

JUDICIAL COUNCIL MEETING
Minutes of the December 7, 2007, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:45 a.m. on Friday, December 7, 2007, at the Administrative Office of the Courts (AOC) in San Francisco, California.

Judicial Council members present: Chief Justice Ronald M. George; Justices Marvin R. Baxter, Brad R. Hill, Richard D. Huffman, and Eileen C. Moore; Judges George J. Abdallah, Jr., Peter Paul Espinoza, Terry B. Friedman, Jamie A. Jacobs-May, Carolyn B. Kuhl, Thomas M. Maddock, Charles W. McCoy, Jr., Dennis E. Murray, and James Michael Welch; Mr. Raymond G. Aragon, Mr. Thomas V. Girardi, and Mr. William C. Vickrey; advisory members: Judges Ira R. Kaufman and Judge Nancy Wieben Stock, Commissioner Ronald E. Albers; Ms. Deena Fawcett, Mr. Michael D. Planet, Mr. Michael M. Roddy, and Ms. Sharol Strickland.

Absent: Judge Barbara J. Miller, Senator Ellen M. Corbett; former Senator Joseph Dunn; Assembly Member Dave Jones; Mr. Anthony P. Capozzi, and Ms. Barbara J. Parker.

Others present included: Judges William D. Gallagher, David S. Wesley; Executive Officer Alan Slater; Ms. Tanya Akel, Ms. Lucy Fogarty, Mr. Hansel Harris, Ms. Beth Jay, Mr. Shawn Landry, Mr. Earl Thompson, and Ms. Patricia Yerian; **staff:** Mr. Peter Allen, Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Marcia Caballin, Ms. Ayanna Cage, Ms. Sheila Calabro, Mr. Philip Carrizosa, Ms. Tina Carroll, Mr. Arturo Castro, Mr. Roderick Cathcart, Mr. Curtis L. Child, Ms. Chris Cunningham, Ms. Kimberly DaSilva, Ms. Kim Davis, Ms. Charlene Depner, Mr. Mark Dusman, Ms. Diana Earl, Ms. Amelia Elgas, Mr. Edward Ellestad, Mr. Robert Emerson, Mr. Lee Evans, Mr. Chad Finke, Mr. Michael Fischer, Ms. Sara Fisher, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Mr. Evan Garber, Mr. Ruben Gomez, Mr. Bruce Greenlee, Mr. Clifford Ham, Ms. Sue Hansen, Ms. Melanie Hayden, Ms. Donna Hershkowitz, Mr. Burt Hirschfeld, Ms. Lynn Holton, Ms. Bonnie Hough, Ms. Melanie Jones, Mr. Kenneth L. Kann, Ms. Camilla Kieliger, Ms. Youn Kim, Mr. Gary Kitajo, Ms. Diane Krishna, Ms. Maria Kwan, Ms. Althea Lowe-Thomas, Mr. Dag MacLeod, Ms. Carolyn McGovern, Ms. Susan McMullan, Mr. Douglas C. Miller, Mr. Stephen Nash, Mr. Kyle Nishimura, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Mr. Charles Perkins, Ms. Mary M. Roberts, Ms. Virginia Sanders-Hinds, Mr. William Sanson, Ms. Robin Seeley, Mr. Christopher Smith, Ms. Marlene Hagman-Smith, Ms. Nancy E. Spero, Ms. Ann Springgate, Mr. Jonathan Streeter, Ms. Marcia Taylor, Mr. Courtney Tucker, Mr. Joshua Weinstein, Mr. Lee Willoughby, Ms. Jackie Woods, and Ms. Daisy Yee; **media representatives:** Ms. Janice Wright, KCBS, and Ms. Julie Cheever and Ms. Amy Yarbrough, *Daily Journal*.

Public Comment Related to Trial Court Budget Issues

Chief Justice George noted that no requests to address the council had been received.

Approval of Minutes

The minutes of the August 31, 2007, business meeting were approved at the December 7, 2007, business meeting.

Introduction of Curtis Child, Director, Office of Governmental Affairs

Mr. William C. Vickrey introduced Mr. Curtis L. Child, Director, Office of Governmental Affairs, who succeeds Ms. Kate Howard. Mr. Vickrey acknowledged the work of Chief Deputy Director Ronald G. Overholt and Ms. Donna Hershkowitz in identifying Mr. Child, who brings a breadth of experience in leading complex programs and initiatives in all three branches of government.

Chief Justice George welcomed Mr. Child and specifically acknowledged his experiences in the Legislature. Mr. Child is held in high esteem throughout state government.

Judicial Council Committee Presentations

Executive and Planning Committee

Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met three times since the October 26, 2007, Judicial Council meeting.

On November 9, 2007, the committee:

- Reviewed and approved the minutes of its October 25, 2007, meeting and began the process of setting the agenda for the December 7, 2007, Judicial Council business meeting;
- Scheduled a meeting for November 20, 2007, at 12:00 p.m. to further set the agenda;
- Made recommendations to be forwarded to the Chief Justice for an out-of-cycle appointment to the Advisory Committee on Civil Jury Instructions; and
- Received a briefing from Justice Richard D. Huffman and Mr. Kenneth L. Kann on possible upcoming education and discussion topics and a forthcoming circulating order to be reviewed by E&P before consideration by the full council.

On November 20, 2007, the committee:

- Reviewed and approved the minutes of its November 9, 2007, meeting;
- Further set the agenda for the December 7, 2007, Judicial Council business meeting;

- Deferred discussion of Judicial Council site visits in 2008 to a later date; and
- Reviewed and approved proposed E&P meeting dates for 2008.

On December 6, 2007, the committee:

- Set the final agenda for the December 7, 2007, Judicial Council Meeting; and
- Received a briefing regarding judicial pay and benefits issues. The committee previously discussed these issues during its October 15–16, 2007, meetings.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair, reported that the Policy Coordination and Liaison Committee (PCLC) had met on October 25 when it reviewed and adopted recommendations on proposals for council-sponsored legislation for 2008. The committee's recommendations are listed on the December 7, 2007, agenda for council action as items 1a through 1i, and 10.

The Legislature will reconvene January 7, 2008, for the second year of the session. The state Assembly will have one new member representing District 55, once the results of the December 11, 2007, election are tabulated. District 55 was formerly represented by Ms. Laura Richardson who won a seat in the United States Congress.

PCLC will soon set its meeting schedule for 2008. Typically PCLC meets once every three weeks.

Rules and Projects Committee

Justice Eileen C. Moore, chair, reported that the Rules and Projects Committee (RUPRO) had met once in person on December 6, 2007, and twice by telephone conference on November 5 and November 30, 2007, since the October 26, 2007, council meeting.

On November 30, the committee met by telephone to review one proposal, listed as item 7 on the consent agenda, titled 2008 Uniform Bail and Penalty Schedules. RUPRO recommended approval of the proposal.

On November 5 and December 6, 2007, RUPRO reviewed a proposal that implements the Omnibus Conservatorship and Guardianship Reform Act of 2006 titled "Education Requirements for Judicial Officers Assigned to Hear Probate Proceedings; Qualifications and Education Requirements for Probate Court Staff Attorneys, Examiners, and Investigators; and Qualifications and Education Requirements for Counsel Appointed in Conservatorships and Guardianships," which is listed as item 12 on the discussion agenda. RUPRO also considered a modification to Cal. Rules of Court, rule 10.777 that would expand the qualifications of probate examiners to include those who have an

Associate of Arts degree plus at least four years of experience, with specified types of employers. RUPRO recommended approval of this proposal.

Administrative Director's Report

Mr. William C. Vickrey submitted a written report to the council of the activities in which he has been involved and presented an oral report highlighting certain of those activities since the October 26, 2007, business meeting.

Mr. Vickrey reported that, as described on page 2 of the written report, a delegation from the U.S. Judicial Conference, including Judge Charles Breyer, met with the staff of the AOC regarding the implementation of long-range planning process. The AOC is grateful for the opportunity to meet with this group. This delegation recognizes the benefits and advantages that the California judicial system offers regarding planning.

Mr. Vickrey reported on courthouse rehabilitation and replacement projects around the state. Mr. Vickrey and the Chief Justice recently met with Senate President pro Tempore Don Perata to discuss funding of these initiatives. This is the second such meeting with Senator Perata. Mr. Vickrey, the Chief Justice, Senator Perata, and the Governor's Office have been developing a plan to address the 167 pending rehabilitation and replacement projects. See page 3 of the Administrative Director's Report.

Pending legislation to permit the continuation of facilities transfers was considered but did not pass on the final day of the 2007 Legislative Session. Nonetheless, Chief Deputy Director Mr. Ronald G. Overholt has continued discussions with the State Association of Counties as well as individual counties to foster cooperation and advance the progress of county-to-state courthouse transfers once the Legislature grants authority. See page 4 of the Administrative Director's Report for additional information.

Mr. Vickrey mentioned that he recently met with the Los Angeles County Chief Executive Officer William T. Fujioka. Significantly, the Administrative Officer stated that the county is advancing the process of transferring courthouses and anticipates transfer of all courthouses to state ownership by June 2008. Mr. Vickrey complimented the work of Mr. Overholt and AOC Director Kim Davis in facilitating countywide agreement on court facilities payments, as well as working with the Los Angeles Board of Supervisors, the County Administrative Officer, and staff. Significant progress was reported.

Mr. Vickrey reported that Los Angeles County's replacement of the Long Beach courthouse, which project has been under development for many years, is moving forward because of a public-private partnership authorized by the Legislature in 2006. Mr. Vickrey commended the work of the AOC's principal architect, Mr. Clifford Ham.

The AOC will release requests for information from the community in April 2008 to assess the number and types of real estate developers interested in working with this

project. The AOC intends to select two or three developers to compete for the project and to award the contract by December 2008. Both the Governor's Office and Senator Perata have complimented the work of the judicial branch and its proven ability to respond to opportunities without becoming encumbered by bureaucratic procedures.

Mr. Vickrey also reported on the branch's continuing efforts to complete financing of the Court of Appeal, Fifth Appellate District courthouse in Fresno. The building is completed and occupied and is already considered a community landmark.

Mr. Vickrey next reported on progress on various branchwide automation and technology initiatives. The initiatives and improvements will be ongoing. He complimented the dedication of local court executives; presiding judges; Ms. Jody Patel, Northern/Central Regional Administrative Director; Ms. Sheila Calabro, Southern Regional Administrative Director; Mr. Mark Dusman, Acting Director, AOC Information Systems Division; and his team, who support all of those various initiatives.

The financial systems team, led by Ms. Patel, will deploy the Phoenix Financial Services System program to the final courts by July 2008. The team also will prepare for deployment of the next version of the SAP financial system between July 2008 and June 2009.

The California Court Case Management System (CCMS) team led by Ms. Calabro is a model for the executive and legislative branches of government. The Governor's Office recently complimented the system and the work of the judicial branch in advancing technology initiatives. Supreme Court Justice Ming W. Chin is chair of the Court Technology Advisory Committee, which is working to advance the technological infrastructure to support the branch. Mr. Vickrey also complimented Justice Chin, Ms. Calabro, and Mr. Dusman on their successful efforts.

Mr. Vickrey concluded his report with an update on the efforts of the judicial branch's Strike Team created to assist Riverside County in resolving its case backlog. These efforts are led by Justice Richard D. Huffman, Ms. Calabro, and staff of the AOC and the AOC's Southern Regional Office. See page 6 of the Administrative Director's Report for additional information. The Strike Team operates under the direct supervision of Judge David S. Wesley, Superior Court of Los Angeles County, and Judge Richard K. Couzens, Superior Court of Placer County. The team reviews cases older than two years.

Mr. Vickrey noted that Justice Huffman chairs a task force charged with developing guiding principles for improving the court's caseload practices and procedures. The task force has formed a working group composed of the Riverside County District Attorney, Public Defender, and presiding judge, and others. These parties are reaching consensus due, in part, to the efforts of Justice Huffman and Ms. Calabro. They intend to implement the policies and practices in January 2008 with the goal of full implementation in March

2008. Mr. Vickrey complimented the continued patience and enthusiasm of court leadership and branch partners as the programs are being implemented.

The Chief Justice will assign six judges to address Riverside County's criminal caseload through June 30, 2008, a date beyond the tenure of the strike team. Ms. Davis and her staff have worked creatively with the Strike Team to arrange courtroom accommodations for all members of the Strike Team.

Mr. Vickrey praised Judge Wesley's invaluable daily leadership. The program would not be successful without the support of the presiding judges, judges and justices who have volunteered their services, and the collaborative efforts of Riverside County and the AOC.

Mr. Vickrey's report was concluded.

Chief Justice's Report

Chief Justice George presented an oral report of the activities in which he has been involved since the October 26, 2007, council business meeting.

The Chief Justice participated in a number of meetings:

- Senator Gloria Romero, Chair of the Senate Judiciary Committee, and Senator Ellen Corbett, Senate Majority Leader, requested a meeting where the issues of court interpreters statewide and how to enhance their service to the courts and ensure that their legitimate concerns are addressed were discussed.
- Senator Don Perata requested a meeting where his interest in assisting the judicial branch in facilitating courthouse construction and financing was discussed. The Governor's Office is aware of Senator Perata's interest in the issue and willingness to take a leadership role in assisting the judicial branch. The Chief expressed appreciation for Senator Perata's continuing interest in and support for the judicial branch.
- The Chief Justice and Mr. Vickrey met with Governor Arnold Schwarzenegger, the Governor's Chief of Staff and Chief Financial Officer, and Judicial Appointments Advisor Sharon Majors-Lewis, regarding a number of topics, including the need for reform of the Judges' Retirement System (JRS) II, stressing that adequate retirement benefits are not a judicial entitlement but an issue that affects the ability to recruit and retain the most qualified people as judicial officers. Ms. Majors-Lewis was able to confirm the Chief Justice's and Mr. Vickrey's concerns.

Other issues discussed were:

- The need for the appointment of the previously authorized additional 50 judgeships, including one new appellate judgeship allocated to the Court of Appeal, Fourth Appellate District, Division Two, located in Riverside County.
 - Courthouse facilities issues such as courthouse renovation and construction projects, public-private partnerships, lease-back arrangements, etc. The Governor supported the idea of public-private partnerships and related that he took a delegation of California legislators and others to British Columbia, Canada, to show them what that province had accomplished with cooperation not only from industry but also from labor unions.
 - Court security needs, including additional funding to achieve minimum standards. These standards must be reached soon to prevent a reduction in the level of security.
 - The Chief Justice praised the accomplishments of the branch, including its technological achievements and efforts in Riverside County. The Chief Justice also complimented Justice Huffman, Judge Wesley, Ms. Calabro, and the volunteering judicial officers on their leadership and hard work.
- The Chief Justice appeared at the request of Senator Ellen Corbett at a daylong legislative hearing that she sponsored in Oakland on the subject of judicial diversity. The Chief Justice noted that he reviewed the efforts of the judicial branch to assist and work with the other branches in trying to develop the broadest pool of qualified applicants for appointment to the bench. Additional hearings may be held in the future.
 - The Chief Justice participated in a visit from the U.S. Judicial Conference and personnel from the federal Administrative Office of the Courts. He reported that the visit was worthwhile for both groups. Judge Charles Breyer wrote to the Chief Justice afterward about how successful the visit was, how impressed they were with California's accomplishments, and how they want to incorporate similar changes in their own office, including strategic planning and use of advisory committees and task forces.

The Chief Justice reported on the following speaking engagements:

- A one-day symposium sponsored by the RAND Institute and the University of California at Los Angeles regarding access to justice issues, including a radio interview in Los Angeles on that subject.
- Presentation to the Women Lawyers of Sacramento, among other groups, regarding the recent accomplishments of the judicial branch.

- Speech at the memorial service of Mr. Peter Belton. The Chief Justice recognized Mr. Belton as a person who dedicated his career to service of the branch. He worked one-quarter of the entire history of the California Supreme Court, 37 years, as a research attorney for Justice Stanley Mosk until Justice Mosk's death, and then with the AOC's Office of the General Counsel revising the appellate rules of court and jury instructions.
- Engagement at the Los Angeles Pro Bono Council to encourage pro bono efforts in the Los Angeles area.
- Engagement at the Italian-American Bar Association and the Chancery Club regarding the goals and achievements of the Judicial Council and explaining some specific programs that have been undertaken, including the creation of the steering committee of the Commission on Impartial Courts. The Chief Justice met with the steering committee, led by Supreme Court Justice Ming W. Chin and Justice Marvin R. Baxter.
- Presentation at the California-Federal Judicial Council's biannual meeting regarding the areas where the two court systems interact, such as jury service improvements, access to justice issues, and capital matters. The Chief Justice provided an additional explanation of the California Supreme Court's recommendation to propose that the Legislature place on the ballot a constitutional amendment to permit the transfer of no more than 30 capital cases in any given year from the California Supreme Court to the Courts of Appeal.
- Meeting with the administrative presiding justices of the six Courts of Appeal to discuss hearing appeals of capital punishment cases, which would redirect the resources of the Supreme Court and resolve questions of statewide significance and conflicts among the Courts of Appeal.

The Chief Justice's report was concluded.

Special Presentation to Ms. Patricia Yerian from the Judicial Council

Ms. Patricia Yerian, former director of the AOC's Information Services Division, retired from her position in November 2007. The Chief Justice and the Administrative Director recognized Ms. Yerian's service to the AOC and leadership of the AOC Information Services Division. Ms. Yerian was presented with a Judicial Council resolution, a plaque, and a lapel pin representing 20 years of service to the judicial branch.

The Administrative Director remarked that Ms. Yerian had served the AOC since 1987, first as director of the Administrative Services Department, then as director of the Information Services Division.

She worked closely with Justice Ming W. Chin, chair of the Court Technology Advisory Committee, to shape the vision for technology in California. With her insight, the branch began to develop its telecommunications infrastructure and husbanded the state's limited resources in a way that leveraged some of the major developments in the areas of financial services systems and court case management systems. Ms. Yerian was commended for galvanizing and unifying the various parts of the branch to solve complex problems.

The Administrative Director commented that all three branches of government were represented at Ms. Yerian's recent retirement party, along with representatives from the AOC and the trial courts. She is respected both personally and professionally and will be missed.

In presenting the resolution and plaque, Chief Justice George remarked that Ms. Yerian has left a legacy of modernization and has furthered the mission of the branch to provide access to justice through technology for the benefit of generations of Californians.

The Chief Deputy Director presented Ms. Yerian with a pin representing 20 years of service to the branch. He commented on the evolution of the branch during her tenure at the AOC and echoed the Chief Justice's and the Administrative Director's appreciation for her service.

Ms. Yerian then thanked the Chief Justice, the Administrative Director, the Chief Deputy Director, the council, the AOC, and the courts for their kindness and demonstrations of appreciation. She remarked that she is fortunate to have had a wonderful career that yielded lifelong friendships.

Special Presentation to Ms. Patricia Yerian from Orange County

Presiding Judge Nancy Wieben Stock and Executive Officer Alan Slater, both from Orange County, presented Ms. Yerian with a resolution recognizing her service to the Superior Court of Orange County courts and all 58 trial courts. Judge Stock remarked that the courts consider themselves a partner in the process that Ms. Yerian has established. Orange County will endeavor to further the goal of a seamless interface of technology. Ms. Yerian thanked Judge Stock and Mr. Slater.

CONSENT AGENDA (ITEMS 1A–1I, 2–8)

ITEM 1 JUDICIAL COUNCIL–SPONSORED LEGISLATION

Item 1A Night Court Assessments: Transfer of Revenues (Veh. Code, § 42006)

The Policy Coordination and Liaison Committee recommended sponsoring legislation to shift revenues from the night/weekend session assessment from the counties to the State Court Facilities Trust Fund in an amount proportional to the counties' shift of court facilities to state responsibility. This amendment is necessary to align the revenues with the responsibility for remaining court facilities.

Council action

The Judicial Council voted to:

1. Transfer from the counties to the State Court Facilities Trust Fund an amount proportional to the counties' transfer of court facilities to state responsibility; and
2. Direct staff to prepare proposed statutory language accomplishing this transfer for council review.

Item 1B Small Claims: Postjudgment Fees (Code Civ. Proc., § 116.820)

The Policy Coordination and Liaison Committee and the Civil and Small Claims Advisory Committee recommended sponsoring legislation to amend the Small Claims Act to clarify that the same fees are charged and collected as for the enforcement of a civil judgment. Although the Small Claims Act provides that small claims judgments may be enforced like other civil judgments, the act specifies only certain postjudgment fees that may be charged. This amendment is necessary to clarify the law and standardize the procedures for charging postjudgment fees under the Small Claims Act.

Council action

The Judicial Council voted to sponsor legislation to amend the Small Claims Act, Code of Civil Procedure section 116.820, to clarify that the court shall charge and collect all fees associated with the enforcement of a small claims judgment as provided under title 9 of the Code of Civil Procedure.

Item 1C Fees: Small Claims Postponement Fee and Fees for Petitions to Seek Return of Property (Code Civ. Proc., § 116.570; Health & Saf. Code, § 11488.5; Pen. Code, § 12028.5; and Welf. & Inst. Code, § 8102)

The Policy Coordination and Liaison Committee and staff recommended the Judicial Council resubmit the following proposals to the Legislature to:

1. Amend Code of Civil Procedure section 116.570 to authorize a \$10 postponement fee in small claims proceedings;
2. Amend Health and Safety Code section 11488.5 to clarify the \$320 filing fee for petitions to claim property that has been seized; and
3. Amend Penal Code section 12028.5 and Welfare and Institutions Code section 8102 to establish a \$320 filing fee for petitions to claim firearms that have been seized.

These amendments would preserve valuable court resources, as well as provide clarification and statewide uniformity.

Council action

The Judicial Council voted to resubmit the above-listed proposals to the Legislature.

Item 1D Small Claims: Appearance by Declaration or Telephone (Code Civ. Proc., § 116.540)

The Policy Coordination and Liaison Committee and the Civil and Small Claims Advisory Committee recommended sponsoring legislation amending the Small Claims Act to authorize the court, in its discretion and upon a showing of good cause why a party or witness cannot appear in person, to allow a party or witness to appear at a small claims hearing by written declaration or by telephone. The practice of allowing telephonic appearances in small claims matters is currently happening sporadically across California, with no consistent practice or procedures. This amendment would improve access to small claims court in a manner consistent with the underlying intent that small claims court “be informal, the object being to dispense justice promptly, fairly and inexpensively.” (Code Civ. Proc., § 116.510.) The amendment would also make the practice more consistent statewide.

Council action

The Judicial Council voted to sponsor legislation amending the Small Claims Act to authorize a court, in its discretion and upon a showing of good cause why a party or witness cannot appear in person at the small claims hearing, to allow a party or witness to appear by written declaration or by telephone.

Item 1E Subordinate Judicial Officer: Definition Updated to Exclude Temporary Judges (Gov. Code, § 71601)

The Policy Coordination and Liaison Committee recommended sponsoring legislation to amend the Trial Court Employment Protection and Governance Act to remove temporary judges from the definition of SJO but to continue to provide that temporary judges are not covered by the protections of the act. Temporary judges and subordinate judicial officers are legally distinct, and the definition should be corrected. This amendment is a clarification of existing law, has no substantive impact, and will prevent confusion.

Council action

The Judicial Council voted to sponsor legislation to amend the Trial Court Employment Protection and Governance Act to remove temporary judges from the definition of SJO while continuing to provide that temporary judges are not covered by the protections of the act.

Item 1F Item 1F Subordinate Judicial Officers: Relocation Costs (Pen. Code, § 832.9)

The Policy Coordination and Liaison Committee recommended sponsoring legislation to (1) ensure Penal Code section 832.9 properly applies to all subordinate judicial officers, and (2) clarify that subordinate judicial officers are court, not county, employees, therefore making the court responsible for moving and relocation expenses necessary when the judge or SJO, or member of his or her family, must move in response to a credible threat that a life-threatening action may be taken against the judge, SJO, or his or her immediate family, as a result of his or her job. This change is necessary to provide clarity and ensure appropriate placement of responsibility for costs of relocation.

Council action

The Judicial Council voted to sponsor legislation to (1) ensure that Penal Code section 832.9 properly applies to all subordinate judicial officers, and (2) clarify that subordinate judicial officers are court, not county, employees, therefore making the court responsible for moving and relocation expenses necessary when the judge or SJO, or any member of his or her family, must move in response to a credible threat that a life-threatening action may be taken as a result of his or her job.

Item 1G Trial Preference: Updating Outmoded Statutory Language (Code Civ. Proc., § 36)

The Policy Coordination and Liaison Committee and the Civil and Small Claims Advisory Committee recommended sponsoring legislation to make minor, non-substantive amendments to the trial preference statute to delete obsolete language and modernize the statute. This amendment would bring the statute into accord with contemporary practices and procedures.

Council action

The Judicial Council voted to sponsor legislation to amend Code of Civil Procedure section 36 to delete obsolete language and modernize the statute.

Item 1H Government Fee Exemption (Gov. Code, § 6103)

The Policy Coordination and Liaison Committee and the Civil and Small Claims Advisory Committee recommended sponsoring legislation to clarify that government entities are not exempt from the obligation to pay civil jury fees and jury deposits. This amendment to the Government Code would clarify the law and eliminate confusion.

Council action

The Judicial Council voted to sponsor legislation to amend Government Code section 6103 to clarify that government entities are not exempt from the obligation to pay civil jury fees and jury deposits.

Item 11 Local Rules: Increase Time for Filing With the Judicial Council From 30 to 45 Days (Gov. Code, § 68071)

The Policy Coordination and Liaison Committee, the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee Joint Legislative Working Group recommended that the council sponsor legislation to extend the time period for Judicial Council review and processing of local court rule amendments from 30 days to 45 days before their January 1 or July 1 effective date. The current 30-day time frame does not provide sufficient time for several actions that need to be taken by the Administrative Office of the Courts, the trial courts, and the publishers of the local rules. This amendment would enable the public to have timely access to the rules.

Council action

The Judicial Council voted to sponsor legislation to amend Government Code section 68071 to extend the time period for Judicial Council review and processing of local court rule amendments from 30 days to 45 days before their January 1 or July 1 effective date.

Item 2 Criminal Law: Compliance With the Determinate Sentencing Law (amend Cal. Rules of Court, rules 4.405, 4.420, 4.428, 4.433, and 4.437)

The Criminal Law Advisory Committee recommended that the Judicial Council, effective January 1, 2008, amend the California Rules of Court to clarify the rules guiding judges in sentencing defendants to state prison under the determinate sentencing law. Effective May 23, 2007, the Judicial Council had amended these rules of court by circulating order in response to the recent United States Supreme Court decision in *Cunningham v. California* (2007) 549 U.S. ___ [127 S.Ct. 856] and the legislative response to that decision (Sen. Bill 40; Stats. 2007, ch. 3). The amended rules have now been circulated for public comment and the committee recommended clarifying changes.

Council action

The Judicial Council, effective January 1, 2008, amended rules 4.405, 4.420, 4.428, 4.433, and 4.437 of the California Rules of Court to clarify the rules guiding judges in sentencing defendants to state prison under the Determinate Sentencing Law.

Item 3 Criminal Law: Jury Voir Dire (amend Cal. Rules of Court, rule 4.201)

The procedure regarding when to allow and when to inform prospective jurors of the possibility of sequestered voir dire is not well known. Jurors and a Judicial Council member have asked staff to consider how best to increase awareness of this option. To that end, the Criminal Law Advisory Committee recommended that the Judicial Council, effective January 1, 2008, amend rule 4.201 of the California Rules of Court by adding an advisory committee comment to emphasize the procedure to be followed to determine

whether sequestered voir dire is appropriate and when courts might wish to inform prospective jurors of this option.

Council action

The Judicial Council, effective January 1, 2008, amended rule 4.201 of the California Rules of Court by adding an advisory committee comment to emphasize the procedure to be followed to determine whether sequestered voir dire is appropriate and when courts might wish to inform prospective jurors of this option.

Item 4 Civil Jury Instructions: Approve Publication of Revisions (Cal. Rules of Court, rule 2.1050)

The Advisory Committee on Civil Jury Instructions recommended approval of the publication of revisions and additions to the *Judicial Council of California Civil Jury Instructions (CACI)*, which were first published in September 2003 and last revised in August 2007. This proposal includes 64 new or revised instructions and verdict forms. Among them are revisions to the instructions and verdict forms on bad-faith insurance actions and a new series on trade secrets.

Council action

The Judicial Council, effective December 7, 2007, approved for publication under rule 2.1050 of the California Rules of Court the civil jury instructions prepared by the committee. The revisions will be officially published in a new 2007–2008 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

Item 5 Court Facilities Contracting Policies and Procedures

The AOC recommended approval of the *Court Facilities Contracting Policies and Procedures*. These policies guide the AOC in a qualifications-based selection process for providing the judicial branch with the best value in products and services during the acquisition and development of court facilities, including design and construction. By soliciting and evaluating products and services using predetermined selection criteria, the AOC seeks to contract for the best value for the judicial branch. The council must act on this proposal because it is required to adopt policies and procedures on such matters under Government Code section 70374(b)(2).

Council action

The Judicial Council approved the *Court Facilities Contracting Policies and Procedures*.

Item 6 Allocation of Revenue From the Trial Court Improvement Fund in Accordance With Rule 10.105 of the California Rules of Court and Government Code section 77205(a)

The Administrative Office of the Courts recommended approval of specific one-time allocations under Government Code section 77205(a) for fiscal year 2006–2007 for distribution in January 2008.

Council action

The Judicial Council voted to:

1. Approve specific amounts to be allocated for FY 2006–2007, including 20 percent of the excess fines split revenue (\$1,421,178) to be distributed to the trial courts located in counties that contributed to the 50/50 Excess Fines Split Revenue, and 60 percent (\$4,263,535) to be retained in the Improvement Fund; and
2. Delegate authority to the Administrative Director of the Courts to make any needed adjustments to these amounts to the extent that revisions are made by the State Controller’s Office to the 50/50 Excess Fines Split Revenue amounts recorded as deposited into the Improvement Fund prior to distribution.

Item 7 Traffic: 2008 Uniform Bail and Penalty Schedules (revise schedules)

The Traffic Advisory Committee proposed revisions to the Uniform Bail and Penalty Schedules to become effective January 1, 2008. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. According to rule 4.102 of the California Rules of Court, trial courts, in performing their duty under Penal Code section 1269b, must annually revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions is established by the schedules approved by the Judicial Council. The proposed revisions would bring the schedules into conformance with recent legislation.

Council action

The Judicial Council, effective January 1, 2008, adopted the proposed 2008 Uniform Bail and Penalty Schedules.

Item 8 Equal Access Fund—Distribution of Funds for Partnership Grants

The Legal Services Trust Fund Commission of the State Bar prepared a report requesting approval of an allocation of \$1.6 million in Equal Access Funds for distribution to legal services providers for programs conducted jointly with courts to provide legal assistance to self-represented litigants (partnership grants). The Budget Act authorizing the Equal Access Fund provides that the Judicial Council must approve the commission’s recommendations if the Judicial Council determines that the awards comply with statutory and other relevant guidelines. The report demonstrates that the commission has complied with those guidelines.

Council action

The Judicial Council, effective December 7, 2007, approved the allocation of \$1,600,000 in Equal Access Fund partnership grants to the State Bar Legal Services Trust Fund Commission. The commission will distribute the funds to legal services providers for programs conducted jointly with the courts to provide legal assistance to self-represented litigants, as follows:

BAY AREA LEGAL AID	
Domestic Violence Emergency Orders Clinic	\$78,000
BET TZEDEK LEGAL SERVICES	
Elder Law Project	\$168,000
Los Angeles County Elder Law Clinics	
CALIFORNIA RURAL LEGAL ASSISTANCE	
Landlord/Tenant and Small Claims Pro Per Assistance Project	\$83,000
CENTRAL CALIFORNIA LEGAL SERVICES, INC.	
Domestic Violence Rural Access Partnership	\$78,000
EAST BAY COMMUNITY LAW CENTER	
Alameda County Clean Slate Clinic	\$78,000
GREATER BAKERSFIELD LEGAL ASSISTANCE, INC.	
Family Law Access Partnership Project	\$73,000
INLAND COUNTIES LEGAL SERVICES	
Banning Civil Legal Access Project	\$29,000
LAW CENTER FOR FAMILIES	
Alameda County Family Law Collaborative	\$43,000
LEGAL AID FOUNDATION OF SANTA BARBARA COUNTY	
Legal Resource Center in Lompoc	\$68,000
LEGAL AID SOCIETY OF ORANGE COUNTY	
Compton Self-Help Legal Access Center	\$53,000
Lamoreaux Justice Self-Help Center	\$60,000
LEGAL AID SOCIETY OF SAN DIEGO, INC.	
Conservatorship Clinic at the Probate Court	\$28,000
Civil Harassment Temporary Restraining Order Clinic	\$73,000
LEGAL ASSISTANCE FOR SENIORS	

Partnership to Assist Guardianship Litigants	\$68,000
LEGAL SERVICES OF NORTHERN CALIFORNIA	
Legal Information and Assistance Project	\$38,000
Solano County Cooperative Restraining Order Clinic	\$52,000
Unlawful Detainer Mediation Project	\$45,000
Mendocino County Self-Help Legal Access Center	\$53,000
LOS ANGELES CENTER FOR LAW and JUSTICE	
Default Assistance Project	\$78,000
NEIGHBORHOOD LEGAL SERVICES OF LOS ANGELES COUNTY	
Domestic Abuse Self-Help Project	\$98,000
PRO BONO PROJECT SILICON VALLEY	
Domestic Violence Self-Representation Assistance	\$50,000
PUBLIC COUNSEL	
Appellate Self-Help Clinic	\$68,000
SAN FRANCISCO BAR ASSOCIATION VOLUNTEER LEGAL SERVICES PROGRAM	
Family Law Litigants Without Lawyers Project	\$83,000
SENIOR CITIZENS' LEGAL SERVICES	
Conservatorship and Elder Abuse Project	\$55,000
Total	\$1,600,000

DISCUSSION AGENDA (ITEMS 9-13)

Item 9 Criminal Cases: Rules for Continuances and Calendar Management (amend Cal. Rules of Court, rule 4.115)

Courts face serious calendar management difficulties in criminal cases. The calendar management problems are exacerbated by cases that are on or near the last day for trial, significantly reducing the court's flexibility and creating artificial calendar management emergencies.

The Trial Court Presiding Judges Advisory Committee, with the support of the Criminal Law Advisory Committee, recommended that the Judicial Council, effective January 1, 2008, amend rule 4.115 of the California Rules of Court to clarify that all requests for trial continuances, including trailing cases, must comply with the "good cause" requirement of Penal Code section 1050 and to encourage courts to actively manage trial

calendars to preserve trial court flexibility and resources to minimize the number of statutory dismissals.

Council action

The Judicial Council, effective January 1, 2008, amended rule 4.115 of the California Rules of Court to clarify that all requests for trial continuances, including trailing cases, must comply with the “good cause” requirement of Penal Code section 1050 and to encourage courts to actively manage trial calendars to preserve trial court flexibility and resources to minimize the number of statutory dismissals.

Item 10 *2008 Judicial Council Legislative Priorities*

The Policy Coordination and Liaison Committee recommended that the Judicial Council continue to sponsor legislation on the following topics that have been in process or have been partially implemented in recent years: (1) reform of the Judges’ Retirement System II; (2) court facilities transfer deadline extension; (3) new judgeships; (4) court security; and (5) conversion of vacant SJO positions in fiscal year 2008–2009. These proposals are critical to the council’s strategic plan.

Council action

The Judicial Council approved sponsorship of the following legislative proposals and directed the Office of the Governmental Affairs to coordinate council review and approval of individual proposals as needed:

1. Modify the Judges’ Retirement System II to provide a defined benefit after 10 years of service on the bench for judges at least age 63. This proposal will be cosponsored with the California Judges Association.
2. Extend the now-expired deadline for the transfer of court facilities to the responsibility of the branch and allow multiple court facilities in a county to transfer under a single transfer agreement. This proposal will be cosponsored with the California State Association of Counties.
3. Create 50 new trial court judgeships to be allocated consistent with the council’s 2007 Judicial Needs Assessment.
4. Secure funding to ensure appropriate court security is provided for all individuals who enter the trial courts and enact a structure for appropriate security cost containment and accountability.
5. Exercise the authority to convert 16 vacant subordinate judicial officer positions to judgeships in eligible courts in fiscal year 2008–2009.

These proposals represent the key legislative priorities for the council in the near term. At upcoming council meetings, the PCLC will provide status information about all proposals for sponsored legislation.

**Item 11 Fiscal Year 2007–2008 Entrance Screening Station Replacement
Schedule and Delegation of Authority**

The Administrative Office of the Courts recommended approval of the proposed allocation of the screening station equipment replacement funding that was included in the Budget Act of 2007 (Stats. 2007, ch. 171). Additionally, staff recommends that the council delegate to the Administrative Director of the Courts the authority to approve the list of equipment to be replaced in subsequent years based on existing criteria and the continued availability of funding. Approval of these items would allow staff to administer the replacement program more quickly and efficiently, thus benefiting the courts by upgrading old or unserviceable screening equipment that is key to preventing weapons and contraband from being brought into the courthouses.

Council action

The Judicial Council voted to:

1. Approve the list of equipment to be replaced in FY 2007–2008 from the replacement funding in the 2007 Budget Act, as indicated in the report submitted to the council.
2. Delegate to the Administrative Director of the Courts the authority to approve the list of equipment to be replaced in following fiscal years from the replacement funding in the Budget Act.

Item 12 Probate: Education Requirements for Judicial Officers Assigned to Hear Probate Proceedings; Qualifications and Education Requirements for Probate Court Staff Attorneys, Examiners, and Investigators; and Qualifications and Education Requirements for Counsel Appointed in Conservatorships and Guardianships (amend Cal. Rules of Court, rule 10.481; and adopt rules 7.1101, 10.468, 10.478, 10.776, and 10.777)

The Probate and Mental Health Advisory Committee recommended that the Judicial Council adopt new rules of court to (1) establish initial and continuing education requirements for judicial officers assigned to hear proceedings under the Probate Code; (2) establish qualifications and education requirements for court staff investigators, examiners, and probate attorneys; and (3) establish qualifications and continuing education requirements that counsel must meet to be appointed by the court to represent minors, conservatees, and proposed conservatees in probate guardianship and conservatorship matters. These rules implement the Omnibus Conservatorship and Guardianship Reform Act of 2006.

Council action

The Judicial Council, effective January 1, 2008:

1. Adopted rule 10.468 of the California Rules of Court to prescribe initial and continuing education concerning conservatorships and guardianships to be required of judicial officers regularly assigned to hear probate proceedings;
2. Adopted rules 10.478, 10.776, and 10.777 to establish and prescribe initial and continuing education to be required of probate court investigators, probate staff attorneys, and probate examiners, and the qualifications necessary to serve in these probate court staff positions;
3. Adopted rule 7.1101 to establish qualifications and continuing education to be required of counsel appointed by the court to represent conservatees and proposed conservatees in probate conservatorship proceedings and minors in probate guardianship matters; and
4. Amended rule 10.481 to facilitate the addition of the new rules concerning judicial officer and court staff education noted above.

The Judicial Council also:

1. Directed the Probate and Mental Health Advisory Committee and the Administrative Office of the Courts to review the management, scheduling, and disposition of probate proceedings in small courts and make recommendations for improvements to the Trial Court Presiding Judges and Court Executives Advisory Committees.
2. Directed the committee to report back to the council regarding the impact on small courts, with any modifications to the rule of court for the council's consideration.
3. Directed the Education Division/Center for Judicial Education and Research (CJER) to include recommendations concerning the probate education program established by the rules in this proposal in its required report to the council on the judicial branch education program, and instruct CJER to consult with the Trial Court Presiding Judges and Court Executives Advisory Committees concerning the probate education required of judicial officers and court staff by these rules; and
4. Directed the Probate and Mental Health and Court Executives Advisory Committees to report to the Judicial Council no later than October 2009 on the courts' experience with and recommendations for improvements in rule 10.777, concerning qualifications of probate court staff.

Item 13 Court Facilities: Delegate Development of Criteria for Evaluating Project Delivery Methods to the Administrative Director of the Courts; Authorize Actions Taken in Connection With the New Long Beach Courthouse Project

The Administrative Office of the Courts recommended that the council delegate to the Administrative Director of the Courts or a designee the authority to develop performance expectations and benchmark criteria for alternate methods of delivering court facility projects, as required by recently enacted Government Code section 70391.5, and that the council confirm the Administrative Director of the Courts' authority to take all other actions necessary or desirable for completion of the new Long Beach courthouse, including (1) implementing a procurement for the delivery of the project; (2) evaluating proposals received in response to solicitation documents; (3) selecting a proposal that is the most advantageous to the State of California; and (4) executing and delivering, on behalf of the Judicial Council and the Administrative Office of the Courts, a lease-purchase agreement or other multiyear agreement and all other documents and instruments in connection with the new Long Beach courthouse.

Council action

The Judicial Council took the following actions:

1. Delegated to the Administrative Director of the Courts or a designee the council's authority under article VI of the California Constitution and sections 70391 and 70391.5 of the Government Code to develop performance expectations for court facility proposals, including benchmark criteria for total project life-cycle costs, project cost comparisons to traditional delivery and financing options, project risk assessments and allocations, utility and energy conservation requirements that meet or exceed state standards, and court security operations cost controls and reduction goals (together, "performance expectations"). The performance expectations will assist the AOC in determining the project delivery method most advantageous to the State for any specific facility.
2. Confirmed the authority of the Administrative Director of the Courts or a designee to take all actions necessary or desirable to develop qualifications and proposal solicitation documents, which may be issued separately or combined, and to implement a procurement for the delivery of the new Long Beach courthouse according to the selected project delivery method. Such actions would be subject to the Office of Court Construction and Management's contracting policies and procedures to be submitted to the council for approval at its meeting on December 7, 2007, and subject to any additional requirements or procedures deemed by the Administrative Director or a designee to be necessary or desirable. Specific actions also would be subject to applicable provisions of the existing Site Selection and Acquisition Policy for Court Facilities and rule 10.184 of the California Rules of Court, which require the AOC to establish and consult with an advisory group formed for each court construction or major renovation project.
3. Confirmed the authority of the Administrative Director of the Courts or a designee to take all actions necessary or desirable for completion of the new Long Beach courthouse, which may include (a) selecting the firms best

- qualified to submit proposals and evaluating qualifications submittals and proposals received in response to the solicitations in recommendation 2, based on the criteria identified in the solicitation documents; (b) selecting a proposal that in his or her judgment represents best value and is the most advantageous to the State; (c) negotiating with the firm or firms submitting the proposals ranked highest based on the selection criteria; and (d) executing and delivering, on behalf of the Judicial Council and the Administrative Office of the Courts, a lease-purchase agreement or other multiyear agreement with a firm submitting a proposal that in his or her judgment represents the best value and is the most advantageous to the State and all related documents and instruments for the delivery of the new Long Beach courthouse.
4. Authorized the Administrative Director of the Courts or a designee to consult with the Director of Finance, to notify the Joint Legislative Budget Committee as required in Government Code section 70391.5, and to do all other acts consistent with, or in furtherance of, recommendations 1–3, to the extent that doing so is in the best interests of the State of California and the judicial branch.
 5. Required the Administrative Director of the Courts or a designee to report to the council periodically throughout the development of the new Long Beach courthouse.

Item 14 Subordinate Judicial Officers: Allocation of Conversions

The Judicial Council is authorized to convert 16 subordinate judicial officer positions to judgeships in fiscal year 2007–2008, and 16 per year in future years, for a total of 162 conversions. The council is directed in statute to develop a uniform allocation methodology for allocating the conversions among the 25 eligible courts if there are more than 16 vacancies in these courts in any given year. The AOC recommended approval of the proposed methodology for allocating conversions of vacant subordinate judicial officer positions to judgeships. Staff further recommended that the council delegate to the Executive and Planning Committee the authority and responsibility for approving the conversions under the approved methodology.

Council action

The Judicial Council took the following actions:

1. Required each of the courts with SJO positions eligible for conversion to notify the AOC promptly on confirmation that an eligible SJO position is or will become vacant and the date of the anticipated vacancy. Required that each court with an SJO position that is or will become vacant not fill that position until the Executive and Planning Committee makes a decision about whether to convert the position.

2. Adopted the following allocation schedule for the remaining 11 positions eligible for conversion for fiscal year 2007–2008:

Superior Courts (by County)	Number of Conversions Set Aside for FY 2007–2008
Group 1: Los Angeles	2
Group 2: Orange	1
Group 3: Alameda, Contra Costa, Riverside, Sacramento, San Diego, San Francisco	4
Group 4: El Dorado, Fresno, Imperial, Kern, Marin, Merced, Napa, Placer, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare, Yolo	4

For courts in groups 3 and 4, the conversions shall be allocated in the order that courts notify the AOC of a confirmed vacancy before the end of FY 2007–2008. If the total number of vacancies reported to the AOC by any court or group of courts does not reach the number of positions set aside for that court or group of courts by April 1, 2008, the remaining positions set aside for conversion will be distributed to any other eligible court on a first-come, first-served basis.

3. Adopted the following allocation schedule for fiscal year 2008–2009 and ongoing:

Superior Courts (by County)	Number of Conversions Set Aside for Fiscal Year 2008–2009 and Ongoing
Group 1: Group 1: Los Angeles	7
Group 2: Orange	1
Group 3: Alameda, Contra Costa, Riverside, Sacramento, San Diego, San Francisco	4

Group 4: El Dorado, Fresno, Imperial,
Kern, Marin, Merced, Napa, Placer,
San Luis Obispo, San Mateo, Santa
Barbara, Santa Cruz, Solano, Sonoma,
Stanislaus, Tulare, Yolo

4

As with the allocation schedule for FY 2007–2008, for courts in groups 3 and 4, the conversions shall be allocated in the order that courts notify the AOC of a confirmed vacancy before the end of the fiscal year. If the total number of vacancies reported to the AOC by any court or group of courts does not reach the number of positions set aside for that court or group of courts by April 1 of each year, the remaining positions set aside for conversion will be distributed to any other eligible court on a first-come, first-served basis.

4. Delegated to the Executive and Planning Committee the authority and responsibility for approving the conversions. Staff shall present to the Executive and Planning Committee, as soon as practical after notification by the courts of an existing or anticipated vacancy, information on the number of courts in which eligible positions will be allocated for conversion under the above methodology.
5. Delegated to the Executive and Planning Committee the authority to approve the filling of vacant converted positions with temporary SJOs to allow courts to use converted positions pending new appointments.

Circulating Orders

Copies of circulating orders are for information only; no action was necessary.

Appointment Orders

Copies of appointment orders are for information only; no action was necessary.

There being no further public business, the meeting was adjourned at 12:35 p.m.

Announcements

Chief Justice George offered two announcements.

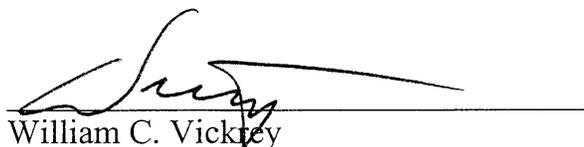
The first referenced council member Commissioner Ronald E. Albers's involvement in a new community court in San Francisco. Commissioner Albers will preside over a court that will address, in part, quality of life issues for homeless and indigent individuals. The court is based on a model developed by New York City, the Manhattan Midtown Court, that the Chief Justice and Mr. Vickrey visited a few years ago. The Chief Justice noted that Commissioner Albers is experienced and well-suited to the task.

The second announcement addressed an award that will be presented to former Senator Joseph Dunn. Senator Dunn completes his service to the council on December 31, 2007. The Chief Justice remarked that the council is grateful for his work on the council and is indebted to him for his work in cooperation with and in support of the branch as a legislator. Senator Dunn authored the bill that created the first series of 50 new judgeships as well as Senate Bill 10, which removed the impediment to the transfer of our courthouse facilities. He also has been involved in many other issues involving the legal profession and the improvement of the administration of justice.

Senator Dunn will be formally presented with a plaque and a copy of the *Federalist Papers* on another occasion as an expression of the council's appreciation.

The meeting was concluded.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. Vickrey", is written over a horizontal line.

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