

JUDICIAL COUNCIL MEETING
Minutes of February 9, 1999, Meeting

The Judicial Council of California meeting began at 1:15 p.m. on February 9, 1999, at the Radisson Hotel in Berkeley, California, on the call of Chief Justice Ronald M. George, chair.

Judicial Council members present: Chief Justice Ronald M. George; Justices Marvin R. Baxter, Carol A. Corrigan, and Richard D. Huffman; Judges James A. Bascue, Paul Boland, J. Richard Couzens, Brenda Harbin-Forte, Steven E. Jahr, Melinda A. Johnson, Ana Maria Luna, Michael B. Orfield, and Ronald L. Taylor; Senator Adam Schiff; Mr. Michael Case, Mr. Maurice Evans, Mr. Sheldon H. Sloan, and Ms. Glenda Veasey; and **advisory members:** Justice William M. Wunderlich; Commissioner David L. Haet, Ms. Sheila Gonzalez, Mr. Joseph A. Lane, Mr. Stephen V. Love, and Mr. Frederick Ohlrich.

Absent: Justice Richard D. Aldrich, Judge Albert Dover, and Assembly Member Sheila James Kuehl

Others present included: Mr. William C. Vickrey; Judges Wilson Curle, Ray L. Hart, John W. Kennedy, Jr., Veronica S. McBeth; Ms. Beth Jay, Mr. Jay Johnson; **staff:** Ms. Martha Amlin, Ms. Jessica Fiske Bailey, Mr. Michael Bergeisen, Ms. Carolee Brady, Ms. Tina Burkhart, Mr. Jeff Fesunoff, Ms. Kate Harrison, Ms. Lynn Holton, Ms. Melissa Johnson, Mr. Dennis Jones, Mr. Ray LeBov, Ms. Katy Locker, Ms. Judy Myers, Mr. Victor Rowley, Mr. Peter Shervanick, Ms. Dale Sipes, Ms. Shelley Stump, Ms. Linda Theuriet, Ms. Kiri Torre, Mr. James Vesper, Mr. Jonathan Wolin; **media representatives:** Mr. Phil Carrizosa, *L.A. Daily Journal*; Mr. Greg Mitchell, *The Recorder*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated February 9, 1999, which was sent to members in advance of the meeting.)

Approval of the Minutes

Council action:

Justice Richard D. Huffman moved that the Judicial Council approve the minutes of the October 16 and November 20, 1998, meetings.

The motion passed.

Council Committee Presentations

Reports on committee activities were included in the binder of Reports and Recommendations dated February 9, 1999.

Executive and Planning

Justice Richard D. Huffman reported that the Executive and Planning Committee met three times since November and took several actions on behalf of the council.

Justice Huffman said that the committee authorized the Administrative Director to distribute rate increases to court interpreters commensurate with available funding. The committee also approved the submission of a request to the Department of Finance for a general judicial salary increase. Additionally, the committee approved guidelines for submitting grants requested under the Drug Court Partnership Act. Criteria for evaluating the submissions were also accepted with modifications. Justice Huffman also stated that the committee authorized the Trial Court Budget Commission (TCBC) to begin using a new budget development process and report back on a cost/benefit analysis of the new method.

Policy Coordination and Liaison

Justice Marvin R. Baxter encouraged council members to attend the Chief Justice's "State of the Judiciary" address in Sacramento on March 1. He noted that the address would be followed by an Executive/Legislative/Judicial Forum. Also, council members are invited to participate in A Day in Sacramento organized by the Bench-Bar Coalition. At this event on March 2, 1999, judges and bar leaders meet with key members of the Legislature.

Rules and Projects

Judge Brenda Harbin-Forte reported that the Rules and Projects Committee (RUPRO) met once since the last council meeting to discuss the rules of court on this meeting's agenda. She noted that RUPRO recommended adoption of all three proposals (see items 3, 6, and 8). The committee will meet in April to discuss proposals currently being circulated for comment.

COUNCIL ITEMS 1–5 WERE APPROVED AS CONSENT ITEMS, PER THE SUBMITTERS' RECOMMENDATIONS.

Item 1 Judicial Council's Legislative Guidelines and Precedents

The AOC's Office of Governmental Affairs monitors legislative activity and represents the council before the Legislature, Governor's Office, and executive branch agencies. Staff submitted a summary of the council's most recent positions on legislative issues to serve as a restatement of legislative precedents and operating guidelines.

Council action:

The Judicial Council adopted the 1998 restatement of Judicial Council's Legislative Guidelines and Precedents, effective February 9, 1999.

**Item 2 Judicial Council Court-Appointed Special Advocates (CASA)
Grant Awards, Fiscal Year 1998–1999**

Pursuant to the 1998–1999 Budget Act, the council has \$1,350,000 available for grants to local CASA programs. Legislation enacted in 1998 amended Welfare and Institutions Code section 100 to increase the maximum amount available to individual programs annually. For counties with populations under 700,000, the maximum amount was changed from \$20,000 per county to \$35,000; and for counties with populations over 700,000, the amount was changed from \$20,000 to \$50,000.

Thirty-three proposals were received in response to a request for proposals sent to new and existing CASA programs and interested others. The Family and Juvenile Law Advisory Committee recommended allocating grants for CASA programs and delegating future authority to allocate grant funds to the council's Executive and Planning Committee.

Council action:

The Judicial Council:

1. Approved the allocation of Judicial Council Court-Appointed Special Advocate grant funds to the following CASA programs:
 - Alameda County — \$47,000
 - Contra Costa County — \$47,000
 - El Dorado County — \$34,000
 - Fresno County — \$47,000
 - Humboldt/Del Norte Counties — \$68,000 (\$34,000 x 2)
 - Imperial County — \$34,000
 - Kern County — \$34,000
 - Lake County (new program) — \$35,000
 - Lassen County — \$31,000
 - Los Angeles County — \$47,000
 - Marin County — \$34,000
 - Mendocino County — \$34,000
 - Merced County — \$28,000
 - Modoc County (new program) — \$35,000
 - Monterey County — \$34,000
 - Napa County — \$34,000

- Nevada County — \$34,000
 - Orange County — \$47,000
 - Placer County (new program) — \$35,000
 - Riverside County — \$47,000
 - Sacramento County — \$47,000
 - San Bernardino County — \$47,000
 - San Diego County — \$47,000
 - San Francisco County — \$44,000
 - San Luis Obispo County — \$34,000
 - Santa Barbara County — \$34,000
 - Santa Clara/San Mateo Counties — \$94,000 (\$47,000 x 2)
 - Santa Cruz County — \$34,000
 - Siskiyou County — \$34,000
 - Sonoma County — \$34,000
 - Tulare County — \$34,000
 - Ventura County — \$47,000
 - Yolo County — \$34,000
2. Delegated to the Executive and Planning Committee the authority to approve the allocation of future Court-Appointed Special Advocate grant funds.

**Item 3 Reporting of Statistical Information on the Civil Action
Mediation Program (Cal. Rules of Court, rule 1638)**

The Civil and Small Claims Advisory Committee proposed amending rule 1638, effective February 9, 1999, to permit courts to submit required statistical information on the Civil Action Mediation Program to the council either on forms adopted by the Judicial Council or as an electronic database. The amendment also requires the Administrative Office of the Courts to approve the format of any electronic database used to submit this information. These changes would minimize the burden on litigants in Los Angeles who are currently required to complete two forms with duplicate information to satisfy the council's and another organization's reporting requirements on mediation programs.

Council action:

The Judicial Council amended rule 1638 of the California Rules of Court, effective February 9, 1999, to:

1. Permit the courts to submit required statistical information on the Civil Action Mediation Program to the council either on forms adopted by the Judicial Council or as an electronic database; and
2. Require that the format of any electronic database used to submit this information be approved by the Administrative Office of the Courts.

Item 4 Conflict of Interest Code for the Administrative Office of the Courts

The Political Reform Act of 1974 (Gov. Code, § 81000 et seq.) requires public agencies to adopt conflict of interest codes (Gov. Code, § 87300.) Conflict of interest codes are documents that set forth the rules and procedures by which a public agency’s designated officers and employees are required to disclose personal financial interests that could foreseeably be materially affected by decisions that these officers or employees are authorized to make or influence. Administrative Office of the Courts (AOC) staff proposed technical amendments to the AOC’s conflict of interest code to add several new job classifications to the list of those required to make financial disclosures.

Council action:

The Judicial Council approved, effective February 9, 1999, adding several new job classifications to the conflict of interest code for the Administrative Office of the Courts in order to bring the code up to date.

Item 5 Child Support Commissioner and Family Law Facilitator Funding Allocations

Family Code section 4252(b)(6) requires the Judicial Council to “[e]stablish procedures for the distribution of funding to the courts for child support commissioners, family law facilitators . . . and related allowable costs.” To comply with this requirement, the council in May 1997 approved a method to formulate allocations to individual county courts that has been followed since that time. According to a California Department of Social Services contract, funds not allocated to local courts are disbursed by the Administrative Office of the Courts to meet ongoing needs in order to administer this child support program.

Council action:

The Judicial Council delegated to the Executive and Planning Committee the ongoing responsibility of approving annual child support commissioner and family law facilitator funding allocations to the local courts effective immediately.

Item 6 Trial Court Presiding Judges Advisory Committee Rule (Cal. Rules of Court, rule 6.46, and repeal of rule 1027)

Judge Wilson Curle, former Chair of the Trial Court Presiding Judges Advisory Committee, and Judge John W. Kennedy, Jr., incoming chair of the committee, presented the report assisted by Ms. Tina Burkhart, committee staff.

Judge Curle stated that the committee proposed changes to the rule of court governing the committee to modify the membership provisions to reflect trial court consolidation and unification. The new rule, rule 6.46, specifies the appointment of 21 presiding judges based on court size, geographic location, expertise, diversity, and experience.

Judge Curle said that the proposal also suggests that all presiding judges meet up to three times a year to exchange information, participate in educational briefings, or provide input to the committee on relevant issues. Judge Curle noted that the proposal was modified several times to incorporate suggestions made by members of the Rules and Projects Committee and others.

Council action:

Justice Huffman moved that the Judicial Council, effective February 9, 1999, repeal rule 1027 and adopt rule 6.46 of the California Rules of Court in its place concerning the Trial Court Presiding Judges Advisory Committee and meetings of all trial court presiding judges.

The motion passed.

Item 7 Alternative Trial Court Budget Development Process

Judge Ray L. Hart, Chair of the Trial Court Budget Commission (TCBC), presented the report assisted by Mr. Jonathan Wolin, Manager of the AOC's Trial Court Funding Unit. Judge Hart stated that the current budget process is ineffective if trial courts are to compete successfully for state funding. He noted that the current process does not require the courts to utilize a programmatic approach to budgeting as is done by other state departments.

Judge Hart said the goal of the new process is to make the trial court budget justifiable, consistent, and understandable. Additionally, the new process meets another objective — to solicit input from local courts and incorporate that into the development of funding priorities.

The new process utilizes two surveys to gather information about the trial courts' unique local needs and budget priorities. The TCBC will consider the information in making its recommendations to the council for budget priorities.

Subsequently, courts will submit budget requests in each council-approved priority area along with information on workload and current operating and service levels. The TCBC will recommend a budget to the council based on this data. Judge Hart noted that trial courts are not asked to provide additional data for the fiscal year

2000–2001 funding cycle other than that provided to the AOC already. The change to the new process will be gradual and not unduly burdensome.

Judge Hart said that the new process relies on the wealth of knowledge in the courts and strives to inspire their trust and confidence.

Ms. Sheila Gonzalez acknowledged Judge Hart and AOC staff for their willingness to accept and incorporate feedback into the new budget development process. She also complimented them on the recent briefings held statewide on the new process.

For information only; no action necessary.

**Item 8 Addressing Public Trust and Confidence: Court and
Community Collaboration (Cal. Standards Jud. Admin., § 39
and Cal. Rules of Court, rules 205, 207, and 532.5)**

Judge Veronica S. McBeth, Chair of the Special Task Force on Court/Community Outreach, presented the report assisted by Ms. Shelley Stump, AOC Planning Coordinator. Judge McBeth stated that over the last 25 years there has been a significant decline in the level of public trust and confidence in the justice system and an increasing lack of public understanding of and support for the courts.

She said that Chief Justice Ronald M. George appointed the special task force to consider how court community outreach activities could address these concerns. The task force reviewed literature, conducted surveys, and held public meetings to identify current and potential judicial outreach activities.

Judge McBeth noted, in response to its survey, the task force learned that over 200 trial and appellate court community outreach programs exist in 37 counties representing 85 percent of the state's population. Most outreach is traditional (e.g., courthouse tours and Meet Your Judges programs) rather than innovative and responsive to particular community needs. The task force found that many programs were youth centered, low cost, and utilized existing resources.

Based on public input at task force meetings, the task force concluded that to address public concerns courts should:

- Create a community affairs position (with new or existing staff);
- Develop public information materials;
- Focus on access and fairness; and
- Emphasize customer service.

The task force also concluded that lack of public understanding of the role and operations of the justice system is a significant factor in the decline in public trust and confidence in the courts. This lack of understanding is due to:

- Public reliance on the news media, often television, for information on the courts rather than on direct contact with the courts;
- The absence of a comprehensive educational component in the public school curriculum focusing on the justice system; and
- Diversity of cultures, many of which do not have a tradition founded on the principles of the U.S. justice system (e.g., separation of powers, independence of decision making, rule of law over the rule of individuals).

The task force suggests that the council lead and coordinate statewide public education activities, including the teaching of civics, court visits by public school students, mock trial competitions, and visits to schools by judges.

Judge McBeth stated that the task force developed guidelines to address concerns about how canons of judicial ethics limit judges' involvement in court and community collaboration programs.

Judge McBeth reviewed the task force's recommendations to the council, which she noted are only first steps toward increasing public trust and confidence in the courts:

- Adopt a new standard of judicial administration and amend several rules of court to recognize community outreach activities as official judicial functions and acknowledge that such functions should be performed consistent with the Code of Judicial Ethics;
- Authorize the distribution of a how-to reference guide for court community collaboration activities;
- Empower the task force to oversee ongoing court community activities; and
- Establish the council's court community collaboration program as a high priority.

Senator Adam Schiff complimented Judge McBeth and the task force on the report. He acknowledged a lack of public understanding of the role of the judge, separation of powers, and judicial review. He encouraged judges to make presentations on these and similar issues at service club meetings and to members of the Legislature.

Judge Paul Boland asked whether the task force considered the burden on local courts of directing existing resources to fund a public affairs position and whether recommending new funds was a preferable option. Judge McBeth replied that in light of unification and consolidation, the task force felt it prudent to suggest reallocating resources rather than to request additional funds at this time, although new resources would be welcome.

Judge Harbin-Forte said that as Associate Dean of the Judicial College, she tells faculty to convey to student judges the importance of getting involved in community activities.

Mr. Michael Case noted that the State Bar Foundation Board of Governors, of which he is a member, is funding the production of the handbook. He suggested more collaboration with the private and organized bars, noting they are fellow spokespeople for the courts.

Justice William M. Wunderlich reported that the AOC Education Division's upcoming Appellate Court Institute will hold a session on ethical considerations of judicial outreach.

Council action:

Judge J. Richard Couzens moved that the Judicial Council:

1. Adopt section 39 of the California Standards of Judicial Administration and amend rules 205, 207, and 532.5 of the California Rules of Court, effective April 1, 1999.
2. Authorize distribution of the handbook *Dialogue: Courts Reaching Out to Their Communities — A Handbook for Creating and Enhancing Court and Community Collaboration* to all California trial and appellate courts and interested courts nationwide to encourage the courts, within their local management discretion, to create, maintain, and enhance court and community collaboration activities.
3. Amend the charge to the Community-Focused Court Planning Implementation Committee to include the following:
 - a. Oversight of ongoing court and community collaboration program activities, including, but not limited to, interaction with state-level education agencies and efforts;
 - b. Liaison with the California Judges Association and the Commission on Judicial Performance on community outreach ethics guidelines;
 - c. Collaboration with the Center for Judicial Education and Research (CJER) to provide training to judges and court staff on court and community collaboration; and
 - d. Addressing other statewide issues related to court and community collaboration, as appropriate.
4. Establish the court and community collaboration program as a high priority and direct the Administrative Director of the Courts, within his discretion and available resources, to provide staff and financial support to ongoing court and community collaboration program activities.

The motion passed.

Circulating Orders Approved

Circulating Order — CO-98-19: SCA 4 Certification of Lassen County

For information only; no action necessary.

Circulating Order — CO-98-20: Approval of the 1999 Revisions to Rule 850 of the California Rules of Court, Uniform Bail and Penalty Schedules

For information only; no action necessary.

Appointment Orders

For information only; no action necessary.

The meeting was adjourned at 3:00 p.m.

Respectfully submitted,

William C. Vickrey
Secretary