

JUDICIAL COUNCIL MEETING
Minutes of the February 18, 2005, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:50 a.m. on Friday, February 18, 2005, 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, Richard D. Huffman, and Laurence Donald Kay; Judges J. Stephen Czuleger, Eric L. DuTemple, Michael T. Garcia, Suzanne N. Kingsbury, Jack Komar, Douglas P. Miller, Heather D. Morse, William J. Murray, Jr., Michael Nash, and Richard E. L. Strauss; Mr. James E. Herman, Mr. David J. Pasternak, Ms. Ann Miller Ravel, and Mr. William C. Vickrey; **advisory members:** Judges Frederick Paul Horn and James M. Mize; Commissioner Patricia H. Wong; Ms. Tamara Lynn Beard, Ms. Tressa S. Kentner, and Mr. Alan Slater.

Absent: Justice Candace D. Cooper; Assembly Member Dave Jones and Senator Joseph Dunn; Mr. Rex S. Heinke.

Others present included: Justices James A. Ardaiz, Kathleen E. O'Leary, and Maria P. Rivera; Ms. Pamela Aguilar, Ms. Maura Baldocchi, Mr. Joseph J. Bell, Ms. Stephanie Choy, Ms. Yvonne Fenner, Ms. Judy Garlow, Ms. Linda Harris, Ms. Koreen Hansen, Ms. Beth Jay, Ms. Judy Johnson, Ms. Kathryn Lezchuk, Ms. Mary Ann Lutz, Ms. Kelly McCarthy, Mr. Roderick McLeod, Ms. Georgeann O'Connell Wiles, Mr. Frederick Ohlrich, Mr. Tom Pringle, Mr. Victor Rowley, Adjunct Professor Lois Schwartz and students from Mills College, Mr. Michael Stockstill, Ms. Linda Strauss, Ms. Pauline Weaver, Ms. Julia Wilson, and Ms. Jacquelyn Yara; **staff:** Ms. Heather Anderson, Ms. Elizabeth Ashford, Mr. Michael Bergeisen, Mr. Dennis Blanchard, Ms. Dianne Bolotte, Ms. Marcia Caballin, Ms. Sheila Calabro, Mr. James Carroll, Ms. Tina Carroll, Ms. Jeanne Caughell, Ms. Chris Cunningham, Ms. Kim Davis, Ms. Charlene Depner, Mr. Robert Emerson, Ms. Nina Erlich-Williams, Ms. Audrey Evje, Mr. Michael Fischer, Mr. Bob Fleshman, Mr. Malcolm Franklin, Ms. Susan Goins, Mr. Ruben Gomez, Mr. Steve Gonzalez, Ms. Charlene Hammitt, Ms. Christine M. Hansen, Ms. Ligeia Heagy, Ms. Lynn Holton, Ms. Bonnie Hough, Ms. Kathleen T. Howard, Mr. Harry Jacobs, Mr. Kenneth Kann, Ms. AhMoi Kim, Ms. Youn Kim, Ms. Kate Lucchio, Ms. Carolyn McGovern, Mr. James Mensing, Mr. Frederick Miller, Ms. Vicki Muzny, Mr. Stephen Nash, Mr. Thomas Ng, Ms. Diane Nunn, Mr. Ronald G. Overholt, Ms. Shawn Parsley, Ms. Christine Patton, Mr. Chung-Ron Pi, Ms. Deana Piazza, Ms. Catharine Price, Mr. Michael M. Roddy, Ms. Marlene Smith, Ms. Nancy Spero, Ms. Pat Sweeten, Ms. Danielle Tate, Ms. Karen M. Thorson, Ms. Kimberly Tyda, Mr. Tony Wernert, Mr. Don Will, and Ms. Patricia M. Yerian; **media representatives:** Ms. Jill Duman, *The Recorder*, Mr. Bob Egelko, *San Francisco Chronicle*, and Ms. Donna Domino, *San Francisco Daily Journal*.

Approval of Minutes of December 10, 2004

The council unanimously approved the minutes of its December 10, 2004, business meeting.

Foundation of the State Bar of California Presentation

Ms. Pauline Weaver, President, Board of Directors, Foundation of the State Bar of California and Mr. Roderick McLeod, Vice-President, Board of Governors, the State Bar of California presented Chief Justice Ronald M. George with a \$10,000 check, a grant in support of the Public Trust and Confidence Survey project.

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 once since the December 10, 2004, Judicial Council meeting, on January 28, 2005. At that meeting, conducted by telephone conference, the committee reviewed and approved, on behalf of the council, the annual report to the Legislature on Trial Court Improvement Fund and Modernization Fund expenditures. The committee reviewed and adopted a policy on the reclassification of subordinate judicial officer (SJO) positions. This policy provides local courts with the authority to change referees to commissioners and commissioners to referees, excluding commissioners authorized under Assembly Bill 1058. The committee reviewed and approved the annual work plans for the Governing Committee of the Center for Judicial Education and Research (CJER), the Court Interpreters Advisory Panel, and the Court Technology, Trial Court Presiding Judges, Court Executives, and Collaborative Justice Courts Advisory Committees.

Justice Huffman further reported that he, as chair, joined with Justice Laurence Donald Kay, chair of the Rules and Projects Committee (RUPRO), in a memorandum to certain advisory committees requesting their recommendations, by December 31, 2005, for improving court practices and procedures for domestic violence cases.

The committee also set the agenda for the February 2005 Judicial Council business and issues meetings.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that at the January 13, 2005, meeting, the PCLC approved a proposal for council-sponsored legislation regarding the Tort Claims Act. The committee, chaired

by Judge Heather D. Morse, vice-chair, also met on February 18, 2005, and took action on a proposal for council-sponsored legislation and on a family law bill that will be heard in a legislative committee during the week of February 21; Justice Baxter did not participate in that meeting because the subject matter related to a case before the Supreme Court. The committee will update the council on the progress of council-sponsored legislation.

On March 15, 2005, the council will host the eleventh annual Judicial-Legislative-Executive Forum in Sacramento. On the same day in Sacramento, the Chief Justice delivers the State of the Judiciary Address to the Legislature, and Bench-Bar Coalition events occur. On March 28, 2005, the PCLC will meet with the officers of the State Bar.

Rules and Projects Committee

Justice Laurence Donald Kay, chair of the Rules and Projects Committee (RUPRO), reported that on January 13, 2005, the committee met by telephone conference and considered civil jury instruction and verdict form revisions. The committee's recommendation to the council for approval is found under tab 5 of today's consent agenda. On February 16, 2005, RUPRO met in person to review 12 work plans from advisory committees and task forces [Access and Fairness Advisory Committee, Appellate Advisory Committee, Advisory Committee on Civil Jury Instructions, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, Probate and Mental Health Advisory Committee, Traffic Advisory Committee, Task Force on Jury Instructions—Criminal, Reporting of the Record Task Force, Task Force on Self-Represented Litigants, and Task Force on Judicial Ethics.], and approved the plans. The committee also recommends to the council minor formatting revisions to form 982(a)(6), *Request for Entry of Default* under tab 6 of today's consent agenda. Justice Kay concurred in the comments by Justice Huffman regarding their joint request to the Criminal Law and the Family and Juvenile Law Advisory Committees to respond with recommendations for improving domestic violence procedures and orders.

Report on Court Site Visits

Judge Heather D. Morse reported on recent site visits to the Superior Courts of Kings, San Luis Obispo, and Santa Barbara Counties, February 2–4, 2005, in which several members of the Judicial Council and AOC staff participated. Participants included Justice Marvin R. Baxter; Judges Heather D. Morse, Frederick Paul Horn, Jack Komar, and Suzanne N. Kingsbury; Commissioner Patricia H. Wong; Ms. Tamara Lynn Beard, Mr. Scott Burritt, Ms. Sheila Gonzalez, Mr. James E. Herman, Ms. Florence Prushan, Ms. Ann Miller Ravel, and Mr. Michael M. Roddy.

Article VI Overview

Mr. William C. Vickrey presented an overview of the Article VI Workshop that took place on February 17, 2005.

Early Mediation Pilot Programs

Chief Justice Ronald M. George presented AOC staff members Ms. Heather Anderson and Mr. Chung-Ron Pi with an award for Outstanding Practical Achievement from the CPR Institute for Dispute Resolution for their Judicial Council report, *Evaluation of the Early Mediation Pilot Programs*.

CONSENT AGENDA

Item 1 Report of Trial Court Expenditures for Fiscal Year 2003–2004

Government Code section 68502.5(b) requires the Judicial Council to report prior year trial court expenditures to the Legislature on an annual basis. AOC staff recommends that the council approve the report of trial court expenditures for fiscal year 2003–2004.

Council action

The Judicial Council approved the Report of Trial Court Expenditures for fiscal year 2003–2004 for subsequent submission to the Legislature.

Item 2 Child Support Commissioner and Family Law Facilitator Program: Midyear Funding Reallocation for Fiscal Year 2004–2005

The Family and Juvenile Law Advisory Committee recommends that the council approve the reallocation of non–trial court funding to local courts for the child support commissioner and family law facilitator program. The funds for this program are provided by a cooperative agreement between the California Department of Child Support Services (DCSS) and the Judicial Council. Two-thirds of these funds are federal, and the remaining one-third are from the state General Fund (non–trial court funding).

Council action

The Judicial Council approved the midyear reallocation for funding of child support commissioners and family law facilitators for 2004–2005.

Item 3 JusticeCorps Program: Initial Update on Implementation

This is an informational report on the early implementation of the new California JusticeCorps program.

Council action

The Judicial Council received the initial report on early implementation of the JusticeCorps program, a new project designed to enhance assistance provided to the public in Los Angeles–area self-help legal access centers.

Item 4 Conflict of Interest Codes for Administrative Office of the Courts and Habeas Corpus Resource Center

Staff recommends that the council adopt the revised conflict of interest codes for the AOC and the Habeas Corpus Resource Center that, as revised, add certain new job classifications to the codes. This will ensure compliance with the Political Reform Act by requiring employees whose financial interests could be materially affected by decisions they make to file statements of economic interests.

Council action

The Judicial Council, effective February 18, 2005, adopted

1. The revised AOC Conflict of Interest Code, which adds 23 new job classifications and 1 existing classification, moves 3 classifications to a new division with a new disclosure category, moves 2 other classifications to a new division, amends an existing disclosure category, and changes the name of a committee to its current title; and
2. The revised Habeas Corpus Resource Center (HCRC) Conflict of Interest Code, which adds 3 new classifications and a new disclosure category.

Item 5 Judicial Council Jury Instructions: Approve Publication of Revisions and Additions to Civil Instructions

The Advisory Committee on Civil Jury Instructions recommends approval of the publication of revisions to the Judicial Council of California Civil Jury Instructions that were first published in September 2003 and last amended in October 2004. Instructions would be added or revised to improve clarity and accuracy.

Council action

The Judicial Council, effective February 18, 2005, approved for publication revisions and additions to the civil jury instructions prepared by the Advisory Committee on Civil Jury Instructions.

Item 6 Default Judgment: Technical Revisions to *Request for Entry of Default* (revise form 982(a)(6))

AOC staff recommends that the council revise mandatory form 982(a)(6), *Request for Entry of Default (Application to Enter Default)* to provide adequate space for completing requested information under items 1 and 6b. The council previously revised the default form effective January 1, 2005. In the process of making those revisions, formatting changes were made to the form that inadvertently deleted space needed for a couple of the responses.

Council action

The Judicial Council, effective February 18, 2005, revised form 982(a)(6), *Request for Entry of Default (Application to Enter Default)* to modify formatting to provide adequate space in (1) item 1 for entering the names of plaintiffs by allowing plaintiffs' names to be placed in a new item 1b and (2) item 6b for entering the names and addresses of defendants.

DISCUSSION AGENDA

Item 7 *Court Reporting Services: Final Report of the Reporting of the Record Task Force*

Hon. James A. Ardaiz, chair of the task force, presented this item with the participation of Ms. Christine Patton and Ms. Pat Sweeten.

The Reporting of the Record Task Force recommends the acceptance of its final report and adoption of its recommendations concerning the following: uniformity of the transcript format; establishment of standardized word rates for transcript fees; development of an online system to deliver, maintain, and store electronic transcripts; court control of and responsibility for electronic transcripts; statewide training for reporters; and designation and preparation of specific paper transcripts for civil appeals. These recommendations further a number of the goals identified in the council's strategic plan. Specifically, the recommendations address the goals of broadening access to the courts, ensuring that justice is administered in an efficient manner, reducing the expense of litigation through simplification and standardization of court practices, and utilizing technology to enable the courts to collect and process information.

Council action

The Judicial Council received the *Final Report of the Reporting of the Record Task Force* and directed the Administrative Director to:

1. Review each of the task force's recommendations; and
2. Refer proposals to the appropriate committees for review and for subsequent future consideration and discussion by the council.

Item 8 *Equal Access Fund: A Report to the California Legislature*

Mr. James Mensing and Hon Maria P. Rivera presented this item with the assistance of Mr. Don Will.

The Legal Services Trust Fund Commission recommends that the Judicial Council accept the *Equal Access Fund: A Report to the California Legislature*. The report explains how these funds are administered and describes the accomplishments of the programs receiving funding. The report makes the following three recommendations: (1) while the Equal Access Fund has been a tremendous success in addressing serious legal needs of low-income Californians, if the fund is to truly fulfill its purpose, it needs to be expanded significantly to build on the statewide legal aid network that serves low-income people; (2) additional funding is needed to expand the legal aid–court partnership self-help projects that have benefited the courts, low-income litigants, and the public at large; and (3) ongoing evaluation is needed in order to continue to improve the delivery of legal assistance to low-income and marginalized Californians.

Council action

The Judicial Council accepted the report titled *Equal Access Fund: A Report to the California Legislature* and directed staff to forward it to the Legislature.

Mr. David J. Pasternak recused himself from voting on this item.

Item 9 *Model Self-Help Pilot Program: A Report to the Legislature*

Ms. Deana Piazza and Hon. Kathleen E. O’Leary presented this item with the assistance of Mr. Don Will.

The Task Force on Self-Represented Litigants recommends that the Judicial Council accept the *Model Self-Help Pilot Program: A Report to the Legislature*. The report describes five self-help centers that were designed to address specific problems identified by the courts in providing self-help services. The report describes the strategies used by the programs to overcome these barriers. It recommends that the Judicial Council continue to implement the *Action Plan for Serving Self-Represented Litigants* approved in February 2004, which calls for the establishment of self-help centers in all courts, and makes specific recommendations for the implementation of those centers.

Council action

The Judicial Council accepted the report titled *Model Self-Help Pilot Program: A Report to the Legislature* and directed staff to forward it to the Legislature.

Item 10 **Budget Act of 2004: Allocation of Discretionary Funding Authorized in Accordance With Item 0450-101-0932, Provision 8, of the Budget Act of 2004 and the Remaining Retirement and Security Funding Not Yet Allocated From the Budget Act of 2004**

Mr. Stephen Nash presented this item with the participation of Ms. Vicki Muzny.

Staff present recommendations for allocation of the following: (1) the \$73.816 million authorized by Item 0450-101-0932 of Provision 8 of the Budget Act of 2004 to provide funds to meet the various needs of the trial courts, including the need to negotiate local memoranda of understanding with recognized bargaining agents and to meet other salary, benefit, and unresolved pay parity (i.e., Los Angeles, Contra Costa, and Alameda courts) unification needs of the trial courts; (2) the remaining retirement funding from the Budget Act of 2004 (Stats. 2004, ch. 208), which has not yet been allocated; and (3) the remaining \$4.34 million in contract security funding from the Budget Act of 2004. These are all current-year funding items that need to be addressed before the end of the fiscal year.

Council action

The Judicial Council

1. Approved allocation of \$198,000 that the Judicial Council previously deferred and \$457,000 of previously unallocated funding, both from the 2004 Budget Act, and \$38.502 million from Provision 8 for a total of \$39.157 million for retirement cost increases being incurred in FY 2004–2005, annualized to \$39.635 million in FY 2005–2006.
2. Approved allocation of up to \$3.555 million in the current fiscal year, increased to \$3.654 million in FY 2005–2006 for pay parity increases due to unification.
3. Approved allocation of \$31.657 million in FY 2004–2005 in discretionary funding to the courts to be used to meet various needs of the courts, including costs of salaries and benefits. This allocation was made based upon the relative cost of each court’s filled positions compared to the statewide total cost of filled positions in the trial courts.
4. Authorized allocation in FY 2005–2006 of \$5.5 million to provide funding available for the cost of benefits for court interpreters newly converted to court employee status.
5. Approved allocation of the remaining \$4.34 million in security funding included in the Budget Act of 2004.
6. Delegated authority to the Administrative Director of the Courts to make adjustments to the allocations, where technical corrections are necessary.

Informational Items

Item 11 Statewide Administrative Infrastructure Initiatives: Status Update

Mr. William C. Vickrey presented an overview of the issues concerning this item.

This item provides the Judicial Council with the current status of various statewide administrative infrastructure initiatives, including those initiatives in the areas of financial services, human resources, information technology, and legal services.

Council action

For information only, no action was necessary.

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.

Respectfully submitted,

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