



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 21-147*

For business meeting on November 19, 2021

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**Title**

Final Report From the Work Group on Homelessness to the Chief Justice

**Agenda Item Type**

Action Required

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

None

**Effective Date**

November 19, 2021

**Recommended by**

Work Group on Homelessness  
Hon. Louis Mauro, Chair  
Hon. Carin Fujisaki, Vice-Chair

**Date of Report**

October 22, 2021

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### Executive Summary

The Work Group on Homelessness, established by Chief Justice Tani G. Cantil-Sakauye, recommends that the Judicial Council review and receive its final report and recommendations. The report recommends ways the judicial branch might work with the Governor, the Legislature, and other entities to address homelessness, and identifies how court programs and services might be improved to increase access and assistance for court users experiencing or at risk of experiencing homelessness. Implementation of the recommendations is likely to make significant progress toward reducing homelessness while broadening access to the courts and promoting efficiencies and cost savings. The recommendations not only urge improvement and expansion of certain existing court programs with proven value, but also identify innovative new ideas for the California judicial branch based on available evidence and data. The recommendations will require funding and a coordinated approach among the state branches of government and other justice partners and stakeholders.

## **Recommendation**

The Work Group on Homelessness recommends that the Judicial Council, effective November 19, 2021, review and receive the attached *Work Group on Homelessness: Report to the Chief Justice*.

## **Relevant Previous Council Action**

At the Judicial Council meeting on March 12, 2021, the Work Group on Homelessness provided to the council an interim report that briefly described the work group's initial progress and steps that it would take to formulate recommendations in preparation of this final report.

## **Analysis/Rationale**

In her State of the Judiciary address on March 10, 2020, the Chief Justice announced her intention to establish a Work Group on Homelessness to evaluate how court programs, processes, technology, and communications might be improved to better serve people experiencing or at risk of experiencing homelessness, and to consider how the judicial branch might appropriately work with the executive and legislative branches to reduce homelessness. The formation of the work group was delayed because of the COVID-19 pandemic but was formally announced on October 23, 2020.

The work group met remotely and regularly from November 2020 through August 2021. Work group members were assigned to subgroups to investigate and analyze specific topics, and to allow the work group to explore multiple tracks simultaneously. Work group members engaged in hundreds of meetings and interviews with state and local leaders, experts, advocates, justice partners, service providers, members of the judicial branch, and community members, including individuals who have themselves experienced homelessness.<sup>1</sup> These interviews and meetings were conducted from November 2020 through July 2021. The work group also solicited and received informal public comment. The attached report is the first formal submission of the work group's recommendations to the Chief Justice and the Judicial Council. The work group sunsets on December 31, 2021.

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<sup>1</sup> Members of the Work Group on Homelessness met or spoke with numerous individuals and entities, including leaders and representatives from the Governor's Office; the Legislature; the Governor's Homeless and Supportive Housing Advisory Task Force; the Business, Consumer Services and Housing Agency; the Homeless Coordinating and Financing Council; the Office of the California Surgeon General; the California Highway Patrol; the California State University; the State Bar of California; American Guard Services, Inc.; the California State Association of Counties; the counties of Alameda, Butte, Imperial, Marin, San Diego, Santa Clara, Sonoma, and Ventura; the cities of Bakersfield, Chico, Gridley, Los Angeles, Oroville, Paradise, and Sacramento; the California Judges Association; the County Behavioral Health Directors Association of California; WomenHaven, A Center for Family Solutions; the California Building Industry Association; the California Rental Housing Association; the California Apartment Association; the National Homelessness Law Center; the Western Center on Law & Poverty; the Inner City Law Center; California Rural Legal Assistance, Inc.; and the Tenderloin Housing Clinic. Work group members also met with leaders within the judicial branch, individuals who have experienced homelessness, and individuals knowledgeable about homeless and collaborative courts, unlawful detainer and housing courts, and the California Environmental Quality Act (CEQA).

## **Policy implications**

Responding to the charge from the Chief Justice, the work group developed the following recommendations that may have policy implications for the judicial branch, the courts, or both.

### ***Action Area 1: Improve unlawful detainer proceedings to reduce homelessness and promote housing stability.***

- Recommendation 1.1. Encourage and support legislative efforts to create and fund a statewide program that provides full-scope legal representation in residential unlawful detainer proceedings for all litigants who are unable to afford counsel.
- Recommendation 1.2. Implement and expand diversion, mediation, and settlement efforts—both before and after a residential unlawful detainer complaint is filed—to maximize the opportunities for the landlord and tenant to reach a mutually agreeable resolution short of an eviction judgment.
- Recommendation 1.3. Increase remote access and resources for self-help centers, designate self-help centers as a resource for unrepresented unlawful detainer litigants to access counsel, and prioritize development of more user-friendly unlawful detainer court forms with information sheets and checklists.

### ***Action Area 2: Reduce barriers to housing, and help identify housing resources.***

- Recommendation 2.1. Establish a homeless court program in more counties to reduce barriers to housing stability by clearing fines, fees, warrants, and outstanding cases after treatment and rehabilitation.
- Recommendation 2.2. Benefit from economies of scale by increasing the funding and caseload capacity for existing collaborative courts, ensure that the largest number of cases possible are processed through collaborative courts, and implement new collaborative court programs in appropriate jurisdictions.
- Recommendation 2.3. Prioritize the creation and implementation of long-range plans for housing security for youth and nonminor dependents involved in the foster care system.
- Recommendation 2.4. Arrange for housing resource navigators at or near courthouses to provide resources to court users experiencing or at risk of experiencing homelessness.
- Recommendation 2.5. Ensure that courts can remove a record of conviction in a more timely and efficient manner.

### ***Action Area 3: Utilize technology and improve court procedures, communications, and information to increase access to justice for court users regardless of their housing circumstances.***

- Recommendation 3.1. Increase access by providing an option for remote appearances.
- Recommendation 3.2. Improve the availability of information about court services that address homelessness and housing issues by updating court websites to provide user-friendly and current information; and help court users electronically connect to the court, charge mobile devices, and receive email and text communications from the court.

***Action Area 4: Strengthen education, outreach, and civic engagement on issues pertaining to homelessness.***

- Recommendation 4.1. Educate judicial officers and judicial branch personnel on issues relating to homelessness.
- Recommendation 4.2. Engage with other public and private entities and individuals to enhance programs and services for people without housing or at risk of losing housing.

**Comments**

Although the recommendations were not circulated for public comment, informal public comment was sought and received during the development of the work group recommendations. In addition, the work group drew information from numerous studies, reports, articles, seminars, video presentations, news stories, interviews with state and local stakeholders, and legal opinions addressing homelessness.

The informal public comment was solicited from March 17 through April 23, 2021, via the Work Group on Homelessness webpage on the California Courts website and through *Court News Update*. The work group also obtained comment through meetings with relevant Judicial Council advisory bodies, such as the Trial Court Presiding Judges Advisory Committee, Court Executives Advisory Committee, Information Technology Advisory Committee, and Collaborative Justice Courts Advisory Committee.

Based on those efforts, the work group identified what it believes are the most meaningful ways that the courts and the judicial branch can help to address homelessness and better serve court users. Each recommendation is the culmination of much study and discussion, and each includes background to explain the problems and issues that it is designed to address.

**Alternatives considered**

The Work Group on Homelessness was directed to report its findings and recommendations to the Chief Justice and the Judicial Council. Accordingly, no alternatives to submitting a report were considered, although alternatives to particular recommendations are discussed in the report. The report is intended to provide the Chief Justice with various options for implementation.

**Fiscal and Operational Impacts**

Reviewing and receiving the report has no fiscal or operational impact. It is anticipated that implementation of the recommendations will have the impacts discussed in the report. The work group identified potential considerations for the implementation of each recommendation—including factors that may affect costs and operations—and also identified recommendations that may result in a cost savings to the Judicial Council or to the courts.

**Attachments and Links**

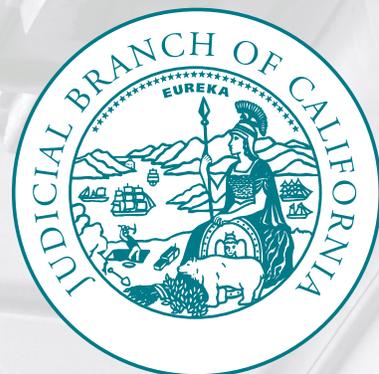
1. Attachment A: *Work Group on Homelessness: Report to the Chief Justice*

**REPORT TO THE  
CHIEF JUSTICE**

**WORK GROUP ON  
HOMELESSNESS**



**2021**



**On the cover:** Photograph of Judge Desirée A. Bruce-Lyle, member of the Work Group on Homelessness, congratulating a participant in the Superior Court of San Diego County Homeless Court. Photograph by Steve Binder (Ret.), Deputy Public Defender, San Diego County Office of the Public Defender.

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October 22, 2021

Chief Justice Tani G. Cantil-Sakauye  
Chair, Judicial Council of California  
455 Golden Gate Avenue  
San Francisco, California 94102

Dear Chief Justice Cantil-Sakauye:

We present for your consideration the final report of the Work Group on Homelessness. This report is the culmination of research, investigation, solicitation of public comment, and hundreds of meetings and interviews with leaders, experts, advocates, justice partners, service providers, and members of the judicial branch and the community, including individuals who have experienced homelessness. As a result of our efforts, we identify what we believe are the most meaningful ways the courts and the judicial branch can help to address homelessness and better serve court users who are without permanent housing or are housing insecure.

Subgroups were tasked with exploring various relevant topics, such as the causes of homelessness; preferred definitions and terminology; judicial opportunities to reduce barriers faced by people experiencing homelessness; improvement of eviction proceedings to help support housing stability; the role of technology in increasing communication, information, and access to justice for these vulnerable court users; existing judicial branch best practices; and additional ways the judicial branch can work with other government leaders and entities in addressing homelessness.

The recommendations in this report urge improvement and expansion of certain existing court programs with proven value. They also identify innovative ideas that would be new for the California judicial branch—ideas that we believe, based on the available evidence and data, would have a significant impact in reducing homelessness while broadening access to the courts and promoting efficiencies and cost savings. The recommendations will require funding and a coordinated approach among the state branches of government and other justice partners and stakeholders.

On behalf of the work group members and assigned Judicial Council staff, we thank you for the opportunity to serve on this project and to address this important issue of statewide and national concern. On a personal note, the chairs wish to thank the work group members and staff for their extraordinary commitment and effort.

We appreciate your leadership in ensuring that all the people of California, regardless of their housing circumstances, will find equal access to justice in our courts. It is an honor and privilege to assist you and the judicial branch with this vision.

Sincerely,



Louis Mauro  
Chair, Work Group on Homelessness  
Associate Justice of the Court of Appeal  
Third Appellate District



Carin Fujisaki  
Vice-Chair, Work Group on Homelessness  
Associate Justice of the Court of Appeal  
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# Acknowledgments

We acknowledge and thank the extraordinary Judicial Council staff members who gave of their time and talent to help the work group complete this report:

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Criminal Justice Services

We also thank the hundreds of individuals who have shared their expertise, data, ideas, and wisdom on the topic of homelessness.

And we acknowledge the court users who are experiencing homelessness or housing insecurity. This report is dedicated to you.

# Work Group on Homelessness: Membership

Hon. Louis Mauro, Chair  
Associate Justice, Court of Appeal, Third Appellate District

Hon. Carin T. Fujisaki, Vice-Chair  
Associate Justice, Court of Appeal, First Appellate District, Division Three

Hon. Vicki Ashworth  
Assistant Presiding Judge, Superior Court of El Dorado County

Hon. Gordon S. Baranco (Ret.)  
Judge of the Superior Court of Alameda County, Temporary Assigned Judges Program

Hon. James N. Bianco  
Judge of the Superior Court of Los Angeles County

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Judge of the Superior Court of San Diego County

Hon. Robert A. Burlison  
Judge of the Superior Court of Monterey County

Hon. Hilary A. Chittick  
Judge of the Superior Court of Fresno County

Hon. Joyce D. Hinrichs  
Presiding Judge of the Superior Court of Humboldt County

Hon. Clare Keithley  
Presiding Judge of the Superior Court of Butte County

Hon. Marco D. Nunez  
Judge of the Superior Court of Imperial County

# Executive Summary

In October 2020, Chief Justice Tani G. Cantil-Sakauye created the Work Group on Homelessness to evaluate how court programs, processes, technology, and communications might be improved to better serve people who are without housing or are housing insecure. The work group was asked to examine existing court services and to consider how the judicial branch might appropriately work with the executive and legislative branches to reduce homelessness. In announcing the work group, the Chief Justice recognized that California courts are centers for social justice.<sup>1</sup> In furtherance of that important role, the work group is pleased to present the recommendations described in this report.

To develop its recommendations, the work group drew information from numerous studies, reports, articles, seminars, video presentations, news stories, and legal opinions that addressed homelessness.<sup>2</sup> The work group also considered many significant federal, state, and community efforts targeting the issue.<sup>3</sup> Finally, the work group solicited public comment and engaged in hundreds of meetings and interviews with state and local leaders, experts, advocates, justice partners, service providers, and members of the judicial branch and the community, including individuals who have themselves experienced homelessness.

While assessing how the judicial branch might best address the homelessness crisis, the work group was mindful that courts and judicial officers must operate within the framework of their constitutional authority and ethical obligations<sup>4</sup> to ensure equal access to justice and that the executive and legislative branches exercise the prerogative to set public policy, enact laws, and provide funding for mandated services and programs. Within this constitutional framework, the work group identified many opportunities for the judicial branch to meaningfully address homelessness while also broadening access to the courts and creating efficiencies and cost savings. Because courts are involved in legal determinations that can remove individuals from their residence and affect their ability to obtain future housing—whether by way of evictions, foreclosures, criminal judgments, restraining orders, civil commitments, or other actions—courts are also in a position to help ensure, with support and collaboration from those outside the branch, that legal actions need not result in homelessness. The report emphasizes, however, that such support and collaboration will be essential. As this report explains, the recommendations will require funding and a coordinated approach among the state branches of government, justice partners, and other stakeholders.

## Terminology

As a starting point, the work group recognized that all court users—including individuals who lack housing or are housing insecure—should be afforded dignity and respect in their interactions with the courts. A major component of ensuring dignity and respect is the use of appropriate language when discussing homelessness.

Experts and advocates in the field widely agree that the word “homeless” to describe a person is inaccurate and inconsistent with the concept of people-first language, which recognizes that a person should not be defined by a single limitation or circumstance. A people-first phrase such as “a person without housing” affords dignity by putting the person first while acknowledging that the person may lack permanent shelter and yet still have a place to call home. Though contrary views exist, numerous experts and advocates in the field believe the use of people-first language is a positive step in reducing stigma and improving outcomes by emphasizing the potentially temporary circumstance of being without housing. The work group therefore adopts and recommends use of such language. The work group also uses the terms “homelessness” and “homeless courts,” because the former is nationally understood and accepted as describing a circumstance rather than a person and the latter is a court description that has been commonly recognized and adopted.

## **Causes of Homelessness and the Barriers Faced by People Without Housing**

To inform its work, the work group examined the many root causes of homelessness and housing insecurity, such as situational and generational poverty, community and family violence, unemployment, low wages, disability, medical and mental illness, substance use, and lack of needed treatment or services.<sup>5</sup> Lack of affordable housing is a major cause of homelessness: experts estimate that California is at least 3 million housing units short of current need.<sup>6</sup> Eviction, foreclosure, conviction, incarceration, civil commitment, debt, increased medical or mental health deterioration or trauma, and loss of a driver’s license or transportation are some of the circumstances of homelessness that may flow from the underlying causes. Being without housing can expose a person to legal consequences—such as punishment for loitering, indecent exposure, trespassing, or a failure to appear in court—creating a cycle that is difficult to escape.

Systemic inequality and discriminatory housing practices also significantly contribute to homelessness. Studies show that homelessness disproportionately affects those who have already been marginalized or are highly vulnerable,<sup>7</sup> such as people of color,<sup>8</sup> members of the LGBTQIA+<sup>9</sup> community,<sup>10</sup> youth,<sup>11</sup> foster youth,<sup>12</sup> the elderly,<sup>13</sup> military veterans, and people who have been incarcerated or convicted. Moreover, although it is illegal to discriminate in housing sales, rentals, and lending, equal opportunity does not exist for all. Information gathered by the work group indicates that explicit and implicit biases and systemic disparities continue to exist and affect housing access and retention. For example, racial disparities exist in criminal arrests and convictions, and individuals who are Hispanic and Black are more likely to be sentenced to prison than similarly situated white individuals.<sup>14</sup> These circumstances can lead to housing instability because a history of incarceration increases the likelihood that a person will experience homelessness by 10 to 13 times.<sup>15</sup>

The work group sought to identify the barriers that individuals who are without housing or are housing insecure experience in accessing court services and meeting court-mandated obligations.

Significantly, homelessness is itself a barrier that impedes the ability of people to engage with the court and the justice system. Being without housing typically relegates a person to the bottom of Maslow’s hierarchy of needs,<sup>16</sup> where court obligations are not a priority because of day-to-day struggles to meet basic physiological needs like food, water, cooling or warmth, rest, and safety.<sup>17</sup> Many persons without housing face emotional obstacles and strive to avoid contact with law enforcement and the courts based on prior negative interactions,<sup>18</sup> feelings of distrust, or perceptions that the judicial system lacks empathy for their circumstances.<sup>19</sup> Likewise, fear or feelings of intimidation may delay or deter people from participating in the court process<sup>20</sup> or even entering a courthouse.<sup>21</sup> Some may also feel hopeless<sup>22</sup> or stuck in “survival mode” without a lifeline.<sup>23</sup>

For those experiencing homelessness who need or desire to connect with the court, transportation and other barriers can hinder their efforts. Their circumstances make keeping track of hearing dates and times difficult, and insufficient access to free Wi-Fi service or cellphone charging stations complicates communication efforts with courts and justice partners.<sup>24</sup> Simply getting to the courthouse can be problematic when public transportation is limited or unavailable depending on location, service is infrequent, and the cost is unaffordable.<sup>25</sup> Even when public transportation vouchers are provided, using such transportation and entering a courthouse may be impossible for people unable to arrange for child care, pet care, or safe storage of their belongings.<sup>26</sup>

Finally, the lack of opportunities for adequate bathing and grooming may pose additional barriers to transportation and court access based on ostracism and self-consciousness.<sup>27</sup> Chronic pain, disability, and undiagnosed or untreated medical and mental health conditions can also impede efforts to get to court.<sup>28</sup> And people who can make it to the courthouse may still have difficulty understanding what is happening, resulting in yet another obstacle to successful engagement with the courts.<sup>29</sup>

## **Public Concern Over Homelessness**

The work group is aware of the public concern and frustration with the circumstances of homelessness and the seeming proliferation of encampments. But individuals without housing often perceive congregate living in encampments as a safer alternative to the shelter system or living alone.<sup>30</sup> Moreover, individuals in encampments are more likely to be victims of crime than the perpetrators of it.<sup>31</sup> Ultimately, living in public spaces implicates a complex interplay between public health, safety, and constitutional rights—one that is playing out in the courts.

For example, even though in most circumstances a city is not required to provide sufficient shelter for individuals without housing,<sup>32</sup> the Eighth Amendment to the U.S. Constitution “prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter” because, as it has been determined, sitting, sleeping, or lying outside is an unavoidable consequence of being human.<sup>33</sup> At the same

time, even when shelter is unavailable, it may be constitutionally permissible for a city to prohibit sitting, lying, or sleeping outside at particular times or in particular locations.<sup>34</sup>

In addition, at least one city was subjected to legal proceedings based on its practice of discarding the property of individuals lacking housing without obtaining a warrant or providing due process.<sup>35</sup> But city processes have been upheld where, for example, a city had standard operating procedures for providing advance notice of encampment closures and a process for encampment occupants to retrieve property seized during such closures.<sup>36</sup>

Many work group interviewees referenced a case in Los Angeles in which sweeping orders were imposed on the city based, among other things, on findings that homelessness was a byproduct of racism and a danger to human life.<sup>37</sup> On appeal, however, the preliminary injunction order was vacated and the matter remanded for further proceedings.<sup>38</sup>

## **Overview of Recommendations**

### **Action Area 1: Improve unlawful detainer proceedings to reduce homelessness and promote housing stability.**

**Recommendation 1.1.** Encourage and support legislative efforts to create and fund a statewide program that provides full-scope legal representation in residential unlawful detainer proceedings for all litigants who are unable to afford counsel.

**Recommendation 1.2.** Implement and expand diversion, mediation, and settlement efforts—both before and after a residential unlawful detainer complaint is filed—to maximize the opportunities for the landlord and tenant to reach a mutually agreeable resolution short of an eviction judgment.

**Recommendation 1.3.** Increase remote access and resources for self-help centers, designate self-help centers as a resource for unrepresented unlawful detainer litigants to access counsel, and prioritize development of more user-friendly unlawful detainer court forms with information sheets and checklists.

### **Action Area 2: Reduce barriers to housing, and help identify housing resources.**

**Recommendation 2.1.** Establish a homeless court program in more counties to reduce barriers to housing stability by clearing fines, fees, warrants, and outstanding cases after treatment and rehabilitation.

**Recommendation 2.2.** Benefit from economies of scale by increasing the funding and caseload capacity for existing collaborative courts, ensure that the largest number of cases possible are processed through collaborative courts, and implement new collaborative court programs in appropriate jurisdictions.

**Recommendation 2.3.** Prioritize the creation and implementation of long-range plans for housing security for youth and nonminor dependents involved in the foster care system.

**Recommendation 2.4.** Arrange for housing resource navigators at or near courthouses to provide resources to court users experiencing or at risk of experiencing homelessness.

**Recommendation 2.5.** Ensure that courts can remove a record of conviction in a more timely and efficient manner.

**Action Area 3: Utilize technology and improve court procedures, communications, and information to increase access to justice for court users regardless of their housing circumstances.**

**Recommendation 3.1.** Increase access by providing an option for remote appearances.

**Recommendation 3.2.** Improve the availability of information about court services that address homelessness and housing issues by updating court websites to provide user-friendly and current information; and help court users electronically connect to the court, charge mobile devices, and receive email and text communications from the court.

**Action Area 4: Strengthen education, outreach, and civic engagement on issues pertaining to homelessness.**

**Recommendation 4.1.** Educate judicial officers and judicial branch personnel on issues relating to homelessness.

**Recommendation 4.2.** Engage with other public and private entities and individuals to enhance programs and services for people without housing or at risk of losing housing.

## Action Areas and Recommendations

### **Action Area 1: Improve unlawful detainer proceedings to reduce homelessness and promote housing stability.**

A residential unlawful detainer proceeding is a summary proceeding that permits a landlord to recover possession of leased premises from a tenant who is alleged to be wrongfully in possession.<sup>39</sup> Although other civil remedies such as ejectment or quiet title are available, unlawful detainers are widely used because they advance quickly as a result of compressed statutory timelines. Notably, the tenant has only five court days to respond to the complaint,<sup>40</sup> and the case is entitled to a preferential trial setting.<sup>41</sup>

In jurisdictions that do not provide appointed counsel, tenants are rarely represented in unlawful detainer proceedings.<sup>42</sup> When served with an eviction complaint, unrepresented tenants must act quickly to locate information about the unlawful detainer process to preserve their rights. Given the expedited nature of the proceedings, many tenants are unable to adequately understand the complexities of the process and have difficulties preparing and filing a response to the complaint. When tenants fail to file a timely response, landlords can obtain a default judgment against them without a hearing on the merits.<sup>43</sup>

Consequences for tenants can be significant when a judgment of eviction is entered. In addition to leading to removal from housing, a record of eviction negatively affects a tenant's credit rating and makes it difficult to obtain replacement housing. The resulting loss of housing can affect entire families as well as child education, health, and welfare.<sup>44</sup>

Landlords are represented by counsel in approximately 85 to 90 percent of unlawful detainer cases. Single- or small-unit landlords, however, are sometimes unrepresented, and they, like tenants, may find the unlawful detainer process hard to understand and navigate. The difficulties in complying with procedural rules, which may result in courts rejecting complaints for filing, may be compounded by the requirements imposed in response to the COVID-19 pandemic.<sup>45</sup> In addition, a landlord without counsel may be less inclined to resolve a case before judgment.

The recommendations in Action Area 1 focus on improving unlawful detainer proceedings for both tenants and landlords. The work group concluded that providing counsel to all who need it in unlawful detainer proceedings will do much to reduce homelessness and promote housing stability in California. Maximizing opportunities for alternative dispute resolution and making the unlawful detainer process more accessible and understandable will also yield significant benefits.

**Recommendation 1.1. Encourage and support legislative efforts to create and fund a statewide program that provides full-scope legal representation in residential unlawful detainer proceedings for all litigants who are unable to afford counsel.**

Providing counsel is crucial for ensuring equal access to justice and housing stability for people facing the prospect of homelessness. Counsel’s involvement can substantially assist courts in processing the increasing number of unlawful detainer proceedings in a fair, just, and informed manner.

The Work Group on Homelessness recommends the following:

1. The Judicial Council should encourage and support legislative efforts to create and fund a statewide program that provides full-scope legal representation in residential unlawful detainer proceedings for all litigants who are unable to afford counsel.<sup>46</sup>
2. The Judicial Council should work with the executive and legislative branches and other judicial partners and affected stakeholders to ensure that the statewide program is workable for all parties and does what it is intended to do.

**Background**

The court system plays an integral role throughout the eviction process, from the filing of an unlawful detainer complaint to the entering of a judgment that allows a sheriff to lock evicted tenants out of their homes. Eviction is one of the most critical civil justice issues for low-income tenants, with the loss of rental housing posing a wide range of adverse risks and consequences. Full-scope counsel representation greatly improves outcomes and housing stability for tenants facing eviction.

As the Legislature found in 2009 when it enacted the Sargent Shriver Civil Counsel Act (Shriver Act) (Assem. Bill 590; Stats. 2009, ch. 457), there are important societal, due process, fairness, and fiscal reasons for providing free counsel to indigent persons in civil cases, including unlawful detainer cases.<sup>47</sup> Recognizing that indigent parties without representation typically lose their cases regardless of the merits, the Legislature found, among other things, that providing representation increases access to justice, improves outcomes for court users, and allows court users to make essential decisions with better understanding. Moreover, the presence of counsel advances due process and equal protection of the laws, allows courts to more efficiently and effectively process heavy caseloads, and improves public confidence in the court system.<sup>48</sup> In the Legislature’s words, “Because in many civil cases lawyers are as essential as judges and courts to the proper functioning of the justice system, the state has just as great a responsibility to ensure adequate counsel is available to both parties in those cases as it does to supply judges, courthouses, and other forums for the hearing of those cases.”<sup>49</sup>

The Shriver Act led to the creation of pilot projects providing counsel to eligible people with low incomes in certain civil matters. The act was not designed to provide an attorney for every unlawful detainer party who needed one; instead, the act authorized limited funding and tasked

the Judicial Council with administering the program. Currently, Shriver counsel is offered to a limited number of people in eight counties for unlawful detainer proceedings and other housing-related matters.<sup>50</sup>

Importantly, the Shriver Act required studies of project outcomes for those receiving assistance. An in-depth study issued by NPC Research (Northwest Professional Consortium, Inc.) in June 2020 resulted in the *Report to the California State Legislature for the Sargent Shriver Civil Counsel Act Evaluation* (2020 Shriver report). The 2020 Shriver report documented the many beneficial effects of full-scope representation for tenants<sup>51</sup> and indicated that representation for tenants led to positive outcomes without making unlawful detainer proceedings more combative or drawn out.<sup>52</sup>

### **Rationale for the Recommendation**

For many individuals and families, eviction leads to homelessness.<sup>53</sup> Low income and high rent impose a rental cost burden that is difficult to overcome. As reported by the National Low Income Housing Coalition, the California housing market requires the second-highest “housing wage” in the country—that is, the hourly wage a full-time worker must earn to afford a rental unit without spending more than 30 percent of their income on housing costs. The report indicated that a full-time worker in California had to earn \$34.69 per hour to afford a two-bedroom apartment. High-cost cities like San Francisco and Santa Barbara certainly contribute to this high statewide rate, but even in rural and nonmetropolitan areas, California’s average housing wage was reported to be \$18.96 per hour, the seventh most expensive in the country and well above the state’s minimum wage of \$14.00 per hour.<sup>54</sup>

In addition, a significant amount of data highlights the disproportionate impact of evictions on people of color and women, contributing to disparities in communities of color experiencing homelessness.<sup>55</sup> In California, Black residents represent about 6.5 percent of the population but account for nearly 40 percent of people experiencing homelessness.<sup>56</sup> One San Francisco study includes data showing that Black residents make up 6 percent of the city’s population but represent 29 percent of all evicted tenants and 37.76 percent of adults living in shelters.<sup>57</sup> Similar disparities have been observed in jurisdictions outside California.<sup>58</sup> According to one 2020 eviction study, Black households tend to be more rent burdened, tend to have higher levels of income volatility, and are less likely than white households to have access to resources that would help them weather unexpected events.<sup>59</sup> Moreover, Black tenants often face discrimination by landlords and are not allowed as much flexibility as their white peers when they fall behind on rent, resulting in more eviction actions against them.<sup>60</sup>

The 2020 Shriver report showed strong evidence of housing stability for tenants who received full-scope representation by counsel in unlawful detainer proceedings.<sup>61</sup> The report concluded that representation leads to dramatically fewer tenant defaults (close to zero), a significantly higher settlement rate (67 percent compared to 34 percent for unrepresented tenants), and a lower trial rate (3 percent compared to 14 percent for unrepresented tenants).<sup>62</sup> Of the Shriver represented clients who ultimately moved, the majority (83 percent) did so as part of a negotiated settlement. One year later, 71 percent of Shriver clients had obtained a new rental unit, compared

to 43 percent of self-represented tenants. The report also found that providing counsel to tenants improved court administration and efficiency because litigants asserted fewer nonmeritorious claims and counsel diverted cases away from court calendars and toward alternative dispute resolution.<sup>63</sup> An earlier study documented similar positive outcomes when counsel was provided for tenants during a one-year pilot program in San Francisco.<sup>64</sup>

Studies in other jurisdictions also provide strong empirical evidence that assistance of counsel greatly improves outcomes and housing stability for tenants facing eviction. A study in Minnesota found that tenants with counsel were almost twice as likely to stay in their homes and four times less likely to use homelessness shelters than were unrepresented tenants.<sup>65</sup> Likewise, a study in Seattle found that tenants with counsel were two to three times more likely to negotiate a payment plan in order to remain in their housing.<sup>66</sup> In New York City, study results showed that 86 percent of income-qualified renters who received full-scope representation were able to maintain their housing.<sup>67</sup> And Massachusetts conducted a randomized trial in which tenants were assigned to one of two groups: a treatment group that received full-scope representation, and a control group that received limited legal services. Data showed that, at the end of litigation, two-thirds of tenants in the treatment group stayed in their homes, whereas only one-third of the control group retained possession of their homes.<sup>68</sup>

The 2020 Shriver report and many other studies have documented the need for tenant representation. In addition, even some landlords—such as single- or small-unit landlords and those who rent a spare bedroom or converted garage in their home—are unable to afford an attorney and could benefit from representation to help stabilize their housing. If these landlords rely on rental income as a lifeline and the rent is not paid, they could be at risk of losing their own housing. Providing counsel to these landlords would assist them in navigating the complex unlawful detainer process and in considering resolutions short of judgment, which could benefit both the landlord and the tenant.

### **Fiscal Impact**

The work group obtained cost-benefit information for a relevant statewide program in Delaware, as well as information for various city and county programs. The information indicated significant costs had been avoided as a result of the programs, with the size of the benefit varying by jurisdiction. When expressed as a per-dollar savings in costs such as shelter and health care, the savings ranged from \$2.40 in Boston to \$12.74 in Philadelphia.<sup>69</sup> When expressed as an annual net cost savings, the savings ranged from \$6 million in Delaware to \$320 million in New York City.<sup>70</sup>

Although the studies focused primarily on shelter and health-care savings, some studies identified additional savings for foster care and care for unsheltered individuals.<sup>71</sup> An overview of the cost savings achieved by various jurisdictions with a right to counsel program is provided in Table 1.

**Table 1. Savings by Component (in thousands of dollars)**

Location	Shelter Savings <sup>i</sup>	Health-Care Savings <sup>ii</sup>	Foster Care Savings <sup>iii</sup>	Unsheltered Savings <sup>iv</sup>	Other Savings <sup>v</sup>	Total Savings
<b>Baltimore</b>	10,616	1,998	103	—	4,741	<b>\$17,458</b>
<b>Boston</b>	41,042	17,840	4,133	—	—	<b>\$63,016</b>
<b>Delaware</b>	4,000	2,800	800	—	1,800	<b>\$9,400</b>
<b>Los Angeles (City)</b>	25,906	—	—	—	94,346	<b>\$120,252</b>
<b>Los Angeles (County)</b>	39,803	17,449	18,653	—	150,994	<b>\$226,900</b>
<b>New York City</b>	251,000	—	—	9,000	259,000	<b>\$320,000</b>
<b>Philadelphia</b>	26,385	16,472	—	—	—	<b>\$42,857</b>

Source: Timothy Wolfe, *Right to Counsel and the Effects on Homelessness* (June 2021) (memorandum, University of Southern California, Gould School of Law).

Note: The underlying assumption is that providing stable housing would improve health outcomes and reduce the strain on medical services.

<sup>i</sup> Shelter savings are a direct result of decreased evictions and reflect (1) the estimated number of tenants who would have experienced homelessness had it not been for legal representation multiplied by (2) the average cost of sheltering an individual or family. This amount is based on the best available data and varies by report.

<sup>ii</sup> Health-care savings include savings realized by a broad range of activities, including inpatient hospital costs, emergency room costs, and mental health costs.

<sup>iii</sup> Foster care savings are estimated based on a reduction of child placements as a result of housing instability and reflect assumptions about savings from maintenance and administration payments.

<sup>iv</sup> Unsheltered savings, which were used only in a report on New York City’s right-to-counsel initiative, reflect a “societal cost” that includes medical care and law enforcement.

<sup>v</sup> Other savings come from, for example, decreased costs in transporting children for families experiencing homelessness, a reduction in housing program costs, and a decrease in lost school funding from absences.

The cost components of providing counsel are relatively straightforward and include costs for administration and attorneys. A few of the studies were based on pro bono models and were largely used as proof-of-concept pilots in an effort to demonstrate the merits of providing counsel to tenants. The projected cost to provide counsel for tenants ranged from \$3.4 million in Delaware to \$199 million in New York City. But the studies indicated that the provision of counsel for tenants facing eviction would result in significant savings, as reflected in Table 2, based almost entirely on decreased spending in areas related to homelessness or savings related to funds that had been lost as a result of people experiencing homelessness.<sup>72</sup>

**Table 2. Costs, Savings, and Net Savings for a Tenant Counsel Program**

Location	Projected Cost (in millions of dollars)	Projected Savings (in millions of dollars)	Net Benefit (in millions of dollars)	Per Dollar Benefit
<b>Baltimore</b>	5.7	(17.5)	11.8	3.06
<b>Boston</b>	26.3	(63.0)	36.7	2.40
<b>Delaware</b>	3.4	(9.4)	6.0	2.76
<b>Los Angeles</b>	81.9	(370.7)	288.8	4.53
<b>City</b>	34.6	(120.3)	85.7	3.48
<b>County</b>	47.3	(226.9)	179.6	4.80
<b>New York City</b>	199.0	(519.0)	320.0	2.61
<b>Philadelphia</b>	3.5	(45.2)	41.7	12.74

Source: Timothy Wolfe, *Right to Counsel and the Effects on Homelessness* (June 2021) (memorandum, University of Southern California, Gould School of Law).

Some benefits of a counsel program in unlawful detainer proceedings are more difficult to quantify, such as the 2020 Shriver report’s acknowledgment that litigants were more satisfied with the court process when they had counsel. In addition, a counsel program that reduces homelessness would provide many other benefits, such as improvements in child well-being, with attendant savings in juvenile justice and welfare.<sup>73</sup>

### **Opportunities and Considerations for Implementation**

The positive outcomes documented in the 2020 Shriver report support the creation of a broader statewide program to make counsel available for all unlawful detainer litigants. To improve equal access to justice and housing stability, such a program should provide counsel to litigants regardless of their documented or undocumented status.<sup>74</sup> The program should also have a stable annual funding source that ensures full-scope representation and eliminates reliance on the income limits currently imposed for Shriver and legal aid representation, which often exclude the working poor.<sup>75</sup> Creating a statewide unlawful detainer counsel program with a stable source of funding that avoids dependence on grant funding should make recruitment of attorneys for the program easier.<sup>76</sup>

At least three states—Connecticut, Maryland, and Washington—have enacted some form of a *right* to counsel in unlawful detainer cases. A number of cities in California and elsewhere—including Baltimore, Boulder, Cleveland, Louisville, New York, Newark, Philadelphia, San Francisco, Santa Monica, and Seattle—have also enacted a right to counsel, many as a result of the COVID-19 pandemic and the prospect of increases in homelessness.

Models like the Court Appointed Dependency Counsel program (Welf. & Inst. Code, § 317)<sup>77</sup> can provide a useful framework for the implementation of a statewide unlawful detainer counsel program. Through the dependency program, counsel is provided for all nongovernmental court users—parents and children—who appear without counsel. Rather than using income limits as an up-front bar to provision of counsel in dependency court, the program provides an attorney to any court user who appears to qualify and employs a collections program to recoup the cost of counsel from any parent who has the ability to pay. By operating in this way, the program ensures that parents and children have an attorney in every case to assist in the protection of their important rights in dependency proceedings.<sup>78</sup> The state allocates approximately \$157 million annually for this program,<sup>79</sup> and federal funds have also been leveraged.<sup>80</sup> The program is administered by the Judicial Council under a workload-based methodology created by a joint subcommittee of the Family and Juvenile Law Advisory Committee and the Trial Court Budget Advisory Committee.<sup>81</sup> This method of funding and administration affords flexibility to counties to carry out the statutory mandate in the manner best suited to their particular county. Adopting this model for a statewide assistance-of-counsel program in unlawful detainer cases would allow each court to determine how best to leverage existing resources, such as current legal services agencies, to fulfill the recommended statutory mandate to provide counsel to all in need. Appropriate Judicial Council advisory bodies such as the Civil and Small Claims Advisory

Committee or the Advisory Committee on Providing Access and Fairness and staff would be well positioned to provide subject-matter expertise to assist in these efforts.

**Recommendation 1.2. Implement and expand diversion, mediation, and settlement efforts—both before and after a residential unlawful detainer complaint is filed—to maximize the opportunities for the landlord and tenant to reach a mutually agreeable resolution short of an eviction judgment.**

*Eviction diversion* is an umbrella term encompassing prefiling efforts to divert cases from an unlawful detainer calendar to alternative dispute resolution, such as through mediation. Mandatory eviction diversion programs typically require that the unlawful detainer complaint be accompanied by documentation that the plaintiff landlord has mediated without success. Mediation provides the opportunity for a landlord and tenant to reach a mutually agreed on alternative to an eviction judgment with the help of a trained, neutral mediator. A settlement conference is another alternative dispute resolution method that can help to achieve similar results after a complaint is filed. Alternative dispute resolution in unlawful detainer proceedings can lead to improved outcomes for all parties and reduced litigation costs.

The Work Group on Homelessness recommends the following:

1. Courts should implement and expand prefiling efforts to divert unlawful detainer cases from court calendars to permit alternative dispute resolution such as mediation.
2. For unlawful detainer matters that are unable to resolve before the filing of an unlawful detainer complaint, courts should expand the availability of postfiling court-supervised alternative dispute resolution services, including the potential adoption of mandatory settlement conferences.

**Background**

The general focus of an eviction diversion program is to address nonpayment of rent and related issues. As indicated, an eviction judgment negatively affects tenants and their families in many ways, including making it difficult to obtain replacement housing. Eviction diversion and alternative dispute resolution by mediation or settlement conference can help landlords obtain payment and/or regain possession of a property while helping tenants and their families avoid the adverse impacts of an eviction judgment. Diversion also results in reduced court costs for both sides and increased court efficiencies as litigants settle without a trial.<sup>82</sup> Examples of eviction diversion programs in other jurisdictions include the Philadelphia Eviction Diversion Program,<sup>83</sup> the Texas Eviction Diversion Program,<sup>84</sup> and Washington State’s Eviction Resolution Pilot Program.<sup>85</sup>

It bears emphasizing that an eviction diversion program should be implemented in conjunction with a program providing counsel for unlawful detainer litigants who cannot afford an attorney. As the U.S. Attorney General’s Office recently pointed out, providing access to counsel from the outset is important to ensure that diversion programs promote just outcomes and do not perpetuate structural advantages typically held by landlords.<sup>86</sup>

### **Rationale for the Recommendation**

It is very common for unlawful detainer cases to end in default judgments,<sup>87</sup> and defaults can occur rapidly because of tight statutory deadlines. Without an attorney, tenants may be unable to respond to an unlawful detainer complaint in a timely fashion and may not even understand the need to respond. Requiring neutral, mediated discussions before the filing of an unlawful detainer complaint—with the understanding that a complaint can be filed as a last resort rather than as the initial step in resolving a rental dispute—may allow landlords and tenants to resolve cases with less expense and without an eviction judgment.

The Shriver pilot projects show that cases involving counsel tend to result in fewer judgments against tenants, as well as better opportunities for tenants to find alternate, stable housing and long-term housing stability.<sup>88</sup> Resolutions short of judgment were reached 70 percent of the time, and landlords benefited by regaining their property more quickly and without having to go through the trouble and expense of a trial or executing a writ of possession.<sup>89</sup> Among surveyed property owners, more than 70 percent stated that they would be inclined to address tenant nonpayment or late payment outside court, and over 69 percent believed that mediation is more time- and cost-efficient than pursuing legal action because it saves them attorney’s fees, filing fees, sheriff’s fees, and transition costs.<sup>90</sup>

The U.S. Attorney General’s Office recommends that our judicial branch consider eviction diversion strategies to “help families avoid the disruption and damage that evictions cause.”<sup>91</sup> As the office also recognizes, such strategies “encourage landlords and tenants to resolve disputes without formal adjudication and increase the chance that tenants can stay in their homes.”<sup>92</sup>

Optimally, a diversion program should be mandatory, to ensure participation and maximize effectiveness. For example, a mandatory program could require that the unlawful detainer complaint contain or attach a declaration that the landlord has contacted the tenant or has tried with due diligence to locate the tenant, and if the tenant was located, has participated in the diversion mediation program without success.

Although such a declaration is not presently required in California unlawful detainer cases, other statutes require certain actions before the filing of a complaint. For instance, Assembly Bill 832 (Stats. 2021, ch. 27) requires plaintiff landlords who seek to recover on COVID-19 rental debt to attach documentation to their complaints showing they have worked to obtain rental assistance relief.<sup>93</sup>

The Superior Court of Alameda County has had success in resolving unlawful detainer cases by holding mandatory settlement conferences, which also offer an opportunity to identify and direct individuals who might experience homelessness to housing resources.

For matters that are unable to resolve before the filing of an unlawful detainer complaint, courts should consider requiring a further effort at resolution before trial. Cases may be more likely to settle when there has been discovery or when a trial date looms. Although such an effort may

require consideration of an extension of the time for trial, it would provide an additional opportunity for a resolution that reduces costs and does not result in a judgment of eviction.

### **Fiscal Impact**

The availability of pre-filing eviction diversion, including eviction mediation, would provide numerous court efficiencies as litigants choose mediation and settle outside of court, thus diverting cases away from the court calendar.<sup>94</sup> Although implementing diversion successfully would require additional resources—such as mediators, self-help staff, and housing resource navigators—such efforts would mark a logical extension of the self-help and court navigator programs that already exist and have proven successful in assisting court users with unlawful detainer matters.

The Judicial Council and the courts should consider leveraging existing resources or obtaining new resources and partnering with state and local stakeholders to implement these services. State programs with rental assistance components tend to be supported in part by federal funding under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), 15 U.S.C. § 9001 et seq.; other programs make use of local and/or private source funding.<sup>95</sup> The California Access to Justice Commission is leading an initiative to support free remote mediation to assist unrepresented tenants and landlords, and several courts have expressed interest in such services.<sup>96</sup> And in some jurisdictions nonprofits provide alternative dispute resolution through grants. In Sacramento, for example, mediation is available through a California Lawyers for the Arts program that is paid for by the City of Sacramento’s COVID Relief funding. Dispute resolution services under that program are voluntary, are available at no cost while funding is available, and include mediation relating to (1) negotiating repayment plans, (2) discussing rent and future tenancy, (3) negotiating lease terms, (4) seeking an alternative option to legal processes for tenancy and leases, and (4) resolving other COVID-19–related disagreements and needs for facilitated conversation.<sup>97</sup>

### **Opportunities and Considerations for Implementation**

Most eviction diversion programs use specially trained, neutral mediators. Many programs also include a range of ancillary services, such as legal representation, housing counseling, nonlegal housing assistance and advocacy, financial counseling, and rental assistance.<sup>98</sup> The work group

During the March 2020 State of the Judiciary address, the Chief Justice asked if the judicial branch Temporary Assigned Judges Program could be used to advance efforts responding to homelessness. The answer is yes. Courts may request temporary judges to backfill unlawful detainer calendars, serve as unlawful detainer settlement judges, or handle the court calendar of a judicial officer who is otherwise needed to establish or expand a homeless court or other collaborative court program. The Judicial Council could also explore whether opportunities exist for courts to use the Temporary Assigned Judges Program to pursue the various other recommendations included in this report.

recommends that courts consider these models in developing and implementing their programs. For postfiling alternative dispute resolution, including mandatory settlement conferences, courts might consider the Temporary Assigned Judges Program, reciprocal assignments, or other available neutrals to assist with coverage.

For both prefiling and postfiling alternative dispute resolution, courts might consider the advances in online dispute resolution (ODR). For example, for unlawful detainer and small claims proceedings, the Superior Court of Los Angeles County launched an ODR program that brings parties together online in an effort to resolve their disputes. If the matter does not initially resolve, it can be transitioned to a county-provided online mediator, and if successful, a settlement or dismissal would be electronically filed with the court.

Appropriate Judicial Council advisory bodies such as the Civil and Small Claims Advisory Committee or the Advisory Committee on Providing Access and Fairness and staff should identify existing prefiling eviction diversion and postfiling alternative dispute resolution programs, both in California and nationally, that could serve as models or learning sites to assist courts in implementing their programs. The Judicial Council Legislation Committee, Governmental Affairs office, and Legal Services office should also review statutory deadlines related to unlawful detainer proceedings to determine if there is a need to pursue new legislation or changes to existing legislation.

**Recommendation 1.3. Increase remote access and resources for self-help centers, designate self-help centers as a resource for unrepresented unlawful detainer litigants to access counsel, and prioritize development of more user-friendly unlawful detainer court forms with information sheets and checklists.**

Unrepresented litigants often lack access to resources for assistance in understanding unlawful detainer procedures and court forms. Although this report recommends the provision of counsel for all unlawful detainer litigants who cannot afford an attorney, the need for self-help services, such as when an individual seeks information before counsel is provided, will remain.

Resources that help litigants in unlawful detainer proceedings understand procedures, access counsel, and complete court forms would help landlords and tenants achieve better outcomes and promote housing stability.

To improve court user experiences and outcomes in unlawful detainer proceedings, the Work Group on Homelessness recommends the following:

1. The Judicial Council should increase remote access to, and resources for, self-help centers and consider the SHARP Tech Connect model.
2. The Judicial Council should prioritize the development of more user-friendly unlawful detainer court forms, information sheets, checklists, and infographics to better guide court users through the unlawful detainer process.<sup>99</sup>

3. Courts should designate self-help centers as a resource for unrepresented unlawful detainer litigants to access court-appointed or retained counsel.

### **Background**

Courts operate self-help centers as a service for court users and typically provide in-person assistance at or near a courthouse. A managing attorney oversees well-trained staff who cannot give legal advice but can nevertheless provide information on how courts can help individuals in various subject areas, such as protection against abuse and harassment, name changes, and initiation of or response to an unlawful detainer or a small claims case. Staff may help court users access needed forms and may offer information and resources, including written guides, to help court users better understand terminology, processes, and options for a particular area of the law. Staff may also make referrals to legal aid and lawyer referral services for full or partial representation and could help court users access court-appointed counsel if Recommendation 1.1 is adopted and implemented.

SHARP (Self-Help Assistance and Referral Program) is a court-supported program that provides free assistance to self-represented litigants through, among other things, phone and email communication, workshops, computer labs, informational videos, and referrals. As part of the Court Innovations Grant Program, established under the Budget Act of 2016 (Assem. Bill 1623; Stats. 2016, ch. 318), an initiative called SHARP Tech Connect was developed to expand the availability of SHARP services and reach more people by enabling remote access to self-help assistance in 22 counties.<sup>100</sup> The initiative promotes the use of document assembly programs, staff training, workshops, and improvements in technology infrastructure and broadband access to permit enhanced remote services.

Certain Judicial Council forms are required or available in unlawful detainer proceedings, such as a mandatory summons form (form SUM-130), an optional complaint form (form UD-100), and an optional answer form (form UD-105). The California Courts website posts general information about the unlawful detainer process and offers downloadable unlawful detainer court forms and pleadings.<sup>101</sup> The Judicial Council has partnered with the nonprofit organization Pro Bono Net to develop a document assembly template, created in HotDocs,<sup>102</sup> that allows staff of self-help centers to assist unrepresented litigants in filling out the unlawful detainer forms.<sup>103</sup> The unlawful detainer HotDocs program is also directly available to self-represented litigants in some counties.<sup>104</sup> Several courts have similarly used the Odyssey Guide & File program from Tyler Technologies, Inc., to assist tenants in filing the optional answer form.<sup>105</sup>

### **Rationale for the Recommendations**

Improving self-help centers and court forms would help court users achieve better outcomes, which could stabilize housing and reduce homelessness. Improvements could also increase access to justice for court users affected by systemic disparities or language barriers.

Self-help centers assist tenants and landlords in understanding their rights and responsibilities and in preparing court forms and required notices. In some courts, self-help centers also provide settlement services to assist litigants in resolving their housing disputes. To facilitate eviction

diversion, courts should use their self-help centers to make information available to both landlords and tenants for assistance in resolving habitability, rent, and other matters without a complaint or an eviction judgment. Self-help centers should be prominently located at or near court facilities where unlawful detainer cases are heard.

Before the COVID-19 pandemic, the number of unlawful detainer litigants seeking self-help assistance had been increasing,<sup>106</sup> with a peak in 2019 when self-help centers assisted tenants 16,849 times and landlords 12,832 times.<sup>107</sup> The work group anticipates that requests for assistance will increase with the lifting of eviction moratoriums.<sup>108</sup>

Unlawful detainer forms are complex and difficult. These forms, which are accurate from a legal perspective, use legal terms that are unlikely to be understood by most self-represented litigants, which can lead to rejected filings and default judgments. For instance, the mandatory summons form (form SUM-130) indicates that the tenant has five court days from the date of service to file a written response to the complaint. Tenants have expressed confusion regarding the deadline, focusing on the court's file-stamped date in the upper right-hand corner even though the date of service may have been different. Clearly identifying the controlling date on the summons would be helpful.<sup>109</sup> Additionally, the optional answer form (form UD-105) has boxes for checking different types of denials and numerous defenses but does not make clear that litigants may be barred from making contentions or presenting defenses at trial based on the checked and unchecked boxes.

The Judicial Council should make unlawful detainer proceedings more understandable. At least one study found that applying readability principles to Judicial Council court forms significantly increased user comprehension.<sup>110</sup> Key features of readability include an appropriate reading grade level, language that is largely familiar to the reader or adequately explained, active voice, visual features that make the text highly readable, graphics to support the key message of the text, intuitive ordering and integration of information, and consideration of end-user comments from field testing.<sup>111</sup> The Judicial Council should also consult a readability expert to ensure that the current font size is adequate for seniors and people with impaired vision. In addition, the council should give attention to maintaining the forms at a reasonable length.

Development of easy-to-follow information sheets, checklists, and infographics would also assist lay understanding of the process and compliance with procedural requirements, resulting in better outcomes for unrepresented litigants.

### **Fiscal Impact**

Historically the Judicial Council has promoted funding for self-help centers as a budget priority. Statewide funding for self-help services was dramatically increased in 2018 from \$11.2 million to \$30.3 million.<sup>112</sup> The Judicial Council is requesting that funding for self-help services be increased by \$22 million for fiscal year (FY) 2022–23. If approved, the increased funding would provide for a staff attorney at the Judicial Council to develop information on statewide housing resources and to assist in the development of simplified forms.<sup>113</sup>

Improving court forms falls within the scope of the Judicial Council's regular responsibilities. But the council does not have dedicated funding for some aspects of the recommended unlawful detainer form improvements, such as funding for a readability specialist to aid in simplifying forms or for field tests of the revised forms. Thus, the council should seek additional resources for these purposes. Improving forms will also affect the workload of the Civil and Small Claims Advisory Committee.

### **Opportunities and Considerations for Implementation**

Although the work group has received differing opinions on the subject, courts may see a deluge of unlawful detainer filings after the COVID-19 eviction moratoriums have lifted. Given that most tenants in unlawful detainer actions are currently unrepresented, and that serious consequences may result from their failure to understand the process and how to preserve their rights, the Judicial Council should seek additional funding from the Legislature to further expand and fund self-help centers to accommodate increased capacities for both in-person and remote self-help services. As part of this effort, each court should evaluate whether its in-person or remote self-help services and centers provide adequate and effective access, and whether staffing and other resources should be increased to meet greater demand.

Additionally, the Judicial Council should prioritize the improvement of unlawful detainer forms as an immediate need. Even though improvement efforts will impose an additional workload on Civil and Small Claims Advisory Committee members and staff, among others, the work group believes that the benefits of undertaking this work justify such effort.

Information sheets and checklists should be developed using language that assists self-represented litigants in understanding the information requested in unlawful detainer court forms. Infographics could be created to visually orient litigants about where they are in the unlawful detainer process and what outcomes may occur based on their actions or inactions. Among other things, these resources should explain (1) the importance of filing a complaint that conforms to statutory requirements; (2) the importance of filing an answer within the five-day deadline; (3) the potential consequences of filing no answer and defaulting; (4) the potential consequences of ignoring or providing incomplete responses to discovery requests; and (5) the process for requesting a stay of execution after an adverse judgment is entered.

The Judicial Council should also consider developing a court form for a settlement and order in an unlawful detainer action. Such a form should include all the key elements of a typical unlawful detainer settlement (such as sealing the file, an opportunity to cure default, and payment or waiver of other amounts, including attorney fees and costs) and also provide a mechanism for judgment to be entered only in the event of a default on the settlement. The currently available tool, *Stipulation for Entry of Judgment* (form UD-115), is not easily modified to reflect a settlement *without a judgment*. As indicated, a settlement that avoids a judgment is an important goal for most tenants.

The Judicial Council Advisory Committee on Providing Access and Fairness and the Civil and Small Claims Advisory Committee are well positioned to oversee the implementation of this recommendation.

## **Action Area 2: Reduce barriers to housing, and help identify housing resources.**

California has more than 450 collaborative courts and homeless courts that already do much to provide rehabilitation services and housing for individuals in need. Eight in 10 participants have improved outcomes after entering such programs.<sup>114</sup>

Collaborative courts often rely on a team-based approach in which justice system partners—including judges, court staff, prosecuting and defense attorneys, treatment providers, social workers, probation staff, and others—work together to address the underlying issues that lead individuals to become involved in the justice system. Existing types of collaborative courts include adult and juvenile drug courts, dependency drug courts, reentry courts, mental health courts, behavioral health courts, mandatory supervision courts, veterans treatment courts, driving under the influence (DUI) courts, community courts, and homeless courts. Most collaborative courts entail ongoing judicial monitoring to ensure that individuals access treatment services and comply with supervision orders or other program mandates. Participants are often in these court programs for 12 to 18 months or longer.

Even though community courts and homeless courts are based on the collaborative court model, they tend to involve lower-level offenses with interventions that are much shorter in duration. Homeless court programs recognize the voluntary efforts of participants to improve their lives and move from the streets toward self-sufficiency through community-based treatment or services. For participants who complete appropriate treatment or services, the homeless court will dismiss or reduce their charges and clear outstanding fines and fees.

Collaborative court and homeless court programs have the ability to reduce barriers to housing and to help participants access housing resources.

Homeless courts are patterned after Stand Down courts, which for years have successfully provided opportunities for veterans experiencing homelessness, mental health issues, and substance abuse to receive services to address their needs. Stand Downs are typically one- to three-day events organized by community-based veterans services organizations and county veterans services offices, and in cooperation with the courts and a variety of state, federal, and private agencies. Veterans can have multiple court cases adjudicated during these events. Court cases generally are attached to lower-level crimes and infractions that can affect their ability to drive or to find housing or employment.

**Recommendation 2.1. Establish a homeless court program in more counties to reduce barriers to housing stability by clearing fines, fees, warrants, and outstanding cases after treatment and rehabilitation.**

Homeless court programs offer treatment and rehabilitation in the community rather than incarceration in jail and allow participants to resolve citations and low-level cases often resulting from conditions of homelessness and poverty. When treatment and rehabilitation are complete, and charges and fines are resolved, barriers to housing and employment are reduced.

To maximize the impact of these programs, the Work Group on Homelessness recommends the following:

1. Courts in more jurisdictions should establish homeless court programs to reduce barriers to housing stability by clearing fines, fees, warrants, and outstanding cases after treatment and rehabilitation.
2. Courts should ensure that their homeless court eligibility criteria are as expansive as feasible and should include cases involving higher-level offenses, when appropriate.

**Background**

A homeless court program is designed to address the specific circumstances and needs of court users who are experiencing or are at risk of experiencing homelessness. The program uses an action-first model that requires participants to achieve individualized treatment, rehabilitation, or other goals before appearing in homeless court.<sup>115</sup> Homeless courts are often convened once a month, and participants resolve their legal issues or cases in a single court appearance. The Superior Court of San Diego County introduced the first homeless court program in 1989 during the County of San Diego Stand Down, an event designed to provide services to veterans experiencing homelessness, and the county thereafter expanded the program to reach beyond the veteran community.<sup>116</sup> The American Bar Association (ABA) has adopted the San Diego Homeless Court model as a promising practice, and it is used as an example for courts around the country.<sup>117</sup>

**Rationale for the Recommendation**

The homeless court program is a vital intervention that reduces barriers to housing stability by (1) dismissing or reducing charges, fines, and fees, particularly where there is a relationship between conditions of homelessness and the charged offenses; or (2) ordering postconviction relief, such as expungement of criminal records, in circumstances where court intervention would appropriately reduce or remove collateral consequences that may create or deepen homelessness. But courts offering a homeless court program often limit eligibility criteria. Courts should consider broad application of the program by expanding eligibility beyond infractions, warrants, and low-level misdemeanors to include, when appropriate, higher-level offenses.

**Costs to Implement**

The homeless court program is recognized as a cost-effective model, with savings to the court exceeding court costs in operating the program. The cost savings are expressed through the

reduction of continued court and criminal justice involvement with program participants and reflected across the criminal justice continuum by the avoidance of incarceration. For example, each participant appearing in the San Diego Homeless Court often has multiple pending cases. The program allows the court to save time and reduce overall court costs by avoiding extended prosecution and litigation. Rather than requiring the court to prepare for and hold multiple hearings, cases can be resolved in bulk and all at once. The program also eliminates the need for the court to administratively track and pursue collection of fines and fees from individuals who can ill afford to pay them.<sup>118</sup>

The work group anticipates that the homeless court program costs will minimally affect the court's general operating funds. The homeless court program leverages existing resources and services that are provided by partnering agencies, and courts assume modest administrative costs associated with the homeless court calendar, such as the cost of staff time. The work group encourages courts to pursue available outside funding to supplant these costs, such as applicable grants administered by the Judicial Council or competitive grants offered through state and federal funding agencies.

### **Opportunities and Considerations for Implementation**

A homeless court program can benefit from a multidisciplinary approach and should involve collaborations between the courts, local homelessness outreach programs, community-based providers, criminal justice partners, or other county agencies. The ABA has recognized that a homeless court program can combine an action-first model with plea bargain systems and alternative sentencing structures to address various offenses.<sup>119</sup>

Potential barriers to implementing a new—or expanding an existing—homeless court program include (1) the capacity limitations of service providers;<sup>120</sup> (2) the lack of appropriate service providers, particularly for small or rural jurisdictions where providers may be inaccessible or nonexistent; and (3) limited or no buy-in from local justice stakeholders, such as local prosecuting agencies or the defense bar. Counties experiencing or anticipating these barriers may consider collaborating with local probation departments, public or behavioral health agencies, or other county agencies that interface with people experiencing homelessness to develop a locally responsive program that achieves outcomes similar to those of the traditional homeless court model.

Another consideration for implementing or expanding a homeless court program is to decide how the program will convene. Homeless court programs have traditionally been conducted in person at courthouses or at community locations such as homeless shelters. But during the COVID-19 pandemic, many homeless court programs have operated remotely through video or telephone proceedings.<sup>121</sup> As the judicial branch prepares for operations after the pandemic, courts and the Judicial Council should, consistent with Recommendation 3.1, maintain an option for remote appearances in homeless court programs.

To assist with homeless court program expansion, the Judicial Council has contracted with the ABA Commission on Homelessness and Poverty to provide training and technical assistance to

courts, with the goal of strengthening the homeless court model throughout California. The effort so far includes at least 10 counties interested in starting a new program. Existing homeless court programs will receive technical assistance to increase service capacity and provide an option for remote services. Individualized technical assistance, including a customized homeless court toolkit, will be developed for all interested counties. All courts should take advantage of this opportunity to launch a new homeless court program or expand an existing one.

The Collaborative Justice Courts Advisory Committee, with assistance as needed from the Judicial Council staff overseeing the contract with the ABA Commission on Homelessness and Poverty, is well positioned to oversee the implementation of this recommendation.

**Recommendation 2.2. Benefit from economies of scale by increasing the funding and caseload capacity for existing collaborative courts, ensure that the largest number of cases possible are processed through collaborative courts, and implement new collaborative court programs in appropriate jurisdictions.**

Collaborative courts are recognized as effective interventions that address cases involving people with behavioral health issues, many of whom experience homelessness or are housing insecure. These programs promote accountability by combining judicial supervision with rigorously monitored rehabilitation services and treatment in lieu of incarceration. Collaborative courts provide opportunities for the courts to support the housing needs and stability of participants and should be expanded throughout the state.

To maximize the impact of collaborative courts, the Work Group on Homelessness recommends the following:

1. Collaborative courts should be expanded throughout the state by increasing the funding and caseload capacity of existing programs. Courts should ensure that their collaborative court eligibility criteria are as expansive as feasible to enable as many appropriate cases as possible to be processed through the collaborative court programs.
2. Courts should implement new collaborative court programs in appropriate jurisdictions.

### **Background**

Collaborative courts use a problem-solving and multidisciplinary approach to address the underlying issues that lead participants to become involved in the justice system. Drug courts are the longest running and most prolific type of collaborative court and have been heavily researched. Studies of these courts demonstrate their effectiveness in improving participant outcomes and reducing recidivism.<sup>122</sup> Similarly, studies on mental health courts,<sup>123</sup> DUI courts,<sup>124</sup> and reentry courts<sup>125</sup> have shown that these court models are effective in reducing recidivism and substance use. Although the body of research for other types of collaborative courts is less extensive, most of those other court types are based on the drug court model.

### **Rationale for the Recommendation**

Research suggests that a significant percentage of collaborative court participants experience or are at risk of experiencing homelessness. A point-in-time count of the San Diego County Mandatory Supervision Court, for instance, indicated that 63 percent of participants were housing insecure, with 33 percent experiencing homelessness and 30 percent having unstable housing. The standards described in the national *Adult Drug Court Best Practice Standards*, as established by the National Association of Drug Court Professionals, identify housing as a key complementary service to aid in treatment and program compliance, with many collaborative court programs arranging for residential treatment or housing for participants.<sup>126</sup>

The presence of substance use, mental health disorders, and co-occurring disorders is identified as both a cause and an effect of homelessness.<sup>127</sup> Integrated responses to behavioral health needs and homelessness are essential, particularly for people who become involved in the criminal justice system. Collaborative court teams have extensive experience in collaborating with service and treatment providers to identify and address these multifactorial needs and generally have systems in place to refer participants to housing and other services. Many participants who enter collaborative courts can gain access to residential treatment and housing, though research on the long-term impact of collaborative court participation on housing status is lacking.<sup>128</sup>

Despite the proliferation of collaborative courts, caseload sizes tend to be lower than what they could be across jurisdictions. Low caseload size often gives rise to the misconception that collaborative courts are “boutique courts” that can service only a small number of people and therefore have little overall effect on the justice system. But with increased personnel and resources, collaborative courts can increase caseload capacities and have a far-reaching impact, and the judicial branch can benefit from economies of scale.<sup>129</sup>

### **Costs to Implement**

The Judicial Council sponsored a study of nine adult drug courts in California and found an average net savings benefit of \$11,000 per participant.<sup>130</sup> Other studies show similar results.<sup>131</sup> Collaborative courts require dedicated court investment to provide concentrated staff time, and such investment may include costs to supplement services rendered by justice system partners. Although collaborative courts are proven to be cost-effective, dedicated funding must be provided to enable courts to expand caseload sizes. Grant programs have been important resources for courts in supporting collaborative court operations, and the work group encourages courts to pursue applicable grants administered by the Judicial Council and competitive grants offered through state and federal funding agencies. Nevertheless, as helpful as grant programs can be for collaborative courts, program expansion will require funding stability. The judicial branch is seeking additional state funding to support court-related functions for collaborative courts. If funding becomes available, the Judicial Council should develop a program for data collection, training, and technical assistance to support the continued use and expansion of collaborative court programs.

### **Opportunities and Considerations for Implementation**

All courts with existing collaborative court programs should evaluate program eligibility criteria—as well as outreach, referral, and screening processes—to allow for maximum participation. Several courts have successfully implemented wide-scale, high-volume collaborative court programs, such as the San Diego County Mandatory Supervision Court and the San Joaquin County DUI Court. These programs use needs assessments and screening processes to tailor program placements to each participant’s recidivism risks and treatment needs, ensuring that resources—including housing—are properly focused on people who have the highest risks and needs. The work group recommends extending this practice to all new and existing collaborative court programs.<sup>132</sup>

To assist all collaborative court models, the Collaborative Justice Courts Advisory Committee should continue to pursue funding through budget change proposals<sup>133</sup> or other available processes to support court-related functions for collaborative courts. The advisory committee should also seek funding for the development and implementation of training and outreach initiatives focused on expansion of caseloads and caseload capacity.

### **Recommendation 2.3. Prioritize the creation and implementation of long-range plans for housing security for youth and nonminor dependents involved in the foster care system.**

Housing placement and homelessness prevention are essential needs that must be addressed for youth aging out of the foster care system and nonminor dependents involved in the extended foster care program.<sup>134</sup> Dependency courts hear cases in which minors are removed from their homes because of abuse or neglect and address their immediate needs during regular review hearings; however, the impact of homelessness and housing insecurity on youth formerly involved in the foster care system is so significant that long-term housing plans should receive increased, specific focus.

To better support youth involved in the foster care system, the Work Group on Homelessness recommends the following:

1. Courts should establish specialized calendars to assist judicial officers in focusing on long-range housing planning for youth and nonminor dependents.
2. The Judicial Council should review and amend California Rules of Court, applicable Judicial Council forms, and information charts as necessary to ensure a focus on the immediate and long-range housing needs of youth and nonminor dependents.

### **Background**

Notable research illuminates the nexus between involvement with the foster care system and homelessness. According to the *Briefing on Youth Homelessness 2020*, a report by Los Angeles Homeless Services Authority, aging out of the foster care system is a driver of youth homelessness. The report found that 25 percent of the adults and 8 percent of the youth experiencing homelessness in the County of Los Angeles have a history of foster care

placement.<sup>135</sup> Similarly, *California Youth Transitions to Adulthood Study* (CalYOUTH), a study conducted by Chapin Hall at the University of Chicago, found that one in four foster youth had at least one night of homelessness in the past two years, and 30 percent couch surfed—stayed with friends or relatives on a temporary basis—because they had nowhere else to go.<sup>136</sup> These findings are consistent with national statistics that suggest one in four youth will experience homelessness within four years of aging out of the foster care system.<sup>137</sup>

Effective January 2012,<sup>138</sup> California implemented a voluntary extended foster care program allowing eligible nonminor dependents to work with social workers or probation officers to create a case plan while residing in an eligible placement.<sup>139</sup> Nonminor dependents participating in the extended foster care program can exit at any time and, if they change their mind, can petition the court to reenter the program.<sup>140</sup> For youth who opted out of the extended foster care program, about 45 percent experienced homelessness whether or not they reentered the program.<sup>141</sup> Homelessness is more common among participants coming from congregate care settings, and more common for participants who identify as male or as LGBTQIA+.<sup>142</sup>

Even with the extended foster care program, about 20 percent of youth aging out of the foster care system experience homelessness.<sup>143</sup> The impact of homelessness and housing insecurity on youth aging out of the foster care system and nonminor dependents in the extended foster care program is significant, and courts should establish specialized calendars to make a conscious effort to focus on long-range housing planning for these individuals.

The extended foster care program has, nevertheless, shown significant benefits. The CalYOUTH study concluded that each year a youth spends in the extended foster care program reduces the risk of homelessness by 23 percent and reduces the risk of arrest by 28 percent.<sup>144</sup>

### **Rationale for the Recommendation**

Minors who have never been involved in the child welfare system are more likely to have a support system that assists them with housing, housing expenses, and transitioning to becoming self-supporting adults. But when the state and the juvenile court determine that minors need to be removed from their families, the minors enter into the care of the court and the foster care system. Courts should assure, insofar as possible, that the transition from court care to independence does not result in homelessness.

For this recommendation, the work group interviewed a number of experts, including judicial officers handling review hearings and specialized calendars involving youth aging out of the foster care system and nonminor dependents in the extended foster care program. Notably, the judicial officers who spoke of the care and passion they bring to their assignment also viewed the courts as having a moral responsibility to ensure that youth and nonminor dependents exiting the foster care system have the necessary tools and structures in place to be appropriately housed.

Standard 5.40(e)(9) of the California Standards of Judicial Administration specifically requires that juvenile dependency judges “[e]ncourage the development of community services and resources to assist homeless, truant, runaway, and incorrigible children.” These cases are

complex and involve many overlapping agency responsibilities. Judges, especially dependency court judges, are required to enforce the delivery of specific services, and they must hold responsible agencies and service providers accountable to ensure that resources are in place to properly house youth exiting the foster care system.

Most foster youth have few, if any, resources for assistance. Many housing programs for youth formerly in the foster care system have significant waitlists, and youth who are not placed on the waitlist in time may age out of the extended foster care program before housing becomes available. Moreover, youth preparing to exit the foster care system and juvenile court jurisdiction often need assistance in obtaining the documentation necessary for housing readiness, such as in applying for identification cards, driver's licenses, and social security cards.<sup>145</sup> The need for active support is particularly acute for youth who have physical, medical, mental health, or developmental needs that make self-advocacy difficult. Thus, court planning should extend beyond simply providing a list of locally available housing programs and should include focused assistance in navigating systems, getting placed on waitlists, and creating a plan in which the court and youth can have confidence. Without adequate planning, youth may experience homelessness when they leave the foster care system.

There are myriad housing opportunities, including programs expressly targeted at youth currently or formerly involved in the foster care system. But accessing these programs frequently requires a significant amount of effort and ability on the part of both judicial officers and the youth involved. Judicial officers need to have the time and resources to (1) develop the expertise to understand these options, (2) encourage the agencies involved with the youth to focus on this issue, and (3) create a robust plan for housing once the youth is no longer involved in the dependency system.

### **Costs to Implement**

The Judicial Council uses a workload-based funding model to determine funding allocations for each court. Once funded, trial courts have discretion on how to allocate and spend the funding. Specialized calendars may not be necessary for counties with a small foster youth population. But for counties with a large foster youth population, courts should evaluate resources and supplement, as necessary, with backfill resources, such as the Temporary Assigned Judges Program.

### **Opportunities and Considerations for Implementation**

Dependency cases are complex and involve a large number of overlapping agency responsibilities. Having a knowledgeable judge to assist youth and nonminor dependents with navigating the transition out of the foster care system is imperative for addressing homelessness of transitional-aged youth. Although the Judicial Council offers various tools and resources to assist in judicial compliance with the California Rules of Court governing nonminor dependents, the council should consider whether additional measures, such as development of appropriate bench cards or revisions to court rules regarding nonminor dependents, would be beneficial.

Dependency cases involve an extensive number of Judicial Council forms, most of which have boxes to check that certain items have been accomplished. Although housing is frequently listed as one box among many to check, highlighting the need for future housing planning would be helpful. For instance, forms could be revised to list housing as a specific stand-alone item. Courts could also require reporting agencies to specify the specific housing plan for a youth once dependency court jurisdiction ends.

The Judicial Council Family and Juvenile Law Advisory Committee, with support as needed from the Collaborative Justice Courts Advisory Committee, is well suited to provide implementation oversight for this recommendation, including, as necessary, efforts to adopt or modify the California Rules of Court and applicable Judicial Council forms to ensure that court processes and procedures are designed to reduce homelessness as youth and nonminor dependents exit juvenile court jurisdiction and the foster care system. Work group staff can assist the advisory committee by identifying the small, medium, and large courts that have successfully implemented specialized calendars focused on youth and nonminor dependents aging out of the foster care and extended foster care programs.

### **Recommendation 2.4. Arrange for housing resource navigators at or near courthouses to provide resources to court users experiencing or at risk of experiencing homelessness.**

Courts across the state have reported an increased number of court users facing housing instability. Having an available and accessible housing resource navigator program provides an opportunity for the court to assist users with connections to local housing resources.

To assist court users in connecting with housing resources, the Work Group on Homelessness recommends the following:

- Courts should arrange for housing resource navigators at or near courthouses to provide resources to court users experiencing or at risk of experiencing homelessness.

### **Background**

Some courts partner with county and local service providers who serve as “housing resource navigators” for court users in need. Stationed at or near the courthouse, knowledgeable providers link court users to available services in their communities. Housing resource navigators typically are not attorneys and are not employed by the court, but they are trained to screen people for risk of homelessness and to identify housing and related service needs.<sup>146</sup> Housing resource navigators often operate physically within a courthouse, enabling them to provide direct, person-to-person assistance when connecting court users to available services.<sup>147</sup>

### **Rationale for the Recommendation**

Providing a link to housing resources at or near the courthouse is useful for court users across case types. The nexus between homelessness and the criminal justice population is well documented,<sup>148</sup> and California courts have reported an increased number of court users, including tenants in residential evictions, who are facing housing instability.

Although criminal defense or other attorneys may have an opportunity to identify the social needs of their clients, such as the need for housing or treatment, their ability to obtain assistance can be limited. A housing navigator could help address such needs.

The Housing First model in homelessness services posits that a person cannot turn their life around or benefit from other assistance unless they are first provided with housing. And helping court users obtain housing could reduce their recidivism and help them receive other needed services. As changes in California law increasingly favor services and treatment rather than incarceration, courts must be able to connect court users to housing and other community resources.<sup>149</sup>

Many people who appear in court, especially for misdemeanor charges, have experience with substance use and addiction, mental illness, and housing insecurity. Moreover, a substantial number of the minor offenses handled in misdemeanor courts—such as petty theft, possession of a shopping cart, unlawful recycling, and public drunkenness—are directly related to a lack of housing. Persons charged with misdemeanor offenses, if convicted, generally do not receive the resources available in felony cases, where resources to address housing and other needs may be offered as part of supervised probation or parole. In addition to misdemeanor and unlawful detainer matters, court users in family law and other cases may experience housing insecurity. Having a housing resource navigator available at or near the courthouse would enable court users to be linked to local services (and a homeless court program, if available) that may improve their circumstances and reduce future court involvement.

### **Costs to Implement**

Courts that make physical space available for navigators may assume nominal facility costs that should not exceed the typical costs of maintaining the space for existing court purposes.

### **Opportunities and Considerations for Implementation**

Implementation of a housing navigator program typically requires collaborative efforts between the court and the local community, such as county or nonprofit agencies that provide housing and related services. By leveraging a variety of resources, such partnerships may maximize benefits for court navigator programs as well as for providers of homelessness services.

For courts that lack adequate courthouse space to station a housing navigator program or that have concerns about increasing nonessential court traffic if walk-in services are allowed, courts should explore opportunities to use nearby locations or to develop partnerships with providers located near the courthouse to ensure that court users can reasonably access the program.

### **Recommendation 2.5. Ensure that courts can remove a record of conviction in a more timely and efficient manner.**

A criminal record presents a significant challenge to a person seeking affordable housing and correlates with deepening poverty and long-term homelessness.<sup>150</sup> The judicial branch should ensure that courts can prioritize the process of appropriately removing records of convictions in a more timely and efficient manner. The most effective way to do so is by improving the

## Action Areas and Recommendations

processing of bulk data across platforms to scale authorized record clearance and reduce instances of discrimination in housing and employment against people who have criminal histories.

To assist the Judicial Council and the courts in processing record clearances, the Work Group on Homelessness recommends the following:

1. The Judicial Council should work with the California Department of Justice, the Legislature, and other necessary stakeholders to develop proper supports and infrastructures to ensure that bulk data provided to the courts are in a format that is accessible for processing.
2. Trial courts should collaborate locally with prosecutors, public defenders, technology professionals, and other appropriate stakeholders to ensure responsiveness to expedited record relief initiatives, particularly those involving automatic record relief.

### **Background**

Black individuals are disproportionately arrested and convicted in California. In 2016, Black individuals represented approximately 6 percent of California's population but were involved in 16 percent of all California arrests.<sup>151</sup> Black and Hispanic people are overrepresented in pending felony cases.<sup>152</sup> These disparities are reflected in a disproportionate number of convictions on an individual's criminal record,<sup>153</sup> making homelessness more likely.

Clearing a criminal record in appropriate circumstances can further the interests of justice and improve housing and employment outcomes. In certain situations, a conviction may be reduced from a felony to a misdemeanor. Legislation has addressed circumstances for automatic processing of record relief in bulk, seeking to alleviate the need for individuals to petition the court for relief. The current data exchange system infrastructure, however, is insufficient for efficient bulk processing of record relief cases.

### **Rationale for the Recommendation**

In 2018 and 2019, the Legislature passed two significant automatic record relief bills—Assembly Bill 1793 (Stats. 2018, ch. 993) and Assembly Bill 1076 (Stats. 2019, ch. 578)—that made it the responsibility of government agencies to effectuate conviction record removal. Before the enactment of those bills, legislation authorizing relief from criminal convictions required people to petition the courts for this benefit. For example, the 2016 passage of Proposition 64, the Adult Use of Marijuana Act, authorized a process in which people could petition the courts to have convictions removed from their records. Although many public defenders and nonprofit organizations devoted resources before the COVID-19 pandemic to encourage the petition process, only a small number of petitions was filed. There were also difficulties in processing and sending the information to the California Department of Justice (DOJ).<sup>154</sup>

The authorized removal of conviction records is not the only way courts can assist individuals whose criminal history is a barrier to achieving housing stability. Recent laws allow courts to divert lower-level offenders from the justice system before conviction. Criminal diversion programs allow individuals struggling with substance use disorders or mental illness to access treatment programs and, if the programs are successfully completed, to avoid incarceration or a record of conviction. Courts implementing these programs collaborate with various justice partners—including prosecutors, defense attorneys, and treatment providers—to ensure that appropriate candidates are identified and diverted. The United States Interagency Council on Homelessness considers criminal diversion a top strategy for ending homelessness.

Although an automatic record clearance process is less burdensome for people with eligible convictions, it has multiple challenges, including the lack of reliable data, antiquated data management systems that cannot adequately support bulk data manipulation, and the inability to efficiently match cases and people across data systems. Lessons learned from AB 1793 and AB 1076 indicate that addressing these challenges requires a significant amount of planning and collaboration between stakeholders at the state and local levels, as well as data infrastructure support and improvement.

#### **Costs to Implement**

Some funding has been provided in connection with record-relief legislation. Further automation promises to increase cost savings. Accepting support from nonprofit organizations with experience in data integration and manipulation could be economically efficient for courts.

#### **Opportunities and Considerations for Implementation**

Further prioritizing effective conviction relief would reinforce the judicial branch’s commitment to justice by reducing barriers to housing and employment. The Judicial Council should continue to work with the DOJ, the Legislature, and other necessary stakeholders to develop the proper infrastructure and support to ensure that bulk record clearance can be implemented efficiently and equitably throughout the state.

Courts should coordinate regarding best practices in processing bulk data and integrating data with current case management systems. Specific discussions should take place with technology organizations to determine where free support could be best utilized, and each court should research how best to interface with the DOJ. The Investigative Consumer Reporting Agencies Act (Civ. Code, § 1786 et seq.) should also be reviewed to ensure that people obtaining automatic relief are fully protected against the inappropriate disclosure of an arrest or conviction.

The Judicial Council Technology Committee and the Information Technology Advisory Committee—in coordination with the Trial Court Presiding Judges Advisory Committee, the Court Executives Advisory Committee, and other necessary advisory committees—are positioned to oversee implementation of this recommendation.

### **Action Area 3: Utilize technology and improve court procedures, communications, and information to increase access to justice for court users regardless of their housing circumstances.**

Chief Justice Cantil-Sakauye has long emphasized the importance of “Access 3D,” which refers to the concept that access to justice should be physical, remote, and equal. Physical access includes the ability to physically enter a court building.<sup>155</sup> Remote access entails expanding options for court users to conduct branch business online. Equal access contemplates equal opportunity for people to receive the benefits of court programs and services; it means that courts should be available to everyone, regardless of their income level, housing status, race, age, sexual orientation, gender identity, language, medical or mental health condition, substance use, or prior traumatic experience.

The following recommendations would actualize the Chief Justice’s vision of Access 3D with the utilization of technology to reduce barriers, increase access, improve communication, and expand information for court users who are without housing or are housing insecure.

#### **Recommendation 3.1. Increase access by providing an option for remote appearances.**

Courts have demonstrated that technology can assist court users who would otherwise have difficulty accessing the courts and court resources.

To assist the judicial branch in overcoming access barriers and maximizing equal access to justice, the Work Group on Homelessness recommends the following:

1. The Judicial Council should increase access to the courts by providing an option for remote appearances.
2. Courts should consider opportunities to establish mobile courts.

#### **Background**

People experiencing or at risk of experiencing homelessness require access to the courts for a variety of reasons, such as to respond to an eviction complaint, address a criminal charge, participate in a family law or juvenile court matter, or pay fines or fees. Many are required to make a personal appearance at a courthouse.

The Superior Court of Placer County and the Placer County Probation Department are developing a mobile court for homeless court participants. Using a former library bookmobile outfitted with remote technology and staffed by the probation department, the mobile court will drive to where homeless court participants are staying and help them conduct court business and connect to the homeless court by video. The mobile court is expected to improve access to the court and reduce the failure-to-appear rate for the homeless court calendar.

As indicated, transportation and other barriers often impede the ability of these court users to physically access court services. But many of them have access to a cell phone or computer. The option to appear remotely will continue to increase access to the courts.

### **Rationale for the Recommendation**

In 2017, the Commission on the Future of California’s Court System (Futures Commission) recommended, among other things, the development of a pilot project “to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings.”<sup>156</sup> The Futures Commission noted that no law at the time precluded appearances by remote video in noncriminal cases.<sup>157</sup> On March 4, 2020, Governor Gavin Newsom issued a proclamation declaring a state of emergency pertaining to the COVID-19 pandemic. In response, the Judicial Council approved the Emergency Rules Related to COVID-19, including emergency rule 3, which authorizes the use of technology for remote appearances in both criminal and civil proceedings and which remains in place as of this writing.

By its terms, emergency rule 3 will remain in effect until 90 days after the Governor lifts the state of emergency, or until the rule is amended or repealed by the Judicial Council. Under the emergency rule, courts are encouraged to conduct proceedings remotely, though criminal courts must obtain consent from the defendant to do so. The emergency rule provides that remote proceedings include, but are not limited to, “the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.”<sup>158</sup>

More recently, SB 241 added section 367.75 to the Code of Civil Procedure to authorize remote appearances and the use of remote technology in civil trials, hearings, conferences, and proceedings, along with juvenile dependency proceedings, under certain circumstances, until July 2023.

Since the advent of the pandemic, many courts have made great strides in utilizing technology to facilitate access to justice in various cases. In the context of homeless court programs, at least one court regularly operates by telephone,<sup>159</sup> and others conduct their hearings by video conference.<sup>160</sup> The Superior Court of Alameda County has been successfully helping to prevent homelessness by operating mandatory unlawful detainer settlement conferences via the BlueJeans video conference platform or by telephone. And as part of many court programs, court users who lack a personal internet connection or are unable to connect to a court video conference with their own mobile device have been able to connect through collaborative arrangements with others, such as a library, attorney, justice partner, or service provider.<sup>161</sup> Allowing these court users to appear remotely increases their access to justice, and courts should continue to maintain this option.

Some courts have had considerable success bringing in-person homeless court proceedings to a community location where the participants are located,<sup>162</sup> and other courts have sought to

establish “mobile courts,” which use a truck, bus, or van loaded with mobile technology and travel to a location to help participants connect remotely to a court proceeding.<sup>163</sup>

### **Costs to Implement**

The State Budget has made funding available to the courts for technology modernization and language translation. The judicial branch received two years of modernization funding for FYs 2020–21 and 2021–22 and is seeking ongoing permanent funding. Courts spent much of the funding for FY 2020–21 on the development and delivery of remote services, including services for remote appearances, virtual customer service centers, virtual self-help centers, and remote language access services. A key driver for the use of this funding is ensuring equal access to court services for all Californians by maximizing the types of access channels available to court users. The Judicial Council should continue to seek funding for the support of remote services, such as services for remote appearances, online customer service, electronic document assembly programs, mobile court services, and remote access to case information.

### **Opportunities and Considerations for Implementation**

Offering an option for remote appearances can ensure broader court access and uninterrupted service. Making this option available will require courts to use existing equipment and technology, including videoconferencing platforms, or to acquire this equipment and technology if they are not already in place. To the extent courts do not already have electronic technology options for court proceedings, the judicial branch has established a license for use of the Zoom Video Communications, Inc., platform, which trial courts can use to conduct video conferences. Courts can and should also collaborate with justice partners and service providers when such collaboration will provide greater opportunities for court users to connect with the courts. Remote arrangements with justice partners and service providers must include consideration of whether those partners and providers have sufficient technology and spaces to maintain an adequate remote connection.

The ability for people across California to connect to the internet will serve the public and benefit those who have difficulty physically accessing the courts. Providing people who are experiencing homelessness or who otherwise have limited internet access with the ability to connect is a priority for state and local governments and is particularly meaningful to the judicial branch in ensuring equal access to court services. The judicial branch has partnered with the executive branch on existing efforts to promote the expansion of broadband connectivity, including

Court ordered fines and fees often present an insurmountable barrier for individuals with low-income, and when payment becomes delinquent the consequences can multiply. A person’s inability to pay fines arising from simple infractions can lead not only to mounting debt, but also to further court orders that can impact opportunities for housing.

By July 2024, all trial courts will offer ability-to-pay determinations using the online “MyCitations” tool. The tool will also allow low-income court users to request a payment plan, more time to pay, or community service for an eligible infraction.

initiatives to bring the internet to remote areas and to increase access to free public internet service.

Some judicial officers have expressed a view that collaborative courts should not be conducted remotely because success in those programs requires a relationship and personal rapport between the judge and the court user, which can be difficult to establish through remote technology. However, other judicial officers report they have been able to establish the necessary rapport through remote proceedings and that remote services have been particularly effective in eliminating the access barriers described in this report. Many court users have expressed appreciation for remote appearance options.

The work group recommends that remote services be available as an option for courts and court users. Consistent with this recommendation, the Chief Justice's Ad Hoc Workgroup on Post-Pandemic Initiatives issued a first interim report recommending that California expand and maximize remote access on a permanent basis for most court proceedings, and that the Judicial Council encourage and support courts in substantially expanding remote access while adopting policies that ensure consistency and fairness statewide with the flexibility to meet local needs. The Judicial Council should monitor concerns raised about remote services and work through internal and external channels—including considering legislative changes and changes to branchwide processes—to develop solutions for making remote services an option across case types.

The Judicial Council Technology Committee and the Information Technology Advisory Committee, in coordination with other advisory committees, are positioned to oversee implementation of this recommendation.

**Recommendation 3.2. Improve the availability of information about court services that address homelessness and housing issues by updating court websites to provide user-friendly and current information; and help court users electronically connect to the court, charge mobile devices, and receive email and text communications from the court.**

Court users experiencing or at risk of experiencing homelessness may have difficulty obtaining information about relevant court programs and services or communicating with the court about their circumstances or their case. As essential sources of court-based information, court websites offer a significant avenue for ensuring that these court users have equal access to important information regarding available court services and programs. The availability of text and email court reminders and charging stations for mobile devices also enables the courts to improve court access, engagement, and communication.

To assist the judicial branch in improving access and communication with court users, the Work Group on Homelessness recommends the following:

1. The Judicial Council should work with trial courts to create standard, user-friendly language and content for court websites.

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2. The Judicial Council should continue to develop its self-service portal to target services for self-represented litigants and to provide court information on key issues and questions related to housing and homelessness.
3. Each court website should provide information about available court services and community resources that address urgent housing and related needs.
4. Courts should arrange to make mobile device charging stations available for court users.
5. Courts should implement options for court users to receive court emails and text communications that provide reminders and other information.

### Background

Courts offer a variety of services for users experiencing or at risk of experiencing homelessness, and some courts also have access to information about other community resources. Court websites are often the starting point for court users to learn about court services and can also be a portal to broader community programs. In addition, many courts have been using other technologies to improve information and customer service for court users.

### Rationale for the Recommendation

In surveying the websites of courts known to provide housing or homelessness programs, the Work Group on Homelessness found wide variances in the availability and accessibility of relevant information. Some websites feature links to pages or items, in portable document format (PDF), that describe the goals, eligibility criteria, and processes of their homeless courts and collaborative court programs and provide relevant contact information. Some websites, however, make no mention of their homeless courts and collaborative court programs, whereas others list such programs but provide minimal information about them. Some websites post outdated or incomplete information, or inoperable links to information.

Members of the Superior Court of Santa Clara County have arranged to connect court users who lack housing with cell phones. Time-certain calendaring and a cell phone charging station have also been made available. Through a justice partner, external cell phone batteries have been provided. The county has provided cell phones to persons released from jail, and the court has sent reminders and information to these individuals through those phones. For young adults without housing and on the deferred entry of judgment calendar, the court distributes donated Chromebooks that allow the young adults to appear remotely and complete schoolwork.

Court websites currently do a better job in providing information about self-help centers and assistance to self-represented litigants, but websites vary in how a person can access such information. Some websites feature “Self-Help” tabs on the home pages; others store self-help information under a “Services and Programs” tab or an “Info Centers” tab that connects users either to court webpages containing information for self-represented litigants or to the California Courts website for self-represented litigants. Providing

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easily accessible court information is important because of the great demand for it: approximately 4 million California residents connect to the judicial branch self-help website each year.

Many courts are beginning to use the 2021 Judicial Council court website template, which was designed to be a cost-efficient way for courts to provide consistent, easy-to-access, and basic information regarding court services and programs. The template includes access to the judicial branch self-service portal and new branchwide digital services, including the virtual customer service center, online forms, and multilingual services. Currently, 20 courts have successfully migrated to the new template and 12 additional courts are in progress and will be live by the end of FY 2021–22.

Keeping information about court services consistent and current across court websites is essential to meeting public needs, avoiding unnecessary confusion, and maintaining public confidence in the courts. When court websites provide information that is up to date, easy to understand, and readily accessible, people can obtain the information they need without having to call or visit the court. Additionally, reducing the need for court staff to respond to public requests for basic court information will allow staff to focus on other responsibilities and increase overall court efficiency and productivity.

Court users without housing must also overcome various obstacles in seeking to establish a remote connection with the court.<sup>164</sup> The work group heard reports that court users who are experiencing homelessness may need time in the morning to locate a computer or, if they have their own mobile device, an available electrical outlet to charge the device before they are able to use it for court communication or access. Courts can improve access by arranging for a place at the courthouse or at the location of a justice partner or local provider for a court user to access a computer or to charge a mobile device. Courts can also help by allowing court users sufficient charging time before requiring an appearance or communication.

In addition, courts can better assist people experiencing homelessness in tracking upcoming court deadlines and other important court dates. Even when such individuals have access to post office boxes or support systems through which they can obtain mail, their circumstances make keeping track of deadlines or scheduled court appearances difficult, which can result in missed court dates with spiraling consequences, such as the loss of child custody or visitation or the issuance of a bench warrant. Sending court users reminders and other information by email or text can improve outcomes.

### **Costs to Implement**

Use of the 2021 Judicial Council court website template is cost-efficient for courts, and funding for the implementation of the template is provided as part of the Judicial Council's FY 2020–21 State Trial Court Improvement and Modernization Fund program. This modernization funding is only for two fiscal years, through FY 2021–22. The Judicial Council is seeking information technology modernization funding for FY 2022–23 and ongoing. If allocated, this funding could provide stable resources for website maintenance and support. Alternatively, courts that want the

autonomy of maintaining their own websites would use their court operations budget for immediate and ongoing website maintenance. Similarly, those courts would finance any website posting of information specific to a trial court and its local community from their court operations budget.

The Judicial Council has been working on a statewide text and email reminder project compatible with all court case management systems. This statewide system would be cost-efficient for courts. If courts desire to establish their own system for email and text communication and reminders, however, they would assume the costs for developing and maintaining those systems.<sup>165</sup>

The fiscal impact would be minimal in allowing court users to charge mobile devices by connecting to a court's existing electrical outlet, or in arranging with justice partners and service providers to offer charging opportunities. Courts might consider arranging for wireless or wired charging tables, or charging lockers, which can charge and protect mobile devices. These arrangements would carry initial costs to the courts for the purchase of equipment and may carry ongoing maintenance costs. Planning for new court construction projects should include consideration of charging lockers and stations for court users.

### **Opportunities and Considerations for Implementation**

To meaningfully assist court users, courts offering court-based services and programs that focus on homelessness or housing instability should post relevant, user-friendly, and current information on their websites. Additionally, all courts should post information regarding local community resources for vulnerable populations. The Judicial Council should work with the courts to identify basic information that would be helpful for court users experiencing homelessness and for those who seek to assist them. The Judicial Council should also continue developing its self-service portal to target services for self-represented litigants, and provide information on key issues and questions, including information on unlawful detainer proceedings, homeless court and collaborative court programs, and other court services.

All 58 counties manage their court websites in a largely independent manner. This independent management promotes trial court autonomy in website content but stands as the most significant barrier to making court websites consistent and user-friendly across counties. To promote greater consistency in website information provided by the judicial branch, the Judicial Council Information Technology Advisory Committee should work with courts to create standard website language and services for providing general information, and to determine the best processes for regular review and upkeep.

Courts that can provide charging stations or easily accessible electrical outlets should make these tools available to court users. And collaboration with local entities and individuals—such as libraries, attorneys, justice partners, and service providers—could assist court users in charging their mobile devices and connecting remotely to the court.<sup>166</sup>

Research has been inconclusive regarding whether text and email reminders reduce failures to appear in all case types.<sup>167</sup> It stands to reason, however, that such improved communication has the potential to help. Staff to the Judicial Council Information Technology Advisory Committee are working with the Superior Court of Los Angeles County to develop a branchwide notification system that includes text and email messages and notifications. During the pilot phase, the committee will select a handful of courts to test and refine the service. The committee anticipates that a future phase will include additional courts.

The Judicial Council Technology Committee and the Information Technology Advisory Committee, in coordination with other advisory committees, are well positioned to oversee implementation of this recommendation.

#### **Action Area 4: Strengthen education, outreach, and civic engagement on issues pertaining to homelessness.**

The California State Auditor noted that one of the problems in addressing homelessness is that responsibility to address the crisis is disjointed.<sup>168</sup> Echoing a similar sentiment, the National Center for State Courts urged judges to move away from “silos” and to seek collaborative solutions.<sup>169</sup> “Organizations should understand that no specific entity oversees comprehensive services and continuity of care for individuals. In fact, many individuals use several services simultaneously, underscoring the need to coordinate responses.”<sup>170</sup> To overcome compartmentalization, obtaining the involvement and support of leaders across systems is essential,<sup>171</sup> and a champion such as a judge can convene stakeholders, overcome barriers, and maintain a sustained level of commitment.<sup>172</sup>

Court leaders and judicial officers share such a commitment, and the Judicial Council employs various processes that allow the judicial branch to work collaboratively and in partnership with the executive and legislative branches and other entities and stakeholders in efforts to pursue helpful programs and effectuate efficiencies and cost savings.

In addition to such civic engagement, judicial branch personnel should also work toward a broader understanding of homelessness and its impact on those experiencing it. The judicial branch is committed to excellence in public service and recognizes the role that ongoing professional development, education, and training play in achieving the goals of the branch. Education is necessary to ensure that all actions of the branch and of the courts result in the fair and efficient administration of justice and the reduction of barriers to court access.

##### **Recommendation 4.1. Educate judicial officers and judicial branch personnel on issues relating to homelessness.**

Providing education on topics relating to homelessness will assist the judicial branch in reducing barriers to court access and can result in an increasingly fair and equitable justice system.

To improve judicial branch education about homelessness, the Work Group on Homelessness recommends the following:

1. The Judicial Council should expand educational opportunities and encourage judicial officers and judicial branch personnel to attend programs relating to homelessness.
2. The Judicial Council and its Center for Judicial Education and Research (CJER) should collaborate with other education providers to ensure that training and educational opportunities are regularly available to judicial officers, judicial branch personnel, justice partners, and other stakeholders.

### **Background**

The California Rules of Court state the minimum education requirements and expectations for members of the judicial branch, including judicial officers and court staff.<sup>173</sup> Education requirements vary depending on branch position and assignment, and every member of the branch must participate.

### **Rationale for the Recommendation**

Providing education on topics relevant to homelessness can reduce misconceptions and biases involving court users who lack stable housing and can lead to a more empathetic approach in serving these court users, ultimately resulting in a more accessible, effective, equitable, and compassionate justice system. The work group identified the following topics that could be developed into educational curricula:

- Preferred definitions and terminology pertaining to homelessness
- Causes of homelessness and shelter insecurity (see the Executive Summary of this report)
- Barriers experienced by people without housing in accessing court programs and services (see the Executive Summary and Action Areas 2 and 3 of this report)
- Techniques for alternative dispute resolution in unlawful detainer and small claims proceedings
- Considerations in preparing long-range plans for housing security for youth and nonminor dependents involved in the foster care system (see Recommendation 2.3 of this report)
- Ways to avoid implicit bias<sup>174</sup> based on homelessness or related circumstances such as income level, housing status, race, ethnicity, age, sexual orientation, gender identity, medical or mental health condition, substance use, veteran status, or prior traumatic experience

Education and training on the foregoing topics could increase awareness of the unique needs of individuals who are without housing or are housing insecure and prompt changes that reduce barriers to court access and improve housing stability. Training and educational opportunities that incorporate the lived experiences of individuals currently or formerly unhoused could be particularly impactful and should be developed.

### **Costs to Implement**

The work group anticipates that costs to the Judicial Council for providing education on topics related to homelessness would align with the ordinary costs for developing and updating education and training programs.

Training could also be developed in collaboration with other educational providers, such as the California Judges Association, the State Bar of California, the California Lawyers Association, and private education providers. Those providers could help leverage existing funding sources to provide training.

### **Opportunities and Considerations for Implementation**

The CJER Advisory Committee<sup>175</sup> should make recommendations on enhancing curricula and instructional designs to specifically address issues related to homelessness.<sup>176</sup>

Training on topics related to homelessness can be incorporated into the B. E. Witkin Judicial College or New Judge Orientation curriculum, which requires the completion of three programs within two years after judicial officers take their oath of office.<sup>177</sup> Previous education trainings at the B. E. Witkin Judicial College have included visits to San Quentin State Prison and the residential treatment program at the Delancey Street Foundation. These experiential trainings play an important role in helping judicial officers develop empathy and understanding and improve their ability to effectively engage with individuals in their court proceedings. Education on implicit bias in the homelessness context could also be provided to experienced judicial officers as part of regular qualifying ethics and continuing education programs.

Other educational and training events, such as the Judicial Council's Beyond the Bench conference or the California Association of Collaborative Courts conference, may provide further educational opportunities in this area.

### **Recommendation 4.2. Engage with other public and private entities and individuals to enhance programs and services for people without housing or at risk of losing housing.**

The courts and the judicial branch should continue to engage with other public and private entities and individuals to enhance programs and services for people experiencing or at risk of experiencing homelessness.

As part of such engagement, the Work Group on Homelessness recommends that courts and the judicial branch consider:

1. Serving as conveners to bring members of the community together in addressing homelessness;
2. Supporting legislation that seeks to improve court access and overall legal and other related outcomes for court users experiencing or at risk of experiencing homelessness, as well as legislation that addresses homelessness;

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3. Working to increase efficiencies in cases that would enhance homelessness prevention or where homelessness is at issue or at risk;
4. Collaborating with the other branches of government and local justice partners and community-based service providers to improve court responses to homelessness and to improve the courts' ability to assist court users in accessing housing and treatment services;
5. Using certain unused judicial branch properties for homelessness services; and
6. Arranging for individuals who have experienced homelessness to help improve court access and services.

### **Background**

Led by the Chief Justice and the Judicial Council, the judicial branch has an organizational structure and process in place to facilitate working with the other branches of government and other entities and stakeholders to pursue helpful statewide programs and effectuate efficiencies and cost savings. As part of that structure, the council's Legislation Committee and Governmental Affairs staff maintain regular lines of communication with other governmental leaders.

Moreover, as recently as January 2020, the Judicial Council's *Homeless and Community Court Blueprint* urged courts to perform outreach to, and collaborate with, justice partners and other key players to ensure that people who are experiencing or at risk of experiencing homelessness "get critical services including housing eligibility screenings, case management, assistance with securing identification documents, medical and psychiatric evaluations, legal services, or assistance with applications for benefits or housing."<sup>178</sup>

### **Rationale for the Recommendation**

In creating the Work Group on Homelessness, the Chief Justice asked the work group to consider, among other things, how the judicial branch might work with the Governor, the Legislature, and other entities and stakeholders in addressing homelessness.<sup>179</sup> The Chief Justice also asked the work group to assess whether changes in laws, regulations, and rules might be necessary or helpful in responding to the homelessness crisis, and to evaluate whether judicial branch property and resources might be used to advance homelessness assistance.

One way that courts can bring community leaders together is by serving as a convener. The idea of judicial officers and courts serving as conveners is not new, and as long as it is done in an appropriate manner consistent with the role of the judicial branch and the California Code of Judicial Ethics,<sup>180</sup> there can be substantial benefits in calling leaders together and engaging with other public and private entities and stakeholders<sup>181</sup> to enhance programs and services for people experiencing or at risk of experiencing homelessness.

Another way the judicial branch can encourage helpful programs and services addressing homelessness is to support beneficial legislation. In this regard, the Judicial Council's

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Legislation Committee and its Governmental Affairs staff will continue to monitor and consider proposals and pending matters and maintain communication with government leaders. In addition, the judicial branch should understand its purview to encompass proposals that are consistent with the strategic plan for California's judicial branch.

As indicated, the judicial branch and the courts should also collaborate with the other branches of government and local justice partners and community-based service providers to improve court responses to homelessness, and to improve the courts' ability to assist court users in accessing housing and treatment services. Such collaboration is consistent with executive branch efforts to improve communication and information sharing, such as the work on the data integration system being developed by the Homeless Coordinating and Financing Council.

The work group also received information on delays in building affordable housing. Delays in court proceedings can have an adverse impact on the provision of homelessness programs and services, including efforts to provide needed housing. Court leaders and judicial officers care deeply about minimizing case delay and work tirelessly to afford court users quality dispositions in a fair and timely manner. All stakeholders must work together to develop fair, reasonable, and practical ways to increase case efficiencies that take into consideration the totality of the circumstances.

In addition, work group members spoke with experts from the Judicial Council Facilities Services and Legal Services offices regarding the potential for repurposing unused or other available court properties. Work group members compared the details and locations of the unused properties with the availability of nearby homelessness services and identified for branch experts the locations of properties that might be suitable for use in providing homelessness services.

Courts might also arrange for people who have previously experienced homelessness or are currently housing insecure to help the courts increase access, improve conditions in courthouse neighborhoods, and provide the assistance and services needed to address the crisis of homelessness. Urban Alchemy, for example, is a nonprofit work development organization based in the City of San Francisco's Tenderloin neighborhood, one of the highest crime areas in the city and home to the Superior Court of San Francisco County's Civil Courthouse and Community Justice Center; the Supreme Court of California; the Judicial Council of California; San Francisco City Hall; University of California, Hastings College of Law; and other legislative and executive branch agency offices, as well as a large number of people experiencing homelessness. Through a unique partnership with local government agencies, Urban Alchemy employs "practitioners," many of whom were formerly incarcerated, to traverse the Tenderloin neighborhood daily and to provide a variety of services. They walk the streets and the perimeter of the neighborhood in teams and work to redirect behavior that can negatively affect the community, such as drug use and public urination and defecation. Practitioners are trained to assist people who are having mental health crises, can refer people to homeless outreach teams and other services, and carry Naloxone (commonly referred to as Narcan), an emergency medication used to combat the effects of opioid overdose. Urban Alchemy works on similar

projects in the City of Los Angeles, and although it has current representation in only two cities, its model is effective and could be replicated in any area.

### **Costs to Implement**

The recommended types of engagement—serving as a convener, supporting legislation, or collaborating with the other branches of government and stakeholders—are not anticipated to significantly impact court or Judicial Council resources. As the Coalition for Juvenile Justice explained, the use of collaborative convening “to solve problems and change policy or practice is an attractive option, because it can be done well even with minimal resources, apart from time.”<sup>182</sup> The judicial branch could use existing funding to engage with other public and private entities and individuals if costs arise.

According to staff of the Judicial Council Facilities Services and Legal Services offices, considering the use of some court properties for homelessness services could provide cost savings to the judicial branch, depending on the arrangements.

There may be costs to establish working relationships with Urban Alchemy-type programs or with people who have previously experienced homelessness, but such arrangements have the potential to result in cost savings and other benefits over time.

### **Opportunities and Considerations for Implementation**

Supporting executive and legislative branch efforts to reduce homelessness and ensure equal access to justice for all is critically important. And as courts consider how to improve access, enhance health and safety, and provide programs and services, they should consider partnering with local advocates and service providers to develop programs similar to the Urban Alchemy model. In that way, courts could make use of the understanding and experience of people who have lived without housing and have first-hand knowledge of its challenges. Such a program could be a win-win for all concerned.

The purview of the Judicial Council and its internal committees and advisory bodies should be understood to permit review of pending legislation pertaining to homelessness services. Specifically, it may be appropriate to take positions on pending legislation involving issues that are central to the council’s mission and goals, as stated in the Strategic Plan for California’s Judicial Branch, as well as issues that affect the administration of justice. As this report indicates, homelessness involves the following issues central to the judicial branch strategic plan:<sup>183</sup>

- Access, Fairness, and Diversity: California’s courts will treat everyone in a fair and just manner, and all persons will have equal access to the courts.
- Modernization of Management and Administration: Justice will be administered in a fair, timely, efficient, and effective manner that implements innovative ideas.
- Quality of Justice and Service to the Public: The judicial branch will work with branch constituencies to better ascertain court user’s needs and priorities, engage in community outreach, and implement processes that are fair and understandable.

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- Education for Branchwide Professional Excellence: Judicial branch personnel will have access to the resources and training necessary to meet the diverse needs of the public and to enhance trust and confidence in the courts.
- Branchwide Infrastructure for Service Excellence: The judicial branch will provide an administrative, technological, and physical infrastructure that supports and meets the needs of the public, the branch, and its justice system and community partners.
- Adequate, Stable, and Predictable Funding for a Fully Functioning Branch: The judicial branch will advocate for investment in the justice system to preserve access to justice for all Californians.

Review of pending legislation addressing homelessness is consistent with the foregoing strategic plan goals and should be understood as within the proper purview of the Judicial Council and its internal committees and advisory bodies.

This recommendation is suitable for consideration by various Judicial Council internal and advisory committees and offices, including, but not limited to, the Executive and Planning Committee and the Legislation Committee; the Administrative Presiding Justices, Trial Court Presiding Judges, Court Executives, Court Facilities, Probate and Mental Health, Trial Court Facility Modification, Criminal Law, Court Security, Appellate, and Collaborative Justice Courts Advisory Committees; the Advisory Committee on Providing Access and Fairness; and the Governmental Affairs, Legal Services, and Facilities Services offices.

## Conclusion

Approximately 12.5 percent of U.S. residents live in California, and yet it is home to 27 percent of the nation's population without permanent housing.<sup>184</sup> On any given day, 150,000 California residents will experience homelessness.<sup>185</sup> The COVID-19 pandemic has exacerbated the situation, with nearly one in five households lacking confidence in their ability to pay their next month's rent.<sup>186</sup> These statistics confirm the need for further action from government at the federal, state, and local levels.

In appointing this work group, Chief Justice Cantil-Sakauye reaffirmed that all Californians are entitled to equal access to the courts regardless of their housing circumstances, and that all court users deserve dignity and justice. Courts are also in a position to assist individuals without housing and improve outcomes. The recommendations in this report are consistent with the Chief Justice's vision and can help to significantly reduce the crisis of homelessness in California.

## Appendix: Topics for Possible Future Consideration

In the course of the work group's research and interviews, ideas surfaced that are not discussed in the report for various reasons, such as that the ideas were deemed to require study beyond the limited duration of the Work Group on Homelessness. Nevertheless, some of the ideas are referenced below, in no particular order, for possible future consideration:

- Amending the conservatorship laws.
- Establishing a Penal Code section 858 advisement of housing resources.
- Using criminal diversion statutes more effectively.
- Extending the time to respond in unlawful detainer proceedings.
- Discontinuing use of the VI-SPDAT (Vulnerability Index—Service Prioritization Decision Assistance Tool) as an assessment tool to determine risk and prioritization for housing because of criticisms that the index is unreliable and potentially racially biased.
- Screening for adverse childhood experiences.
- Connecting with the Homeless Coordinating and Financing Council's data integration project.
- Further reviewing custody release and medical discharge planning.
- Further expanding fee waivers and ability-to-pay provisions.
- Amending the requirements for service of process on individuals without housing.
- Amending laws providing for driver's license suspension if a person falls behind on child support.
- Reducing attorney professional fees to encourage pro bono or other public legal service.
- Providing notice to counties when unlawful detainer complaints are filed or pending so that they are aware of potential evictions.
- Enacting a permanent rental assistance program.
- Eliminating laws and rules that punish or impose fines for acts of living in vehicles or public spaces.
- Working with local justice system partners to ensure that individuals who are unhoused are not unduly affected by arrests and charges for quality-of-life crimes that are a result of their housing status.
- Addressing systemic and structural disparities.
- Creating a cause of action to enforce responses in addressing homelessness.
- Redirecting savings from prison closings to fund affordable housing.
- Co-locating community-based services at courthouses.
- Providing a housing solution as part of the resolution of a court case.
- Increasing the number of beds for individuals deemed incompetent to stand trial.
- Increasing childcare for people attending to court business.
- Redefining homelessness as a public health crisis.
- Establishing a right to shelter.
- Enacting an obligation to accept shelter when it is offered.

## Appendix: Topics Worthy of Future Consideration

- Further utilizing emergency powers.

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## Executive Summary Endnotes

<sup>1</sup> Tani G. Cantil-Sakauye, Chief Justice of California, State of the Judiciary Address to the California State Legislature (Sacramento, Mar. 10, 2020), [www.courts.ca.gov/7554.htm](http://www.courts.ca.gov/7554.htm).

<sup>2</sup> See, e.g., California State Auditor, *Homelessness in California* (Feb. 2021), [www.auditor.ca.gov/reports/2020-112/index.html](http://www.auditor.ca.gov/reports/2020-112/index.html);

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<sup>4</sup> See Cal. Code Jud. Ethics, canon 3B(9); David M. Rothman et al., *California Judicial Conduct Handbook* (Thompson Reuters, 4th ed. 2017), pp. 297–298; Cal. Code Jud. Ethics, canon 4C. But see California Supreme Court Committee on Judicial Ethics Opinions, *Service on a Governmental Task Force*, Expedited Op. 2021-041 (Mar. 3, 2021) (“When the scope of the stated purposes of a governmental task force is so broad and varied that a judge cannot reasonably limit his or her participation to topics directly related to the law, the legal system, or the administration of justice, a judge may not ethically serve as a member of the task force. However, a judge may assist the task force in other ways, for example, by appearing before, providing information to, or advising the task force on issues within the judicial branch’s purview and relating to the judge’s experiences and unique perspective as a judge”); compare California Supreme Court Committee on Judicial Ethics Opinions, *Service on the California Access to Justice Commission or Child Welfare Council*, Expedited Op. 2021-043 (May 18, 2021). See also Model Code Jud. Conduct, comment 6 to § 1.2 (“A judge should initiate and participate in community outreach activities for the purpose of promoting understanding of and confidence in the administration of justice”).

<sup>5</sup> Tianna Kelly, “Homelessness and Black History: Access to Housing,” *Racial Inequalities* (blog), National Alliance to End Homelessness, February 17, 2021, <https://endhomelessness.org/homelessness-and-black-history-access-to-housing/>.

<sup>6</sup> Estimates on the amount of housing units needed vary but appear to be at least 3 million units. A study by McKinsey Global Institute estimated in 2016 that California needed 3.5 million new housing units by 2025 to meet demand. See Greg Rosalsky, “How California Homelessness Became A Crisis,” Planet Money, *NPR* (June 8, 2021), [www.npr.org/sections/money/2021/06/08/1003982733/squ.alor-behind-the-golden-gate-confronting-californias-homelessness-crisis](http://www.npr.org/sections/money/2021/06/08/1003982733/squ.alor-behind-the-golden-gate-confronting-californias-homelessness-crisis). Jerry Nickelsburg, director of the UCLA Anderson Forecast, estimated in 2018 that California was 3 million units short. See Elijah Chiland, “Can LA build its way out of its housing crisis?” *Curbed Los Angeles* (June 14, 2018), <https://la.curbed.com/2018/6/14/17451468/los-angeles-housing-shortage-development-affordable>.

<sup>7</sup> National Alliance to End Homelessness, “Homelessness and Racial Disparities” (Oct. 2020), <https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/inequality/>; National Low Income Housing Coalition, “Homelessness in the U.S. Creeps Upwards in the Past Two Years, Disproportionately Affects Minorities,” (Apr. 15, 2019), <https://nlihc.org/resource/homelessness-us-creeps-upwards-past-two-years-disproportionately-affects-minorities>; Kate Cimini, “Black people disproportionately homeless in California,” *CalMatters*, California Divide (Oct. 5, 2019), <https://calmatters.org/california-divide/2019/10/black-people-disproportionately-homeless-in-california/>; Erik Sherman, “Homelessness Has Racial, Gender and Age Disparities,” *Forbes* (Dec. 29, 2018), [www.forbes.com/sites/eriksherman/2018/12/29/homelessness-has-racial-gender-and-age-disparities/?sh=16a70bfa3c36](http://www.forbes.com/sites/eriksherman/2018/12/29/homelessness-has-racial-gender-and-age-disparities/?sh=16a70bfa3c36).

<sup>8</sup> Kate Cimini, *supra* note 7.

<sup>9</sup> LGBTQIA+ refers to lesbian, gay, bisexual, transgender, queer or questioning, intersex, or asexual.

<sup>10</sup> HUD Exchange, “LGBTQ Homelessness,” [www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/#resources-for-homeless-lgbtq-individuals-in-crisis](http://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/#resources-for-homeless-lgbtq-individuals-in-crisis) (as of Sept. 7, 2021); National Coalition for the Homeless, “LGBT Homelessness,” <https://nationalhomeless.org/issues/lgbt/> (as of Sept. 7, 2021); Bianca D. M. Wilson et al., *Homelessness Among LGBT Adults in the US* (The Williams Institute, UCLA School of Law, May 2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-homelessness-us/>.

<sup>11</sup> National Conference of State Legislatures, “Youth Homelessness Overview,” [www.ncsl.org/research/human-services/homeless-and-runaway-youth.aspx](http://www.ncsl.org/research/human-services/homeless-and-runaway-youth.aspx) (as of Sept. 7, 2021); National Alliance to End Homelessness, “Youth and Young Adults” (Apr. 2021), <https://endhomelessness.org/homelessness-in-america/who-experiences-homelessness/youth/>.

<sup>12</sup> Shalita O’Neale, “Foster Care and Homelessness” (Aug. 2015) 5(3) *Foster Focus*, [www.fosterfocusmag.com/articles/foster-care-and-homelessness](http://www.fosterfocusmag.com/articles/foster-care-and-homelessness); The Annie E. Casey Foundation, “From Foster Home to Homeless: Strategies to Prevent Homelessness for Youth Transitioning From Foster Care” (June 14, 2014), [www.aecf.org/resources/from-foster-home-to-homeless](http://www.aecf.org/resources/from-foster-home-to-homeless); National Conference of State Legislatures, *supra* note 11.

## End Notes

<sup>13</sup> Fernanda Santos, “Elderly and Homeless: America’s Next Housing Crisis,” *N.Y. Times Magazine* (Sept. 30, 2020), [www.nytimes.com/2020/09/30/magazine/homeless-seniors-elderly.html](http://www.nytimes.com/2020/09/30/magazine/homeless-seniors-elderly.html); California Elder Justice Coalition, “Preventing Elder Homelessness,” [www.elderjusticecal.org/elder-homelessness.html](http://www.elderjusticecal.org/elder-homelessness.html) (as of Sept. 7, 2021); Michelle Cabrera, executive director of the County Behavioral Health Directors Association of California, interview by the Work Group on Homelessness (Feb. 2, 2021).

<sup>14</sup> According to a Judicial Council report, on average Hispanic and Black individuals were respectively 10 percent and 5.3 percent more likely to receive a prison sentence than similarly situated white individuals. See Judicial Council of Cal., *Disposition of Criminal Cases According to Race and Ethnicity of Defendant: 2020 Report to the Legislature* (Apr. 26, 2021), [www.courts.ca.gov/documents/lr-2021-criminal-dispositions-by-race-ethnicity-1170.45.pdf](http://www.courts.ca.gov/documents/lr-2021-criminal-dispositions-by-race-ethnicity-1170.45.pdf).

<sup>15</sup> Lucius Couloute, *Nowhere to Go: Homelessness among formerly incarcerated people* (Prison Policy Initiative, Aug. 2018), [www.prisonpolicy.org/reports/housing.html](http://www.prisonpolicy.org/reports/housing.html).

<sup>16</sup> Kendra Cherry, “The 5 Levels of Maslow’s Hierarchy of Needs,” *Verywell Mind* (Mar. 19, 2021), [www.verywellmind.com/what-is-maslows-hierarchy-of-needs-4136760](http://www.verywellmind.com/what-is-maslows-hierarchy-of-needs-4136760).

<sup>17</sup> Move for Hunger, “Hunger and Homelessness,” <https://moveforhunger.org/hunger-and-homelessness> (as of Sept. 7, 2021).

<sup>18</sup> Francesco G. Salpietro, “R-E-S-P-E-C-T: Transgender Pronoun Preference and the Application of the Model Code of Judicial Conduct” (2017) 53(4) *Court Review: The Journal of the American Judges Association* 162–169, <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1629&context=ajacourtreview>.

<sup>19</sup> Kristina Horton Flaherty, “Courts for the homeless offer help—and hope” (Dec. 2006), *California Bar Journal*, <http://archive.calbar.ca.gov/archive/Archive.aspx?articleId=82066&categoryId=81983&month=12&year=2006> (“MacKanin, now 66 and sober for eight years, still remembers how nervous he was when he faced the judge in homeless court”); Jill Suttie, “Do We Need More Empathetic Judges?” (June 22, 2016) *Greater Good Magazine*, [https://greatergood.berkeley.edu/article/item/do\\_we\\_need\\_more\\_empathic\\_judges](https://greatergood.berkeley.edu/article/item/do_we_need_more_empathic_judges); Thomas Leonetti, “Homelessness in Caricature: How Empathy Can Help Us to Understand Homelessness as Both the Result and Cause of Crisis” (blog post) October 31, 2019, *Voices for Human Needs*, Coalition for Human Needs, [www.chn.org/voices/homelessness-in-caricature-how-empathy-can-help-us-to-understand-homelessness-as-both-the-result-and-cause-of-crisis/](http://www.chn.org/voices/homelessness-in-caricature-how-empathy-can-help-us-to-understand-homelessness-as-both-the-result-and-cause-of-crisis/).

<sup>20</sup> Julianne Hill, “Programs take the courthouse to the streets to help homeless people clear cases” (Nov. 1, 2018) *ABA Journal*, [www.abajournal.com/magazine/article/courthouse\\_homeless\\_clear\\_cases](http://www.abajournal.com/magazine/article/courthouse_homeless_clear_cases) (“Many are afraid of entering the [courthouse] building”); Alex Bollinger, “Federal judges refuse to use defendant’s pronouns because it would be too hard,” *News, LGBTQ Nation*, March 18, 2021, [www.lgbtqnation.com/2021/03/federal-judges-refuses-respect-defendants-pronouns-hard/](http://www.lgbtqnation.com/2021/03/federal-judges-refuses-respect-defendants-pronouns-hard/).

<sup>21</sup> *Ibid.*

<sup>22</sup> Kristina Horton Flaherty, *supra* note 19.

<sup>23</sup> Downtown Streets Team (San Jose), “Debunking the Myths of Homelessness,” [www.currytbcenter.ucsf.edu/sites/default/files/product\\_tools/homelessnessandtbtoolkit/docs/background/Factsheet/Debunking%20the%20Myths%20of%20Homelessness.pdf](http://www.currytbcenter.ucsf.edu/sites/default/files/product_tools/homelessnessandtbtoolkit/docs/background/Factsheet/Debunking%20the%20Myths%20of%20Homelessness.pdf) (as of Sept. 3, 2021).

<sup>24</sup> Martha R. Burt et al., *Strategies for Improving Homeless People’s Access to Mainstream Benefits and Services* (U.S. Dept. of Housing and Urban Development, Office of Policy Development and Research, Mar. 2010), [www.huduser.gov/portal/publications/strategiesaccessbenefitsservices.pdf](http://www.huduser.gov/portal/publications/strategiesaccessbenefitsservices.pdf) (“Homeless individuals and families face unique structural obstacles because, by definition or circumstance, they do not have the ready means of communication, transportation, regular address, and documentation that most mainstream programs require”); Sarah B. Hunter, Rajeev Ramchand, and Benjamin Henwood, “Access to Mobile Technology Could Help to Alleviate LA’s Homeless Crisis,” *The RAND Blog*, RAND Corporation, September 16, 2020, [www.rand.org/blog/2020/09/access-to-mobile-technology-could-help-to-alleviate.html](http://www.rand.org/blog/2020/09/access-to-mobile-technology-could-help-to-alleviate.html) (“While access to mobile technology may not solve homelessness, it could assist in enabling access to important services”).

- <sup>25</sup> Julianne Hill, *supra* note 20; Erin Roark Murphy, “Transportation and homelessness: a systematic review” (Feb. 20, 2019) 28(2) *Journal of Social Distress and Homelessness* 96–105, <https://doi.org/10.1080/10530789.2019.1582202>.
- <sup>26</sup> Nick Kerman, “What Can Be Done to Better Support People Experiencing Homelessness with Pets?” Homeless Hub (blog), *Canadian Observatory on Homelessness*, December 1, 2020, [www.homelesshub.ca/blog/what-can-be-done-better-support-people-experiencing-homelessness-pets](http://www.homelesshub.ca/blog/what-can-be-done-better-support-people-experiencing-homelessness-pets); Center on Juvenile and Criminal Justice, “Children’s Waiting Rooms,” [www.cjci.org/Direct-services/Children-s-Waiting-Rooms.html](http://www.cjci.org/Direct-services/Children-s-Waiting-Rooms.html) (as of Sept. 3, 2021); Martin Macias, Jr., “LA Barred From Destroying Possessions of Homeless Residents” (Apr. 1, 2020), *Courthouse News Service*, [www.courthousenews.com/la-barred-from-destroying-possessions-of-homeless-residents/](http://www.courthousenews.com/la-barred-from-destroying-possessions-of-homeless-residents/).
- <sup>27</sup> Brandon Williams, *San Diego Homeless Hygiene Evaluation: Focused Clinical Multidisciplinary Independent Study Project* (Mar. 20, 2018), University of California, San Diego, [https://escholarship.org/content/qt2p71p7j2/qt2p71p7j2\\_noSplash\\_1d11175faadb78d311900bad88f235d.pdf?t=prut4b](https://escholarship.org/content/qt2p71p7j2/qt2p71p7j2_noSplash_1d11175faadb78d311900bad88f235d.pdf?t=prut4b).
- <sup>28</sup> *Ibid.*; San Diego County Regional Task Force on the Homeless, *2017 WeAllCount Annual Report: San Diego’s Annual Point in Time Count* (2017), [www.rtfhsd.org/wp-content/uploads/2017/07/comp-report-final.pdf](http://www.rtfhsd.org/wp-content/uploads/2017/07/comp-report-final.pdf) (“Among the unsheltered population, 40 percent said they have a physical disability—the highest response rate”); Heidi Schultheis, “Lack of Housing and Mental Health Disabilities Exacerbate One Another,” *Center for American Progress* (Nov. 20, 2018), [www.americanprogress.org/issues/poverty/news/2018/11/20/461294/lack-housing-mental-health-disabilities-exacerbate-one-another/](http://www.americanprogress.org/issues/poverty/news/2018/11/20/461294/lack-housing-mental-health-disabilities-exacerbate-one-another/).
- <sup>29</sup> Brandon Williams, *supra* note 27 (“[H]omeless people come through arraignment court for various charges. Arraignment court is extremely fast with no time for the judge to explain any of the procedures or charges. ... [W]hile homeless people tend to be involved frequently with the justice system, they often don’t fully understand what is happening”).
- <sup>30</sup> According to the U.S. Department of Housing and Urban Development, one of the most commonly cited reasons that individuals reside in homeless encampments, as opposed to shelters, is related to the perceived dangerousness of homeless shelters. See Rebecca Cohen, Will Yetvin, and Jill Khadduri, *Understanding Encampments of People Experiencing Homelessness and Community Responses: Emerging Evidence as of Late 2018* (U.S. Dept. of Housing and Urban Development, Jan. 7, 2019), [www.huduser.gov/portal/sites/default/files/pdf/Understanding-Encampments.pdf](http://www.huduser.gov/portal/sites/default/files/pdf/Understanding-Encampments.pdf).
- <sup>31</sup> Robert Polner, “The 12 Biggest Myths about Homelessness in America” (Sept. 24, 2019), *NYU News*, [www.nyu.edu/about/news-publications/news/2019/september/HomelessQandA.html](http://www.nyu.edu/about/news-publications/news/2019/september/HomelessQandA.html).
- <sup>32</sup> *Martin v. City of Boise* (9th Cir. 2019) 920 F.3d 584, 617, cert. den. (2019) 140 S.Ct. 674.
- <sup>33</sup> *Ibid.*
- <sup>34</sup> *Ibid.*
- <sup>35</sup> See *Cooley v. City of L.A.* (C.D.Cal., May 1, 2019, No. 2:18-cv-09053-CAS-PLAx) 2019 U.S. Dist. Lexis 73735, \*9–10; *McArdle v. City of Ocala* (M.D.Fla., Feb. 8, 2021, No. 5:19-cv-461-Oc-30PRL) 2021 WL 481015, \*7.
- <sup>36</sup> *Shipp v. Schaaf* (N.D.Cal. 2019) 379 F.Supp.3d 1033, 1034–1035.
- <sup>37</sup> *LA All. for Human Rights v. City of Los Angeles* (C.D.Cal., May 15, 2020, No. LA CV 20-02291-DOC-KES) 2020 WL 2512811.
- <sup>38</sup> *LA Alliance for Human Rights v. County of Los Angeles* (9th Cir. Sept. 23, 2021, Nos. 21-55395, 21-55404, 21-55408) 2021 U.S. App. LEXIS 28824.

### Action Area 1 Endnotes

- <sup>39</sup> Code Civ. Proc., § 1159 et seq.; *Glendale Fed. Bank v. Hadden* (1999) 73 Cal.App.4th 1150, 1153.
- <sup>40</sup> Code Civ. Proc., § 1167(a).
- <sup>41</sup> Code Civ. Proc., § 1179a.

## End Notes

<sup>42</sup> Odell Murry, “Tenants’ Rights to Counsel During Eviction Proceedings,” *Industry News*, California Mortgage Association, January 3, 2019, <https://californiamortgageassociation.org/industry-news/article/tenants-rights-to-counsel-during-eviction-proceedings/>; see Martha Samuelson et al., *Assessing the Benefit of Full Legal Representation in Eviction Cases in Massachusetts* (2020), pp. 5–6, <https://bostonbar.org/docs/default-document-library/rtc-report-for-web-or-email.pdf>; Stout Risius Ross, *The Economic Impact of an Eviction Right to Counsel in Baltimore City* (2020), p. 10, <http://bmoreentersunited.org/rtc/stoutreport/>; James Teufel, *Delaware’s Home4Good Social Return on Investment of Eviction Prevention* (2020), [www.stout.com/en/services/transformational-change-consulting/eviction-right-to-counsel-resources](http://www.stout.com/en/services/transformational-change/consulting/eviction-right-to-counsel-resources) (accessed under “Pilot Impact Studies” link).

<sup>43</sup> Judicial Council of Cal., *Report to the California State Legislature for the Sargent Shriver Civil Counsel Act Evaluation* (2020 Shriver report) (June 2020), pp. 20–21, [www.courts.ca.gov/documents/Shriver-Legislative-Report\\_June-30-2020.pdf](http://www.courts.ca.gov/documents/Shriver-Legislative-Report_June-30-2020.pdf).

<sup>44</sup> Heather Sandstrom and Sandra Huerta, *The Negative Effects of Instability on Child Development: A Research Synthesis* (Urban Institute, Sept. 2013), [www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF](http://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF).

<sup>45</sup> California Apartment Association, interview by Work Group on Homelessness (June 9, 2021).

<sup>46</sup> In making this recommendation, the work group does not address whether a legally cognizable right to counsel already exists for litigants in some situations under applicable law, because such a question is beyond the work group’s purview.

<sup>47</sup> 2020 Shriver report, *supra* note 43.

<sup>48</sup> *Ibid.*

<sup>49</sup> Assembly Bill 590 (Stats. 2009, ch. 457, § 1(j)), [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=200920100AB590](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=200920100AB590).

<sup>50</sup> Judicial Council of Cal., *Sargent Shriver Civil Counsel Program* (fact sheet, Aug. 2021), [www.courts.ca.gov/documents/AB-590.pdf](http://www.courts.ca.gov/documents/AB-590.pdf).

<sup>51</sup> 2020 Shriver report, *supra* note 43.

<sup>52</sup> *Id.* at p. III.

<sup>53</sup> Numerous studies can be cited. See 2020 Shriver report, *supra* note 43, at p. 31; Applied Survey Research, *Santa Cruz County Homeless Census and Survey Comprehensive Report* (2019), <https://housingmatterssc.org/wp-content/uploads/2019/08/2019-PIT-Count-Full-Report.pdf>; Applied Survey Research, *San Francisco Homeless Count and Survey Comprehensive Report* (2019), <https://hsh.sfgov.org/wp-content/uploads/2020/01/FINAL-PIT-Report-2019-San-Francisco-1.pdf>; Stanford Law School, *San Francisco Right to Civil Counsel Pilot Program Documentation Report* (2014), p. 17, <https://law.stanford.edu/publications/san-francisco-right-to-civil-counsel-pilot-program-documentation-report/>; Martha R. Burt, “Homeless families, singles, and others: Findings from the 1996 national survey of homeless assistance providers and clients” (2001) 12(4) *Housing Policy Debate* 737–80; Inst. for Children, Poverty & Homelessness, *On the Map: The Dynamics of Family Homelessness in New York City 2017* (Apr. 19, 2017), [www.icphusa.org/reports/map-dynamics-family-homelessness-new-york-city-2017/#the-revolving-shelter-door](http://www.icphusa.org/reports/map-dynamics-family-homelessness-new-york-city-2017/#the-revolving-shelter-door); Chester Hartman and David Robinson, “Evictions: The Hidden Housing Problem” (2003) 14(4) *Housing Policy Debate* 461, [http://www.prrac.org/pdf/evictions\\_the\\_hidden\\_housing\\_problem.pdf](http://www.prrac.org/pdf/evictions_the_hidden_housing_problem.pdf).

<sup>54</sup> 2020 Shriver report, *supra* note 43, at pp. 6–7.

<sup>55</sup> Tara Cookson et al., *Losing Home: The Human Cost of Eviction in Seattle* (Seattle Women’s Commission and King County Bar Association, Sept. 2018), p. 23, [www.seattle.gov/Documents/Departments/SeattleWomensCommission/LosingHome\\_9-18-18.pdf](http://www.seattle.gov/Documents/Departments/SeattleWomensCommission/LosingHome_9-18-18.pdf).

<sup>56</sup> Kate Cimini, *supra* note 7.

<sup>57</sup> Stanford Law School, *supra* note 53, at p. 19.

<sup>58</sup> Tara Cookson, *supra* note 55, at pp. 2, 23; Reinvestment Fund, *Policy Brief: Evictions in Philadelphia* (2017), p. 4, [https://www.reinvestment.com/wp-content/uploads/2017/01/Evictions\\_in\\_Philadelphia\\_brief\\_Final.pdf](https://www.reinvestment.com/wp-content/uploads/2017/01/Evictions_in_Philadelphia_brief_Final.pdf); David

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Robinson and Justin Steil, *Evictions in Boston: The Disproportionate Effects of Forced Moves on Communities of Color* (City Life Vida Urbana, 2020), [www.bostonevictions.org](http://www.bostonevictions.org).

<sup>59</sup> Peter Hepburn, Renee Louis, and Matthew Desmond, “Racial and Gender Disparities among Evicted Americans” (2020) 7(27) *Sociological Science* 649, 653, <https://sociologicalscience.com/articles-v7-27-649/>.

<sup>60</sup> *Ibid.*

<sup>61</sup> 2020 Shriver report, *supra* note 43, at p. 25.

<sup>62</sup> *Id.* at p. 23.

<sup>63</sup> *Id.* at p. 44.

<sup>64</sup> Stanford Law School, *supra* note 53.

<sup>65</sup> Luke Grundman and Muria Kruger, *Legal Representation in Evictions—Comparative Study* (2018), pp. 1–2, [www.minnpost.com/wp-content/uploads/2018/11/2018-Eviction-Representation-Results-Study-with-logos.pdf](http://www.minnpost.com/wp-content/uploads/2018/11/2018-Eviction-Representation-Results-Study-with-logos.pdf).

<sup>66</sup> Tara Cookson, *supra* note 55, at p. 66.

<sup>67</sup> Office of Civil Justice, New York City, *Universal Access to Legal Services: A Report on Year Three of Implementation in New York City* (2020), p. 11, [https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_UA\\_Annual\\_Report\\_2020.pdf](https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2020.pdf).

<sup>68</sup> D. James Greiner, Cassandra Wolos Pattanayak, and Jonathan Hennessy, “The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future” (2013) 126 *Harv. L.Rev.* 901–989, [https://harvardlawreview.org/wp-content/uploads/pdfs/vol126\\_%20greiner\\_wolos\\_pattanayak\\_hennessy.pdf](https://harvardlawreview.org/wp-content/uploads/pdfs/vol126_%20greiner_wolos_pattanayak_hennessy.pdf).

<sup>69</sup> Martha Samuelson, *supra* note 42, at p. 4; Stout Risius Ross, *Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants* (2018), p. 8, [https://cdn2.hubspot.net/hubfs/4408380/PDF/Cost-Benefit-Impact-Studies/Philadelphia%20Evictions%20Report\\_11-13-18.pdf](https://cdn2.hubspot.net/hubfs/4408380/PDF/Cost-Benefit-Impact-Studies/Philadelphia%20Evictions%20Report_11-13-18.pdf).

<sup>70</sup> Stout Risius Ross, *The Economic Impact of an Eviction Right to Counsel in Delaware* (2021), p. 8, [www.stout.com/en/services/transformation-change-consulting/eviction-right-to-counsel-resources](http://www.stout.com/en/services/transformation-change-consulting/eviction-right-to-counsel-resources) (accessed under *Stout Cost-Benefit Studies* then *Stout Report on Cost-Benefit of Delaware Right to Counsel for Evictions Defense* link); Stout Risius Ross, New York City Stout Report, *The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A* (2016), p. 5, <https://cdn2.hubspot.net/hubfs/4408380/PDF/Cost-Benefit-Impact-Studies/SRR%20Report%20-%20Eviction%20Right%20to%20Counsel%20%203%2016%2016.pdf>.

<sup>71</sup> Although the Stout Risius Ross Cost-Benefit Studies found at [www.stout.com/en/services/transformation-change-consulting/eviction-right-to-counsel-resources](http://www.stout.com/en/services/transformation-change-consulting/eviction-right-to-counsel-resources) (accessed under *Stout Cost-Benefit Studies* for New York City, Los Angeles City and County, Baltimore City, Delaware, and Philadelphia) were all commissioned by different legal aid societies, bar associations, or coalitions, each report focused on implementation within a specific jurisdiction and on cost savings at a specific level of government. Thus, additional savings realized by the State of Maryland were mentioned in the Baltimore City analysis but were not fully analyzed because that analysis was secondary to the purpose of the study.

<sup>72</sup> Stout Risius Ross, *Cost-Benefit Analysis of Providing a Right to Counsel to Tenants in Eviction Proceedings* (2019), p. 69, [https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report\\_12-10-19.pdf](https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report_12-10-19.pdf).

<sup>73</sup> Stout Risius Ross, (Delaware Report) *supra* note 70, at p. 94. However, some studies included some direct costs related to school savings. See Stout Risius Ross (New York City Stout Report) *supra* note 70, at p. 23.

<sup>74</sup> Significant federal restrictions operate to bar undocumented immigrants from receiving Shriver assistance in some of the counties served. Specifically, a majority of the nonprofits that serve as the lead legal services agencies in Shriver-funded programs—for example, Central California Legal Services, Greater Bakersfield Legal Assistance, Legal Aid Society of San Diego, Legal Services of Northern California, and Neighborhood Legal Services of Los

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Angeles—receive a substantial portion of their overall funding from the federal Legal Services Corporation (LSC). See Legal Services Corporation, “Our Grantees,” [www.lsc.gov/grants/our-grantees](http://www.lsc.gov/grants/our-grantees) (as of Sept. 2, 2021). Because the federal government generally prohibits LSC-funded nonprofits from receiving federal funding if they provide legal services to undocumented immigrants, these nonprofits must forgo assisting immigrants to be able to serve other deserving individuals. See 45 C.F.R. § 16261 et seq.; Act of Apr. 26, 1996, Pub.L. No. 104-134, § 504(a)(11), 110 Stat. 1321-54, 1321-55. These restrictions apply even if a nonprofit also receives funding from the Shriver program or other sources that are available to serve low-income clients and that do not have such restrictions. In other counties, the lead agency does not receive LSC funds and, thus, is able to serve undocumented immigrants. In Los Angeles, the program has identified ways to subcontract for those services, but in other counties the Shriver program is largely unable to meet the legal needs of the vulnerable immigrant population.

<sup>75</sup> 2020 Shriver report, *supra* note 43, at pp. 13, 51. To be eligible for Shriver counsel, litigants must have a household income of not more than 200 percent of the federal poverty level (FPL). In 2019, FPL was \$25,750 for a family of four. Grantees may also employ the asset limitation that they use for other eligibility.

<sup>76</sup> *Id.* at p. 46.

<sup>77</sup> Senate Bill 2160 (Stats. 2000, ch. 450) amended Welfare and Institutions Code section 317 to require (1) the appointment of counsel for parents and children in nearly all dependency cases; (2) for appointed counsel caseloads and training that ensure adequate representation; and (3) Judicial Council promulgation of rules establishing caseload standards, training requirements, and guidelines for appointment of counsel for children. As part of this court-appointed counsel program, the Judicial Council adopted rule 5.660 of the California Rules of Court, which requires each trial court to, in consultation with dependency system partners, adopt their own local rules of court regarding representation of parties in dependency proceedings. The rule addresses timelines and procedures in dependency cases, processes for identification and appointment of attorneys (including minimum qualifications), procedures to determine appropriate caseload sizes, processes for resolving complaints, and other relevant procedures.

<sup>78</sup> Welf. & Inst. Code, §§ 317, 903.1, 903.47.

<sup>79</sup> Court-appointed dependency counsel became a state fiscal responsibility in 1989 through the Brown-Presley Trial Court Funding Act (Sen. Bill 612/Assem. Bill 1197; Stats. 1988, ch. 945). This act added Government Code section 77003, defined “court operations” in that section as including court-appointed dependency counsel, and made an appropriation to fund trial court operations. In 1997, the Lockyer-Isenberg Trial Court Funding Act (Assem. Bill 233; Stats. 1997, ch. 850) provided the funding for, and delineated the parameters of, the transition to state trial court funding that had been outlined in the earlier legislation. An additional \$10 million was added to the funding in fiscal year 2021–22 to assist courts in recouping costs associated with the COVID-19 pandemic and its impact on the dependency counsel program.

<sup>80</sup> Title IV-E of the Social Security Act (42 U.S.C. § 670 et seq.) enables states and counties to seek reimbursement from the federal government for eligible foster care–related expenditures, allowing title IV-E match funds to be used for dependency counsel who provide legal representation to children in foster care and their parents. This funding has the potential to provide up to an additional \$57 million to augment court-appointed counsel services.

<sup>81</sup> Judicial Council of Cal., Advisory Com. Rep., *Juvenile Law: Distribution of Federal Title IV-E Reimbursement for Dependency Counsel* (June 28, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7490062&GUID=00E5A572-FA1C-4405-9C24-82CA6EB8305E>.

<sup>82</sup> 2020 Shriver report, *supra* note 43, at p. 44.

<sup>83</sup> City of Philadelphia, “PHL Eviction Diversion,” Dept. of Planning and Development, <https://eviction-diversion.phila.gov/#/> (as of Sept. 2, 2021).

<sup>84</sup> Texas Dept. of Housing and Community Affairs, “Texas Eviction Diversion Program,” [www.tdhca.state.tx.us/TEDP.htm](http://www.tdhca.state.tx.us/TEDP.htm) (as of Sept. 2, 2021).

<sup>85</sup> Washington State Courts, “Eviction Resolution Pilot Program,” Resources, Publications, and Reports, [www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.EvictionResolutionProgram](http://www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.EvictionResolutionProgram) (as of Sept. 2, 2021).

<sup>86</sup> Vanita Gupta, U.S. Dept. of Justice, Office of the Associate Attorney General, letter to Chief Justice/State Court Administrators, June 24, 2021, p. 1, [www.justice.gov/asg/page/file/1405886/download](http://www.justice.gov/asg/page/file/1405886/download).

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<sup>87</sup> 2020 Shriver report, *supra* note 43, at p. III.

<sup>88</sup> *Id.* at pp. 48–50.

<sup>89</sup> *Id.* at pp. 48–49.

<sup>90</sup> Deanna Pantín Parrish, *Designing for Housing Stability: Best Practices for Court-Based and Court-Adjacent Eviction Prevention and/or Diversion Programs* (American Bar Association, 2021), pp. 17–18, [www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls-covid19-dpp-best-practices.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-covid19-dpp-best-practices.pdf).

<sup>91</sup> Vanita Gupta, *supra* note 86, at p. 1.

<sup>92</sup> *Id.* at p. 2.

<sup>93</sup> In addition, in Senate Bill 1137 (Stas, 2008, ch. 69; Civ. Code, §§ 2923.5, 2923.6) was enacted to address escalating home foreclosure rates and requires mortgage lenders and their agents to contact their borrowers to assess their financial situation and to explore alternatives to foreclosure before the filing of a notice of default and commencement of a foreclosure.

<sup>94</sup> 2020 Shriver report, *supra* note 43, at p. 44.

<sup>95</sup> Mark Treskon et al., *Eviction Prevention and Diversion Programs: Early Lessons from the Pandemic* (Urban Institute, Apr. 2021), p. 8, [www.urban.org/sites/default/files/publication/104148/eviction-prevention-and-diversion-programs-early-lessons-from-the-pandemic.pdf](http://www.urban.org/sites/default/files/publication/104148/eviction-prevention-and-diversion-programs-early-lessons-from-the-pandemic.pdf).

<sup>96</sup> California Access to Justice Commission, “Bridging the Justice Gap,” [www.calatj.org/](http://www.calatj.org/) (as of Sept. 2, 2021).

<sup>97</sup> City of Sacramento, “Sacramento CARES Mediation Program,” Tenant Protection Program, [www.cityofsacramento.org/Community-Development/Code-Compliance/Tenant-Protection-Program/Sacramento-CARES-Mediation-Program](http://www.cityofsacramento.org/Community-Development/Code-Compliance/Tenant-Protection-Program/Sacramento-CARES-Mediation-Program) (as of Sept. 2, 2021).

<sup>98</sup> Mark Treskon, *supra* note 95.

<sup>99</sup> Since the passage of the COVID-19 Tenant Relief Act of 2020 (AB 3088; Stats. 2020, ch. 37, § 20) and follow up urgency legislation, the Judicial Council has approved the adoption and revision of certain unlawful detainer forms and information sheets to ensure that new state and federal protections for tenants are reflected in the forms. While these recently adopted forms and information sheets provide clarification in the context of the pandemic-related legislation, the work group’s comments and recommendations are directed toward the standard elements of the unlawful detainer forms.

<sup>100</sup> Wendy Trafton, Manager of the Superior Court of Butte County Self-Help Access and Resource Program, interview by the Work Group on Homelessness (June 9, 2021). See SHARP TECH, Superior Court of California, Counties of Butte, Glenn, Lake, and Tehama, “SHARP: Self-Help Assistance and Referral Program,” <https://sharpcourts.org> (as of Sept. 2, 2021).

<sup>101</sup> Judicial Council of Cal., “Eviction & Housing,” California Courts Online Self-Help Center, [www.courts.ca.gov/selfhelp-housing.htm](http://www.courts.ca.gov/selfhelp-housing.htm) (as of Sept. 2, 2021); Judicial Council of Cal., “Eviction Cases in California,” California Courts Online Self-Help Center, [www.courts.ca.gov/selfhelp-eviction.htm](http://www.courts.ca.gov/selfhelp-eviction.htm) (as of Sept. 2, 2021); Judicial Council of Cal., “Forms—Eviction (Unlawful Detainer),” California Courts website, [www.courts.ca.gov/1290.htm](http://www.courts.ca.gov/1290.htm) (as of Sept. 2, 2021).

<sup>102</sup> HotDocs is a document automation software program that enables users to automatically generate appropriate forms and can greatly reduce the time needed to fill out legal documents. See HotDocs, “Legal Document Automation Software,” AbacusNext International Ltd., [www.hotdocs.com/services/industries/legal](http://www.hotdocs.com/services/industries/legal) (as of Aug. 13, 2021).

<sup>103</sup> Judicial Council of Cal., “LawHelp Interactive Programs,” California Courts Technology Resources, [www.courts.ca.gov/partners/116.htm](http://www.courts.ca.gov/partners/116.htm) (as of Sept. 2, 2021); Judicial Council of Cal., “LawHelp Interactive,” Probono.net, <https://lawhelpinteractive.org/Interview/GenerateInterview/7184/engine> (as of Sept. 2, 2021).

<sup>104</sup> As of June 1, 2021, 33 of the 58 California trial courts have enabled use of the HotDocs program.

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<sup>105</sup> Judicial Council of Cal., *Impact of Self-Help Center Expansion in California Courts: Report to the California Legislature* (Jan. 2021), pp. 112–114, [www.courts.ca.gov/documents/lr-2021-self-help-centers-funding-analysis-BA-2018-gov-code-9795.pdf](http://www.courts.ca.gov/documents/lr-2021-self-help-centers-funding-analysis-BA-2018-gov-code-9795.pdf).

<sup>106</sup> *Ibid.*

<sup>107</sup> *Id.* at p. 47.

<sup>108</sup> The State of California moratorium expired on September 30, 2021. Various local moratoriums have also been implemented.

<sup>109</sup> Staff to the Civil and Small Claims Advisory Committee indicate that requiring inclusion of the date of service on unlawful detainer summons may necessitate a legislative amendment to Code of Civil Procedure section 1167 or 412.20. Under section 1167, the unlawful detainer summons is supposed to be in the format set out in section 412.20 (except with five days to respond), but the latter section does not require that the date of service be stated in the summons. By comparison, Code of Civil Procedure section 415.46, regarding prejudgment claims to right of possession, *does* require that the date of service be included for service of those forms.

<sup>110</sup> Maria Mindlin, *Is Plain Language Better? Comparative Readability Study of Plain Language Court Forms*, Transcend, [www.transcend.net/library/legalCourts/PLStudy.pdf](http://www.transcend.net/library/legalCourts/PLStudy.pdf) (as of Sept. 2, 2021).

<sup>111</sup> *Id.* at p. 2.

<sup>112</sup> Judicial Council, *supra* note 105, at pp. 1–2.

<sup>113</sup> Judicial Council of Cal., Judicial Branch Budget Com., meeting materials (May 18, 2021), [www.courts.ca.gov/documents/jbbc-20210518-materials.pdf](http://www.courts.ca.gov/documents/jbbc-20210518-materials.pdf).

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<sup>114</sup> Judicial Council of Cal., *Report to the Legislature: Recidivism Reduction Fund Court Grant Program: Final Report, 2019* (Jan. 16, 2020), [www.courts.ca.gov/documents/lr-recidivism-reduction-fund-court-grant-program-ba2015.pdf](http://www.courts.ca.gov/documents/lr-recidivism-reduction-fund-court-grant-program-ba2015.pdf).

<sup>115</sup> The American Bar Association adopted principles for homeless court programs based on the Superior Court of San Diego County’s Homeless Court program. See American Bar Association, *Homeless Courts: Taking the Court to the Street*, [www.americanbar.org/content/dam/aba/administrative/homelessness\\_poverty/one-pagers/homeless-court-one-pager.pdf#](http://www.americanbar.org/content/dam/aba/administrative/homelessness_poverty/one-pagers/homeless-court-one-pager.pdf#) (as of Sept. 2, 2021).

<sup>116</sup> Between April 2018 and May 2021, the Superior Court of San Diego County Homeless Court assisted 1,568 clients in dismissing or satisfying 99.8 percent of their cases (a total of 9,548 cases). This work included satisfying \$4.8 million in fines and fees, vacating 7,551 civil assessment penalties, lifting 189 warrants, and releasing 405 Department of Motor Vehicles license holds. Judge Desirée Bruce-Lyle, personal communication, June 10, 2021.

<sup>117</sup> Steve Binder and Steve Merriam, *The San Diego Service Provider Toolkit* (American Bar Association, 2009) [www.americanbar.org/content/dam/aba/administrative/homelessness\\_poverty/homeless-courts/san-diego-toolkit.pdf](http://www.americanbar.org/content/dam/aba/administrative/homelessness_poverty/homeless-courts/san-diego-toolkit.pdf).

<sup>118</sup> Superior Court of San Diego County, personal correspondence with Work Group on Homelessness (June 4, 2021): an outline of cost savings achieved through the San Diego Homeless Court program, as provided by the Court Operations Supervisor.

<sup>119</sup> American Bar Association, “Sentencing Structure,” [www.americanbar.org/groups/public\\_interest/homelessness\\_poverty/initiatives/homeless-courts/sentencing\\_structure/](http://www.americanbar.org/groups/public_interest/homelessness_poverty/initiatives/homeless-courts/sentencing_structure/) (as of Sept. 3, 2021); see American Bar Association, “About Homeless Courts,” [www.americanbar.org/groups/public\\_interest/homelessness\\_poverty/initiatives/homeless-courts/about-homeless-courts/](http://www.americanbar.org/groups/public_interest/homelessness_poverty/initiatives/homeless-courts/about-homeless-courts/) (as of Sept. 3, 2021).

<sup>120</sup> Judge Desirée Bruce-Lyle, *supra* note 116.

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<sup>121</sup> Interviews conducted by the Work Group on Homelessness (between December 2020 and May 2021) confirmed that 7 out of the 18 homeless courts interviewed used available emergency orders to conduct calendars through virtual proceedings.

<sup>122</sup> U.S. Government Accountability Office, *Adult Drug Courts: Studies Show Courts Reduce Recidivism, but DOJ Could Enhance Future Performance Measure Revision Efforts*, GAO-12-53 (Washington, DC: Dec. 2011), [www.gao.gov/assets/590/586793.pdf](http://www.gao.gov/assets/590/586793.pdf).

<sup>123</sup> Yue Yan and Matthew R. Capriotti, “The Impact of Mental Health Court: A Sacramento Case Study” (July/Aug. 2019) 37(4) *Behavioral Sciences & the Law*; Dale E. McNeil and Renée L. Binder, “Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence” (2007) 164 *Am. J. Psychiatry* 1395–1403; Henry J. Steadman et al., “Effect of Mental Health Courts on Arrests and Jail Days: A Multisite Study” (Feb. 2011) 68(2) *Arch. Gen. Psychiatry* 167–172, <https://doi.org/10.1001/archgenpsychiatry.2010.134>.

<sup>124</sup> Shannon M. Carey, Theresa Herrera Allen, and Eric L. Einspruch, *San Joaquin DUI Monitoring Court Process and Outcome Evaluation: Final Report* (NPC Research, Sept. 2012), [https://npcresearch.com/wp-content/uploads/San\\_Joaquin\\_DUI\\_Court\\_Evaluation\\_0912.pdf](https://npcresearch.com/wp-content/uploads/San_Joaquin_DUI_Court_Evaluation_0912.pdf).

<sup>125</sup> Lama Hassoun Ayoub and Tia Pooler, *Coming Home to Harlem: A Randomized Controlled Trial of the Harlem Parole Reentry Court* (Center for Court Innovation, Oct. 2015), [www.courtinnovation.org/sites/default/files/documents/Harlem%20Final%20Report%20-%20June.pdf](http://www.courtinnovation.org/sites/default/files/documents/Harlem%20Final%20Report%20-%20June.pdf).

<sup>126</sup> National Association of Drug Court Professionals, *Adult Drug Court Best Practice Standards*, Vol. II (Dec. 2018), pp. 5–12, [www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-2-Text-Revision-December-2018-1.pdf](http://www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-2-Text-Revision-December-2018-1.pdf).

<sup>127</sup> Eugenia Didenko and Nicole Pankratz, “Substance Use: Pathways to homelessness? Or a way of adapting to street life?” (2007) 4(1) *Visions Journal* 9–10, [www.heretohelp.bc.ca/substance-use-pathways-homelessness-or-way-adapting-street-life](http://www.heretohelp.bc.ca/substance-use-pathways-homelessness-or-way-adapting-street-life) (British Columbia, Canada).

<sup>128</sup> Mia Green and Michael Rempel, “Beyond Crime and Drug Use: Do Adult Drug Courts Produce Other Psychosocial Benefits?” (2012) 42(2) *J. Drug Issues* 156–177, <https://doi.org/10.1177/0022042612446592>.

<sup>129</sup> National Association of Drug Court Professionals, *supra* note 126, pp. 52–53.

<sup>130</sup> Shannon M. Carey et al., “California Drug Courts: Outcomes, Costs and Promising Practices: An Overview of Phase II in a Statewide Study” (Dec. 2006) 38:sup3 *J. Psychoactive Drugs* 345–356, at p. 351, <https://doi.org/10.1080/02791072.2006.10400598>.

<sup>131</sup> Ojmarrh Mitchell et al., “Assessing the effectiveness of drug courts on recidivism: A meta-analytic review of traditional and non-traditional drug courts” (Jan.–Feb. 2012) 40(1) *J. Criminal Justice* 60–71, at p. 69, <https://doi.org/10.1016/j.jcrimjus.2011.11.009>.

<sup>132</sup> Homeless Hub, *Table of Homelessness—Specific Tools*, Canadian Observatory on Homelessness, <https://homelesshub.ca/sites/default/files/ScreeningforHF-Table-Nov17.pdf> (as of Sept. 3, 2021).

<sup>133</sup> Cal. Dept. of General Services, Office of Human Resources, *Personnel Operations Manual*, “Budget Change Proposal,” [www.dgs.ca.gov/OHR/Resources/Page-Content/Office-of-Human-Resources-Resources-List-Folder/Personnel-Operations-Manual/Budget-Change-Proposal](http://www.dgs.ca.gov/OHR/Resources/Page-Content/Office-of-Human-Resources-Resources-List-Folder/Personnel-Operations-Manual/Budget-Change-Proposal) (as of Sept. 3, 2021).

<sup>134</sup> Rule 5.502(46) of the California Rules of Court defines “youth” as “a person who is at least 14 years of age and not yet 21 years of age.” Rule 5.502(26) defines a “nonminor dependent” as “a youth who is a dependent or ward of the court, or a nonminor under the transition jurisdiction of the court, is at least 18 years of age and not yet 21 years of age, and: [¶] (A) Was under an order of foster care placement on the youth’s 18th birthday; [¶] (B) Is currently in foster care under the placement and care authority of the county welfare department, the county probation department, or an Indian tribe that entered into an agreement under section 10553.1; and [¶] (C) Is participating in a current Transitional Independent Living Case Plan as defined in this rule.”

<sup>135</sup> Los Angeles Homeless Services Authority, *Briefing on Youth Homelessness 2020* (Aug. 27, 2020), [www.lahsa.org/documents?id=4752-2020-greater-los-angeles-youth-count-presentation](http://www.lahsa.org/documents?id=4752-2020-greater-los-angeles-youth-count-presentation).

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<sup>136</sup> Mark E. Courtney et al., *Findings from the California Youth Transitions to Adulthood Study (CalYOUTH): Conditions of Youth at Age 23* (Chapin Hall at the University of Chicago, 2020), [www.chapinhall.org/wp-content/uploads/CY\\_YT\\_RE1020.pdf](http://www.chapinhall.org/wp-content/uploads/CY_YT_RE1020.pdf).

<sup>137</sup> National Foster Youth Institute, “Housing & Homelessness,” <https://nfyi.org/issues/housing/> (as of Sept. 3, 2021); Amy Dworsky, Laura Napolitano, and Mark Courtney, “Homelessness During the Transition From Foster Care to Adulthood” (Dec. 2013) *Am. J. Public Health* 103:S318\_S323, <https://doi.org/10.2105/AJPH.2013.301455> [www.ncbi.nlm.nih.gov/pmc/articles/PMC3969135/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3969135/).

<sup>138</sup> Welf. & Inst. Code, §§ 11400(v), 11403(b). Extended foster care is open to eligible youth aged 18 to 21 years who were in foster care on their 18th birthday and who are (1) working to complete high school or the general educational development high school equivalency test, (2) enrolled in college or vocational education, (3) participating in a program or activity designed to promote or remove barriers to employment, (4) employed at least 80 hours per month, or (5) unable to do any of the above because of a medical condition.

<sup>139</sup> Welf. & Inst. Code, §§ 11400(u), 11401(e). Effective January 1, 2022, Assem. Bill 592 (Stats. 2021, ch. 702) will provide additional housing supports to nonminor dependents participating in extended foster care, particularly as it relates to housing options for LGBTQ+ youth, for whom welcoming and supportive housing can play a vital role in housing stability.

<sup>140</sup> Welf. & Inst. Code, §§ 388(e), 388.1; Cal. Rules of Court, rule 5.906.

<sup>141</sup> Huiling Feng et al., *Memo from CalYOUTH: Predictors of Homelessness at Age 21* (Chapin Hall at the University of Chicago, May 2020), [www.chapinhall.org/wp-content/uploads/PDF/CY\\_PH\\_IB0520.pdf](http://www.chapinhall.org/wp-content/uploads/PDF/CY_PH_IB0520.pdf).

<sup>142</sup> *Ibid.*

<sup>143</sup> National Foster Youth Institute, *51 Useful Aging Out of Foster Care Statistics—Social Race Media* (May 26, 2017), <https://nfyi.org/51-useful-aging-out-of-foster-care-statistics-social-race-media/>.

<sup>144</sup> Huiling Feng, *supra* note 141.

<sup>145</sup> Welf. & Inst. Code, § 391(a); Cal. Rules of Court, rules 5.740(c), 5.810(c).

<sup>146</sup> Homeless Hub, *supra* note 132.

<sup>147</sup> Multi-Agency Access Program (MAP)—County of Fresno Behavioral Health Department, [www.fresnomap.org/](http://www.fresnomap.org/) (as of Sept. 3, 2021).

<sup>148</sup> U.S. Interagency Council on Homelessness, “Reduce Criminal Justice Involvement” (Oct. 16, 2019), [www.usich.gov/solutions/criminal-justice/](http://www.usich.gov/solutions/criminal-justice/); Chris Herring, Dilara Yarbrough, and Lisa Marie Alatorre, “Pervasive Penalty: How the Criminalization of Poverty Perpetuates Homelessness” (2020) 67(1) *Social Problems* 131–149, <https://academic.oup.com/socpro/article/67/1/131/5422958>.

<sup>149</sup> Proposition 47 (Pen. Code, § 1170.18 [petition for recall of sentence]), Pen. Code, § 1000 [pretrial diversion], and Pen. Code, §§ 1001.35, 1001.36, 1370 and 1370.01 [mental health diversion].

<sup>150</sup> University of Southern California, Homeless Policy Research Institute, *Homelessness and the Criminal Justice System* (July 9, 2020), [https://socialinnovation.usc.edu/homeless\\_research/homelessness-and-the-criminal-justice-system/](https://socialinnovation.usc.edu/homeless_research/homelessness-and-the-criminal-justice-system/); Urban Institute, *Five Charts That Explain the Homelessness-Jail Cycle—and How to Break It* (Sept. 16, 2020), [www.urban.org/features/five-charts-explain-homelessness-jail-cycle-and-how-break-it](http://www.urban.org/features/five-charts-explain-homelessness-jail-cycle-and-how-break-it); Jaboa Lake, *Preventing and Removing Barriers to Housing Security for People With Criminal Convictions* (Center for American Progress, Apr. 14, 2021), [www.americanprogress.org/issues/poverty/news/2021/04/14/498053/preventing-removing-barriers-housing-security-people-criminal-convictions/](http://www.americanprogress.org/issues/poverty/news/2021/04/14/498053/preventing-removing-barriers-housing-security-people-criminal-convictions/).

<sup>151</sup> Magnus Lofstrom et al., “New Insights into California Arrests: Trends, Disparities, and County Differences” (Public Policy Institute of Cal., Dec. 2018), [www.ppic.org/wp-content/uploads/new-insights-into-california-arrests-trends-disparities-and-county-differences.pdf](http://www.ppic.org/wp-content/uploads/new-insights-into-california-arrests-trends-disparities-and-county-differences.pdf).

<sup>152</sup> Judicial Council of Cal., *Disposition of Criminal Cases According to Race and Ethnicity of Defendant: 2020 Report to the California Legislature* (Apr. 26, 2021), pp. 4–5, [www.courts.ca.gov/documents/lr-2021-criminal-dispositions-by-race-ethnicity-1170.45.pdf](http://www.courts.ca.gov/documents/lr-2021-criminal-dispositions-by-race-ethnicity-1170.45.pdf).

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<sup>153</sup> Alia Toran-Burrell and David Crawford, “Record Clearance at Scale: How *Clear My Record* Helped Reduce or Dismiss 144,000 Convictions in California,” *News and Stories*, Code for America (Sept. 23, 2020), [www.codeforamerica.org/news/record-clearance-at-scale-how-clear-my-record-helped-reduce-or-dismiss-144-000-convictions-in-california/](http://www.codeforamerica.org/news/record-clearance-at-scale-how-clear-my-record-helped-reduce-or-dismiss-144-000-convictions-in-california/).

<sup>154</sup> Judicial Council of Cal., Criminal Justice Services, *Proposition 64 Data Summary Report* (June 4, 2021), [www.courts.ca.gov/documents/Prop64-Filings.pdf](http://www.courts.ca.gov/documents/Prop64-Filings.pdf).

### Action Area 3 Endnotes

<sup>155</sup> Judicial Council of Cal., “Chief Justice Introduces ‘Access 3D’ ” (Aug. 17, 2013), California Courts website, [www.courts.ca.gov/25417.htm](http://www.courts.ca.gov/25417.htm).

<sup>156</sup> Commission on the Future of California’s Court System, *Report to the Chief Justice* (Apr. 2017), p. 212, [www.courts.ca.gov/documents/futures-commission-final-report.pdf](http://www.courts.ca.gov/documents/futures-commission-final-report.pdf).

<sup>157</sup> Commission on the Future of California’s Court System, *supra* note 156, at p. 215; Code Civ. Proc., § 367.5; Cal. Rules of Court, rules 5.9, 3.670.

<sup>158</sup> Cal. Rules of Court, emergency rule 3(a)(3).

<sup>159</sup> The Superior Court of San Joaquin County, interview by Work Group on Homelessness (Dec. 11, 2021). The superior court’s homeless court holds court proceedings with participants by telephone.

<sup>160</sup> Work Group on Homelessness, personal correspondence with a variety of homeless courts, including those that are part of the Superior Courts of Contra Costa, Humboldt, Santa Clara County, and Ventura Counties.

<sup>161</sup> Interviews conducted by the Work Group on Homelessness confirmed that users who lack a personal internet connection or are unable to connect to a court video conference with their own mobile device have been able to connect through collaborative arrangements with others. For example, in the Superior Court of Ventura County, court users have been able to connect to the homeless court’s Zoom proceeding in the courthouse library or at the Public Defender’s Office. In the Superior Court of Santa Clara County, court users have been able to connect via their attorneys. The Superior Court of Placer County is working to provide remote access to the Homeless Court through a mobile video system brought into the community, and the Superior Court of Orange County arranged with the law library to make personal computers available for remote appearances by court users.

<sup>162</sup> Interviews conducted by the Work Group on Homelessness with a variety of homeless courts confirmed that some courts have had considerable success bringing in-person homeless court proceedings to a community location where the participants are located. For example, superior courts in the following counties have held proceedings at a community location: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Clara, Sonoma, and Ventura.

<sup>163</sup> Interviews conducted by members of the Work Group on Homelessness with a variety of homeless courts confirmed courts are considering “mobile courts” as a solution to travel to a location and help participants connect remotely to a court proceeding. For example, the Superior Court of Santa Clara County explored such a project and obtained willingness from Cisco Systems to wire a van at no cost, and the Superior Court of Placer County and the Placer County Probation Department are developing a mobile court for homeless court participants.

<sup>164</sup> California Commission on Access to Justice, *Remote Hearings and Access to Justice During COVID-19 and Beyond* (May 18, 2020), pp. 8–9, [www.ncjfcj.org/wp-content/uploads/2020/06/2020-Remote-Hearings-Guide.pdf](http://www.ncjfcj.org/wp-content/uploads/2020/06/2020-Remote-Hearings-Guide.pdf); California Access to Justice Commission, “The Role of Technology in Enhancing Rural Access to Justice” (June 2020), [www.calatj.org/wp-content/uploads/2021/01/2020-Role-of-Technology-in-Enhancing-Rural-Access-to-Justice.pdf](http://www.calatj.org/wp-content/uploads/2021/01/2020-Role-of-Technology-in-Enhancing-Rural-Access-to-Justice.pdf).

<sup>165</sup> For example, the Court Innovations Grant Program project expenditures surrounding text/email reminder systems ranged from \$17,000 - \$160,000. Court costs for efforts to implement their own system would depend on the current technological infrastructure at the court, the amount of court staff resources required to implement the system, and whether the court purchases an “off the shelf” system.

<sup>166</sup> Interviews conducted by members of the Work Group on Homelessness with a variety of courts confirmed court collaboration with local partners and entities. For example, in the Superior Court of Ventura County, court users

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have been able to connect to the homeless court’s Zoom proceedings in the courthouse library or at the Ventura County Public Defender’s Office. In the Superior Court of Santa Clara County, court users have been able to connect via their attorneys.

<sup>167</sup> Ross Hatton, *Research on the Effectiveness of Pretrial Court Date Reminder Systems* (University of North Carolina School of Government Criminal Justice Innovation Lab, Mar. 2020), <https://cjl.sog.unc.edu/wp-content/uploads/sites/19452/2020/03/Court-Date-Notifications-Briefing-Paper.pdf>.

#### Action Area 4 Endnotes

<sup>168</sup> California State Auditor, *Homelessness in California: The State’s Uncoordinated Approach to Addressing Homelessness Has Hampered the Effectiveness of Its Efforts* (Feb. 2021), <https://auditor.ca.gov/pdfs/reports/2020-112.pdf>.

<sup>169</sup> Jacquelyn Gilbreath, Susanne Mitchell, and Nicole L. Waters, *Trends in State Courts: State Courts’ Responsibility to Convene, Collaborate, and Identify Individuals Across Systems* (National Center for State Courts, 2020), pp. 58–65, [www.ncsc.org/\\_data/assets/pdf\\_file/0018/42156/Trends\\_2020\\_final.pdf](http://www.ncsc.org/_data/assets/pdf_file/0018/42156/Trends_2020_final.pdf).

<sup>170</sup> *Ibid.*

<sup>171</sup> *Ibid.*

<sup>172</sup> *Ibid.*

<sup>173</sup> Cal. Rules of Court, title 10, division 2, chapter 7, Minimum Education Requirements, Expectations, and Recommendations.

<sup>174</sup> Canon 3B(5) of the California Code of Judicial Ethics prohibits judges from engaging in or exhibiting bias based on socioeconomic status. (See ABA Model Code Jud. Conduct, rule 2.3(B).) Mandatory judicial education courses should train judges in recognizing and avoiding implicit socioeconomic bias in the context of court proceedings involving individuals who are without housing or who are shelter insecure. (See, generally, Michele B. Neitz, “Socioeconomic Bias in the Judiciary” (2013) 61 *Cleveland State L. Rev.* 137; see also *id.* at p. 141 [“Because judges are more economically privileged than the average individual litigant appearing before them, they may be unaware of the gaps between their own experiences and realities and those of poor people”].)

<sup>175</sup> California Rules of Court, rule 10.50(c) states additional duties of the advisory committee.

<sup>176</sup> The Judicial Council of California’s Center for Judicial Education and Research (CJER) can build on the programs that it has offered in the past pertaining to socioeconomic access. A course titled “Accessing Justice With Limited Means” (formerly the “Poverty Roleplay Workshop”) has been a plenary session of the Judicial College since 2019; and “Socioeconomic Access: Evolving Issues in Ensuring Access” was a webinar last offered by CJER in June 2018.

<sup>177</sup> California Rules of Court, rule 10.462(c).

<sup>178</sup> Judicial Council of Cal., Advisory Com. Rep., *Homeless and Community Court Blueprint* (Jan. 2020), p. 14, [www.courts.ca.gov/documents/homeless-community-court-blueprint.pdf](http://www.courts.ca.gov/documents/homeless-community-court-blueprint.pdf).

<sup>179</sup> In responding to the Chief Justice’s charge to the Work Group on Homelessness, members of the work group met with leaders and representatives from the following entities: the Governor’s Office; the Legislature; the Governor’s Homeless and Supportive Housing Advisory Task Force; the Business, Consumer Services and Housing Agency; the Homeless Coordinating and Financing Council; the Office of the California Surgeon General; the California Highway Patrol; the California State University; the State Bar of California; American Guard Services, Inc.; the California State Association of Counties; the counties of Alameda, Butte, Imperial, Marin, San Diego, Santa Clara, Sonoma, and Ventura; the cities of Bakersfield, Chico, Gridley, Los Angeles, Oroville, Paradise, and Sacramento; the California Judges Association; the County Behavioral Health Directors Association of California; the Center for Family Solutions; the California Building Industry Association; the California Rental Housing Association; the California Apartment Association; the National Homelessness Law Center; the Western Center on Law & Poverty; the Inner City Law Center; California Rural Legal Assistance, Inc.; and the Tenderloin Housing Clinic. Work group members also met with leaders within the judicial branch and individuals knowledgeable about homeless and collaborative courts, unlawful detainer and housing courts, and the California Environmental Quality Act.

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<sup>180</sup> Canon 4C, Cal. Code of Judicial Ethics; but see California Supreme Court Committee on Judicial Ethics Opinions, *Service on a Governmental Task Force*, Expedited Op. 2021-041 (Mar. 3, 2021) (“When the scope of the stated purposes of a governmental task force is so broad and varied that a judge cannot reasonably limit his or her participation to topics directly related to the law, the legal system, or the administration of justice, a judge may not ethically serve as a member of the task force. However, a judge may assist the task force in other ways, for example, by appearing before, providing information to, or advising the task force on issues within the judicial branch’s purview and relating to the judge’s experiences and unique perspective as a judge”); compare California Supreme Court Committee on Judicial Ethics Opinions, *Service on the California Access to Justice Commission or Child Welfare Council*, Expedited Op. 2021-043 (May 18, 2021); see also ABA Model Code Jud. Conduct, rule 1.2, comment 6: “A judge should initiate and participate in community outreach activities for the purpose of promoting understanding of and confidence in the administration of justice.”

<sup>181</sup> Judicial Council of Cal., Advisory Com. Rep., *Task Force for Criminal Justice Collaboration on Mental Health Issues: Final Report* (Apr. 2011), [www.courts.ca.gov/documents/Mental\\_Health\\_Task\\_Force\\_Report\\_042011.pdf](http://www.courts.ca.gov/documents/Mental_Health_Task_Force_Report_042011.pdf); Judicial Council of Cal., Advisory Com. Rep., *Children in Foster Care: California Blue Ribbon Commission Resolution and Report* (July 29, 2013), [www.courts.ca.gov/documents/jc-20130823-itemL.pdf](http://www.courts.ca.gov/documents/jc-20130823-itemL.pdf).

<sup>182</sup> Coalition for Juvenile Justice, *Exercising Judicial Leadership to Reform the Care of Youth Charged with Status Offenses: A Convenor’s Action Guide for Developing a Multi-Stakeholder Process*, [www.juvjustice.org/sites/default/files/resource-files/Convenor\\_Action\\_Guide\\_FINAL\\_0.pdf](http://www.juvjustice.org/sites/default/files/resource-files/Convenor_Action_Guide_FINAL_0.pdf) (as of Sept. 3, 2021).

<sup>183</sup> Judicial Council of Cal., “Strategic Plan for California’s Judicial Branch,” California Courts website, [www.courts.ca.gov/3045.htm](http://www.courts.ca.gov/3045.htm) (as of Oct. 1, 2021).

<sup>184</sup> Ian Gabriel and Victoria Ciudad-Real, *State of Homelessness in California Fact Sheet* (Homelessness Policy Research Institute), <https://socialinnovation.usc.edu/wp-content/uploads/2020/02/Homelessness-in-CA-Fact-Sheet-v3.pdf> (as of Sept. 3, 2021).

<sup>185</sup> California Health Care Foundation, “Homelessness and COVID-19,” [www.chcf.org/collection/homelessness-covid-19/](http://www.chcf.org/collection/homelessness-covid-19/) (as of Sept. 3, 2021).

<sup>186</sup> Carolina Reid and Meg Heisler, *The Ongoing Housing Crisis: California Renters Still Struggle to Pay Rent Even as Counties Re-Open* (Turner Center for Housing Innovation, UC Berkeley, Oct. 2, 2020), <https://turnercenter.berkeley.edu/research-and-policy/ongoing-housing-crisis/>.