

JUDICIAL COUNCIL MEETING
Administrative Office of the Courts
Malcolm M. Lucas Boardroom
455 Golden Gate Avenue
San Francisco, California 94102-3688
April 23, 2010
8:30 a.m.–12:50 p.m.
Business Meeting Open to the Public, rule 10.6(a)

AGENDA

- 8:30–8:40 a.m. **Public Comment**
[See California Rules of Court, rules 10.6(d) and 10.6(e).]
- 8:40–8:45 a.m. **Approval of Minutes**
Minutes of the February 26, 2010, business meeting.
- 8:45–9:00 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
 Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
 Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
 Hon. Dennis E. Murray, Chair
 [Committee Reports Tab]
- 9:00–9:10 a.m. **Chief Justice’s Report**
Chief Justice Ronald M. George will report on activities in which he has been involved since the last Judicial Council business meeting.
- 9:10–9:20 a.m. **Administrative Director’s Report**
Mr. William C. Vickrey, Administrative Director of the Courts, will make a report.

CONSENT AGENDA (Items A1–A11, B–E)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.

ITEMS A1–A11 RULES, FORMS, AND STANDARDS

Appellate

Item A1 [Appellate Procedure: Civil Case Information Statement \(Action Required\)](#)

The Appellate Advisory Committee recommends that the Judicial Council revoke the version of the *Civil Case Information Statement* approved by the council effective July 1, 2010, and delay the implementation of the changes made to that form until January 1, 2011. The committee is recommending that additional changes to this form be circulated for comment in April for potential adoption effective January 1, 2011, and concluded that it would be burdensome for the courts, litigants, and legal publishers if this form were revised twice in a six-month period.

Staff: Ms. Heather Anderson
 Office of the General Counsel

Item A2 [Appellate Procedure: Timeliness of Filings \(Action Required\)](#)

The Appellate Advisory Committee recommends amending the rules relating to the timeliness of filings in appellate court proceedings to provide that a document mailed by an inmate or a patient from a custodial institution is deemed timely if the envelope shows that the document was mailed or delivered to custodial officials for mailing within the period for filing the document. Currently, the California Rules of Court provide that such a prison-delivery rule applies to notices of appeal in criminal, juvenile, and conservatorship cases and to notices of intent to file a writ petition in juvenile dependency cases. Recently, the California Supreme Court held that this prison-delivery rule also applies to notices of appeal in civil cases and recommended that the Judicial Council review the relevant rules of court to determine whether any revisions might be appropriate or helpful in light of the court's decision. Based on that decision, the committee recommends that the prison-delivery rule be applied to all documents to appellate proceedings filed by inmates or patients by mail from custodial institutions.

Staff: Ms. Heather Anderson
 Office of the General Counsel

Criminal Law

Item A3 [Criminal Procedure: Intercounty Probation Case Transfer \(Action Required\)](#)

The Criminal Law Advisory Committee recommends that the Judicial Council adopt a rule of court to govern intercounty probation case transfer procedures and to prescribe

factors for the court to consider when determining whether transfer is appropriate. The rule is required by recently enacted legislation that modified intercounty transfer procedures under Penal Code section 1203.9.

Staff: Mr. Arturo Castro
Office of the General Counsel

Criminal Jury Instructions

Item A4 Jury Instructions: Additions and Revisions to Criminal Instructions (Action Required)

The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed additions and revisions to the Judicial Council Criminal Jury Instructions (CALCRIM).

Staff: Ms. Robin Seeley
Office of the General Counsel

Family and Juvenile Law Advisory Committee

Item A5 Child Support Commissioner and Family Law Facilitator Program: Midyear Funding Reallocation for Fiscal Year 2009–2010 (Action Required)

The Family and Juvenile Law Advisory Committee recommends that the council approve the reallocation of funding for the child support commissioner and family law facilitator program for fiscal year 2009–2010. Under an established procedure described in the standard agreement with each superior court, the Judicial Council at midyear redistributes to courts that have a documented need for additional funds any unallocated funds and any available funds from courts that are projected not to spend their full grants. The courts are also being offered an option to use local court funds up to an approved amount to draw down federal matching funds.

Staff: Mr. Michael Wright
Center for Families, Children & the Courts

Item A6 Juvenile Law: Tribal Customary Adoption (Action Required)

The Family and Juvenile Law Advisory Committee recommends amending rules and revising forms relating to juvenile dependency hearings and adoptions in order to implement the provisions of Assembly Bill 1325 (Cook; Stats. 2009, ch. 287). AB 1325 is tribally sponsored legislation that allows the adoption of Indian children who are dependents of the court, through the custom, traditions, or law of the child's tribe

without requiring termination of parental rights. AB 1325 requires the Judicial Council to adopt implementing rules and forms by July 1, 2010.

Staff: Ms. Ann Gilmour
Ms. Jennifer Walter
Center for Families, Children & the Courts

Probate

Item A7 [Probate: Qualifications of Paralegals Performing Legal Services for Personal Representatives of Decedents' Estates, Conservators, and Guardians \(Action Required\)](#)

The Probate and Mental Health Advisory Committee recommends amending the rule of court that implements a Probate Code section authorizing payment from the estate of a decedent for extraordinary legal services performed by a paralegal employed by counsel for the decedent's personal representative. The amended rule would clarify that the paralegal must satisfy the qualifications and continuing education requirements of Business and Professions Code section 6450 et seq. for his or her services to be compensated from the decedent's estate. By an existing cross-reference in another rule of court, the amended rule also would apply to a paralegal performing legal services for a conservator or guardian that are to be compensated from the estate of the conservatee or ward.

Staff: Mr. Douglas C. Miller
Office of the General Counsel

Subordinate Judicial Officers

Item A8 [Subordinate Judicial Officers: Reporting Disciplinary Action to the Commission on Judicial Performance \(Action Required\)](#)

The Trial Court Presiding Judges Advisory Committee recommends amending rule 10.703, which addresses complaints about subordinate judicial officers (SJOs), to clarify the circumstances under which a report to the Commission on Judicial Performance (the commission) must be made. The amended rule would require a presiding judge to report to the commission certain types of disciplinary action against an SJO regardless of whether that action was the result of a written complaint. It would also clarify that a presiding judge must notify the commission whenever an SJO resigns while a preliminary or formal investigation is pending, or whenever an SJO resigns under circumstances that would lead a reasonable person to conclude that the resignation was due to a complaint or allegation of misconduct. In addition the committee recommends amending rule 10.603, which addresses the duties of a presiding judge, to add a cross-reference to rule 10.703.

Staff: Mr. Mark Jacobson
Office of the General Counsel

Technology

Item A9 [Court Technology: Electronic Filing Pilot Program in the Court of Appeal, Second Appellate District \(Action Required\)](#)

The Court Technology Advisory Committee (CTAC) recommends adopting rules for an electronic filing pilot program in the Court of Appeal, Second Appellate District. Currently, there are rules regarding electronic filing and service in the trial courts but no rules for the appellate courts. The Court of Appeal, Second Appellate District would like to establish a pilot program to test the use of electronic filing and service in that court. This proposal would establish the rules for such a pilot program.

Staff: Ms. Heather Anderson
Office of the General Counsel

Traffic

Item A10 [Traffic: 2010 Uniform Bail and Penalty Schedules \(Action Required\)](#)

The Traffic Advisory Committee proposes revisions to the Uniform Bail and Penalty Schedules (the schedules) to become effective June 10, 2010. 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 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 for 2010 into conformance with recent legislation to amend Government Code section 76104.7, which increases a DNA penalty assessment on fines, penalties, and forfeitures for criminal offenses.

Staff: Mr. Courtney Tucker
Office of the General Counsel

Miscellaneous Technical Changes

Item A11 [Rules and Forms: Miscellaneous Technical Changes \(Action Required\)](#)

Various Judicial Council advisory committee members, court personnel, members of the public, and Administrative Office of the Courts (AOC) staff have identified errors in rules and forms resulting from inadvertent omissions, typographical errors, language

inconsistencies, or changes in the rule and form names and numbering. It is therefore necessary to make the technical changes to the rules and forms noted in the report.

Staff: Ms. Susan McMullan
Office of the General Counsel

Item B **[Conflict of Interest Code for the Administrative Office of the Courts \(Action Required\)](#)**

Since the Conflict of Interest Code of the Administrative Office of the Courts (AOC) was last amended (March 2009), the AOC has determined that various additional classifications should be included in the Conflict of Interest Code as designated positions to bring it up to date. Staff have also identified the types of financial interests that employees in these classifications should be required to disclose. Furthermore, two other classifications cited in the code no longer exist and therefore should be deleted. In accordance with Government Code sections 87303 and 87306, the Judicial Council must review proposed amendments to the code and approve the code as amended or direct that it be further revised and resubmitted for approval.

Staff: Mr. Steven R. Crooks
Office of the General Counsel

Item C **[Commission for Impartial Courts: Recommendations 1, 4, 15, 16, 18, 19, 24, 27, 31, and 32 \(Action Required\)](#)**

The Implementation Committee (the committee) of the Commission for Impartial Courts (CIC) is presenting for Judicial Council action 10 recommendations from the CIC's final report. Those recommendations have been grouped broadly into four overarching categories that correspond to the entities to which the CIC believes those recommendations should be referred for further action— the California Supreme Court, the State Bar of California, and the council's Policy Coordination and Liaison Committee (PCLC), Administrative Presiding Justices Advisory Committee (APJAC), and Appellate Advisory Committee (AAC). The recommendations made in this report are consistent with the prioritization plan that the council approved at its February 26, 2010, meeting.

Staff: Ms. Christine Patton
Regional Administrative Director
Mr. Chad Finke
Mr. Mark Jacobson
Office of the General Counsel

Item D **[Trial Courts: Final Report of Court Executive Officer Compensation Study \(Action Required\)](#)**

The Administrative Office of the Courts (AOC) recommends that the Judicial Council amend the rule that outlines the authority and duties of the presiding judge. The amended rule requires the development of policies and procedures related to the setting and modification of the court executive officer's total compensation package to ensure appropriate accountability and transparency. This final report concludes the work of the working group that was convened in September 2009 to study court executive officer compensation.

Staff: Ms. Pam Reynolds
 Northern/Central Regional Office

Item E **[Subordinate Judicial Officers: Extension of Authorization for Temporary SJOs in Superior Court of Riverside County Through June 30, 2011 \(Action Required\)](#)**

The Administrative Office of the Courts (AOC) recommends that the Judicial Council extend, in accordance with Government Code section 71622(a), through June 30, 2011, the authorization of the three positions for subordinate judicial officers at the Superior Court of California, County of Riverside. These positions commenced in 2007 following the creation of the Strike Force, at the request of the Chief Justice, for the purpose of reducing the criminal case backlog in the Riverside court. The Riverside court paid for the cost of hiring retired commissioners for those positions and will continue to pay those costs. Without the extension of the authorization for these three positions, the delivery of justice in Riverside would be severely affected.

Staff: Ms. Nancy E. Spero
 Executive Office Programs Division

DISCUSSION AGENDA (Items F–J)

Item F **[Trial Court Funding: Analysis of the Request from the Superior Court of Los Angeles County for Judicial Council Support Regarding Redirection of Construction Program Funds \(Action Required\)](#)**
9:20–10:10 a.m.

The Administrative Office of the Courts recommends that the Judicial Council pursue, on an urgent basis, advocacy with the Legislature and the Governor to ensure sufficient funding necessary to ensure that courts are open and accessible every business day of the year, through all viable ongoing, limited-term, and one-time funding solutions. It also recommends that the council not pursue at this time advocacy for redirection of

substantial ongoing funding from the Immediate and Critical Needs Account within the State Court Facilities Construction Fund as proposed by the Superior Court of California, County of Los Angeles (the Los Angeles court) for the purpose of offsetting reductions to trial court operations. On February 22, 2010, the Presiding Judge of the Los Angeles court requested the council to advocate for the redirection of those construction program funds. The Executive and Planning Committee directed the Administrative Director of the Courts to review the Los Angeles court's proposal and return to the council with analysis and recommendations. These recommendations further the council's strategic goals of ensuring accessible, safe, efficient, and effective services to the public, and providing and maintaining safe, dignified, and fully functional facilities for conducting court business that accommodate the needs of all court users.

Presentation/Discussion (25 minutes)

Speakers: Mr. Ronald G. Overholt
 Chief Deputy Director
 Mr. Stephen Nash
 Mr. Steven Chang
 Finance Division

Discussion/Council Action (25 minutes)

Item G [Resolution Recognizing the 10th Anniversary of the Complex Civil Litigation Program and Honoring the Participating Courts \(Action Required\)](#)
10:10–10:20 a.m.

The Administrative Office of the Courts recommends that the Judicial Council adopt a resolution recognizing the tenth anniversary of the Complex Civil Litigation Program and honoring the judges, staff, and participating courts for their contributions in ensuring access to justice for all Californians.

Presentation (10 minutes)

Speaker: Hon. Richard D. Aldrich
 Chair of the former Complex Civil Litigation Task Force
 Ms. Susan McMullan
 Office of the General Counsel

10:20–10:35 a.m. **BREAK**

Item H [Domestic Violence: Firearms Relinquishment in Criminal Protective Order Cases \(Action Required\)](#)
10:35–11:20 a.m.

The Domestic Violence Practice and Procedure Task Force recommends the adoption of rule 4.700 to provide a procedure for courts issuing criminal protective orders in

domestic violence cases to assist them in determining whether the defendant has complied with the court's order to relinquish or sell any firearms the defendant owns, possesses, or controls. Under the proposed rule, the court would set a review hearing to determine compliance with its order only in those limited cases where the court, in its discretion, has "good cause to believe" that the defendant owns, possesses, or controls a firearm that must be relinquished under the terms of the court's protective order. The rule, proposed as part of the task force's efforts to implement the recommendations in its final report, would fill a gap in the underlying statute, Code of Civil Procedure section 527.9; establish a uniform statewide procedure; and help protect victims and ensure public safety.

Presentation/Discussion (15 minutes)

Speakers: Hon. Laurence Donald Kay (Ret.)
Chair, Domestic Violence Practice and Procedure Task Force
Hon. Carol W. Overton
Superior Court of Santa Clara County
Ms. Christine Cleary
Center for Families, Children & the Courts

Discussion/Council Action (30 minutes)

Item I [Commission for Impartial Courts: Recommendations 2, 3, 5, 6, 7, 8, 9, 10, 14, 22, 25, and 28 \(Action Required\)](#)
11:20 a.m.–
12:20 p.m.

Please note: Due to time constraints during the April 23, council meeting, this item was deferred for action at a future Judicial Council meeting.

~~The Implementation Committee (the committee) of the Commission for Impartial Courts (CIC) is presenting for Judicial Council action 12 recommendations from the CIC's final report. Those recommendations have been grouped into two overarching categories that correspond to the entities to which the CIC believes those recommendations should be referred for further action—the State Bar of California and the California Supreme Court. The recommendations made in this report are consistent with the prioritization plan that the council approved at its February 26, 2010, meeting.~~

Presentation/Discussion (30 minutes)

Speakers: Hon. Ming W. Chin
Chair, Commission for Impartial Courts Implementation Committee
Hon. Douglas P. Miller
Chair, Subcommittee on Judicial Campaign Conduct
Ms. Christine Patton
Regional Administrative Director

Discussion/Council Action (30 minutes)

Item J **[Elkins Family Law Task Force: Final Report \(Action Required\)](#)**
12:20–12:50 p.m.

The Elkins Family Law Task Force recommends that the Judicial Council receive and accept its final report and recommendations and direct the Administrative Director of the Courts to prepare an implementation plan. The recommendations, when approved and implemented, will increase access to justice for all family litigants, ensure fairness and due process, and provide for more effective and consistent family law rules, policies, and procedures in California’s family courts. (The comment chart for this item is over 1,200 pages long, and readers are encouraged to read it online rather than to print it out in its entirety. The entire chart is found at this link: <http://www.courtinfo.ca.gov/courtadmin/jc/documents/reports/20100423elkinscomments.pdf>)

Presentation/Discussion (15 minutes)

Speakers: Hon. Laurie D. Zelon
 Chair, Elkins Family Law Task Force
 Hon. Jerilyn L. Borack
 Superior Court of Sacramento County
 Mr. José Octavio Guillén
 Court Executive Officer, Superior Court of Sonoma County
 Ms. Bonnie Rose Hough
 Center for Families, Children & the Courts

Discussion/Council Action (15 minutes)

Information Only Item

- **[Report to the Legislature on Allocation of Funding for Support of New Judgeships Authorized in FY 2006–2007 and FY 2007–2008](#)**
This is the Judicial Council report on the allocation of funding for support of new judgeships authorized in FY 2006–2007 and FY 2007–2008 as required by the Budget Act (Stats. 2006, ch. 47/48) and the 2007 Budget Act (Stats. 2007, ch. 171)

Written Comments Received

There have been no Circulating Orders since the last business meeting.

Appointment Orders since the last business meeting.
[Appointment Orders Tab]