

JUDICIAL COUNCIL OF CALIFORNIA
Minutes of the Business Meeting—April 24–25, 2014
Ronald M. George State Office Complex
William C. Vickrey Judicial Council Conference Center
Malcolm M. Lucas Board Room
455 Golden Gate Avenue
San Francisco, California 94102-3688

THURSDAY, APRIL 24, 2014
OPEN MEETING (RULE 10.6 (A))—BUSINESS MEETING

Judicial Council members present: Chief Justice Tani G. Cantil-Sakauye; Justices Judith Ashmann-Gerst, Harry E. Hull, Jr., and Douglas P. Miller; Judges Stephen H. Baker, James R. Brandlin, David De Alba, Emilie H. Elias, Teri L. Jackson, Gary Nadler, Mary Ann O’Malley, David Rosenberg, David M. Rubin, and Dean T. Stout; Mr. Mark G. Bonino and Mr. James P. Fox; **advisory members present:** Judges Robert A. Glusman, James E. Herman, Morris D. Jacobson, Brian L. McCabe, Kenneth K. So, Charles D. Wachob, and Brian Walsh; Supreme Court Clerk Frank A. McGuire; Commissioner Sue Alexander; Court Executive Officers Mary Beth Todd and David H. Yamasaki; **secretary to the council:** Judge Steven Jahr, Administrative Director of the Courts.

Members absent: Justice Marvin R. Baxter; State Senator Noreen Evans; Assembly Member Richard Bloom; Ms. Angela J. Davis and Mr. Mark P. Robinson, Jr.

Speakers present: Associate Justice Robert L. Dondero, Court of Appeal, First Appellate District, Division One; Judge Laurie M. Earl, Superior Court of California, County of Sacramento; Judge Theodore M. Weathers, Superior Court of California, County of San Diego; **members of the public:** Ms. Anita Lee and Mr. Rye P. Murphy; **media representatives:** Ms. Maria Dinzeo, *Courthouse News Service*.

Call to Order

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the meeting to order at 12:30 p.m. in the Malcolm M. Lucas Board Room of the William C. Vickrey Judicial Council Conference Center in the Ronald M. George State Office Complex.

Swearing in of New Council Member

The Chief Justice administered the oath of office to new council member Judge Gary Nadler, Superior Court of California, County of Sonoma.

Approval of Meeting Minutes

The Judicial Council approved the minutes of the February 20, 2014, Judicial Council meeting.

Chief Justice's Report

The Chief Justice presented her report summarizing her engagements and ongoing outreach activities on behalf of the judicial branch since the February council meeting.

The Chief Justice reported that she was pleased to deliver her third State of the Judiciary Address to a Joint Session of the California State Legislature. She was, however, equally as saddened by the retirement of her colleague Associate Justice Joyce L. Kennard after 25 years on the California Supreme Court. The Chief Justice described Justice Kennard as an extraordinary jurist who possesses uncommon intellect, integrity, and courage, and as a wonderful mentor, role model, and friend. The Chief Justice recognized Justice Kennard as a dedicated public servant and champion for the rule of law—a jurist who upheld her oath to serve and saw our nation as “a land where one can succeed against all odds.” She was honored to be able to share Justice Kennard’s contributions with the Legislature during her State of the Judiciary Address.

The Chief Justice reported that fairness and collaboration, in the context of the 50th anniversary of the Civil Rights Act, were key themes in her address to the Legislature. During her address, she highlighted the accomplishments of the branch, including its efforts relating to innovation, such as the JusticeCorps program; efficiency, such as in the branch’s long-standing history with collaborative courts; and the commitment to fairness and collaboration in delivering equal and meaningful access to justice to all Californians. The Chief Justice also stressed the idea of “a modern civil rights crisis” within the courts, which resonated with many stakeholders. She also highlighted in her address the clear definition of the reinvestment needed, not just during this current year, but as outlined in her “Three-Year Blueprint for a Fully Functioning Judicial Branch.” The Chief Justice noted that the blueprint was also the topic for discussion at a California Chamber of Commerce Legal Reform and Protection Committee roundtable with in-house counsel that she attended in Sacramento.

The Chief Justice reported that, as part of her role in the ongoing budget negotiations process, she has been in regular contact with the Governor, his administration, and the Legislature as they work together through the current budget cycle. She has met with numerous people, including Assembly Speaker John A. Pérez; Senator Hannah-Beth Jackson and Assembly Member Bob Wieckowski, chairs of the Senate and Assembly Judiciary Committees; Assembly Speaker–Elect Toni G. Atkins; Senator Kevin de León; Assembly Member Al Muratsuchi; Assembly Member Nancy Skinner; and Assembly Member Bloom. She also met with Senator Loni Hancock, the chair of the Senate Budget and Fiscal Review Subcommittee #5, who called on the Legislative Analyst’s Office, the Administrative Office of the Courts (AOC), and the Department of Finance (DOF) to work together on proposed solutions and efficiencies. The Chief Justice added that she was pleased to participate in Assembly Member Cristina Garcia’s awards ceremony that honored “Woman of the Year” award recipients, recognizing the unique contributions of women who live or work in each of the nine cities in her district.

The Chief Justice thanked those who attended her State of the Judiciary Address, met with legislators, and testified at the Senate and Assembly budget subcommittee hearings. She noted

that all were opportunities to share real impacts on court users and identify funding solutions for the sister branches of government to consider while also being responsive to legislators' questions and concerns. The Chief Justice expressed her gratitude to the Judicial Council members, court leaders and staff, Bench-Bar Coalition members, and justice system partners who voiced their support and took action to encourage a reinvestment in the justice system.

The Chief Justice reported that she lent her support to a number of Judicial Council priority programs, including the San Francisco Public hearing on the Language Access Plan, the Tribal Court–State Court Forum, and the Family Law/Self-Help Conference in partnership with the Legal Aid Association of California. She noted that all of these programs deal with key and distinct access issues facing Californians.

The Chief Justice reported that she also attended the groundbreaking ceremony for the council's single-largest courthouse construction project under the Judicial Branch Five-Year Infrastructure Plan: the new San Diego Courthouse. She indicated that a great deal of planning, including cost reductions, was invested in this project and, therefore, the courthouse should serve as a source of great civic pride.

The Chief Justice reiterated her belief in the importance of civic learning and civic engagement because the strength of our democratic institutions relies on the public's understanding of those institutions. She explained that civic learning is important because it creates an understanding of government, including an understanding of the relationship between the judicial branch and its sister branches, and it creates an interest in the judicial branch and in democracy as a whole. The Chief Justice added that civic learning acts as a pipeline for students to consider careers in the legal profession and, potentially, on the bench. Further, the Chief Justice noted that civic engagement helps keep children in school and out of court and, ultimately, reduces the risk of a pathway that could lead from the juvenile justice system to the adult criminal justice system.

The Chief Justice reported that she has been busy in the area of civic engagement during this reporting period, with meetings of the Foundation for Democracy and Justice, the California Task Force on K-12 Civic Learning, and the Power of Democracy Steering Committee. She reported that Judicial Council members McGuire and Robinson are also involved in these efforts and that she is grateful for the leadership roles played by Administrative Presiding Justice Judith D. McConnell, Court of Appeal, Fourth Appellate District; California Attorney General Kamala D. Harris; and State Superintendent of Public Instruction Tom Torlakson. The Chief Justice emphasized that their involvement represents a collaborative effort by constitutional officers of all the branches of government.

The Chief Justice reported that it was inspiring to present two of the three statewide Civic Learning Awards of Excellence, cosponsored with Superintendent Torlakson, to Brawley Union High School's bilingual Civics and U.S. History classes in Brawley and Rio Americano's CIVITAS program in Sacramento.

The Chief Justice reported that she had the opportunity to be a guest lecturer at the Political Science Undergraduate Colloquium of the University of California, Berkeley, to explain the role of the judicial branch in a California democracy that consists of a very active initiative system. She also had the opportunities to speak with the Professional Responsibility class at Golden Gate University School of Law, participate in the Stanford Women's Leadership Conference with John F. Kennedy High School's Government class, and participate in the Imagine Yourself Symposium at Sonoma State University, which was attended by approximately 900 participants, including students, lawyers, and judges from the local area.

The Chief Justice expressed that all the events were great opportunities to engage with students, teachers, parents, and those in their communities, including judges, lawyers, and elected officials, on issues and topics of interest to them. During these events, she was able to discuss specifically how those issues and topics relate to the judicial branch, how the branch and their counties relate to their interests, and the overall interest in seeing a fully funded judicial branch as a coequal member of government.

The Chief Justice congratulated former Judicial Council member Justice Ronald B. Robie, Court of Appeal, Third Appellate District, on receiving one of the highest honors bestowed by the National Center for State Courts: the Distinguished Service Award.

The Chief Justice reported that she continued her ongoing contacts with the legal community by attending the Los Angeles County Bar Association Luncheon for the Supreme Court, with the Supreme Court justices and Mr. McGuire, presenting the *California Lawyer Magazine's* Attorneys of the Year Awards, known as the CLAY Awards, and being "cross-examined" by Justice Miller at the Western San Bernardino County Bar Association Awards.

The Chief Justice was pleased to welcome to her chambers two groups of judges who participated in the New Judge Orientation program. She also was invited to the Superior Court of Los Angeles County by Presiding Judge David S. Wesley to participate in the swearing-in of new judges of the court.

The Chief Justice concluded by stating that through collaboration and unity of purpose, as demonstrated by her report, the judicial branch is achieving positive outcomes that are contributing to a renewed optimism.

Administrative Director's Report

Judge Steven Jahr, Administrative Director of the Courts, provided in the materials for this council meeting his written report outlining the activities of the AOC to further the Judicial Council's goals and priorities for the judicial branch. The report focuses on action since the council's February meeting and is exclusive of issues on the business agenda for this council meeting.

Judge Jahr began his supplemental report by announcing that the AOC has begun its formal budgetary advocacy to the Legislature through the Assembly and Senate Budget Subcommittee

hearings held earlier in the month on the judicial branch budget. The Assembly discussion agenda was limited to two judicial branch items, leaving open the balance of the judicial branch budget for later consideration. The two agenda items were (1) the proposed \$33.1 million enhancement in the dependency counsel budget that was contained in the Chief Justice's blueprint, and (2) a staff proposal for a \$20 million grant program to establish collaborative courts. Judge Jahr reported that both items were approved. He added that it was requested that the funding processes be left to the discretion of the trial courts, each of which faces its own unique challenges.

Judge Jahr reported that the Senate Budget Subcommittee approved the consent agenda items relating to capital programs. Other court-related proposals remain undetermined on the judicial branch funding agenda.

Judge Jahr estimated that 30 to 40 judicial branch stakeholders provided public comment at the hearings, including presiding judges, judges, court executive officers, court reporters, processing staff, courtroom clerks, and court users. He indicated that the speakers repeatedly expressed their support of the need for reinvestment in the branch and their endorsement of the Chief Justice's blueprint.

Judge Jahr reported that the AOC Office of Governmental Affairs (OGA) staff worked with presiding judges and court executive officers to update Trial Court Budget Snapshots for all 58 courts. He noted that these snapshots, which are posted on the California Courts website, were especially helpful during the hearings in highlighting the impact of budget reductions on access to justice for court constituents as well as the challenges faced by courts for the upcoming fiscal year (FY).

Judge Jahr reported that, during the hearings, the AOC was also asked to provide an illustration of the types of restorations of access that could be accomplished by various increments of funding. The council received copies of the documents that were provided to the members of both the Senate and Assembly subcommittees addressing the inquiry. Judge Jahr reported that the AOC surveyed the trial courts and asked them to forecast their expenses in FY 2014–2015 using the Governor's present \$100 million trial court augmentation and compare those forecasts to projected expenses using the \$356 million augmentation drawn from the overall first-year \$612 million in the Chief Justice's blueprint. He noted that the documents prepared by OGA demonstrate a stark contrast. Judge Jahr reported that strong support was received from both the Senate and the Assembly, especially from Senator Hancock, who expressed her support for reinvestment into the judicial branch. He thanked the superior courts for their responses to this survey and similar surveys that they have received, which he acknowledged are enormously time-consuming.

Judge Jahr reported that no follow-up hearings relating to the judicial branch budget are anticipated to take place before the Governor's May Revision; however, the dialogue continues with the executive branch and the Legislature.

Regarding the performance audit of the Judicial Council and the AOC commissioned by the Joint Legislative Audit Committee, Judge Jahr reported that the Chief Justice designated Judge O'Malley, member of the council, and Justice Kathleen E. O'Leary, vice-chair of the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, to represent the council. Both of them attended the entrance meeting with the auditors. Judge Jahr indicated that the AOC has tendered its full cooperation in the process. He announced that the final report is expected to be published in fall 2014.

In the area of technology, Judge Jahr reported that, since the February council meeting, the AOC Information Technology Services Office (ITSO) initiated projects in 17 superior courts to replace outdated software and hardware necessary to support computing services and telecommunications in the branch. As a phased project, the updates are scheduled to be completed by ITSO in all 58 superior courts by July 2015.

Judge Jahr reported that, at the request of the Superior Courts of Alameda, Lassen, and Tehama Counties, the AOC is exploring options for implementing the Phoenix Human Resources System in those courts. He explained that courts are seeking a solution to their payroll needs because their counties have communicated plans to provide this service no longer. The Phoenix payroll system, administered by the AOC Trial Court Administrative Services Office, is currently deployed in eight superior courts, supporting payroll for more than 3,000 court employees. Judge Jahr reported that the Superior Court of Yuba County is the most recent adopter and will run its first payroll through the system in May.

Judge Jahr reported that AOC staff have coordinated meetings of more than 18 advisory groups since the February council meeting. He added that AOC staff have also conducted 20 live educational programs during that same period. Judge Jahr referred the council to his written report for details regarding the advisory groups' activities and the education programs conducted.

Judge Jahr recalled that, in 2013, the AOC and a joint working group of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee developed a workshop to assist courts in reengineering their business processes to achieve greater efficiencies. He reported that seven workshops have been conducted for court employees during the past year by Court Executive Officers Kim Turner and Teresa A. Risi of the Superior Courts of Marin and Monterey Counties, respectively, and Ms. Maureen Dumas, Manager, AOC Special Projects Office. Judge Jahr reported that the workshops have been well received and that plans are in place to conduct additional workshops in fall 2014. He noted that the courts' participation in the workshops is an example of how courts are exploring and identifying methods to increase the efficiency and effectiveness of their operations with reduced resources.

Judge Jahr congratulated AOC Senior Attorney Deborah Chase for receiving the Joint Award of Merit from the California Commission on Access to Justice and the Legal Aid Association of

California at the Family Law/Self-Help Conference in March 2013. The award was presented in recognition of her work assisting the courts in serving self-represented litigants.

Judge Jahr reported that he had the opportunity to welcome participants to the three-day international summit, Community Justice 2014, which was being held in the Ronald M. George State Office Complex at the same time as the council's business meeting. The summit—jointly sponsored by the council, the Center for Court Innovation, and the U.S. Department of Justice's Bureau of Justice Assistance—brought together judges, prosecutors, defense attorneys, probation officials, court administrators, police, clinical staff, and nonprofit organizations to discuss California's innovative community justice programs and the benefits they provide to society, and to exchange information on best practices in procedural justice, risk/needs assessment, alternative sanctions, and community restitution. He indicated that the attendees included participants from around the world.

Judge Jahr noted that one of the speakers was Mr. Michael Botticelli, Acting Director, White House Office of National Drug Control Policy. He reported that Ms. Diane Nunn, Director of the AOC Center for Families, Children & the Courts, arranged a meeting between Mr. Botticelli, Ms. Shelley Curran, Senior Manager of the AOC Criminal Justice Court Services Office, and himself to discuss, among other issues, mutually beneficial approaches to reducing recidivism.

Judge Jahr concluded by reporting that the sale of bonds to build the Stockton courthouse has been successful, at a true interest cost of 4.096 percent, which was within the projected estimates. He thanked the staff of the AOC Judicial Branch Capital Program Office and Legal Services Office (LSO) for their excellent work in arranging the financing for this significant project.

Written Comments Received

Written comments were received from Judge Jim Luther (Ret.), Ms. Micaela Davis, Mr. Mark Graham, and Mr. Rye P. Murphy.

Public Comment

Presiding Judge David E. Nelson, of the Superior Court of Mendocino County, commented on Item 3 of the discussion agenda.

Before proceeding with Item 1 on the discussion agenda, Chief Justice Cantil-Sakauye and Executive and Planning Committee Chair Justice Miller provided the details of an enhancement to the existing procedure for presenting public comment at Judicial Council meetings, which was introduced at this meeting. The changes to the procedure were intended for the convenience of the public and the benefit of the council to permit greater flexibility for the public to make comment before the council proceeds with discussion and action on agenda items.

Discussion Agenda (Items 1–7 and New Item)

Item 1 Judicial Administration: Judicial Council Advisory Body Meetings

The chairs of the Judicial Council’s five internal committees recommended the adoption of a new rule of court that provides greater public access to meetings of the council’s internal and advisory committees and of other multimember bodies that review issues and report to the council. The rule recognizes the importance of open public meetings, especially on matters concerning the judicial branch budget. The intent of the rule was to balance the importance of open meetings with significant judicial branch concerns, including ethical constraints on the judicial officers who participate on such bodies, staffing and other resource limitations, and the need to maintain an effective rule-making process.

Council action

The Judicial Council adopted rule 10.75, effective July 1, 2014, to provide greater public access to the meetings of internal and advisory committees and similar multimember bodies that the council creates to review issues and report to it. (The Judicial Council Roll Call/Voting Sheet is included in Attachment 7.)

Item 2 Trial Courts: Allocations From the State Trial Court Improvement and Modernization Fund

For fiscal year (FY) 2014–2015, the Trial Court Budget Advisory Committee (TCBAC) recommended allocating \$78.372 million in funding from the State Trial Court Improvement and Modernization Fund (IMF) for various trial court–related projects and programs.

Council action

The Judicial Council, effective April 24, 2014:

1. Directed that, beginning with FY 2014–2015, \$20 million revenue no longer be transferred from the IMF to the Trial Court Trust Fund (TCTF).
2. Allocated \$78.372 million from the IMF in FY 2014–2015 to:
 - Maintain funding for 23 projects and programs at their FY 2013–2014 allocation levels.
 - Transfer ongoing costs from and to the TCTF for three programs:
 - \$647,500 in ongoing cost from the TCTF to the IMF for the V2 Case Management System (CMS).
 - \$5.658 million in ongoing cost from the TCTF to the IMF for the V3 CMS.
 - \$625,000 in ongoing cost from the IMF to the TCTF for Enhanced Collection Support.

- Eliminate the \$34,000 in ongoing cost for the Employee Assistance Program for Bench Officers.
 - Increase and decrease funding for 34 projects and programs from their FY 2013–2014 allocation levels, for a net overall decrease of \$1.891 million.
3. Directed the Judicial Council Technology Committee to evaluate the TCBAC’s recommendation of having the committee develop a plan to eliminate the subsidies from the IMF and the TCTF to courts for CCMS V3 and Sustain Justice Edition costs, and to make recommendations to the Judicial Council.

Item 3 Trial Court Allocations: Workload-Based Allocation and Funding Methodology Adjustment Process

The Trial Court Budget Advisory Committee (TCBAC) recommended that the Judicial Council deny the request of the Superior Court of California, County of Mendocino, under the Workload-Based Allocation and Funding Methodology Adjustment Process.

Council action

The Judicial Council denied the request of the Superior Court of California, County of Mendocino, under the Workload-Based Allocation and Funding Methodology Adjustment Process, to provide additional funding to courts that have a “significant population center living in a remote and geographically challenging area such that the court is unable to provide reasonably adequate court services to the entire court population.”

Item 4 Budget: New Fiscal Year 2014–2015 Request for Trial Courts

The TCBAC recommended that the Judicial Council direct the Administrative Office of the Courts to prepare and submit to the state Department of Finance a fiscal year 2014–2015 Spring Finance Letter that requests a \$70 million General Fund ongoing augmentation to the Trial Court Trust Fund to address a projected shortfall in civil fee– and criminal case–related revenue in the TCTF that supports trial court allocations for operations. In addition, the TCBAC recommended that the Judicial Council, beginning in FY 2014–2015, no longer allocate \$29.4 million from the TCTF for benefit cost increases related to FY 2012–2013 that were funded only in FY 2012–2013 from the General Fund.

Council action

The Judicial Council:

1. Directed the AOC to prepare and submit to the state DOF an FY 2014–2015 Spring Finance Letter that requests a \$70 million General Fund ongoing augmentation to the TCTF to address a projected shortfall in civil fee– and criminal case–related revenue in the TCTF that supports trial court allocations for operations; and

2. Beginning in FY 2014–2015, directed that \$29.4 million from the TCTF no longer be allocated for benefit cost increases related to FY 2012–2013 that were funded only in FY 2012–2013 from the General Fund.

Item 5 Trial Court Allocations: Maximum Reimbursement of Unused Savings From Program 45.45 for Court Interpreter Expenditures

The TCBAC presented recommendations for a methodology to reimburse trial courts from unspent savings in the TCTF Program 45.45 for court interpreter services in domestic violence cases, family law cases in which there is a domestic violence issue, and elder or dependent adult abuse cases, as well as civil cases in which parties are indigent. The recommendations were presented in response to direction from the Judicial Council in January 2014 that the TCBAC prepare and present recommendations on this issue at the April council meeting.

Council action

Regarding the unspent savings from the TCTF Program 45.45, the Judicial Council, effective April 24, 2014:

1. Approved the eligibility of each interpreter region to receive in reimbursement from the unused savings a percentage of the unused savings equal to the average percentage of Program 45.45 reimbursements it received over the past five years, and approved the eligibility of the Superior Courts of Solano and Ventura Counties, which are not in interpreter regions, for individual earmarked funds based on the same methodology. For fiscal year 2013–2014, the allocation to the regions (and two individual courts) are the amounts contained in the shaded rows in Attachment 1.
2. Directed AOC staff to track the rate at which the unused savings is being drawn down and report that information each month to the trial courts, and directed the TCBAC to review this information at least once each quarter.
3. Approved the following:
 - If requests for reimbursement for mandated case types and domestic violence matters (including family law matters in which there is a domestic violence issue, and elder or dependent adult abuse) from the TCTF Program 45.45 appropriation in the current fiscal year (FY 2013–2014) exceed the amount of money in that fund, then the unused savings is to be allocated first to Program 45.45 in an amount sufficient to cover the shortfall. This same amount of unused savings is also to be held to ensure adequate funds are available in FY 2014–2015 to cover the mandated case types and domestic violence matters.
 - In FY 2014–2015, upon review and approval of the TCBAC, all remaining unused savings is to be allocated to each interpreter region pursuant to the percentages established in Recommendation 1. If (a) requests for reimbursement from the TCTF Program 45.45 appropriation in FY 2014–2015 exceed the

amount of money in that fund, and (b) the unused savings has not been exhausted by the end of FY 2014–2015, then the remaining unused savings is to be allocated to the unsatisfied requests for reimbursement.

4. Directed AOC staff to seek the necessary expenditure authority to permit reimbursement from the unused savings in FY 2013–2014 and FY 2014–2015. If there is additional unused savings in FY 2013–2014 from the Program 45.45 appropriation, that amount is to be added to the total reimbursement that each region, and the two unaffiliated courts, are eligible to receive in FY 2014–2015.
5. Directed that expenditures for requests for reimbursement that result from providing interpreters for indigent parties in civil cases be tracked separately and monthly to determine how quickly the unused savings is being spent, and directed AOC staff to create the necessary procedures that would collect this data from the Phoenix Financial System.

Item 6 Judicial Branch Education: 2014–2016 Education Plan

The Governing Committee of the Center for Judicial Education and Research (CJER) recommended approval of the 2014–2016 Education Plan, effective July 1, 2014. Developed by the CJER Governing Committee for all the judicial branch audiences that CJER serves, this education plan contains training and education programs and products that enable those audiences to fulfill the education requirements and expectations outlined in rules 10.451–10.491 of the California Rules of Court.

Council action

The Judicial Council approved the education plan for FY 2014–2015 and FY 2015–2016, effective July 1, 2014, enabling the CJER Governing Committee and CJER staff to initiate the education and training they are required and expected to deliver to the multiple judicial branch audiences they serve.

Item 7 Judicial Council Report to the Legislature: Supplementary Schedule of Operating Expenses and Equipment for Fiscal Year 2013–2014

The AOC Fiscal Services Office presented the AOC’s *Supplementary Schedule of Operating Expenses and Equipment for Fiscal Year 2013–2014*, which was formerly submitted by AOC staff to the Legislature in compliance with the Legislative Analyst’s Office *Supplemental Report of the 2010–2011 Budget Package*. Because of policy changes, the report was submitted to the Judicial Council as an informational item. The information contained in the report was obtained from the AOC accounting system and technical budget schedules submitted to the Department of Finance as part of the 2014–2015 annual budget development process.

No council action

New Item Judicial Branch Report to the Legislature: \$60 Million Augmentation in the 2013 Budget Act

The AOC recommended approval of the report, *\$60 Million Augmentation in the 2013 Budget Act: Individual Court Plans Including Activities Intended to Maintain or Increase Public Access to Justice*, which is required by Provision 12 of item 0250-101-0001 of the Budget Act of 2013.

Council action

The Judicial Council, effective April 24, 2014, approved the report, *\$60 Million Augmentation in the 2013 Budget Act: Individual Court Plans Including Activities Intended to Maintain or Increase Public Access to Justice*, and directed the AOC to submit the report to the Legislature.

**FRIDAY, APRIL 25, 2014
OPEN MEETING (RULE 10.6 (A))—BUSINESS MEETING**

Judicial Council members present: Chief Justice Tani G. Cantil-Sakauye; Justices Judith Ashmann-Gerst, Harry E. Hull, Jr., and Douglas P. Miller; Judges Stephen H. Baker, James R. Brandlin, David De Alba, Emilie H. Elias, Teri L. Jackson, Gary Nadler, Mary Ann O’Malley, David Rosenberg, David M. Rubin, and Dean T. Stout; Mr. Mark G. Bonino and Mr. James P. Fox; **advisory members present:** Judges Robert A. Glusman, James E. Herman, Morris D. Jacobson, Brian L. McCabe, Kenneth K. So, Charles D. Wachob, and Brian Walsh; Supreme Court Clerk Frank A. McGuire; Commissioner Sue Alexander; Court Executive Officers Mary Beth Todd and David H. Yamasaki; **secretary to the council:** Judge Steven Jahr, Administrative Director of the Courts.

Members absent: Justice Marvin R. Baxter; State Senator Noreen Evans; Assembly Member Richard Bloom; Ms. Angela J. Davis and Mr. Mark P. Robinson, Jr.

Speakers present: Administrative Presiding Justice Brad R. Hill, Court of Appeal, Fifth Appellate District; Presiding Justice Tricia Ann Bigelow, Court of Appeal, Second Appellate District, Division Eight; Associate Justice Richard D. Huffman, Court of Appeal, Fourth Appellate District, Division One; Associate Justice Raymond J. Ikola, Court of Appeal, Fourth Appellate District, Division Three; Presiding Judge Dodie A. Harman, Superior Court of California, County of San Luis Obispo; Presiding Judge Marsha Slough, Superior Court of California, County of San Bernardino; Judge Brian John Back, Superior Court of California, County of Ventura; Judge Steven A. Brick, Superior Court of California, County of Alameda; Judge Desiree A. Bruce-Lyle, Superior Court of California, County of San Diego; Judge Samuel K. Feng, Superior Court of California, County of San Francisco; Judge John William Kennedy, Superior Court of California, County of Contra Costa; Judge Patricia M. Lucas, Superior Court of California, County of Santa Clara; Judge Richard Vlavianos, Superior Court of California, County of San Joaquin; Judge J. Richard Couzens (Ret.), Superior Court of California, County of

Placer; Ms. Susan E. Matherly, Court Executive Officer, Superior Court of California, County of San Luis Obispo; Mr. Michael D. Planet, Court Executive Officer, Superior Court of California, County of Ventura; Ms. Karen Pank, Executive Director, Chief Probation Officers of California; Ms. Linda Penner, Chair, Board of State and Community Corrections; Mr. Nick Warner, Policy Director, California State Sheriff's Association; Ms. Elizabeth Howard Espinosa, Senior Legislative Representative, Administration of Justice, California State Association of Counties; **members of the public:** Mr. London Biggs, Mr. Martin T. Fox, Ms. Kathleen Howard, Ms. Anita Lee, and Mr. Rye P. Murphy; **media representatives:** Ms. Maria Dinzeo, *Courthouse News Service*; Mr. Paul Jones, *Daily Journal*.

Call to Order

The Chief Justice reconvened the meeting at 8:30 a.m. in the Malcolm M. Lucas Board Room of the William C. Vickrey Judicial Council Conference Center in the Ronald M. George State Office Complex.

Judicial Council Internal Committee Presentations

Policy Coordination and Liaison Committee (PCLC)

Judge So, Chair, reported that the committee met five times since his last report at the February council meeting, three times in March and twice in April, to take positions on behalf of the council on 19 pieces of legislation. The committee approved 7 legislative proposals to be circulated for comment and adopted recommendations on 1 proposal for Judicial Council sponsorship. Judge So proceeded by highlighting only the bills that appeared on the council's discussion agenda for this meeting and noted that all other actions by the committee are reflected in the committee meeting minutes posted with the council business meeting agenda.

Judge So reported that, on March 6, PCLC acted to support, if amended and funded, Assembly Bill 1591 related to the firearm reporting requirements to the California Department of Justice. At its March 27 meeting, the committee recommended council sponsorship of a legislative proposal on civil restraining orders; took a neutral position on AB 1932, which relates to appellate court decisions; took a support position on AB 2195, dealing with juvenile truancy; and voted to oppose AB 2089, dealing with domestic violence, unless amended—the committee voted to take a neutral position if amended. Judge So reported that the committee met twice, on March 18 and April 10, to address AB 2085, which is the one-time amnesty program for fines and bail. The committee's initial position was to oppose the bill; however, after further discussion, the committee withdrew its opposition, instead taking no position and directing staff to work with the author of the bill and other interested parties. He noted that the bill is a potential revenue-raising measure. On April 17, the committee continued sponsorship of AB 1657's original intention to provide interpreter services to parties in all cases. The committee also voted to support, if funded, AB 1773, dealing with public contracts, and it took a neutral position, if amended, on AB 2476, relating to the Public Employees Pension Reform Act of 2013.

Judge So added that the Bench-Bar Coalition’s meeting in Sacramento occurred on the same day as the State of the Judiciary, which provided an opportunity to meet with many legislators on issues of critical importance to the branch. Judge So concluded by reporting that Judicial Council–sponsored proposals have all been introduced to the Legislature and continue to proceed through the legislative process. The committee will continue to keep the council informed of the progress of council-sponsored legislation and other bills of interest to the judicial branch.

Executive and Planning Committee (E&P)

Justice Miller, Chair, noted that his written report would be posted online after the meeting with the agenda for this meeting. He began his supplemental report by thanking the California Judges Association (CJA) and, specifically, its president, Judge Robert A. Glusman, Superior Court of Butte County, for their interest in the Judicial Council and the interview the CJA conducted of him as chair of E&P. Justice Miller expressed his appreciation for the opportunity to explain the workings of the committee in detail. His hope is that the CJA will take the opportunity to interview others on the council.

Justice Miller reported that the committee met on April 23 to review the annual agendas of the advisory bodies for which it has oversight. He expressed that this review is one of the more significant reforms instituted by the Chief Justice and the Judicial Council. Before this reform was instituted, a number of the council’s advisory bodies were under limited or no council direction or guidance. Justice Miller noted that the lack of governance was brought to the attention of the council by the Strategic Evaluation Committee, and he again thanked council members Judge Wachob and Judge McCabe for their work on that committee and for bringing the issue and others to the council’s attention. Through the implementation of the AOC Restructuring Directives, the council has streamlined the number of its advisory bodies and has ensured that every single advisory body reports to one of the council’s internal committees.

Justice Miller concluded his supplemental report by thanking the Chief Justice for her constant outreach efforts. Although the Chief Justice recounted these efforts in her report for this meeting, Justice Miller attested to the passion and intellect that she demonstrates when informing the council and the public about the judicial branch. Justice Miller reported that, after a function in Sonoma, an eighth-grade girl was quoted in the newspaper saying that, after listening to the Chief Justice, she realized that anything is possible. Justice Miller reported that he also had the privilege to be on the stage in March with the Chief Justice at an event in San Bernardino. He noted that many of the members approached him and expressed how inspiring the Chief Justice was to them.

Rules and Projects Committee (RUPRO)

Justice Hull, Chair, reported that the committee met four times and considered one report by e-mail since his last report during the February council meeting. On March 21, the committee met by teleconference to review (1) the annual agenda of the Mental Health Implementation Task Force, (2) two templates to be used by advisory committees in their communications with RUPRO, and (3) 10 proposals that were circulated for public comment during the winter rules

cycle. Justice Hull reported that the committee approved the task force's annual agenda and the two templates. The committee also recommended approval of the 10 proposals, which appeared as Items A1 through A9 on the April 25 consent agenda and Item M on the April 25 discussion agenda for this meeting. On April 11 and 15, the committee met jointly with E&P by teleconference to consider the rule proposal on open meetings of the council's internal and advisory groups. The committee recommended approval of the rule proposal, which appeared as Item 1 on the council's April 24 discussion agenda for this meeting. Justice Hull reported that the committee met on April 16 by videoconference to consider 20 proposals to circulate for public comment during the spring rules cycle. The committee approved 16 of the 20 proposals, and those 16 are currently posted for public comment through June 18. Justice Hull indicated that after the public comment period and after further review by the committee and the appropriate advisory committees, these proposals are expected to be included on the council's October business meeting agenda. Justice Hull concluded by reporting that the committee also considered by e-mail a technical amendment report relating primarily to technical amendments to forms to avoid potential confusion by judicial officers, court clerks, and court users, and recommended approval of the report, which appeared as Item A10 on the April 25 consent agenda for this meeting.

Judicial Council Technology Committee (JCTC)

Judge Herman, Chair, began his report by welcoming two newly appointed members to the committee: Judges Rubin and Nadler. He noted that both of them have chaired their local court technology committees and that Judge Nadler has been a long-time member of the council's Court Technology Advisory Committee (CTAC).

Judge Herman reported that the committee held one in-person meeting and two teleconferences since his last report during the February council meeting. One of the issues that the committee addressed was the recommendation from the Trial Court Budget Advisory Committee that JCTC develop a plan to eliminate subsidies to V3 and Sustain Justice Edition (SJE) systems hosted by the California Courts Technology Center (CCTC). During its April 3 meeting, the committee approved additional hours for the AOC ITSO staff to implement the Superior Court of Imperial County's request for installation of an Interactive Voice Response/Interactive Web Response interface allowing the public to pay traffic and criminal fines online. Judge Herman reported that the committee also approved the proposed funds distribution for jury grant programs for the 2013–2014 budget year and received updates on the remote video interpreting and funding strategies for technology, in addition to updates on other subjects.

During its April 23 meeting, the committee continued to discuss potential methodologies, with the assistance of AOC staff, relating to the elimination of funding from the State Trial Court Improvement and Modernization Fund and Trial Court Trust Fund to the eight CCTC-supported SJE courts. The committee also explored the impact that the elimination of the subsidies would have on these courts, reductions in subsidies in relation to the Workload-Based Allocation and Funding Methodology (WAFM), and the courts' current deficits. Judge Herman indicated that six of the eight courts are historically underfunded courts by way of the WAFM evaluation.

Judge Herman reported that, as committee chair, he attended the CTAC meeting held on April 10 and the Information Technology Managers Forum held on April 28 in Santa Barbara. He expressed his appreciation for the forum's assistance on a number of the committee's projects, including the Technology Planning Task Force.

Judge Herman reported that the Technology Planning Task Force distributed the *Technology Governance, Strategy, and Funding Proposal: Executive Summary* for branch review from March 18 to April 7. He indicated that the task force received 32 individual comments from 13 courts and one working group. On April 17, the task force posted the proposed plan for a 60-day public comment period. After the public comment period closes, the proposed plan will be submitted to the JCTC and then the Judicial Council for approval. Judge Herman reminded the council that a joint governance subgroup was formed between JCTC and CTAC, in anticipation of council action on the proposed plan, to review governmental issues before the council's July meeting. The subgroup includes, from JCTC, Judge Herman, Chair; Judge De Alba, committee Vice-Chair; Justice Ashmann-Gerst; and Judge Jackson; and, from CTAC, Justice Terence Bruiniers, Chair; Judge Reiser, Vice-Chair; Judge Buckley; Mr. Jake Chatters, Court Executive Officer; and Mr. Robert Oyung, Chief Technology Officer.

Judge Herman reported that CTAC disseminated a trial court e-filing survey, the results of which will be helpful in developing plans for e-filing. He noted that the copies have been provided to the council.

Judge Herman provided an update on JCTC's response to the California State Auditor's report on the judicial branch procurement audit. He reported that the audit, although on judicial branch procurement, also addressed electronic data security and security of data systems, both physical and virtual, supporting procurement activities. Judge Herman noted that the audit did not identify any actual security breaches; therefore, it is a theoretical report that addresses various ways that system security can be improved. The audit identified no situations in which the data in the systems were incorrect or inaccurate, which is important because the Phoenix and Oracle financial accounting systems, in terms of the financial reporting, must be accurate in branch reporting because of the degree to which the judicial branch, the State, and our justice partners depend on that reporting. Judge Herman reported that major findings of the report identified the need to create or adopt, and then implement, a framework of information systems controls for the judicial branch to (1) improve controls over access to systems, (2) implement the established best practices for general and business process application controls as outlined in the U.S. GAO's audit manual, (3) keep contingency planning and disaster recovery plans updated and current, and (4) correct system control weaknesses identified in the internal audit services reports. In terms of progress, Judge Herman reported that the information systems security controls framework is on schedule to be adopted at the state level by the June 30 deadline. Efforts are under way to identify any factors that would prevent full implementation by the December 31 deadline. At the trial court level, meeting the audit recommendations and the timelines suggested is more difficult because of budget constraints. The courts, however, are being provided with support in terms of what the national standards should be relative to security of information

technology systems and in terms of meeting the security recommendation deadlines. Judge Herman concluded by reporting that a framework template will be available—that can be adopted by trial courts that may not already have a framework of their own in place—internally identified in the audit report by June 2014.

Judicial Council Members' Trial Court Liaison Reports

The following Judicial Council members reported on their liaison visits with their assigned courts:

- Justice Judith Ashmann-Gerst, on the Superior Court of Mono County; and
- Judge Dean T. Stout, on his visit to the Superior Court of Kern County.

Public Comment

Mr. Martin T. Fox, Attorney at Law, commented on a general topic of judicial administration. He also submitted a written copy of his comments (see Attachment 2).

Consent Agenda (Items A1–A10 to F)

ITEMS A1–A10 RULES AND FORMS

Appellate

Item A1 Judicial Administration: Membership of Appellate Advisory Committee

The Appellate Advisory Committee recommended amending the rule that establishes the membership of the committee to add a new membership category for an appellate lawyer of the Court of Appeal or Supreme Court.

Council action

The Judicial Council, effective July 1, 2014, amended rule 10.40 of the California Rules of Court to add a new membership category for an appellate lawyer of the Court of Appeal or Supreme Court.

Civil and Small Claims

Item A2 Civil Forms: Revision of Wage Garnishment Forms to Reflect Change in Minimum Wage

The Civil and Small Claims Advisory Committee recommended the amendment of two wage garnishment forms. Assembly Bill 10 (Stats. 2013, chap. 351) increases the minimum wage, effective July 1, 2014. This change in minimum wage will change the maximum amount of a judgment debtor's earnings that may be garnished under an earning withholding order. Two mandatory Judicial Council forms, *Earnings Withholding Order (Wage Garnishment)*

(form WG-002) and *Earnings Withholding Order for Elder and Dependent Adult Financial Abuse (Wage Garnishment)* (form WG-030), include instructions to employers describing the maximum amounts that may be garnished. These forms were recommended to be amended, effective July 1, 2014, so that they will describe the correct amounts to be garnished based on the increased minimum wage. No other changes were recommended.

Council action

The Judicial Council amended *Earnings Withholding Order (Wage Garnishment)* (form WG-002) and *Earnings Withholding Order for Elder and Dependent Adult Financial Abuse (Wage Garnishment)* (form WG-030) to reflect new minimum wage amounts, effective July 1, 2014.

Item A3 Civil Forms: Name Change and Gender Change Petitions

The Civil and Small Claims Advisory Committee recommended that several Judicial Council name change forms be amended. Recently enacted Assembly Bill 1121 (Stats. 2013; ch. 651) made several changes in the laws regarding certain petitions for name changes and for changes of gender and issuance of new birth certificates, effective July 1, 2014. Revisions to the Judicial Council forms were required in order for the forms to properly reflect the new statutory requirements in the courts, in particular, the elimination of the publication requirement when a petitioner seeks to change his or her name to conform to a change in gender identity and the elimination of the requirement for a court order for issuance of a new birth certificate by the State Registrar reflecting a change of sex.

Council action

The Judicial Council revised the following forms, effective July 1, 2014, to be consistent with the changes in statute enacted in Assembly Bill 1121:

1. Amended the following forms to implement the new provisions that exempt petitions for a name change sought to conform the petitioner's name to his or her gender identity from any publication requirement:
 - *Petition for Change of Name* (form NC-100);
 - *Name and Information About the Person Whose Name Is to Be Changed* (form NC-110);
 - *Petition for Change of Name and Gender* (form NC-200); and
 - *Order to Show Cause for Change of Name* (form NC-220).

2. Added a new information box and new instructions to *Petition for Change of Gender and Issuance of New Birth Certificate* (form NC-300) to reflect the new provisions that a person may ask the State Registrar, without a court order, to issue a new birth certificate to reflect a change of sex.

Item A4 Restraining Orders: Update Forms to Reflect Recent Changes in the Law

The Civil and Small Claims Advisory Committee recommended that the Judicial Council revise 34 restraining order forms to reflect recent changes in the law.

Council action

The Judicial Council, effective July 1, 2014, revised the following restraining order forms to be consistent with recent changes in the law:

1. Civil harassment prevention forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, CH-200, CH-800, CH-800-INFO;
2. Elder and dependent adult abuse prevention forms EA-100, EA-110, EA-120, EA-120-INFO, EA-130, EA-200, EA-800, EA-800-INFO;
3. Private postsecondary violence prevention forms SV-100, SV-110, SV-120, SV-120-INFO, SV-130, SV-200, SV-800, SV-800-INFO; and
4. Workplace violence prevention forms WV-100, WV-110, WV-120, WV-120-INFO, WV-130, WV-200, WV-800, and WV-800-INFO.

Criminal Law

Item A5 Criminal Procedure: Criminal Protective Order Forms

The Criminal Law Advisory Committee recommended revising the Judicial Council criminal protective order forms, *Criminal Protective Order—Domestic Violence* (form CR-160), *Criminal Protective Order—Other Than Domestic Violence* (form CR-161), *Order to Surrender Firearms in Domestic Violence Case* (form CR-162), and *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165). The recommended revisions were in response to a rule of court that addresses firearm relinquishment hearings and to recent legislation that expands court authority to issue criminal protective orders, authorizes courts to order electronic monitoring in specified circumstances, prescribes a new firearm relinquishment option, and clarifies enforcement priorities for no-contact orders in criminal and civil protective orders. The committee also recommended several revisions to the forms' content, format, instructions, and advisements.

Council action

The Judicial Council, effective July 1, 2014, revised *Criminal Protective Order—Domestic Violence* (form CR-160), *Criminal Protective Order—Other Than Domestic Violence* (form CR-161), *Order to Surrender Firearms in Domestic Violence Case* (form CR-162), and *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165) as follows:

1. Added a check box to the captions of forms CR-160 and CR-161 for courts to indicate that the order was issued under Penal Code section 136.2(i)(1);
2. Revised item 3 on form CR-165 to conform with statutory requirements for transmitting termination orders to the California Department of Justice;
3. Added data fields to item 4 on forms CR-160 and CR-161 to include the gender and age of each protected person;
4. Added a check box to item 6 on form CR-160 and item 5 on form CR-161 to notify law enforcement that the court has received information that the defendant may have access to a firearm or ammunition;
5. Added a new statutory storage option to the firearm relinquishment orders in item 8 on form CR-160, item 7 on form CR-161, and item 4 on CR-162;
6. Added a check box to item 8 on form CR-160, item 7 on form CR-161, and item 4 on form CR-162 for courts to note the following statutory firearm relinquishment exemption: “The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., §527.9(f).”;
7. Added a data field to item 8 on form CR-160 and item 4 on form CR-162 for courts to set certain firearm relinquishment review hearings;
8. Added a check box to item 11 on form CR-160 and item 10 on form CR-161 for courts to make statutorily authorized electronic monitoring orders;
9. Revised the “peaceful contact” exceptions in item 16 on form CR-160 and in item 14 on form CR-161 to include court-ordered visitation;
10. Updated and clarified the enforcement priorities for conflicting protective orders in provision 4 on page 2 of forms CR-160 and CR-161;
11. Deleted as unnecessary (a) the “CLETS Entry By” text box in the caption of forms CR-160, CR-161, and CR-162; (b) the “peace officer” data fields in the box under the caption used to describe the restrained person on forms CR-160, CR-161, and CR-162; (c) the form distribution key at the bottom of all forms; (d) the check boxes in the caption of form CR-165 used to identify the type of order being terminated; and (e) the “Arresting Agency” text box in the caption of form CR-165; and
12. Revised the format, content, instructions, and advisements to reduce confusion and enhance the information on all four forms, including bolding the expiration date provision in item 2 on forms CR-160, CR-161, and CR-162.

Family and Juvenile Law

Item A6 Domestic Violence: Firearms Relinquishment in Family and Juvenile Law Restraining Order Cases

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council adopt rule 5.495 of the California Rules of Court to provide a procedure for courts issuing family and juvenile law domestic violence restraining orders to determine whether a restrained person has complied with the court's order to relinquish any prohibited firearms the restrained person owns, possesses, or controls, as specified in Family Code section 6389(c).

Council action

The Judicial Council, effective July 1, 2014, adopted rule 5.495 of the California Rules of Court to provide a procedure for courts issuing family and juvenile law domestic violence restraining orders to determine whether a restrained person has complied with the court's order to relinquish any prohibited firearms the restrained person owns, possesses, or controls, as specified in Family Code section 6389(c). The rule applies to all protective orders as defined in Family Code section 6218 and Welfare and Institutions Code section 213.5.

Item A7 Domestic Violence: Changes to Rule and Forms for Family and Juvenile Law Restraining Orders

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council, effective July 1, 2014, amend a juvenile law rule and revise restraining order forms used in Domestic Violence Prevention Act and juvenile law cases to implement recently enacted legislation and to respond to suggestions from judicial officers, court professionals, and members of the public.

Council action

The Judicial Council, effective July 1, 2014, revised forms DV-100, DV-110, DV-120, DV-120-INFO, DV-130, DV-180, DV-710, DV-800/JV-252, DV-800-INFO/JV-252-INFO, JV-200, JV-205, JV-247, JV-250, and JV-255 and amended rule 5.630 to implement recently enacted legislation and to respond to suggestions from judicial officers, court professionals, and members of the public.

Item A8 Juvenile Law: Remote Filing

The Family and Juvenile Law Advisory Committee recommended amending rule 5.522 of the California Rules of Court to (1) allow for the electronic filing of documents in juvenile dependency and delinquency court proceedings, consistent with rule 2.252 et seq. and section 1010.6 of the Code of Civil Procedure; and (2) clarify and update the fax filing portions of the rule. The committee also recommended a delayed effective date of January 1, 2015, to allow

courts time to develop or revise local rules. The Trial Court Presiding Judges and the Court Executives Advisory Committees suggested allowing for the electronic filing of documents in juvenile court proceedings as a means of improving court efficiency, achieving costs savings, and incorporating modern technology.

Council action

The Judicial Council, effective January 1, 2015:

1. Amended the title of rule 5.522 from “Fax filing” to “Remote filing,” and included provisions throughout the amended rule that apply to both fax and electronic filing in juvenile court proceedings;
2. Amended subdivision (a)(2) to update the fax filing terminology and to clarify that a modern fax machine may include an electronic device capable of receiving a fax transmission, as defined in rule 2.301;
3. Added a new subdivision (b)(1), “Electronic filing,” to clarify that documents may be electronically filed in juvenile dependency and delinquency court proceedings, as provided under and consistent with rule 2.252 et seq.;
4. Added a new subdivision (b)(2) to provide for local procedures governing direct electronic filing or indirect filing through an electronic filing service provider;
5. Added a new subdivision (b)(3) to ensure that electronic filing must be conducted in a manner that preserves and ensures the confidentiality of records;
6. Added a new subdivision (b)(4) to clarify that this rule does not incorporate the electronic service provisions in rule 2.251;
7. Amended the rule generally to allow fax filing and electronic filing by “local rule” only but in (c)(3) retain the ability of local courts to disseminate the fax number and business hours during which fax filing will be accepted by other written instruction;
8. Amended current subdivision (g)(1)–(2) (new subdivision (c)(6)(A)) to allow for greater flexibility in the protocol for securing the confidentiality of the documents subject to fax filing; and
9. Incorporated structural and technical amendments to the fax portions of the rule.

Miscellaneous

Item A9 Judicial Branch Education: Trial Court Employee Education

RUPRO recommended that the Judicial Council amend rule 10.474, which addresses education for trial court managers, supervisors, and other personnel. The amendments respond to direction given to RUPRO by the council in August 2012 to evaluate relaxation of mandatory education requirements to allow court executive officers greater discretion and flexibility in utilizing their workforces during times of budget constraints.

Council action

The Judicial Council amended rule 10.474 of the California Rules of Court, effective January 1, 2015, to allow court executive officers to:

1. Determine the number of hours, if any, of live, face-to-face education required to meet the continuing education requirement; and
2. For good cause, grant a one-year extension of time to complete the education requirements.

Item A10 Rules and Forms: Miscellaneous Technical Changes

Court personnel and members of the public have identified modifications that need to be made to certain forms for them to conform to the law and have pointed out an ambiguity in the language of a recently amended ethics standard that needs to be clarified. The AOC recommended making the necessary corrections to avoid confusion for court users, clerks, and judicial officers.

Council action

The Judicial Council, effective July 1, 2014:

1. Revised forms Judicial Council forms EJ-001, EJ-100, EJ-150, and EJ-190 to increase the size of the recorder's box to conform exactly to the requirements of Government Code section 27361.6;
2. Revised Judicial Council form APP-004 to reflect a recent rule amendment that changed the deadline for filing this form; and
3. Amended standard 8 of the Ethics Standards for Neutral Arbitrators in Contractual Arbitration to clarify that, in making certain disclosures, arbitrators may rely on information supplied by arbitration provider organizations that is even more recent than the outer date limit set by this standard.

Item B Access to Visitation Grant Program: New Funding Methodology

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the proposed new funding methodology for California's Access to Visitation Grant Program, effective federal fiscal year 2015–2016, which begins on April 1 and ends on March 31. The new funding methodology was proposed in response to the Judicial Council's directive to (1) create an Access to Visitation Stakeholder Workgroup charged with proposing new funding options for fiscal year 2015–2016; and (2) make final recommendations to the council on ways to streamline the grant application processes and develop alternatives that more equitably distribute funding while maintaining program objectives.

Council action

The Judicial Council, effective April 25, 2014, adopted the following new funding allocation methodology for the Access to Visitation Grant Program:

1. An open request for proposals (RFP) process will be conducted for the superior courts to apply for federal fiscal year funding for 2015–2016 in June or July 2014.
2. Subject to the availability of federal funding, the superior courts selected by the Judicial Council for grant funding will receive continuation funding for three years (from federal fiscal years 2015–2016 through 2017–2018).
3. The RFP process will open up again in federal fiscal year 2018–2019 for another three-year funding period, with a permanent open RFP process repeating every three years and grant funding provided to the selected courts for a three-year period.
4. Grant funding amounts will be divided into three categories: a maximum of \$45,000, a maximum \$60,000, and a maximum of \$100,000.
5. Two demographic factors will be used to determine which of the three funding categories would apply to a given court: (1) the number of single-parent households in the county, from U.S. Census data; and (2) the number of individuals with income below the federal poverty level in the county, per U.S. Census data.
6. Grant funds that may become available when a grantee court withdraws from the program or does not spend its full grant award would be distributed to courts that are currently receiving Access to Visitation grant funds through a midyear reallocation process based on a needs assessment of all requesting courts, with an opportunity given to courts to submit a justification for why they should receive additional funding.

Item C Child Support: Midyear Funding Reallocation for Fiscal Year 2013–2014 and Base Funding Allocation for Fiscal Year 2014–2015 for the Child Support Commissioner and Family Law Facilitator Program

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council approve the reallocation of funding for the Child Support Commissioner and Family Law Facilitator Program for the remainder of FY 2013–2014. Additionally, the committee recommended that the Judicial Council approve the allocation of funding for this same program for FY 2014–2015, as required by Assembly Bill 1058 (Stats. 1996, ch. 957). The funds are provided through a cooperative agreement between the California Department of Child Support Services and the Judicial Council. At midyear, under an established procedure described in the standard agreement with each superior court, the Judicial Council redistributes to courts with a documented need for additional funds any unallocated funds and any available funds from courts that are projected not to spend their full grants that year. The courts are also offered an option to use local court funds up to an approved amount to draw down, or qualify for, federal matching funds.

Council action

The Judicial Council, effective April 25, 2014:

1. Approved the reallocation for funding of child support commissioners for FY 2013-2014, subject to the state Budget Act;
2. Approved the reallocation for funding of family law facilitators for FY 2013–2014, subject to the state Budget Act;
3. Approved allocation for funding of child support commissioners for FY 2014–2015, subject to the state Budget Act; and
4. Approved the allocation for funding of family law facilitators for FY 2014–2015, subject to the state Budget Act.

Item D Judicial Council Report to the Legislature and the Department of Finance: 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2013–2014

The AOC recommended that the Judicial Council approve the *Report on the Allocation of the 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2013–2014*. Government Code section 68502.5(c)(2)(C) requires that the Judicial Council report to the Legislature and the Department of Finance each fiscal year regarding all requests and allocations made from the 2 percent set-aside in the Trial Court Trust Fund to the superior courts.

Council action

Effective April 25, 2014, the Judicial Council approved the *Report on the Allocation of the 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2013–2014* and directed the AOC to submit the report to the Legislature and the Department of Finance.

Item E Judicial Branch Report to the Legislature: Electronic Recording Equipment

The AOC recommended that the Judicial Council approve the *Report on Purchase or Lease of Electronic Recording Equipment by Superior Courts (July 1–December 31, 2013)*. Government Code section 69958 requires that the Judicial Council report to the Legislature semiannually on all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

Council action

The Judicial Council approved the *Report on Purchase or Lease of Electronic Recording Equipment by Superior Courts (July 1–December 31, 2013)* and directed the AOC to submit the report to the Legislature.

Item F Judicial Council–Sponsored Legislation: Amend Civil Restraining Order Statutes to Clarify Procedures for Continuance of Hearings

The Policy Coordination and Liaison Committee and Civil and Small Claims Advisory Committee recommended that the Judicial Council sponsor legislation to amend the statutes on civil restraining orders to clarify and improve the procedures for continuing hearings.

Council action

The Judicial Council approved sponsoring legislation to amend, effective July 1, 2015:

1. Code of Civil Procedure section 527.6 on restraining orders to prevent civil harassment;
2. Code of Civil Procedure section 527.8 on restraining orders to prevent workplace violence;
3. Code of Civil Procedure section 527.85 on restraining orders to prevent private postsecondary school violence; and
4. Welfare and Institutions Code section 15657.03 on restraining orders to prevent elder and dependant adult abuse.

Educational Agenda (Items G and H)

Item G Criminal Justice Realignment

Introduction and Background

The Criminal Justice Realignment, enacted in 2011, marked one of the most significant changes in criminal law in the last 30 years. Presenters provided a brief overview of the law and highlighted the sentencing changes and new roles and responsibilities of the courts.

What's Happening Locally—Perspectives of State and Local Government

Representatives of state and local government discussed their roles, efforts, and observations related to implementation of the realignment.

Judicial Council Advisory Committee Panel

The committee chairs of the advisory committees and the liaison to the AOC Criminal Justice Court Services Office provided updates on initiatives, proposed positions on realignment-related legislation, and recent discussions related to the realignment, including the perspectives and challenges of the trial courts as discussed at the January 31, 2014, Trial Court Presiding Judges Advisory Committee meeting.

Post-Realignment Innovative Programs and Practices

After the passage of the realignment, many courts established or expanded existing programs as they worked with justice system partners to address local needs. The panel discussed three programs that are currently operating in California.

Item H Odyssey Case Management System Deployment

As part of the March 27, 2012, Judicial Council action to stop the deployment of CCMS V4 as a statewide case management system, the council directed the Judicial Council Technology Committee to help the early adopter court (Superior Court of San Luis Obispo County) with its case management system. The court selected the Tyler Technologies Odyssey case management system and went live with the new system in January 2014. The presiding judge of the Superior Court of San Luis Obispo County provided an update on the court's deployment of the Odyssey Case Management System as well as a demonstration.

Discussion Agenda (Items I–O)

Item I Court Facilities: AOC Judicial Branch Capital Program Office’s Capital Program Management Manual

The Court Facilities Advisory Committee recommended that the Judicial Council approve the AOC’s *Judicial Branch Capital Program Management Manual* to guide the strategic management of the judicial branch’s courthouse construction program. This manual has been prepared at the Judicial Council’s direction as one of the recommendations of the *California Courthouse Capital Program Management Audit Report* prepared by Pegasus Global Holdings, Inc., which was adopted by the council in October 2012.

Council action

The Judicial Council, effective April 25, 2014, approved the AOC’s *Judicial Branch Capital Program Management Manual* to guide the strategic management of the judicial branch’s courthouse construction program.

Item J Court Facilities: Revised Courthouse Naming Policy

The Court Facilities Advisory Committee recommended the Judicial Council adopt the revised *Courthouse Naming Policy* and approve the standard names of new courthouses that are completed or presently under construction. This revision replaces the current, interim policy that was adopted on behalf of the Judicial Council by its Executive and Planning Committee in 2009.

Council action

The Judicial Council, effective April 25, 2014:

1. Adopted the revised *Courthouse Naming Policy*, and
2. Approved the standard names of new courthouses that are completed or presently under construction.

Item K Trial Court Efficiencies: Task Force on Trial Court Fiscal Accountability Efficient and Effective Program Recommendations

The Task Force on Trial Court Fiscal Accountability was created by the Judicial Council to focus on identifying efficient and effective trial court programs and practices that provide greater access to justice. In response to this charge, the task force recommended that the Judicial Council approve the development and implementation of a web-based Innovation Knowledge Center as a means of highlighting and sharing innovative, efficient, and effective trial court programs, with the goal of encouraging the replication of these programs as appropriate in courts across the state.

Council action

The Judicial Council, effective April 25, 2014:

1. Approved the development and implementation of a web-based Innovation Knowledge Center on the Serranus website to house innovative, efficient, and effective trial court programs, with a launch date of May 2014.
2. Authorized the creation of a Joint Trial Court Efficiencies and Innovations Working Group of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) to provide ongoing oversight for maintaining and updating information and programs on the Innovation Knowledge Center and to identify and implement activities to promote and encourage the use of identified programs.
3. Approved the task force recommendation that part of the charge of the new Joint Trial Court Efficiencies and Innovations Working Group subsume the activities of the TCPJAC/CEAC Joint Working Group on Trial Court Business Process Reengineering and the Trial Court Efficiencies Working Group.
4. Directed the Trial Court Leadership Services Unit of the AOC Trial Court Liaison Office to support the new working group.
5. Directed that the task force sunset as a formal body in anticipation of the activities of the Chief Justice's new commission and that the directives contained in the task force's charge that have not yet been addressed be returned to the Judicial Council to be reassigned.

Item L Judicial Branch Administration: Audit Report for Judicial Council Acceptance

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch and the AOC recommended that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Yuba*. This acceptance would be consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

Council action

The Judicial Council, effective April 25, 2014, accepted the "pending" audit report, dated August 2013, entitled *Audit of the Superior Court of California, County of Yuba*, resulting in progression of the audit report from "pending" to "final" status and publication of the final report on the California Courts public website.

Item M CEQA Actions: Rules to Implement Senate Bill 743

The Civil and Small Claims Advisory Committee and the Appellate Advisory Committee recommended adopting new rules of court and amending existing rules to fulfill the Judicial Council's obligation under recently enacted legislation to adopt rules on or before July 1, 2014, to implement expedited procedures for resolution of actions or proceedings under the California Environmental Quality Act attacking certain large development projects.

Council action

The Judicial Council, effective July 1, 2014:

1. Amended rule 3.1365, renumbered rules 3.2205 and 3.2208, and renumbered and amended rules 3.2206–3.2207 to move the procedural rules for actions in the superior court under the California Environmental Quality Act (CEQA) to a new division within title 3, Civil Rules;
2. Adopted rules 3.2200 and 3.2220–3.2237 to implement expedited trial court procedures for CEQA cases under Public Resources Code sections 21168.6.6 and 21178–21189.3;
3. Amended rule 8.104 to exempt appeals in CEQA cases under Public Resources Code sections 21168.6.6 and 21178–21189.3 from the general rules regarding appeals;
4. Repealed rule 8.497, which set out appellate procedures for CEQA cases under a statute that has now been amended; and
5. Adopted rules 8.700–8.705 to implement expedited appellate procedures for CEQA proceedings under Public Resources Code sections 21168.6.6 and 21178–21189.3.

Item N AOC Restructuring: Policy 8.9, Working Remotely (Telecommuting) Pilot Program—One-Year Update

Recognizing the benefits of telecommute programs, legislation at the federal level and in the State of California encourages telecommute programs for government employees in positions where telecommuting is viable. The Administrative Director of the Courts recommended that the Judicial Council consider and select one of four options concerning telecommuting for employees of the AOC, specifically recommending the first option : (1) Approve the pilot program as a regular telecommute program, with the current additional controls for approving, monitoring, and rescinding participation; (2) Extend the current pilot telecommute program an additional year; (3) Eliminate regular telecommuting and allow only limited, ad hoc telecommuting under special circumstances; or (4) Eliminate all forms of telecommuting.

Council action

The Judicial Council, effective April 24, 2014:

1. Approved the pilot program as a regular telecommute program, retaining the following current additional controls for approving, monitoring, and rescinding participation put in place by the AOC's Executive Office:
 - Employees who serve in a lead capacity may not participate in the remote work program on a regularly scheduled basis (managers and supervisors were already precluded from participating);
 - Employees working part time may not participate in the remote work program on a regularly scheduled basis;
 - Employees requiring general supervision may not participate in the remote work program on a regularly scheduled basis;
 - The Administrative Director has the discretion to suspend the use of regular and ad hoc remote work assignments at any time;
 - Renewals must be made annually and approved by the Administrative Director before the commencement of the remote work schedule; and
 - At the conclusion of the classification and compensation study, the Human Resources Services Office will conduct an additional review of participation to ensure consistency with any recommendations made as a result of the study.

2. Directed the Administrative Director of the Courts to provide the Judicial Council with an annual performance evaluation of the regular telecommute program.

(The Judicial Council Roll Call/Voting Sheet is included in Attachment 7.)

Item O AOC Restructuring: Efficiencies and Restructuring at the Legal Services Office

The Legal Services Office is an office of the AOC under the Judicial Council and Court Leadership Services Division. The mission of LSO is to provide quality, timely, and ethical legal advice and services to the Chief Justice, the Judicial Council, council advisory committees and task forces, the appellate and trial courts, and the AOC. The Judicial Council has charged the office with providing “consistent, comprehensive legal support and counsel to the courts.” (Judicial Council of Cal./Admin. Off. of Cts., *Justice in Focus: The Strategic Plan for California’s Judicial Branch 2006–2012* (2006), p. 49.) In response to Judicial Council restructuring directives and the recommendations of the Judicial Council liaisons to LSO, the office has been significantly restructured. The AOC’s Chief Counsel provided an informational report summarizing the activities undertaken in response to the June 2013 recommendations of the Judicial Council liaisons.

No council action

Information Only Items (No Action Required)

INFO 1 Judicial Council: Implementation of Judicial Council Directives on AOC Restructuring

The chair of E&P submitted an informational report on the implementation of the Judicial Council AOC Restructuring Directives, as approved by the council on August 31, 2012. The AOC Restructuring Directives specifically direct the Administrative Director of the Courts to report to E&P before each Judicial Council meeting on every directive. The informational report provided an update on the progress of implementation efforts.

INFO 2 Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106—Report No. 24)

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This 24th report to date listed the latest court notices received by the council under this statutory requirement. Since the previous report, two superior courts—those of Plumas and Merced Counties—have issued new notices.

Circulating Orders (Approved Since the February Business Meeting)

No circulating orders were approved since the February business meeting.

Appointment Orders (Since the February Business Meeting)

- March 11, 2014: Appointments to the Judicial Council internal committees reflecting the appointment of Judge Gary Nadler to the Policy Coordination and Liaison Committee and Judge David M. Rubin to the Technology Committee.
- March 19, 2014: Appointments to the Judicial Council internal committees reflecting the appointment of Judge Gary Nadler to the Judicial Council Technology Committee.
- March 25, 2014: Appointments to the Judicial Council internal committees reflecting the appointment of Ms. Mary Beth Todd to the Policy Coordination and Liaison Committee.

Adjournment

In Memoriam

The Chief Justice adjourned the meeting in remembrance of the following judicial colleagues recently deceased, honoring their service to their courts and to the cause of justice:

- Judge Alan N. McKone (Ret.), West Orange County Municipal Court
- Judge Robert H. Gallivan (Ret.), Superior Court of California, County of Orange
- Judge John F. Ingro (Ret.), Superior Court of California, County of San Bernardino
- Judge John Fitch (Ret.), Superior Court of California, County of Fresno
- Judge James Barakatt (Ret.), Stanislaus County Municipal Court
- Judge Henry Ramsey, Jr. (Ret.), Superior Court of California, County of Alameda

Adjournment

With the meeting's public business completed, the Chief Justice adjourned the meeting at 3:45 p.m.

Respectfully submitted,



Steven Jahr

Administrative Director of the Courts and
Secretary to the Judicial Council

Attachments

1. Regional Allocation of Unspent Savings from Program 45.45 (Court Interpreters)
2. Written copy of public comment presented by Mr. Martin T. Fox
3. Written comment from Judge Jim Luther (Ret.)
4. Written comment from Ms. Micaela Davis
5. Written comment from Mr. Mark Graham
6. Written comment from Mr. Rye P. Murphy
7. Judicial Council Roll Call/Voting Sheets: Agenda Items 1 and Item N

Proposed Regional Allocation of Unspent Savings from Program 45.45 (Court Interpreters)

Court	Region	Allocation Based on 5-Year Average
Los Angeles	1	4,557,330
San Luis Obispo	1	59,026
Santa Barbara	1	169,997
Region 1 Allocation:		4,786,353
Alameda	2	472,488
Contra Costa	2	200,830
Del Norte	2	7,454
Humboldt	2	15,730
Lake	2	14,722
Marin	2	79,612
Mendocino	2	42,530
Monterey	2	122,424
Napa	2	66,619
San Benito	2	14,379
San Francisco	2	307,050
San Mateo	2	230,265
Santa Clara	2	456,287
Santa Cruz	2	95,566
Sonoma	2	180,748
Region 2 Allocation:		2,306,705
Alpine	3	259
Amador	3	4,873
Butte	3	27,203
Calaveras	3	2,739
Colusa	3	18,448
El Dorado	3	27,856
Fresno	3	347,388
Glenn	3	13,115
Kern	3	331,296
Kings	3	40,315
Lassen	3	6,134
Madera	3	68,327
Mariposa	3	4,922
Merced	3	121,779
Modoc	3	748
Mono	3	5,040
Nevada	3	8,624
Placer	3	60,797
Plumas	3	3,653
Sacramento	3	481,565
San Joaquin	3	194,186
Shasta	3	31,670
Sierra	3	578
Siskiyou	3	11,209
Stanislaus	3	90,304
Sutter	3	42,271
Tehama	3	19,221
Trinity	3	5,500
Tulare	3	191,064
Tuolumne	3	4,052
Yolo	3	77,937
Yuba	3	10,026
Region 3 Allocation:		2,253,098
Imperial	4	81,712
Inyo	4	8,292
Orange	4	1,184,410
Riverside	4	488,528
San Bernardino	4	668,241
San Diego	4	867,493
Region 4 Allocation:		3,298,677
Solano Allocation:		55,649
Ventura Allocation:		224,313
Total Allocation:		12,924,795

Judicial Council of California Meeting
Friday, April 25, 2014

Public Comment Good morning Honorable Judicial Council members. Thank you for your service to the State of California and its Judicial branch. I am currently an Article Three and a former Article One lawyer. My name is Martin Fox. I am here as a former self-represented litigant who sought a mental health treatment order in the course of a Domestic Violence Prevention Act proceeding in San Mateo County against one of my adult children who is living with mental illness that is complicated by an insight deficiency which prevents them from volunteering for treatment in the county they are currently living in.

My grandfather served with General Pershing's American Expeditionary Force in France during World War I. My father served with General MacArthur at Okinawa during World War II. I served with the 11th and 32nd Infantry Regiments of the 2nd, 4th and 5th Infantry Divisions during the Vietnam War era in the early 1970s.

Thanks to the heroism of Staff Sergeant Jack E. Hubbs, I was able to return to what we called the "real world" and report to the Headquarters Commandant at Fort Ord, California, Col. Maurice M. Lane, who had the temerity to appoint me, a company grade infantry officer, as his Courts and Boards Officer. Col. Lane's Courts and Boards Officer was responsible for returning to active duty Department of the Army Deserters and AWOLs apprehended by civilian law enforcement authorities in the Western United States.

Consequently the Monterey County Sheriff delivered an average of over 2,000 troops a month, who were apprehended through the Monterey County jail to Fort Ord. Col. Lane believed my fellow soldiers who deserted or went AWOL deserved an opportunity to receive an honorable discharge, even if they suffered from a mental injury. That means my staff and I saw soldiers with Serious Mental Illness on an industrial scale every day for several years as the Vietnam war was winding down.

The Pentagon announced last summer that the Army's troop strength will be reduced by 100,000 as Afghanistan winds down by the end of this year. The Department of Veterans Affairs is already at capacity and not ready for the return of treatment resistant, treatment non-compliant female and male service members who were trained to be violent, like me and neither are our counties.

The U.S. Department of Justice approved Assisted Outpatient Treatment, Laura's Law as an effective, efficient and humane hospitalization and incarceration recidivism reduction program in March of 2012.

The San Mateo County Health System, and many others' hide behind the civil and criminal immunity provided by the Lanterman-Petris-Short Act so they can use the brutality of the streets to modify the behavior of persons living with Serious Mental Illness who are insight deficient. Their irresponsible, inhumane and immoral, policies and procedures have turned our jails and prisons into dungeons of despair for persons living with mental illness and their families. Their irresponsible, inhumane and immoral policies and procedures keep producing deaths and serious injuries like the justifiable shooting which took the life of a veteran living with PTSD in Stockton on January 25 and more recently the justifiable shooting which took the life of a veteran's son living with schizophrenia in Pacifica on March 19.

The adoption of Laura's Law is a responsible, humane and moral way to address the issue of treatment resistance and treatment non-compliance of persons living with Serious Mental Illness who are insight deficient. Please use the Criminal Justice Realignment discussion as an opportunity to examine the reasons why Assisted Outpatient Treatment was certified by the Department of Justice as an effective efficient and humane recidivism reduction program and consider recommending the implementation of Laura's Law throughout California. Thank you.

8931 North Highway One
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(707) 937-2362
doompa@gmail.com
April 14, 2014

Hon. Tani G. Cantil-Sakauye, Chief Justice of California, and Members
California Judicial Council
455 Golden Gate Avenue
San Francisco, California 94102-3688

**Re: Mendocino Superior Court's Request for an Adjustment
To the Workload-based Allocation and Funding Methodology (WAFM)**

Dear Chief Justice Cantil-Sakauye and Members:

I support the Mendocino Superior Court's request for a WAFM adjustment to recognize the extra cost of its need to operate a full-service branch court to serve its large distant Coast population. *(See letter dated October 15, 2013 from Hon. Richard J. Henderson, then-Presiding Judge of the Mendocino Superior Court, to Hon. Steven Jahr, Administrative Director of the Courts.)*

My support is based on all the documentary evidence (referenced herein in italicized titles) that was presented to the Trial Court Budget Advisory Committee at its meeting held March 25, which I believe will constitute the evidentiary record before you when you consider the Court's request at your April 25 meeting.

The Committee's recommendation is that you deny the Court's request. Notwithstanding my genuine respect for the work and accomplishments of the Committee and its members, many of whom were instrumental in formulation of WAFM and its Adjustment Request Process, I must now reluctantly contend that in its present recommendation to you the Committee has erred.

The Committee bases its recommendation on six reasons or findings, four of which are not supported by the evidence.

In its Reasons Nos. 2 and 4, the Committee found that the Court's inability to adequately serve Coast residents at its Coast Branch courthouse is entirely a result of not being funded up to its full Resource Assessment Study (RAS) workload need by the state general fund; that is, it is caused by nothing more than the same inadequate funding that all trial courts are suffering throughout the state, and not at all by the greater cost that it takes to operate two courthouses an hour and a half away from each other. Respectfully, this finding is contrary to all the evidence.

The evidence overwhelmingly establishes a common, official understanding that it costs more to serve a county's population from two courthouses distant from each other rather than just from the county seat. Numerous administrative decisions by presiding judges and court executive officers support this conclusion: In just the last two and a half years, superior courts in 19 counties have closed 35 outlying branch courthouses for the express purpose of conserving the funds allocated to them for their court operations. (See "*California Courthouse Locations 2014.*")

The WAFM does not recognize this additional cost. When the WAFM was adopted in April 2013, it was contemplated that, as a unique funding allocation factor, the difficult geography that requires the operation of branch courts to serve outlying populations would be addressed later. See "Trial Court Workload-Based Allocation and Funding Methodology (Updated April 17, 2013)." In August, the WAFM Adjustment Request Process was adopted and now provides the means for a court to try to obtain recognition of this funding allocation need.

It is of course true that all California trial courts are presently underfunded; that is, they are not funded to their full RAS workload need. Among them, however, are some courts that require recognition of an even greater funding allocation need because, unlike the other courts, they have to operate a full-service branch court to serve a large, remote population. This particular additional need is precisely the unique funding allocation factor that the Mendocino Court has identified and, by its present WAFM Adjustment request, seeks to have recognized. Until it is, even after the happy day arrives when all of California's courts are funded to their full RAS workload need, the additional cost of Mendocino's need to adequately serve its many Coast residents at its distant Coast Branch courthouse will remain unrecognized and unmet.

In its Reason No. 3, the Committee found that many California trial courts face the same issue identified by this request. Respectfully, the evidence simply does not support this finding.

To qualify for the requested WAFM adjustment, a trial court would have to show that (1) a portion of its county's population is presently served by a branch court, (2) that portion is large, for example 20,000 people or more, and (3) that portion is remote, that is about an hour or farther away from the county seat. Of California's 58 counties, only eight appear potentially able to meet this three-part test. (See "*The Remote Access-Funding Factor Identified by the Mendocino Superior Court is Unique to 8 Counties at Most.*")

In its Reason No. 6, the Committee found that the problems and challenges of maintaining branch courts should be addressed only as an "access to justice" issue, requiring decisions and determinations that are beyond the Committee's charge and outside the scope of WAFM. Respectfully, this finding overlooks the express purpose of the WAFM Adjustment Request Process.

“The primary purpose of the WAFM Adjustment Request Process is to provide trial courts the opportunity to identify factors that they believe the WAFM does not yet address and to assist in the evolution and refinement of WAFM in order to ensure the continued improvement in equity of trial court funding and equal access to justice throughout California.”

—WAFM Adjustment Request Process
adopted by the Judicial Council August 22, 2013

By definition, every successful WAFM Adjustment request will present an access-to-justice issue.

By deciding that to be cognizable under WAFM the request had to be characterized as presenting only the funding allocation issue, the Committee short circuited its inquiry and prevented itself from reaching the questions it needed to address to confidently recommend to you how you should decide Mendocino’s request for a WAFM adjustment: What is the standard to apply to the request? (See “*A Suggested Analysis.*”) How is that standard to be applied to the special access problems of large counties and rural areas? (See “*Recommendations to the Trial Court Budget Advisory Committee dated March 19, 2014 from Hon. Ronald B. Robie, Chair of the California Commission on Access to Justice to Hon. Laurie M. Earl, Co-Chair of the Trial Court Budget Advisory Committee.*”) How is it to be applied to the particular court needs of the people who live on the Mendocino Coast (see “*Fact Sheet*”) and their particular access problems? (See “*Driving Times, Mileages, Roads, and Public Transportation from Mendocino Coast Communities to the Ukiah Courthouse.*”) What is the number of non-judicial court staff required to provide full-court core services to the Coast population? (See “*Small Court Populations and the Non-Judicial Staff Allocated to Serve Them.*”)

Although supported by the evidence, the Committee’s Reasons Nos. 1 and 5 do not support its recommendation to deny Mendocino’s WAFM Adjustment Request.

In its Reason No. 1, the Committee found that WAFM is intended to permit trial courts the opportunity to request ongoing adjustments to the WAFM funding need. **In its Reason No. 5**, the Committee found that Mendocino’s concern regarding access to court services related to the geographic location of courthouses is an important issue with statewide funding and policy implications.

Both findings are correct and tend to support approval rather than denial of Mendocino’s request.

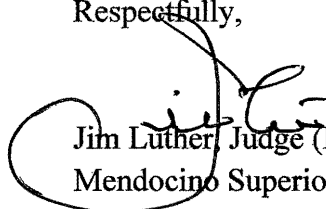
The Committee's reference to a trial court's local decision to provide specialized services is inapposite.

Without directly characterizing Mendocino's request as such, the Committee's recommendation twice notes language in the Adjustment Request Process that "a trial court's local decision to provide specialized services" will not constitute a sufficient factor to warrant a WAFM adjustment. The quoted language is irrelevant: The present request is not to fund a discretionary or optional local decision to provide specialized services. Instead, it is a request for recognition of the extra funding the Mendocino Superior Court needs to discharge its duty to provide an accessible forum to all segments of Mendocino County.

For the reasons stated, I ask that you now make your own fresh determination of Mendocino's WAFM Adjustment request, that you directly engage the fundamental issues of funding allocation and access-to-justice that it presents, that you actually determine **the reasonable population size-remote distance standard** to apply to the request, and that you then apply that standard and decide whether Mendocino's specific request qualifies for an adjustment.

Your WAFM Adjustment Request Process is designed and built to deal fully with this request. Please let it work. Thank you for establishing the Process and for your anticipated thorough consideration of the Mendocino Superior Court's request for an adjustment.

Respectfully,



Jim Luther, Judge (Retired)
Mendocino Superior Court

cc: Hon. Laurie M. Earl, Co-Chair, Trial Court Budget Advisory Committee
Mr. Zlatko Theodorovic, Co-Chair, Trial Court Budget Advisory Committee
Hon. David Nelson, Presiding Judge, Mendocino Superior Court
Mr. James B. Perry, Interim Court Executive Officer, Mendocino Superior Court



April 23, 2014

Judicial Council of California
 455 Golden Gate Avenue
 San Francisco, CA 94102
 judicialcouncil@jud.ca.gov

Re: Written Comment on April 25, 2014 Agenda Item G – Criminal Justice Realignment

Dear Members of the Judicial Council of California:

I write on behalf of the ACLU of Northern California to provide comment on Agenda Item G on the April 25, 2014 agenda concerning Criminal Justice Realignment (“Realignment”). We are pleased to see the Judicial Council devoting attention to this topic, as the judiciary continues to play a key role the state’s shift from an incarceration-focused system to one prioritizing alternatives to incarceration, rehabilitation and recidivism-reduction.

Continuing Challenges for County Criminal Justice Systems

While the state prison population has fallen by nearly 25,000 since the State enacted Realignment, counties have increased their own jail capacity by more than 7,000 beds, spending tens of millions in state Realignment dollars to expand jail capacity.¹ On top of that, more than one billion dollars in state lease-revenue bonds is now in the pipeline to build another 10,000 county jail beds.² This explosion of jail expansion flies in the face of the express legislative intent of Realignment to implement proven recidivism-reducing policies, including alternatives to incarceration.³ There are a number of potential ramifications of the shift of the overcrowding problem from the State to the counties. Counties with incarceration-focused Realignment plans, many of which are already under court-ordered population caps, are in danger of facing mini-*Plata* lawsuits.⁴ Another pressing

1. See generally ACLU OF CAL., PUBLIC SAFETY REALIGNMENT: CALIFORNIA AT A CROSSROADS (2012), available at

https://www.aclunc.org/docs/criminal_justice/public_safety_realignment_california_at_a_crossroads.pdf

2. A.B. 900, 2007 Leg., Sess. Ch. 7 (Cal. 2007); S.B. 1022, 2011-2012 Leg., Reg. Sess., Ch. 42 (Cal. 2012); see also CAL. GOV’T CODE § 15819.40, et seq. This Act, commonly referred to as “AB 900,” authorized \$1.2 billion in lease revenue bonds for the construction and expansion of county jail facilities. In June of 2012, the State passed SB 1022, which added California Government Code section 15820.922 authorizing an additional five hundred million in lease revenue bond authority for local jail construction. Distribution of the funds is managed by the Board of State and Community Corrections.

3. See CAL. PENAL CODE § 17.5.

4. In December 2011, the Prison Law Office filed a class action lawsuit against the Fresno Sheriff on behalf of jail inmates denied mental health care and medical treatment for life-threatening illnesses. As in *Plata*, the plaintiffs alleged

concern is that jails were never designed for long-term incarceration. As a result, many inmates receive inadequate access to exercise, rehabilitation programming, medical and mental health care, and family visits. In addition, county jails may not be sufficiently equipped to meet the ADA needs that come with increased populations. As such, they may face a plethora of lawsuits.⁵ As one commentator has warned:

The ever-present risk of realignment is that it could turn the Plata/Coleman court order into a shell game instead of a solution to California's incarceration conditions problem. Medical and mental health care in California's prisons was indisputably horrendous, but population reduction is finally allowing the other substantive parts of the remedies to work. This achievement would be far less significant if the order turned out to dump on the counties not just population, but the unconstitutional conditions that, in California's prisons, accompanied population. Call this the potential hydra problem: chopping the head off of unconstitutional prison conditions could cause many of the 58 counties to in turn develop unconstitutional conditions of jail confinement.⁶

Pretrial Release

It is clear that Realignment's success is inextricably tied to the capacity of county criminal justice systems to meet their new obligations. Critics of Realignment have argued that many county jails are themselves overcrowded, and therefore unable to absorb newly sentenced defendants who would previously have been sent to state prison.⁷ County jails, however, are not full of individuals who have been convicted of the charges against them, or even individuals deemed to present a high public safety risk to the community. Most people in county jails have not been convicted of a crime. Instead, more than sixty-three percent of the 82,000 Californians held in county jails on any given day are awaiting trial or other disposition of their case.⁸ A substantial amount of them are not being incarcerated pending trial because they pose a significant risk to public safety, or are likely not to appear for their next court appearance, but, rather, are stuck behind bars because they simply cannot afford bail.⁹

cruel and unusual conditions in violation of their rights under the Eighth and Fourteenth Amendments. Complaint, Hall v. Mims, No. 1:11-cv-02047-LJO-BAM, 2012 WL 1498893 (E.D. Cal. Dec. 13, 2011).

5. See, e.g., *Armstrong v. Wilson*, 942 F. Supp. 1252 (N.D. Cal. 1996), *aff'd* 124 F.3d 1019 (9th Cir. 1997) (finding that the CDCR was violating the Americans with Disabilities Act and the Rehabilitation Act and issuing an injunction requiring the CDCR to improve access to prison programs for prisoners with physical disabilities at all of California's prisons and parole facilities). See, e.g., Complaint at 1, Legal Servs. for Prisoners with Children v. Ahern, No. RG12656266, (Cal. Super. Ct., Nov. 15, 2012) (alleging systemic and long-term discrimination against persons with disabilities housed at Santa Rita Jail has resulted in unequal treatment of and severe harm to those inmates).

6. Margo Schlanger, *Plata v. Brown And Realignment: Jails, Prisons, Courts, And Politics* 48 Harv. C.R.-C.L. L. Rev., (forthcoming Jan. 2013) (manuscript at 44-49).

7. See Kurtis Alexander, *Fresno County Demands More State Funds for Housing Prisoners*, FRESNO BEE (Dec. 2, 2012), <http://www.fresnobee.com/2012/12/02/3086872/valley-counties-see-more-prison.html>; Letter from thirteen Central Valley legislators to Governor Jerry Brown (Dec. 5, 2012), available at <http://news.fresnohive.com/wp-content/uploads/2012/12/Realignment-Coalition-Letter-Central-Valley.pdf>; Kurtis Alexander, *Valley Lawmakers Ask Governor for More Prison Money*, FRESNO BEE (Dec. 8, 2012), <http://news.fresnohive.com/archives/731>.

8. See CAL. BD. OF CORRS., JAIL PROFILE SURVEY, SECOND QUARTER CALENDAR YEAR 2013 7 (2013), available at http://www.bscc.ca.gov/download.php?f=/2013_2nd_Qtr_JPS_full_report.pdf.

9. Trial judges are required to evaluate defendants' suitability for bail and to order held without bail those deemed to present too great a risk to public safety. This makes sense: if someone is deemed a public safety risk, the mere fact

High rates of pretrial detention are a threat to public safety and civil liberties. People with financial resources are able to get out of jail and return to their jobs, families, and communities. People who are unable to pay for bail or raise the necessary collateral, however, must stay in jail awaiting a trial date that could be months away. Or, they may more readily decide to accept a plea bargain as a means of getting out of jail. These results have nothing to do with public safety. They have everything to do with wealth and poverty. People with money are able to buy their freedom while poor people cannot.

California's money-based bail system fails to accurately assess and manage risk among pretrial populations. There is no evidence that a defendant's ability to afford bail correlates to their risk of committing a new crime while out on bail, or even their likelihood of appearing in court. Pretrial risk assessment research over the past thirty years, however, has identified common factors that can more accurately predict court appearance and/or risk of a person committing a new crime prior to trial.¹⁰ These factors include: current charge; whether the defendant had outstanding warrants at the time of arrest; whether the defendant had pending charges at the time of arrest; history of criminal convictions; history of failure to appear in court; and history of violence.¹¹ Some jurisdictions also look at residence stability; employment stability; community ties; and history of substance abuse in making risk determinations.

The money-based bail system, with bail amounts based on preset, one-size-fits-all schedules, fails to take any of these risk factors into account. Not only do many people who present no public safety or "failure to appear" danger remain unnecessarily behind bars pending trial, but sometimes people who *do* present a public safety risk are nonetheless released simply because they are able to afford to post the scheduled bail amount. As the International Association of Chiefs of Police aptly stated, "[a] suspect's release or detention pending trial currently is not based on an informed assessment of whether or not he or she is a danger to society [and/or] is likely to return to court for trial, but on whether the suspect has enough money to bail himself or herself out of jail."¹² Similarly, U.S. Attorney General Eric Holder noted in 2011, "[a]most all of these [non-sentenced, pretrial] individuals could be released and supervised in their communities—and allowed to pursue or

that they may be able to come up with money for bail does not mitigate that risk. By setting bail for a defendant, a judge is indicating that releasing that defendant pending trial does not present an unreasonable public safety risk. A substantial and increasing number of defendants held in jail pending trial have had bail set but cannot afford to post it. They therefore remain in jail not because they pose a threat to public safety but rather because they cannot afford bail. CAL. PENAL CODE § 1275; *see* PRETRIAL JUSTICE INST., RATIONAL AND TRANSPARENT BAIL DECISION MAKING: MOVING FROM A CASH-BASED TO A RISK-BASED PROCESS 1, 3 (2012), *available at* <http://www.pretrial.org/Featured%20Resources%20Documents/Rational%20and%20Transparent%20Bail%20Decision%20Making.pdf>; *see also* JOHN CLARK, THE IMPACT OF MONEY BAIL ON JAIL BED USAGE, AMERICAN JAILS 47–48 (Jul./Aug., 2010), *available at* <http://www.pretrial.org/wp-content/uploads/filebase/pji-reports/AJA%20Money%20Bail%20Impact%202010.pdf>.

10. *See* MARIE VAN NOSTRAND, LEGAL AND EVIDENCE-BASED PRACTICES: APPLICATION OF LEGAL PRINCIPLES, LAWS, AND RESEARCH TO THE FIELD OF PRETRIAL SERVICES 5–9 (Apr. 2007), *available at* <http://www.dcjs.virginia.gov/corrections/documents/legalAndEvidence.pdf>.

11. *Id.*

12. INT'L ASS'N OF CHIEFS OF POLICE, *LAW ENFORCEMENT'S LEADERSHIP ROLE IN THE PRETRIAL RELEASE AND DETENTION PROCESS* (2011), *available at* <http://www.theiacp.org/LinkClick.aspx?fileticket=32EOi2UojO4%3d&tabid=392>.

maintain employment, and participate in educational opportunities and their normal family lives—without risk of endangering their fellow citizens or fleeing from justice.”¹³

Each day in California, hundreds of bail determinations are made according to bail schedules and without the benefit of individualized assessments of risk to public safety or likelihood of returning to court.

Rather than simply expand jail capacity, counties should implement evidence-based practices to manage both pretrial and sentenced populations. At the state level, examples of sensible reforms include amending statewide pretrial detention laws to keep behind bars only those who truly pose a risk to public safety while increasing the number of people released on their own recognizance. Such reforms would require the use of evidence-based criminal justice practices and validated risk assessment tools.¹⁴

At the county level judges should take advantage of trainings on effective evidence-based pretrial release decision-making. The National Judicial College and the Pretrial Justice Institute (PJI) through funding from the Bureau of Justice Assistance have created a new four hour curriculum for judges on effective, legal, and evidence-based pretrial release decision making. As PJI’s website explains, the curriculum focuses on three themes: (1) that some degree of risk is inherent in every pretrial release decision, and that some decisions, no matter how well informed, will have negative results; (2) that current approaches used in most courts in this country to identify and address risk are outdated and ineffective; and (3) that new approaches, based on empirically-derived evidence, are now available to help judges more successfully sort defendants into risk categories and fashion appropriate release conditions to address the identified risks. At least one county in California, Contra Costa, has undergone this training. The state and local jurisdictions should take advantage of this curriculum and incorporate it into trainings.

Additionally, counties must ensure that proper resources are devoted to effectively implementing pretrial release programs on all levels. This includes proper training and staffing for those entities administering risk assessments and making recommendations to the court, so that the court can be assured that they are receiving accurate and timely information about defendants. It also includes proper staffing for entities supervising pretrial releases in the instances in which those conditions of

13. Attorney General Eric Holder, Remarks at the National Symposium on Pretrial Justice (Jun. 1, 2011), *available at* http://www2.americanbar.org/sections/criminaljustice/CR203800/Pages/pretrialjustice_holder.aspx.

14. Examples of successful pretrial programs include the Allegheny County bail agency and the D.C. Bail Project. *See Pretrial Justice Institute Guides Innovative Reforms, Helping Justice Trump Tradition: New Agency in Allegheny County, Pennsylvania Increases Pretrial Fairness And Safety*, CASE STUDIES (Pretrial Justice Institute), Fall 2008, at 3, *available at* <http://pretrial.org/Success/Case%20Study%201%20Allegheny%20County.pdf> (“With technical assistance from the Pretrial Justice Institute, the agency has established one of the nation’s most innovative pretrial programs.”); *The D.C. Pretrial Services Agency: Lessons from Five Decades of Innovation and Growth*, CASE STUDIES (Pretrial Justice Institute), Fall 2008, at 1, *available at* <http://www.pretrial.org/Reports/PJI%20Reports/Case%20Study%202%20-%20DC%20Pretrial%20Services.pdf> (“The agency is also a model nationally for demonstrating that the vision for pretrial justice outlined in the standards of the American Bar Association and the National Association of Pretrial Services Agencies can be achieved.”).

release are appropriate, so that judges are confident that the supervision will be followed-out as ordered. Any pretrial reform must include a coordinate effort on the part of all criminal justice stakeholders, including the judiciary.

Sentencing Considerations after Realignment

a) Excessively Long Jail Sentences for Low-Level Drug Offenses

There are serious discussions underway in Sacramento to roll back Realignment by creating new exemptions to send more people to state prison. Even those sent to jail instead of prison under Realignment are still subject to the same long sentences and enhancements as existed before Realignment, which can result in sentences of ten years or more served in jails. Governor Brown has suggested amending Realignment to allow persons with these long sentences to once again be sent to prison instead of jail.¹⁵ However, no one appears to be asking the obvious question: Why are we incarcerating people for such lengthy periods for non-serious, non-violent drug offenses, especially people who have never committed a violent or serious offense? Only such persons can be sent jail instead of prison under current Realignment law, since anyone with any prior conviction for a serious or violent felony is not eligible for a jail sentence instead of state prison. We respectfully urge the Judicial Council not to support these proposed amendments to Realignment, and to seriously consider other options to reduce the length of jail sentences imposed for non-serious, non-violent drug offenses under Realignment.

b) Split Sentencing

Counties should also better utilize split sentencing for those with non-violent, non-serious, non-sex offenses. Currently, the use of this sentencing option varies widely, and somewhat inexplicably, around the state. On the high end, Contra Costa and Riverside Counties use split sentencing rate at about 90% and 80% respectively, and preliminary figures suggest positive outcomes through use of this option. On the other hand, Los Angeles County uses split sentences at a rate of about only 6 percent. As pointed out by proponents of the sentencing option use of the split not only reduces lengthy jail stays, but also creates the opportunity for a more structured reentry into society through the oversight and conditions placed on defendants participating in mandatory supervision. Counties in which split sentencing has been more widely adopted highlight the necessity of inter-agency coordination for success. Judges should work together with other criminal justice stakeholders to ensure that the each agency has the resources and information necessary to make the system

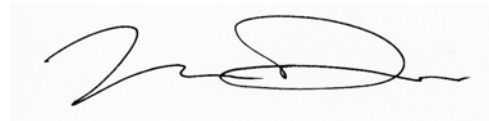
¹⁵ Don Thompson, Associated Press, *Counties tell Gov. Brown They Need Money for Jail Realignment*, (April 19, 2014), available at: <http://www.scpr.org/news/2014/04/19/43615/counties-tell-gov-brown-they-need-money-for-jail-r/>: (“In Kern County, Sheriff Donny Youngblood worries that county jails built to hold criminals for no more than a year are now housing inmates for a decade or more. Brown has proposed modifying his realignment law so that inmates sentenced to more than 10 years would again serve their time in state prisons, but Youngblood thinks the sentence length should be shorter. ‘Three years, from my standpoint, might be reasonable,’ he said.”)

function effectively as a whole. For instance, it is important that judges are confident in the ability of probation departments to safely and effectively manage those under supervision.

* * *

Understandably, the judiciary is not alone in being able to effectively implement these reforms. However, it can play an important leadership role in ensuring our criminal justice system is fair, efficient and getting us the best return on our criminal justice dollars while keeping the public safe.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Davis', is centered on a light gray rectangular background.

Micaela Davis
Criminal Justice and Drug Policy Attorney
mdavis@aclunc.org

P.O. Box 1823
Elk Grove, CA 95759

April 18, 2014

Judicial Council of California
Attention: Cliff Alumno

Traffic Advisory Committee
Mr. Courtney Tucker
Research Attorney
Office of the General Counsel

Court Technology Committee
Ms. Jackie Woods
Information Services Division

Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Mr. Alumno, Mr. Tucker and Ms Woods, *and Judge So,*

*Honorable Kenneth K. So
Chair
Policy Coordinator & Liaison
Committee*

This letter is very similar to an email I sent to you yesterday at judicialcouncil@jud.ca.gov. I hope that you received that email. The only differences are in the P.S. below.

I am not thoroughly familiar with the Judicial Council's process for making policy but I was advised to begin by writing to each of you.

Tomorrow I will send you a more detailed description of my policy proposal for the Judicial Council. For now I will only send you this brief description and 2 attachments which are letters from Senator Darrell Steinberg, President Pro Tem, in support of my proposal.

California's Silicon Valley is home to the computer revolution. The spread of high technology in increasingly powerful and cheaper computers has reached millions of homes across the Western world and much of the rest of the world. Nearly everybody has a cell phone too. We have become dependent on them for convenience, communication and storage for personal and business use.

Unfortunately this computer revolution has not yet fully reached the Superior Courts of California, in particular the traffic courts. The traffic courts' notice policies leave room for improvement. Due to budget constraints the Superior Courts have stopped sending out courtesy notices to drivers who receive citations. The Sacramento Superior Court, for example, stopped sending out courtesy notices about 3 years ago. At one point the Court was sending out 700 to

1,000 such notices per day at a cost of \$12,500 per month, according to the staff in early March. Between ½ and 2/3 of them were returned by the post office. Understandably the Sacramento Superior Court decided to stop sending courtesy notices.

A driver who receives a citation from the California Highway Patrol, for example, now gets no subsequent notice. The only notice is the citation itself, the notice to appear, Notice to Appear form (CHP 215) (Judicial Council of California Form TR-130). That typically gives drivers a 90 day notice.

90 days is a long time and many people operate on the "out of sight, out of mind" mode. A driver who fails to take one of the options shown on the back of the notice by the due date is heavily penalized for this failure. The penalties include a conviction on the underlying offense, a fine of up to \$300 per citation, and lack of opportunity to appeal.

For this reason I propose that the Judicial Council adopt as statewide policy, after review and recommendations by the Traffic Advisory Committee and the Court Technology Committee, a policy whereby the Superior Courts, traffic courts, send out courtesy notices via text message or email message.

Although I will more fully explain particulars in my message tomorrow, the basics are as follows:

- #1) The information on such an electronic courtesy notice would be the same as it would be if the courtesy notice were sent by regular mail.
- #2) The driver would have the opportunity, but not the obligation, to provide a cell phone number and / or email message to the arresting or citing officer at the time of the citation for the specific and sole purpose of receiving courtesy notices via text message.
- #3) The driver would have to make that decision at the time of the citation. Failure to decide would be equivalent to a decision to NOT receive courtesy notices via electronic means.
- #4) The arresting or citing officer could have a written set of instructions to give to drivers to explain, briefly, what the Court would do and would not do in the event the driver elected to receive courtesy notices via electronic means.
- #5) The driver would take full responsibility for changes or interruptions to their cell phone number, email address, cell phone service, internet service, and any and all circumstances which could cause the driver to not receive the electronic courtesy notices.
- #6) The Court would program the cell phone number and / or email address described in item #2 above into a computer program that would then automatically send the courtesy notice on a predetermined schedule. While it is up to each Superior Court to decide what that schedule would be, for example it could be one courtesy notice 30 days after the date of the citation, another one 60 days later, another one 2 weeks prior to the due date, another one 2 days prior to the due date, and a final one on the due date.

#7) The computer program could be set up so that a driver would be able to respond to discontinue the courtesy notices for each citation.

The benefit of such a system would be that drivers would be more likely to remember their due date and take action by their due date, avoiding the conviction, the fines up to \$300 for failure to appear, and loss of ability to appeal. The benefit to the courts would be fewer missed due dates and therefore a more efficient and fair traffic court.

The disadvantage would be a learning period for the officers issuing citations and for the drivers as well as a loss of fine revenue to the courts.

Such a system is already used by my dentist, Howard Shempp of Davis, California. It is also used by the Livermore Public Library in Livermore, California and certainly by other libraries, banks, and some utilities.

The Judicial Council could set up such a system through its information technology staff. The Superior Courts would have to enter into the computer program the information for each citation for each driver who elected to receive electronic courtesy notices. This would be an ongoing effort. By comparison to the present system (no courtesy notices) and the old system (paper courtesy notices, 1/2 to 2/3 of which were returned in the mail) this is a huge improvement.

What is the best and fastest way to get my proposal on the agenda of a future Judicial Council meeting for possible approval?

Please feel free to ask me any questions. You can reach me at 530-902-4428 my cell phone.

It is a pleasure to be able to share this idea with you in the hopes of making California's traffic courts more fair and efficient through the use of cell phones and computers.

Sincerely,



Mark Graham
Elk Grove, California

P.S. Here are the other details I have added that were not in my email yesterday.

This proposal is intended to preserve the sanity of California drivers against the frustration and high costs of missing a due date for a traffic citation.

It is in the Judicial Council's interest to create a more efficient, less expensive and less aggravating traffic court system for California drivers.

It is true that drivers have a responsibility to remember their due date and to take one of the available options by then. It is also true that many drivers simply forget to do so for any number of reasons.

California Penal Code 1214.1 authorizes courts to charge a civil assessment in the amount of \$300.00 for each citation when a driver fails to appear or resolve a traffic case by the due date. Missing the due date costs a California driver this \$300.00 fine, a conviction and the possibility of further fines if the driver fails to act within the 15 days pursuant to a trial by written declaration.

My proposal would not apply to a Superior Court that provides written courtesy notices by mail.

The citing officer will also be required to inform the driver that the Superior Court of the County where the citation is issued does not send out courtesy messages via mail. This could be stated on the written instructions that the citing officer gives to the driver.

My proposal does not require a Superior Court to account for or be responsible for any of the dozens of ways a person can miss a text message, such as a lost, stolen or damaged phone, a change of phone number, or the reasons stated earlier. Once the Superior Court programs the driver's cell phone number or email address and the due date for each citation into its computer system, then assuming that computer system that sends the text messages out is working, the Court will have fully met its obligations under this proposed policy. The driver will not be able to use any of these excuses as a legal defense.

There is room on the bottom of Judicial Council of California Form TR-130 to write a cell phone number or email address. There just isn't a box specifically for this information but that should not be a problem.

The computer program for sending out these automated courtesy notices could be made to sync (synchronize) with the Superior Court's existing computer system so as to avoid having to enter the citation information twice. I do not know specifically what computer program is available to send out such electronic messages but they are out there.

Although I am a political scientist and peace activist I am not an expert at writing proposed policies. My proposal is intended to give as many details as necessary to show how this policy would work. The Traffic Advisory Committee and Court Technology Committee can, of course, make any additions, changes or deletions deemed necessary.

STATE CAPITOL
ROOM 205
SACRAMENTO, CA 95814
TEL (916) 651-4006
FAX (916) 651-4906

DISTRICT OFFICE
1020 N STREET, ROOM 576
SACRAMENTO, CA 95814
TEL (916) 651-1529
FAX (916) 327-8754

California State Senate

SENATOR
DARRELL STEINBERG
PRESIDENT PRO TEMPORE
SIXTH SENATE DISTRICT

STANDING COMMITTEES:
SENATE RULES
CHAIR
APPROPRIATIONS
PUBLIC SAFETY



March 20, 2014

Honorable Kenneth K. So
Chair of Policy Coordination and Liaison Committee
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Dear Judge So,

I would like to share a proposal that originated from an innovative and thoughtful constituent of mine, Mark Graham. Mr. Graham has recently shared a proposal with my office to reform the traffic violation notice policies of California courts and bring them into the digital age. I forwarded his proposal to Sacramento County Presiding Judge Robert C. Hight. I also request that you consider implementing his proposal throughout California.

Mr. Graham's proposal addresses the courts' current notice practice for traffic violations. Previously, many California superior courts issued courtesy notices of court dates by mail. However, due to the budget cuts in recent years, many courts no longer mail these courtesy notices. Under California Penal Code 1214.1, a driver who fails to appear or resolve a traffic case by the due date is charged a penalty of up to \$300.00 for each citation. The driver is also found guilty of the alleged violation. Drivers who once relied on these courtesy notices may now find themselves in the frustrating position of paying a traffic fine, as well as an extra \$300.00, without the chance to contest the alleged violation.

Thus, Mr. Graham has proposed that all California superior courts that do not provide mailed courtesy notices to drivers who have been cited for traffic violations should provide electronic courtesy notices. These electronic courtesy notices could take the form of either text messages or email. The court need only send electronic notices to those drivers who voluntarily provide a phone number or email address to the citing or arresting officer for the explicit purpose of receiving such text messages. These electronic reminder messages would contain the same information that they would if sent via mail. This proposal puts the onus on the driver to ensure the phone number or email address is accurate. It is also the driver's responsibility to inform the court if the phone number or email address changes.



Honorable Kenneth K. So
March 20, 2014
Page 2

Finally, the courts would not be responsible for non-receipt of the electronic message because of factors outside of the courts' control—such as lost devices or interrupted cell phone or Internet service.

As you know, we are living in times when increasing numbers of Californians think that government is dysfunctional. Government owes it to consumers to implement consumer friendly policies and practices. And, government owes it to Californians to implement practices that save financial resources. This proposal has the potential of saving court resources by lessening missed court dates of cited Californians who have not received a reminder notice. Implementing this proposal, generated by a court user, would help move us in the direction of restoring public confidence in government.

Text message and email reminders are common in today's tech-savvy world. The public receives such electronic notices from libraries, dentists, banks, and utility companies, to name but a few. By joining the ranks of these many other public services, the California superior courts would be ensuring a more efficient and equitable traffic violation process. Thus, I urge you to consider my constituent's proposal and ask that you get back to my office regarding Judicial Council's actions surrounding the proposal.

Please do not hesitate to contact Margie Estrada of my policy staff with any questions.

Sincerely,



DARRELL STEINBERG
Senate President pro Tempore

DS:me

STATE CAPITOL
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California State Senate

SENATOR
DARRELL STEINBERG
PRESIDENT PRO TEMPORE
SIXTH SENATE DISTRICT

STANDING COMMITTEES:
SENATE RULES
CHAIR
APPROPRIATIONS
PUBLIC SAFETY



March 20, 2014

Honorable Robert C. Hight
Presiding Judge of the Superior Court of California
County of Sacramento
720 9th Street
Sacramento, CA 95814

Dear Judge Hight,

As Senator for the 6th District, I have the pleasure of representing innovative and thoughtful constituents. One such constituent, Mark Graham, has recently shared a proposal with my office to reform the traffic violation notice policies of the California court system.

Specifically, this proposal addresses the courts' current notice practice for traffic violations. Previously, many California superior courts issued courtesy notices of court dates by mail. However, due to the budget cuts in recent years, many courts no longer mail these courtesy notices. Under California Penal Code 1214.1, a driver who fails to appear or resolve a traffic case by the due date is charged a penalty of up to \$300.00 for each citation. The driver is also found guilty of the alleged violation. Drivers who once relied on these courtesy notices may now find themselves in the frustrating position of paying a traffic fine, as well as an extra \$300.00, without the chance to contest the alleged violation.

Thus, Mr. Graham has proposed that all California superior courts that do not provide mailed courtesy notices to drivers who have been cited for traffic violations should provide electronic courtesy notices. These electronic courtesy notices could take the form of either text messages or email. The court need only send electronic notices to those drivers who voluntarily provide a phone number or email address to the citing or arresting officer for the explicit purpose of receiving such text messages. These electronic reminder messages would contain the same information that they would if sent via mail. This proposal puts the onus on the driver to ensure the phone number or email address is accurate. It is also the driver's responsibility to inform the court if the phone number or email address changes. Finally, the courts would not be responsible for non-receipt of the electronic message because of factors outside of the courts' control—such as lost devices or interrupted cell phone or Internet service.

Honorable Robert C. Hight
March 20, 2014
Page 2

Text message and email reminders are common in today's tech-savvy world. The public receives such electronic notices from libraries, dentists, banks, and utility companies, to name but a few. By joining the ranks of these many other public services, the California superior courts would be ensuring a more efficient and equitable traffic violation process. Thus, I urge you to consider Mr. Graham's proposal.

Please do not hesitate to contact my office with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell Steinberg". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

DARRELL STEINBERG
President pro Tempore

DS:me

April 23, 2014

Via Email

judicialcouncil@jud.ca.gov

Judicial Council of California
455 Golden Gate Avenue
San Francisco, California 94102-3688
Attention: Cliff Alumno

RE: Providing Accessible Template for Responding to Form Interrogatories

Dear Chief Justice and Judicial Council Members,

The Judicial Branch website provides .pdf forms for propounding form interrogatories. All a propounding attorney must do is download the form and check boxes indicating the questions the attorney wants the other party to answer. This makes sending out form interrogatories very easy.

The Judicial Council should make *responding* to form interrogatories similarly easy. Currently it is not. An attorney who practices in litigation will likely do one of three things. First, answer without spelling out each question before giving the answer. This leads to mistaken numbering and lets attorneys avoid answering questions in full. Second, re-write each question before answering. This would be a huge waste of time. Third, use a template the attorney created for answering form interrogatories. The third option is currently the best, but of course not every attorney is going to take the time and make the effort to create a template for responding.

For other types of discovery, lawyers often email the other side a text version of their discovery questions. This saves everyone time. The Judicial Council could similarly help lawyers, law firms, and clients save resource by providing to the general public a more accessible format for answering form interrogatories. This could be accomplished easily by posting online, perhaps next to the corresponding .pdf files on “Browse Forms” section of the website, a document in Microsoft Word that contains all of the questions. (Perhaps a version in WordPerfect could also be provided, since a lot of lawyers still cling to that.) Upon receiving form interrogatories, a responding party’s attorney could then download the questions in word format and import the questions she must answer onto her own pleadings paper, instead of having to resort to the inferior options listed above.

The absence of a form interrogatories template is not a critical problem for the California court system. But neither would its solution be much of a burden. The AOC could farm this out to an intern who could accomplish the task in a week or so. Additionally, I would be happy to volunteer my own time for this purpose.

Thank you for taking the time to consider this.

Sincerely,

Rye P. Murphy

SBN 289427

The Mills Building
220 Montgomery Street, Suite 1850
San Francisco, CA 94104

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET

Thursday, April 24, 2014 Meeting

JUDICIAL COUNCIL ADVISORY BODY MEETINGS

Agenda Item # / Subject: ITEM #1

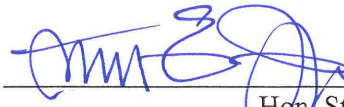
Roll Call _____

Voice Vote X

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Hon. Tani G. Cantil-Sakauye, Chair					
2.	Hon. Judith Ashmann-Gerst					
3.	Hon. Stephen H. Baker					
4.	Hon. Marvin R. Baxter <i>absent</i>	N/A	N/A	N/A	N/A	N/A
5.	Hon. Richard Bloom <i>absent</i>	N/A	N/A	N/A	N/A	N/A
6.	Mr. Mark G. Bonino					
7.	Hon. James R. Brandlin					
8.	Ms. Angela J. Davis <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Hon. David De Alba					
10.	Hon. Emilie H. Elias					
11.	Hon. Noreen Evans <i>absent</i>	N/A	N/A	N/A	N/A	N/A
12.	Hon. James P. Fox					
13.	Hon. Harry E. Hull, Jr.					
14.	Hon. Teri L. Jackson					
15.	Hon. Douglas P. Miller					
16.	Hon. Mary Ann O'Malley					
17.	Mr. Mark P. Robinson, Jr.					
18.	Hon. David Rosenberg					
19.	Hon. David M. Rubin					
20.	Hon. Dean T. Stout					

NON-VOTING MEMBERS		PRESENT
1.	Hon. Sue Alexander	
2.	Hon. Robert A. Glusman	
3.	Hon. James E. Herman	
4.	Hon. Morris D. Jacobson	
5.	Hon. Brian L. McCabe <i>absent</i>	N/A
6.	Mr. Frank A. McGuire	
7.	Hon. Kenneth K. So	
8.	Ms. Mary Beth Todd	
9.	Hon. Charles D. Wachob	
10.	Hon. Brian C. Walsh	
11.	Mr. David H. Yamasaki	

Totals: Present _____ Absent _____ Yes _____ No 0 Abstain _____ Recuse _____


Hon. Steven Jahr
Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET

Friday, April 25, 2014 Meeting

ITEM # N
RECOMMENDATION # 2


Agenda Item # / Subject: _____ Roll Call _____ Voice Vote _____

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Hon. Tani G. Cantil-Sakauye, Chair					
2.	Hon. Judith Ashmann-Gerst			✓		
3.	Hon. Stephen H. Baker			✓		
4.	Hon. Marvin R. Baxter <i>absent</i>	N/A	N/A	N/A	N/A	N/A
5.	Hon. Richard Bloom <i>absent</i>	N/A	N/A	N/A	N/A	N/A
6.	Mr. Mark G. Bonino			✓		
7.	Hon. James R. Brandlin		✓			
8.	Ms. Angela J. Davis <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Hon. David De Alba			✓		
10.	Hon. Emilie H. Elias			✓		
11.	Hon. Noreen Evans <i>absent</i>	N/A	N/A	N/A	N/A	N/A
12.	Hon. James P. Fox			✓		
13.	Hon. Harry E. Hull, Jr.			✓		
14.	Hon. Teri L. Jackson			✓		
15.	Hon. Douglas P. Miller			✓		
16.	Hon. Mary Ann O'Malley			✓		
1.	Mr. Mark P. Robinson, Jr. <i>absent</i>					
2.	Hon. David Rosenberg		✓			
3.	Hon. David M. Rubin			✓		
4.	Hon. Dean T. Stout			✓		

J. NADUER

NON-VOTING MEMBERS		PRESENT
1.	Hon. Sue Alexander	
2.	Hon. Robert A. Glusman	
3.	Hon. James E. Herman	
4.	Hon. Morris D. Jacobson	
5.	Hon. Brian L. McCabe	
6.	Mr. Frank A. McGuire	
7.	Hon. Kenneth K. So	
8.	Ms. Mary Beth Todd	
9.	Hon. Charles D. Wachob	
10.	Hon. Brian C. Walsh	
11.	Mr. David H. Yamasaki	

Totals: Present _____ Absent _____ Yes 2 No 13 Abstain _____ Recuse _____


Hon. Steven Jahr
Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET

Friday, April 25, 2014 Meeting

ITEM N
RECOMMENDATION: OPTION #1 AS AMENDED


Agenda Item # / Subject: _____ Roll Call _____ Voice Vote _____

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Hon. Tani G. Cantil-Sakauye, Chair					
2.	Hon. Judith Ashmann-Gerst		✓			
3.	Hon. Stephen H. Baker		✓			
4.	Hon. Marvin R. Baxter <i>absent</i>	N/A	N/A	N/A	N/A	N/A
5.	Hon. Richard Bloom <i>absent</i>	N/A	N/A	N/A	N/A	N/A
6.	Mr. Mark G. Bonino		✓			
7.	Hon. James R. Brandlin			✓		
8.	Ms. Angela J. Davis <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Hon. David De Alba		✓			
10.	Hon. Emilie H. Elias		✓			
11.	Hon. Noreen Evans <i>absent</i>	N/A	N/A	N/A	N/A	N/A
12.	Hon. James P. Fox		✓			
13.	Hon. Harry E. Hull, Jr.		✓			
14.	Hon. Teri L. Jackson		✓			
15.	Hon. Douglas P. Miller		✓			
16.	Hon. Mary Ann O'Malley		✓			
1.	Mr. Mark P. Robinson, Jr.					
2.	Hon. David Rosenberg		✓			
3.	Hon. David M. Rubin		✓			
4.	Hon. Dean T. Stout		✓			

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NON-VOTING MEMBERS		PRESENT
1.	Hon. Sue Alexander	
2.	Hon. Robert A. Glusman	
3.	Hon. James E. Herman	
4.	Hon. Morris D. Jacobson	
5.	Hon. Brian L. McCabe	
6.	Mr. Frank A. McGuire	
7.	Hon. Kenneth K. So	
8.	Ms. Mary Beth Todd	
9.	Hon. Charles D. Wachob	
10.	Hon. Brian C. Walsh	
11.	Mr. David H. Yamasaki	

Totals: Present _____ Absent _____ Yes 14 No 1 Abstain _____ Recuse _____


Hon. Steven Jahr
Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.