



Judicial Council of California

Meeting Minutes

Judicial Council

Thursday, February 25, 2016

2:00 PM

San Francisco

CLOSED SESSION (RULE 10.6(B))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE

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

Voting Members

- Present:** 17 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Judge Marla O. Anderson, Judge Brian J. Back, Judge Daniel J. Buckley, Judge Emilie H. Elias, Judge Samuel K. Feng, Judge Gary Nadler, Judge David M. Rubin, Judge Dean T. Stout, Mr. Mark G. Bonino, Mr. Patrick M. Kelly, Ms. Donna D. Melby, and Ms. Debra Elaine Pole
- Absent:** 2 - Senator Hannah-Beth Jackson, and Assembly Member Richard Bloom

Advisory Members

Present: Justice Marsha G. Slough; Judges Dalila Corral Lyons, Brian L. McCabe, Kenneth K. So, Eric C. Taylor, and Charles D. Wachob; Commissioner David E. Gunn; Supreme Court Administrator and Clerk Frank A. McGuire; and Court Executive Officers Jake Chatters, Richard D. Feldstein, and Kimberly Flener

Chief Justice's Report

The Chief Justice summarized her engagements on behalf of the council and the judicial branch since the December council meeting. She observed that the December/January time of the year is always marked by a budget milestone -- the release of the Governor's budget proposal for the next fiscal year. The Chief Justice welcomed the \$146.3 million in crucial new funding for the California courts in the Governor's proposal, and the recognition given to the innovations at the state and local level that benefit court users. She commented that the proposal's elements concerning the judicial branch, reflect a steady but cautious new investment in the courts. The new funding would support statewide court infrastructure needs, language access expansion in civil proceedings and funding to assist trial courts with increased workloads due to sentencing reforms, particularly those related to Proposition 47. While the proposal represents the shared goal to help make courts more accessible, efficient, and equitable for court users, the Chief Justice indicated that advocacy will continue for funding in target areas and for more policy improvements. She noted that in addition to meetings with the Governor's Office, the Department of Finance, and

the Legislature, ongoing meetings will be required with our justice system partners.

She continued with the topic of the ongoing liaison meetings with stakeholders to view the year ahead, find collaboration, and identify where there is shared agreement -- and opportunities for shared solutions -- in addition to answering questions on how the judicial branch is moving forward. She met with members of the Consumer Attorneys of California, California Defense Counsel, the California State Sheriffs' Association, the California District Attorneys Association, the California State Association of Counties, the California Public Defenders Association, California Attorneys for Criminal Justice (private defense counsel) as well as Senator Hannah-Beth Jackson, (D-Santa Barbara) and Assembly Members Rob Bonta (D-Oakland), Mark Stone (D-Monterey Bay), and Reginald Jones-Sawyer (D-South Los Angeles).

The Chief Justice spoke about the Conference of Chief Justices in Monterey, hosted by the California Judicial Branch and the National Center for State Courts. While the Chief Justice and Associate Justice Ming Chin -- joined by others on the Supreme Court -- attended the Governor's State of the State address on January 21, 2016, Governor Brown, in return, attended the Conference of Chief Justices the following week. At the conference, the Governor addressed the Chief Justice, Associate Justice Chin, council members Judge Samuel K. Feng of the Superior Court of San Francisco County, Judge Marla O. Anderson of the Superior Court of Monterey County, Presiding Judge Mark Hood of the Superior Court of Monterey County, and 38 chief justices. He talked about his experience as a four-term Governor and provided his perspective on the need to reevaluate established criminal justice practices in the face of the changing needs of the people in the world. Another conference participant noted by the Chief Justice in her comments was Mr. Leon Panetta, who holds the titles of former Congressman, former White House Chief of Staff, former Central Intelligence Agency director and former Secretary of Defense and former Judicial Council Distinguished Service Award recipient. Mr. Panetta laid out a challenge for decisive leadership from all three branches of government with inspiring remarks on the meaning of true public service, which he defined as having the courage and foresight to act on issues before they reach a crisis point. Administrative Director Martin Hoshino also gave an inspiring speech on leading in government and not leading from crisis. The Chief Justice was honored by the presence of U.S. Supreme Court Justice Anthony Kennedy, alumnus of their alma mater, McClatchey High School in Sacramento. Justice Kennedy spoke about the importance of vibrant elevated civic discourse in our democracy and keeping our courts at the center of the law. The educational program at the conference covered a wide range of topics: reimagining courts, a design for the 21st century, same-sex marriage, state supreme courts navigating the SCOTUS rulings and an update on the civil justice initiative and draft recommendations. During the conference, Mr. Hoshino was named to the National Task Force on Fines, Fees and Bail Practices which

operates under the auspices of the Conference of Chief Justices and the Conference of State Court Administrators. Task force members include national, legal, and judicial leaders, policy makers from state, county and municipal government, legal advocates, academics, and the public interest community.

The Chief Justice attended the employee service recognition awards in Burbank for Judicial Council employees who have completed five to fifteen years of service. She participated in a meeting of the Judicial Council's Administrative Presiding Justices Advisory Committee as well as the Trial Court Presiding Judges Advisory Committee and the Court Executive Advisory Committee, led by committee chairs Judge Brian L. McCabe of the Superior Court of Merced County and Mr. Richard Feldstein, respectively.

As chair of the Commission on Judicial Appointments, the Chief Justice presided over hearings on two members of the Judicial Council named by Governor Brown for appointments to the California Court of Appeal: Judge Martin J. Tangeman of the Superior Court of San Luis Obispo County as Associate Justice of the Court of Appeal, Second Appellate District, Division Six; and Presiding Judge Marsha G. Slough of the Superior Court of San Bernardino as Associate Justice of the Court of Appeal, Fourth Appellate District, Division Two. Justice Slough will continue to provide her expertise in technology as chair of the council's Information Technology Advisory Committee. The Chief Justice confirmed that Justice Slough would remain on the Judicial Council in an advisory, non-voting appointment which the council approved by circulating order. The Chief Justice also received an informal commitment from Justice Tangeman, who chaired the council's Civil Jury Instructions Advisory Committee, to stay involved with the council activities in the near future.

Presentation

[16-005](#)

Presentation by the State Controller's Office: Recognition of Curt Soderlund, Chief Administrative Officer (Ret.)

Mr. George Lolas, Chief Operating Officer of the State Controller's Office, representing State Controller Betty Yee, presented Mr. Soderlund with a resolution honoring him in his retirement for his contributions in the development of the Phoenix Financial System -- a common financial management system for the trial courts and for his leadership in partnering with the State Controller's Office to develop training for court revenue staff in the practices and procedures of court-ordered debt collection. In response, Mr. Soderlund expressed his gratitude to the Trial Court Administrative Services staff, court staff, and the collection agencies for their work on these accomplishments, and thanked Ms. Olivia Lawrence, Ms. Colleen Houlton, Mr. Bob Buckley, and Mr. Cory Jasperson on the Judicial Council staff. He noted the importance of working relationships established with the superior courts of Santa Clara, Ventura, and Shasta Counties in the success of the restitution program. He also

credited success to the assistance and support of the Chief Justice, the Judicial Council's five internal committee chairs, the Judicial Council, the council's Court-Ordered Debt Task Force and its chair, Judge Mary Ann O'Malley from the Contra Costa County Superior Court, and cochair Judge David Wesley from the Los Angeles County Superior Court. Mr. Soderlund expressed gratitude to Ms. Jody Patel, Chief of Staff for the Judicial Council.

No council action.

Administrative Director's Report

[16-021](#)

Administrative Director's Report

Summary: Mr. Martin Hoshino, Administrative Director, provides his report.

Following the recognition of Mr. Soderlund by the State Controller's Office, Mr. Hoshino expressed appreciation for Mr. Soderlund's state service as well as for the support received from Judge Eric C. Taylor of the Superior Court of Los Angeles County and president of the California Judges Association, for the Conference of Chief Justices in Monterey. Hosted by California's Judicial Branch and the National Center for State Courts, the conference ran from January 30 through February 3, 2016. He noted these examples of contributing efforts made for the betterment of the branch and the justice system in California and on a national level.

He began his report by updating the council on judicial staff operations, including mention of the opening of new courthouses in Kings and Sutter Counties; the launch of the Language Access Toolkit; preparations of the council's advisory body annual agendas to set the course of their work for the next year. As this was his first report of 2016, he provided a retrospective account of accomplishments by the Judicial Council staff over the previous year:

- Implementation of a new personnel compensation structure;
- A cost-benefit analysis of the staff agency's regional offices;
- An operational planning and alignment restructuring project to identify the services provided;
- The projected needs for the courts, and how to close the gaps between services and identified needs.

Mr. Hoshino also described recent staff leadership changes made after the recommendation of the Strategic Evaluation Committee, and noted specifically the change in the office reporting relationships assigned to the Chief of Staff, completed by Ms. Jody Patel. He noted the recent arrival of Ms. Millicent Tidwell, the new Chief Operating Officer, and also mentioned that recruitment was in progress to hire a Chief Administrative Officer to succeed Mr. Soderlund. The staff agency has also hired a new Real Estate and Facilities Management Director who will be visiting the courts of California to become familiar with court locations and facilities.

Mr. Hoshino reported on several other recent examples of operational consolidation within the staff agency:

- Fiscal staff have been consolidated in one operating unit to align fiscal functions that were once dispersed.
 - Capital construction program fiscal staff have been consolidated in one fiscal operation to improve coordination and strengthen controls internally and with external government partners such as the Department of Finance or the Legislature.
 - Trial court and state court- level accounting and procurement functions, which were previously separated into two parts of the organization, have been combined.
- These changes are intended to leverage knowledge, information and organizational talent from different parts of the organization.

Mr. Hoshino then raised several branchwide issues. He reported that the Chief Justice invited him to join a national task force, to begin in mid-March, that will address the impacts of court fines, fees, and bail practices, including forfeitures and civil assessments on a nationwide basis. The goal of the task force is to address revenue streams and, in particular, the effects on economically disadvantaged communities. One key objective of his is to identify new ideas, practices, or policy changes in other states with potential benefit to California. To give some perspective on the subject, he noted that California's criminal fine structure has evolved significantly and dramatically over the last 20 years. The base fine for a traffic violation with one prior conviction that was set \$35 in 1994 is now assessed at \$124. Between 2003 and 2012, the Legislature added increases to base fines, resulting in penalties as high as \$258. The net effect of this practice has been to increase the cost of violations such that penalties are no longer proportionate to the actual offenses. This has affected the ability of people to pay their obligations to the court, and raises an access-to-justice issue. He pointed out that last year the Judicial Council took a significant step to address this with the new traffic rule that advised courts to allow people ticketed with traffic violations to appear without the deposit of bail, barring certain exclusions.

The revenue generated by court fees and fines is an important funding source, not just for the court system, but for government programs that are ordinarily funded through general tax proceeds, Mr Hoshino reported. Of approximately \$2 billion collected in court fees and fines, about 40% goes to the courts; the other 60% is allocated as State General Fund revenue for the rest of state government and for cities and counties. Programs funded with this money include: treatment for injured victims, an emergency medical system, and court construction. There are two aspects to the court's role assessing and collecting fines and fees: the responsibility to deter repeat offending, and having to function as what he described as revenue centers. Currently there are 43 courts in our system that have the operational responsibility for enhanced collections; 15 counties still retain that responsibility.

The issue of revenue generated by court fees and fines presents important public

policy questions, the least of which is the funding of basic government services. The Legislative Analyst's Office, after working closely with Judicial Council staff on the analysis, recently issued a report on the policy highlights. The Commission on the Future of California's Court System, appointed by the Chief Justice, is considering the same issues. Similar discussions are also underway with the various interests and lawmakers as well as the Department of Finance. The development of a solution for California will require the active participation of all three branches of government, stakeholders and the government programs that will be impacted by any changes or modifications or adjustments to what is now a \$2 billion proposition. Mr. Hoshino concluded his report by committing to keep the council updated and wanted to ensure that council members, as well as the public, are informed about the dimensions of the issue and the dilemma that it poses to the judicial branch.

DISCUSSION AGENDA

[16-007](#)

Judging, Unconscious Bias and Decisionmaking (No Action Required)

Summary: This presentation is intended to familiarize the Judicial Council with relatively new research in social psychology and cognitive science which suggests how judges, attorneys and justice partners might reduce the influence of unconscious bias on decision-making. Moreover, it is intended to highlight efforts to provide training and information within the judicial branch.

Recommendation: [Enter Recommendation Here]

Mr. Michael Roosevelt, a Judicial Council staff member in Criminal Justice Services, presented on the topic of cognitive processing and the ways in which the unconscious mind categorizes information and impressions of others, resulting in biases. His presentation focused on ways to compensate for bias in our behavior in order to promote fairness and impartiality.

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at 4:55 p.m.

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on June 23, 2016.