

JUDICIAL COUNCIL MEETING
Minutes of the December 14, 2010, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:40 a.m. on Tuesday, December 14, 2010, at the Administrative Office of the Courts (AOC) in San Francisco.

Judicial Council members present: Chief Justice Ronald M. George; Justices Marvin R. Baxter, Richard D. Huffman, and Douglas P. Miller; Judges Stephen H. Baker, Lee Smalley Edmon, James E. Herman, Ira R. Kaufman, Burt Pines, Winifred Younge Smith, Kenneth K. So, David S. Wesley, and Erica R. Yew; Ms. Miriam Aroni Krinsky, Ms. Edith R. Matthai, Mr. Joel S. Miliband, Mr. James N. Penrod, and Mr. William C. Vickrey; advisory members: Judges Keith D. Davis, Kevin A. Enright, Terry B. Friedman, Teri L. Jackson, Robert James Moss, Mary Ann O'Malley; Mr. Frederick K. Ohlrich, Commissioner Lon F. Hurwitz; Mr. Alan Carlson, Mr. Michael M. Roddy, and Ms. Kim Turner.

Absent: Senator Ellen M. Corbett; Assembly Member Mike Feuer; Justice Tani Cantil-Sakauye; and Judge Sharon J. Waters.

Others present included: Justices Ronald B. Robie and Laurie D. Zelon; Judges Kim Garlin Dunning, W. Kent Hamlin, William A. MacLaughlin, Steve White; Court Executive Officer Jake Chatters; Ms. Beate Boultinghouse, Ms. Lindsey Scott-Florez, Ms. Beth Jay, Ms. Maki Matsumura, Mr. Keith North, and Mr. Brandon Scovill; **staff:** Mr. Peter Allen, Mr. Nick Barsetti, Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Ayanna Cage, Ms. Sheila Calabro, Ms. Eunice Calvert-Banks, Ms. Nancy Carlisle, Mr. Philip Carrizosa, Mr. James Carroll, Mr. Arturo Castro, Mr. Steven Chang, Ms. Roma Cheadle, Mr. Curtis L. Child, Ms. Shannon Clawson, Mr. Kenneth Couch, Dr. Diane Cowdrey, Mr. Dexter Craig, Mr. Patrick Danna, Dr. Charlene Depner, Mr. Kurt Duecker, Mr. Mark Dusman, Mr. Edward Ellestad, Mr. Robert Emerson, Mr. Ekuike Falorca, Mr. Chad Finke, Mr. Michael Fischer, Mr. Ernesto V. Fuentes, Mr. Mark Gelade, Ms. Marlene Hagman-Smith, Ms. Sue Hansen, Ms. Donna Hershkowitz, Ms. Lynn Holton, Ms. Bonnie Hough, Ms. Kathleen Howard, Mr. Mark Jacobson, Mr. Kenneth L. Kann, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Maria Kwan, Ms. Althea Lowe-Thomas, Ms. Susan McMullan, Mr. Mark Moore, Ms. Debora Morrison, Mr. Stephen Nash, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Dyanna Quizon, Ms. Mary Roberts, Ms. Akilah Robinson, Mr. Colin Simpson, Mr. Curt Soderlund, Ms. Nancy E. Spero, Mr. Alan Tom, Mr. Courtney Tucker, Ms. Julia Weber, and Mr. Lee Willoughby; and **media representatives:** Ms. Maria Diazco, *Courthouse News Service*; Ms. Laura Ernde and Mr.

Todd Rogers, *San Francisco Daily Journal*; Ms. Kate Moser, *The Recorder*; and Mr. Vic Lee, *KGO-TV* (ABC San Francisco).

Public Comment

Presiding Judge Steve White, Superior Court of Sacramento County, addressed the council on behalf of the Superior Court of Sacramento County and the Alliance of California Judges concerning allocations for statewide technology infrastructure as proposed in the report for agenda Item 15: Special Funds: Allocations for Fiscal Year 2010–2011.

Approval of Minutes

The minutes of the October 29, 2010, business meeting were distributed during this meeting. To allow council members sufficient time to review them prior to approval, the council directed staff to distribute the minutes for approval via circulating order.

Judicial Council Committee Presentations

Executive and Planning Committee

Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met five times by telephone call and communicated once via e-mail since the October 29, 2010, Judicial Council meeting.

On November 22 the committee reviewed reports and set the agenda for the council's December 14 business meeting.

On December 2, 2010, the committee reviewed reports and further set the agenda for the next Judicial Council business meeting. At that meeting the committee also set its 2011 meeting dates for setting the Judicial Council agenda. The committee reviewed a status report regarding statutory public notice requirements in the event of a trial court closing any courtroom or closing or reducing the hours of clerks' offices during regular business hours on any weekday except judicial holidays. The committee, on behalf of the Judicial Council, suspended the Operating Guidelines and Directives for Budget Management in the Judicial Branch currently in effect, pending further review and recommendations.

On December 3 the AOC General Counsel brought before the committee a confidential matter protected by attorney-client privilege. The committee also reviewed a report and further set the agenda for the next Judicial Council business meeting.

On December 8, 2010, the committee approved, on behalf of the Judicial Council, the request from Judge Martin J. Tangeman, Superior Court of San Luis Obispo County, for an unpaid sabbatical leave for the period October 1, 2011, to May 31, 2012.

On December 9 the committee reviewed the request and written statement from Judge Charles E. Horan, Alliance of California Judges, requesting that it have a speaker at the December 14, 2010, Judicial Council meeting regarding Item 15, Special Funds: Allocations for Fiscal Year 2010–2011. The committee agreed that a speaker may speak, up to 5 minutes, at the December 14 council meeting. The committee also approved the distribution of the written statement to the council members.

On December, 7, via e-mail, the committee approved the text of the premeeting advisory delivered by e-mail to all justices, judges, clerk/administrators, and court executive officers communicating the key policy issues to be addressed during the council's December 14, 2010, business meeting.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met once since the October 29, 2010, Judicial Council meeting.

On November 10 the committee met regarding recommended council-sponsored legislative priorities focusing on budget-related matters that included necessary funding for dependency counsel, court security, probate conservatorships, court interpreters, and audits. The committee also focused on the continuing priority of securing new judgeships and expediting the conversion of subordinate judicial officer positions to judgeships upon vacancy. These legislative proposals and other items recommended by the PCLC for council sponsorship are items 1–6 on today's consent agenda and item 14 on the discussion agenda.

At the November 10 meeting, the PCLC was also briefed on efforts regarding the Federal Tax Intercept program for the collection of federal court-ordered debt, grant funding for court interpreter programs, funding for CCMS, and foster care issues. Justice Baxter indicated that he will update the council in future meetings as legislation is introduced, positions are taken, and council-sponsored legislation moves through the legislative process.

The Legislature reconvened on December 6 for the swearing in of newly elected members and dozens of bills were introduced.

Rules and Projects Committee

Justice Douglas P. Miller, chair of the Rules and Projects Committee (RUPRO), reported that the committee had met three times by telephone and deliberated once via e-mail since the October 29, 2010, Judicial Council meeting.

On November 23 the committee met to consider four proposals coming before the council today. They are items 7–10 on the consent agenda.

On November 6 the committee met to consider a proposed acknowledgment in the revised *Civil Jury Instructions*. The committee declined to approve that acknowledgment and asked the Advisory Committee on Civil Jury Instructions to develop criteria for the approval of acknowledgments for the jury instructions, whether they are civil or criminal, and whether any acknowledgment should be placed in the comment section or elsewhere.

On December 10 the committee met to review eight rules and forms proposals to circulate for public comment during the winter cycle following public circulation and further review by the advisory committees and RUPRO; these proposals are expected to come before the council at the April 2011 business meeting. At that meeting, the committee also considered and recommended approval of a correction to the bail and penalty schedule that has been distributed as a pink handout for item 7 on today's consent agenda.

In addition, on December 6, members of RUPRO communicated by e-mail to consider a technical form revision found in Item 13 on today's consent agenda.

Superior Court of Riverside County Self-Help Centers to Be Renamed

Justice Miller noted that council member Judge Sharon J. Waters, who was unable to attend this meeting, asked him to announce that the Superior Court of Riverside County had approved a proposal to rename all of its self-help centers after Chief Justice George in honor of and gratitude for his leadership regarding serving the needs of self-represented litigants and in providing the Riverside court with additional judges over several years through the Assigned Judges Program, easing the court's backlog of cases.

Chief Justice's Report

Before making his report on the activities during the six weeks preceding the meeting, Chief Justice Ronald M. George recognized Judicial Council members Justice Marvin R. Baxter and Judge Erica Yew for their recent honors. He read a commendation acknowledging Justice Baxter's 20th anniversary as an Associate Justice of the Supreme Court of California. In response, Justice Baxter stated his appreciation of the Chief Justice, his past and present colleagues on the Supreme Court, and the Judicial Council, in particular the Policy and Liaison Committee. Chief Justice George commended Superior Court Judge Erica Yew on her appointment to the Commission on Judicial Performance. Judge Yew accepted his congratulations with appreciation.

Chief Justice George proceeded with his report on the events and activities he participated in since the last business meeting, on October 29, 2010. He stated his appreciation for the remembrances and farewell events planned in honor of his retirement. He was pleased to preside over the ceremonial swearing-in of Chief Justice-Elect Tani Cantil-Sakauye on December 3, 2010. He and the Chief Justice-elect will also swear in, respectively, the state Senate and the Assembly when the Legislature reconvened on January 3 from a winter recess. Chief Justice George also

participated in six hearings of the Commission on Judicial Appointments to confirm the appointments of Justice Vance W. Raye as presiding justice and the appointments of Elena J. Duarte, Andrea L. Hoch, and William J. Murray, Jr., as associate justices to the Court of Appeal, Third Appellate District; the elevation of Justice Brad R. Hill to presiding justice; and the appointment of Judge Donald R. Franson, Jr., as associate justice to the Court of Appeal, Fifth Appellate District.

He spoke at the Presiding Judges Orientation and Court Management Program and before the Council of Chief Judges of the State Courts of Appeal and the National Organization of Intermediate Appellate Judges. He also appeared at the dedication of the state's newest courthouse, the Superior Court of Contra Costa County's Richard E. Arnason Justice Center with former Presiding Judge Mary Ann O'Malley officiating. Judge O'Malley remarked on the widespread approval of the new building. Mr. William C. Vickrey, Administrative Director of the Courts, emphasized the need for this facility, observing that many are unfamiliar with the adverse conditions of court buildings around the state where public business is conducted.

Chief Justice George attended a meeting of the County Association of Governments and the Consumer Attorneys awards dinner, adding that both organizations have been instrumental in many structural improvements to the judicial branch. He also attended a meeting of the State-Federal Judicial Council, which meets twice a year on issues in common between the federal and state judiciaries. He met with educators participating in the California On My Honor Civics Institute, a professional development program for California K-12 teachers on curriculum related to civics education and the judicial branch of government. The Chief Justice observed that two out of three American adults cannot name the three branches of government and many cannot name a single branch. He lauded this program and the enthusiasm of the participants for promoting civics education.

The Chief Justice had speaking engagements at the Chancellery Club, a meeting of the Italian American Lawyers Association, and departing interviews with a variety of media sources: the *Los Angeles Times*, *California Lawyer* magazine, KCBS, and a public radio interview. He attended a meeting of the California Supreme Court Historical Society, which is developing a comprehensive history of the California Supreme Court dating back to the court's inception in 1850. He also met with members of the judiciary and California State Bar in Orange County, and with the advisory board of *California Lawyer* magazine. Finally, the Chief Justice mentioned his pleasure in participating in the 2010 California Awards Ceremony for the Judiciary where he recognized several individuals for their outstanding contributions: Assembly Member Mike Feuer, recipient of the Stanley Mosk Defender of Justice Award; Associate Justice Laurie D. Zelon, awarded the Benjamin Aranda III Access to Justice Award; Administrative Presiding Justice Arthur G. Scotland, awarded the Ronald M. George Award for Judicial Excellence; Mr. Curtis L. Child, Director, AOC

Office of Governmental Affairs, awarded the Judicial Administration Award; and Senator Darrell S. Steinberg, recipient of the Bernard E. Witkin Amicus Curiae Award.

Chief Justice George ended by commemorating a significant milestone of the California court system, the 50th year anniversary of the constitutional amendment that established the position of the Administrative Director of the Courts, which is responsible for statewide court administration. He commended Mr. Vickrey's performance over the last 18 years in carrying out the many duties of the role and in particular Mr. Vickrey's dedication to the judiciary's participation in the work of the Judicial Council.

This concluded the Chief Justice's Report.

Administrative Director's Report

Mr. William C. Vickrey, Administrative Director of the Courts, gave his report to the council on developments since the previous meeting. He announced several pieces of good news with respect to fiscal year 2011–2012 budget developments. Since the last council meeting, the Department of Finance has agreed to assume 100 percent of the trial courts' mandatory health-care and retirement cost increases. These costs were confirmed at \$44 million. The agreement was reached through the efforts of Mr. Stephen Nash, Director, AOC Finance Division, Mr. Curtis L. Child, Director, AOC Office of Governmental Affairs, and state Department of Finance staff. In addition, the Department of Finance agreed to restore the \$30 million reduction in the branch operating budget imposed in the 2009–2010 budget resolution to the trial court budget for fiscal year 2011–2012.

Following the confirmation and ceremonial swearing-in of Chief Justice–Elect Tani Cantil-Sakauye, meetings ensued between the Chief Justice–Elect, Mr. Vickrey, AOC Chief Deputy Director Ronald G. Overholt, the legislative leadership of the state Assembly and Senate, and the chairs of the judiciary committees to discuss the budget priorities for next year. Those priorities include pursuing legislative commitments on the budget solutions already reached with the Legislature for fiscal year 2011–2012, continued progress on court construction, development of the Court Case Management System (CCMS), and a commitment to fund the long-standing need for new judgeships in California.

Mr. Vickrey reported that some judicial vacancies have been filled in the transition to the new Governor's administration. All appointments to existing vacancies on the appellate courts are confirmed. One additional vacancy in the Third Appellate District will occur as the result of the Chief Justice–Elect taking office.

The AOC continues, as required, to update the workload assessment model used for determining the need for new judgeships across the state. Mr. Vickrey reported that more than 4,000 trial court staff from 24 trial courts volunteered their time to complete time studies for the update. A committee of judges and court executive officers is contributing to the deliberative process to recommend any changes and approve this update of the workload assessment model.

With regard to community corrections, efforts are under way to strengthen probation and provide more meaningful sentencing options for judges in determining conditions of probation while improving recidivism rates for offenders placed on probation, all with the expectation of enhancing public safety. One source of progress is the partnership, fostered a year ago through legislation, between the courts, probation departments, other members of local criminal justice communities, and the Department of Corrections. Since the council's last business meeting, the AOC has held a training session on evidence-based practices. More than 100 participants attended regional training sessions across the state. The AOC organized another two-day session for the California Risk Assessment Pilot Project (CalRAPP) focusing on an effective risk assessment tool for evidence-based sentencing. More than 200 judges, prosecution and defense attorneys in San Francisco, and others also attended separate community corrections training programs on evidence-based sentencing practices and CalRAPP. The Superior Court of Yolo County has also joined CalRAPP. The council's Criminal Law Advisory Committee keeps apprised of the community corrections activities and oversees these initiatives.

Mr. Vickrey turned to an update on the Court Case Management System (CCMS). The transition continues as the responsibility for supporting the V3 civil system transfers from Deloitte Consulting to AOC. The effort will move technical support of the V3 Case Management System (Civil, Small Claims, Mental Health, Probate) from Deloitte to the AOC Information Services Division, achieving a substantial cost savings in labor charges, while building in-house V3 functional and technical knowledge to be used for future technical support of CCMS. Vendor testing of the core CCMS software continues in collaboration with court staff. The goal of this product testing is to attain a pass rate of 70 percent before turning the product over to the courts to perform final testing, expected by winter 2011. Recent test results have been favorable. Following the presentation at the State Bar's annual meeting, a number of demonstrations have taken place and others are being scheduled at the request of the members of the California State Bar.

Work continues, with the LAN/WAN program, to develop and support a standardized level of network infrastructure for the California superior courts. This infrastructure provides a foundation for enterprise system applications such as Phoenix and CCMS, via shared services at the CCTC. Three technical refreshes have been completed since the initial telecommunications project was offered in 2002 and the fourth cycle,

including 51 courts, is almost completed. The AOC is launching planning efforts for the fifth technology refresh.

Mr. Vickrey also updated the council on the Superior Court of San Bernardino County's integration of the Phoenix human resources system with its payroll services, noting that the court has successfully integrated health-care benefit vendors, retirement programs, and other human resource programs with the court's human resources system. To date, seven courts, have fully integrated their human resources. Due to the general financial condition of the state, however, further deployment and improvements have been suspended until the budget outlook improves.

In closing, Mr. Vickrey commended the early adopter courts (the Superior Courts of Orange, San Diego, and Ventura Counties) as well as other courts that have pioneered technological progress on a statewide information technology system (such as the Superior Court of Sacramento County) for their leadership and contributions in the advancement of CCMS. He expressed his gratitude for the time and effort invested on the part of courts, court staff, and judges to overcome a significant technological learning curve in the development and deployment of CCMS. Mr. Vickrey expressed confidence in the benefits and efficiencies to be realized by integrating a statewide financial system, human resources system, and case management system for all trial courts.

This concluded the Administrative Director's report.

He proceeded with a tribute recognizing two members of the Judicial Council who are departing the council before the end of their three-year terms: Judge Lee Smalley Edmon, presiding judge-elect of the Superior Court of Los Angeles County, and Judge Lon F. Hurwitz of the Superior Court of Orange County, formerly a commissioner of the court.

CONSENT AGENDA (Items 1–13)

Item 1 Judicial Council–Sponsored Legislation (Criminal Procedure): Dismissals in the Interests of Justice (amend Pen. Code, § 1385(a))

The Policy Coordination and Liaison Committee (PCLC) and the Criminal Law Advisory Committee recommended that the Judicial Council sponsor legislation to amend Penal Code section 1385(a) to authorize trial courts to state the reasons for a dismissal in the furtherance of justice on the record as an alternative to setting forth the reasons in an order entered upon the minutes. The proposal was designed to relieve trial courts of an unnecessary mandate and eliminate extraneous proceedings resulting from automatic reversals for failure to set forth the reasons in the minutes as required by the current statute.

Council action

The Judicial Council voted to sponsor legislation to amend Penal Code section 1385(a) to require that the reasons for dismissal be set forth either on the record or in an order entered upon the minutes.

**Item 2 Judicial Council–Sponsored Legislation (Criminal Procedure):
Obtaining Thumbprints of Felony Defendants (amend Pen. Code,
§ 992)**

The PCLC and the Criminal Law Advisory Committee recommended that the Judicial Council sponsor legislation to amend subdivision (a) of Penal Code section 992, to authorize courts to obtain thumbprints of felony defendants at the earliest possible time but no later than at the arraignment on the information or indictment of upon entry of a guilty or no contest plea under Penal Code section 859a.

Council action

The Judicial Council voted to sponsor legislation to amend Penal Code section 992(a) to:

1. Delete the requirement that courts obtain thumbprints “immediately following the arraignment in the superior court”; and
2. Prescribe that “[u]nless the court has obtained the thumbprint at an earlier proceeding, it shall do so at the arraignment on the information or indictment, or upon entry of a guilty or no contest plea under Penal Code section 859a.”

**Item 3 Judicial Council–Sponsored Legislation (Civil Cases): Vexatious
Litigants (amend Code Civ. Proc., § 391.7; add § 391.8)**

The PCLC, Trial Court Presiding Judges Advisory Committee, and the Civil and Small Claims Advisory Committee recommended that the Judicial Council sponsor legislation to amend Code of Civil Procedure section 391.7(b) and add section 391.8 to improve practice and procedure surrounding filings by vexatious litigants.

Council action

The Judicial Council voted to sponsor legislation to do the following:

1. Amend Code of Civil Procedure section 391.7 to add “presiding justice or” before “presiding judge” and to add “or his or her designee” to clarify that the provision applies to matters in the Court of Appeal and that a presiding justice or judge may delegate authority to make the pre-filing determination that an individual is a vexatious litigant or is permitted to file an action;

2. Amend Code of Civil Procedure section 391.7, subdivision (c), to authorize the presiding justice or presiding judge to order that notice be given of a vexatious litigant's status if the clerk mistakenly files litigation without a prefiling order; and
3. Add Code of Civil Procedure section 391.8 to provide procedures for an application to vacate a prefiling order and remove a litigant's name from the Judicial Council's list of vexatious litigants, along with guidance for deciding the application.

Item 4 Judicial Council–Sponsored Legislation (Civil Cases): Judicial Arbitration Statutes (amend Code Civ. Proc., §§ 1141.20 and 1141.23)

The PCLC and the Civil and Small Claims Advisory Committee recommended that the Judicial Council sponsor legislation to amend Code of Civil Procedure sections 1141.20 and 1141.23 to encourage settlement following judicial arbitration and reduce the number of trial de novo requests. The amendments would (1) provide that a party need not file a request for a trial de novo to stop entry of the arbitrator's award as the judgment in the case but instead could file a request for dismissal; and (2) would give parties up to 60 days after filing of the arbitrator's award to file either of the requests. This should reduce costs for the parties and courts associated with preparing, filing, and processing unnecessary trial de novo requests.

Council action

The Judicial Council voted to sponsor legislation to amend Code of Civil Procedure sections 1141.20 and 1141.23 to:

1. Provide that the filing of a request for dismissal will prevent the entry of the judicial arbitrator's award as the judgment in the case; and
2. Provide that parties have 60 days following the filing of the judicial arbitrator's award, rather than 30 days, to file either a request for dismissal or a request for a trial de novo.

Item 5 Judicial Council–Sponsored Legislation (Probate): Guardianship Venue When Previously Filed Family Code Custody Proceedings Exist (amend Prob. Code, §§ 1514 and 2203; add § 2204)

The PCLC, Probate and Mental Health Advisory Committee, and Family and Juvenile Law Advisory Committee recommended that the Judicial Council sponsor legislation to amend provisions of the Probate Code that govern venue in probate guardianship proceedings. The legislation would address situations where a guardianship matter is filed in one county and one or more child custody proceedings under the Family Code concerning the proposed ward have been previously filed in one or more other counties. The legislation would abrogate a portion of a 1951 California Supreme Court

decision affecting venue in these circumstances and establish a procedure under which courts in the guardianship and Family Code custody proceedings would communicate with each other before the court where the guardianship is filed determines the appropriate forum for that proceeding.

Council action

The Judicial Council voted to sponsor legislation to amend the Probate Code to (1) establish a consultative procedure between courts for determining the appropriate venue of a probate guardianship of the person of a child (versus the estate of the child) when one or more custody proceedings under the Family Code involving the proposed ward are on file in one or more other counties, (2) discourage forum shopping by parents disappointed in previous child custody litigation, and (3) codify decisional law establishing exclusive jurisdiction in the guardianship court to determine custody or visitation concerning the ward on the appointment of a guardian of his or her person.

Item 6 Judicial Council Legislative Policy Guidelines: 2010

The PCLC recommended that the Judicial Council adopt the updated Legislative Policy Guidelines reflecting actions through the 2010 legislative year. Adoption of these guidelines, setting forth concise policy guidance regarding court-related legislation, will help guide council decisionmaking on future legislation, consistent with strategic plan goals.

Council action

The Judicial Council adopted the updated Legislative Policy Guidelines reflecting actions through the 2010 legislative year.

Item 7 Traffic: 2011 Uniform Bail and Penalty Schedules

The Traffic Advisory Committee proposed revisions to the Uniform Bail and Penalty Schedules to become effective January 1, 2011. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Under rule 4.102 of the California Rules of Court, trial courts, in performing their duty under Penal Code section 1269b, must revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions is established by the schedules approved by the Judicial Council. The proposed revisions brought the schedules into conformance with recent legislation.

Council action

The Judicial Council, effective January 1, 2011, adopted the revised 2011 Uniform Bail and Penalty Schedules.

Item 8 Appellate Procedure: Filing, Modification, and Finality of Decisions in Proceedings for Writs of Review of Certain State Agency Decisions (amend Cal. Rules of Court, rule 8.499)

The Appellate Advisory Committee recommended amending the rule relating to remittitur in proceedings for writs of review of certain state administrative agency decisions to also address the filing, modification, and finality of courts' decisions in these proceedings. This amendment would fill a gap in the California Rules of Court.

Council action

The Judicial Council, effective January 1, 2011:

1. Amended rule 8.499 of the California Rules of Court, effective January 1, 2011, to
 - a. Reapply provisions relating to filing, modification, and finality of decisions that previously applied in proceedings for writs of review under rules 8.495, 8.496, and 8.498;
 - b. Add a cross-reference to rule 8.532(a) on filing of decisions in the Supreme Court; and
 - c. Replace references in these provisions to issuance of "an alternative writ or order to show cause" with references to issuance of "a writ of review" to more accurately reflect the procedures in these writ proceedings.
2. Voted to circulate these amendments for public comment during the spring 2011 comment cycle.

Item 9 Jury Instructions: Additions and Revisions to Civil Instructions, Judicial Council of California Civil Jury Instructions (CACI)

The Advisory Committee on Civil Jury Instructions recommended approval of the proposed additions, revisions, and renumbering to the *Judicial Council of California Civil Jury Instructions (CACI)*.

Council action

The Judicial Council, effective December 14, 2010, approved for publication under rule 2.1050 of the California Rules of Court the civil jury instructions prepared by the committee. On Judicial Council approval, the new and revised instructions will be published in the 2011 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

Item 10 Judicial Administration: Membership of the Criminal Law Advisory Committee (amend Cal. Rules of Court, rule 10.42)

The Criminal Law Advisory Committee recommended that the Judicial Council amend rule 10.42 of the California Rules of Court to add a probation officer membership category to the Criminal Law Advisory Committee.

Council action

The Judicial Council, effective January 1, 2011, amended rule 10.42(b) of the California Rules of Court to add a probation officer category of membership to the Criminal Law Advisory Committee.

Item 11 Court Facilities: Rules and Regulations for Relocation Payments and Assistance Regarding Real Property Acquisition

The AOC recommended that the Judicial Council adopt Rules and Regulations for Relocation Payments and Assistance for Judicial Branch Capital-Outlay Projects (Relocation Rules; see Attachment 1) and direct the Administrative Director of the Courts or a designee to administer the Relocation Rules in accordance with California Relocation Assistance Act (Gov. Code, § 7267.8) and the Relocation Assistance and Real Property Acquisition Guidelines (Cal. Code Regs., tit. 25, § 6006). The Relocation Rules provide the framework for implementation of state relocation law in connection with acquisition of sites for court facilities. Adoption of the Relocation Rules was required under Government Code section 7267.8 and section 6006(a) of the guidelines before providing relocation assistance and benefits to persons, businesses, or government agencies or entities displaced by site acquisition activities.

Council action

The Judicial Council, effective December 14, 2010:

1. Adopted Rules and Regulations for Relocation Payments and Assistance for Judicial Branch Capital-Outlay Projects (Relocation Rules);
2. Directed the Administrative Director of the Courts or a designee to administer through the Administrative Office of the Courts the Relocation Rules setting forth the procedures in providing relocation assistance to any persons, businesses, or governmental agencies or entities displaced by any site acquisition activity undertaken by the AOC;
3. Authorized the Administrative Director of the Courts or a designee to make adjustments to the administration of the relocation program and relocation payments per changes in the Relocation Assistance and Real Property Acquisition Guidelines and other applicable law; and
4. Authorized the Administrative Director of the Courts or a designee to pay more than the minimum relocation payments authorized per the guidelines and other applicable law. Such payment shall be limited to no more than the actual relocation costs incurred by the displaced persons, businesses, or governmental agencies or entities.

Item 12 Equal Access Fund: Distribution of Partnership Grants

The State Bar Legal Services Trust Fund Commission submitted a report on the distribution of Equal Access Fund grants. In that report, the commission requested that the Judicial Council approve the distribution of \$2 million according to the statutory formula set out in the State Budget. For the last 10 years, the Budget Act authorizing the Equal Access Fund has provided that the Judicial Council must approve the commission’s recommendations if the council determined that the awards comply with statutory and other relevant guidelines.

The AOC recommended that the Judicial Council, effective December 14, 2010, follow the recommendation of the State Bar Legal Services Trust Fund Commission and approve the distribution of \$2 million in Partnership Grants for 2010–2011 according to the terms of the State Budget and approve the commission’s determination that the proposed budget of each individual grant complies with statutory and other guidelines.

Council action

The Judicial Council, effective December 14, 2010, approved the allocation of \$2 million in Equal Access Fund partnership grants to the State Bar Legal Services Trust Fund Commission, for distribution to the following legal service agencies for programs conducted jointly with courts to provide legal assistance to self-represented litigants:

Asian Pacific American Legal Center

Asian Language Self-Help Family Law Workshops \$50,000

Bet Tzedek Legal Services

Elder Law Project \$145,000

California Rural Legal Assistance

San Joaquin County Landlord/Tenant and Small Claims Pro Per Assistance Project \$55,000

Stanislaus County Landlord/Tenant Pro Per Clinic \$70,000

Central California Legal Services, Inc.

Fresno County Elder Abuse Access to Justice Partnership \$85,000

Tulare County Elder Abuse Protection Partnership \$55,000

Contra Costa Senior Legal Services

Senior Self-Help Clinic \$31,000

East Bay Community Law Center	
Consumer Law Clinic	\$50,000
Elder Law and Advocacy	
Imperial County Bilingual Conservatorship/Guardianship Clinic	\$80,000
Family Violence Law Center	
Alameda County Domestic Violence Self-Representation Assistance	\$25,000
Greater Bakersfield Legal Assistance, Inc.	
Kern County Orders Project	\$80,000
Legal Aid Foundation of Los Angeles	
Santa Monica Self-Help Legal Access Center	\$45,000
Legal Aid Foundation of Santa Barbara County	
Legal Resource Center in Lompoc	\$90,000
Legal Aid Society of Orange County	
Central Justice Center Self-Help Center	\$65,000
Legal Aid Society of San Diego, Inc.	
Civil Harassment Temporary Restraining Order Clinic	\$55,000
Unlawful Detainer Assistance Program, South County Courthouse	\$65,000
Legal Aid Society of San Mateo County	
San Mateo County Landlord/Tenant Clinic	\$45,000
Legal Assistance for Seniors	
Partnership to Assist Guardianship Litigants	\$60,000
Legal Services of Northern California	
Yolo County Consumer Assistance Clinic	\$50,000
Mendocino County Self-Help Legal Access Center	\$50,000
Shasta Legal Information and Assistance Program	\$25,000
Solano County Restraining Order Clinic	\$45,000
Los Angeles Center for Law and Justice	
Help With Orders Prepared for Enforcement Project	\$60,000
Neighborhood Legal Services of Los Angeles County	
San Fernando Civil Harassment Project	\$90,000
San Gabriel Valley Self-Help Legal Access Center	\$90,000

Pro Bono Project Silicon Valley	
Family Court Settlement Project	\$57,000
Public Counsel	
Appellate Self-Help Clinic	\$45,000
Public Law Center	
Orange County Courthouse Guardianship Clinic	\$38,000
Public Service Law Corporation of Riverside County	
Inland Empire Expungement Project	\$50,000
San Diego Volunteer Lawyer Project	
North County Civil Harassment Restraining Order Clinic	\$65,000
San Francisco Bar Volunteer Legal Services	
Family Law Assisted Self-Help (FLASH) Project	\$50,000
Senior Citizens' Legal Services	
Conservatorship and Elder Abuse Project	\$54,000
Watsonville Law Center	
Language Access to Court Project	\$80,000
Total	\$2,000,000

Item 13 School Violence Prevention: Technical Form Revision

An error that could result in confusion was identified on the recently adopted Judicial Council form *Response to Petition for Orders to Stop Private Postsecondary School Violence* (form SV-120). This proposal would correct that error by restoring a missing word on page 1 of the form.

Council action

The Judicial Council, effective January 2, 2011, revised the text in the “Hearing Date” box on page 1 of form SV-120 to add the word “years” at the end of the last sentence.

DISCUSSION AGENDA (Items 14–19A and 19B)

Item 14 Judicial Council Legislative Priorities: 2011

Mr. Curtis L. Child and Ms. Donna S. Hershkowitz, Office of Governmental Affairs, presented this item.

Each year, the Judicial Council sponsors legislation to further key council objectives. Due to the continuing budget constraints facing the state, the PCLC recommended that the Judicial Council adopt mostly budget and budget-related legislative priorities for 2011, i.e., advocating for sufficient overall funding, funding related to court security, dependency counsel, probate conservatorship, and interpreters, along with the continuing priority of securing new judgeships and expediting the conversion of subordinate judicial officer positions to judgeships on vacancy.

Council action

The Judicial Council adopted the following legislative priorities for 2011.

Because of the overwhelming effect of budget reductions in recent years—and actions trial courts have needed to take in order to be open to the public, continue to provide adequate services to the public, and maintain court staff—most of the recommendations are budgetary.

1. While the judicial branch continues efforts to improve efficiency, redirect resources where possible, and eliminate waste, advocate to secure sufficient funding to avoid court closures, reduced hours, and staff layoffs without affecting long-term branch infrastructure projects.
2. Advocate to extend the July 1, 2011, sunset date on the \$10 court security fee increase imposed on all criminal convictions enacted as part of the 2010 judiciary budget trailer bill; to permanently extend the July 1, 2013, sunset on the \$10 court security fee increase enacted as part of the 2009 judiciary trailer bill; and to seek additional security funding. Also, advocate to provide the Judicial Council with a greater ability to manage, control growth in, and reduce, if possible, trial court security costs by establishing uniform staffing standards, refining definitions of allowable expenses, and limiting growth in costs that would be the responsibility of the judiciary to fund.
3. Advocate to secure additional funding to fill the ongoing shortfall in the allocation for dependency counsel.
4. Advocate to secure funding for implementation of the Omnibus Conservatorship and Guardianship Reform Act of 2006 or, if no funding is provided, to suspend the requirements that require court resources until such time as funding is provided.
5. Advocate to secure additional funding to begin to expand the availability of court interpreters beyond the criminal and juvenile courtrooms, consistent with the requirements of federal law.

6. Advocate to secure funding to support the fiscal compliance audits of the trial courts and the Administrative Office of the Courts mandated in the 2010 Judiciary Budget Trailer Bill (Sen. Bill 857; Stats. 2010, ch. 720, amending Gov. Code, § 77206).
7. Sponsor legislation to create the third set of 50 new judgeships to be allocated, consistent with the council's 2008 Judicial Needs Assessment, and advocate to secure funding for the 50 judgeships authorized under Assembly Bill 159 (Jones; Stats. 2007, ch. 722) but not yet funded.
8. Continue the annual efforts for legislative ratification of the Judicial Council's authority to convert 16 subordinate judicial officer (SJO) positions in eligible courts to judgeships, and sponsor legislation consistent with Assembly Bill 2763 (Committee on Judiciary; Stats. 2010, ch. 690) for legislative ratification of the council's authority to convert up to 10 additional SJO positions to judgeships if the conversion will result in a family or juvenile law assignment being assigned to a judge. Additionally, direct AOC staff to propose to the Executive and Planning Committee and the Judicial Council criteria for determining whether a position converted as one of the additional 10 will result in a judge being assigned to a family or juvenile law assignment previously presided over by a commissioner.

Item 15 Special Funds: Allocations for Fiscal Year 2010–2011

Ms. Mary M. Roberts, the AOC's General Counsel, made a statement regarding judicial council responsibility and authority for trial court budget and fiscal management.

Statement by the AOC's General Counsel Regarding Judicial Council Responsibility and Authority for Trial Court Budget and Fiscal Management (for Judicial Council Meeting on December 14, 2010, Agenda Item 15: Special Funds, Allocations for Fiscal Year 2010–2011)

Office of the General Counsel, Mr. Stephen Nash, Mr. Steven Chang, and Mr. Colin Simpson, Finance Division, presented this item.

The Judicial Council has statutory authority to allocate funding from statewide special funds for projects and programs that support the trial courts. The AOC presented recommendations related to FY2010–2011 allocations for specific projects and programs funded from the Trial Court Improvement Fund, the Judicial Administration Efficiency and Modernization Fund, and the Trial Court Trust Fund (TCTF).

Council action

The Judicial Council, for FY 2010–2011 (with two members voting no):

1. Approved allocation of \$34.668 million for projects and programs from the Modernization Fund (\$9.214 million) and the Improvement Fund (\$25.011 million);
2. Approved an accelerated schedule for soliciting, receiving, and processing court funding proposals related to the Alternative Dispute Resolution Program on an ongoing basis;
3. Approved allocation of \$20.968 million for ongoing services for trial courts from the Modernization Fund (\$0.530 million), the Improvement Fund (\$11.882 million), and the TCTF (\$8.556 million);
4. Approved allocation of \$94.229 million for statewide technology infrastructure maintenance and operations from the Modernization Fund (\$28.124 million), the Improvement Fund (\$18.764 million), and the TCTF (\$47.341 million);
5. Approved allocation of \$49.180 million for statewide technology infrastructure projects from the Modernization Fund (\$0.159 million), the Improvement Fund (\$8.315 million), and the TCTF (\$40.706 million);
6. Allocated \$7.4 million to courts for technology equipment replacement, for items such as personal computers and printers, and authorized the Administrative Director of the Courts, as requested and on a case-by-case basis, to authorize courts with severe cash flow limitation problems to redirect these funds to offset the impact of budget reductions in FY 2010–2011; and
7. Delegated authority to the Administrative Director of the Courts to adjust allocations of funds to courts and for approved programs and projects, as needed, to address unanticipated needs and contingencies. Any adjustments will be reported back to the council after the end of the fiscal year.

Item 16 **No item was placed on the agenda with this item number.**

Item 17 **Family Law: Elkins Family Law Implementation Task Force Interim Report**

Hon. Laurie D. Zelon, Chair, Elkins Family Law Implementation Task Force, presented this item with the participation of Ms. Bonnie Rose Hough, Center for Families, Children & the Courts.

This interim report provided Judicial Council members with information on the Elkins Family Law Implementation Task Force’s progress to date.

Council action

The Judicial Council took no action on this item.

Item 18 **Trial Courts: Reinstate Local Responsibility for Fiscal Management**

of the Superior Courts of Glenn and Placer Counties

Ms. Jody Patel, Regional Administrative Director, and Mr. Curt Soderlund, Trial Court Administrative Services Division, presented this item.

The Administrative Director of the Courts recommended that, effective January 1, 2011, the Judicial Council reinstate local responsibility for fiscal management of the Superior Courts of Placer and Glenn Counties. On April 23, 2009, the Judicial Council directed the Administrative Director of the Courts to provide oversight for the fiscal operations of those courts under Government Code section 77206.1. The courts met the criteria for this action by significantly improving their fiscal condition since fiscal year 2008–2009, establishing internal fiscal oversight controls, implementing appropriate financial and operating policies and procedures, stabilizing revenue and expenditure streams, and having sufficient operating and emergency reserves to warrant this recommendation.

Council action

The Judicial Council voted to terminate its fiscal oversight of the Superior Courts of Placer and Glenn Counties, effective January 1, 2011.

Item 19A Commission for Impartial Courts: Recommendations 51 and 52

Hon. Ronald B. Robie, chair, Task Force on Judicial Selection and Retention; Hon. Douglas P. Miller, chair, Task Force on Judicial Candidate Campaign Conduct; and Hon. William A. MacLaughlin, chair, Task Force on Judicial Campaign Finance, presented this item with the participation of Ms. Christine Patton, Regional Administrative Director.

The Implementation Committee of the Commission for Impartial Courts presented for Judicial Council action two recommendations from the commission’s final report, both concerning the judicial appointment process and for referral to the State Bar of California for further action. The recommendations in this report were consistent with the prioritization plan accepted by the council at its February 26, 2010, meeting.

Council action

The Judicial Council, effective December 14, 2010, endorsed (with one member voting no) recommendations 51 and 52 related to Judicial Nominees Evaluation (JNE) and referred them to the State Bar for consideration, as follows:

1. Recommendation 51: Legislation should be sponsored to require that a JNE rating of “not qualified” (and thus, by the absence of announcement, a rating of at least “qualified” or better) for a trial court judge be made public automatically at the time of appointment of a person with that rating

2. Recommendation 52: Legislation should be sponsored to make the current practice of releasing the JNE rating for a prospective appellate justice mandatory and permanent.

Item 19B Commission for Impartial Courts: Status Report on Implementation of Recommendations for Safeguarding Judicial Quality, Impartiality, and Accountability in California

This was an informational report on the first year of implementation efforts of the Commission for Impartial Courts following submission of its final report and recommendations to the council in December 2009.

Council action

The Judicial Council took no action on this item.

Information Only Items (No Action Required)

Trial Court Quarterly Investment Report for the Period Ending September 30, 2010

Trial court quarterly investment reports provide financial results for the funds invested by the AOC on behalf of the trial courts as part of the judicial branch treasury program. The period covered by this report is from July 1, 2010, through September 30, 2010.

Court Administration: *Trial Court Records Manual*

This report introduces the *Trial Court Records Manual*, the initial version of a manual that provides guidance and assistance to the courts in managing court records and modernizing those records. The manual is an important resource containing references, statutes, rules, industry standards, and best practices relating to records management. It implements Assembly Bill 1926 (Evans) and California Rules of Court, rule 10.854. The initial version of the manual is effective January 1, 2011.

Government Code Section 68106: Implementation and Notice by Trial Courts of Closing Courtrooms or Clerk's Offices or Reducing Clerk's Office Hours

In the 2010 Judiciary Budget Trailer Bill, Senate Bill 857, the Legislature provided fee increases and fund transfers for the courts and required that courts notify the public and the Judicial Council prior to the closing of courtrooms or clerk's offices or reducing clerk's office hours on days that are not judicial holidays. This report provides information about the

implementation of these notice requirements, now codified in Government Code section 68106.

Written Comments Received

There were no Circulating Orders since the last business meeting.

Appointment Orders since the last business meeting.

Chief Justice George closed the meeting with a moment of silence to remember judicial colleagues who are recently deceased and to honor them for their service to their courts and to the cause of justice. They are:

- Judge Barrett J. Foerster, Superior Court of Imperial County
- Judge Raymond D. Williamson (Ret.), Superior Court of San Francisco County

There being no further public business, the meeting was adjourned at 1:05 p.m.

Respectfully submitted,



William C. Vickrey
Administrative Director of the Courts and
Secretary of the Judicial Council