

JUDICIAL COUNCIL MEETING
Minutes of July 15–16, 1999, Meeting

The Judicial Council of California meeting began at 3:20 p.m. on Thursday, July 15, 1999, at the Administrative Office of the Courts office in San Francisco, California, on the call of Chief Justice Ronald M. George, chair.

Judicial Council members present: Chief Justice Ronald M. George; Justices Richard D. Aldrich, Marvin R. Baxter, Carol A. Corrigan, and Richard D. Huffman; Judges James A. Bascue, Paul Boland, Albert Dover, Steven E. Jahr, Melinda A. Johnson, Ana Maria Luna, Michael B. Orfield, and Ronald L. Taylor; Assembly Member Sheila James Kuehl, Mr. Michael Case, Mr. Maurice Evans, and Ms. Pauline Gee; and **advisory members:** Justice William M. Wunderlich, Commissioner David L. Haet, Ms. Sheila Gonzalez, Mr. Joseph A. Lane, Mr. Stephen V. Love, and Mr. Frederick Ohlrich.

Absent: Judges J. Richard Couzens and Brenda Harbin-Forte; Senator Adam Schiff; and Mr. Sheldon H. Sloan

Others present included: Mr. William C. Vickrey; Judges Victor E. Chavez, Francis A. Gately, Ray L. Hart, Marcelita Haynes, Lance A. Ito, Philip K. Mautino, Jon M. Mayeda, Veronica S. McBeth, Adrienne A. Orfield, Ronald B. Robie, Edward D. Webster; Mr. John A. Clarke, Mr. Bruce Christenson, Mr. Jay Folberg, Ms. Jural Garrett, Ms. Mona Hall, Ms. Beth Jay, Ms. Debbie Lizzari, Ms. Paz Perry; **staff:** Mr. Clifford Alumno, Ms. Martha Amlin, Ms. Heather Anderson, Mr. Starr Babcock, Ms. Jessica Fiske Bailey, Mr. Christopher Belloli, Mr. Michael Bergeisen, Mr. Roy Blaine, Mr. James Carroll, Ms. June Clark, Ms. Francine Collier, Ms. Eunice Collins, Ms. Penelope Davis, Ms. Donna Drummond, Ms. Lesley Duncan, Ms. Audrey Evje, Ms. Denise Friday, Ms. Janet Grove, Ms. Jacquelyn Harbert, Ms. Kathryn Harrison, Ms. Maria Hawkey, Ms. Lynn Holton, Ms. Melissa Johnson, Mr. Dennis Jones, Ms. Fran Jurcso, Mr. Tom Kitzmann, Mr. John Larson, Mr. Ray LeBov, Ms. Katy Locker, Ms. Tina Lu, Mr. Barry Lynch, Mr. Frederick Miller, Mr. Martin Moshier, Ms. Vicki Muzny, Ms. Judy Myers, Mr. Gaidi Nkruma, Ms. Diane Nunn, Mr. Patrick O'Donnell, Ms. Annemarie O'Shea, Mr. Albert Rodriquez, Mr. Victor Rowley, Mr. Richard Schauffler, Mr. Bob Schindewolf, Ms. Linda Sharp, Ms. Dale Sipes, Ms. Marlene Smith, Mr. Bradley Tahajian, Ms. Kim Taylor, Ms. Marcia Taylor, Ms. Kiri Torre, Ms. Liz Vazquez-Avila, Mr. Jim Vesper, Ms. Alice Vilardi, Ms. Cara Vonk, Ms. Kady von Schoeler, Mr. Anthony Williams, Ms. Leah Wilson, Mr. Jonathan Wolin, Mr. Joseph Wong, Mr. Christopher Wu, and Ms. Pat Yerian; **media representatives:** Mr. Philip Carrizosa, *L.A. Daily Journal*; Ms. Jean Guccioni, *L.A. Daily Journal*; and Mr. Greg Mitchell, *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 binders of Reports and Recommendations dated July 15–16, 1999, which were sent to members in advance of the meeting.)

Special comment:

Chief Justice Ronald M. George welcomed Ms. Pauline Gee as a new member of the council. He noted that Ms. Gee is a State Bar representative to the council and replaces Ms. Glenda Veasey, who was appointed as a superior court commissioner.

Approval of the Minutes

Council action:

Justice Carol Corrigan moved that the Judicial Council approve the minutes of the April 29, 1999, meeting.

The motion passed.

Council Committee Presentations

Reports on committee activities were included in the binders of Reports and Recommendations dated July 15–16, 1999.

Executive and Planning

Justice Richard D. Huffman, chair, reported that the Executive and Planning Committee met twice in person and twice by phone since the last council meeting. The committee approved, on behalf of the Judicial Council, allocations for funding of child support commissioners and facilitators for fiscal year 1999–2000 and directed the Family and Juvenile Law Advisory Committee to monitor the allocations and recommend adjustments as necessary to meet the needs of courts experiencing caseload changes.

The committee also:

- Discussed nominations for a vacancy on the Trial Court Budget Commission and for upcoming vacancies on the council and forwarded its recommendations to the Chief Justice for selection.
- Approved, on behalf of the council, recommendations from the Trial Court Budget Commission to:
 1. Fund budget adjustments for several counties;
 2. Set aside money from the one percent reserve to address Proposition 220 and other litigation issues; and
 3. Transfer money to the state Trial Court Trust Fund to help build the one percent reserve for fiscal year 1999–2000.

Justice Huffman said that at another meeting, the committee authorized, on behalf of the council, the Administrative Director of the Courts to distribute rate increases/decreases to court interpreters based on available funding and applicable budget control language.

Justice Huffman noted that the committee met the morning of the July council meeting and reviewed a summary of the proposed fiscal year 2000–2001 budget for the Administrative Office of the Courts (AOC). The committee approved the proposal in principle and directed staff to include in its report on the request to the full council in August documentation on how the proposal resulted from requests from the trial courts and how the positions and funds would support trial courts.

The committee also discussed nominations to the council's advisory committees. So far, 385 nominations have been received. The committee will meet in August to discuss the nominations and develop its recommendations to the Chief Justice for his selection.

Policy Coordination and Liaison

Justice Marvin R. Baxter reported that the Policy Coordination and Liaison Committee met four times by conference call since the last council meeting. The committee reviewed and took positions on bills dealing with arbitration, civil procedure, juvenile dependency, and family law. Justice Baxter highlighted several Judicial Council–sponsored bills.

Assembly Bill 592 provides that, beginning with the second day of jury service, jurors would receive \$12.50 per day and directs the council to establish pilot projects in which jurors who claim hardship could be reimbursed for the costs of child and dependent care up to \$50 per day. The bill will be heard in the Senate Appropriations Committee in mid-August.

Senate Bill 367 requires the council, by January 1, 2003, to adopt uniform rules for the electronic filing and service of court documents statewide consistent with the provisions of the bill. The bill is scheduled to be heard on August 18, 1999, in the Assembly Appropriations Committee.

Assembly Bill 1132 revises the timelines for filing motions in a civil action by requiring a party to serve and file before the time appointed for hearing. This bill was signed into law (Stats. 1999, ch. 43).

Rules and Projects

Judge Steven E. Jahr, vice-chair of the Rules and Projects Committee, reported that the committee met once since the last council meeting. The committee reviewed numerous rules and forms with an effective date of January 1, 2000, and approved them to be circulated for comment. The committee will review comments in September, and the council will consider final versions of the proposals in October. Judge Jahr stated that the

committee is also reviewing advisory committee work plans to ensure that the projects further the council's strategic plan and stay within budgeted resources.

COUNCIL ITEM 1 WAS APPROVED AS A CONSENT ITEM, PER THE SUBMITTER'S RECOMMENDATION.

Item 1 Transition to Trial Court Funding: Judicial Officers Assistance Program

The Task Force on the Quality of Justice, Subcommittee on the Quality of Judicial Service recommended a Judicial Officers Assistance Program (JOAP) for all California judges. The JOAP would provide confidential counseling sessions intended to help alleviate personal and work-related stress.

Council action:

The Judicial Council approved that:

1. A Judicial Officers Assistance Program be implemented to provide confidential counseling sessions to deal with personal and work-related stress for all California judges.
2. Funds be appropriated to implement the Judicial Officers Assistance Program.

Item 2A Trial Court Coordination Plans for Fiscal Years 1999–2001 for Countywide Systems in Kern, Kings, Monterey, and Modoc Counties

Judge Edward D. Webster, chair of the Trial Court Coordination Advisory Committee (TCCAC), presented the item, assisted by Ms. Fran Jurcso, committee staff.

Chief Justice George introduced the item by noting that trial court coordination is legislatively mandated. Unification is the result of Proposition 220, approved by 64 percent of the voters last June and is voluntary. He commented that the Governor is perplexed that some of the courts are choosing not to unify even though only unified courts are eligible for certain funds.

Chief Justice George commented that 53 of the 56 eligible counties have unified. (Two counties are restricted from unifying due to voting rights issues.) Modoc County is awaiting legislation to solve a problem before unifying; Kern and Los Angeles Counties have voted not to unify.

Judge Webster stated that Government Code section 68112 and section 29 of the California Standards of Judicial Administration require trial courts in each county to submit to the Judicial Council every two years a countywide trial court coordination plan

that reflects the current and planned implementation of the mandates of the Trial Court Realignment and Efficiency Act of 1991. Trial court coordination plans for fiscal years 1997–1999 expire on June 30, 1999.

Judge Webster reported that the TCCAC reviewed the coordination plans for fiscal years 1999–2001 submitted by Kern, Kings, Monterey, and Modoc Counties, applied council-approved criteria, and recommended plan approval.

Council action:

Justice Huffman moved that the Judicial Council approve:

1. The trial court coordination plans for fiscal years 1999–2001 for Kern, Kings, Monterey, and Modoc Counties; and
2. The eligibility for pay parity of the municipal court judges in Kern, Kings, Monterey, and Modoc Counties.

The motion passed.

Item 2B Judicial Council Policy on Unification

Mr. William C. Vickrey, Administrative Director of the Courts, presented the report. He stated that, in June 1998, the council supported Senate Constitutional Amendment 4 (Proposition 220), which allowed for the voluntary unification of trial courts. The council supported SCA 4 because it removes the structural impediments to the most effective and efficient deployment of resources in the courts.

He noted that the resolution under consideration by the council on this issue recognizes that Los Angeles County is significantly larger than other California counties and that the diversity of issues, societal diversities, and number of court locations increase the complexity of coordination and unification in Los Angeles. These issues are best resolved at the local rather than the state level. The resolution recognizes that nonunified court systems have not recently been given guidance about coordination and unification and seeks to do so.

The resolution states that the council believes that countywide administration of courts is preferable because it provides the best opportunity to maximize the courts' flexibility for the efficient use of court resources and improves the courts' ability to respond to the needs of the public in each of the counties.

The resolution strongly urges the courts that have not unified to cooperatively examine their local issues, analyze the unification practices and procedures of other courts that have unified, and then make specific plans for the approval of and transition to unification at the earliest possible opportunity.

Mr. Vickrey commented that the resolution accurately reflects positions previously adopted by the council and is consistent with the notion that unification is a local option provided under the Constitution rather than a statutory requirement.

Council Action:

Justice Huffman moved that the Judicial Council approve the following resolution:

WHEREAS:

1. The Trial Court Realignment and Efficiency Act of 1991 authorized and directed the coordination of superior and municipal courts in each county court and remains in effect today;
2. Over the past eight years, the Judicial Council has overseen the implementation of the mandates of the Trial Court Realignment and Efficiency Act of 1991 and subsequent legislation intended to provide maximum utilization of judicial and other court resources to achieve increased levels of efficiency in court operations and to provide increased service to the public through the coordination of municipal and superior court resources in each county;
3. The Judicial Council has adopted rules, standards, and policies regarding trial court coordination implementation and assessment and has continued to support trial court coordination because coordination where implemented has accomplished the Legislature's goals;
4. The Judicial Council supported Senate Constitutional Amendment 4, an amendment to the Constitution that provides for voluntary trial court unification;
5. SCA 4 was passed in June 1998, with overwhelming voter support (an average of 64 percent statewide);
6. The Judicial Council continues its support for SCA 4 because the amendment removes all structural impediments to the most effective and efficient deployment of judicial branch resources within each county, thereby maximizing flexibility for the efficient use of court resources and for improving responsive service to the public, which is entitled to the benefits of unification in all counties;
7. Since the passage of SCA 4, a majority of the municipal and superior court judges in 53 of California's 56 eligible counties have exercised the voluntary option to unify all trial courts;¹
8. Los Angeles County is an extremely large, diverse, and complex urban court and therefore administrative challenges in Los Angeles County are addressed in a less flexible and more complicated environment than any other California county;
9. Los Angeles County has unique geographic issues to address when considering either coordination or unification of the trial courts, and these issues are best resolved at the local rather than the state level; and

¹ Kings and Monterey Counties are preparing to submit a request for clearance from the U.S. Department of Justice under the Voting Rights Act prior to unifying. This federal requirement for preclearance applied to four counties in California. Two of these counties have received the required approval of the U.S. Department of Justice.

10. Nonunified county court systems have not recently been given formal direction and guidance regarding Judicial Council policies on trial court coordination and unification;

THEREFORE,

The Judicial Council:

1. Supports implementation of SCA 4 as drafted and overwhelmingly approved by the voters in June 1998, providing for unification by local option;
2. Supports (a) the countywide administration of the courts with the belief that this maximizes flexibility for the efficient use of court resources and improves responsive service to the public, and (b) the countywide election of judges in counties that have unified, as this is consistent with the historic pattern of election of superior court judges and is the method of choice provided for in the state Constitution;
3. Finds that, based upon the rapid unification of 53 counties, the public would benefit from a common court organizational structure throughout all counties in California;
4. Finds that the public is best served by trial court unification for the reasons stated in the council's initial support of SCA 4 and subsequent reported experiences of county court systems that have unified,
5. Directs that, in order to facilitate approval of unification in eligible nonunified counties where the resolution of unique implementation issues requires more than six months, Administrative Office of the Courts staff seek amendments to Government Code section 70202 so that when nonunified courts vote to unify they may set the operative date up to one year after the certification of the vote.
6. Strongly urges courts that have not unified to cooperatively examine their local issues, analyze the unification practices and procedures of other courts, and make specific plans for the approval of and transition to unification at the earliest possible opportunity.

The motion passed.

Item 2C Policies and Procedures Relating to Trial Court Coordination

Ms. Dale Sipes, Assistant Director of the AOC's Council and Legal Services Division and Ms. Kathryn Harrison, Assistant Director of the AOC's Trial Court Services Division, presented the item.

Ms. Sipes noted that staff prepared a report to the council on these issues at the request of the Administrative Director of the Courts because all implementation deadlines contained in the trial court coordination rule (rule 991 of the California Rules of Court) have passed. Rule 991, enacted in 1995, lists essential elements that must be included in a trial court coordination plan and deadlines for implementing the elements. When the rule was adopted, it was contemplated that all deadlines would be met by July 1, 1999, and that all courts would be fully coordinated by then.

Since the deadlines have expired, prospective deadlines can no longer be used to distinguish between categories of assessment. Ms. Sipes noted that is an appropriate time to consider the legal mandates of coordination and reconsider rule 991.

With the approval of the coordination plans of Kern, Kings, Modoc, and Monterey Counties (passed by the council earlier in the meeting), only one county (Los Angeles) remains as neither unified nor fully coordinated. The Trial Court Coordination Advisory Committee (TCCAC) and judicial leaders in Los Angeles County have requested direction from the council regarding what constitutes acceptable coordination and how and with what frequency coordination will be assessed in the future.

Ms. Sipes stated that recommendations 1 to 5 are aimed at helping nonunified courts develop a coordination plan and indicating a schedule of activities for the plan approval and assessment process; recommendation 6 deals with incentives and consequences concerning coordination; and recommendation 7 provides direction to the TCCAC and AOC on future activities regarding coordination compliance.

Ms. Sipes said that council members are not being asked to approve or disapprove any particular coordination plan from Los Angeles County. She noted that no plan was submitted, nor was it expected. Based on policy approved today, Los Angeles judicial leaders would consider their coordination progress to date, draft a coordination plan covering the next two years, and submit the plan to the TCCAC for approval this Fall.

Ms. Sipes noted that the Executive and Planning Committee specifically asked staff to consider whether it made sense for the council to have an advisory committee on trial court coordination to oversee the few remaining nonunified counties or whether there were other approaches the council might use to carry out its coordination oversight responsibilities.

In February 1999, the TCCAC in a three-day site visit reviewed coordination progress in Los Angeles and advised that county of its concerns about the county courts' governance structure and other issues. As a result of that visit, the TCCAC concluded that judicial coordination is not taking place consistently in all parts of the county and that administrative integration is limited in some locations in the county. Ms. Sipes noted that considerable progress has been reported from Los Angeles on coordination issues since the TCCAC site visit in February.

Ms. Sipes noted that the TCCAC's recommendation regarding approval of Los Angeles County's coordination plan had been scheduled to be considered by the council in April 1999. She said the Executive and Planning Committee requested that the item be deferred until July 1999 and directed staff to prepare a comprehensive report about a broad range of trial court coordination issues.

Ms. Sipes noted that the council took several actions so Los Angeles County would not be disadvantaged by the deferral of consideration of the TCCAC's review of its coordination plan for fiscal year 1999–2001. The council approved, by circulating order, (1) an extension of Los Angeles County's fiscal year 1997–1999 coordination plan through October 31, 1999; (2) retention of additional Los Angeles County judicial positions on the proposed list of new judgeships for fiscal year 1999–2000; and (3) continued eligibility for coordination incentives for which Los Angeles County is now eligible.

Chief Justice George welcomed the leaders of the Los Angeles County courts to the council meeting and called on them to make brief remarks.

Judge Victor E. Chavez, Presiding Judge of the Los Angeles Superior Court, expressed his concern about the council's policy on alternative governance structures. He commented that he was originally apprehensive that the council was trying to break up the Los Angeles County courts. He noted that Chief Justice George reassured him that the courts were being presented with alternatives and that it was up to the courts to decide which worked best for Los Angeles. Judge Chavez noted that Los Angeles County leaders and judges are committed to a countywide court system.

Judge Philip K. Mautino, chair of the Los Angeles County Municipal Judges Association, reported that the association represents the 23 small outlying municipal courts and 150 judicial officers. Judge Mautino noted that he is empowered by the judges in the association to be their representative on the coordination committee (governance committee) for Los Angeles County. Judge Mautino noted that four or five judges from his courts attend coordination committee meetings with him, and when decisions or votes are required Judge Mautino caucuses with those judges, asking them whether the issue is major or whether it is minor enough that Judge Mautino can act individually. Judge Mautino said that frequently he and the judges from the association at the meetings with him will discuss an issue until agreement is reached. In cases of major conflict, Judge Mautino can take a fax vote in 24 hours and act per the majority. He noted that this latter procedure has never been used.

Judge Mautino expressed gratitude for the extension of pay parity for municipal court judges in Los Angeles. He urged the council to consider an equal pay statute at the appropriate time, saying that this would level the playing field in Los Angeles. He complimented the council on approving a resolution on trial court unification.

Presiding Judge Veronica S. McBeth of the Los Angeles Municipal Court stated that the leaders in Los Angeles County have been attempting to maximize judicial and administrative efficiency and create a court system that best serves the needs of the people they serve. She noted that a new courthouse being built was budgeted for and

created as a municipal court. Six of the 14 courtrooms in the building have been voluntarily given to the superior court because it will best serve the needs of the people in the area.

Judge McBeth commented that it is not correct to assume that as Presiding Judge of the Los Angeles Municipal Court she makes all of the policy decisions for the Los Angeles Municipal Court. There are rules of governance that require the presiding judge to consult with the court's executive board. These rules require decisions on policies and procedure to be made by the board and not the individual presiding judge. Judge McBeth noted that all but one judge of the Los Angeles Municipal Court voted for unification. The court believes that unification is in the best interests of the people.

Ms. Harrison said the staff report recommends that, by September 10, 1999, nonunified trial courts submit a countywide or autonomous regional trial court coordination plan that complies with rule 991 of the California Rules of Court. She noted that certain criteria must be met in order for a court to be assessed as fully coordinated. A key criterion requires the plan to demonstrate a single point of contact in the court's governance structure.

In January, the TCCAC found that in Los Angeles County there was not an identifiable single point of contact for the courts, members of the bar, or public. The staff report offers alternative governance structures that are not exclusive. The preference in legislation and in rule is that there be a single presiding judge on a countywide basis. However, a strengthened countywide governance committee that has authority to make decisions is also possible. Alternatively, autonomous regions that enhance service to the public are contemplated in Government Code section 68112(c) and can be created locally.

Ms. Harrison noted that there are certain countywide requirements of coordination, including unified budget preparation, countywide information systems, countywide facilities, and uniform local rules. The council has adopted policy on these requirements in the past, and the report reiterates and clarifies these policies. She said the staff report recognizes that other requirements might be met on an autonomous regional basis. For example, case assignments might be done on a regional rather than countywide basis. Another area of possible regional autonomy is the integration of court support staff, referring to courts' cross-training of staff and providing for regular cross-assignment of staff within regions.

Ms. Harrison noted that there has been extensive discussion about whether the current rule governing coordination (rule 991) is adequate to guide the council and the courts in implementing coordination. She said staff believes that the rule and standards are presently adequate. She noted, however, that revisions might be necessary if Los Angeles County selected an autonomous regional basis for governance.

Ms. Harrison said staff recommends that an assessment (via a site visit) of a county's implementation of its coordination plan occur within 90 days of the council's approving the plan. Additionally, staff recommends that counties assessed as "in compliance" be exempt from future assessments unless major changes in the court's structure take place.

Ms. Harrison stated that four incentives are affected by coordination status, according to either statute or council policy decisions. These four incentives are the following:

- Access to the Trial Court Improvement Fund. Courts must be found "in compliance with rule 991" to receive money from this fund, which is set aside for coordinated courts.
- Retention of carry-forward funding. Courts must be "in compliance with rule 991" to retain carry-over funds.
- New judgeships. Courts must be assessed as "in compliance with rule 991" at the time the list is created to be eligible for new judgeships.
- Pay parity. Staff recommends that the council either seek extension of the sunset date of pay parity or seek legislation to equalize pay between municipal and superior court judges.

In regard to future activities of the TCCAC, Ms. Harrison stated that staff proposes that the TCCAC make recommendations concerning plans for fiscal year 1999–2001 for Los Angeles County; complete the assessment of coordination implementation within 90 days of plan approval in Kern and Los Angeles Counties; and provide a final report to the council on coordination before April 30, 2000, if the coordination plans for Kern and Los Angeles Counties are approved by the October 1999 council meeting. If those plans are not approved by October 1999, staff recommends extending that deadline to June 30, 2000. After receipt of the final report, staff recommends that the TCCAC be retired and that future plan review and assessment be conducted according to procedures adopted by the council's Executive and Planning Committee.

Judge Paul Boland asked what would be the benefit of extending the sunset date of the current pay parity legislation rather than seeking legislation to equalize pay. Justice Huffman commented that the former seems more politically feasible right now.

Judge Jahr stated that there is great concern among council members about the utilization of judicial and staff resources in Los Angeles. The experience of other counties in California shows that, without dispute, integration of those resources produces the most effective results for Californians. Judge Jahr noted that while coordination progress is welcome and invited, the distance to be traveled is great and the time short. He said he did not want the Los Angeles leaders to leave the council meeting with the impression that the problems identified by the TCCAC and the staff report are resolved.

Justice Huffman commented that the council is establishing policy outcomes consistent with statute and constitutional duty without prescribing how to achieve the results. He noted that when Los Angeles County's plan is submitted to the council, if it does not demonstrate a sincere effort to succeed in becoming fully coordinated, it will face not being approved.

Justice Baxter asked what action in Los Angeles County needs to occur to get a coordination plan developed. Is it simply a unanimous vote by the coordination committee, or will the plan need the leadership's constituencies to approve the plan? Judge McBeth stated that the policies within the plan will need to be approved by the Executive Board of the Los Angeles Municipal Court, the Executive Board of the Los Angeles Superior Court, and the Presiding Judges Association. She noted that this process has never impeded progress. The coordination committee requires a unanimous vote and has always achieved it.

Council action:

Justice Huffman moved that:

1. COORDINATION PLAN CRITERIA. The Judicial Council approve a policy that by September 10, 1999, any nonunified trial court without an approved coordination plan for fiscal years 1999–2001 shall submit to the Judicial Council for review and approval either a countywide plan or an autonomous regional coordination plan that complies with rule 991.

At a minimum, the plan, whether countywide or regional, shall be verified as containing the following required elements:

- a. *Governance structure.* A description of an implemented *judicial and administrative* governance structure that offers the public, the bar, other courts, the Judicial Council, other components of the justice system, and other branches of government a single point of contact with authority and capability to make timely and final decisions about personnel, budget, rules, and other issues of judicial administration.

The implemented judicial governance structure may be organized through:

- (1) A single presiding judge on a countywide basis with a locally determined number of operating districts and a reasonable opportunity for judges from both courts to serve in the presiding judge position;
- (2) A countywide governance committee wherein committee members have authority to make decisions on behalf of the constituencies they represent;
- (3) Local creation of a number of autonomous regions of a reasonable size that

enhance service to the public; or

(4) A single presiding judge with a line of succession (a) that will provide for two assistant presiding judges, one superior court judge, and one municipal court judge, and a process and order of succession that, over time, ensures that municipal and superior court judges are equally represented as presiding judge, and (b) that offers decentralized, coordinated management that within a district provides a single point of contact and leadership and that, over time, ensures the equal representation of municipal and superior court judges in the leadership position in each district.

- Regarding a(2), the governance committee option, if adopted by the Los Angeles trial courts, will continue to operate with either a majority vote or unanimous vote if the oversight committee agrees unanimously to do so and provided that it complies with the requirement for a single point of contact set out in this recommendation.
- Regarding a(3), the autonomous regions option, this option would be acceptable but is less favored in that it creates a structure that may less fully realize the intended benefits of coordination and may cause the most organizational and operational confusion both within and outside of Los Angeles County.
- Regarding a(4), the Judicial Council urges that this option be seriously considered by the Los Angeles trial courts.

The implemented administrative governance structure may be organized through:

- (1) A single court executive officer or administrative oversight committee whose members share the responsibility for full integration of support staff if judicial governance is countywide (options a(1),(2), and (4) above); or
- (2) Separate executive officers for each of the autonomous regions.

- All governance options set out in recommendation 1 are available to any court that is not yet unified.
- Los Angeles County is entitled to submit a plan that differs in some particulars from the requirements listed in recommendation 1. However, to the extent that such a plan deviates from the requirements, the likelihood that the council will approve the plan is diminished. The plan will be approved only if it complies with Government Code section 68112, rule 991, and section 29 and only if the council is persuaded that the plan maximizes the use of judicial and other resources in the county.

b. *Case assignment.* As required by Government Code section 68112(a), adoption and full implementation of a plan in which assignments are made so that judges of “the participating superior court and each participating municipal court share each

other's work so that cases are substantially assigned without regard to whether a judge is on the superior court or the municipal court, and which provides for procedures that implement that sharing of work.”

A system for case assignments may be adopted on (a) a countywide basis that, due to the size of Los Angeles County, continues to delineate distinct districts between which cases can be transferred as needed or (b) within autonomous regions. If the second option is chosen, it must be demonstrated that service to the public is enhanced and reflect that a judicial governance structure has been adopted that can effectively implement the system of case assignment.

It is intended that common sense be used to maximize the implementation of this requirement in a manner most convenient and beneficial to the public and that case assignments recognize the interest and expertise of judges and provide opportunities for judges to expand their expertise. This criterion:

- (1) Requires that cases be assigned without regard to municipal or superior court jurisdiction;
 - (2) Requires that a countywide governance plan include comprehensive case cross-assignment within districts and case cross-assignment between districts as appropriate;
 - (3) Requires that a regional governance plan include comprehensive case cross-assignment within regions and case cross-assignment between regions as appropriate;
 - (4) Does not require that every judge hear every case type if there is no business need for this to occur; and
 - (5) Does not mean that every facility needs to be ready to handle every case.
- c. *Integration of support services.* Adoption and full implementation of a plan to provide for the integration of all direct court support services. At a minimum, the following services shall be verified as included in the integration plan:
- (1) *Full integration of court support staff.* At a minimum, court support staff includes jury, court reporting, interpreter, courtroom, counter/processing, exhibit, secretarial, legal research, and court attendant personnel. At a minimum, full integration requires (a) an established process for ongoing cross-training of court support staff, (b) a system that allows for the cross-assignment of court support staff as determined by judicial assignments, (c) substantial identifiable migration of personnel assignments between municipal and superior court support staff such that work is assigned based on business need and in a manner that promotes improved service to the public, and (d) integration of case processing by case type.

The structure adopted for integration of support staff should best support the system implemented for distribution of judicial workload and administrative governance. (*Staff note: As noted in the full report, it is expected that, at a minimum, if a countywide governance plan is adopted, staff integration will be comprehensive at the district level and will occur between districts as appropriate.*)

- (2) *Unified personnel system.* At a minimum, the implementation of a unified personnel system includes, to the extent permitted by law, (a) the integration of personnel records, payroll, training, and classification of employees and (b) the adoption of personnel practices and procedures that allow for unified hiring, discipline, and termination policies in all districts, as well as transfer between districts.

A unified personnel system shall be adopted on a countywide basis, or to the extent legally permissible, the courts may opt to unify personnel under a number of autonomous regions of a reasonable size that enhance service to the public.

- (3) *Unified budget preparation and maintenance system.* At a minimum, the establishment of a unified budget preparation and maintenance system includes (a) flexibility to plan for and manage allocated funds so that the highest branchwide priorities can be funded and expenditures monitored to provide accountability to the Judicial Council and the Legislature, (b) preparation of a judicial budget that is maintained by an integrated court fiscal services program and identification of a process for participation at the district level, and (c) integrated collections, disbursements, and procurement services.

A unified budget system must be adopted on a countywide basis whether or not the courts opt to organize themselves on a countywide basis or into a number of autonomous regions of a reasonable size that enhance service to the public.

- (4) *Countywide information systems.* At a minimum, the plan must reflect the development of a process that will result in countywide implementation of information and other technologies so that expenditures are consistent with the implementation plan and support the goal of coordination.
- (5) *Countywide facilities.* At a minimum, the plan must reflect the development of a process that will result in countywide implementation of facility maintenance such that any expenditures are consistent with the implementation plan and support the goal of coordination.

d. *Uniform local rules.* Adoption and implementation of a uniform set of local rules so that like proceedings (such as civil, criminal, family, and probate) can be litigated using the same rules in any court in the county.

2. COORDINATION ASSESSMENT FINDINGS. The Judicial Council approve a policy regarding future plan assessments to allow for findings of either “in compliance with rule 991” or “not in compliance with rule 991.”

3. RULE AND STANDARD GOVERNING COORDINATION. The Judicial Council confirm that rule 991 of the California Rules of Court and section 29 of the Standards of Judicial Administration identify and describe the principles and criteria that must be met in order for a court to be considered coordinated.

4. SCHEDULE FOR APPROVAL AND ASSESSMENT OF PLANS FOR FISCAL YEARS 1999–2001. The Judicial Council direct that a coordination plan for fiscal years 1999–2001 be submitted to the Judicial Council by Los Angeles County by September 10, 1999, for review and approval on October 22, 1999. The council also direct that within 90 days of plan approval, the TCCAC conduct an assessment by site visit of the progress in implementing the coordination plans for fiscal years 1999–2001 submitted by counties not already assessed as in compliance with rule 991 (Los Angeles and Kern).

5. SCHEDULE FOR FUTURE PLAN APPROVAL AND ASSESSMENT. The Judicial Council approve the policy that counties that have been assessed as “in compliance with rule 991” are thereafter exempt from further assessment by the Judicial Council unless a major change in coordination activity occurs. In the event of a major change, the county is required to self-report that change, and the Judicial Council may reassess the status of coordination implementation. March 1 is prescribed by the trial court coordination legislation (Gov. Code, § 68112) as the deadline for any future plan submissions.

6. ISSUES RELATED TO INCENTIVES. The Judicial Council adopt the overall policy that courts be assessed on the basis on which they choose to submit their coordination plans, that is, on a countywide or autonomous region basis.

In addition, the council adopt the following policies regarding individual incentives:

a. As required by law, the council continues to require that nonunified courts be found “in compliance with rule 991” in order to access the Trial Court Improvement Fund. The council also directs that adequate funds be set aside from the Trial Court Improvement Fund for six months to allow for distribution to Los Angeles County and Kern County, should they be assessed as “in compliance with rule 991.”

b. As required by law, the council continues to require all nonunified courts found to

be “in compliance with rule 991” to retain carry-forward funding, as available. The council requires Los Angeles and Kern Counties to hold any carry-forward funds in reserve for use should they be found “in compliance with rule 991.”

- c. The council continues to require that placement on the list for new judgeships in nonunified courts be dependent on the county’s being assessed as “in compliance with rule 991” at the time the list is created.
- d. The council directs staff to seek to extend the sunset date of Government Code section 68547, which provides for pay parity for municipal court judges in counties, districts, or regions found to be in compliance with the legislative mandate for maximum utilization of judicial resources. If Los Angeles County adopts a coordination plan with a governance committee, either the chair or all members of the committee must sign the monthly pay parity certification form.

7. DIRECTION TO THE TRIAL COURT COORDINATION ADVISORY COMMITTEE AND AOC STAFF. The Judicial Council request that the committee undertake the following activities:

- a. Receive and make recommendations regarding any trial court coordination plans for fiscal years 1999–2001 submitted to the Judicial Council.
- b. Within 90 days of approval by the Judicial Council, complete the assessment of coordination implementation in all nonunified counties.
- c. If the coordination plans for both Los Angeles and Kern Counties are approved by the October 1999 Judicial Council meeting, provide a final committee report to the council before April 30, 2000, to include the following information: (1) the coordination status of every nonunified county in California, (2) the results of the assessment of coordination implementation in these counties, regarding compliance with rule 991, and a list of steps the county must take to achieve compliance, and (3) any final recommendations to the council regarding trial court coordination activities the TCCAC deems appropriate.
- d. If the coordination plans for Los Angeles and Kern Counties are not approved at or before the October council meeting, extend deadlines indicated in item c above by three months, since under Government Code section 68112 courts must revise and resubmit their plans within 60 days of notification of disapproval.
- e. Direct that after receipt of the final TCCAC report, the committee will be retired.

The Judicial Council also requests that AOC staff undertake the following activities:

- f. To the extent that additional coordination plan review and recommendation or subsequent assessments are required in the future, the Administrative Director of the Courts shall recommend to the Judicial Council's Executive and Planning Committee procedures to address these tasks. The Administrative Director will be responsible for implementing adopted approaches.

The motion passed.

Chief Justice George asked the leaders of the Los Angeles County courts to communicate to the judges in each of their courts to seriously consider the alternatives posed in the staff report regarding governance structures. Chief Justice George directed that staff send copies of the resolution on unification and the policy on coordination just adopted by the council to each judge in Los Angeles County.

Item 3 Policies Related to the Allocation of Fiscal Year 1999–2000 Trial Court Funds in the Governor's Budget

Judge Ray L. Hart, chair of the Trial Court Budget Commission (TCBC), presented the report assisted by Mr. Jonathan Wolin, manager of the Trial Court Funding Unit. Judge Hart stated that early last year the council voted to restructure the budget process for fiscal year 2000–2001 and beyond to address fundamental issues raised by the legislative branch, the executive branch, and the council itself. That proposal replaced the incremental budget request process with two surveys circulated to the courts to gather data for use in defining statewide budget priorities and unique local needs. The TCBC will report to the council in August on the results of these two surveys and make recommendations for the fiscal year 2000–2001 budget.

Judge Hart stated that in January 1999 the TCBC recommended that the allocation of available money for fiscal year 1999–2000 be based on previously approved incremental budget requests and that the new process not be applied. This recommendation was made because the TCBC felt it would be unfair to change the rules of the game in midstream. Additionally, the commission recognized the importance of giving courts and the commission time to make the transition to the new process.

Judge Hart pointed out that the authorized budget for fiscal year 1999–2000 represents an 8.1 percent increase over the authorized budget for fiscal year 1998–1999. The TCBC's recommendations on allocations include general policies to guide the process, annualized adjustments, and new funding. Judge Hart noted that \$189.09 million is available to the trial courts this fiscal year. Annualized adjustments total \$64.11 million, new funding totals \$89.77 million, and the Judicial Administration Efficiency and Modernization Fund has \$35.21 million.

Council action:

Justice Huffman moved that the Judicial Council:

1. Reconfirm its previously adopted policy that one-time and ongoing costs for an allocation will be determined based on the original justification from a court system for that funding and that one-time costs contained in allocations provided to a court system will not be included in the baseline budget of that court system when the baseline is developed in the following fiscal year.
2. Approve a policy that would provide funding for new trial court positions for 9 months in the first year and 12 months for each succeeding year.
3. Approve the allocation of court interpreter rate increases based on actual expenditures and workload usage, in accordance with a schedule to be presented to and approved by the Trial Court Budget Commission for subsequent presentation to the Judicial Council for approval.
4. Approve the permanent allocation of \$6.5 million for court-appointed counsel costs consistent with the previously approved schedules used to allocate \$6.5 million in one-time deficiency funding in fiscal year 1998–1999.
5. Approve the use of the information on confirmed Negotiated Salary Increases for fiscal year 1998–1999 provided by the courts in their June 1999 responses to Needs Assessment Survey II (NAS II), and allocate the \$21.3 million according to an allocation schedule to be prepared based on the survey and brought before the TCBC for approval and subsequent submission to the Judicial Council for action.
6. Approve surveying the courts during the year to obtain complete information on confirmed agreements on Negotiated Salary Increases for fiscal year 1999–2000 and to allocate the \$20 million according to a schedule to be prepared based on the survey, funding court personnel pay increases before court security pay increases, and brought before the TCBC for approval and subsequent submission to the Judicial Council for action.
7. Approve the allocation of the \$19.2 million in County/State Transition Responsibilities funds according to Column C of Attachment 2, consistent with the original council-approved budget request delineation.
8. Approve the allocation of the \$9.1 million in Increased Public Access funds according to Column D of Attachment 2, consistent with the original council-approved budget request delineation of one-time versus ongoing costs.
9. Approve:
 - a. Allocation of the \$1.8 million in Civil and Criminal Case Processing funds according to Column A of Attachment 2, consistent with the original council-approved budget request delineation of one-time versus ongoing costs, and
 - b. TCBC presentation to the council of an allocation schedule for drug court funding that is consistent with the language of the Budget Act of 1999.
10. Approve the allocation of the \$.3 million in Security (Other funds) according to Column F of Attachment 2, consistent with the original council-approved budget request delineation of one-time versus ongoing costs.

11. Approve the permanent transfer of \$3.2 million for perimeter security from the Judicial Administration Efficiency and Modernization Fund to the state Trial Court Trust Fund and allocation of these funds to the courts that requested perimeter security funding, with \$1 million to be allocated for one-time costs in the first year and \$2.2 million for ongoing costs in the first year, and the entire \$3.2 million to be allocated for ongoing costs in the second and succeeding years.
12. Approve the allocation of the \$1.2 million in Jury Reform funds according to Column E of Attachment 2, consistent with the council-approved budget requests delineating one-time and ongoing costs.
13. Approve:
 - a. Transfer of \$2,758 from the remaining balance of the program funding for items 7 through 12 to cover the deficit balance in the Security program recommendation, and
 - b. Retention of the remaining \$189,609 to address additional urgent needs throughout the year.
14. Approve the allocation of the \$1.8 million for anticipated court interpreter workload increases based on workload data collected from the trial courts, setting forth an annual allocation that represents 11 months' worth of costs with the balance to be allocated upon the close of the fiscal year, consistent with past practice.
15. Approve the allocation of the \$8 million in court reporting transition costs based on the previously conducted survey of the courts, which outlined the historical costs of electronic reporting conversion.
16. Allocate the funding for 20 new judgeships and support staff for one quarter of fiscal year 1999–2000, and for a full year in the next fiscal year after surveying courts to determine in what area the new judgeship will be assigned. More funding will be provided to courts that agree to permanently assign that position to a family law calendar.
17. Take the following actions, in order to ensure that adequate funding is set aside to address the Y2K remediation issues in the remaining five nonunified counties:
 - a. Direct the TCBC to withhold from the proposed fiscal year 1999–2000 allocations to the three nonunified countywide trial court systems identified below in the amounts previously specified by those courts:
 - Kern County—\$250,000
 - Los Angeles County—\$2,887,000
 - Modoc County—No need indicated
 - b. Authorize the Administrative Office of the Courts (AOC) to release those funds to the three court systems to fund either any confirmed Y2K remediation costs or the originally intended programs, upon written confirmation from the three court systems to the AOC indicating that:
 - i. Their Y2K remediation issues have already been addressed, or
 - ii. Their Y2K remediation costs have been identified and an action plan to address those issues has been developed and funded from the authorized budget of the court system.

- c. Acknowledge that the remaining two nonunified countywide trial court systems in Kings and Monterey Counties are eligible for Y2K funding from the Judicial Administration Efficiency and Modernization Fund, since these courts have unified to the extent allowable by law.
18. Authorize the AOC to expend up to the amounts listed below in support of those activities and programs from the Statewide Projects portion of the One Percent Reserve:
- Complex Litigation Pilot Program (six-month funding)—\$500,000
 - Local Court Planning Assistance—\$325,000
 - Proposition 220 and Other Litigation Costs—\$100,000
 - Employee Assistance Program for Judges and Subordinate Judicial Officers—\$40,000
 - Judicial Liability Insurance—to be determined.

Judge Ronald L. Taylor noted that the State Budget this year includes important and historic assistance for poor people in California. It contains \$10 million for the Equal Access Fund, which will provide funding for qualified legal services projects and support centers helping indigents in civil matters. This is the first time the state has allocated money for legal services programs. Judge Taylor noted that the Chief Justice and the Administrative Director were very helpful in creating the fund. Chief Justice George thanked Assembly Member Sheila James Kuehl for her help in shepherding the bill through the legislative process.

Ms. Sheila Gonzalez said she did not remember the council's previously approving a policy to allocate more money to courts that indicated they would use the money for family law positions. She commented that courts should not be penalized for taking steps to reallocate existing money to fund family law positions and programs. Mr. Vickrey responded that the council the year before last voted to make efforts to increase the number of judgeships in family and juvenile courts. There was a concern that new positions would supplant existing positions and there would be no net positions committed to the family and juvenile courts. The council requested that staff develop a policy or process to encourage courts to increase the number of judgeships in areas that the council considered a high priority. The council policy applied to requests for new funding and did not ask courts to reallocate existing resources.

Ms. Gonzalez said that those courts that reallocated existing resources to implement the council's directive to increase the number of judgeships in family and juvenile law courts should be considered for monetary rewards (in the form of new judgeships, for instance) rather than penalized for carrying out the council's policies.

Judge Jahr clarified that the council is being asked to approve implementing this policy. The TCBC will need to develop the protocol that takes into account the concerns raised by Ms. Gonzalez.

Mr. Stephen V. Love commented that many unified courts are not pleased with the allocation proposal. He asked whether the \$6.5 million allocated for court-appointed counsel will become part of the base budget for 1998–1999 of those counties that had problems and whether there are funds for this in the fiscal year 1999–2000 budget. Judge Hart responded that this was an annualized planning adjustment that becomes part of the base budget. Mr. Vickrey commented that deficiency funding for dependency costs are requested annually, and these have been funded for the last two years.

Mr. Love asked whether increases in court security costs were addressed in the Negotiated Salary Increase (NSI) amounts. Judge Hart said no, they were not.

Judge Jahr commented that the shift to state funding is bound to create dislocation and that the allocations in any one year will seem to favor one court over another. He stated that the judicial branch has had a 15 percent budget increase in the last two years.

Mr. Vickrey stated that the council will have to make some very tough policy decisions in approving budget allocations over the next several years. He said that the council cannot provide funding to all 58 counties with enough money to improve security or court technology, for instance, all at the same time. The council may need to provide funding that appears to favor a few courts in one year, other courts in the next year, and so on until resources are equalized in courts.

Mr. Frederick Ohlrich commented that security costs make up about 20 percent of the average court's operating budget, and when those NSIs for law enforcement, which tend to be higher than for court employees, are not recognized by the Governor in the budget, the courts must make up those NSIs within the court's operating budget. When this is such a large percentage of the court's budget anyway, courts that are faced with these unfunded NSIs must cut into their program budgets.

Assembly Member Kuehl expressed concern about the portion of the motion dealing with Y2K correction or compliance problems. She understands that the Y2K money is part of the Judicial Administration Efficiency and Modernization Fund and that counties that have not unified are not eligible for money from it. She wondered where money for Y2K remediation comes from for counties that have not unified. Additionally, how will the council know that the amounts noted in the motion for Y2K remediation are correct? She asked how the amounts are confirmed.

Mr. Vickrey said courts have been asked to identify the specific problems that they have in Y2K compliance and to identify how they were verified. The money for remediation

is being distributed with a memorandum of understanding that sets forth the requirements they must follow in spending the funding. The agency is contracting with an expert in this area to go on site and conduct an audit to verify compliance that not only has the money been spent as expected, but also the intended results were achieved. Courts are also being asked to sign a verification that they are Y2K compliant, as are the vendors they rely on for court operations.

Judge Hart clarified that the motion is to withhold \$3 million in funding in nonunified courts' existing budgets until the courts verify compliance. If the courts show they are in compliance with the memorandum of understanding, the money will be reallocated to the courts for the purposes for which it was originally intended. Assembly Member Kuehl stated her concern that it takes money to be Y2K compliant, and the council is withholding money until nonunified counties are compliant. Mr. Vickrey responded that the money is being withheld until these courts can provide verification of what their needs are and what their plan is for achieving compliance. He stated that withholding this money will not disrupt a court's operations, since it is money intended for the second half of the fiscal year.

Council action:

The motion made by Justice Huffman passed.

Council action:

Mr. Frederick Ohlrich moved that the Judicial Council authorize the Administrative Office of the Courts to allocate and distribute the trial courts' fiscal year 1999–2000 baseline funding, subject to adjustment once final allocation decisions are made by the Judicial Council.

The motion passed.

Item 4 Allocation of the Judicial Administration and Efficiency Modernization Fund

Mr. Martin Moshier, Director of the AOC's Finance Bureau, presented the item. He stated that the Judicial Administration Efficiency and Modernization Fund (Modernization Fund) was created by the Trial Court Funding Act. It was originally thought and planned for that the fund would include \$50 million in the first year. However, no funding was provided in the first year. This year, the first year it has been funded, the fund contains \$35 million.

Legislation creating the Modernization Fund prescribed uses of the fund. It is to promote courts' improved access, improved efficiency, and improved effectiveness and can only be used by courts that are unified to the fullest extent permitted by law. Additionally, the

council can permanently reallocate not more than 20 percent of the fund for education and can permanently reallocate 40 percent or more to one-time improvement projects and programs in the trial courts.

Staff recommended funding a number of programs this year as one-time improvement programs and projects and funding security as a permanent allocation.

Judge Jahr asked if the outcomes of funding the recommended programs would be evaluated. Mr. Moshier replied that they would.

Mr. Vickrey clarified that in approving the recommendation presented the council would be permanently reducing the available funds from roughly \$35 million to \$32 million since the security allocation would be permanent. Last fall, the Governor included funding for perimeter security in his May budget revise but directed that it be funded from the Modernization Fund. But since this is funding for equipment and personnel that are part of the courts' ongoing operating costs, it makes sense that this be reallocated to the base of the affected courts that requested the funding.

Council action:

Ms. Gonzalez moved that the Judicial Council, effective immediately,

1. Approve the fiscal year 1999–2000 allocations totaling \$35,211,000 of the Judicial Administration Efficiency and Modernization Fund (Modernization Fund) to address the needs of unified trial courts as follows:
 - a. *Technology (\$24,225,000)*
 - i. Standards for Statewide Integrated Justice Information Systems (\$375,000)
 - ii. Y2K Problem Resolution (\$19,100,000)
 - iii. Small Counties Case Management System (\$2,500,000)
 - iv. Continuing Significant Development Efforts in Large and Complex Courts (\$1,450,000)
 - v. Online Legal Research Services (\$800,000)
 - b. *Court Security—Permanent Allocation (\$3,200,000)*
 - i. Perimeter Security (\$2,400,000)
 - ii. Purchase of Equipment (\$800,000)
 - c. *Education (\$2,850,000)*
 - i. Mandated State Education Programs (\$1,147,000)
 - ii. Other Training Programs and Scholarships (\$1,450,000)
 - iii. Technical Assistance to Local Courts (\$203,000)
 - iv. Pilot Programs (\$50,000)
 - d. *Pilot Program for Alternative Dispute Resolution Centers (\$1,234,000)*
 - e. *Pilot Program for Complex Litigation Centers (\$877,000)*
 - f. *Litigation and Claims Management (\$875,000)*
 - g. *Technical Assistance (\$1,950,000)*

2. Authorize the Administrative Director to make reallocations as necessary and provide reports to the council on Modernization Fund program areas.
Direct the Administrative Office of the Courts to provide reports to the Judicial Council on uses of the funds, including outcomes and outputs, this year and next year.

The motion passed.

Item 5 Court Interpreter Compensation Study and Recommendations

Ms. Harrison, Assistant Director of the AOC's Trial Court Services Division, presented the report assisted by Judge Lance A. Ito, chair of the Court Interpreters Advisory Panel, and Mr. Joseph Wong, committee staff. Ms. Harrison reported that in February 1998, the Judicial Council directed AOC staff to study interpreter compensation and working conditions. Staff contracted with William Mercer, Inc., a consulting firm specializing in compensation, to analyze these issues and provide recommendations.

Ms. Harrison said that the Trial Court Presiding Judges (TCPJ) Advisory Committee, Court Executives (CE) Advisory Committee, and Court Interpreters Advisory Panel (CIAP) reviewed the study and made recommendations concerning:

- Statewide model contract language;
- Testing and certification;
- Compensation for contract interpreters;
- Travel reimbursement;
- A cancellation policy;
- Compensation for staff interpreters; and
- An exclusive contract with an interpreter agency.

Ms. Harrison stated that the committees' review resulted in both agreement and disagreement between the committees. In areas of disagreement, staff has made recommendations. Staff also recommended legal analysis for several of the consultant's proposals.

Ms. Harrison reported that consensus was reached on the following issues:

- Developing model contract language;
- Directing the AOC to further study utilizing an exclusive agency for exotic languages in urgent circumstances;
- Designating additional languages to be certified based on a language study to be completed in 2000;
- Recognizing federally certified interpreters, subject to certain conditions;
- Directing the AOC to undertake efforts to reduce examination and certification fees;
- Requiring state certification for staff interpreters;
- Not basing rates on language or regional cost-of-living differences; and

- Reimbursing staff interpreters for travel expenses outside their normal commute.

Ms. Harrison said that legal analysis was recommended for issues related to potential Internal Revenue Service implications of developing statewide and regional contracts providing contractors with compensation for overtime and reimbursing contractors for mileage and travel time.

Ms. Harrison reported that the issues lacking consensus related to:

- Provision of a higher rate for interpreters who interpret in multiple languages during the same-, half-, or full-day assignment. Staff recommended allowing local courts to compensate interpreters at a higher rate when interpreting in multiple languages during the same assignment;
- The definition of half-day and full-day assignment. Staff recommended that there be no set start or finish time other than the time set by the judicial officer in the courtroom(s) to which the interpreter is assigned;
- Requiring interpreters to remain on site until the completion of the assignment. Staff recommended that the local trial courts should have the discretion to retain interpreters.
- A 24-hour cancellation policy. Staff recommended a 24-hour cancellation policy unless the interpreter was contracted with less than 24 hours' notice before the assignment; and
- Compensation for staff interpreters. Staff recommended linking staff interpreter rates to other court employees' salaries.

Judge Albert Dover asked whether these policies covered interpreters for the hearing impaired. Ms. Harrison replied that the rates established by the Administrative Director cover interpreters for the hearing impaired. The contractual terms do not cover interpreters for the hearing impaired.

Judge Dover stated that in rural areas few interpreters are available. There have been discussions about creating a pool of interpreters and using technology to handle short matters that do not equal a half-day assignment (e.g., arraignments). The idea was to have court interpreter coordinators call into a pool and arrange for interpreter services via videoconference or telephone. He asked whether these types of scenarios are included in discussions about rates and compensation.

Judge Ito reported that the National Center for State Courts (NCSC) conducted a telephone and video remote interpreting study last year. The results are not published yet but are expected soon. It is anticipated that the NCSC will recommend specific equipment. Judge Ito said that he is proposing that Los Angeles Superior Court interpreter services be made available to other California courts for short matters such as

those Judge Dover mentioned. Sharing their services would be a goodwill gesture to other courts.

Justice Richard D. Aldrich asked about the rationale behind compensating the interpreter on the nature of the legal proceeding as opposed to on the basis of a half- or full-day assignment. Ms. Harrison replied that the Court Interpreters Advisory Panel would like to contract with the court for a specific proceeding, for example a trial or arraignment. If the trial were resolved in 15 minutes, that would be the end of the interpreter's obligations and the court would pay the interpreter for a half-day of work. Staff recommended that the interpreter be paid for a half-day but that the court be able to retain the interpreter to handle other assignments.

Judge Michael B. Orfield asked whether leaving the definition of a full-day and half-day assignment to local courts would create inequities between counties. Ms. Harrison stated that staff recommended that below four hours of work be defined as a half-day and more than four hours of work be defined as a full day. Local courts can decide what hours those might be.

Justice Baxter asked if the court is required to pay a half- or full-day cancellation charge even if the interpreter obtains alternative employment. Ms. Harrison replied that the policy could clarify that if the interpreter found another assignment with the state courts, the interpreter would be paid only for the completed assignment; however if the new job were with a private employer or other government entity, the court would still be charged.

Justice Baxter expressed concern that the interpreter would be fully compensated without sustaining any loss.

Chief Justice George commented that the interpreter could be required to certify that he/she received no other compensation for interpretation services for that period in order to receive the cancellation fee.

Judge Orfield asked whether an interpreter could be compensated for the difference between what they made at the alternative assignment and what they would have been paid if the court assignment had not been cancelled (if higher). Ms. Harrison replied that courts are not among the highest compensators and therefore this would not generally be an issue. Judge Ito stated that the Court Interpreters Advisory Panel would want interpreters to be compensated for the difference. Justice Baxter pointed out that the practical effect of not compensating interpreters for the difference would be that they would not take the alternate job so they could be fully compensated by the state court system.

Ms. Harrison expressed concern about potential IRS implications of this proposal and suggested asking for a legal review if the council was considering a policy of either (1) compensating interpreters the difference between what they earned at an alternative assignment and what they would have earned at the court or (2) not compensating interpreters at all if they had another assignment.

Mr. Vickrey suggested that courts pay a cancellation fee if:

- A court cancels without 24 hours' notice;
- The interpreter cannot be used within the court; and
- The interpreter cannot be used in another state court.

Judge Dover said he thought taxpayer money would be saved if the cancellation issue were handled as a contract matter. It would not be cost-effective for courts to administratively track jobs received outside the court system during the same period as covered by the contract.

Mr. Love stated that it costs the courts \$8.00 to issue a warrant (check). It is staff intensive and therefore expensive to use court resources to calculate the difference between pay for a full- or half-day assignment and what they received elsewhere versus issuing a check for the contracted full- or half-day assignment.

Justice Huffman commented that the council and courts are trying to develop good relationships with court interpreters. He said that it would be a positive gesture to adopt a policy that a court cancels on time or pays the cancellation fee. This policy would also encourage courts to share interpreters or find other projects for an interpreter if an assignment is cancelled.

Council action:

Justice Huffman moved that the Judicial Council:

Model Contract

1. Direct the AOC to develop model contract language.
2. Direct the AOC to seek legal analysis on a statewide and regional contract and the potential legal implications under Internal Revenue Service (IRS) guidelines. Further direct the AOC to submit the legal analysis and recommendation regarding a statewide and regional contract to the Judicial Council at the appropriate time.

Testing and Certification

3. Continue to pursue efforts to have California join the nationwide Consortium for State Court Interpreter Certification.
4. Delay designating additional languages for certification until the completion of the mandated study on language needs to be completed in 2000.
5. Recognize federally certified interpreters as being certified in California, subject to certain conditions.

6. Direct the AOC to undertake efforts to reduce examination and certification fees.

Compensation Rates for Contract Interpreters

7. Direct the Administrative Director of the Courts not to set compensation rates for contract interpreters based on languages or on regional cost of living differences; however, grant authority to local courts to establish a differential rate if an interpreter interprets in multiple languages during the same full- or half-day assignment.

Other Compensation Issues for Contract Interpreters

8. Formalize that a half day is four hours of work and a full day is more than four hours of work. Local courts determine the specific time frames of the assignments.

9. Direct the AOC to seek legal analysis on an overtime policy and the potential legal implications under the IRS guidelines. Further direct the AOC to submit the legal analysis and recommendation regarding an overtime policy to the Judicial Council at the appropriate time.

10. Support local trial court discretion in requiring interpreters to remain on site until the completion of the full or half day.

11. Direct the AOC to seek legal analysis on mileage reimbursement and compensation for travel time and the potential legal implications under the IRS guidelines. Further direct the AOC to submit the legal analysis and recommendation regarding mileage and travel time reimbursement to the Judicial Council at the appropriate time.

12. Direct staff to draft a circulating order for the council to adopt cancellation language to ensure that interpreters working within the state court system not be eligible for a cancellation fee if an alternative assignment is found with another state court or with the federal courts and to encourage courts to use interpreters for other projects if the initial assignment is canceled.

13. Adopt a policy that federal or state taxpayers not pay twice for court interpreting services covering the same time frame. Interpreters may receive payment from private companies for the time period covered by a court-paid cancellation fee.

Compensation for Staff Interpreters

14. Require state certification of all staff interpreters.

15. Link rates for staff interpreters to other court employees' salaries and reflect competitive pay practices.

16. Reimburse staff interpreters at the prevailing local rate for travel expenses incurred outside their normal commute.

17. Direct the AOC to conduct further analysis on the use of an exclusive agency to provide statewide coordination of interpreter services and report to the Judicial Council when an appropriate agency exists.

The motion passed

Item 6 Transition to Trial Court Funding: Purchase of Master Insurance Policy for Defense of Judges and Commissioners in Commission on Judicial Performance Proceedings

[Staff note: Judicial Council member Mr. Sheldon Sloan did not attend the July 15, 1999 business meeting and specifically recused himself from participating in the consideration of this item.]

Mr. Starr Babcock, Managing Attorney in the AOC's Council and Legal Services Division, presented the item. Chief Justice George reported that this issue was discussed by the Supreme Court and the Administrative Presiding Justices of the Courts of Appeal and that both levels of court have indicated their approval of the proposal.

Mr. Babcock said that the proposal authorizes the Administrative Director to enter into negotiations to obtain a master insurance policy for California justices, judges, and commissioners in Commission on Judicial Performance (CJP) proceedings. The proposal will remedy the current situation in which some courts in California have insurance and some do not, and where judges in neighboring counties with the same litigant or lawyers do not have uniform and consistent representation.

Mr. Babcock noted that the master insurance policy would be part of a comprehensive loss-prevention program to protect judges and the state and to ensure that judges are not exposed to excessive personal financial risk for acts committed within the scope of their judicial duties. He stated that the proposal includes preventive means to lower the risk of conduct that could develop into CJP complaints. The proposal requires judges who elect to participate in the program to receive training in ethics, elimination of bias, fairness, employment issues, and other issues related to judicial conduct.

Mr. Babcock noted that the plan is expected to be in force on September 1, 1999, and is to include a rebate on policies already in existence. He reported that the CJP supports the proposal and is interested in participating in the risk prevention programs.

Mr. Michael Case expressed concern about the public perception of the council's buying a master insurance policy to cover errant judicial officers. He said that the CJP was created to file claims against aberrant judges. The council is about to fund a system to protect judges against claims made by members of the public.

Mr. Babcock noted that it makes sense to make representation more uniform and is an efficient use of funds, particularly since judges opting into the program are required to take courses in ethics and bias.

Justice William M. Wunderlich reported that the California Judges Association is very involved in ethics issues and would like to participate in the educational training.

Judge Dover noted that this insurance policy is a direct benefit of trial court funding. He said it might ultimately result in a tax savings resulting from fewer problems and from economy of scale.

Justice Baxter asked if there was an exclusion for judges accused of criminal conduct. Mr. Babcock replied that coverage would cease on final adjudication of a criminal act.

Assembly Member Kuehl expressed concern with the phrase “or other issues related to judicial conduct” in the recommendation referring to the types of courses that judges must take to be eligible for insurance coverage. She also asked whether a judge could access coverage before taking classes in fairness, ethics, and judicial conduct.

Judge Taylor said that the requirement covers broad topics. One course is minimal; therefore, judges should be required to take a course annually, not every three years as is proposed.

Mr. Vickrey clarified that a specific educational program would be developed in conjunction with the CJP. This program would be in addition to similar courses offered currently. It would be a one-day course offered seven to eight times a year. The three-year time frame is based on the logistics of offering these courses in a small-group setting.

Judge Jahr asked that the recommendation make it clear that the requisite course would be specially designed to address concerns identified by the CJP.

Council action:

Ms. Gonzalez moved that the Judicial Council:

1. Require all justices, judges, and subordinate judicial officers who elect to receive coverage under a master insurance policy to take at least once every three years a one-day educational program developed by the Center for Judicial Education and Research in collaboration with the Commission on Judicial Performance (CJP) and other related professional organizations on issues such as ethics, elimination of bias, fairness, sexual harassment, employment issues, or other issues related to judicial conduct.
2. Direct the AOC to provide an annual education course or courses that judicial officers may take to satisfy the training requirement.
3. Direct the AOC to administer the insurance program and a system for ensuring compliance with the educational requirement for those who elect to receive coverage under the insurance policy.

4. Authorize the Administrative Director to enter into a master insurance policy contract for the defense of justices, trial court judges, and commissioners against complaints before the CJP using funds allocated from the Trial Court Improvement Fund and the appellate budget.

The motion passed.

**Item 7 Achieving Adoption and Permanence for Children in California:
A Resolution for the Courts**

Ms. Diane Nunn, Managing Attorney in the AOC’s Council and Legal Services Division, presented the report. She noted that the council’s Family and Juvenile Law Advisory Committee has been working closely with Governor Gray Davis’s office to develop resolutions by the executive and judicial branches of government to proclaim November “Court Adoption and Permanency Month.” The resolution and correspondent outreach to trial courts is aimed at promoting adoption and permanency. AOC’s Center for Children and the Courts staff would provide technical assistance to courts interested in implementing a successful Adoption Saturday program and other innovative programs promoting adoption and permanency.

Council action:

Ms. Sheila Gonzalez moved that the council adopt a resolution proclaiming the month of November “Court Adoption and Permanency Month” and direct the AOC’s Center for Children and the Courts staff to develop a technical assistance package for the efforts to be made by the courts.

The motion passed

Circulating Order — CO-99-03:SCA 4 Certification of Yuba County

For information only; no action necessary.

**Circulating Order — CO-99-04:SCA 4 Approval of Los Angeles County’s
Call for a Vote**

For information only; no action necessary.

**Circulating Order — CO-99-05: Coordination Plans of Nonunified Counties for
Fiscal Year 1999–2000**

For information only; no action necessary.

The meeting was adjourned at 11:55 a.m.

Respectfully submitted,

William C. Vickrey
Secretary