

Judicial Council
Minutes of August 22, 1997, Meeting

The Judicial Council of California meeting began at 8:45 a.m. on Friday, August 22, 1997, at the Administrative Office of the Courts (AOC) offices in San Francisco, California, on the call of Chief Justice Ronald M. George, chair.

Judicial Council members present: Chief Justice Ronald M. George; Justices Marvin R. Baxter, Roger W. Boren, Richard D. Huffman, and Arthur G. Scotland; Judges J. Richard Couzens, Albert Dover, Brenda Harbin-Forte, Lois Haight, Melinda A. Johnson, Jon M. Mayeda, Risë Jones Pichon, Eleanor Provost, and Kathryn D. Todd; Mr. Maurice Evans, Ms. Glenda Veasey, and Mr. Brian C. Walsh; and **advisory members:** Ms. Sheila Gonzalez, Mr. Joseph A. Lane, Mr. Stephen V. Love, Hon. William F. McDonald, Mr. Ronald Overholt, and Hon. Nori Anne Walla.

Absent: Judge Paul Boland, Senator John Burton, Assembly Member Martha Escutia, Mr. Sheldon Sloan.

Others present included: Mr. William C. Vickrey; Justice Carol Corrigan; Judges John Flaherty, Steve Jahr, Ken Kawaichi, Dwayne Keyes, and Michael Orfield; Ms. Beth Jay, Ms. Lonette Maiden, Mr. Andrew Morgan, Mr. D. Kent Pedersen, and Mr. Daniel Smith; **staff:** Ms. Martha Amlin, Ms. Jessica Fiske Bailey, Mr. Paul Baker, Ms. Francine Batchelor, Mr. Michael Bergeisen, Mr. David Berkman, Mr. Scott Beseda, Ms. Juliet Briskin, Ms. Karen Cannata, Ms. Eileen Chadwick, Ms. June Clark, Ms. Eunice Collins, Ms. Wendy Constantine, Ms. Anagha Dandekar, Ms. Penny Davis, Ms. Shauna Denkensohn, Ms. Denise Friday, Ms. Lynn Holton, Ms. Fea Jacobson, Mr. Dennis Jones, Mr. Ray LeBov, Mr. Robert Lloyd, Mr. Ben McClinton, Mr. Ralph McMullan, Mr. Martin Moshier, Ms. Vicki Muzny, Ms. Judith Myers, Ms. Karen Ringuette, Mr. Victor Rowley, Ms. Dale Sipes, Ms. Marlene Smith, Ms. Arline Tyler, Ms. Tracy Vesely, Mr. Anthony Williams, Mr. Jonathan Wolin, Mr. Henry Wong, Mr. Jerry Yalon, and Ms. Pat Yerian; **media representatives:** Mr. Phil Carrizosa, *Los Angeles Daily Journal*, Mr. David Kline, *Los Angeles Metropolitan News Enterprise*, and Mr. Greg Mitchell, *Daily Recorder* (Sacramento).

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 Agenda Reports and Recommendations dated August 22, 1997, which was sent to members in advance of the meeting.)

Tab A Minutes of the May 16, 1997, Meeting

Council action:

Justice Scotland made a motion that the Judicial Council approve the minutes of the May 16, 1997, meeting with the following amendments to page 25:

- (1) In the paragraph beginning “With regard to...,” add as a last sentence: “A copy of Judge Haight’s memorandum, which identified her specific concerns, was provided to all council members at the meeting;” and
- (2) In the paragraph beginning “Judge Harbin-Forte expressed,” add as a last sentence: “She urged immediate dissemination of the report, pointing out that some of the council members who expressed concern about the statistics had also conceded that the conclusions and recommendations of the task force would not be changed even if the statistics were modified.”

The motion passed.

Tab B Judicial Council Committee Presentations

• **Executive and Planning Committee Report**

Justice Scotland stated that the committee had met five times since the last council meeting. The committee reviewed proposed items and set the agenda for the meeting.

The committee reviewed nominations for vacancies on the Judicial Council and forwarded recommendations to the Chief Justice, who selected the new members. Justice Scotland stated that the committee is in the process of reviewing nominations for the vacancies on the Judicial Council advisory committees and will be forwarding recommendations to the Chief Justice in September for appointments to take effect on November 1.

Justice Scotland reported on the first court visit by the council. Several council members and staff visited Solano, Napa, and Marin Counties. Justice Scotland said that a team of four council members and staff will be visiting the Stanislaus

judiciary at the end of August and attend a dinner meeting of the judges of Stanislaus, Tuolumne, and San Joaquin Counties. The council's subsequent court visit to Los Angeles will occur in late September and involve a team of 15 to 20 council members and staff touring the county over several days.

Justice Scotland stated that committee members heard a presentation from staff concerning the status of the branch budget and descriptions of the changes under way in the Human Resources and Information Systems Bureaus of the AOC.

- **Rules and Projects Committee Report**

Justice Huffman stated that RUPRO had met by telephone every two weeks and in person once since the last council meeting. He reported that a Rules Style Committee was appointed to work with a consultant to develop a uniform style for the internal rules of the council and its advisory committees. The Chief Justice appointed Justice Huffman, Judge Harbin-Forte, and Mr. Lane to the committee and will appoint two additional members, one member of the appellate bar and one other appellate court justice.

Justice Huffman stated that RUPRO circulated for comment 28 proposals for new or amended rules, forms, and standards. He noted that comments are due September 8 and that final proposals will be submitted to the council at the November meeting. The binder of proposals was sent to over 400 people and organizations; a summary of the proposals was sent to an additional 360 and posted on the council's Web site.

Justice Huffman also reported that RUPRO had reviewed a number of reports from advisory committees, some of which were on the current agenda.

Justice Huffman stated that since the council's May meeting, RUPRO had recommended that three circulating orders be sent to council members. One circulating order added division VII to the Appendix to the California Rules of Court. The new appendix adjusts the maximum parental liability for acts of a minor. Another approved revisions to the pamphlet *Information on Crime Victims' Compensation*. The third adopted California Rules of Court, rule 302.5, which allows the Los Angeles Superior Court to continue to enforce its blue-back requirement while the council decides whether to adopt the requirement statewide.

- **Policy Coordination and Liaison Committee Report**

Justice Baxter stated that the committee had met three times by conference call since the last council meeting. The committee voted to support the adoption of statewide or regional payment rates and procedures for court interpreters. The proposal is included in the budget passed by the Legislature and will become effective only if trial court funding legislation passes this year.

The committee also voted to recommend to the council the adoption of rules to tighten standards for use of court-ordered discovery references, to consider limiting these references to exceptional circumstances, and to require the court to make a record as to why such a reference was made.

Justice Baxter reported that the committee reviewed and adopted positions on 11 bills relating to civil and criminal procedure, domestic violence, family law, juries, juvenile delinquency and dependency, mediation, and probate.

Justice Baxter provided an update on council-sponsored legislation.

COUNCIL ITEMS 1–4 WERE APPROVED BY A SINGLE MOTION AS CONSENT ITEMS, PER EACH OF THE SUBMITTERS’ RECOMMENDATIONS.

Item 1 Approval and Distribution of the Report of the Court Technology Advisory Committee on the Application of Video Technology in the Courts

Council action:

The Judicial Council received and adopted the *Report on the Application of Video Technology in the California Courts* and approved its release and distribution to the trial courts.

Item 2 Approval of 1997 Drug Court Mini-Grant Recommendations

Council action:

The Judicial Council approved the distribution of \$1,000,000 in Office of Criminal Justice Planning funds to drug courts in fiscal year 1997–98.

Item 3 Adoption of Revised Conflict-of-Interest Codes for the AOC and the Judicial Council

Council action:

The Judicial Council approved the amended versions of the conflict-of-interest codes for the AOC and the Judicial Council.

Item 4 Approval and Submission of Report to the Legislature on Restitution to Crime Victims—Forms and Judicial Education

Council action:

The Judicial Council approved the report *Restitution to Crime Victims—Forms and Judicial Education* and its submission to the Legislature.

Item 5 Receipt of Joint Report on Trial Court Coordination Incentives

Judge Flaherty, Judge Jahr, and Mr. Pedersen presented the report, assisted by Ms. Vesely, Mr. Yalon, and Ms. Torre of AOC staff. Judge Flaherty, Chair of the Trial Court Coordination Advisory Committee (TCCAC), stated that in January 1997 the council directed the TCCAC, Trial Court Budget Commission (TCBC), and Court Profiles Advisory Committee (CPAC) to jointly develop a proposal of incentives to encourage courts to achieve coordination. The three committees initiated a review of how coordination incentives could be applied to trial court budgeting, state funding of the trial courts, and requests to the Legislature for new judgeships. Pursuant to the fiscal year 1998–99 Judicial Council Action Plan, the three committees invited the Presiding Judges Advisory Committee (PJAC) and the Court Administrators Advisory Committee (CAAC) to assist in the development of coordination incentives.

Additionally, the AOC initiated a review, in consultation with the Chief Justice, regarding possible methods and effects of applying coordination incentives in the process of assigning temporary judges.

Judge Flaherty introduced the committee spokespersons who would outline the recommendations contained in the joint report. Before the spokespersons outlined the recommendations, Judge Flaherty stated that the council would be asked to approve circulation of the report for comment and not vote on its specific recommendations.

Judge Flaherty noted that in November 1996, the Judicial Council adopted an initial approach for the TCCAC to use in reviewing the status of coordination implementation. The committee has modified this initial process to include an appeals procedure and, using this updated review approach, will assess the current progress of coordination based on mandates set forth in Government Code section 68112, California Rules of Court, rule 991, and California Standards of Judicial Administration, section 29. He said that each of the three coordination methods—(1) judicial coordination, (2) organizational structure and provision of services, and (3) coordination of case-processing/case-management systems—would be treated equally in the assessment. Additionally, he stated that trial court systems that have not implemented mandates not yet due according to California Rules of Court, rule 991 will not be penalized. The committee will present a final report on the status of statewide coordination implementation to the council in February 1998.

Judge Flaherty described the quantification method that will be used to evaluate the progress of coordination in a county. A specific value will be assigned to each coordination element. The TCCAC will then assess each court's progress by rating each element with a value from 5 (fully coordinated) to 1 (not coordinated). The value for each coordination element will be multiplied by the TCCAC assessment (5–1), resulting in a final score per coordination element. The TCCAC assessment will subjectively measure progress toward completion of each of the required elements of coordination as defined by current statutes, rules, and standards. Judge Flaherty noted that the joint report to be circulated for comment includes a recommendation from the TCCAC that the council approve this progress review approach.

Judge Flaherty stated that the TCCAC assessment classification will be used by the CPAC in its evaluation of trial courts' judicial needs and by the TCBC, along with other statutory factors, in developing trial court budgets and preparing an allocation schedule for the distribution of state funding among the trial courts.

Judge Jahr, Chair of the TCBC, stated that, as required by the applicable Government Code sections and California Rules of Court, the commission has considered coordination in making decisions in previous budget years. The TCBC has declined requests that appear to be duplicative and approved those that appeared to promote coordination efforts. However, the commission finds it difficult to make determinations based on coordination without specific information and expertise. He stated that the TCBC would benefit from TCCAC assessment classifications.

Judge Jahr reported that a subcommittee of the TCBC was asked to identify the issues and options available regarding coordination incentives in relation to trial court funding. The subcommittee analyzed the possibility of applying coordination incentives:

- in both the budget development and allocation phases of the TCBC approval process;
- depending on status quo funding, an incremental increase in funding, and full state funding; and
- in fiscal years 1997–98, 1998–99, and 1999–2000.

Judge Jahr stated that recommendations contained in the joint report propose that the council direct the TCBC:

- (a) to use the TCCAC assessment classification in the TCBC’s budget building process for fiscal year 1999–2000;
- (b) to use its discretion in the current fiscal year to set aside and allocate funds based on the TCCAC assessment classification;
- (c) not to use the TCCAC assessment classification if status quo funding remains;
- (d) to continue to use its discretion to approve budget requests, based on coordination status, for one-time allocations (e.g., purchase of an automation system) and recurring budget requests (e.g., additional personnel), recognizing that one-time requests should take priority in order to preserve the funds available for coordination incentives; and
- (e) to utilize court funding resources that are appropriated by the Legislature to assist courts in achieving minimum service levels (MSLs) while instituting efficiencies and coordination.

According to Judge Jahr, the commission believes that allocation of earmarked and set-aside funds should be based on need and take into account factors such as coordination. Also, the TCBC will require that courts receiving rewards based on coordination account for those funds separately in succeeding years so that the TCBC can track them.

Additionally, TCBC recommendations within the joint report ask that the council reconsider its previous directive to the TCBC that takeaway or reduction sanctions be employed for courts that have not adequately coordinated. Judge Jahr noted that sanctions fall into the following categories:

- (a) Actual reduction (or “takeaway”) of a court system’s funding level, based on the status of coordination, as determined by the TCCAC. Reduction could be by a small percentage or a specified dollar amount;
- (b) Denial of an incremental request that would otherwise have been meritorious; or

- (c) Freezing of a court system's budget based on the prior approved budget or actual expenditures, denying baseline restoration, incrementals, or both.

Judge Jahr stated that the TCBC does not recommend the use of takeaways. The commission believes that a denial of an otherwise-justified incremental request or freezing of a budget as costs and demands rise is a powerful and clear sanction. The use of takeaways, the TCBC believes, may provide "cover" (i.e., a distant central authority to blame) for budget problems, thereby taking the focus away from local decisions that stall coordination, and will result in curtailment of trial court services.

With regard to the issue of claimed financial constraints on coordination, the TCBC recommends that, based on TCCAC's data, it fund specific court requests that would advance coordination and that the courts demonstrate cannot be paid from cost savings resulting from coordination.

Mr. Pedersen, Vice-Chair of the Court Profiles Advisory Committee (CPAC), stated that in November 1997, the committee's preliminary assessment of judicial needs will be sent to all trial courts with a caveat that the final recommendation to the council will be subject to the TCCAC's final coordination classification.

Mr. Pedersen commented that the CPAC needed to recommend policy for fiscal year 1998-99 only because the council has already mandated the policy for fiscal year 1999-2000. For fiscal year 1998-99, the committee will base its recommendations on overall coordination, using the primary three methods of coordination referenced previously. If a minimum threshold is met, the committee will examine judicial coordination. The council has determined that in fiscal year 1999-2000 only those courts that are fully coordinated will receive new judicial positions.

In the joint report, CPAC advocates that the council:

- (1) approve the timeline for evaluating judicial needs based on TCCAC's classification assessment for fiscal year 1998-99;
- (2) direct that a coordination threshold be established for determination of judicial need (defining a cutoff level); and
- (3) establish a two-step process whereby overall coordination and then judicial coordination are evaluated to determine judicial need.

Judge Flaherty noted that the joint report also contains a recommendation that the Assigned Judges Program consider the degree of coordination of the requesting court and that priority be given to trial courts with the highest level of classification.

Justice Huffman expressed his concern that the usual six-week comment period might not afford the trial courts and RUPRO adequate time to review and comment on the joint report. Justice Huffman made a motion to extend the comment period to eight weeks and to place the item on the council's February 1998 meeting agenda.

Ms. Gonzalez commented that the report did not appear to reward those courts that have reached full coordination. Judge Jahr stated that if a court demonstrates success in coordination and makes a request that would otherwise be given a lower priority, the TCBC would take into account the court's efforts at coordination. Ms. Gonzalez noted that courts have been working on coordination for five years and urged the council to continue to move forward on the issue while giving people time to comment.

Mr. Walsh asked whether extending the comment period might impede achievement of the recommendations and deadlines stated in the joint report. He also requested that in February the five committees present to the council a unified report (or at least a clear statement of what all five committees agreed upon).

Judge Todd expressed concern that the judicial needs assessment for fiscal year 1998-99 will be using the assessment classification before the council approves it in final form.

Judge Couzens inquired about the reasoning behind the recommendation that the council remove takeaways as an option if other sanctions do not work. Judge Jahr expressed his concern that the result might be a perception that the system is punitive.

Judge Pichon asked if the committee feels there should be no financial disincentives for a court that does not coordinate. Judge Jahr stated that the other sanctions (denying otherwise-meritorious requests and freezing budgets) are serious financial disincentives.

Judge Pichon questioned whether the five committees were in agreement about not using the term “sanction.” Judge Jahr stated that the TCBC voted not to use the term. Judge Flaherty stated that the TCCAC had not yet addressed the issue. He noted that the terms “rewards” and “incentives” are used interchangeably in the report and that “sanctions” is not used.

Ms. Gonzalez stated that she believes that takeaways should be used, as should the term “sanctions.” She said that many courts have sufficient budgets to avoid feeling the effects of the other options.

Judge Todd commented that California Rules of Court, rule 991 sets forth general goals regarding coordination and allows for variances in achieving it. The TCCAC assessment classification outlined in the joint report ranks types of coordination, which are not specified in the statute.

Judge Harbin-Forte questioned whether five classifications were necessary. She was concerned that there might not be sufficient “bright line” distinctions (between coordinated and not-coordinated courts). She asked how a moderately coordinated court would differ from a partially coordinated court.

Judge Mayeda was concerned whether the council would be able to amend the recommendations in the report in February without negatively affecting its deadlines and proposals.

Mr. Love stated that if the council were to accept the joint report at the meeting today, the CPAC and the TCCAC would be authorized to proceed and begin assessing courts and utilizing the classifications before the methodology or other recommendations were adopted by the council. He expressed his concern that the trial courts would see the report as a done deal.

Mr. Overholt expressed his frustration over the lack of an enforcement policy with teeth. He believes that the use of the word “sanction” may deflect from the goal of coordination. He added that the council may want to rethink rule 991.

Mr. Vickrey noted that there is an urgent need to bring closure to this issue. Until coordination is achieved, the council is giving the Legislature an opportunity to micromanage. Chief Justice George echoed this sentiment, noting that annually, when new judgeships are requested, the Legislature asks what the council is doing to enforce coordination, which has been on the books for many years.

Council action:

Justice Huffman made a motion that the Judicial Council:

- (1) receive the draft of the *Joint Report on Trial Court Coordination Incentives*;
- (2) authorize the AOC to distribute the draft report to all trial courts and other interested entities for comment for an eight-week period, allowing:
 - (a) the five advisory committees and staff adequate time to review and incorporate, as appropriate, comments received on the proposal; and
 - (b) the Rules and Projects Committee of the council adequate time to review the final proposal; and
- (3) direct staff to place consideration of the final *Joint Report on Trial Court Coordination Incentives* on the council's February 4, 1998, meeting agenda, with the understanding that the following items will also be placed on the agenda:
 - (a) the Court Profiles Advisory Committee recommendation regarding the 1998 list of new judgeships being sought on behalf of the trial courts, taking into account the final version of the coordination classification ratings for the trial courts, which will also be on the February council meeting agenda; and
 - (b) the Trial Court Budget Commission recommendation regarding an allocation proposal that recognizes court coordination achievements, taking into account the final version of the proposed coordination classification ratings.

The motion passed.

Item 6 Role of the Court Profiles Advisory Committee in Assessing the Need for Subordinate Judicial Officers in the Trial Court Budget Commission (TCBC) Budget Request Process

Mr. Pedersen presented the report, assisted by Ms. Friday of AOC staff. He noted that the charge of the Court Profiles Advisory Committee (CPAC) is to assess the need for new judgeships in California. He stated that the council has not specifically directed the committee to conduct an assessment to determine the need for new subordinate judicial officer (commissioner and referee) positions or to evaluate budget requests for funding new or converted subordinate judicial officer positions.

In May 1997, the Trial Court Budget Commission (TCBC) requested that the CPAC assess the need for new and existing subordinate judicial officer positions in relation to budget requests for new positions.

The committee recommends that its charge be expanded to include evaluation of the need for subordinate judicial officers. Mr. Pedersen stated that this would:

- simplify and make more efficient the process of assessing judicial needs;
- provide information to ensure that the most critical funding needs are met statewide; and
- see that all new judicial positions are considered in a systematic way.

Ms. Gonzalez expressed concern that this new policy would negatively affect present positions. Mr. Pedersen replied that the policy would be applied to future positions and would not be retroactive.

Judge Provost asked whether the committee would become involved in the need for family law commissioners mandated by Assembly Bill 1058. Mr. Pedersen stated that the Court Profiles Advisory Committee is consulting with the Family and Juvenile Law Advisory Committee and will present a joint recommendation to the council at a future meeting.

Justice Baxter inquired whether county-funded positions would be evaluated if a court asked for an evaluation. Mr. Pedersen said that they would.

Council action:

Ms. Veasey made a motion that the Judicial Council:

- (1) authorize the committee to expand its functions and duties to include needs assessment for subordinate judicial officers (i.e., commissioners and referees); and
- (2) direct staff to submit proposed amendments to California Rules of Court, rule 1025 to include this expansion in the functions and duties of the Court Profiles Advisory Committee in the course of the revision of internal council rules.

The motion passed.

Item 7 Phase II Implementation Plan from the Access and Fairness Advisory Committee (Racial and Ethnic Fairness Subcommittee and the Disabilities Subcommittee) and Phase I Status Report

Judge Kawaichi presented the report, assisted by Ms. Marlene Smith and Ms. Arline Tyler of AOC staff. At its May 1997 meeting, the council approved, with minor changes regarding the dissemination of the report, the Phase I implementation plan for the recommendations proposed in the Racial and Ethnic Bias Task Force's (REB) final report and the Access for Persons with Disabilities reports. (Phase I activities were identified as those that could be implemented by the end of fiscal year 1996–97.)

Judge Kawaichi stated that with Phase I nearing completion, the advisory committee is submitting Phase II of the implementation plan developed by the Access and Fairness Advisory Committee. (Phase II activities are those that could be implemented by the end of fiscal year 1998–99.)

Council action:

Mr. Walsh made a motion that the Judicial Council approve the Phase II implementation plan and direct the advisory committee to proceed with implementation.

The motion passed.

Item 8 Trial Court Funding Update and Report on the Status of Legislation

Mr. Anthony Williams, of AOC staff, reported on legislative activity regarding trial court funding. Should the Legislature enact a bill in the next several weeks, the state might be solely responsible for funding court operations beginning in 1997–98.

For information only; no action necessary.

Item 9 Trial Court Budget Adjustments for Fiscal Year 1996–97 and Allocations for Fiscal Year 1997–98

Mr. Jerry Yalon, of AOC staff, presented the report. He stated that a shortfall of approximately \$7.2 million in the Trial Court Trust Fund for fiscal year 1996–97 is anticipated and that it will result in a reduction of the final payment out of the account during that year. The Trial Court Budget Commission (TCBC) recommends allocation of this shortfall according to the historical allocation formula used in previous years.

Mr. Yalon also presented the first-quarter allocation and distribution formula for the state’s fiscal year 1997–98 appropriation from the General Fund in support of trial court operations. He emphasized that the schedule is for the first quarter only, and that the TCBC will recommend to the council a full-year allocation schedule at a later date.

Mr. Yalon stated that the council was only being asked to make an allocation regarding the available General Fund appropriation. The allocation of the trust fund could not be determined at this time because those funds are distributed upon receipt from the trial courts. The first quarterly distribution of the civil fees deposited in the trust fund will be in October.

Mr. Yalon reported that the TCBC considered various methods to allocate and distribute the General Fund. It recommends following the method applied by the council last year and distributing all of the available General Fund money in the first quarter, reserving those amounts that are marked by legislation for specific purposes. The recommendation includes a provision for withholding \$1 per county in each of the three remaining distribution periods in the fiscal year to comply with a statutory requirement that the distribution occur over four quarters.

Mr. Vickrey asked whether, assuming that some kind of budget passes, the distribution proposed by the TCBC forecloses any options the council and the TCBC have for how money is distributed among the 58 counties for the remainder of the year. Mr. Yalon replied that it would not. He added that the TCBC specifically recommends that the council reserve determination of the annualized allocation formula until a later date.

Ms. Gonzalez requested that staff track the shortfall and project whether this situation will be ongoing. She commented that it would be better to allocate money appropriately from the beginning rather than reduce allocations later in the year. Ms. Torre reported that the AOC Finance Bureau is looking at filing information and revenue receipts at the line-item level to evaluate the cause of the shortfall and that this information would be brought back to the TCBC for review to determine whether the historical distribution needs to be modified.

A motion was made to adopt the TCBC recommendation amended to direct staff to attach to the schedule a cover memo reminding courts of the council's policy banning the use of state funds for nonstenographic methods of preparing official transcripts.

Ms. Torre clarified that the recommendation is to have the council approve the methodology for allocating the anticipated trust fund revenue in fiscal year 1996-97 and to approve the actual schedule with the actual distribution of loss via circulating order.

Council action:

A motion was made that the Judicial Council:

- (1) approve application of the historical allocation formula to the fiscal year 1996-97 shortfall in state-collected revenue that is transferred to the Trial Court Trust Fund. This action amends the previously approved allocation schedule for state funding of the trial courts for fiscal year 1996-97 and applies the historical allocation formula to the revenue shortfall, as specified in the amended report to the council on this subject dated August 21, 1997, with the understanding that the council is adopting the formula for distribution and that the TCBC will forward to the council the actual allocation schedule for approval via circulating order once the actual shortfall for fiscal year 1996-97 has been determined; and
- (2) approve the first-quarter allocation and distribution of the state General Fund appropriation in support of trial court operations as specified in the amended report to the council on the subject dated August 21, 1997;
 - (a) applying the historical allocation formula only as to the first-quarter fiscal year 1997-98 distribution, reserving a determination of the annualized allocation schedule for a later date;
 - (b) applying an accelerated distribution schedule that releases all of the available fiscal year 1997-98 appropriation from the General Fund, reserving funding for matters earmarked in the appropriations bill and a nominal amount (one dollar per county) for distribution in each of the

- remaining quarters; and
- (c) with the understanding that by means of the following standard wording the trial courts will be reminded in a cover memorandum to the schedule of the council's standing policy directing that the courts not spend any state funds on nonstenographic methods of preparing the official verbatim record of superior court proceedings:

The Judicial Council directs each superior court not to expend any of the upcoming fiscal year 1997-98 first-quarter state funding distribution on the maintenance or creation of nonstenographic methods for preparing the official verbatim record of superior court proceedings.

Please take all necessary steps to comply with this directive, including preserving documentation to establish that this distribution has not been used for these purposes.

The motion passed.

Item 10 Trial and Appellate Court Facilities Study Update

Mr. Daniel Smith, lead consultant on the facilities study, presented the report, assisted by Mr. Andrew Morgan, consultant, and Mr. Robert Lloyd of AOC staff. Mr. Smith outlined the scope of the study, noting that the project will advance with or without trial court funding. Mr. Vickrey pointed out that the facility study was undertaken in response to stated council goals of examining this vital area.

For information only; no action necessary.

Tab C Circulating Orders Approved Since Last Business Meeting

For information only; no action required.

Tab D Judicial Council Appointment Orders Since Last Business Meeting

For information only; no action required.

The meeting was adjourned at 3:12 p.m.

Respectfully submitted,

William C. Vickrey
Secretary