



JUDICIAL COUNCIL OF CALIFORNIA

EXECUTIVE AND
PLANNING COMMITTEE

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EXECUTIVE AND PLANNING COMMITTEE (E&P)

MINUTES OF OPEN MEETING WITH CLOSED SESSION

March 13, 2019

10:00 a.m. to 3:30 p.m.

Judicial Council Office, San Francisco

Advisory Body Members Present: Hon. Douglas P. Miller (Chair), Hon. Marla O. Anderson (Vice-chair), Hon. Stacy Boulware Eurie, Hon. Samuel K. Feng, Hon. Harry E. Hull, Jr., Hon. Dalila C. Lyons, Hon. Gary Nadler, Hon. David M. Rubin, Mr. Patrick M. Kelly, Ms. Gretchen Nelson, and Mr. Michael M. Roddy

Advisory Body Members Absent: None

Committee Staff

Present: Ms. Amber Barnett and Ms. Josely Yangco-Frona

Advisory Body Leadership Present: In Person: Hon. Brad R. Hill and Hon. Kimberly A. Gaab
By Phone: Hon. Laurie D. Zelon, Hon. Earl Johnson, Jr. (Ret.), Hon. Donald C. Byrd, Hon. William F. Highberger, Hon. Suzanne N. Kingsbury, Hon. Brian McCabe, Hon. Charlene F. Olmedo, Hon. Richard Vlavianos, and Mr. Shawn Landry

Staff Present: Mr. Cliff Alumno, Ms. Karene Alvarado, Ms. Francine Byrne, Ms. Jenie Chang (by phone), Ms. Charlene Depner, Mr. Edward Ellestad, Ms. Ann Gilmour, Ms. Li Gotch, Ms. Bonnie Rose Hough, Dr. Mary Ann Koory, Ms. Claudia Ortega, Ms. Leah Rose-Goodwin, Mr. Jagan Singh, Mr. Gregory Tanaka (by phone), Ms. Sonia Sierra Wolf, and Ms. Carrie Zoller

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 10:00 a.m., and staff took roll call.

Approval of Minutes

The committee reviewed the following draft minutes:

- February 13, 2019, E&P meeting; and
- March 5, 2019, E&P action by e-mail.

Action: *The committee approved the draft minutes listed above.*

DISCUSSION AND ACTION ITEMS

Item 1

2019 Advisory Body Annual Agendas (Action Required)

The committee reviewed the following draft annual agendas with advisory body chairs and staff in the order listed:

- Collaborative Justice Courts Advisory Committee
- Tribal Court-State Court Forum
- Sargent Shriver Civil Counsel Act Implementation Committee
- Court Interpreters Advisory Panel
- Court Security Advisory Committee
- Court Facilities Advisory Committee
- Trial Court Facility Modification Advisory Committee
- Workload Assessment Advisory Committee
- Advisory Committee on Providing Access and Fairness
- Center for Center for Judicial Education and Research Advisory Committee

Action: *The committee approved the 2019 advisory body annual agendas listed above.*

ADJOURNMENT (OPEN MEETING)

With the business of the open meeting concluded, the open meeting was adjourned at 12:45 p.m.

CLOSED SESSION

Call to Order

The chair called the closed session to order at 12:45 p.m.

Item A

Pursuant to California Rules of Court, rule 10.75(d)(1)

Nominations for Judicial Council Appointments

The committee reviewed nominations regarding appointments to the Judicial Council.

Action: *The committee developed its recommendations for the Chief Justice regarding appointments to the Judicial Council.*

ADJOURNMENT (CLOSED SESSION)

With the business of the closed session concluded, the closed session was adjourned at 2:30 p.m.

Approved by the committee on [insert date].



Judicial Council of California

455 Golden Gate Ave.
San Francisco, CA
94102-3688

Meeting Agenda

Judicial Council

Meeting materials
are available through
the hyperlinks in
this document.

*Open to the Public Unless Indicated as Closed
(Cal. Rules of Court, rule 10.6(a))*

*Requests for ADA accommodation should be directed to
JCCAccessCoordinator@jud.ca.gov*

Friday, May 17, 2019

San Francisco

CLOSED SESSION (RULE 10.6(B))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE

Session 8:00 a.m. – 8:30 a.m.

Transitional Break 8:30 a.m. – 8:45 a.m.

OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA

Session 8:45 a.m. – 12:25 p.m.

Call to Order

Public Comment

The Judicial Council welcomes public comment on general matters of judicial administration and on specific agenda items, as it can enhance the council's understanding of the issues coming before it.

For more information about meeting attendance and public comment procedures:

<http://www.courts.ca.gov/28045.htm>

- 1) Submit advance requests to speak by 4:00 p.m., Tuesday, May 14.
- 2) Submit written comments for this meeting by 1:00 p.m. on Wednesday, May 15.

Contact information for advance requests to speak, written comments, and questions:

E-mail:

judicialcouncil@jud.ca.gov

Postal mail or delivery in person:

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

Attention: Cliff Alumno

Approval of Minutes

19-105 Minutes of March 15, 2019 Judicial Council meeting

Chief Justice’s Report

10 minutes

Administrative Director’s Report

19-106 Administrative Director’s Report

10 minutes

Judicial Council Committee Presentations

19-107 Judicial Council Committee Reports

20 minutes

Judicial Council Members’ Liaison Reports

15 minutes

19-108 Superior Court of Riverside County

19-116 Superior Court of San Francisco County

19-117 Superior Court of Ventura County

Break 9:40 a.m. – 9:50 a.m.

CONSENT AGENDA

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 Roma Cheadle at 415-865-7640 at least 48 hours before the meeting.

[19-060](#)

Judicial Branch Administration: Judicial Branch Workers' Compensation Program (Action Required)

Summary:

The Judicial Branch Workers' Compensation Program (JBWCP) Advisory Committee recommends approval of the workers' compensation cost allocation for fiscal year (FY) 2019-20 in the amount of \$18.2 million for the trial courts and \$1.3 million for the state judiciary. Based on a reduction from the previous year in the total cost of claims and stable payroll growth overall, the FY 2019-20 funding need reflects a 4.51 percent reduction (trial courts) and a 2.48 percent reduction (state judiciary) in cost allocations.

[19-090](#)

Judicial Branch Budget: Workload Formula Adjustment Request Process Policy Update (Action Required)

Summary:

The Workload-based Allocation and Funding Methodology (WAFM) Adjustment Request Process is used by trial courts to suggest modifications to the workload formula used for trial court funding. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve a recommendation to make changes to the language of the policy to replace references to "Workload-based Allocation and Funding Methodology (WAFM)" to "Workload Formula," to eliminate references to workload need, and to streamline the language of the policy to make it clearer. The updates will also permit the chair of TCBAC to more quickly refer Adjustment Requests to other advisory committees as deemed appropriate.

[19-087](#)

Jury Instructions: Civil Jury Instructions (Release 34) (Action Required)

Summary:

The Advisory Committee on Civil Jury Instructions recommends approving for publication the new, revised, and revoked civil jury instructions prepared by the committee. These revisions bring the instructions up to date with developments in the law over the previous six months. On Judicial Council approval, the instructions will be published in the official midyear supplement to the 2019 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

[19-118](#)**Rules and Forms | Civil Practice and Procedure: Adjustment of Maximum Amount of Imputed Liability of Parent or Guardian for Tort of a Minor (Action Required)****Summary:**

Judicial Council staff recommends that the Judicial Council amend Appendix B of the California Rules of Court to reflect the biannual adjustments to the dollar amounts of the maximum amount of liability of parents or guardians to be imputed for the torts of a minor under Civil Code section 1714.1, and direct that staff publish the adjusted amounts. Judicial Council staff recommends that the Judicial Council, effective July 1, 2019, amend Appendix B of the California Rules of Court to adjust the maximum liability of the parent or guardian having custody and control of a minor for the willful misconduct of the minor, under Civil Code section 1714.1(a) or (b), from \$40,600 to \$42,100.

[19-091](#)**Rules and Forms | Civil Practice and Procedure: Order on Unlawful Use of Personal Identifying Information (Action Required)****Summary:**

Legislation effective January 1, 2019, authorizes a person who believes that his or her personal identifying information has been used unlawfully in a business entity filing to petition a court for a determination of unlawful use and issuance of an order certifying that determination and ordering specified actions. Senate Bill 1196 (Jackson; Stats. 2018, ch. 696) requires the Judicial Council to develop a form for issuing the order. The Civil and Small Claims Advisory Committee recommends that new Order on Unlawful Use of Personal Identifying Information (form CIV-165) be used for that purpose.

[19-092](#)**Rules and Forms | Civil Practice and Procedure: Unlawful Detainer (Action Required)****Summary:**

Two recent bills added to and amended the Code of Civil Procedure section regarding unlawful detainer actions to expand affirmative defenses and to clarify that the period of time in which a defendant must respond to a summons excludes Saturdays, Sundays, and other judicial holidays. The Civil and Small Claims Advisory Committee recommends revising two forms, Answer-Unlawful Detainer (form UD-105) and Summons-Unlawful Detainer-Eviction (form SUM 130), to make them consistent with these statutory changes.

[19-119](#)**Rules and Forms | Civil Practice and Procedure: Waivers of Court Fees for Court Reporters and Interpreters (Action Required)****Summary:**

Recent changes in the law pertaining to a waiver of court fees for providing court reporters, providing court interpreters to parties in civil cases by priority level, and reimbursing courts for the cost of providing interpreters affect certain rules and forms that address fee waivers. The California Supreme Court recently held that courts that do not provide official court reporters must make available to parties entitled to a waiver of fees court reporters or other means to create a verbatim record. (*Jameson v. Desta* (2018) 5 Cal.5th 594.) Earlier legislation (Assem. Bill 1657; Stats. 2014,

ch. 721) added a section to the Evidence Code that requires the Judicial Council to reimburse courts for court interpreter services for parties in civil cases and prioritizes by case type the provision of court interpreter services.

The Civil and Small Claims Advisory Committee recommends that two California Rules of Court be amended and nine fee waiver forms be revised to provide, generally, that a party that has been granted a fee waiver may request a court to provide an official reporter at a proceeding, delete an item addressing court-appointed interpreters in small claims actions, and change the language addressing court reporter's fees.

[19-112](#)

Rules and Forms | Family Law: Technical Changes to Summary Dissolution Forms (Action Required)

Summary:

The Family and Juvenile Law Advisory Committee recommends technical revisions to two family law summary dissolution forms. The technical changes are mandated by Family Code section 2400 to reflect an increase in the cost of living based on changes to the California Consumer Price Index.

[19-113](#)

Rules and Forms | Juvenile Law: Guardianship Information (Action Required)

Summary:

The Family and Juvenile Law Advisory Committee recommends revising two forms and renumbering one of those forms to provide up-to-date legal information for a prospective guardian of a child in juvenile court proceedings, using language and a format easily understood by a person not trained in law. The proposal is needed to reflect changes to the law and comply with an ongoing statutory mandate. Specific revisions were suggested, both informally and through the spring 2018 invitation-to-comment cycle, by child welfare departments, county counsel's offices, juvenile courts, and the Judicial Council's Probate and Mental Health Advisory Committee.

[19-104](#)

Rules and Forms | Language Access Plan: Language Services in Noncourtroom Settings (Action Required)

Summary:

The Advisory Committee on Providing Access and Fairness recommends the adoption of a new rule of court and the approval of three optional forms to satisfy a series of recommendations from the *Strategic Plan for Language Access in the California Courts* (LAP) focusing on the provision of language services outside the courtroom.

[19-111](#)**Rules and Forms: Miscellaneous Technical Changes (Action Required)****Summary:**

Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors and changes resulting from legislation and previous rule amendments and form revisions. Judicial Council staff recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

[19-088](#)**Rules and Forms | Restraining Orders: Proposed Gun Violence Restraining Orders for Senate Bill 1200 Hearing Requirement (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends adopting five new gun violence restraining order (GVRO) forms and revisions to four current GVRO forms to facilitate courts and parties in complying with the new hearing requirement in Penal Code section 18148. The proposal also revises the current GVRO forms relating to a restrained party providing proof of the surrender or sale of firearms, ammunition, and magazines to more clearly reflect the statutory provisions.

[19-093](#)**Trial Court Budget: Trial Court Trust Fund Funds Held on Behalf of the Trial Courts (Action Required)****Summary:**

The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee (TCBAC) recommends approving four new requests and seven amended requests from seven trial courts for Trial Court Trust Fund (TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, courts may request reduced funding as a result of a court's exceeding the 1 percent fund balance cap, to be retained in the TCTF for the benefit of that court.

[19-086](#)**Trial Court Budget | Trial Court Allocations: Continued Children's Waiting Room Funds Distribution (Action Required)****Summary:**

Effective October 1, 2018, the Superior Court of Contra Costa closed its Children's Waiting Room (CWR) at its Pittsburg facility in order to relocate the CWR to the Peter L. Spinetta Family Law Center in Martinez, which currently houses its Family Law operations. The Superior Court of Contra Costa is requesting to continue to receive CWR funds in order to build sufficient resources to reopen in Martinez by July 2019. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve the continuation of the distribution of funds to allow the court to resume ongoing operations at its new location without decreasing service levels.

[19-099](#)**Trial Courts: Trial Court Financial Policies and Procedures Manual (10th Edition) (Action Required)****Summary:**

Judicial Council staff recommends adoption of the *Trial Court Financial Policies and Procedures Manual* (TCFPPM), tenth edition. The manual was last updated in 2018. The TCFPPM requires both substantive and non-substantive revisions to maintain clarity and update and improve the existing system of internal fiscal controls in accordance with California Rules of Court, rule 10.804.

DISCUSSION AGENDA[19-065](#)**Trial Court Budget: 2018-19 \$10 Million Emergency Reserve Funding Request, Humboldt Superior Court (Action Required)****Summary:**

The Judicial Branch Budget Committee recommends that the Judicial Council approve the Superior Court of Humboldt County's application for emergency funding from the \$10 Million State-Level Reserve. Under the current policy adopted by the Judicial Council, courts that are projecting a current-year negative fund balance may apply for either a loan or one-time funding for unavoidable shortfalls, unforeseen emergencies or unanticipated expenses for existing programs.

Speakers:

Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Mr. Zlatko Theodorovic, Budget Services

15 minutes

[19-064](#)**Trial Court Budget: 2018 Budget Outcomes (No Action Required)****Summary:**

At the September 21, 2018 Judicial Council meeting, the Trial Court Budget Advisory Committee was directed to report on outcomes related to new branch funding provided in the 2018 Budget. Specifically, TCBAC was to compile information from the trial courts on the use and expenditure of \$108.4 million of discretionary funds (\$60.6 million plus \$47.8 million directed at courts below the statewide average funding level) and \$19.1 million allocated to self-help services. Additionally, TCBAC was to report on the \$10 million (of the \$75 million in discretionary funds) that was earmarked to increase the number of court reporters in family law. The new funding has increased public access to court services, expanded services, decreased backlog, and enhanced operational stability in order to serve the public more efficiently and effectively.

Speakers:

Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Mr. Zlatko Theodorovic, Budget Services

15 minutes

[19-061](#)**Judicial Council Budget: Adjustments to Judicial Council-Approved FY 2018-19 Allocations from the State Trial Court Improvement and Modernization Fund (Action Required)**

Summary: Recommend adjustment of \$252,000 to the Judicial Council approved 2018-19 State Trial Court Improvement and Modernization Fund allocations for the Information Technology office Jury Management Program.

Speakers: Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Mr. Zlatko Theodorovic, Budget Services

5 minutes

[19-102](#)**Court Interpreters: Allocation Methodology for Court Interpreter Program Shortfall (Action Required)**

Summary: When the Trial Court Budget Advisory Committee (TCBAC) next meets on May 2, 2019, members will be asked to consider two options set out below that address the 2019-20 projected shortfall amount of \$13.5 million in the Court Interpreter Program (CIP) while TCBAC continues its development of a methodology that addresses anticipated, ongoing funding shortfalls and reviews existing methodologies.

Speakers: Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Mr. Zlatko Theodorovic, Budget Services

15 minutes

[19-069](#)**Judicial Branch Administration: Judicial Branch Statistical Information System (JBSIS) Data Quality Control Standards (Action Required)**

Summary: The Court Executives Advisory Committee recommends that the Judicial Council adopt policy guidelines for courts reporting aggregated statistical information to the Judicial Branch Statistical Information System (JBSIS). The recommendation will institute protocols for data amendments for courts that encounter errors in data reporting and will establish a mechanism for courts to share best practices for data quality controls. This recommendation is intended to improve confidence in and consistency of JBSIS data reporting. If approved, the policy will become part of the updated JBSIS manual, which is also up for approval by the Council.

Speakers: Mr. Jake Chatters, Chair, JBSIS Subcommittee, Court Executives Advisory Committee (by phone)
Ms. Leah Rose-Goodwin, Office of Court Research
Ms. Emily Chirk, Office of Court Research

10 minutes

[19-063](#)**Judicial Branch Administration: Judicial Branch Statistical Information System (JBSIS) Version 3.0 Manual (Action Required)****Summary:**

The Court Executives Advisory Committee recommends that the Judicial Council approve updates to the Judicial Branch Statistical Information System (JBSIS) manual. The JBSIS manual outlines the requirements for trial court aggregated data that must be reported to the Council; these data are used for statistical data reporting and serve as the driver for various branch allocation methodologies such as the Resource Assessment Study (RAS) and Judicial Needs Assessment. The proposed updates reflect the changes to JBSIS data reporting that were approved by the Council in January 2018.

Speakers:

Mr. Jake Chatters, Chair, JBSIS Subcommittee, Court Executives Advisory Committee (by phone)
Ms. Leah Rose-Goodwin, Office of Court Research
Ms. Emily Chirk, Office of Court Research

10 minutes

[19-062](#)**Judicial Branch Administration | Trial Court Workload: Resource Assessment Study Model Work Year Value (Action Required)****Summary:**

The Workload Assessment Advisory Committee recommends that the Judicial Council approve a change to the Resource Assessment Study (RAS) model's work year value, which is used to estimate staff full-time equivalents (FTE) needed in the trial courts. The RAS model forms the basis of the branch's workload formula for trial courts. The current approved year value of 1,856 hours (111,360 minutes) was intended to align the Judicial Branch with other state agencies but lacks a solid empirical foundation for its continued usage. The proposed year value of 1,643 hours (98,550 minutes) is based on data collected during the staff time study in 2016. Adopting this recommendation would be consistent with the approach taken the previous two times the Council had approved the RAS model.

Speakers:

Hon. Lorna A. Alksne, Chair, Workload Assessment Advisory Committee
Ms. Kristin Greenaway, Office of Court Research

15 minutes

[19-115](#)**Judicial Branch Administration: Request to use 2018-19 State Trial Court Improvement and Modernization Fund (IMF) for 2019-20 Sustain Justice Edition (SJE) California Court Technology Center (CCTC) Hosting (Action Required)****Summary:**

Based upon the previous Judicial Council Technology Committee (JCTC), Trial Court Budget Advisory Committee (TCBAC) and Judicial Council actions, authorization is requested to use Improvement and Modernization Fund (IMF) as a funding source for Sustain Justice Edition (SJE) case management system hosted at the California Courts Technology Center (CCTC) after June 30, 2019. The Interim Case Management System (ICMS) program has savings from FY 18/19 which can be used to fund SJE hosted courts after June 30, 2019 if authorized. This request is

not for additional allocation of IMF funding but an extension of time to use previously approved funding for the ICMS program for CCTC hosting costs associated for the SJE application as the last courts leave CCTC hosting in FY 19/20

Speakers: Mr. David Koon, Information Technology
20 minutes

**19-067 **Judicial Branch Technology: Tactical Plan for Technology Update
(Action Required)****

Summary: The Information Technology Advisory Committee and the Tactical Plan Update Workstream recommend that the Judicial Council adopt the updated Tactical Plan for Technology (2019-2020), to supersede the existing Tactical Plan for Technology (2017-2018). The updated plan was developed as a result of analyzing the updated goals of the Strategic Plan for Technology (2019-2022), evaluating existing initiatives, and incorporating new initiatives, and was subsequently refined following circulation for branch and public comment.

Speakers: Hon. Sheila F. Hanson, Chair, Information Technology Advisory Committee
Ms. Heather Pettit, Information Technology
20 minutes

19-103 **Court Innovations Grant Program (No Action Required)**

Summary: The Budget Act of 2016 allocated \$25 million to the judicial branch to promote court innovations and efficiencies through a grant program. During this session, the Superior Court of California, County of [TBD] will present and provide information related to the court's [TBD].

Speakers: Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
TBD
30 minutes

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

**[19-089](#) **Court Facilities: Trial Court Facility Modification Report for
Quarter 3 of Fiscal Year 2018-19****

Summary: This informational report to the Judicial Council outlines the allocations of facility modification funding made to improve trial court facilities in the third quarter (January through March) of fiscal year 2018-19. To determine allocations, the Trial Court Facility Modification Advisory Committee reviews and approves facility modification requests from across the state in accordance with the council's *Trial Court Facility Modifications Policy*.

[19-114](#)**Report to the Legislature: Court Realignment Data (Calendar Year 2018)****Summary:**

Penal Code section 13155 requires Judicial Council staff, commencing January 1, 2013, to collect information from trial courts regarding the implementation of the 2011 Criminal Justice Realignment Legislation and make the data available annually to the California Department of Finance (DOF), Board of State and Community Corrections (BSCC), and Joint Legislative Budget Committee (JLBC) by September 1. This is the seventh annual court realignment data report, and was distributed to the DOF, BSCC, and JLBC on TBD. The report, Court Realignment Data (Calendar Year 2018), is included as Attachment A to this report.

[19-071](#)**Report to the Legislature: Study Regarding Judicial Officer Demographics / Release of Demographic Data on California Justices and Judges****Summary:**

This informational report to the Judicial Council is of aggregate demographic information concerning the gender, race/ethnicity, sexual orientation, gender identity, and veteran and disability status of California's justices and judges by specific jurisdiction, which council staff is required by statute to collect and release annually. In general, findings indicate that the California bench has become more diverse over time.

Circulating Orders**Appointment Orders****Adjournment (approx. 12:25 p.m.)**