. Andreen (Ret.), Court of Appeal, Fifth Appellate District
- Hon. James E. Kleaver (Ret.), Superior Court of California, County of Siskiyou
- Hon. Kenneth G. Ziebarth (Ret.), Superior Court of California, County of San Bernardino

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 12:35 p.m.