JUDICIAL COUNCIL MEETING
Minutes of March 17, 2000, Meeting

The Judicial Council of California meeting began at 1:10 p.m. on Friday, March 17, 2000, at the Administrative Office of the Courts Judicial Council Conference Center 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, Carol A. Corrigan, and Richard D. Huffman; Judges Paul Boland, J. Richard Couzens, Leonard P. Edwards, Donna J. Hitchens, Steven E. Jahr, Ana Maria Luna, Ronald B. Robie, and Ronald L. Taylor; Mr. Michael Case, Mr. John J. Collins, Ms. Pauline W. Gee, and Mr. Sheldon H. Sloan; and **advisory members:** Judge David John Danielsen, Commissioner David L. Haet, Mr. Ron Barrow, Mr. Stephen V. Love, Mr. Frederick Ohlrich, and Mr. Arthur Sims.

Absent: Justice Richard D. Aldrich, Judges James A. Bascue and Melinda A. Johnson, Senator Adam B. Schiff, and Assembly Member Sheila James Kuehl.

Others present included: Mr. William C. Vickrey; Ms. Beth Jay, and Mr. Kent Yeargin; **staff:** Ms. Lesley Allen, Ms. Jessica Fiske Bailey, Mr. Patrick Ballard, Mr. Christopher Belloli, Ms. Deirdre Benedict, Mr. Michael Bergeisen, Ms. Carol Berger, Mr. Roy Blaine, Ms. Joan Callen, Mr. James Carroll, Ms. Tina Carroll, Ms. Deborah Collier-Tucker, Ms. Eunice Collins, Ms. Katrina Coreces, Mr. Blaine Corren, Ms. Lesley Duncan, Ms. Mary Jo Ejercito, Ms. Sharon Ezekiel, Ms. Denise Friday, Mr. Mark Garcia, Mr. Mel Gibson, Ms. Pat Haggerty, Ms. Tina Hansen, Ms. Jacquelyn Harbert, Ms. Kate Harrison, Ms. Lynn Holton, Ms. Kate Howard, Ms. Melissa Johnson, Mr. Dennis Jones, Mr. Shawn Landry, Mr. Ray LeBov, Ms. Katy Locker, Ms. Jane McCrea, Mr. Frederick Miller, Ms. Michele Molotsky, Ms. Vicki Muzny, Ms. Diane Nunn, Mr. Gaidi Nkruma, Mr. Victor Rowley, Mr. Richard Schauffler, Mr. Frank Schultz, Ms. Dale Sipes, Ms. Shelley Stump, Ms. Marcia Taylor, Ms. Karen Thorson, Ms. Elizabeth Vazquez-Avila, Mr. Roger Warrick, Mr. Gary Williams, Ms. Leah Wilson, and Ms. Pat Yerian; **media representatives:** Mr. Paul Elias, *The Recorder;* Ms. Jean Guccione, *The L.A. Daily Journal;* and Mr. Art Ramstein, *California Service Bureau.*

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 March 17, 2000, which was sent to members in advance of the meeting.)

Council Committee Presentations

Executive and Planning Committee
Justice Richard D. Huffman, chair, reported that the Executive and Planning Committee had met twice since the last council meeting.

At its meeting on February 22, the Executive and Planning Committee took a number of actions on behalf of the council. The committee approved the allocation of $950,000

from the Equal Access Fund to the State Bar Legal Services Trust Fund Commission for distribution to legal service providers for programs, conducted jointly with courts, to give legal assistance to pro per litigants (partnership grants).

The Executive and Planning Committee approved the recommendations of a Selection Review Committee to allocate $250,000 available from the Judicial Administration Efficiency and Modernization Fund to assist unified courts to implement partnership grants with legal service providers for court-based self-help centers.

Additionally, the Executive and Planning Committee, on behalf of the council, approved the Family and Juvenile Law Advisory Committee's recommendations for reallocation of child support commissioners' funding for 1999–2000 and 2000–2001. The Executive and Planning Committee directed that staff monitor the funding allocation for commissioners and facilitators; recommend reallocations as necessary to meet the needs of any courts experiencing changes in the caseload; and develop a proposal, for the committee's review, to revise the reallocation process to enable the funds to be distributed to courts earlier in the fiscal year.

The committee also approved two requests for extensions under Penal Code section 1202.4. It granted extensions to July 1, 2000, to the Superior Courts of Santa Clara County and Placer County.

The committee was asked to review a proposal to sponsor legislation, developed by council member Senator Adam Schiff, regarding the appointment of counsel in juvenile dependency proceedings. The Executive and Planning Committee approved recommending that the council sponsor legislation to create a presumption that children in dependency court proceedings would benefit from the appointment of counsel, provided that the bill (1) includes adequate funding for its requirements, either as an appropriation or through the budget process; (2) is amended to achieve compliance with federal law regarding appointment of an independent guardian ad litem for each dependent child; and (3) specifies that the Judicial Council develop caseload standards for dependency counsel.

The committee also reviewed the agenda for yesterday's planning workshop and developed the agenda for today's council meeting.

In its second meeting, the Executive and Planning Committee reviewed a memo from staff on nominations to the Trial Court Budget Commission to fill a vacancy created by the elevation of a commission member to the appellate court, and forwarded recommendations to the Chief Justice for his selection and appointment of a replacement.

Policy Coordination and Liaison Committee
Judge Paul Boland, vice-chair, reported that the Policy Coordination and Liaison Committee had met once by conference call since the last council meeting.

At its February 24 meeting, the committee discussed the legislative proposal by Senator Schiff that was referred to by Justice Huffman. The committee approved council sponsorship of the proposal subject to certain amendments.

At that same meeting, the committee voted to support a legislative proposal, also by Senator Schiff, that would restore the ability of county welfare service agencies to gain access to CLETS databases for criminal background checks on relatives whose homes are being considered by the juvenile dependency courts for emergency placement of children removed from home because of allegations of child abuse or neglect.

Additionally, the committee supported, in concept, a proposal to establish the Office of Tribal Justice Support, to be administered by the Administrative Office of the Courts (AOC). Under this proposal, the AOC would provide support services to tribes in a manner similar to its provision of services to trial courts.

Judge Boland reported that the Legislature had begun the budget hearing process. On March 2 the Senate Budget Subcommittee approved nearly all of the Governor's judicial branch and trial court budget proposals. Held open for further discussion were proposals concerning negotiated salary increases for trial court employees; increases for juror compensation; and a branch equipment replacement plan. Other notable actions include approval of the Governor's proposed increase in salaries for judicial officers and approval of an augmentation to increase court reporter transcript fees. The Assembly Budget Subcommittee will hold its first hearing on the Judicial Council's budget on March 29.

Judge Boland reminded council members that the Judicial Council's sixth annual Judicial-Legislative-Executive Forum will take place following Chief Justice George's State of the Judiciary address to the Legislature on March 28, 2000. The forum is a council-hosted informational event for legislators, the Governor, and executive branch officials.

Rules and Projects Committee
Judge Steven E. Jahr, chair, reported that the Rules and Projects Committee had met three times since the last Judicial Council meeting.

On February 15 the committee reviewed a proposal that would give the Attorney General's office the right to file amicus briefs in the appellate courts under certain circumstances, and approved it to circulate for comment out of the normal cycle. That proposal will go to the full council in April.

On February 22 the committee reviewed and supported proposed legislation on the appointment of counsel in dependency cases referred to by Justice Huffman and Judge Boland.

Judge Jahr noted that on March 14 the committee reviewed 48 proposals for changes in rules and forms and approved most of them to circulate for comment. A few items that

present noncontroversial technical changes will be coming to the council for approval at its April meeting without circulating for comment.

Judge Jahr stated that the council will be asked to approve one proposal by circulating order. That proposal is for approval of new forms for obtaining protective orders in cases of elder and dependent abuse. Because there is a great need for these forms in response to legislation that went into effect January 1, 2000, the Rules and Projects Committee is recommending that they be approved immediately; at the same time, they will be circulated for comment so that if any changes are necessary, those can be put into effect next year.

Special Comment
Justice Carol A. Corrigan reported that a team of council members had visited the Superior Court of Santa Clara County recently and had found that court facilities are a major concern in the county. The team observed that many court facilities are rented and in buildings not designed for courthouses. For example, the family law courthouse is in a small former bank building. Council members were impressed with the tremendous work being done in the county under difficult circumstances.

Approval of the Minutes of the January 26, 2000, Judicial Council Meeting

Council action:

Justice Huffman moved that the Judicial Council approve the minutes of the January 26, 2000, meeting of the Judicial Council.

The motion passed.

Item 1 Allocation of $12.4 Million in Deficiency Funding for Negotiated Salary Increases and Pay Equity Adjustments

Ms. Vicki Muzny, staff to the Trial Court Budget Commission, presented the report. She stated that in November 1999, the Administrative Office of the Courts submitted a $12.4 million request in deficiency funding to the Department of Finance. The request was approved January 7, 2000. The approved request will be part of the deficiency bill that will go forward to the Legislature.

Ms. Muzny noted that it is anticipated that the bill will be approved in mid- to late June, with the appropriations distributed in July 2000.

Council action:

Justice Huffman moved that the Judicial Council approve the allocation of $12.4 million in deficiency funding for fiscal year 1998–1999 negotiated salary increases and pay equity adjustments for court staff and court security staff, as indicated in column D of the attached spreadsheet.

The motion passed.

Item 2 Trial Court Budget Development Process

Ms. Kate Howard, manager of the Office of Governmental Affairs, presented the report. She said that a working group consisting of staff from throughout the agency was formed in January 2000 in response to a council directive to review and recommend changes to the budget development process.

Goals of changing the process were to simplify it, enhance branch credibility in budget discussions, link the budget development process to strategic planning, meet Judicial Council and statutory requirements, and provide appropriate accountability.

Ms. Howard noted that the working group determined that it was essential to establish a court budget development process including reorganizing baseline budgets according to a program-based budget structure. The budget should group the activities of an organization on the basis of common objectives. Additionally, a court budget process should implement workload standards and outcome measures, and make requests for new funding that are consistent with strategic planning.

In the state budget development process, the budget provides accountability to the public, shows the allocation of money to meet stated goals, serves as a planning tool, and is a control document.

The state process delineates three types of funding: baseline, workload increases, and funding for new initiatives. Baseline funding is the prior year's funding plus positive adjustments to fund known costs minus one-time funds. Workload increases are based on staffing standards and drive growth-based budget increases. Funding for new initiatives is separate from workload increases. Outcome measures (such as a shorter waiting time or better relations with the community) are critical, as is appropriate accountability to demonstrate that funding was used for the purpose requested.

Ms. Howard stated that the working group recommended a program budget model that includes the following programs:

- Adjudication
- Court Services
- Administration

Ms. Howard said that the recommended flow of business would be as follows.

1. The Judicial Council, with the advice of the Trial Court Budget Commission (TCBC), sets fiscal-year funding priorities based on the council's strategic plan, trial court input, staff recommendations, and external factors (such as the economy and legislation).
2. The priorities are communicated to trial courts via annual budget packages.
3. Trial courts submit annual budget requests that each include a baseline report, a workload report, and new initiatives based on the council's strategic plan.
4. The AOC staff analyzes and consolidates budget requests. Requests requiring specialized review (such as technology) are forwarded to appropriate staff and committees for review and recommendations.
5. The TCBC reviews policy issues and recommends adoption of a consolidated budget request.
6. The TCBC recommends potential areas for new initiatives for next year.
7. The Judicial Council considers and approves submission of a statewide budget request.
8. The Department of Finance, Legislative Analyst Office, the Legislature, and the Governor review and enact budget.
9. The council approves modifications to the appropriation based on the enacted budget.
10. The AOC staff distributes funds to courts in accordance with their original requests.

Ms. Howard emphasized the key benefits of the proposed process. It is an established process that is understood by other branches. Workload-based growth is handled differently from new initiatives. Finally, it permits centralized budget authority (in the TCBC and Judicial Council) and decentralized fiscal management.

Ms. Howard referred council members to the working group's recommendations in Tab 2 of the binder of reports and to its recommendations for the March 17, 2000, council meeting.

Judge Edwards asked if there was a timeline for implementing the new process. Justice Huffman stated that the trial court budget development packages would be sent to courts within the next few weeks. Staff will work with the Legislative Analyst's Office, Department of Finance, and Legislature to develop workload standards. He suggested that the council receive an update at its April meeting.

Council action:

Judge J. Richard Couzens moved that the Judicial Council:

1. Approve in concept the proposed trial court budget model and process, which are consistent with California's program-based budget process and reflect the following.
   a. A trial court program structure with three major programs:
      - Adjudication Program — encompassing judicial and courtroom operations;
      - Court Services Program — encompassing supportive services that assist in the resolution of cases, and elements such as jury and interpreter services and courthouse security; and

- Court Administration Program — encompassing the administrative operations of the courts.

b. Decentralized fiscal management at the local level, and centralized budget authority within the Judicial Council.
c. Individual budget requests submitted to the Administrative Office of the Courts (AOC) by each countywide court system, which include:
   - Baseline budget reflecting the cost of continuing the current level of services provided by the court;
   - Funding adjustments based upon established workload indicators as applied services provided by the court; and
   - Proposals that introduce new program and policy initiatives or propose innovative strategies in fulfilling the mission of the California judiciary.
d. Review and analysis of individual court budget requests by AOC program and fiscal staff to ascertain compliance with policies and procedures.
e. Internal fiscal operating policies that enhance the accountability of the courts in their use of public resources to fulfill the mission of the judiciary.
f. External policies and procedures for audit and fiscal controls that:
   - Strengthen the statewide accountability of the Judicial Council for public resources entrusted to it;
   - Enable the Judicial Council to strategically plan for the immediate and long-range future; and
   - Support the courts in their efforts to manage effectively and plan strategically.

2. Adopt an annual budget development cycle that:
   a. coincides with the strategic planning cycle approved in concept by the council at its 2000 Planning Workshop; and
   b. draws upon the strategic objectives established by the council at its annual planning workshops to identify fiscal priorities each year.
3. Clarify the role of the Trial Court Budget Commission in the new budget process. Key functions of the TCBC might include:
   - Recommending to the Judicial Council annual budget development and allocation guidelines, including policy directions for new initiatives requested by the trial courts; and
   - Ensuring that strategic budget policy recommendations to the Judicial Council are consistent with the council's long-range strategic plan.
4. Direct staff to:
   a. Develop the budget and reporting schedules, accounting and fiscal management procedures, and forms necessary to implement the trial court budget process outlined herein;
   b. Seek input and guidance from the Trial Court Budget Commission, courts, and subject matter experts in implementing the budget process for the trial courts, including:
      - Coordinating annual budget objectives with strategic planning goals,
      - Integrating regional court technology initiatives in the statewide trial court budget request,
      - Developing appropriate workload standards and outcome measures through

which formula-driven budget adjustments may be sought, and
- Fiscal management systems by which the courts can fulfill the expectations of the budget process;

c. In consultation with the Center for Judicial Education and Research (CJER), develop training programs and materials for judges, court administrators, and court fiscal staff to understand and fulfill the requirements of the budget process; and
d. Submit to the Judicial Council recommendations for new—or amendments to existing—statutes, rules of court, or Judicial Council policies that are required to implement this budget process.

5. Accept this report of the working group as a conceptual framework around which the fiscal year 2001–2002 and future statewide trial court budget requests will be developed and submitted to the Governor and Legislature.

The motion passed.

Item 3 Adoption of Strategic Planning Guidelines

Ms. Jacquelyn Harbert, AOC staff, presented the report. She stated that the council at its 2000 Planning Workshop on March 16 considered a conceptual framework and guidelines for the nature and timing of judicial branch strategic planning activities. The guidelines clarify (1) the types of judicial branch planning at the state and local levels, (2) the roles and responsibilities of participants in judicial branch planning processes, and (3) the time frames for conducting judicial branch planning activities. She commented that the guidelines also include the creation of a state-level multiyear operational plan that is intended to link the council's strategic plan to operational objectives. This plan is conceptually analogous to local operational plans developed by trial courts.

Ms. Harbert reported that the council had received its initial report on trial courts' strategic planning efforts during the March 2000 Planning Workshop. Fifty-two counties submitted initial drafts of their countywide strategic plans to the council. The council directed staff to present to the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee a proposal to have trial courts follow a multiyear planning cycle.

Ms. Harbert noted that the council at its planning workshop acknowledged the infrastructure and resource demands placed on the trial courts by the implementation of trial court planning. The council supported the continued provision of training and resources and consideration of the development of a rule of court requiring strategic planning as part of the new trial court budget development process.

Justice Huffman commented that the council enthusiastically supported the local planning process and found the strategic plans submitted by trial courts to be informative and valuable.

Council action:

Justice Huffman moved that the Judicial Council:
1. Approve the multiyear and annual cycles for Judicial Council planning activities;
2. Authorize the Administrative Director of the Courts to implement the multiyear and annual planning cycles for the Judicial Council and to make such technical adjustments as may be required to ensure that planning activities are conducted in a manner that serves the overall interests of the judicial branch;
3. Direct the Administrative Director of the Courts to develop a Judicial Council/AOC operational plan, consistent with the direction provided by the council during the March 2000 planning workshop, and to submit this plan to the council for approval in fall 2000.
4. Approve in concept the multiyear planning cycle for the trial courts and direct the Administrative Director of the Courts to consult with presiding judges, court executives, and other interested and appropriate groups regarding the implementation of the multiyear planning cycle for trial courts.

The motion passed.

Item 4 Midyear Trial Court Financial Report

Mr. Frank Schultz, manager of the Finance Division, presented the report. He stated that the report analyzes income and allocations of the Trial Court Trust Fund, Trial Court Improvement Fund, and Judicial Administration Efficiency and Modernization Fund. Based on Judicial Council allocations to date, the estimated reserve balance for trial court funding is $4.7 million. He noted that this balance assumes full allocation of the remaining funds in the statutorily required 1 percent reserve. The Modernization Fund is expected to have a reserve of $700,000 at the end of the fiscal year.

Mr. Frederick Ohlrich asked whether money from the Trial Court Trust Fund is still being set aside in the event that Kern County unifies. Mr. Vickrey stated that the money was still being held in abeyance pending the result of coordination and unification discussions in Kern County.

Justice Huffman inquired as to the normal uses of unallocated funds from the reserve, currently at $11.6 million. Mr. Vickrey replied that the reserve has been used to fund one-time costs such as underreported costs or omitted allowable expenses. He said that staff and the Trial Court Budget Commission are developing a local reserve policy. The hope is to use the reserve as a match for local reserves.

For information only; no action necessary.

Circulating Order Approved

Circulating Order CO-00-01: SCA 4 Certification of Los Angeles County

For information only; no action necessary.

Appointment Orders

For information only; no action necessary.

The meeting was adjourned at 1:50 p.m.

Respectfully submitted,

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William C. Vickrey
Secretary