JUDICIAL COUNCIL MEETING *Revised 12/12/02*
Administrative Office of the Courts
San Francisco, California
December 13, 2002
8:30 a.m.–1:05 p.m.

AGENDA

8:30–8:45 a.m. **Public Comment Related to Trial Court Budget Issues**
[Subject to requests]

8:45–8:50 a.m. **Approval of Minutes of August 30, 2002**
[Minutes Tab]

8:50–9:10 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
Hon. Gail A. Andler, Chair
[Council Committee Reports Tab]

Judicial Council Court Visit Report
(No court visit presentations will be made)

Consent Agenda (Tabs 1A–J[1], 2–7)

(If you wish to request that any item be moved from the Consent Agenda to the Discussion Agenda, please notify Dennis Blanchard at (415) 865–7455 at least 48 hours before the meeting.)

ITEM 1 **JUDICIAL COUNCIL – SPONSORED LEGISLATION**

Item A **Family and Juvenile Law Clean-up (Fam. Code, § 7121(b) and Welf. & Inst. Code, § 355(c)(1)(C)) (Action Required)**

Staff: Ms. Tracy Kenny, Office of Governmental Affairs

The Policy Coordination and Liaison Committee recommends sponsoring legislation to amend family and juvenile-related code sections to make them consistent with other recent statutory changes.

[1] NOTE: Tab 1I was not used

Item B **Juvenile Law: Juvenile Court Restraining Order Procedures (Welf. & Inst. Code, §§ 213.5(b)(1) and § 213.51) (Action Required)**

Staff: Ms. Tracy Kenny, Office of Governmental Affairs

The Policy Coordination and Liaison Committee recommends sponsoring legislation to enhance the court's ability to issue protective orders in juvenile delinquency matters, and ease the requirements for service in juvenile dependency matters to make these provisions consistent with requirements in analogous Family and Welfare and Institutions Code sections.

Currently, procedures pertaining to issuance and service of restraining orders in different contexts vary. As a result, judicial discretion to protect certain individuals is unnecessarily limited, and service of process for specific orders is overly burdensome on the party seeking the order.

Item C **Delete Remaining Obsolete References to Municipal Courts in Venue Provisions (Business and Professions Code, Civil Code, Code of Civil Procedure, Education Code, Fish and Game Code, Harbors and Navigation Code, Health and Safety Code, Labor Code, Penal Code, Public Resources Code, and Water Code) (Action Required)**

Staff: Mr. Dan Pone, Office of Governmental Affairs
Ms. Janet Grove, Office of the General Counsel

The Policy Coordination and Liaison Committee recommends sponsoring legislation to delete obsolete references to municipal courts in specified venue provisions. The amendments generally would designate venue on a countywide basis for all cases to which those statutes apply. A few sections have special provisions for cases involving acts on bodies of water or in "districts" that extend to multiple counties or only part of a county.

Item D **Unlawful Detainer: References to Municipal Courts in Restriction on Access to Records (Code Civ. Proc., § 1161.2(e)) (Action Required)**

Staff: Mr. Dan Pone, Office of Governmental Affairs
Ms. Janet Grove, Office of the General Counsel

The Policy Coordination and Liaison Committee recommends sponsoring legislation to delete obsolete references to municipal courts and municipal court judicial districts. This proposed amendment revises the language of the statute for consistency with trial court unification. It would make no substantive change to current law, which already provides for opting out of the restriction on a countywide basis.

Item E **Local Jury Lists (Code Civ. Proc., § 198.5) (Action Required)**

Staff: Mr. Dan Pone, Office of Governmental Affairs
Ms. Janet Grove, Office of the General Counsel

The Policy Coordination and Liaison Committee recommends sponsoring legislation to delete a new requirement that each prospective juror be given an "opportunity to elect to serve on a jury with respect to a trial held anywhere in the county." Committee members were concerned that the new provision could be interpreted to permit potential jurors to arbitrarily select the locations where they would serve as jurors. Additionally, they were concerned that it would be difficult to administer because it would require multiple lists, some for people on "local" juries and others for people who served countywide.

Item F **Small Claims: Technical Amendments to Definitions (Code Civ. Proc., § 116.130) (Action Required)**

Staff: Mr. Dan Pone, Office of Governmental Affairs
Ms. Cara Vonk, Office of the General Counsel

The Policy Coordination and Liaison Committee recommends sponsoring legislation to make technical amendments to small claims definitions related to parties and declarations.

Item G **Witness Fees for Trial Court Employees (Govt. Code, §§ 68097, 68097.1, and 68097.2) (Action Required)**

Staff: Mr. Dan Pone, Office of Governmental Affairs
Mr. Patrick O'Donnell, Office of the General Counsel

The Policy Coordination and Liaison Committee recommends sponsoring legislation to clarify that the trial courts are entitled to be reimbursed for the full costs that they incur if a trial court employee is required to testify as a witness as a result of a subpoena.

Item H **Guardian Ad Litem in Small Claims Actions (Code Civ. Proc., §§ 116.410, 116.530) (Action Required)**

Staff: Mr. Dan Pone, Office of Governmental Affairs
Ms. Cara Vonk, Office of the General Counsel

The Policy Coordination and Liaison Committee recommends sponsoring legislation to 1) provide that an attorney may not be appointed a guardian ad litem in a small claims court action unless he or she is an immediate family member, guardian, or conservator of a minor or incompetent party as defined, and that the appointment be made in the minutes of the action and not later than the calling of the case for trial; and 2) expand the list of limited circumstances in which an attorney may appear in small claims court to include an attorney who is an immediate family member, guardian, or conservator appearing on behalf of a minor or an incompetent person.

Item J **Alternative Dispute Resolution—Judicial Arbitration (Code Civ. Proc., §§ 1141.10, 1141.11, 1141.12, 1141.16, 1141.18, 1141.24, and 1141.29) (Action Required)**

Staff: Mr. Dan Pone, Office of Governmental Affairs
Ms. Heather Anderson, Office of the General Counsel

The Policy Coordination and Liaison Committee recommends sponsoring legislation to amend the judicial arbitration statutes to: (1) delete outdated language; (2) reflect current trial court case management practices; (3) clarify and simplify the statutory language; and (4) allow the court to set an arbitration hearing earlier than 210 days after the filing of the complaint where the parties have stipulated to such an earlier hearing or where the parties have stipulated or the court has ordered that discovery will remain open after the arbitration hearing.

Item 2 **Reimbursement of Funding for Extraordinary Costs in a Homicide Case (Action Required)**

Staff: Mr. Stephen Nash, Finance

AOC staff recommends approval of funding for a one-time reimbursement to the Superior Court of San Luis Obispo County for extraordinary expenses incurred as a result of a change of venue for a high profile homicide death penalty case that was heard in Monterey County.

Item 3 **Additional Special Fund Allocations for Fiscal Year 2002-2003) (Action Required)**

Staff: Mr. Stephen Nash, Finance

AOC staff recommends that the council approve proposed additional allocations from the Judicial Administration Efficiency and Modernization Fund (Modernization Fund), and the Trial Court Improvement Fund (TCIF) for statewide projects to benefit trial court operations and administration. One project from the Modernization Fund totals $65,000. One project and a program set aside from the TCIF total $1,498,830. An additional item, involving no increase in dollars, is the revision of the scope of a TCIF allocation previously approved by the council.

Item 4 **Juvenile Court Forms: Approval of Translation Policy (Action Required)**

Staff: Ms. Jennifer Walter
Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends that the council approve a policy to prioritize certain juvenile law forms for translation into targeted languages without returning to the council for adoption of each translated form.

Item 5 **Conflict-of-Interest Code for the Administrative Office of the Courts (Action Required)**

Staff: Mr. Mark Jacobson, Office of the General Counsel

AOC staff recommends that the Judicial Council adopt an amended conflict of interest code for the Administrative Office of the Courts that will reflect the addition of new job classifications over the past year.

Item 6

2003 Uniform Bail and Penalty Schedules (revise Schedules) (Action Required)

Staff: Mr. Courtney Tucker, Office of the General Counsel

The Traffic Advisory Committee recommends revisions to the Uniform Bail and Penalty Schedules to achieve conformance with recent legislation and with statutory requirements.

Item 7

Appellate Rules: Technical Amendments to rules 35 and 187.5 to Permit Use of CD-ROMs (amend Cal. Rules of Court, rules 35 and 187.5) (Action Required)

Staff: Ms. Heather Anderson, Office of the General Counsel

The Appellate Advisory Committee recommends amending rules to permit the use of CD-ROM technology..

Discussion Agenda (Tabs 8–14, 15A–B, 16)

Item 8
9:10–9:20 a.m.

Judicial Council Distinguished Service Awards for 2002 (Action Required)

The chairs of the council's internal committees recommend approval of the winners of the 2002 Distinguished Service Awards for significant and positive contributions to court administration in California.

Presentation (5 minutes)
Speaker: Hon. Marvin R. Baxter
Associate Justice of the Supreme Court

Discussion/Council Action (5 minutes)

Item 9
9:20–9:35 a.m.

Ralph N. Kleps Awards for 2002 (Action Required)

The Ralph N. Kleps Award Committee recommends approval of the winners of the 2002 Ralph N. Kleps Awards to recognize and honor the innovative contributions made by individual courts in California to the administration of justice.

Presentation (5 minutes)
Speakers: Mr. Michael D. Planet
Executive Officer, Superior Court of Ventura County
Ms. Marilyn James
Chief Evaluation and Planning Officer
Superior Court of San Diego County

Discussion/Council Action (10 minutes)

Item 10
9:35–9:45 a.m.

Rule on the Court Security Working Group (adopt Cal. Rules of Court, rule 6.170) (Action Required)

AOC staff recommends adopting a rule to implement Government Code §69927(a)(1) by creating the Court Security Working Group to recommend changes to the court security funding model.

Presentation (5 minutes)
Speakers: Mr. Mike Roddy, Northern/Central Regional Office
Discussion/Council Action (5 minutes)

Item 11
9:45–10:05 a.m.

Subordinate Judicial Officers: Practice of law (Action Required)

12/12 Pulled from agenda

~~AOC staff recommends that the council adopt an interim rule regarding the practice of law by subordinate judicial officers. The rule will permit courts to continue their existing practices while this issue is reviewed by the Supreme Court Advisory Committee on the Code Judicial Ethics.~~

~~*Presentation (10 minutes)*~~
~~Speakers:~~ ~~Ms. Melissa Johnson, Office of the General Counsel~~
~~Mr. Frederick Miller, Executive Office Programs~~
~~Mr. Sonya Smith, Executive Office Programs~~
~~*Discussion/Council Action (10 minutes)*~~

Item 12
10:05–10:15 a.m.

Service of Summons by Publication (Code Civ. Proc., § 415.50(b)) (Action Required)

The Civil and Small Claims Advisory Committee recommends sponsoring legislation to eliminate the limitation that publication of summons must be "published in this state."

Presentation (5 minutes)

Speakers: Mr. Dan Pone, Office of Governmental Affairs
Mr. Patrick O'Donnell, Office of the General Counsel
Discussion/Council Action (5 minutes)

Item 13
10:15–10:40 a.m.

Claims and Lawsuits Against the Judicial Branch (adopt Cal. Rules of Court, rule 6.201; amend Cal. Rules of Court, rules 6.14 and 6.800) (Action Required)

The Litigation Management Committee and the Office of the General Counsel recommend adopting a rule regarding management of all claims and lawsuits affecting the council, the AOC, the courts, and the judicial officers and employee of those entities.

Presentation (10 minutes)
Speakers: Mr. Michael Bergeisen, Office of the General Counsel
Ms. Sue Hansen, Office of the General Counsel
Discussion/Council Action (15 minutes)

10:40–10:55 a.m. **BREAK**

Item 14
10:55–11:35 a.m.

Ethics Standards for Neutral Arbitrators in Contractual Arbitration (amend Division VI of the Appendix) (Action Required)

AOC staff recommends that the ethics standards for neutral arbitrators in contractual arbitration be amended to make them consistent with recently enacted statutes and to address comments received on the standards since their adoption in April 2002.

Presentation (20 minutes)
Speakers: Mr. Michael Bergeisen, Office of the General Counsel
Ms. Heather Anderson, Office of the General Counsel
Discussion/Council Action (20 minutes)

ITEM 15 **JUDICIAL COUNCIL–SPONSORED LEGISLATION**

Item 15A
11:35–12:05 p.m.

Subordinate Judicial Officers: Conversion of Positions to Judgeships (Action Required)

The Policy Coordination and Liaison Committee recommends sponsoring a revised legislative proposal to convert eligible subordinate judicial officer (SJO) positions to judgeships.

Presentation (10 minutes)
Speakers: Ms. Kate Howard, Office Governmental Affairs
Ms. Sonya Smith, Executive Office Programs
Discussion/Council Action (20 minutes)

Item 15B
12:05–12:20 p.m.

Substance Abuse and Crime Prevention Act (Prop. 36): Transfer of Jurisdiction (Action Required)

The Policy Coordination and Liaison Committee recommends sponsoring legislation to provide that if a person is sentenced pursuant to the Substance Abuse and Crime Prevention Act, probation and jurisdiction shall be transferred to the defendant's county of permanent residence at the discretion of the convicting judge.

Presentation (5 minutes)
Speakers: Hon. Darrell Stevens, Superior Court of Butte County
Ms. June Clark, Office Governmental Affairs
Discussion/Council Action (10 minutes)

Item 16
12:20–1:05 p.m.

Update on Fiscal Year 2002–2003 and 2003–2004 Budgets (Action Required)

Mr. Vickrey and Ms. Hansen will make an oral presentation concerning this topic.

Presentation (15 minutes)
Speakers: Mr. William C. Vickrey, Executive Office
Ms. Christine Hansen, Finance
Discussion/Council Action (30 minutes)

Circulating Orders Approved Since Last Business Meeting
[There were no Circulating Order since the last meeting]

Judicial Council Appointment Orders Since Last Business Meeting
[Appointment Order Tab]