



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 21-143*

For business meeting on October 1, 2021

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**Title**

Collaborative Justice: Collaborative Justice Courts Advisory Committee's Area of Focus and Duties

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2022

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 10.56

**Date of Report**

August 23, 2021

**Recommended by**

Collaborative Justice Courts Advisory Committee  
Hon. Richard Vlavianos, Chair

**Contact**

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### Executive Summary

The Collaborative Justice Courts Advisory Committee recommends amending rule 10.56 of the California Rules of Court to update the committee's areas of focus and duties by incorporating diversion and other collaborative justice-related programs. This recommendation would allow the advisory committee to better address judicial leadership and the court processes of collaborative justice courts and similar programs that affect individuals who are moving through the court system and have mental illnesses, substance use disorders, or co-occurring disorders.

### Recommendation

The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council amend rule 10.56 of the California Rules of Court, effective January 1, 2022, to:

1. Include within the scope of the advisory committee's area of focus programs that incorporate judicial supervision, court monitoring, collaboration among justice system partners, or rehabilitative services aimed at improving outcomes for individuals with mental health issues, substance use disorders, or co-occurring disorders;

2. Eliminate the obsolete list of specific types of collaborative justice courts;
3. Establish a focus on education and training opportunities for judicial officers, court staff, and justice system partners; and
4. Specify the nature of recommendations that can be made to the Judicial Council about funding and outreach activities that can benefit collaborative justice courts and similar collaborative programs focused on individuals with mental health issues, substance use disorders, or co-occurring disorders.

The proposed amended rule is attached at pages 6-7.

### **Relevant Previous Council Action**

Rule 6.56 (now rule 10.56) was adopted effective January 1, 2000. It was subsequently amended, effective January 1, 2002, to remove subdivision (d), which required the committee to submit to the Judicial Council by November 1, 2001, a report that assessed whether the committee should be dissolved or should continue to exist. Otherwise, there have been no substantive amendments to the rule since it was first adopted.

### **Analysis/Rationale**

The Judicial Council's Collaborative Justice Courts Advisory Committee was created in 2000 by Chief Justice Ronald M. George to support the growing number of collaborative justice courts in California. The areas of focus, duties, and structure that were established for the committee in January 2000 via rule 6.56 (now rule 10.56) remain in place.

The proposed amendments to subdivision (a) of rule 10.56 will modernize the criteria originally used to define collaborative justice courts to better reflect the evolution of these courts. Specifically, these amendments:

- Require the advisory committee to include within its area of focus all programs that incorporate judicial supervision, collaboration among justice system partners, or rehabilitative services aimed at improving outcomes for individuals with mental illnesses, substance use disorders, or co-occurring disorders;
- Would eliminate the obsolete list of specific types of collaborative justice courts; and
- Move specific duties to subdivision (b) Additional duties.

The proposed amendments to subdivision (b) of rule 10.56 will assist the advisory committee in aligning its focus with recent reforms that affect court, criminal justice, and behavioral health systems and recent shifts in the legislative and executive branches to establish collaborative programs that impact adult and youth with mental illnesses, substance use disorders, and co-occurring disorders. The specific changes to subdivision (b) and the committee's rationale for the change are as follows:

- The duty in subdivision (b)(1) was originally included in subdivision (a), and it is moved for consistency and clarity into subdivision (b) with the other additional duties for the committee;
- In subdivision (b)(2), the word “local” is removed to enable assessment of statewide programs, and the word “effectiveness” is removed for brevity and to reduce redundant use of the term. The term “data collection methods” is specified to ensure that programs collect standard data elements to support courts’ ability to engage in ongoing self-assessment;
- In subdivision (b)(3), the term “nationally recognized” is added to allow the committee to identify and distribute to courts national standards that have been developed for adult and dependency collaborative justice courts. “Training and program implementation activities” is added so that the committee can advise courts of relevant activities that assist courts in implementing new programs, such as mental health diversion programs created pursuant to Penal Code sections 1001.35 and 1001.36;
- In subdivision (b)(4), the committee recommends amendments that improve the sentence structure for greater clarity, updates the name of the Center for Judicial Education and Research Advisory Committee, and clarifies that the recommendations it makes to that advisory committee relate to minimum judicial education standards concerning collaborative programs, consistent with the proposed changes to subdivision (a);
- In subdivision (b)(5), the committee recommends amendments that will clarify that its duty to advise the council of potential funding sources includes those that may advance collaborative programs. This will enable the committee and the Judicial Council to be prepared in the event that federal funding for collaborative courts becomes available in the form of block grants, or in the event that state and local funding sources for collaborative programs become available;
- In subdivision (b)(6), the amendment will expand the authority of the committee to make recommendations to the council on allocation of grant funding related to any collaborative program and not just “drug and other treatment courts,” consistent with the proposed amendments to subdivision (a); and
- In subdivision (b)(7), the amendment will change “recommend” to “identify and disseminate” to more clearly reflect the committee’s role in identifying and disseminating appropriate outreach activities. The term “collaborative justice courts” is replaced and expanded with “collaborative programs” consistent with the amendments to subdivision (a). The amendment also adds specific examples of partners with which the committee may collaborate.

The proposed amendments to subdivision (c) of rule 10.56 simplifies the language of the section.

## **Policy implications**

The proposal will enable the Collaborative Justice Courts Advisory Committee to more effectively carry out its duties of making recommendations to the Judicial Council, assessing the success of programs, and identifying and disseminating to courts best practices and outreach activities. The proposal will allow the advisory committee to expand its area of focus to align with recent reforms that affect court, criminal justice, and behavioral health systems and recent shifts in the legislative and executive branches to establish collaborative programs that affect adults and youth with mental health issues, substance use disorders, and co-occurring disorders.

## **Comments**

This proposal circulated for comment from April 15 to May 27, 2021. The proposal was circulated to the California Association of Collaborative Courts, relevant Judicial Council advisory committees and posted on the California Courts website. Six comments were received, and all commenters agreed with the proposed changes. In addition to public input on the rule, the Collaborative Justice Courts Advisory Committee solicited comments from other advisory bodies to ensure that the scope of the amendments did not raise purview-related concerns. As part of this process, the Probate and Mental Health Advisory Committee suggested that the amended rule more precisely define “collaborative programs” and clarify that these programs are limited to those under court jurisdiction. Based on this feedback, the committee added language specifying that these programs are “court monitored.”

## **Alternatives considered**

The advisory committee considered proposing the creation of a new advisory committee focused on specific matters of importance to the courts and judicial branch—matters that are consistent with the scope of the Collaborative Justice Courts Advisory Committee but not explicitly included in the list of types of collaborative courts in the current rule 10.56. This alternative was rejected because (1) the duties and responsibilities of a new advisory committee would overlap with those of the Collaborative Justice Courts Advisory Committees on certain matters, creating an inefficient redundancy and confusion as to responsibilities between the existing committee and any proposed additional committee, (2) the expertise encompassed across the Collaborative Justice Courts Advisory Committee membership equips the advisory committee to accomplish the duties and responsibilities in the proposed amendment to rule 10.56, (3) the creation of a new advisory committee would impose fiscal and operational impacts on the Judicial Council, and (4) rule 10.30 favors giving new tasks to an existing committee instead of creating a new advisory body.<sup>1</sup>

The advisory committee also considered not amending rule 10.56. This alternative was rejected, however, to ensure that the scope of the advisory committee’s focus reflects the numerous recent reforms that affect court, criminal justice, and behavioral health systems, and to ensure that the committee’s work aligns with and can adapt to the future of collaborative justice. The advisory

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<sup>1</sup> Rule 10.30(e), *Preference for Using Existing Advisory Committees*, states “Unless substantial reasons dictate otherwise, new projects requiring committee involvement must be assigned to existing advisory committees.”

committee rule was originally created more than 20 years ago, when collaborative justice courts became nationally recognized and when the foundation and principles of these courts were becoming solidified. Although the advisory committee rule remains largely unchanged, the same cannot be said for the field of collaborative justice courts. Amending the rule will position the committee to accommodate the foreseeable growth and continued evolution of these courts in the years to come and in a manner that may not be sufficient under the current parameters of rule 10.56.

### **Fiscal and Operational Impacts**

The updates made in this proposal can be accomplished with existing resources and, as such, this proposal will have no fiscal or operational impact on the courts or the Judicial Council, including Judicial Council staff. Court commenters who addressed the issue agreed that the proposal will impose no fiscal or operational costs on the courts.

### **Attachments and Links**

1. Cal. Rules of Court, rule 10.56, at pages 6-7
2. Chart of comments, at pages 8–10

Rule 10.56 of the California Rules of Court is amended, effective January 1, 2022, to read:

**Rule 10.56. Collaborative Justice Courts Advisory Committee**

**(a) Area of focus**

The committee makes recommendations to the Judicial Council on criteria for ~~identifying and evaluating and improving adult and youth collaborative justice courts and programs that incorporate judicial supervision, collaboration among justice system partners, or rehabilitative services. Collaborative programs include collaborative justice courts, diversion programs, and similar court-monitored programs that seek to improve outcomes and address problems facing court-involved and justice system-involved individuals and those at risk of becoming involved with the justice system, including, but not limited to, individuals with mental health issues, substance use disorders, or co-occurring disorders. for improving the processing of cases in these courts, which include drug courts, domestic violence courts, youth courts, and other collaborative justice courts. Those recommendations include "best practices" guidelines and methods for collecting data to evaluate the long-term effectiveness of collaborative justice courts.~~

**(b) Additional duties**

In addition to the duties described in rule 10.34, the committee must:

- (1) Make recommendations to the council on best practices and guidelines for collaborative programs;
- (2) Assess and measure the success and effectiveness of local collaborative justice courts programs, including assessing and recommending methods for collecting data to evaluate the effectiveness of these programs;
- ~~(2)~~(3) Identify and disseminate to trial courts locally generated and nationally recognized best practices for collaborative programs, and training and program implementation activities that support collaborative programs;
- ~~(3)~~(4) Recommend to the Center for Judicial Education and Research Advisory Committee minimum judicial education standards on collaborative programs, and educational activities to support those standards to the Governing Committee of the Center for Judicial Education and Research;
- ~~(4)~~(5) Advise the council of potential funding sources, including those that may advance collaborative programs;

1       ~~(5)(6)~~ Make allocation recommendations regarding Judicial Council–administered  
2       grant funding programs ~~staff for that support drug courts and other treatment~~  
3       ~~courts~~ collaborative programs; and  
4

5       ~~(6)(7)Recommend~~ Identify and disseminate appropriate outreach activities needed  
6       to support collaborative ~~justice courts~~ programs, including but not limited to  
7       collaborations with educational institutions, professional associations, and  
8       community-based organizations.  
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10    **(c)   Membership**  
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12       The committee must include the following:  
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14       ~~(1)~~   At least five judicial officers. Nominations for these appointments must be  
15       made in accordance with rule 10.32. The list of nominees should enable the  
16       Chair of the Judicial Council to appoint a committee with members from  
17       courts of varying sizes and locations and that reflects a variety of experience  
18       and expertise in different cases types that reflects a variety of court  
19       ~~experience (e.g., criminal, juvenile, family, general civil), expertise, and court~~  
20       ~~sizes and types (e.g., urban, suburban, and rural; and small, medium, and~~  
21       ~~large).~~  
22

23       (2)   \* \* \*

## SPR21-04

### Collaborative Justice: Updating the Collaborative Justice Courts Advisory Committee's Area of Focus and Duties (amend Cal. Rules of Court, rule 10.56)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
1.	California Association of Collaborative Court Professionals by John Domantay, Treasurer, Board of Directors	A	At the May 18, 2021 meeting of the Board of Directors of the California Association of Collaborative Courts (CACC), the Board reviewed the Rule Change Proposal for Rule 10.56 regarding the Collaborative Justice Courts Advisory Committee to the Judicial Council. The CACC Board approved a motion to Endorse the Rule Change Proposal as drafted.	No response required.
2.	California Health Policy Strategies by David R. Panush, President	A	I support the proposed changes. It's about time!	No response required.
3.	Orange County Bar Association by Larisa M. Dinsmoor, President	A	The OCBA "Agrees" with the following proposals (one comment form): SPR21-04	No response required.
4.	Superior Court of California, County of Orange, Family Law and Juvenile Division by Vivian Tran, Administrative Analyst	A	<b>Rule 10.56. Collaborative Justice Courts Advisory Committee</b> <ul style="list-style-type: none"><li>▪ The proposal is as to the Collaborative Justice Courts Advisory Committee and how the committee functions/makes recommendations to the Judicial Council.<ul style="list-style-type: none"><li>▪ The proposed amendments will allow the Collaborative Justice Courts Advisory Committee to make recommendations to the Judicial Council (including grant funding recommendations the Judicial Council oversees that support collaborative programs), assess and measure the collaborative programs success, and to identify and disseminate the best practices</li></ul></li></ul>	No response required.

## SPR21-04

### Collaborative Justice: Updating the Collaborative Justice Courts Advisory Committee's Area of Focus and Duties (amend Cal. Rules of Court, rule 10.56)

All comments are verbatim unless indicated by an asterisk (\*)

	Commenter	Position	Comment	Committee Response
			<p>for collaborative programs to local trial courts.</p> <ul style="list-style-type: none"><li>▪ Additionally, the amendments will allow the Collaborative Justice Courts Advisory Committee to identify advanced collaborative programs and advise the Judicial Council of potential funding sources, as well as support collaborative programs that include educational institutions, professional associations, and community-based organizations.</li></ul> <p>▪ <b>Will have no impact (fiscal or operational) on the courts.</b></p> <p><b>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</b></p> <ul style="list-style-type: none"><li>▪ <i>Does the Proposal appropriately address the stated purpose?</i><ul style="list-style-type: none"><li>▪ Yes, the proposal addresses the stated purpose.</li></ul></li></ul> <p><b>The advisory committee also seeks comments from <i>courts</i> on the following cost and implementation matters:</b></p>	<p>No response required.</p> <p>No response required.</p>

**SPR21-04****Collaborative Justice: Updating the Collaborative Justice Courts Advisory Committee's Area of Focus and Duties (amend Cal. Rules of Court, rule 10.56)**

All comments are verbatim unless indicated by an asterisk (\*)

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<ul style="list-style-type: none"> <li>▪ <i>Would the proposal result in fiscal or operational costs for the courts? If so, please quantify</i> <ul style="list-style-type: none"> <li>▪ No fiscal or operational costs for the courts.</li> </ul> </li> <li>▪ <i>Are there implementation requirements for the courts as a result of this change?</i> <ul style="list-style-type: none"> <li>▪ No, the change will only affect the Collaborative Justice Courts Advisory Committee.</li> </ul> </li> </ul>	<p>No response required.</p> <p>No response required.</p>
5.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	A	<p>Request for Specific Comments</p> <ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose?</li> </ul> <p>Yes.</p> <ul style="list-style-type: none"> <li>• Would the proposal result in fiscal or operational costs for the courts? If so, please quantify.</li> </ul> <p>No.</p> <ul style="list-style-type: none"> <li>• Are there implementation requirements for the courts as a result of this change?</li> </ul> <p>No.</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>
6.	Verenice Zamora Martinez	A	No additional comments	No response required.