

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

**SPR21-04**

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**Title**

Collaborative Justice: Updating the Collaborative Justice Courts Advisory Committee's Area of Focus and Duties

**Action Requested**

Review and submit comments by May 27, 2021

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rule 10.56

**Proposed Effective Date**

January 1, 2022

**Proposed by**

Collaborative Justice Courts Advisory Committee

Hon. Richard Vlavianos, Chair

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### Executive Summary and Origin

The Collaborative Justice Courts Advisory Committee recommends amending rule 10.56 of the California Rules of Court to expand and clarify its areas of focus and duties. This recommendation would allow the advisory committee to better address judicial leadership and court processes impacting collaborative justice courts and similar programs that impact individuals who are moving through the court system and who have mental illnesses, substance use disorders, or co-occurring disorders. These proposed amendments seek to (1) revise the scope of duties to more accurately align with the evolution of collaborative courts, and (2) allow the advisory committee to address diversion and other collaborative programs involving the courts and informed by—or could benefit from—the incorporation of collaborative justice court principles and practices.

### Background

The Judicial Council's Collaborative Justice Courts Advisory Committee was created in 2000 by Chief Justice Ronald M. George to support the growing number of collaborative justice courts in California. The areas of focus, duties, and structure that were established for the committee in January 2000 via rule 6.56 (now rule 10.56) remain in place and only some minor, nonsubstantive amendments to the rule have been made. Although the advisory committee rule remains largely unchanged, the same cannot be said for the field of collaborative justice courts. Several policy changes have taken place that have required collaborative justice courts to adjust their practices, including a shift in the classification of many lower level theft and drug crimes

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.*

from felonies to misdemeanors and the creation of a number of diversion programs. Advisory committee members who act as subject matter experts in their field are constrained by the rule's limited focus on traditional collaborative justice court models and would like the rule to reflect their more expansive role in diversion and similar programs.

## **The Proposal**

Amending rule 10.56 of the California Rules of Court is needed to enable the Collaborative Justice Courts Advisory Committee to more effectively carry out its duties of making recommendations to the Judicial Council, assessing the success of programs, and identifying and disseminating to courts best practices and outreach activities. The proposed amendments make changes to existing subdivisions.

### **Changes to the Collaborative Justice Courts Advisory Committee's areas of focus**

The proposed amendments are needed for the advisory committee to continue its focus on collaborative programs that were established after the adoption of rule 10.56 and that are routinely assigned by trial courts to fall under the duties and purview of collaborative justice courts. These proposed amendments will modernize the criteria originally used to define collaborative justice courts to better reflect the evolution of these courts. These amendments to subdivision (a) of rule 10.6 would:

- Require the advisory committee to include within its scope all programs that incorporate judicial supervision, collaboration among justice system partners, or rehabilitative services aimed at improving outcomes for individuals with mental illnesses, substance use disorders, or co-occurring disorders;
- Would eliminate the antiquated list of specific types of collaborative justice courts; and
- Move specific duties to subdivision (b) Additional duties.

### **Changes to the Collaborative Justice Courts Advisory Committee's additional duties**

The proposed amendments are needed for the advisory committee to align its focus with recent reforms that affect court, criminal justice, and behavioral health systems and recent shifts in the legislative and executive branches to establish collaborative programs that impact adult and youth with mental illnesses, substance use disorders, and co-occurring disorders. These amendments to subdivision (b) of rule 10.56 would:

- Establish a distinctive focus on education and training opportunities for judicial officers, court staff, and justice system partners; and
- Specify the nature of recommendations that can be made to the Judicial Council about funding and outreach activities that can benefit collaborative justice courts and similar collaborative programs focused on individuals with mental illnesses, substance use disorders, or co-occurring disorders.

The specific changes and their rationale are as follows:

- (1) Make recommendations to the council on best practices and guidelines for collaborative programs; *This duty was originally included in subdivision (a) Area of focus, and it is moved for consistency and clarity into subdivision (b) Additional duties.*
- (2) Assess and measure the success and effectiveness of local collaborative justice courts programs, including methods for collecting data to evaluate the effectiveness of these programs; *The word “local” is removed to enable assessment of statewide programs, and the word “effectiveness” is removed for brevity and to reduce redundant use of term. The term “data collection methods” is specified to ensure that programs collect standard data elements to support courts’ ability to engage in ongoing self-assessment.*
- (3) Identify and disseminate to trial courts locally generated and nationally recognized best practices for collaborative programs, and training and program implementation activities to support collaborative programs; *The term “nationally recognized” is added to allow the committee to support the implementation of national standards that have been developed for adult and dependency drug courts. “Training and program implementation activities” is added to reflect work that committee members conduct to assist courts in implementing new programs, such as mental health diversion programs created pursuant to Penal Code sections 1001.35 and 1001.36.*
- (4) Recommend to the Center for Judicial Education and Research Advisory Committee minimum judicial education standards on collaborative programs, and educational activities to support those standards to the Governing Committee of the Center for Judicial Education and Research; *Adds collaborative programs for specificity and changes the sentence structure for clarity.*
- (5) Advise the council of potential funding sources, including those that may advance collaborative programs; *Allows the committee to advise the council on potential local, state, and federal funding sources, as appropriate. This will enable the committee and the Judicial Council to be prepared in the event that federal funding for collaborative courts becomes available in the form of block grants.*
- (6) Make allocation recommendations regarding grant funding programs that are administered by the Judicial Council staff for that support collaborative programs; *and Replaces “drug and other treatment courts” with the more expansive “collaborative programs” terminology.*
- (7) Recommend Identify and implement appropriate outreach activities needed to support collaborative justice courts programs, including but not limited to collaborations with educational institutions, professional associations, and community-based organizations. *Changes “recommend” to “identify and disseminate” to more clearly reflect the committee’s role; replaces “collaborative justice courts” with “collaborative programs”; adds specific examples of the types of outreach and identifies collaboration partners.*

## **Alternatives Considered**

The proposed amendments allow the Collaborative Justice Courts Advisory Committee to better address judicial leadership and court processes impacting collaborative justice courts and similar programs that impact individuals who have mental illnesses, substance use disorders, or co-occurring disorders. As an alternative, the advisory committee considered narrowing its activities and reframing how it approaches developing projects through its annual agenda process to fall squarely within the current limitations and parameters of rule 10.56. This alternative was rejected because the current rule was developed before the numerous recent reforms that affect court, criminal justice, and behavioral health systems.

The advisory committee considered proposing the creation of a new advisory committee focused on specific matters of importance to the courts and judicial branch that are consistent with the scope of the Collaborative Justice Courts Advisory Committee but are excluded based on the current rule 10.56. This alternative was rejected because (1) the duties and responsibilities of a new advisory committee may overlap in scope with those of the Collaborative Justice Courts Advisory Committees on certain matters, (2) the expertise encompassed across the Collaborative Justice Courts Advisory Committee membership equips the advisory committee to accomplish the duties and responsibilities of a new advisory committee, and (3) the creation of a new advisory committee would create substantial fiscal and operational impacts on the Judicial Council.

## **Fiscal and Operational Impacts**

This proposal updates the area of focus and duties of the Collaborative Justice Courts Advisory Committee to maximize its ability to comply with rule 10.34 of the California Rules of Court and to provide the necessary breadth for the advisory committee to effectively make recommendations to the Judicial Council. This proposal will have no fiscal or operational impact on the courts or the Judicial Council, including Judicial Council staff.

### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal result in fiscal or operational costs for the courts? If so, please quantify.
- Are there implementation requirements for the courts as a result of this change?

### **Attachments and Links**

1. Cal. Rules of Court, rule 10.56, at pages 6-7

Rule 10.56 of the California Rules of Court would be amended, effective January 1, 2022, to read:

1 **Rule 10.56. Collaborative Justice Courts Advisory Committee**

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3 **(a) Area of focus**

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5 The committee makes recommendations to the Judicial Council on criteria for  
6 identifying and evaluating and improving collaborative justice courts and programs  
7 that incorporate judicial supervision, collaboration among justice system partners  
8 or rehabilitative services. Collaborative programs include collaborative justice  
9 courts, diversion programs, and similar programs that seek to improve outcomes for  
10 court-involved and justice system-involved adults and youth and those at risk of  
11 becoming justice system-involved, including individuals with mental health issues,  
12 substance use disorders, or co-occurring disorders. for improving the processing of  
13 cases in these courts, which include drug courts, domestic violence courts, youth  
14 courts, and other collaborative justice courts. Those recommendations include "best  
15 practices" guidelines and methods for collecting data to evaluate the long term  
16 effectiveness of collaborative justice courts.

17  
18 **(b) Additional duties**

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20 In addition to the duties described in rule 10.34, the committee must:

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22 (1) Make recommendations to the council on best practices and guidelines for  
23 collaborative programs;  
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25 (2) Assess and measure the success and effectiveness of local collaborative  
26 justice courts programs, including methods for collecting data to evaluate the  
27 effectiveness of these programs;  
28  
29 (3) Identify and disseminate to trial courts locally generated and nationally  
30 recognized best practices for collaborative programs, and training and  
31 program implementation activities to support collaborative programs;  
32  
33 (4) Recommend to the Center for Judicial Education and Research Advisory  
34 Committee minimum judicial education standards on collaborative programs,  
35 and educational activities to support those standards to the Governing  
36 Committee of the Center for Judicial Education and Research;  
37  
38 (5) Advise the council of potential funding sources, including those that may  
39 advance collaborative programs;  
40

- 1           (6)    Make allocation recommendations regarding grant funding programs that are  
2           administered by the Judicial Council staff for that support drug courts and  
3           ~~other treatment courts~~ collaborative programs; and  
4  
5           (7)    ~~Recommend~~ Identify and implement appropriate outreach activities needed to  
6           support collaborative ~~justice courts~~ programs, including but not limited to  
7           collaborations with educational institutions, professional associations, and  
8           community-based organizations.  
9  
10       (c)    \* \* \*