Model Policy for Use of Generative Artificial Intelligence

Artificial Intelligence Task Force

Hon. Mary J. Greenwood, Administrative Presiding Justice, Court of Appeal,
Sixth Appellate District

Presentation to the Judicial Council
February 21, 2025

Artificial Intelligence Task Force

- Created by the Chief Justice in May 2024
- Charged with:
  - Overseeing development of policy recommendations on the use of artificial intelligence (AI) in the judicial branch
  - Coordinating development of proposals and potential actions by the judicial branch
  - Developing its own proposals and coordinating with other government or judicial branch entities on AI policy developments

AI Task Force: Members

Hon. Brad R. Hill, Chair
Administrative Presiding Justice of the Court of Appeal, Fifth Appellate District

Hon. Stacy E. Boulware Eurie
Associate Justice of the Court of Appeal, Third Appellate District

Hon. Kyle S. Brodie
Judge of the Superior Court of California, County of San Bernardino

Hon. Arturo Castro
Judge of the Superior Court of California, County of Alameda

First

Court

Hon. Carin T. Fujisaki
Associate Justice of the Court of Appeal, Appellate District, Division Three

Hon. Mary J. Greenwood
Administrative Presiding Justice of the Court of Appeal, Sixth District

Ms. Gretchen Nelson
Attorney at Law, Nelson & Fraenkel, LLP

Mr. David Yamasaki
Court Executive Officer of the Superior of California, County of Orange

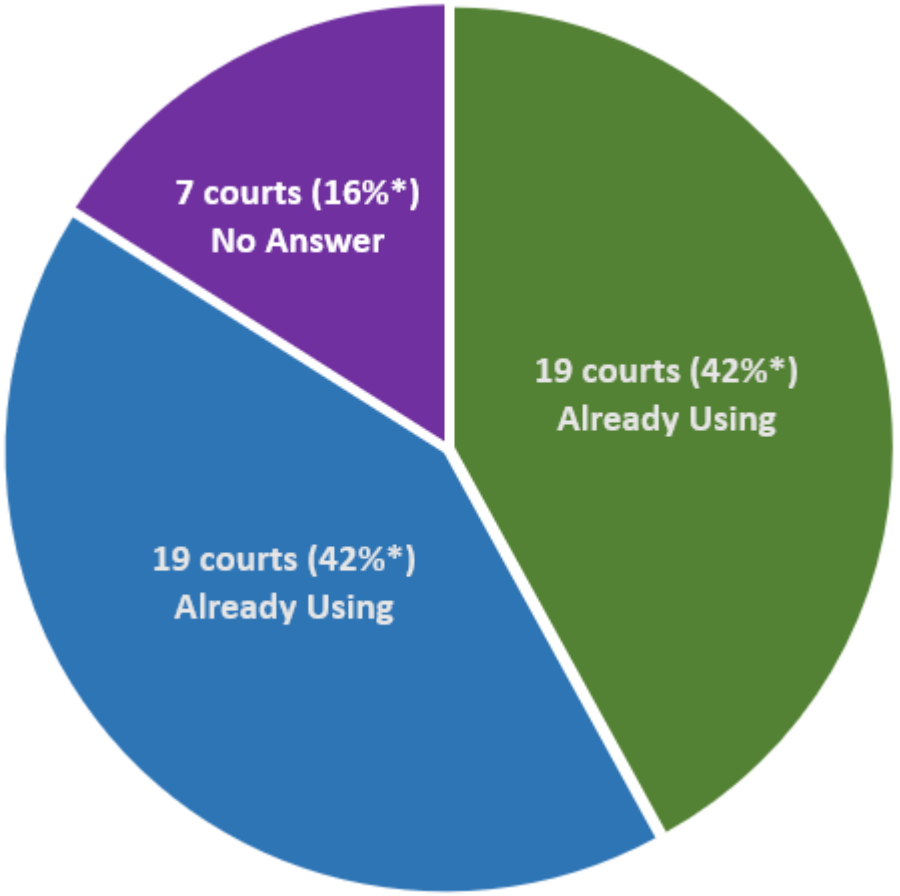
AI Task Force: Activities

- Focus on: (1) Model Use policy; (2) Self-Help; (3) Evidence; (4) Legal Research.
- Topics discussed:
  - Education on how generative AI works, available tools, possible uses in the courts
  - Potential benefits to courts and court users
  - Addressing risks by creating branchwide policies and procedures

Court Survey

- In September 2024, surveyed all trial courts, appellate courts, and the Supreme Court
- 45 courts responded
- Asked about:
  - Generative AI usage policies and guidance
  - Ways in which courts are (or are not) using generative AI
  - Issues courts want the task force to be aware of

Court Survey: Results



Court use of Generative AI:

- **19 courts** are already using generative AI
- **19 courts** plan to start using generative AI
- 7 courts did not answer this question

Additionally:

- 6 courts have a use policy in place
- 21 courts are planning to create a policy
- Many courts are **waiting** for a model policy

*of reporting courts.

AI Task Force Proposals

Model Policy for Use of Generative AI

Available now

Rule of Court: Generative AI use policies

In development; anticipated effective date Sept. 1, 2025

Standard of Judicial Administration: Use of generative AI by judicial officers

In development; anticipated effective date Sept. 1, 2025

Model Use Policy: Overview

- Template courts can use to create a generative AI use policy
  - Courts are not required to adopt the model policy
  - Can be modified to address specific goals or operational requirements
  - Can be used to comply with the planned rule of court
- Applies to use of generative AI by:
  - Court staff for any purpose
  - Judicial officers for any task outside their adjudicative role
- Does not require a court to permit generative AI use

Model Use Policy: Key Provisions

Confidentiality and Privacy

- Prohibits submission of confidential and non-public information to public generative AI systems
- Does not apply to internal court AI systems

Supervision and Accountability

- Users must review generative AI material for accuracy, completeness, errors, and hallucinations
- Generative AI material is the responsibility of the person who uses or authorizes it

Model Use Policy: Key Provisions

Bias and Discrimination

- Prohibits use of generative AI to unlawfully discriminate
- Users must review material for biased, offensive, or harmful output

Transparency

- Requires disclosure or watermark if generative AI outputs make up a substantial portion of a written or visual work provided to the public

Proposals in Development

Rule of Court

- Courts permitting use of generative AI for court-related work must adopt a use policy that:
  - Meets certain basic requirements
  - Applies to all uses by court staff
  - Applies to use by judicial officers for non-adjudicative tasks

Standard of Judicial Administration

- Applies to judicial officers using generative AI in their adjudicative role
- Provides guidelines for addressing confidentiality, bias, and transparency

Schedule: Public comment mid-March to mid-April 2025; anticipated effective date September 1, 2025

Questions?