

**JUDICIAL COUNCIL MEETING**  
**Minutes of the June 25, 2010, Meeting**  
**San Francisco, California**

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:40 a.m. on Friday, June 25, 2010, at the Administrative Office of the Courts (AOC) in San Francisco.

**Judicial Council members present:** Chief Justice Ronald M. George; Senator Ellen M. Corbett; Justices Marvin R. Baxter, Tani Cantil-Sakauye, Brad R. Hill, and Richard D. Huffman; Judges George J. Abdallah, Jr., Lee Smalley Edmon, Terry B. Friedman, Dennis E. Murray, Mary Ann O'Malley, Winifred Younge Smith, Kenneth K. So, Sharon J. Waters, James Michael Welch, David S. Wesley, and Erica R. Yew; Mr. Anthony P. Capozzi, Ms. Miriam Aroni Krinsky, Mr. Joel S. Miliband, Mr. James N. Penrod, and Mr. William C. Vickrey; advisory members: Judge Michael P. Vicencia; Mr. Frederick K. Ohlrich, Commissioner Lon F. Hurwitz; Mr. Michael D. Planet, Mr. Michael M. Roddy, and Ms. Kim Turner.

**Absent:** Assembly Member Mike Feuer.

**Others present included:** Justices Ming W. Chin, Laurence Donald Kay (Ret.) and Douglas P. Miller; Judges Stephen H. Baker, Keith D. Davis, Kevin A. Enright, James E. Herman, Teri L. Jackson, Ira R. Kaufman, Robert J. Moss, Carol W. Overton, and Burt Pines; Chief Executive Officer Alan Carlson; Ms. Tia Fisher, Ms. Lindsey Scott-Florez, Mr. Geoffrey Graybill, Mr. Carl Hall, Ms. Beth Jay, Mr. David Lampe, and Mr. Tyrone McGraw; **staff:** Mr. Peter Allen, Mr. Nick Barsetti, Mr. Dennis Blanchard, Ms. Yelena Bondarenko, Ms. Deborah Brown, Ms. Sheila Calabro, Ms. Nancy Carlisle, Mr. Philip Carrizosa, Mr. James Carroll, Mr. Arturo Castro, Ms. Roma Cheadle, Mr. Curtis L. Child, Ms. Donna Clay-Conti, Ms. Christine Cleary, Mr. Kenneth Couch, Mr. Dexter Craig, Ms. Michelle Cronin, Dr. Charlene Depner, Mr. Kurt Duecker, Mr. Edward Ellestad, Mr. Bob Emerson, Mr. Ekuike Falorca, Mr. Chad Finke, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Ms. Emily Harlan, Ms. Lynn Holton, Ms. Bonnie Rose Hough, Mr. Kenneth L. Kann, Mr. William L. Kasley, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Maria Kwan, Ms. Susan McMullan, Mr. Devesh Nand, Mr. Stephen Nash, Ms. Kristin Nichols, Mr. Lyle Nishimi, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Mary M. Roberts, Ms. Anne Ronan, Ms. Robin Seeley, Mr. Curt Soderlund, Ms. Nancy E. Spero, Mr. Johann Strauss, Ms. Linda Theuriet, Ms. Julia Weber, Ms. Bobbie Welling, Mr. Lee Willoughby, and Ms. Leah Wilson; and **media representatives:** Ms. Maria Diazco, *Courthouse News Service*, and Mr. John Roemer, *San Francisco Daily Journal*.

**Welcome Extended to Newly Appointed Judicial Council Members**

Chief Justice George welcomed the incoming Judicial Council members present at the meeting: Justice Douglas P. Miller, Presiding Judges Stephen H. Baker, Kevin A.

Enright, Ira R. Kaufman, and Mary Ann O'Malley; Judges Keith D. Davis, James E. Herman, Teri L. Jackson, Robert J. Moss, and Burt Pines; Ms. Edith R. Matthai and Chief Executive Officer Alan Carlson.

### **Public Comment Related to Trial Court Budget Issues**

No requests to address the council were received.

### **Approval of Minutes**

The minutes of the April 23, 2010, business meeting were approved.

### **Judicial Council Committee Presentations**

The approved minutes of the meetings of the Judicial Council's internal committees—the Executive and Planning Committee, Policy Coordination and Liaison Committee, and Rules and Projects Committee—can be found in the Committee Reports tab in the Judicial Council binders. The approved minutes are also linked to the Judicial Council Committee Presentations title on the business meeting agenda.

#### *Executive and Planning Committee*

Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met six times since the April 23, 2010, Judicial Council meeting: one meeting in person on May 10, 2010; four deliberations by teleconference call on May 18 and 24, June 2 and 21, 2010; and one by e-mail on June 9, 2010.

Justice Huffman reported that on May 10, the committee was briefed by AOC staff on a notice from the Superior Court of California, Sacramento County, to transfer CCMS hosting of the court's V3 case management data application from the California Courts Technology Center (CCTC) to a local technology center.

The Administrative Office of the Courts recommended to E&P that the committee take action to prevent the transfer from going forward, pending an opportunity for the council to deliberate about the issue.

A question arose as to whether E&P had the authority to take such action and the AOC's Office of the General Counsel advised E&P that it did. On that authority and at the AOC's request, the committee approved a letter to be sent to the Superior Court of Sacramento County to maintain the status quo with regard to use of the CCTC for hosting CCMS-related applications pending consideration by the Judicial Council of the court's stated intent to transfer such services from the CCTC to a local data center. The committee also directed the AOC to work with the court to address its concerns and determine if the matter can be resolved through those discussions. E&P also further directed the AOC to present to the Judicial Council a report that addresses the court's concerns and actions taken and actions planned to address those concerns, and to provide an analysis of the council's authority to take action in this area.

The committee also on May 10 reviewed and approved the Superior Court of Orange County's request to convert a vacant SJO position to a new judgeship, including acting on behalf of the Judicial Council between meetings to increase the court's fiscal year 2010–2011 allocation group from one to two conversions. The committee authorized the court to fill the converted position, if desired, with a retired commissioner, pending the passage of the Budget Act for fiscal year 2010–2011 and until a judge is appointed and sworn for the position.

During the May 10 meeting the committee also reviewed the nominations for upcoming council vacancies and determined its recommendations to the Chief Justice.

On May 18, the committee reviewed a proposal for the council's planning meeting scheduled for June 23–24, 2010, and discussed the committee's role in developing the planning meeting agenda.

On May 24, the committee reviewed and approved on behalf of the Judicial Council a proposal from Chief Justice George and Mr. Vickrey to add two nonvoting positions to the Judicial Council and a third temporary nonvoting position.

At its June 2 meeting the committee reviewed and approved the minutes of the May 10, 2010, E&P meeting; Judge Edmon abstained from the approval of action #1 in the minutes regarding the Superior Court of Sacramento County. The committee also requested a revision of the minutes for its approval at a future meeting.

At that meeting the committee reviewed reports and began the agenda-setting process for the June 25, 2010, Judicial Council business meeting.

The committee also reviewed a revision of the agenda proposal for the June 23–24 planning meeting.

On June 9, the committee reviewed and approved a proposal circulated by e-mail in which AOC staff recommended confirming the conversion of one vacant SJO position in the Superior Court of Los Angeles County. The effective date for converting the position is July 1, 2010, or the date of legislative ratification of the authority to convert positions in fiscal year 2010–2011, whichever is later. The committee authorized the court to fill the converted position with a retired commissioner, pending the passage of the Budget Act for fiscal year 2010–2011 and until a judge is appointed and sworn for this position.

At its June 21 meeting, the committee reviewed additional reports and further set the agenda for the next Judicial Council business meeting. It made the decision to recommend to the council that Judge Ronald S. Coen of the Superior Court of Los Angeles County be appointed to the California Council for Interstate Adult Offender Supervision to fill the position formerly held by Presiding Judge Steven White of the Superior Court of Sacramento County. This is Item 2 on the consent agenda.

The committee also reviewed and approved the CJER Governing Committee guidelines on proposals from other advisory committees and task forces that include education or training.

Justice Huffman reported on other items of interest to the council, stating that on June 22, the committee reviewed and approved the text of the premeeting advisory delivered later that day by e-mail to all justices, judges, clerk/administrators, and court executive officers communicating the key policy issues to be addressed during the council's June 25, 2010, business meeting.

#### *Policy Coordination and Liaison Committee*

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met five times since the April 23, 2010, Judicial Council meeting.

Justice Baxter reported that the PCLC had met once at the end of April, once in May, and three times in June. The committee acted on behalf of the Judicial Council to take positions on six separate pieces of legislation relating to, among other things, criminal procedure, employee pay during a no-budget period, veterans' courts, expedited jury trials, Code of Civil Procedure section 170.6 challenges, and family court.

One proposal approved for council sponsorship dealt with collection of court ordered debt under the council's authorized procedure. The full council was invited to participate in this meeting and notified afterwards of the action taken.

Finally, the PCLC heard an extensive presentation of the branch budget and approved drafting for the trailer bill language to implement the adoption in the senate and budget committees. The sponsored bills continue to move in the Legislature and are pending enactment. The Legislature is scheduled for summer recess beginning July 2 with recess scheduled to end August 2 and the final push for the session to conclude on August 31.

#### *Rules and Projects Committee*

Judge Dennis E. Murray, chair of the Rules and Projects Committee (RUPRO), reported that the committee had met once since the April 23, 2010, Judicial Council meeting.

Judge Murray reported that on May 14 RUPRO met by telephone to review proposed revisions to the civil jury instructions. RUPRO recommended approval of that item, Item 1 on the consent agenda.

#### **Chief Justice's Report**

Chief Justice Ronald M. George reported on the activities in which he had been involved since the council's last business meeting, beginning with numerous speaking engagements and liaison meetings to discuss issues of mutual interest with justice system partners on behalf of the branch. Speaking engagements included appearances before the Lawyers Club of San Francisco, the 2010 California Conference on Self-Represented

Litigants, the New Judge Orientation, an appearance before the Beverly Hills Bar Association, and the peace officers' memorial in Sacramento to commemorate police officers who have fallen in the line of duty. Liaison activities included meetings with budget committee and subcommittee leaders of the Legislature and with the Governor to discuss restoration of the \$100 million budget cut sustained by the branch in last fiscal year's budget. The Chief Justice was pleased to report that the negotiations in those meetings resulted in a number of gains for the branch: no additional cuts to the branch budget, reinstatement of \$75 million of the \$100 million trimmed from last year's budget, new revenue sources and a continuation of some revenue measures that were due to end, plus the transfer of some statewide funds to support trial court operations including funds supporting the California Court Case Management System (CCMS) deployment in the three early adopter courts (the Superior Courts of San Diego, Ventura, and San Luis Obispo Counties) and the 41 highest priority court construction or refurbishing projects authorized under the \$5 billion trial court construction bond measure. These funds will be sufficient so that the branch will not be forced to delay or eliminate any of the construction projects or further delay deployment of CCMS. He commended the work of the AOC Office of Governmental Affairs and Finance Division in the negotiations.

The Chief Justice also noted holding his annual liaison meeting with the officers and executive team of the State Bar of California as well as attending an annual dinner hosted by the State Bar Board of Governors for the justices of the Supreme Court of California. He met with a delegation of judicial and bar officials from Australia and discussed issues related to the practice of law in each country. He delivered a presentation to the California Academy of Appellate Lawyers. He also attended a meeting of the California State-Federal Judicial Council and an orientation session for new court executive officers and held his annual liaison meeting with the California State Sheriff's Association.

Chief Justice George said that he has named a new committee, effective June 24, 2010, on fiscal accountability and efficiency for the judicial branch, prompted by the structural changes in the branch over the last years. The committee is charged with reviewing budget change proposals (BCPs) regarding the AOC and making recommendations to the Chief Justice, the Judicial Council, and the Administrative Director of the Courts. The committee is also charged with reviewing proposed changes in the annual compensation plan for the AOC and referring recommendations to the Chief Justice, the Judicial Council, and the Administrative Director. The committee will also review all financial audit reports for the judicial branch and, where appropriate, make recommendations on individual or systemic issues for the council's consideration. The new committee will advise on other issues related to the committee's charge as requested by the Chief Justice, the Judicial Council, or the Administrative Director. The committee will be composed of an administrative presiding justice of the Courts of Appeal, five members of the council, a number of justices and judges, the chair and vice-chair of the council's Trial Court Presiding Judges Advisory Committee, two judicial administrators selected from clerk administrators and court executive officers of the appellate and trial courts, one member of the governing board of the California Judges Association, and two representatives of the State Bar.

The Chief Justice mentioned that the current position of the vice-chair of the Trial Court Presiding Judges Advisory Committee is currently vacant, leaving that position on the new advisory committee temporarily unfilled. He also announced the appointment of Justice Tani Cantil-Sakauye to chair this advisory committee.

In addition, he named the other members appointed: Judge Peter C. Deddeh, Superior Court of San Diego County and member of the California Judges Association Executive Board; Presiding Judge Kevin A. Enright, Superior Court of San Diego County and chair of the Trial Court Presiding Judges Advisory Committee; Presiding Judge Ira R. Kaufman, Superior Court of Plumas County, past-president of the California Judges Association, and incoming Judicial Council member; Ms. Miriam Aroni Krinsky, attorney-at-law and Judicial Council member; Administrative Presiding Justice William R. McGuiness, Court of Appeal, First Appellate District; Mr. James N. Penrod, attorney-at-law and Judicial Council member; Judge Burt Pines, Superior Court of Los Angeles County and incoming council member; Court Executive Officer Michael D. Planet, Superior Court of Ventura County and council member; Court Executive Officer Kim Turner, Superior Court of Marin County and council member; Judge Sharon Waters, Superior Court of Riverside County and council member; and, as an advisory member to the committee, Mr. James E. Tilton retired from service with the state as former Secretary of the Department of Corrections and Rehabilitation and a former program budget manager for the Department of Finance.

On behalf of the California Judges Association, Judge Michael P. Vicencia commended the Chief Justice for the committee's creation, congratulated him on the initiative as a demonstration of the council's intentions to treat oversight seriously, and wished this advisory committee good luck.

Justice Marvin Baxter expressed his commendations to the Chief Justice, Mr. William C. Vickrey and those who supported the successful handling of budget negotiations for the judicial branch. At the same time, he also cautioned that the time has come for the entire judicial branch to form a united front, given the many sources competing for limited state funding.

In response to Justice Baxter's comments, the Chief Justice reiterated the importance of branch unity, after a full and robust debate and coming to budget solutions to move the branch forward. He reminded the audience of the recurring advice to the council that the strength of the branch's position, when advocating for state resources, is more than the sum of the parts; the branch loses legislative support when it fails to communicate as one entity.

This concluded the Chief Justice's report.

## **Administrative Director's Report**

Mr. William C. Vickrey, Administrative Director of the Courts, distributed a written report and provided an oral update on AOC activities since the last council meeting. Mr. Vickrey highlighted the recent appointment of the California Tribal Court/State Court Coalition to formalize communication and coordinate policies and procedures between California's tribal and state courts. He referred to the progress and successes of the AOC's DRAFT (Dependency Representation, Administration, Funding, and Training) program operating under the oversight of a committee chaired by Justice Richard D. Huffman and implemented through AOC's Center for Families, Children & the Courts. The program's purpose is to improve the quality of representation for children and families in dependency court and to increase the number of lawyers available to achieve the standards of representation set by the council. As a recent development, the Superior Court of San Diego County has entered into a contract with a nonprofit organization to provide substantially more representation and investigators, with a significant savings to be used to support other dependency programs around the state.

Mr. Vickrey, along with Mr. Ronald G. Overholt, AOC Chief Deputy Director, attended a California Women Lawyers event to honor Judge Ramona Joyce Garrett, Superior Court of Solano County, with the organization's Rose Bird Memorial Award for judicial excellence and for her public service contributions.

In another significant report, California's JusticeCorps Program was awarded a federal grant of \$3 million; \$1 million per year for three years. The AOC and the Superior Court of Los Angeles County first established the JusticeCorps Program as a pilot project. It has since expanded to a number of courts around the state.

The State Justice Institute has awarded a grant to the AOC to work with a number of juvenile courts around the state on improvements in their calendaring practices and case flow management. The Superior Courts of Fresno, Placer, San Bernardino, and Yolo Counties are the latest courts to host site visits as part of this effort.

The community corrections program, an area of new responsibility delegated to the council in legislation last year, has also seen remarkable progress. It arose out of a statewide symposium on evidence-based sentencing practices and provides for the enhancement of probation services with the establishment of parolee reentry courts and promotes the use of risk assessment tools in trial court sentencing. The goal of the program is to lower recidivism rates, enhance public safety, and reduce costs. It is funded by the federal government, the National Institute of Corrections, and the State Justice Institute. The program supports parolee reentry court pilot programs planned for the Superior Courts of Alameda, Los Angeles, San Francisco, Orange, San Diego, San Joaquin, and Santa Clara Counties. It includes \$45 million in statewide assistance for county probation departments and establishes a community corrections coordinating committee to provide input on the program's direction. AOC Scholar-in-Residence Roger Warren, AOC Regional Administrative Director Christine Patton, and Ms. Shelly Curran are coordinating the program.

Mr. Vickrey reported on the results of the First Amendment Cartoon Contest, which concluded in May. The proposal for the contest stemmed from the work of the Commission for Impartial Courts led by Supreme Court Associate Justice Ming W. Chin. The competition was announced on Bill of Rights Day, December 15, 2010, to promote the Constitution and the Bill of Rights and educate youth on the judiciary's role in a democracy. The AOC conducted the contest with the Constitutional Rights Foundation. Submissions were divided into elementary, middle, and high school categories and were received from across the nation. Mr. Vickrey appreciated the extraordinary creativity exhibited in the submissions.

Presiding judges and court executive officers have been consulted on recommendations concerning the governance of the Judicial Branch Audit Program. Presiding judges requested the initiation of the program after trial court funding passed. The program focuses on how to promote greater accountability with an audit program that arms the courts with information to minimize financial risk. Mr. Vickrey also announced that the Department of Finance will begin auditing the AOC. Lastly, the AOC's Internal Audit Services is beginning an audit of the Superior Court of Shasta County.

The AOC continues to receive an independent evaluator's monthly reports on the progress of the case management system. These have been valuable to the branch and, in particular, to the team working on the system. The reports assess risks, technical and other problems, the timeliness of scheduled milestones, and the quality of the work products being developed to build the system.

Reporting on the statewide Court Appointed Special Advocate (CASA) program, Mr. Vickrey noted that since the April 2010 council meeting, AOC staff have conducted evaluations of the CASA programs in Kern, Tulare, and San Bernardino Counties to ensure their compliance with California Rules of Court and National CASA standards. He observed that the investment made by local trial courts in this program's implementation is multiplied greatly by the contributions from county government, bar organizations, and other entities that also participate in the program.

The Plumas-Sierra County courthouse, first proposed in 2003, opened on June 10. It is the first courthouse to be shared between two county jurisdictions. Presiding Judge Ira R. Kaufman, Superior Court of Plumas County; Presiding Judge William W. Pangman, Superior Court of Sierra County and Mr. Overholt attended the opening ceremonies. Mr. Vickrey praised the work of AOC General Counsel Mary M. Roberts in negotiating the issues of the shared jurisdiction. Solano County's Board of Supervisors also passed a resolution to donate the historic Solano County Courthouse, built in 1911, to the state for renovation. The Solano courthouse is one of 41 high-priority, immediate and critical need construction projects. Design work will begin soon to restore the building as a courthouse for civil cases.



Mr. Vickrey explained that the State Public Works Board has authorized 37 of the 41 proposed new courthouse construction projects to be funded by Senate Bill 1407 funds; 35 of these projects are in the site selection phase, including projects in Kingsand Shasta Counties, and Southeast Los Angeles. Twelve courthouse projects are in the design stages, three are in construction, and three more are in the preliminary planning phase. Mr. Vickrey complimented Mr. Lee Willoughby, Director of the AOC Office of Court Construction and Management, and Mr. Burt Hirschfeld, Assistant Division Director of Real Estate and Asset Management for the Office of Court Construction and Management, and their staff.

Mr. Vickrey updated the council on the performance-based infrastructure project for Long Beach, the only project of its kind in California in which the state is partnering with private enterprise to develop the property. The preferred proposal has been selected for final negotiations, in order to conclude the contract for the construction. Once the project costs are verified the Department of Finance will provide the approvals necessary to begin construction in the fall. Mr. Vickrey added that in addition to the capital projects under way to replace courthouses in need of significant repair, hundreds of facility modifications are projected for rehabilitating and refurbishing the state's courthouses.

With respect to the technology issues raised by the Superior Court of Sacramento County and E&P's direction to work with the court on a resolution, Mr. Vickrey informed the council of Judge Michael P. Vicencia's efforts with the AOC Chief Deputy Director, the chief information officer/director of AOC Information Services Division, and the court's information technology staff to facilitate a review of the court's technology needs, issues, and options.

The work on deployment of the statewide Court Case Management System (CCMS) continues. Work has begun to prepare the early adopter courts (in San Diego, Ventura, and San Luis Obispo Counties) for software deployment. Ongoing meetings are taking place with justice system partners to ensure the system's integration with the information systems of other law enforcement entities, such as the police, sheriffs, and public defenders.

The Superior Court of Orange County successfully deployed e-filing as part of the latest release of V3. The Superior Courts of Ventura and Sacramento Counties will begin preparations for e-filing later this year. Mr. Vickrey congratulated Judge Robert J. Moss, Superior Court of Orange County, and Chief Executive Officer Alan Carlson, along with the Superior Courts of San Diego, Los Angeles, and Ventura Counties for their role in pioneering this technology for the branch.

The AOC is leveraging the existing statewide technology infrastructure, including the Integrated Services Backbone and CCMS data exchange standards, and is working with the California Highway Patrol (CHP) to deploy an eCitation solution for issuing traffic citations, to be piloted in the Superior Courts of Orange, San Bernardino, Santa Clara,

and Ventura Counties. The project is in the design phase and is expected to be completed by September 30, 2010.

Another project, the California Courts Protective Order Registry, is also moving forward: the Superior Courts of Marin, Santa Cruz, Santa Clara, and Fresno Counties began using the program recently. Other counties will continue with the expectation that the registry will eventually be adopted statewide to ensure that the restraining orders are live and available to people within hours after being issued.

Mr. Vickrey concluded with the Technology Refresh Program, an effort to maintain court telecommunications and technology networks and position the courts for new enterprise applications by providing equipment that is up to date and functional. Updating equipment has begun in 41 courts and ultimately 51 courts are expected to benefit from the upgrades.

This concluded the Administrative Director's report.

### ***CONSENT AGENDA (Items 1–2)***

#### **Item 1      **Jury Instructions: Additions and Revisions to Civil Instructions** *(Judicial Council Civil Jury Instructions (CACI))***

The Advisory Committee on Civil Jury Instructions recommended approval of the proposed additions and revisions to the *Judicial Council Civil Jury Instructions (CACI)*.

#### ***Council action***

The Judicial Council, effective June 25, 2010, approved for publication under rule 2.1050 of the California Rules of Court the civil jury instructions prepared by the committee. On Judicial Council approval, the new and revised instructions will be officially published in the June 2010 supplement to the 2010 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

#### **Item 2      **Criminal Law: Judicial Council Appointment to the California Council for Interstate Adult Offender Supervision****

The Executive and Planning Committee recommended the appointment of Judge Ronald S. Coen, Superior Court of Los Angeles County, to the California Council for Interstate Adult Offender Supervision. The seven-member council must include a superior court judge appointed by the Judicial Council. The council is required by the Interstate Compact for Adult Offender Supervision, which governs state administration of the transfer across state lines of the supervision of adult parolees and probationers.

***Council action***

The Judicial Council, effective June 25, 2010, appointed Judge Ronald S. Coen, Superior Court of Los Angeles County, to the California Council for Interstate Adult Offender Supervision, as provided in Penal Code section 11181(c).

***DISCUSSION AGENDA (Items 3–6)***

**Item 3      **Judicial Council Meetings: Policy Regarding Voting at Council Business Meetings****

Mr. William C. Vickrey, Administrative Director of the Courts and Mr. Kenneth L. Kann, Executive Office Programs Division, presented this item with the participation of Ms. Nancy E. Spero, Executive Office Programs Division.

The AOC recommended that the Judicial Council adopt a voting policy that council action at a business meeting requires the concurrence of a majority of the voting members. Under the current council policy, a council action requires a concurrence of a majority of a quorum of voting members. The proposed new policy will ensure that sufficient votes have been obtained for council actions at business meetings. The AOC further recommended that the council use this new voting policy to approve a new vote on the proposal for a rule on firearms relinquishment in criminal protective order cases, rule 4.700 of the California Rules of Court, which was adopted in April 2010 under the current voting policy and will not be effective until July 1, 2010. The new vote will foster certainty and reliability as to the council’s action on this matter.

***Council action***

The Judicial Council voted to table to a future meeting the matter of a possible change in the council’s voting policy. One member abstained.

**Domestic Violence: Firearms Relinquishment in Criminal Protective Order Cases**

Hon. Laurence Donald Kay (Ret.), Chair, Domestic Violence Practice and Procedure Task Force; Hon. Carol W. Overton, Superior Court of Santa Clara County; and Ms. Christine Cleary, Center for Families, Children & the Courts were in attendance to present this item, if requested, but the council requested no presentation.

***Council action***

On the recommendation to take a new vote on rule 4.700, the council took two votes. The first was approval of a motion to reconsider the council’s prior action at the April 2010 meeting. Several members who had opposed rule 4.700 said that they now would vote in favor of the rule to indicate their support for the validity of the council’s initial vote. The second vote, a revote on rule 4.700, was unanimous in favor of the adoption of the rule.

**Item 4      Commission for Impartial Courts: Recommendations 2, 3, 5, 6, 7, 8, 9, 10, 14, 22, 25, and 28**

Hon. Ming W. Chin, Chair, Commission for Impartial Courts Implementation Committee; Hon. Douglas P. Miller, Chair, Subcommittee on Judicial Campaign Conduct; and Ms. Christine Patton, Regional Administrative Director, presented this item.

The Implementation Committee of the Commission for Impartial Courts (CIC) presented for Judicial Council action 12 recommendations from the CIC's final report. The recommendations were grouped into two overarching categories that corresponded to the entities to which the CIC believed those recommendations should be referred for further action: the State Bar of California and the California Supreme Court. The recommendations made in this report were consistent with the prioritization plan that the council accepted at its February 26, 2010, meeting.

***Council action***

The Judicial Council voted to endorse recommendations 7–9 and 28 and to refer those recommendations to the State Bar of California.

**Recommendation 7**

An unofficial statewide fair judicial elections committee should be established to educate candidates, the public, and the media about judicial elections; to mediate conflicts; and to issue public statements regarding campaign conduct in statewide, and regional elections and in local elections where there is no local committee.

**Recommendation 8**

The formation of unofficial local fair judicial elections committees to educate candidates, the public, and the media about judicial elections; to mediate conflicts; and to issue public statements regarding campaign conduct in local elections should be encouraged.

**Recommendation 9**

A model campaign conduct code for use by the state and local oversight committees should be developed.

**Recommendation 28**

The State Bar should be encouraged to discipline attorney candidates who engage in campaign misconduct.

The council voted to endorse recommendations 2, 3, 5, 6, and 14 and to refer those recommendations to the California Supreme Court for consideration by its Advisory Committee on the Code of Judicial Ethics or other action as it deems appropriate:

#### Recommendation 2

The commentary to canon 4B of the Code of Judicial Ethics should be amended to encourage judges to educate the public on the importance of an impartial judiciary.

#### Recommendation 3

The commentary to canon 5B of the Code of Judicial Ethics should be amended to encourage judicial candidates to discuss their qualifications for office and the importance of judicial impartiality.

#### Recommendation 5

The Code of Judicial Ethics should be amended by adding a new canon 3E(2), providing that a judge is disqualified if he or she, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that a person aware of the facts might reasonably believe commits the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

#### Recommendation 6

A definition of “commitment” that includes “pledges” and “promises” should be added to the Code of Judicial Ethics.

#### Recommendation 14

The sentence “This canon does not prohibit a judge from responding to allegations concerning the judge’s conduct in a proceeding that is not pending or impending in any court” should be added to the commentary following canon 3B(9) of the Code of Judicial Ethics, but the prohibition against public comment on pending cases should not be extended to attorney candidates for judicial office.

The council voted disapproval of recommendations 10 and 22 from the commission and referred these recommendations and the council’s disapproval to the California Supreme Court for further consideration.

#### Recommendation 10

The Code of Judicial Ethics should be amended to require all judicial candidates, including incumbent judges, to complete a mandatory training program on ethical campaign conduct.

#### Recommendation 22

Judicial candidates should be prohibited from seeking or using endorsements

from “political organizations,” as defined in the terminology section of the Code of Judicial Ethics.

The council took no position on recommendation 25 from the commission and referred it to the California Supreme Court for consideration:

Recommendation 25

The Code of Judicial Ethics should be amended to add a list of prohibited campaign conduct.

**Item 5      Juvenile Dependency Court-Appointed Counsel: Competitive Solicitation Policy and Collection Program Guidelines**

Ms. Leah Wilson and Dr. Charlene Depner, Center for Families, Children & the Courts, presented this item.

The Administrative Office of the Courts recommends that the council adopt a competitive solicitation policy applicable to Dependency Representation, Administration, Funding, and Training (DRAFT) Program courts; direct staff to work with the Trial Court Budget Working Group, the Trial Court Presiding Judges Advisory Committee, and the Court Executives Advisory Committee to develop recommendations regarding whether such a policy should be adopted for non-DRAFT courts; and adopt the Juvenile Dependency Counsel Collection Program Guidelines. Implementation of a standardized and universal competitive solicitation policy will enable funding of the court-appointed counsel program to be maximized and will provide transparency and objectivity to a process that currently has the potential to be viewed as arbitrary. The collection program guidelines have been developed under a legislative mandate; adoption of the guidelines ensures Judicial Council compliance with statutory requirements.

***Council action***

The Judicial Council:

1. Adopted the DRAFT Program Competitive Solicitation Policy;
2. Directed staff to work with the Trial Court Budget Working Group, the Trial Court Presiding Judges Advisory Committee, and the Court Executives Advisory Committee, and to include the representation of juvenile court judges to determine whether a competitive solicitation policy should be adopted for the non-DRAFT courts; and
3. Adopted the Juvenile Dependency Counsel Collection Program Guidelines.

**Information Only Items**

- **Juvenile Delinquency: Status Report on Implementation of the *Juvenile Delinquency Court Assessment Final Report***

This was an informational report on the efforts of the Juvenile Delinquency Court Improvement Project to implement the recommendations of the 2008 *Juvenile Delinquency Court Assessment Final Report*.

- **Trial Court Quarterly Investment Report for the Period Ending December 31, 2009**
- **Trial Court Quarterly Investment Report for the Period Ending March 31, 2010**

Trial court quarterly investment reports provided financial results for the funds invested by the Administrative Office of the Courts on behalf of the trial courts as part of the judicial branch treasury program.

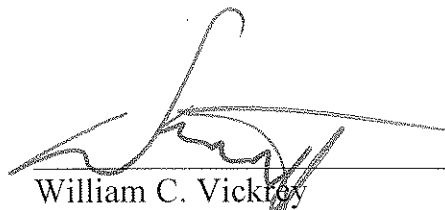
**There had been no Circulating Orders or Appointment Orders since the last business meeting.**

Chief Justice George closed the meeting with a moment of silence to remember judicial colleagues who are recently deceased and to honor them for their service to their courts and to the cause of justice. They are:

- Judge John J. Bible (Ret.), Superior Court of San Mateo County
- Judge Charles Bierschbach (Ret.), Superior Court of San Bernardino County
- Judge Brian R. Carter (Ret.), Municipal Court of Orange County Harbor
- Judge Sheldon H. Grossfeld (Ret.), Superior Court of Sacramento County
- Judge Paul Gutman, Superior Court of Los Angeles County
- Judge Marilyn L. Hoffman (Ret.), Superior Court of Los Angeles County
- Judge Leslie W. Light (Ret.), Superior Court of Los Angeles County
- Judge William L. Stewart (Ret.), Superior Court of Monterey County
- Judge William A. Yale (Ret.), Superior Court of San Diego County

There being no further public business, the meeting was adjourned at 1:05 p.m.

Respectfully submitted,



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