

JUDICIAL COUNCIL MEETING

Minutes of July 13, 2001, Meeting

The Judicial Council of California business meeting began at 8:30 a.m. on Friday, July 13, 2001, at the Administrative Office of the Courts in San Francisco, California, on the call of Chief Justice Ronald M. George, chair.

Judicial Council members present: Chief Justice Ronald M. George; Associate Justices Richard D. Aldrich, Marvin R. Baxter, Carol A. Corrigan, and Richard D. Huffman; Judges Aviva K. Bobb, Brad R. Hill, Donna J. Hitchens, Steven E. Jahr, Ronald B. Robie, Ronald M. Sabraw, and Ronald L. Taylor; Mr. Michael Case, Mr. John J. Collins, Ms. Pauline W. Gee, and Mr. Rex Heeseman; and **advisory members:** Judges William C. Harrison and Wayne L. Peterson; Commissioner Bobby R. Vincent, Mr. Frederick K. Ohlrich, Mr. Arthur Sims, and Mr. Alan Slater.

Absent: Judges Gail A. Andler, Leonard P. Edwards, and Ana Maria Luna; Senator Martha Escutia; and Assembly Member Darrell Steinberg.

Others present included: Mr. William C. Vickrey; Associate Justice Joyce L. Kennard; Mr. F. Becerra, Mr. Peter Belton, Ms. M. Case, Mr. David Ettinger, Mr. Paul Fogel, Mr. Andy Guilford, Ms. Clothilde Hewlett, Mr. Edward W. Jessen, Jr., Ms. Melinda Kavanagh, Ms. Sylvia Kriven, Mr. Terry Mead; **staff:** Ms. Deirdre Benedict, Mr. Michael Bergeisen, Mr. Gary Borgstedt, Mr. James Carroll, Ms. Connie Delago-Mundy, Ms. Lesley Duncan, Mr. Robert Emerson, Mr. Michael Fischer, Mr. Bob Fleshman, Mr. Frank Gahub, Mr. Ruben Gomez, Ms. Susan Green, Ms. Sue Hansen, Ms. Tina Hansen, Ms. Lynn Holton, Ms. Susan Hough, Ms. Kate Howard, Mr. Cyrus Ip, Ms. Melissa Johnson, Ms. Camilla Kieliger, Mr. Gavin Lane, Mr. Bob Lloyd, Ms. Carolyn McGovern, Mr. Frederick Miller, Ms. Suzanne Murphy, Ms. Diane Nunn, Mr. Michael Quinones, Ms. Harriet Raphael, Ms. Mary Roberts, Ms. Sonya Smith, Ms. Pat Sweeten, Ms. Marcia Taylor, Mr. Jack Urquhart, Ms. Alice Vilardi; **media representatives:** Ms. Donna Domino, *The Los Angeles Daily Journal*, and Ms. Sonia Giordani, *The Recorder*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated July 13, 2001, which was sent to members in advance of the meeting.)

Special Comment:

Chief Justice Ronald M. George welcomed members of the council and others in attendance and began the meeting by mentioning the loss of two California jurists: California Supreme Court Associate Justice Stanley Mosk and Judge Stephen E. O'Neil of the Los Angeles Superior Court. The Chief Justice called for a moment of silence in recognition of these outstanding jurists. The Chief Justice then introduced a special photographic presentation, "Stanley Mosk, Images of a Life in Public Service," honoring the distinguished career of Associate Justice Mosk.

Chief Justice George also introduced a special visitor, Ms. Sylvia Kriven, Manager of Communications for the Courts Administration Authority in South Australia.

Public Comment Related to Trial Court Budget Issues

The Chief Justice noted that there had been no requests for public comment.

Approval of Judicial Council Meeting Minutes

The council approved the minutes of the meetings of February 23, 2001, April 27, 2001, and June 13, 2001.

Judicial Council Committee Presentations

Executive and Planning Committee

Associate Justice Richard D. Huffman, chair, reported that the Executive and Planning Committee had met on April 26, June 18, and July 12. The committee met on behalf of the Judicial Council to review and approve the recommendations of staff in response to the *Second Interim Report* of the Task Force on Court Facilities. In addition the committee set the agenda for today's Judicial Council meeting. During its July 12 meeting, the committee's principal task was to review nominations to the Judicial Council and forward appointment recommendations to the Chief Justice. The committee is currently reviewing the numerous nominations to the Judicial Council's standing advisory committees, a task that will be completed prior to the council's August 24, 2001, meeting. Justice Huffman informed the council that the Executive and Planning Committee has directed staff to provide assistance in reviewing and revising the nominations process for the Judicial Council and its advisory committees. The revision process is being undertaken to improve the diversity of applicants and to solicit nominations from the highly qualified judicial leaders already serving on the council's standing committees, task forces, and working groups.

Policy Coordination and Liaison Committee

Associate Justice Marvin R. Baxter, chair, reported that the Policy Coordination and Liaison Committee had met five times since the Judicial Council's last meeting. At its meetings on May 3, 16, June 7, and 14, the committee took positions on 12 bills relating to a variety of subjects, including civil procedure, court facilities, criminal law and procedure, family law, juvenile dependency and delinquency, small claims, mental health, and probate. A request to circulate for comment a legislative proposal to amend Code of Civil Procedure section 631 dealing with waiver of jury trial was approved by the committee at its June 7 meeting. At its June 28 meeting, the committee approved an expansion of a legislative proposal relating to subordinate judicial officers. The committee approved for introduction during the upcoming session of the legislature a process to permit the conversion of both vacant and sitting subordinate judicial officer positions to judge positions. Justice Baxter also provided the council with a brief update on judicial council-sponsored legislation.

Rules and Projects Committee

Judge Steven E. Jahr, chair, reported that the Rules and Projects Committee had met twice since the council's last meeting. On June 13 the committee met to review several proposals and the first installment of revised appellate rules. At that same meeting the committee, in accordance with the requirements of rule 1432.5 of the California Rules of Court, approved local psychotropic medication protocols and forms per the Judicial Council's previous delegation of authority to do so. The committee also reviewed and approved for circulation an interim amendment to rule 6.45 pertaining to budget procedures and the Trial Court Budget Commission. At its July 12 meeting, the committee approved for circulation a related proposal to repeal current rule 6.45 and also the substitution of a judicial branch budget advisory committee for the current Trial Court Budget Commission. The committee further reviewed and approved for circulation a new form for the judicial determination of factual innocence, referencing Penal Code section 530.6. Finally, the committee reviewed, on a preliminary basis, a low-literacy rewrite of forms relating to domestic violence.

Judicial Council Court Visit Report

Judge Brad R. Hill reported on court visits to the Superior Courts of San Joaquin, Calaveras, and Tuolumne Counties. Mr. Rex Heeseman and Mr. Arthur Sims accompanied Judge Hill on these visits, which took place on June 5 and 6, 2001. They were accompanied by staff from the Administrative Office of the Courts (AOC), including Ms. Lesley Duncan, Ms. Deborah Silva, Ms. Lucy Smallsreed, and Ms. Pat Sweeten.

Judge Hill reported that the Superior Court of San Joaquin County has innovatively dealt with its financial and resource challenges, including facility issues. Other critical issues include court security, especially the spiraling costs for bailiff services, human resources, and labor negotiations.

The Superior Court of Calaveras County was pleased to speak with the visiting delegation about several recent court accomplishments, including their teen court program, family court services program, and civil mediation training program for local bar members. Judge Hill informed the council that the court expressed concerns similar to those of San Joaquin County, including major facility issues. The Calaveras court operates with less than 25 percent of the recommended square footage for a court of their size. Another key issue they hope the AOC will review is minimum service levels and staffing inequities resulting from historical funding imbalances.

Judge Hill reported that the Superior Court of Tuolumne County faces unique facility issues. The court's current facility has been designated a historic landmark, which poses numerous challenges for the court in balancing their expansion needs with the requirements of preservationists. This court also listed minimum service levels and staffing inequities as primary concerns.

Judge Hill informed the council that all of the courts visited were very enthusiastic about the creation of the two AOC regional offices and the selection of Mr. Michael Roddy and Ms. Sheila Gonzalez as heads of those offices.

Special Presentation

Mr. William C. Vickrey introduced Judge William C. Harrison, Presiding Judge of the Superior Court of Solano County and President of the California Judges Association (CJA). Judge Harrison presented the Chief Justice with a resolution adopted by the Executive Board of the CJA in honor of the Chief Justice's efforts on behalf of the judiciary and the people of the State of California. The Chief Justice asked that his thanks be conveyed to the CJA's Executive Board and commended Judge Harrison on his excellent service to that organization.

CONSENT AGENDA

ITEM 1 Revision of Rules on Appeal: Technical Amendments (repeal Cal. Rules of Court, rules A–D; adopt rules 41.5 and 389; and amend rules 28, 29.3, 29.5, 37, 40, and 56) (Action Required)

In a related report, the Appellate Advisory Committee is proposing repeal of current rules 1–18 and adoption of a new set of appellate rules 1–18 (see item 3). The technical changes proposed in this item relocate language from current rules 2.5, 4.5, 14, and 17 to other existing rules, and to two new rules, in order to place the language with related provisions in a more logical sequence. In addition, the Emergency Earthquake Rules, rules A–D, which were adopted in 1989, are obsolete and are repealed in their entirety.

Council action:

Effective January 1, 2002, the Judicial Council:

1. Repeals rules A–D of the California Rules of Court to delete obsolete earthquake emergency rules;
2. Adopts rule 41.5, which is a renumbered rule 14.5 (which is subject to repeal as part of the concurrent proposal to adopt revised rules 1–18), to place the subject matter of existing rule 14.5 with related rules in a more logical sequence;
3. Amends rules 28, 29.3, 29.5, and 56 to retain language from current rule 14 on amicus curiae briefs in the Supreme Court;
4. Amends rule 37 to retain language from current rule 17 on the failure to timely file a brief in a criminal case, and to simplify language about the reproduction of briefs and petitions in criminal cases;
5. Amends rule 40 to delete obsolete subdivisions (i), (j), and (l); and

6. Adopts rule 389 to retain language on notice of election or hearing and time for hearing from current rule 2.5.

ITEM 2 Litigation Management Committee Internal Policies (approve committee approach) (Action Required)

At its December 2000 meeting, the Judicial Council adopted rule 6.14 of the California Rules of Court, concerning the role and responsibilities of the Litigation Management Committee. Rule 6.14 requires the committee to review and approve proposed settlements of \$50,000 or more, or ones that raise important policy issues, in cases against the council, the Administrative Office of the Courts (AOC), or the trial courts. The council asked the committee to consider whether settlement of certain types of cases should be presented to the council for approval.

Council action:

The Judicial Council approves the Litigation Management Committee's proposed approach to the issue of council approval of certain settlements.

DISCUSSION AGENDA

ITEM 3 Revision of Rules on Appeal: First Installment, Rules 1–18 (repeal Cal. Rules of Court, rules 1–18; adopt revised rules 1–18 and related Advisory Committee Comments) (Action Required)

Associate Justice Joyce L. Kennard and Mr. Peter Belton, Chairs of the Appellate Advisory Committee, introduced the members of the Appellate Rules Project Task Force—including Mr. David Ettinger, Mr. Paul Fogel, Mr. Edward W. Jessen, Jr., Ms. Melinda Kavanagh, and Mr. Terry Mead—and reported that the task force was formed in early 1998 to revise the entire body of rules on appeal. This work proceeded under the direction of the Appellate Advisory Committee. The goal of the revision project was to remove the many ambiguous, inconsistent, obsolete, and redundant provisions that have accumulated in the rules since Bernard E. Witkin originally wrote them in 1942–1943. This is the first installment of the revised rules on appeal, which have been rewritten and reorganized with great care to clarify their meaning and to facilitate their use by practitioners, parties, and court personnel (for related technical amendments, see item 1). To achieve these broad goals, the revision:

- Simplifies wording;
- Removes ambiguities;
- Eliminates inconsistencies of style and terminology;

- Deletes redundant or obsolete provisions;
- Restructures individual rules into subdivisions to promote readability and understanding;
- Rearranges the order of subdivisions or the rules themselves when logic or clarity dictates; and
- When necessary and appropriate, makes substantive changes in order to fill gaps in rule coverage; to conform older rules to current statutory and case law, practice, and technology; and to otherwise improve the appellate process.

The Chief Justice commended the Appellate Advisory Committee on its work product in this first installment of the revised appellate rules. Associate Justices Carol A. Corrigan and Richard D. Huffman also offered their congratulations to the committee.

Judge Steven E. Jahr reported that the Rules and Projects Committee had achieved an accord with the Appellate Advisory Committee on the proposed rule revisions and commended the committee on its excellent work product.

Mr. Frederick K. Ohlrich indicated that the clerk administrators of the six appellate districts of the Court of Appeal have expressed some concern about the piecemeal implementation of the revised rules. The adoption of the rules, Mr. Ohlrich reported, will require the appellate districts to make adjustments to their operating procedures and forms. For this reason, Mr. Ohlrich suggested that the adoption of the rules should include the implicit understanding that the Administrative Office of the Courts (AOC) will assist the appellate districts to ensure the uniform and smooth implementation of the revised rules. The Chief Justice agreed that AOC assistance for the appellate courts in this regard would be necessary and directed that the minutes of the meeting reflect this commitment.

The Chief Justice asked Mr. Belton and Justice Kennard for an approximate completion date for the remaining installments of the revised appellate rules. Mr. Belton reported that the committee anticipates that the remaining revisions will be completed within the next 12 months.

Council action:

Justice Richard D. Huffman moved that the Judicial Council, effective January 1, 2002, repeal existing rules 1–18 of the California Rules of Court and adopt revised rules 1–18 and the related Advisory Committee Comments.

The motion passed.

ITEM 4 Authorize Expenditures From Trial Court Improvement Fund (For Item 4A–E Concerning Special Fund Allocation Availability) (Action Required)

Item 4A Authorize Expenditures From Trial Court Improvement Fund for Trial Court Labor Relations Assistance Program (Action Required)

Ms. Mary Roberts reported that, effective January 1, 2001, the Trial Court Employment Protection and Governance Act established new employer-employee relationships between trial courts and trial court employees, with new obligations on the trial courts. Under the labor relations framework established by the statute, trial courts are now required to negotiate with employee organizations representing trial court employees and to engage in other labor relations activities as employers. Ms. Roberts informed the council that these new obligations, previously met by the counties as employers of trial court staff, impose new and unanticipated costs on many of the trial courts.

The Administrative Office of the Courts (AOC) has developed the Trial Court Labor Relations Assistance Program to help assure that trial courts have effective representation in labor negotiations and to help develop a group of qualified labor relations service providers to assist the courts in labor relations matters. A key element of the program is the establishment of a fund from which trial courts can be reimbursed for some of their costs for service providers retained to provide labor relations services to the courts. An allocation from the Trial Court Improvement Fund (TCIF) of \$940,000 is needed to fund the program for fiscal year 2001–2002.

Justice Richard Huffman suggested that while the proposed program is a necessary current step, the AOC may need to carefully consider the future fiscal implications of the program.

Judge Ronald L. Taylor stated that the current language of the program does not seem to make reimbursement funds available to courts that have hired a labor specialist on staff.

Mr. Michael Bergeisen replied that the program was designed to assist courts that didn't have, or weren't able to hire, outside labor negotiators and that providing reimbursements to courts who did have the resources to do so presented additional policy implications. Mr. Bergeisen suggested that it would be helpful to reflect on Judge Taylor's concern with a view to a possible revision of the current policy at a later date.

Mr. William C. Vickrey stated that the Executive and Planning Committee could review the program with a view toward revision.

Justice Huffman pointed out that courts who have hired labor negotiators on staff are already being paid for these positions through their base budgets and that the current program is designed to fund, on a very interim basis, those courts that do not have the resources to secure this service on their own.

Council action:

Justice Richard D. Huffman moved that the Judicial Council approve suballocating from the TCIF an amount not to exceed \$940,000 for fiscal year 2001–2002 to fund the Trial Court Labor Relations Assistance Program. This suballocation is to provide the funds to reimburse trial courts for a portion of the costs they have incurred to retain the services of qualified labor relations service providers, and AOC staff is directed to study the long-term fiscal implications of the program and report to the council on how, or whether, this service should be funded in future. Furthermore, the motion directs that the Executive and Planning Committee study the current program in order to determine if courts that have hired labor negotiators on staff should have access to the program’s reimbursement funds.

The motion passed.

Item 4B Authorize Expenditures From Trial Court Improvement Fund for Statewide Trial Court Studies (Action Required)

Mr. Gary Borgstedt reported that recent legislation (e.g., the Lockyer-Isenberg Trial Court Funding Act of 1997 and the Trial Court Employment Protection and Governance Act of 2000) has impacted the trial courts dramatically. The 58 trial court systems are now independent employers with the authority to regulate their classification, compensation, and benefits programs. Mr. Borgstedt stated that with 58 separate systems in place, two statewide studies are critically needed to provide more unified and equitable plans: a statewide trial court *compensation* study and a statewide trial court *benefits* study.

The purpose of the compensation study is to establish consistency across the 58 courts in classification plans and associated salary structures. The anticipated results of the study, Mr. Borgstedt reported, include updates and refinements to the trial courts model classification plan. Salary range guidelines, which currently do not exist, would also be published. An allocation from the Trial Court Improvement Fund of \$398,900 is needed to fund the compensation study for fiscal year 2001–2002.

Mr. Borgstedt stated that the purpose of the benefits study is to create and implement an equitable trial court employee benefits program to be in place prior to January 1, 2003. This study is especially urgent since under the terms of Senate Bill 2140, effective January 1, 2003, any county will be able to exclude trial court employees from their benefits program. Thus, some court employees could be without benefits coverage and others could be forced to independently contract for coverage. The anticipated result of the study is a fully implemented employee benefits program available to the courts, and administered by the AOC, as a competitive alternative to current programs. The decision to join the program would be discretionary. An allocation from the Trial Court

Improvement Fund of \$1.029 million is needed to fund the benefits study for fiscal year 2001–2002.

Justice Richard D. Aldrich asked if classification benchmarks established by the studies would include cost-of-living variables. Mr. Borgstedt responded that the studies would include these variables.

Council action:

Justice Richard D. Huffman moved for approval of the program allocations as follows:

- \$398,900 from the Trial Court Improvement Fund (TCIF) for fiscal year 2001–2002 to fund a statewide trial court *compensation* study; and
- \$1.029 million from the TCIF for fiscal year 2001–2002 to fund a statewide trial court *benefits* study.

The motion passed.

Item 4C Authorize Expenditures From Trial Court Improvement Fund for Trial Court Transactional Assistance Program (Action Required)

Ms. Alice Vilardi reported that prior to the Trial Court Funding Act (TCFA), counties provided contracting and procurement services for the trial courts, and county counsel offices provided legal services for the trial courts. Under the TCFA, many counties have stopped providing, and courts have stopped receiving from them, a broad range of support services.

Ms. Vilardi stated that many counties are declining to provide legal services for the courts. Because courts are no longer required to follow county procedures and county funds are not at risk, county counsel are not in the best position to advise the courts. As the courts transition to greater independence from the counties, the expertise of county counsel offices in areas relevant to the courts' needs has diminished, and the likelihood of conflicts of interest between the courts and counties has increased. Indeed, one of the areas in which courts are in greatest need of assistance is negotiating and drafting memoranda of understanding (MOUs) with their counties, an area in which county counsel clearly have a conflict of interest.

As a result of these changes, trial courts have been requesting legal assistance from the Administrative Office of the Court's (AOC) Office of the General Counsel on transactional issues. Ms. Vilardi reported that many of these requests for assistance involve court-county MOUs, information technology contracts, and leases. These types of agreements often require specialized expertise and may put large sums of money at risk.

The AOC does not currently have the resources to provide legal assistance to the trial courts in the area of contracting. The AOC's Office of the General Counsel (OGC) currently provides litigation management for the trial courts, some assistance on labor and employment issues, and legal advice on court administration issues. During the past year, some of the courts obtained assistance from the OGC in the form of reviewing, analyzing, and drafting contractual agreements with third-party vendors and consultants, but OGC is not adequately staffed to provide this service on an ongoing basis. A suballocation from the Trial Court Improvement Fund in the amount of \$750,000 is needed to provide trial courts with critical legal services in reviewing, drafting, and negotiating contracts, and with advice on contract and procurement matters. These suballocated funds would be used to pay outside counsel for these services to the trial courts.

Mr. John J. Collins recused himself from the consideration of this item.

Mr. Rex Heeseman asked if standardized contracts would be provided to the courts, and Ms. Vilardi replied that they would be so provided.

Judge Ronald L. Taylor and Ms. Vilardi agreed that these standardized contracts would be submitted to the Trial Court Presiding Judges and Court Executives Advisory Committees for their input.

With regard to contract evaluation, Judge Taylor asked if time standards would be established. Ms. Vilardi replied that agreements would be negotiated with law firms throughout the state to provide focused services to the courts. Those contracts will incorporate service and time standards.

Mr. Alan Slater expressed his support for the proposal. Justice Richard D. Huffman also expressed his support for the proposal and suggested that staff should return to the Judicial Council with proposals for a more long-term solution to the problems that the Trial Court Transactional Assistance Program is intended to address.

Council action:

Justice Richard D. Huffman moved that the Judicial Council approve a suballocation from the Trial Court Improvement Fund (TCIF) in an amount not to exceed \$750,000 for fiscal year 2001–2002, for the Trial Court Transactional Assistance Program, with the understanding that the AOC's Office of the General Counsel will retain and manage the work of outside counsel funded by this allocation to provide legal representation to the courts in negotiating and drafting contracts. Furthermore, AOC staff is directed to return to the Judicial Council with proposals for a more long-term solution to the problems that the program is intended to address.

The motion passed.

Item 4D Authorize Expenditures From Trial Court Improvement Fund for the California Courts Online Self-Help Center (Action Required)

Ms. Lynn Holton and Mr. James Carroll reported that in order to increase public understanding of the state judicial branch, the Administrative Office of the Courts has developed the California Courts Online Self-Help Center, the most comprehensive state court resource ever assembled. The new site was unveiled to state trial courts last month and will be introduced to the public on July 17, 2001, at the official Web site of the California courts: www.courtinfo.ca.gov/self-help.

A key to the Online Self-Help Center's success is making Californians aware of the new site's vast resources through comprehensive outreach to courts, public referral agencies, and the news media. In order to ensure continuing public awareness of the site after the initial launch, the AOC is seeking funding in the amount of \$50,000 from the Trial Court Improvement Fund (TCIF) for an ongoing public education campaign.

Council action:

Justice Richard D. Huffman moved that the Judicial Council approve the expenditure of \$50,000 from the Trial Court Improvement Fund (TCIF) for a statewide public education outreach campaign to increase public awareness and use of the California Courts Online Self-Help Center.

The motion passed.

Item 4E Authorize Expenditures From Trial Court Improvement Fund for Jury Public Education Program (Action Required)

Ms. Pat Sweeten reported that the AOC seeks funding in the amount of \$50,000 from the Trial Court Improvement Fund (TCIF) for fiscal year 2001–2002 to fund a Jury Public Education Program. The primary purpose of the proposed program is to provide information to the public and business communities on how the jury system works and to increase understanding of the important role jurors play in the administration of justice. Informational materials will be developed and distributed to courts, county law libraries, public libraries, and public agencies as well as at public forums. It is hoped that this effort will encourage public participation in the jury system.

Judge Wayne L. Peterson asked if the program would educate the public about grand jury service in a manner that would help entice applicants for service. Ms. Sweeten responded that the current scope of the program does not address this concern.

The Chief Justice stated that Judge Peterson's concerns should be the subject of a future, separate study but suggested that the current program should not be delayed. Mr. William C. Vickrey reported that a number of grand jury issues will soon be taken to the Trial Court Presiding Judges and Court Executives Advisory Committees for

consideration and suggested that those discussions might well yield a more comprehensive plan for addressing Judge Peterson's concerns.

Council action:

Justice Richard D. Huffman moved that the Judicial Council approve the expenditure of \$50,000 from the Trial Court Improvement Fund (TCIF) for fiscal year 2001–2002 to fund a Jury Public Education Program.

The motion passed.

After a short break the council returned to consider the remaining discussion items.

ITEM 5 Overview of AOC Financial Actions to Implement State Trial Court Funding (No Action Required)

Ms. Tina Hansen provided the council with the following overview of actions taken to implement state trial court funding.

SUMMARY OF ACCOMPLISHMENTS

- Program budgeting process established.
- Budgeting aligned with State Budget process.
- Budget process meets DOF/State deadlines.
- Budget process enhances branch credibility.
- Budget process linked with strategic planning.
- Trial courts involved in priority setting.
- Budget allocations tied to court requests.
- Technical assistance provided to courts.
- Implemented communication updates provided to courts.
- Rule 6.702 (public access to budget and management information) implemented.

WORK IN PROGRESS

Ms. Hansen informed the council of the following works in progress:

Trial Court Financial Policies and Procedures Manual

- For the last year and a half, AOC staff has worked with an outside consultant (GCAP Business Solutions) on a financial policies and procedures manual, which had to accommodate the current environment of all 58 trial court financial situations.
- A draft manual was placed on Serranus on January 24, 2001, to allow all of the trial courts to have 30 days in which to make their comments.

- Hard copies of the manual were sent to the State Controller's Office (SCO) and the Department of Finance (DOF) so that they would have the same time period in which to comment.
- AOC staff and trial court representatives reviewed the policies and procedures manual on March 6.
- Revisions were made based on the decisions of court representatives and AOC staff.
- Two hard copies of the final manual were sent to each court on April 23 and 24.
- The final version of the manual was placed on Serranus on April 23.
- The manual becomes effective on August 1, 2001.
- The AOC's Finance Division will continually modify and expand the manual, with the effective date for changes to be July 1 of each year.
- Finance memos communicate existing, new, or amended programs/procedures provided to courts. Subject matter addressed to date includes:
 - Transient Occupancy Tax waiver
 - YCAL airfares
 - Authorized travel agencies
 - American Express Business Travel Account

Future subjects to be addressed include:

- CMAS/Master Service agreements
- Statewide purchasing agreements
- Government credit card

Agreed-Upon Procedures Review—Audit Program

- A BCP was written for fiscal year 2001–2002 asking for funds to perform an Agreed-Upon Procedures Review (AUPR) of the trial courts.
- The BCP was approved with the stipulation that the review be restricted to county/court transition costs.
- RFQ went out on April 9, 2001, for an AUPR on county/court transition costs.
- RFQs were sent to 15 interested parties.
- Closing date of the RFQ was 5 p.m. on April 30, 2001.
- Audit manager has been hired.
- Staff recruitment in progress.
- Two firms selected: Sjoberg Evashenk Consulting, LLC and KPMG. They will be working in partnership in performing the county/court transition cost review.
- Reviews of 10 trial courts are scheduled to take place in July, August, and September 2001.
- Future reviews will be determined by AOC Audit staff and the Judicial Council.
- Results will be utilized systemwide to implement constructive changes.
- Opinion audits to take place in fiscal year 2003–2004 and yearly thereafter.
- Additional audits to occur and be conducted by the Bureau of State Audits, with topics to include (1) undesignated fees and (2) fiscal and administrative oversight of trial court operations.

Trial Court Financial System

- For the last year, AOC staff and a consultant, the Government Finance Officers Association (GFOA), have been working to acquire a financial system for the trial courts.
- System is an alternative to county financial systems.
- System developed based on trial court program budget.
- In February 2001 the AOC issued an RFP for the system.
- Four qualified bidders responded to the RFP.
- Both finalists, Oracle and SAP, were brought back for a day in May for AOC questions and clarification on their software packages (Discovery Days).
- Site visits were conducted shortly after the Discovery Days.
- During the site visits, GFOA assisted us in developing the statement of work and starting the contract negotiations with both vendors.
- A particular vendor will be selected by the end of the July based on the product, the delivery mechanism, and the negotiated contract.
- Current interest survey: 37 trial courts are interested in the system.
- Project evaluation set for January 2002.
- Rollout of system and Trial Court Accounting Processing Center set for spring 2002.
- System to go live on July 1, 2002.
- Continued rollout to 4 to 10 trial courts every 8 months thereafter.
- Amendments to Budget Development Process:
 - Amended budget process Rules of Court (rules 6.11, 6.45, 6.60, 6.700, and 6.701);
 - Established Judicial Branch Budget Advisory Committee; and
 - Statewide meeting of trial court presiding judges and court executive officers held each January to recommend budget priorities and funding limits.
- Transition from county to court administrative services:
 - Funding provided since fiscal year 1999–2000.
 - Number 1 priority area for fiscal year 2002–2003.

Update on Fiscal Year 2002–2003 Trial Court Budget Process

On June 1, 2001, all 58 superior courts submitted their Budget Change Requests (BCRs) for fiscal year 2002–2003 to the AOC Finance Division. The BCRs were submitted within both the six Judicial Council–approved budget program priority areas and the funding caps specified by the council.

A total of 445 BCRs were submitted representing \$125.9 million and 1,090 positions. The requests break down as follows:

Administrative Services:	133 BCRs;	218 positions;	\$30.2 million
Court Staffing:	102 BCRs;	513 positions;	\$29 million
Pay Parity:	12 BCRs;	0 positions;	\$7.6 million

Security:	54 BCRs;	4 positions;	\$28.6 million
Family and Children:	87 BCRs;	276 positions;	\$17.2 million
Records Management:	42 BCRs;	60 positions;	\$10.8 million
Extraordinary (requests above the cap):	15 BCRs;	19 positions;	\$2.5 million

The BCRs have been reviewed by working groups and AOC staff. The working groups were established in five of the six program priority areas (pay parity was reviewed by AOC staff due to the low number of requests) and consisted of representatives from the trial courts, AOC and non-AOC program areas, and AOC Finance Division staff. Courts will be notified of the preliminary budget recommendations and given the opportunity to appeal prior to the submittal of the final recommendations to the Trial Court Budget Commission and council in late July and August.

The courts also submitted information and data to the AOC Finance Division that will be used to develop statewide budget requests in the areas of technology, jury services, court-appointed counsel, and court interpreters.

Earlier in the budget process, the Budget Unit held a series of workshops to provide awareness and insight on the State Budget process as well as concentrated budget change proposal training. These workshops were conducted for the trial courts as well as the Supreme Court, Courts of Appeal, and the AOC. The Finance Division is also moving to develop a more comprehensive budget curriculum for trial court staff.

Mr. William C. Vickrey, Mr. Alan Slater, and Justice Marvin R. Baxter commended Ms. Hansen and the staff of the AOC's Finance Division for their responsiveness to the formidable demands of implementing state trial court funding and for their sensitivity to the needs of the trial courts.

ITEM 6 Judicial Council Policy on Energy Conservation in the Courts (Action Required)

Ms. Clothilde Hewlett, Undersecretary of the State and Consumer Services Agency, reported that California's persistent power emergency has resulted in increased costs for energy, energy shortages, and occasional rolling blackouts. Ms. Hewlett stated that Governor Davis has called on all Californians to reduce energy usage. Toward that end, the State and Consumer Services Agency has been placed in charge of all statewide energy efficiency and conservation efforts, which include a media campaign, lecture tour, and public outreach campaign. These campaigns focus on five areas: commercial, industrial, governmental, agricultural, and residential. In order to ensure greater energy efficiency, the agency is retrofitting state facilities with upgraded heating, ventilation, and air-conditioning systems; energy management systems; and energy-efficient lighting and windows.

Ms. Hewlett stated that the executive branch, local governments, businesses, and residential consumers have implemented, to varying degrees, measures to reduce energy consumption.

Mr. Robert Emerson reported that the judicial branch has developed “Guidelines for Energy Conservation in California Court Facilities,” and he briefly summarized the terms of the guidelines. Mr. Emerson stated that adoption of these guidelines would raise the courts’ awareness of energy usage and encourage them to reduce power usage where practicable. Furthermore, the courts’ subsequent reports to the Judicial Council under the terms of the guidelines would provide a means by which to assess the courts’ contributions to the overall conservation effort.

Council action:

Justice Richard D. Huffman moved that the Judicial Council, effective July 13, 2001:

1. Adopt “Guidelines for Energy Conservation in California Court Facilities” as branchwide policy to encourage individual courts to reduce energy consumption; and
2. Direct the trial courts to work with the counties, and appellate courts with the state Department of General Services or their landlords, to implement the guidelines; and
3. Further, direct the courts to report to the council, within 60 days of the council’s request, on the steps they are taking to reduce energy consumption.

The motion passed.

ITEM 7 Subordinate Judicial Officer Positions: Draft Legislation Allowing Conversion to Judge Positions (No Action Required)

Mr. William C. Vickrey summarized the report on subordinate judicial officer positions and the draft legislation, which has already been approved by the Policy Coordination and Liaison Committee on behalf of the council for introduction during this legislative session. The draft legislation permits the conversion of subordinate judicial officer (SJO) positions to judge positions in courts that are using SJOs primarily as temporary judges.

Commissioner Bobby R. Vincent commended the efforts of the Policy Coordination and Liaison Committee and the Subordinate Judicial Officer Working Group.

Council action:

The Judicial Council unanimously confirmed the draft legislation approved by the Policy Coordination and Liaison Committee.

Circulating and Appointment Orders Approved

Circulating Order—CO-01-05: Approval of *Order/Notice to Withhold Income for Child Support* (OMB No. 0970-0154)

For information only; no action necessary.

Circulating Order—CO-01-06 re Interim Amendment to Rule 6.45 (Trial Court Budget Commission)

For information only; no action necessary.

Appointment Orders: Appointments to the Judicial Council Task Force on Jury Instructions Criminal Subcommittee

For information only; no action necessary.

Appointment Orders: Appointments to the Judicial Council Traffic Advisory Committee

For information only; no action necessary.

Appointment Orders: Appointments to the Judicial Council Probation Services Task Force

For information only; no action necessary.

Appointment Orders: Appointments to the Judicial Council Task Force on Self-Represented Litigants

For information only; no action necessary.

Appointment Orders: Appointments to the Judicial Council Task Force on Judicial Service

For information only; no action necessary.

Appointment Orders: Appointments to the Attorney General's Advisory Committee on Criminal History Records Improvement, California Criminal Justice Integration Sub-Committee

For information only; no action necessary.

There being no further business, the meeting was adjourned at 12:10 p.m.

Respectfully submitted,

William C. Vickrey
Secretary