



# Judicial Council of California

Ronald M. George State  
Office Complex  
Malcolm M. Lucas  
Board Room  
455 Golden Gate Avenue  
San Francisco, California  
94102-3688

## Meeting Minutes

### Judicial Council

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

Thursday, August 25, 2016

12:15 PM

San Francisco

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

### Voting Members

- Present:** 18 - Justice Ming W. Chin, Justice James M. Humes, Justice Harry E. Hull Jr., Justice Douglas P. Miller, Judge Marla O. Anderson, Judge Brian J. Back, Judge Kyle S. Brodie, Judge Daniel J. Buckley, Judge Stacy Boulware Eurie, Judge Samuel K. Feng, Judge Dalila Corral Lyons, Judge Gary Nadler, Judge David M. Rubin, Judge Dean T. Stout, Mr. Mark G. Bonino, Mr. Patrick M. Kelly, Ms. Donna D. Melby, and Ms. Debra Elaine Pole
- Absent:** 3 - Chief Justice Tani G. Cantil-Sakauye, Senator Hannah-Beth Jackson, and Assembly Member Richard Bloom

### Advisory Members

**Present:** Justice Marsha G. Slough, Judges Jeffery B. Barton, C. Todd Bottke, Scott M. Gordon, Brian L. McCabe, Kenneth K. So, Eric C. Taylor, and Charles D. Wachob; Commissioner David E. Gunn; Court Executive Officers Jake Chatters, Richard D. Feldstein and Kimberly Flener; and Supreme Court Administrator and Clerk Mr. Frank A. McGuire

### Others Present

Ms. Deborah Grant

### Call to Order

In the Chief Justice's absence, Justice Ming W. Chin, vice-chair of the Judicial Council, called the open session to order at 12:15 p.m. in the Malcolm M. Lucas Board Room of the William C. Vickrey Judicial Council Conference Center in the Ronald M. George State Office Complex.

## EDUCATIONAL AGENDA (NO ACTION REQUIRED)

[16-153](#)

**Department of Finance Presentation: Economic Forecast (No Action Required. There are no materials for this item.)**

**Speakers:** Ms. Irena Asmundson, Chief Economist, Department of Finance

[16-131](#)**Judicial Branch Technology Update: Appellate Technology (No Action Required. There are no materials for this item.)**

**Summary:** An update on the implementation of the Judicial Council-adopted *Court Technology Governance and Strategic Plan*, including how technology can be used now and in the future to improve access to justice and address challenges. The report will highlight how technology is being used to meet current appellate court business needs by improving business processes, operations, and service to the public, as well as provide a statewide e-filing initiative and status update.

**Speakers:** Hon. Marsha G. Slough, Chair, Judicial Council Technology Committee  
Ms. Julie Bagoye, Information Technology

[16-133](#)**Resource Assessment Study, Workload-based Allocation and Funding Methodology, and the Trial Courts (No Action Required. There are no materials for this item.)**

**Summary:** Judicial Council Finance and Office of Court Research Staff will provide an overview of the Workload-based Allocation and Funding Methodology (WAFM) and the Resource Assessment Study (RAS) model.

**Speakers:** Mr. Zlatko Theodorovic, Budget Services  
Ms. Deana Farole, Office of Court Research  
Mr. Colin Simpson, Budget Services

**DISCUSSION AGENDA**[16-129](#)**Judicial Branch: Court Innovations Grant Program Request for Applications (Action Required)**

**Summary:** The Ad Hoc Working Group for Innovations Grants recommends the Judicial Council approve the Request for Applications (RFA) (Attachment A) for the Court Innovations Grant Program. The recommended RFA is intended to provide a transparent and user-friendly process for courts seeking innovations grant funding. The RFA will be released on September 1, 2016 to trial courts and appellate courts to solicit grant proposals for monies appropriated by the Budget Act of 2016. The grant period runs June 1, 2017 through June 30, 2020. The RFA includes guidelines for grant proposals that promote innovative and efficient access to justice, including new programs or practices and the adoption of existing best practices that better serve the public and court users.

**Speakers:** Hon. David Rosenberg, Chair, Ad Hoc Working Group on Innovations Grants  
Ms. Jody Patel, Chief of Staff

**Recommendation:** The Ad Hoc Working Group for Innovations Grants recommends approval of the RFA to solicit proposals from trial courts and appellate courts interested in receiving Court Innovations Grant monies through a competitive grant award process. It is

anticipated that with the council's approval the RFA will be released on September 1, 2016.

**A motion was made by Justice Miller, seconded by Judge McCabe, that this proposal be approved as amended. The amendment filing date will be fixed, but may be extended. Other dates are flexible. The motion carried by unanimous vote.**

## **Adjournment**

With the meeting's business completed, Justice Chin adjourned the meeting at approximately 2:50 p.m.

*Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on October 28, 2016.*



# Judicial Council of California

Ronald M. George State  
Office Complex  
Malcolm M. Lucas  
Board Room  
455 Golden Gate Avenue  
San Francisco, California  
94102-3688

## Meeting Minutes

### Judicial Council

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

Friday, August 26, 2016

8:30 AM

San Francisco

#### **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 8:30 a.m.

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

##### **Voting Members**

- Present:** 17 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Justice James M. Humes, Justice Douglas P. Miller, Judge Marla O. Anderson, Judge Brian J. Back, Judge Kyle S. Brodie, Judge Daniel J. Buckley, Judge Stacy Boulware Eurie, Judge Samuel K. Feng, Judge Gary Nadler, Judge David M. Rubin, Judge Dean T. Stout, Mr. Mark G. Bonino, Mr. Patrick M. Kelly, Ms. Donna D. Melby, and Ms. Debra Elaine Pole
- Absent:** 4 - Justice Harry E. Hull Jr., Judge Dalila Corral Lyons, Senator Hannah-Beth Jackson, and Assembly Member Richard Bloom

##### **Advisory Members**

**Present:** Justice Marsha G. Slough, Judges Jeffery B. Barton, Scott M. Gordon, Brian L. McCabe, Kenneth K. So, Eric C. Taylor, and Charles D. Wachob; Commissioner David E. Gunn; Court Executive Officers Jake Chatters, Richard D. Feldstein and Kimberly Flener; and Supreme Court Administrator and Clerk Mr. Frank A. McGuire

##### **Media Representatives**

Ms. Maria Dinzeo, Courthouse News Service

##### **Others Present**

Ms. Mary Frances McHugh, Mr. Dan Sandall, Ms. Tracy Levin, Ms. Andrea Goodman, Ms. Deborah Grant, Ms. Leslie Hazan, and Mr. Charles Higuera

##### **Call to Order**

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 8:50 a.m. in the Malcolm M. Lucas Board Room of the William C. Vickrey Judicial Council Conference Center in the Ronald M. George State Office Complex.

## **Recognition of Distinguished Service Award and Aranda Access to Justice Award Honorees**

The Chief Justice reported that the Judicial Council, along with its partners--Judge Eric Taylor, president of the California Judges Association; Dave Pasternak, president of the State Bar; and members of the Commission on Access to Justice--gathered in San Francisco on August 25 to honor judges and court executives with the Distinguished Service Award and the Aranda Access to Justice Award.

Distinguished Service Award recipients included Judge Maria Hernandez and Mr. Alan Carlson, both from the Superior Court of Orange County, and Mr. Robert Oyung from the Superior Court of Santa Clara County. The Chief Justice acknowledged that the recipients exemplified the leadership, strength, and dedicated service that have not only improved the administration of justice in their local courts but also statewide for every Californian.

The Chief Justice also honored Judge Julia Kelety from the Superior Court of San Diego County and Judge Colleen Toy White from the Superior Court of Ventura County as recipients of the Aranda Access to Justice Award. These award recipients demonstrated a very long-term commitment to improving equal access to courts for low- and moderate-income Californians. She emphasized that it was important to recognize that talent and dedication to access to justice exists within the judicial system.

## **Advisory Bodies Update**

The Chief Justice reported that in early August she appointed 49 new members to the Judicial Council's standing advisory bodies. Those bodies and committees help track and resolve the issues that eventually percolate up to the Judicial Council. The Chief Justice noted that these 49 new appointments add to the pool of over 500 judicial officers, court professionals, and justice system partners who volunteer their time, which enables the council to be as efficient, informed, and as effective as possible when making decisions about policy and rule making for the entire judicial branch. She acknowledged the council's appreciation for the nominations and the volunteerism for what is a second job for its many members.

## Recognition of Departing Judicial Council Members

The Chief Justice acknowledged and thanked departing Judicial Council members for their years of service on the council as their terms end in September:

- Hon. Brian L. McCabe, Presiding Judge, Superior Court of Merced County
- Hon. Charles D. Wachob, Assistant Presiding Judge, Superior Court of Placer County
- Hon. Eric C. Taylor, Judge, Superior Court of Los Angeles County
- Mr. Mark Bonino, Lawyer
- Mr. Frank McGuire, Clerk and Court Administrator, Supreme Court of California

## Approval of Minutes

[16-143](#)

### **Minutes of the July 29, 2016, Judicial Council meeting.**

**A motion was made by Mr. Patrick M. Kelly, and Justice Chin seconded, 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 council meeting. She attended the 2016 Bernard E. Witkin Judicial College in San Jose, where new judicial officers attended a two-week mandatory training. During a luncheon, the Chief Justice shared her experience with the judicial college and also discussed some of the issues that the Judicial Council is working on, including the budget, Access 3D, and her wish for the new judges to eventually become involved in the work of the council. She also elaborated on one of the courses taught at the college, spoken-language interpreters, noting that this course has been offered at the college for over 20 years and has been recently updated with content that is recommended in the Judicial Council-approved Language Access Plan.

The Chief Justice delivered the general assembly keynote address for the American Bar Association's annual meeting in San Francisco. She shared an overview of California's diverse population and judicial system structure. She also provided information on the impact of a majority-minority population with limited English proficiency and a language other than English spoken at home, and the impact of that on a justice system that seeks to provide access to justice to all. She also added that she took the opportunity to ask the lawyers who were present to continue to be a voice for change and of peacemaking and to bring people together to have a discourse that will move us along and progress.

The Chief Justice participated in two videos, one produced by the Foundation for Democracy and Justice and another by the California Humanities Project. The Foundation for Democracy and Justice is a group of legal professionals whose mission is to strengthen California's understanding of the three branches of government, but also--and more important to the Chief Justice and her involvement--is their emphasis on explaining the importance of a strong, independent, and impartial judiciary. For the California Humanities Project, the Chief participated in a video to help celebrate the nonprofit's 40th anniversary of promoting humanities in California in order to create a state of open-mindedness.

## **Administrative Director's Report**

[16-144](#)

### **Administrative Director's Report**

Mr. Martin Hoshino reported on the Resource Assessment Study (RAS), noting that fieldwork is underway in some of the courts that will provide an update for the RAS study, which will eventually lead to an update to the allocation model. On the issue of traffic fines and fees, he reported that Legal Services is providing assistance to many courts. Staff recently presented to the Rules and Projects Committee a number of rule changes related to issues including improving notice and opportunities to be heard, ability to pay, installment plans, and community service, among others; these proposals were then circulated for public comment. Mr. Hoshino also informed the council that a fair amount of staff work was occurring in the construction program.

Mr. Hoshino reported on the status of legislation since August. Although there were initially 12 bills that had potentially significant fiscal impacts or effects on court operations, he noted that most of them were held in the appropriations committees in the Legislature and there are now only four bills that are being tracked. Mr. Hoshino acknowledged that staff worked diligently to either amend or alter legislation to maintain a balance between operations and services. He emphasized that it is not necessarily just about funding, but also about the limited amount of resources that are available to still function. If a new mandate or new responsibility is passed on to the courts and it is not appropriately funded, he elaborated, then the net result is that something else has to give somewhere in the system. He reiterated that it is important to keep putting that into context because a lot of time and focus is spent on the fiscal impact of many of these bills.

Mr. Hoshino provided council members with an update on the fines and fees formula, adding that staff will continue to focus on this area. He expects the Legislature and the administration may engage this issue next year. He added that the National Conference of State Court Administrators, of which he is a member, is very close to releasing a report that seeks to provide a set of principles and practical guidance for

courts throughout the nation on how to manage the legal and financial obligations that are imposed on its citizens. He assured council members that staff will make the report available to the courts.

Mr. Hoshino concluded his report by noting that when the legislative session ends, Governmental Affairs will provide a report on the final actions that occurred, at which time they will begin monitoring the 30-day timeframe within which the Governor will sign, veto, or let bills stand and become law.

## Judicial Council Committee Presentations

[16-145](#)

### 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. Brian Back, Vice-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 (E&P) Committee, reported that over the summer the committee reviewed many nominations for the advisory committees. He explained that one of the tasks of the E&P Committee under the rules of court is to recommend candidates to the Chief Justice for appointment to the Judicial Council and its advisory bodies. Justice Miller acknowledged that the Judicial Council relies on the knowledge and service of more than 500 justices, judges, commissioners, referees, court professionals, attorneys, and justice system partners. All volunteer their time to serve on the council, its internal and advisory committees, and its task forces and working groups, all with the support, resources, and expertise of able Judicial Council staff. He added that the advisory bodies keep the council aware of the issues and concerns confronting the judicial branch, as well as solutions and appropriate responses. Justice Miller explained that the council has advisory groups examine issues related to jury instructions, family law, collaborative justice, court facilities, technology and anything related to the judicial branch.

This year recruitment consisted of vacancies in 22 advisory bodies. Justice Miller reported that E&P members reviewed over 500 applications while keeping in mind



the Chief's emphasis in ensuring diversity in experience, gender, ethnic background, and geography. The committee forwarded its recommendations to the Chief and in August she announced 49 new appointments to the council's advisory bodies.

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

Judge Kenneth S. So, chair, reported that the Policy Coordination and Liaison Committee (PCLC) has been quite active as the end of the legislative session draws near. Judge So reported that a new resource has been adopted: a summary chart that includes all actions that have been taken by the PCLC. Judge So added that the summary chart is updated after each PCLC meeting and includes the bill number, a description, and all of the committee's actions; the chart is now available on the committee's webpage on the courts website.

Judge So elaborated on some of the actions that the committee has taken--on issues including flash incarceration, forfeiture and drug offenses, human trafficking, and electronic court transcripts--on behalf of the council. He highlighted Senate Bill 881, on which the committee had to balance its position knowing that the bill was going to affect how courts are funded, which also meant describing and dealing with services that the courts might not be able to provide to the public.

Judge So added that the last day for each house to pass bills is August 31 and the Governor will have until September 30 to sign or veto those bills. The committee will then provide a report on those bills and prepare for the next legislative session.

### **Rules and Projects Committee**

Judge Brian Back, vice-chair of the Rules and Projects Committee (RUPRO), reported that the committee met once and communicated by e-mail on one matter since the last Judicial Council meeting. On August 6, they met by telephone to consider two proposals that had been circulated for comment: a request from the Civil and Small Claims Advisory Committee to amend its annual agenda, a request to circulate three proposals on a special cycle, and one informational item. The committee approved circulation for comment on the three proposals, which after review of comments by the proponent advisory committees and RUPRO, are expected to come before the council at the October business meeting. RUPRO also approved an amendment of the annual agenda for the Civil and Small Claims Advisory Committee and recommended council approval of the two proposals that circulated for comment, items 16-132 and 16-152 on the current consent agenda. The committee communicated by e-mail on August 10 to recommend approval of a proposal to amend rule 10.804 on superior court financial policies and procedures. Judge Back added that the proposal circulated during the spring comment cycle and was recommended for approval during the current council meeting as consent agenda

item 16-150.

### **Judicial Council Technology Committee**

Justice Marsha Slough, the Judicial Council Technology Committee (JCTC) chair, reported that the committee held three meetings--two by telephone conference and one in-person meeting. She explained that their subgroup continues to work diligently on the Sustain Justice Edition court budget change proposal.

Justice Slough reported that the Information Technology Advisory Committee (ITAC) has met twice. They received briefings regarding the progress of all of the work streams that are effectively addressing the technology issues that are consistent with the Access 3D initiative.

Justice Slough reported that she attended the National Association for Court Management conference held in Pittsburgh in July. Also in attendance was Judge Daniel Buckley of the Los Angeles County Superior Court. She reported that there were many good technology presentations, which included an information technology (IT) governance presentation by Mr. Snorri Ogata, Chief Information Officer (CIO) of the Los Angeles County Superior Court, and a presentation on improving courts' presentations through the use of IT by Ms. Heather Pettit, the CIO of the Contra Costa County Superior Court. Justice Slough added that at the conference, the Los Angeles County Superior Court won second place in the top 10 technology initiatives for their avatar, Gina.

In addition, Justice Slough reported that she and Judge Buckley presented at the most recent Court Executive Advisory Committee meeting. They discussed with committee members their perspective on the status of technology. Justice Slough noted that they also wanted to hear the members' branchwide technology perspectives and needs, and how they can partner better in the future.

Justice Slough reported that at their JCTC meeting on July 27, they received updates on the V3 budget change proposal, which was successful in the Governor's budget this year. JCTC also received updates from Mr. Jake Chatters on his progress with the Placer court hosting consortium. He and his group have taken over some of the hosting duties from the branch IT staff.

At their August 25 meeting, the JCTC approved various proposed rules of court changes dealing with e-filing and e-services, and also approved a legislative proposal to authorize permissive e-filing and e-service in criminal proceedings.

Justice Slough acknowledged Justice Terence L. Bruiniers of the Court of Appeal, First Appellate District, for serving as ITAC chair since 2012 and welcomed Judge Sheila

Hanson of the Orange County Superior Court as the new chair to the committee. Justice Slough added that Justice Louis Mauro of the Court of Appeal, Third Appellate District, is the new vice-chair for ITAC.

### **Judicial Branch Budget Committee**

Judge David Rubin, chair of the Judicial Branch Budget Committee, remarked that this was the first report of the council's new committee that the Chief announced at the July 29 council meeting. The committee's charge is to administer the \$10 million branch emergency fund and the \$25 million court innovations grant, to coordinate judicial branch budget change proposals that go to the Department of Finance, and to perform any other budget tasks assigned to the committee.

Judge Rubin reported that the committee met twice in person since the July 29 council meeting for educational and orientation sessions. He informed the council that the committee members view their task from a branchwide perspective mirroring the approach of the council. They will seek to promote the efficient, fiscally prudent, effective, and fair allocation of limited resources, reflecting the branch's overall statewide interests.

### **Judicial Council Members' Liaison Reports**

Judge Brian McCabe reported on his visit to the Superior Court of El Dorado County.

### **Public Comment**

Ms. Maryanne Cunningham, Ms. Roberta Fitzpatrick, Mr. Thomas Portue, Ms. Catherine Campbell Raffa, Ms. Joanne McReynolds, Ms. Connie Valentine, Ms. Kathleenn Russell, and Judge William Davis presented comments on judicial administration issues. Mr. David Yamasaki and Ms. Joy Ricardo presented comments on item 16-139.

## **CONSENT AGENDA**

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

**A motion was made by Judge So, seconded by Judge McCabe, to approve all of the following items on the Consent Agenda.**

**16-125**

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

**Summary:** The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) and Judicial Council staff recommend that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Humboldt*. This acceptance is consistent with the policy

approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

**Recommendation:** The A&E Committee and Judicial Council staff recommend that the Judicial Council, effective August 26, 2016, accept the following “pending” audit report:

- Audit report dated December 2015 entitled: *Audit of the Superior Court of California, County of Humboldt*

This acceptance will result in the audit report progressing from “pending” status to “final” status, and publishing the final report on the California Courts public website.

#### [16-128](#)

#### **Court Facilities: Five-Year Master Plan--Deferred Maintenance Report, Fiscal Year 2017-2018 (Action Required)**

**Summary:** In compliance with the California Department of Finance’s (DOF) annual request, Judicial Council Real Estate and Facilities Management staff has prepared the Deferred Maintenance Request Log for fiscal year 2017-2018, which provides deferred maintenance project information within judicial branch facilities. The Trial Court Facility Modification Advisory Committee recommends the Judicial Council approve the report for submittal to DOF. This information is part of DOF Budget Letter 15-17 and is included as part of the council’s Five-Year Infrastructure Plan. To comply with DOF’s request, Real Estate and Facilities Management staff has prepared the attached Deferred Maintenance List to include building name, project system, project rough order of magnitude, as well as the branch’s share of costs. The list is also prioritized based primarily on need. For active facilities, the list presents a total of 2,849 deferred maintenance needs with an estimated rough order of magnitude value of \$2.03 billion, of which the judicial branch responsible share is \$1.59 billion.

**Recommendation:** The Trial Court Facility Modification Advisory Committee (TCFMAC) recommends the Judicial Council approve the report for submittal to the Department of Finance in September 2016 in alignment with Budget Letter (BL) 15-17, and in anticipation that this requirement will be included in the DOF BL for fiscal year 2017-2018 submittals.

#### [16-130](#)

#### **Subordinate Judicial Officers: Update of the Policy for 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 Government Code section 69615, 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. The policy that established the criteria for deferring conversions was adopted by the Judicial Council in 2009 but needs to be updated in order to fit the current needs of courts. In order to meet the operational needs of courts and to provide clear guidance to both courts and E&P regarding the circumstances under which an exception may be granted, E&P recommends that the Judicial Council approve updated criteria under which a court may seek a deferral of a conversion.

**Recommendation:** The Executive and Planning Committee recommends that the Judicial Council update the existing policy concerning deferrals of subordinate judicial officer (SJO) conversions in order to give E&P and the courts clear guidelines for reviewing and approving such requests. Specifically, the council should adopt the following criteria:

1. Assessed judicial need,
2. Vacancies and anticipated vacancies of judicial officers,
3. Workload growth in the court,
4. Economic hardship that affects a court's ability to maintain its current level of operations, and
5. Operational hardship.

In addition to expanding the criteria under which an exception could be granted, E&P recommends that the council direct courts seeking a deferral to choose between three options. Courts with a vacant SJO position eligible for conversion may:

- Option 1: Request a permanent reduction in the number of authorized SJO positions instead of converting the position or filling it with another SJO.
- Option 2: Seek a deferral of the conversion and choose to fill the position with a subordinate judicial officer.
- Option 3: Seek a one-year deferral of the conversion, leaving the SJO position vacant during that time.

## [16-132](#)

### **Jury Instructions: Revisions to Criminal Jury Instructions (Action Required)**

**Summary:** The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*. These changes will keep CALCRIM current with statutory and case authority.

**Recommendation:** The Advisory Committee on Criminal Jury Instructions recommends that the Judicial Council, effective August 26, 2016, approve for publication under rule 2.1050 of the California Rules of Court the criminal jury instructions prepared by the committee. Once approved by the Judicial Council, the revised instructions will be published in the next official edition of the *Judicial Council of California*

*Criminal Jury Instructions.*[16-134](#)**Judicial Council Report to the Legislature: Report on California Rules of Court, Rule 10.75 (Meetings of Advisory Bodies) (Action Required)**

**Summary:** Under California Rules of Court, rule 10.75(p), the Judicial Council must review the rule's impact periodically to determine whether amendments are needed. No amendments are needed at this time. The Judicial Council staff recommends that the council direct that the attached letter be sent to the Joint Legislative Budget Committee as required by the *Supplemental Report of the 2013-2014 Budget Package*.

**Recommendation:** Judicial Council staff recommends that the Judicial Council direct council staff to submit to the Joint Legislative Budget Committee the letter reporting on rule 10.75 (Attachment 1).

[16-135](#)**Judicial Council Report to the Legislature: Allocations and Reimbursements to the Trial Courts for Fiscal Year 2015-2016 (Action Required)**

**Summary:** Judicial Council staff recommend approving the *Report of Allocations and Reimbursements to the Trial Courts for Fiscal Year 2015-2016*. Government Code section 77202.5(a) requires that the Judicial Council report to the Legislature on all approved allocations and reimbursements to the trial courts in each fiscal year by September 30: to the chairs of the Senate Committees on Budget and Fiscal Review and Judiciary, and the chairs of the Assembly Committees on Budget and Judiciary. The allocations and reimbursements reflect disbursements to courts through July 27, 2016, and any remaining encumbrances as of July 27, 2016. The report will be updated to include the final regular distribution to the trial courts scheduled for August 31, 2016, before submission to the Legislature.

**Recommendation:** Judicial Council staff recommend that the Judicial Council:

1. Approve the attached report; and
2. Direct Judicial Council staff to submit the report to the chairs of the Senate Committees on Budget and Fiscal Review and Judiciary, and the chairs of the Assembly Committees on Budget and Judiciary.

[16-137](#)**Court Facilities: Court-Funded Facilities Request Policy (Action Required)**

**Summary:** The Trial Court Facility Modification Advisory Committee (TCFMAC) recommends revising the Court-Funded Facilities Request (CFR) Procedure to increase the small project budget maximum value from its current threshold of \$15,000 per project and to allow Judicial Council staff to approve CFRs. These procedural changes will allow trial court leaders to better plan their facilities financial contributions and see urgent facilities projects come to fruition as much as

45 days sooner than the current standard allows.

**Recommendation:** The Trial Court Facility Modification Advisory Committee recommends that the Judicial Council, effective August 26, 2016, revise the Court-Funded Facilities Request Procedure to:

1. Increase the small project budget maximum value from its current threshold of \$15,000 to \$50,000 per project; and
2. Permit the TCFMAC to delegate its CFR approval authority to the director of the Judicial Council's Real Estate and Facilities Management (REFM) office.

#### [16-138](#)

#### **Trial Courts: 2015 Court Realignment Data (Action Required)**

**Summary:** Penal Code section 13155 requires the Judicial Council, commencing January 1, 2013, to collect information from trial courts regarding the implementation of the 2011 Criminal Justice Realignment legislation and make the data available annually to the California Department of Finance (DOF), Board of State and Community Corrections (BSCC), and Joint Legislative Budget Committee (JLBC) by September 1. This is the fourth annual court realignment data report to the DOF, BSCC, and JLBC. The *Court Realignment Data (Calendar Year 2015)* is included as Attachment A to this report.

**Recommendation:** Staff to the Judicial Council, Criminal Justice Services office, recommends that the Judicial Council:

1. Receive the attached *Trial Courts: Court Realignment Data (Calendar Year 2015)* documenting information reported by the trial courts pursuant to Penal Code section 13155 and,
2. Direct staff to transmit the report to the California Department of Finance, the Board of State and Community Corrections, and the Joint Legislative Budget Committee by September 1.

#### [16-142](#)

#### **Court Facilities: Superior Court of California, County of Los Angeles: Hollywood Courthouse Project Design-Build Delivery Method and Prequalification Process (Action Required)**

**Summary:** Judicial Council staff recommends that the Judicial Council proceed with the design-build delivery method for the new Hollywood Courthouse and establish the prequalification process for design-build entities for the new Hollywood Courthouse project.

**Recommendation:** Judicial Council staff recommends that the Judicial Council, effective August 26, 2016, establish the prequalification process for design-build entities for the new Hollywood Courthouse project.

#### [16-148](#)

#### **Judicial Council Administration: Increased Maximum Lodging Reimbursement Rate for San Francisco (Action Required)**

**Summary:** Judicial Council staff recommends that the Judicial Council approve an increase in

the maximum lodging reimbursement rate for the City and County of San Francisco from \$150 per night to \$250 per night. This increase will align the rate for judicial branch officers and employees with the rate implemented by the executive branch for excluded employees in July 2016.

**Recommendation:** Judicial Council staff recommends that the Judicial Council approve, effective August 26, 2016, an adjustment to the maximum lodging rate for the City and County of San Francisco from the current \$150 per night to \$250 per night for reimbursement to judicial branch officers and employees for official state business travel. All other counties will remain at existing maximum lodging reimbursement rates per night (i.e., \$140 for Alameda, San Mateo, and Santa Clara Counties; \$125 for Monterey and San Diego Counties; \$120 for Los Angeles, Orange, and Ventura Counties; and \$110 for all other counties).

#### [16-150](#)

### **Trial Courts: Financial Policies and Procedures (Action Required)**

**Summary:** Judicial Council staff recommends amending rule 10.804 of the California Rules of Court concerning the *Trial Court Financial Policies and Procedures Manual* because the rule currently provides that the manual include policies and procedures for procurement and contracting by superior courts. That is no longer necessary because these policies and procedures are now contained in the *Judicial Branch Contracting Manual*.

**Recommendation:** Judicial Council staff recommends that the Judicial Council, effective August 26, 2016, amend rule 10.804 to:

1. Remove unnecessary references to policies and procedures for procurement and contracting by superior courts,
2. Describe the content and purpose of the manual, and
3. Describe the amendments to the manual that must circulate for public comment.

The unnecessary references duplicate those now available in the *Judicial Branch Contracting Manual*.

#### [16-152](#)

### **Judicial Branch Education: Judicial Council Education (Action Required)**

**Summary:** Rule 10.491 addresses education requirements for Judicial Council staff. The overarching goal of amending rule 10.491 is to enable Judicial Council staff to more effectively fulfill their education requirements by eliminating administrative elements that do not directly bear on education, adding flexibility to better serve the structure and operation of the Judicial Council staff office, and streamlining the tracking of employee education in the Human Resources and Education Management System (HREMS). Judicial Council staff recommends these amendments, which are supported by the Administrative Director and by the Governing Committee of the Center for Judicial Education and Research.



**Recommendation:** Judicial Council staff recommends that the Judicial Council, effective January 1, 2017, amend rule 10.491 to:

1. Eliminate the distinction between education hours earned through distance education or live, face-to-face education, and allow staff to fulfill their education hours requirement using any form of education they choose and that their supervisors approve;
2. Require the same number of education hours--10 hours per year--for all Judicial Council staff, regardless of their position within the organization;
3. Make new employees eligible to begin earning education hours immediately upon hire; and
4. Eliminate administrative elements from the rule, such as directives to management to encourage employees to participate in education activities or that describe how to maintain training records.

## DISCUSSION AGENDA

[16-139](#)

**Budget: Fiscal Year 2017-2018 Budget Proposals for Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities Program, Trial Courts, and Habeas Corpus Resource Center (Action Required)**

**Summary:** The delegated committees of the Judicial Council recommend submission of fiscal year 2017-2018 budget proposals for the Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities Program, Trial Courts, and Habeas Corpus Resource Center. In addition, the Judicial Council staff recommends delegating authority to the Administrative Director to make technical changes to any budget proposals, as necessary. Submittal of budget change proposals is the standard process for proposing funding adjustments in the State Budget, which must be submitted to the state Department of Finance by September 2, 2016.

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

**Recommendation:** Effective August 26, 2016, the following Judicial Council advisory committees and boards recommend that the Judicial Council approve and prioritize the fiscal year (FY) 2017-2018 budget proposals for submission to the state Department of Finance:

1. The Administrative Presiding Justices Advisory Committee for the Supreme Court and Courts of Appeal.
2. The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, the Judicial Council, and the Judicial Branch Facilities Program.
3. The Trial Court Budget Advisory Committee for the Trial Courts.
4. The Trial Court Facility Modification Advisory Committee for the Judicial Branch Facilities Program.
5. The Language Access Plan Implementation Task Force.
6. The Judicial Council Technology Committee.

7. The Habeas Corpus Resource Center board of directors for the Habeas Corpus Resource Center.

Further, the Administrative Director recommends that the Judicial Council:

8. Delegate authority to the Administrative Director to make technical changes to budget change proposals (BCPs), as necessary.
9. Prioritize all approved BCPs for submission to the state Department of Finance as follows:
  - a. Support for Trial Court Operations.
  - b. Sustain Justice Edition Case Management System Replacement.
  - c. Court-Appointed Dependency Counsel.
  - d. New Judgeships (AB 159).
  - e. Supreme Court and Appellate Courts--California Court Appointed Counsel Projects, San Francisco.
  - f. Appellate Court Document Management System.
  - g. Sustainability of the Immediate and Critical Needs Account.
  - h. Appellate Court Judicial Workload.
  - i. General Fund Support of Statewide Programs and Services.
  - j. Implementation of the Language Access Plan and Support for Court Interpreters.
  - k. Increased Operations Costs for Existing and New/Renovated Courthouses.
  - l. Statewide Electronic Filing Technology.
  - m. Trial Court Facilities Operations Cost Adjustment.
  - n. Appellate Court Facility Maintenance Program.
  - o. Habeas Corpus Resource Center--Case Teams Staffing.
  - p. Appellate Court Security.
  - q. Technical BCP--Judicial Council Organizational Restructure.
  - r. Technical BCP--Santa Clara Capital Outlay Project Funding Plan.
10. Withhold approval and submission of the following BCPs to the Department of Finance:
  - a. Trial Court Facilities Modifications Cost Adjustment.
  - b. Self-Help Services.
  - c. Insurance--Risk Management.
  - d. Technology Improvements for Facilities.

**Three motions were made to this discussion agenda item.**

**A motion was made by Mr. Jake Chatters, seconded by Judge McCabe, that budget change proposal 1 as amended and 2 through 7 be approved. The amended language in the request for budget change proposal 1 includes the following:**

**\$41 million to fund inflationary cost increases the equivalent of a 2.5 percent cost-of-living increase for all trial court employees, consistent with increases previously provided to executive branch employees. This augmentation could be**

utilized to provide any of the following (or any combination thereof): the reduction or elimination of budget reduction–related concessions such as furloughs, reduced work weeks, previously enacted or planned future layoffs; a cost of living increase; enhanced employee benefits; to address other personnel matters as deemed appropriate by each trial court in negotiations with their related employee representatives; or other inflationary cost increases.

The motion carried by a unanimous vote.

Another motion was made by Judge Buckley, seconded by Judge Rubin, that budget change proposals 8 through 18 be approved as reprioritized. The priority order was revised to reflect the following order: 8, 11, 13, 9, 10, 12, 14, 15, 16, 17, and 18. The motion carried by a unanimous vote.

The last motion was made by Justice Miller, seconded by Judge Nadler, that recommendation 8 on page 2 of the report be approved. The motion carried by a unanimous vote.

#### [16-141](#)

### **Court Facilities: Budget Allocations for Statewide Trial Court Facility Modifications and Planning in Fiscal Year 2016-2017 (Action Required)**

**Summary:** The Trial Court Facility Modification Advisory Committee (TCFMAC) recommends allocations of the \$65 million appropriated by the Legislature for trial court facility modifications in the fiscal year (FY) 2016-2017 State Budget. The recommended allocations support facility modification planning and facility modifications for emergency and critical needs.

**Speakers:** Hon. William Highberger, Vice-Chair, TCFMAC  
Mr. Enrique Villasana, Real Estate and Facilities Management  
Mr. Brad Boulais, Real Estate and Facilities Management

**Recommendation:** The TCFMAC recommends that the Judicial Council, effective August 26, 2016, approve allocations of the \$65 million authorized by the Legislature for statewide court facility modifications (FM) and planning in FY 2016-2017 as follows:

1. Priority 1 facility modifications allocation of \$7 million (11 percent of total allocations);
2. Priority 2-6 facility modifications allocation of \$46.2 million (71 percent of total allocations);
3. Planned facility modifications allocation of \$6.2 million (9.5 percent of total allocations); and
4. Statewide facility modifications planning allocation of \$5.6 million (8.5 percent of total allocations).

A motion was made by Judge So, seconded by Judge Taylor, that these proposals be approved. The motion carried unanimously.

#### [16-151](#)

### **Court Facilities: Recommendation on the Active Senate Bill 1407 Courthouse Capital Projects (Action Required)**

**Summary:** The Court Facilities Advisory Committee (CFAC) recommends that, until proper funding of the Immediate and Critical Needs Account (ICNA) is restored and with

exception of the capital projects currently under construction, the schedules of the active Senate Bill 1407 projects be modified or put on hold. The CFAC advocates that funding should be restored for these important and desperately-needed courthouse capital projects.

**Speakers:** Hon. Brad R. Hill, Chair, Court Facilities Advisory Committee  
Mr. Mike Courtney, Capital Program

**Recommendation:** The Court Facilities Advisory Committee recommends that the Judicial Council, effective August 26, 2016, direct the active SB 1407 courthouse capital projects proceed as identified in the *Court Facilities Advisory Committee Recommendation to Judicial Council on Active SB 1407 Courthouse Capital Projects*.

A motion was made by Justice Chin, seconded by Judge Feng, that this recommendation be approved. The motion carried unanimously.

## INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

### [16-136](#)

#### **Court Facilities: Trial Court Facility Modification Quarterly Activity Report for Quarter 4 of Fiscal Year 2015-2016**

**Summary:** The Trial Court Facility Modification Advisory Committee (TCFMAC) has completed its facility modification funding for the fourth quarter of fiscal year 2015-2016. In compliance with the *Trial Court Facility Modifications Policy*, the advisory body is submitting its *Trial Court Facility Modification Quarterly Activity Report: Quarter 4, Fiscal Year 2015-2016* as information for the council. This report summarizes the activities of the TCFMAC from April 1, 2016, to June 30, 2016.

### [16-140](#)

#### **Criminal Law: Study Findings on the Use of Risk and Needs Assessment Information**

**Summary:** The California Risk Assessment Pilot Project, which was funded under a partner grant from the State Justice Institute and the National Institute of Corrections, explores the ways in which evidence-based practices, specifically the use of risk and needs assessment (RNA) information, can be incorporated into adult felony probation sentencing and violation proceedings to reduce offender recidivism and improve offender accountability. Probation departments in the pilot sites sentenced a significantly lower proportion of felony probationers to prison and jail compared to the rest of the state and findings support the validity of the RNA tools as a means to predict the occurrence of future noncompliant behavior. The final project report, *The California Risk Assessment Pilot Project: The Use of Risk and Needs Assessment Information in Adult Felony Probation Sentencing and Violation Proceedings*, is included as Attachment A.

### [16-147](#)

#### **Trial Courts: Annual Investment Report for Fiscal Year 2015-2016**

**Summary:** This *Trial Courts: Annual Investment Report* covers the period of July 1, 2015,

through June 30, 2016, 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.

**16-155****Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Report No. 38)**

**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 38th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, one superior court--Yolo County--has issued a new notice.

**Appointment Orders****16-154****Appointment Orders since the last Judicial Council 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. Ralph W. Dau, Superior Court of California, County of Los Angeles
- Hon. Robert F. Baysinger (Ret.), Superior Court of California, County of San Joaquin
- Hon. Jacob H. Jager (Ret.), Superior Court of California, County of San Joaquin
- Hon. Michael Virga (Ret.), Sacramento County Municipal Court

**Adjournment**

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:20 a.m.

*Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on October 28, 2016.*