

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, CA 94102-3688

**Item 10: Update and Discussion of Pending Council Initiatives  
Briefing Paper**

AOC staff will report on and facilitate council discussion of the initiatives described in this briefing paper: Interpreters in Civil Cases, Probate Conservatorship Task Force, Domestic Violence Process and Procedure Task Force, California Blue Ribbon Commission on Foster Care, Statewide Administrative Infrastructure Review, and Facilities Transfers.

**Interpreters in Civil Cases**

**Goal:**

Civil litigants with limited English proficiency will have equal access to the courts and equal ability to participate in court proceedings, and will be treated in a fair and just manner. This goal directly supports the Council's strategic goal number 1, *Access, Fairness and Diversity*, and also addresses access and fairness concerns identified in the 2005 Public Trust and Confidence survey. Shorter range goals include:

- Establish a language access policy for providing interpreters in all civil cases and addressing the needs of users of the court system who have limited English proficiency. All persons coming to court would receive reasonable language access to the courts. Courts would operate more efficiently as continuances and other problems would be significantly lessened by the provision of interpreters.
- Expansion of interpreter usage in civil cases drives the need for additional interpreters in the courts thereby enhancing the viability of the court interpreting profession. Enhanced recruitment may also lead to increased support from university programs that can partner with the courts and AOC to develop curriculum to support court interpreting.

**Status:**

Current law does not provide for certified or registered interpreters for non-English speaking civil litigants, who are generally unable to use professional interpreters unless they can pay for the costs of their services. Yet the issues at stake in child custody, child support and other civil cases can be as critical as the issues involved in criminal cases where the law now provides for interpreters.

Lack of interpreter services jeopardizes the court's ability to identify the crucial issues needed for a determination of the case. These problems are exacerbated by the fact that many of these litigants are also lacking any legal representation. Lack of interpreters has

enormous consequences for litigants: in domestic violence cases, respondents do not understand the orders entered against them and all too often violate them; single parents are unable to obtain adequate child support awards and must go on public assistance; extended family members are unable to obtain guardianships which would allow them to care for children who otherwise are placed into foster care or juvenile hall.

The Chief Justice and the Administrative Director of the Courts have raised this issue with the Governor, who emphasized its importance in the Governor's Budget, which stated, ". . .it is essential to provide interpreters for civil cases, including family law and domestic violence cases. This will enable litigants to have meaningful access to the courts. Using existing resources, the Judicial Council will identify efficiencies and best practices, and will, to the extent possible, expand the use of interpreters in civil cases."

Assembly Member Dave Jones has expressed a strong interest in increasing access to interpreters in civil cases and has introduced legislation to address the issue. The plan for the legislation is not known at this time, however it is expected to require interpreters for all civil cases for all persons.

Based upon a review of current filings, the amount of time spent in court in different matters, and percentages of self-represented litigants in different subject matters, the cost of providing interpreters in all civil cases involving self-represented litigants is estimated to be approximately \$30 million per year.

Because an incremental approach may be required to implement these services, a proposed priority based upon the vital issues in the litigation and the numbers of persons who are unable to afford interpreters would be as follows: 1) Family law, 2) Civil limited, 3) Small Claims, 4) Probate, 5) Civil unlimited. Without the cost of civil unlimited cases, the estimated total required for interpretation in cases involving low-income persons in civil cases is estimated at \$15 million per year.

**Next Steps:**

- Work with Assembly Member Jones on his legislation to greatly expand the use of civil interpreters. The proposal is likely to face some hurdles in the Legislature's fiscal committees because the costs to provide interpreters for all persons regardless of their income would be prohibitive.
- Conduct an assessment that includes the following:
  - Level of interpreter services provided in civil cases currently;
  - Assessment of need by case type;
  - Update of cost estimates to fund expanded interpreter services, including what can be done within existing resources, with the objective of a report in August 2006 and a budget request submitted in September 2006.
- Develop initiatives to expand interpreter services, such as the following initiatives of the Court Interpreters Advisory Panel: review test standards and procedures,

increase interpreter recruitment, and collaborate with institutions of higher learning to develop educational programs for prospective interpreters.

## **Probate Conservatorship Task Force**

### **Goal:**

Ensure that the courts perform their role in safeguarding the persons and property of conservatees by working to: increase the accountability of conservators, courts, and other stakeholders; assure that all participants are fully educated in their duties and responsibilities; and encourage the use of best practices in the management of conservatorship cases within the court system.

### **Status:**

Chief Justice Ronald M. George established the Probate Conservatorship Task Force in January 2006, for the purpose of reviewing the practice, procedure, and management of probate conservatorship cases in the State of California. While there have been past legislative efforts to address abuses in the system, and the Council has supported enhanced education requirements for private professional conservators, this task force will take a comprehensive look at the entire conservatorship system. Its charge extends far beyond a review of the unscrupulous behavior and lack of oversight problems identified in the Los Angeles Times articles from last November.

The task force is currently reviewing and making recommendations concerning proposed legislation. The Omnibus Conservatorship and Guardianship Reform Act of 2006, AB 1363 (Jones) would set licensing requirements for conservators; add an education and training component for conservators, judges, and staff; increase the frequency of mandated accountings and visits to conservatees; and add a mechanism for disciplining and removing conservators in appropriate cases. Legislation that Senator Bowen is planning to introduce would give the court discretion to set a conservatorship review hearing at any time on its own motion, clarify the role of the court investigator to focus on the wellbeing of the conservatee, and authorize the Judicial Council to adopt a Rule of Court to allow an exception to the ban on ex parte communications in conservatorship cases so that the judge can ascertain a conservatee's situation.

The task force has scheduled two open meetings in March 2006, at which time the task force will hear testimony from conservatees, family members, public guardians, private professional conservators, probate attorneys, senior advocacy groups, and interested public members. The hearing on March 17, 2006, will be held in Los Angeles and the hearing on March 24, 2006, will be held in San Francisco.

The task force will research and analyze how other states and countries handle conservatorship matters. The task force also will perform a review of probate conservatorship management in the State of California.

**Next Steps:**

An interim report and recommendations are expected by October 2006 and a final report by February 2007. Upon review of the task force's recommendations, the council will be asked to consider sponsoring or supporting legislation that incorporates improvements to the conservatorship system. The recommendations may include enhancing education requirements for court staff and judges and licensing and training of conservators. Another likely recommendation will be to establish a Judicial Council priority for the funding of increased resources for the trial courts in probate conservatorship cases.

**Domestic Violence Practice and Procedure Task Force****Goal:**

Enhance the courts' ability to provide accountability and timely access to justice in domestic violence cases, by:

- Recommending best practices and systems to ensure accountability in criminal domestic violence cases;
- Enhancing practice and procedure relating to restraining orders in family, juvenile, and criminal proceedings and ensuring prompt and accurate entry of the orders into the required criminal justice database;
- Revising Judicial Council forms relating to domestic violence to improve use and enforcement of restraining orders;
- Conducting regional conferences for local courts and justice system partners so that the courts may participate in the development of best practices and, at the same time, enhance court/community communication about domestic violence issues; and
- Expanding and enhancing judicial branch education relating to domestic violence cases and recommending minimum requirements for newly appointed or elected judges and commissioners as well as for those new to a juvenile, family, or criminal law assignment.

These goals are responsive to recommendations contained in the *Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence* (hereafter referred to as the Attorney General's report) released in June 2005. The Administrative Director of the Courts and two judges were members of the task force and participated in the development of the recommendations. These goals are also consistent with the objectives set forth in the Judicial Council's operational plan.

**Status:**

Chief Justice Ronald M. George appointed the Judicial Council Domestic Violence Practice and Procedure Task Force on September 6, 2005. The task force conducted an initial organizational meeting and then submitted a status report to the Judicial Council on December 2, 2005. The task force formed two working groups and then launched its information gathering phase in support of the development of best practices in the areas of restraining orders and criminal procedure in domestic violence cases. These areas of

best practice are responsive to the issues of concern set forth in the Attorney General's report. The restraining order working group and the criminal procedure best practices working group will convene a series of conference calls designed to develop draft best practices in these areas. The task force will review the recommended practices at its next meeting in June.

Other planned task force activities include the enhancement of judicial branch education in the area of domestic violence and proposed revisions of various Judicial Council forms relating to domestic violence.

The following legislation, effective January 1, 2006, resulting from the Attorney General's report, has affected the task force work and the revision of Judicial Council domestic violence forms:

- AB 99, Cohn, Ch 125, Fam 6345, 6361 (extends from three years to five years the maximum allowable time for a domestic violence civil protective order to remain in effect);
- AB 112, Cohn, Ch 132, Pen 136.2 (provides that a more restrictive emergency protective order (EPO) relating to the same parties has enforcement precedence over a criminal protective order (CPO));
- AB 1288, Chu, Ch 702, Pen 136.2, 11106 (creates a new procedure pursuant to which a court may issue a firearms prohibition even if a criminal protective order is not issued); and
- SB 720 Kuehl, Ch 631, CCP 1218, Fam 6380; Pen 136.2 (requires the court to ensure entry of restraining orders issued under the Domestic Violence Prevention Act into the statewide database in the same manner as is required for criminal protective orders).

**Next Steps:**

Major task force milestones are:

- Work plan submitted to the Judicial Council Rules and Projects Committee (February 22, 2006)
- Firearms Colloquium – designed to develop practices for the surrender of firearms (April 23, 2006)
- Forum on Improving Entry into CLETS Database (Summer 2006)
- Local Justice System Meetings to Discuss Proposed Best Practices (Fall and Winter 2006)
- Regional Conferences to Discuss Proposed Practices (Spring 2007)
- Final Report to the Judicial Council (December 2007)

The Judicial Council will likely take future action on task force proposals for revising forms, proposing minimum educational requirements, and recommending best practices in the areas of restraining orders and criminal procedure in domestic violence cases.

## **California Blue Ribbon Commission on Foster Care**

### **Goal:**

Recognizing that too many of California's most vulnerable children are spending more time than necessary in foster care, in part because of delays, limited information, and poor communication in California's juvenile courts: provide the courts with the tools they need to improve their oversight of foster care cases, promote collaboration between the courts and child welfare agencies, and help every child and parent have an effective voice in the court proceedings that affect their lives.

Two important sources for this goal are the Judicial Council's operational plan, which contains a number of objectives related to improving the juvenile courts, and the report and recommendations of the Pew Commission on Children in Foster Care, which was a nationwide panel of experts that focused on ways to improve outcomes for children in foster care.

### **Status:**

Chief Justice Ronald M. George has convened the California Blue Ribbon Commission on Children in Foster Care to highlight that children's safety, permanence, and well-being are top priorities in the California court system.

During its two-year duration, the commission will explore the causes and consequences of court-based delays and make recommendations on how to improve the ability of courts to move children quickly out of the legal limbo of foster care into safe, permanent homes. The commission will also explore how to strengthen courts' accountability for the use of public dollars in protecting and supporting children who have suffered abuse and neglect. Commission members will study more flexible approaches to federal funding that would give California and other states the freedom to decide whether foster care is the right choice for an individual child or whether there are other options that might keep children safe and secure.

The Blue Ribbon Commission will solicit firsthand accounts from children, parents, judges, administrators, and others in California to depict the high-stakes decisions courts make, as well as the obstacles to children's exiting foster care within a reasonable time, such as court delays, lack of information, and the failure of all parties to collaborate in the decision-making process.

The Chief Justice has appointed Associate Justice Carlos R. Moreno of the Supreme Court to chair the commission. The commission's membership is in the process of being finalized and will include judges, legislators, county welfare directors, attorneys, state and local agency representatives, nonprofit and foundation representatives, and others concerned with children in foster care. The membership will reflect the diversity and depth of experience necessary to develop and recommend innovative solutions to improve conditions for our state's most vulnerable children and youth.

The first meeting of the Blue Ribbon Commission on Children in Foster Care will take place at the Judicial Council Conference Center on March 23 and 24, 2006.

**Next Steps:**

As a result of the work of the Blue Ribbon Commission, the council may consider recommendations in areas such as:

- The length of assignment of judges to the juvenile court;
- Stable funding based on branchwide baseline standards for judicial and staff resources in dependency cases; and
- Standards for appropriate levels of resources for cases involving children and families and for allocating those resources.

**Statewide Trial Court Administrative Infrastructure Initiatives Review**

**Goal:**

Ensure that initiatives to create statewide administrative infrastructure systems and services for the 58 trial courts in the areas of (1) finance, (2) information technology, (3) human resources, (4) facilities, and (5) legal services are on track and as effective as possible—strategically, operationally, and fiscally—for addressing the administrative services needs of the trial courts and the AOC, and the state oversight responsibilities of the Judicial Council.

Specific desired outcomes for these initiatives are identified in the Judicial Council’s Operational Plan for California’s Judicial Branch.

**Status:**

The review process, which is being conducted by KPMG consulting, began in January, 2006 and will be completed by May 8, 2006. The initiatives being reviewed include projects such as: litigation management, technical assistance in labor and employee relations, the Court Human Resources Information System (CHRIS), Court Accounting and Reporting System (CARS), Computer Aided Facilities Management (CAFM), and Case Management System (CMS).

*Background*

Consistent with the goals of state trial court funding and the expectations of the legislative and executive branches, and pursuant to the direction of the Judicial Council at its April 2002 meeting, the judicial branch is establishing a comprehensive administrative infrastructure at the state and local levels to provide appropriate accountability for the legally compliant, effective, and efficient use of resources for and by the courts; to provide the necessary information to support the council’s and the courts’ policymaking responsibilities; and to consistently and reliably provide the administrative tools and services to support day-to-day court operations.

The Administrative Office of the Courts, working with the trial courts, is developing and implementing strategies for these statewide administrative infrastructure initiatives. This

collaborative approach is designed to improve the quality of justice in California by advancing statewide values for the judicial branch and consistency in court operations while maintaining decentralized court management.

Following a Request for Proposal, KPMG, an independent consultant with demonstrated expertise in the evaluation and review of government/public sector programs, was appointed to conduct a mid-course review, analysis, and evaluation of current and planned directions in the development and implementation of statewide administrative infrastructure systems and services for the 58 trial courts. This mid-course review is being undertaken as part of the Judicial Council's directive to evaluate progress across the initiative areas and meet the commitment to the other two branches of government.

The review will provide a timely and valuable assessment to ensure that from a business perspective these initiatives are as effective as possible—strategically, operationally, and fiscally—in addressing the administrative services needs of the trial courts and the AOC, as well as the state oversight responsibilities of the Judicial Council. The assessment also will help to inform decision making processes with regard to these initiatives and provide insight as to whether and where any mid-course adjustments might be needed.

**Next Steps:**

Upon receipt of the report in May, 2006, findings will be reviewed with the respective implementation teams and, where appropriate, action plans will be developed to make any needed improvements. A briefing will be provided to the council in August or October.

**Court Facilities Transfers**

**Goal:**

Transfers of all trial court facilities from the counties to the state pursuant to SB 1732 in order to improve conditions in trial court facilities statewide.

This goal furthers the Judicial Council-approved capital outlay plan which requires that a court facility be transferred to the state before state funds may be used for capital projects.

**Status:**

The AOC's Office of Court Construction and Management is working with approximately 40 counties to transfer responsibility for court facilities from the counties to the state. Four facilities have been transferred to date. Pursuant to SB 1732 transfers of all court facilities in all 58 counties are to be completed by June 30, 2007.

Challenges to the transfers include the complexities of unprecedented real estate transactions as mandated by SB 1732; the prohibition of transferring court facilities with seismic ratings of V, VI or VII. It is estimated that one-third of all evaluated court facilities are barred from transfer due to the unacceptable seismic rating.

Legislation is being proposed to permit those facilities with unacceptable seismic ratings to be transferred to the state as long as the county agrees to a provision for correction. Whether counties will retain liability is a critical aspect of legislative negotiations. A change in the seismic threshold is anticipated to accelerate the rate of court facility transfers.

Bond measures – two identical measures have been introduced to implement the Governor’s Strategic Growth Plan as it relates to court facilities AB 1831 (Jones) and SB 1163 (Ackerman). Both the Senate and Assembly Judiciary Committees held informational hearings on the bills. These bond bills will be referred to a conference committee that will decide the infrastructure bond package that will ultimately be presented to the voters. As of mid-February 2006 \$1.8 billion is included for court facilities in the bills.

SB 395 (Escutia) which states the intent of the legislature to enact the California Court Facilities Bond Act of 2006 passed the Senate on June 1, 2005. The bill is being held in the Assembly Appropriations Committee. No action is expected on SB 395 pending action on AB 1831 and SB 1163.

**Next Steps:**

Revisit the June 30, 2007 deadline for transfers because seismic delays have prevented the majority of counties from proceeding with most transfers.

Depending on final disposition of the statewide infrastructure bond bill and voter reaction, consider seeking a court facility bond bill for 2008, and embark on a strategic educational outreach program.