

JUDICIAL COUNCIL MEETING
Minutes of the June 23, 2004, Meeting
San Francisco, California

The Judicial Council of California business meeting began at 2:05 p.m. on Wednesday, June 23, 2004, at the Administrative Office of the Courts (AOC) in San Francisco, California, on the call of Chief Justice Ronald M. George, chair.

Judicial Council members present: Chief Justice Ronald M. George; Associate Justices Marvin R. Baxter, Norman L. Epstein, Richard D. Huffman, and Laurence Donald Kay; Judges Michael T. Garcia, William C. Harrison, Jack Komar, William A. MacLaughlin, Heather D. Morse, William J. Murray, Jr., Michael Nash, Richard Strauss, and Barbara Ann Zúñiga; Mr. Rex S. Heinke, Mr. David J. Pasternak, Ms. Ann Miller Ravel, Mr. William C. Vickrey, and Mr. Thomas J. Warwick, Jr.; **advisory members:** Judge Eric C. Taylor; Commissioner Patricia H. Wong; Ms. Tressa S. Kentner, Ms. Susan Null, and Mr. Alan Slater.

Absent: Assembly Member Ellen M. Corbett and Senator Martha M. Escutia; Judges Eric L. DuTemple and Frederick Paul Horn.

Others present included: Judge Suzanne N. Kingsbury; court Executive Officer Tamara Lynn Beard; Commissioner Harvey E. Goldfine; Ms. Marea Beeman, Ms. Beth Jay, and Ms. Nelly Beacon; **staff:** Ms. Heather Anderson, Ms. Linda Ashcraft, Ms. Stephanie Atigh, Mr. Ricardo Beacon, Mr. Michael Bergeisen, Mr. Dennis Blanchard; Ms. Kari Buis, Ms. Tina Carroll, Ms. Jeanne Caughell, Ms. Roma Cheadle, Ms. Patricia Clemons, Ms. Mandy Covey, Ms. Kim Davis, Ms. Charlene Depner, Ms. Sherri Eng, Ms. Audrey Evje, Ms. Merilee Fielding, Mr. Michael A. Fischer, Ms. Patty Fitzsimmons, Mr. Glenn Fong, Ms. Linda Foster-Hall, Ms. Sheila Gonzalez, Ms. Pat Haggerty, Ms. Christine M. Hansen, Mr. Jim Hill, Mr. Burt Hirschfeld, Ms. Lynn Holton, Ms. Camilla Kieliger, Ms. AhMoi Kim, Ms. Linda Katz, Ms. Lynne Mayo, Ms. Carolyn McGovern, Ms. Leslie Miessner, Mr. Lee Morhar, Mr. Jose Manuel Munoz, Ms. Diane Nunn, Mr. Ronald G. Overholt, Ms. Christine Patton, Ms. Romunda Price, Mr. Nicholas Raby, Ms. Mary Roberts, Mr. Michael M. Roddy, Ms. Marlene Smith, Ms. Sonya Smith, Ms. Karen Sundermier, Ms. Pat Sweeten, Ms. Marcia Taylor, Ms. Karen Thorson, Mr. Tony Wernert, Mr. Lee Willoughby, Ms. Leah Wilson, Mr. Christopher Wu, and Ms. Pat Yerian; **media representative:** Mr. Philip Carrizosa, *San Francisco Daily Journal*.

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 June 23, 2004, that was sent to members in advance of the meeting.)

Approval of Minutes of April 23, 2004

The council approved the minutes of the April 23, 2004, meeting.

Judicial Council Committee Presentations *[informational]*

Executive and Planning Committee

Justice Richard D. Huffman, chair of the Executive and Planning Committee, reported on the committee's activities since the April council meeting. The committee had met six times in that period.

On May 17, the committee met by conference call to discuss the recently released report of the Pew Commission on Children in Foster Care. Acting on behalf of the council, the committee commended the Pew Commission for its report and approved its recommendations. The entire council was to consider a formal resolution concerning the Pew Commission report at the business meeting on June 23.

On June 3, the committee met in San Francisco to review nominations and develop recommendations for the Chief Justice regarding appointments to the Judicial Council. At that meeting the committee also reviewed and approved the work plan submitted by the Governing Committee of the Center for Judicial Education and Research. Also on June 3, the committee began reviewing materials proposed for the June 23 council meeting agenda. It became clear that many of the important budget reports could not be prepared for a meaningful discussion before the June 23 meeting, and the committee recommended that the council set an additional meeting in July to discuss those items. [Subsequently, a council meeting was set for July 7.]

On June 8, the committee met to further develop the agenda for the June 23 meeting. The committee also acted on behalf of the council to approve a recommendation by the Office of the General Counsel that the council file an amicus curiae brief in a case involving the council's ethics standards for arbitrators.

On June 10, the committee continued its review of candidates for membership on the Judicial Council and its development of recommendations for the Chief Justice. The nominations schedule was adjusted to enable the Chief Justice to appoint the new members before the planning meetings. This would allow the new members to participate in the planning meetings, enhancing the continuity of leadership on the council.

On June 15, the committee acted on behalf of the council to approve a modification to the Five-Year Trial Court Capital Outlay Prioritization Plan, which the council had adopted on February 27, 2004. The modification was the addition of a filter to the capital outlay prioritization procedure.

On June 22, the committee met in San Francisco with Office of the General Counsel staff and considered a request to file an amicus curiae brief on a fees issue in a superior court. The committee provided direction on that matter.

Also on June 22, the committee reviewed trial court budget reports that had been prepared for the July 7 council meeting. Justice Huffman commended AOC Finance Division staff for their work and their communication with a broad range of judicial branch constituents in the preparation of the reports. The materials were to be reviewed further in early July in preparation for the July 7 council meeting.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported on the committee's activities since the April council meeting. Justice Baxter noted that he and other court leaders had participated in the 150th anniversary of the Mariposa Courthouse, which was an important celebration.

PCLC had met three times since the April council meeting and had taken positions on seven bills relating to civil and small claims, criminal procedure, family law, probate and traffic law. At the second and third meetings, at which PCLC was joined by the chairs of the other internal council committees, the committee approved two proposals for council-sponsored legislation. The first clarifies how utility costs would be calculated in a county facility payment. The second proposal would provide for relief when the incorrect civil filing fee is paid.

The other five Judicial Council-sponsored bills deal with enhanced collections, dual status in juvenile court, civil procedure, court operations, and the architecture revolving fund. Those bills are all moving through the necessary policy and fiscal committees in the Legislature. The 2004 legislative status chart, which will provide background for new members, is available on the public California Courts Web site.

PCLC, in its liaison function, and the Office of Governmental Affairs staff have set up a series of meetings in the chambers of the Chief Justice with groups that share interests in common with the judicial branch. Meetings have been scheduled with representatives of the California District Attorneys Association and the Consumer Attorneys of California. In the future, meetings will be held with representatives of the State Bar of California, California State Association of Counties, civil defense lawyers, criminal defense lawyers, sheriffs, and others. PCLC will continue to inform council members about these meetings.

Justice Baxter requested that the Chief Justice comment on some recent meetings in Sacramento. The Chief Justice noted a productive meeting with the sheriff of Los Angeles County concerning mutually beneficial solutions to problems caused by security reductions and unstable court funding in general. The Chief Justice also had met with

Senator Martha Escutia, the chair of the Senate Judiciary Committee, to discuss numerous issues of importance to the judicial branch.

Rules and Projects Committee

Justice Norman L. Epstein, chair of the Rules and Projects Committee (RUPRO), reported on the committee's activities since the April council meeting. The committee had met four times in that period.

On May 4, RUPRO authorized public circulation of a proposed amendment to rule 6.51 on the Court Interpreters Advisory Panel. RUPRO reviewed that proposal again on June 11, after public comment, and recommends that the council adopt it.

On June 2, RUPRO reviewed proposed new and amended rules on court facilities governance. On June 11, RUPRO reviewed the proposal again to ensure that the report fully described the functioning of the interim bodies under the new governance procedure. RUPRO recommends that the council adopt the proposal.

Immediately before today's council meeting, RUPRO met in person to review the proposal to revoke form FL-102, *Confidential Declaration of Social Security Numbers*. RUPRO recommends that the council revoke the form as proposed. The committee will consider, on an expedited basis, a new form that conforms to the recent legislation on this matter.

In the spring 2004 cycle, approximately 40 rule and form proposals were circulated for public comment until June 4. In the coming months, those proposals, with comments, will go back before the respective advisory committees for further review. They will be presented to the council at the October 2004 rules meeting.

The committee has two meetings scheduled in July.

CONSENT AGENDA

Item 1 Travel Expense Reimbursement Policies and Procedures for Trial Court Judges and Employees

AOC staff recommends that the council adopt the annual trial court travel expense policies and procedures, as required by Government Code section 69505.

Council action

The Judicial Council, effective July 1, 2004, adopted the revised policies, schedules, and procedures for trial court business-related travel expenses contained in the *Trial*

Court Financial Policies and Procedures Manual in policy section AOC FIN 8.03, Travel Expense Reimbursement for Trial Court Judges and Employees.

Item 2 Family Law: *Confidential Declaration of Social Security Numbers* (revoke form FL-102)

Assembly Bill 782 (Kehoe) was chaptered as urgency legislation on June 7, 2004. It repealed Family Code section 2024.5, which required the Judicial Council to develop a form to be filed with any petition or first responsive pleading in a dissolution, legal separation, or nullity action that would list the social security numbers of the petitioner, the respondent, and any minor child of the parties. Form FL-102, *Confidential Declaration of Social Security Numbers (Family Law)*, which was designed to meet that requirement and was adopted by the Judicial Council to go into effect July 1, 2004, should now be revoked.

Council action

The Judicial Council, effective June 23, 2004, revoked form FL-102, *Confidential Declaration of Social Security Numbers (Family Law)*, because of the recent repeal of the legislation requiring the form.

DISCUSSION AGENDA

Item 3 Resolution Commending the Pew Commission on Children in Foster Care

Ms. Diane Nunn presented this item, with participation by Ms. Audrey Evje and Mr. Christopher Wu.

AOC staff recommends that the council adopt a resolution in support of the report of the Pew Commission on Children in Foster Care. California has more than 100,000 children in foster care, approximately one-fifth of the nation's foster children. A formal resolution by the council may help to implement the commission's recommendations while furthering the council's operational plan. (A letter was received regarding the Pew Commission report and was distributed as a handout at the meeting; it is archived in the Judicial Administration Library of the Administrative Office of the Courts with the binder of Reports and Recommendations dated June 23, 2004, following the reports for agenda item 3.)

Council action

The Judicial Council adopted a resolution recognizing the accomplishments of the Pew Commission on Children in Foster Care and urging Congress to act on the commission's recommendations.

Item 4 Court-Appointed Counsel: Caseload Standards, Service Delivery Models, and Contract Administration

Ms. Diane Nunn, Ms. Leah Wilson, and Ms. Marea Beeman, a partner of the Spangenberg Group, presented this item with participation by Mr. Lee Morhar.

At the direction of the Judicial Council, the AOC undertook several initiatives related to the goals of improving the quality of court-appointed counsel in juvenile dependency proceedings and maximizing the resources available for those services. These efforts included: Dependency Counsel Caseload Study in collaboration with the American Humane Association; Reimbursement Program Funding for the Trial Courts; and a Service Delivery Model Analysis conducted in collaboration with the Spangenberg Group. Staff recommends that the council direct staff, through the Dependency Representation, Administration, Funding, and Training (DRAFT) program, to begin phased-in implementation of dependency counsel caseload standards and to assess the efficacy of statewide trial-level appointed dependency counsel administration. Staff will report back to the Judicial Council with first-year DRAFT program findings. (Several letters were received regarding the report on Court-Appointed Counsel. Copies of the letters were distributed as handouts at the meeting; they are archived in the Judicial Administration Library of the Administrative Office of the Courts with the binder of Reports and Recommendations dated June 23, 2004, following the reports for agenda item 4.)

Council action

The Judicial Council:

1. Received the reports on caseload standards and service delivery models for trial-level court-appointed counsel prepared by the American Humane Association and the Spangenberg Group;
2. Directed staff to begin a phased-in implementation of these caseload standards on a pilot basis as part of the DRAFT program; and
3. Directed staff to pursue growth funding for the court-appointed counsel program for fiscal year 2005–2006.
4. Directed staff to respond to the issues and concerns raised in letters submitted regarding the DRAFT program.
5. Directed the DRAFT Pilot Program Implementation Committee to carefully consider the issues and concerns raised in letters of comment on the DRAFT program.

Justice Marvin R. Baxter abstained from voting on this item.

Item 5 Appellate and Trial Court Facilities Governance Rules (amend rule 6.150 and adopt rules 6.15, 6.60,* and 6.180–6.183)

Mr. Michael A. Fischer and Ms. Kim Davis presented this item.

Staff recommends the adoption of the facilities governance rules to establish a system for decision making, operation, capital improvement, and construction of appellate and trial court facilities. The rules would:

1. Set out the respective roles of the Judicial Council, the appellate and trial courts, and the Administrative Office of the Courts;
2. Establish a temporary internal council committee to review matters related to facilities before they are submitted to the council; and
3. Establish an interim task force to advise the council and the Administrative Office of the Courts on facilities issues.

These rules would implement the Trial Court Facilities Act of 2002 and related laws concerning appellate court facilities.

Council action

The Judicial Council, effective July 1, 2004:

1. Amended rule 6.150; and
2. Adopted rules 6.15, 6.60,* and 6.180–6.183.

The rules apportion responsibility and establish a system for governance and operation of appellate and trial court facilities under recently adopted legislation.

Item 6 Court Interpreters Advisory Panel (amend Cal. Rules of Court, rule 6.51)

Mr. Ricardo Beacon presented this item, with participation by Mr. Jose Manuel Munoz and Ms. Karen Sundermier.

The Executive and Planning Committee recommends amendment of the Court Interpreters Advisory Panel rule to focus the responsibilities of the panel and change the panel's membership. This rule would distinguish the panel's duty to advise the council on policy issues from the employment and labor relations processes established by the Trial Court Interpreter Employment and Labor Relations Act, and it would establish new panel membership that reflects the current stakeholders in a manner consistent with the act.

* Rule 6.60 was incorrectly numbered as rule 6.58 in the report and recommendations submitted to the council on June 23, 2004. It has been renumbered properly as rule 6.60. The properly numbered rule is attached to these minutes.

This rule also would reduce panel membership to 11 members, consistent with recent council actions to reduce the size and foster the efficiency of its advisory committees.

Council action

The Judicial Council, effective October 1, 2004, amended rule 6.51 to:

1. Distinguish the duty of the Court Interpreters Advisory Panel (CIAP) to advise the Judicial Council on interpreter policy and program issues from the employment and labor relations processes established by the act, with which the panel is not involved; and
2. Reduce the size of the panel from 11 to 17 and establish CIAP membership that represents the current stakeholders in a manner consistent with the act.

Mr. David Pasternak voted in opposition to this item.

INFORMATIONAL ITEMS

Circulating Orders

No circulating orders were approved since the last business meeting.

Appointment Orders

Copies of appointment orders are for information only; no action was necessary.

There being no further public business, the meeting was adjourned at 4:20 p.m.

Respectfully submitted,

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