JUDICIAL COUNCIL MEETING
Minutes of the August 15, 2008, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:40 a.m. on Friday, August 15, 2008, at the Administrative Office of the Courts (AOC) in San Francisco, California.

Judicial Council members present: Chief Justice Ronald M. George; Justices Brad R. Hill, Richard D. Huffman, and Eileen C. Moore; Judges George J. Abdallah, Jr., Peter Paul Espinoza, Terry B. Friedman, Jamie A. Jacobs-May, Carolyn B. Kuhl, Thomas M. Maddock, Charles W. McCoy, Jr., Dennis E. Murray, and James Michael Welch; Mr. Raymond G. Aragon, Mr. Anthony P. Capozzi, Mr. Thomas V. Girardi, and Mr. William C. Vickrey; advisory members: Judges Ira R. Kaufman and Nancy Wieben Stock; Commissioner Ronald E. Albers, Ms. Deena Fawcett, Mr. Michael D. Planet, Mr. Michael M. Roddy, and Ms. Sharol Strickland.

Absent: Justice Marvin R. Baxter, Senator Ellen M. Corbett, Assembly Member Dave Jones, Judge Barbara J. Miller, and Ms. Barbara J. Parker.

Others present included: Justices Tani Cantil-Sakauye, Ming W. Chin, Judith D. McConnell, Douglas P. Miller, Carlos R. Moreno, and Ronald B. Robie; Judges Raima H. Ballinger, James G. Bertoli, Richard C. Blake, René Auguste Chouteau, Elliot Daum, Lee Smalley Edmon, Susan D. Huguenor, Gary A. Medvigy, William A. MacLaughlin, Gary Nadler, Michael Nash, Knoel L. Owen, Elaine M. Rushing, Winifred Younge Smith, Kenneth K. So, and Arthur A. Wick; Executive Officers Denise Gordon, John Mendes, and Pat Sweeten; Commissioner Lon F. Hurwitz; Ms. Robin Allen, Ms. Jill Duerr Berrick, Mr. Lawrence B. Bolton, Ms. Kathleen Casela, Mr. Michael S. Cunningham, Mr. Robert E. Friend, Ms. Charlotte Huguenor, Ms. Beth Jay, Ms. Megan Lafrenz, Mr. Keith McNamara, Mr. Joel S. Miliband, Ms. Valory F. Mitchell, Ms. Donna C. Myrow, Mr. James N. Penrod, Mr. Anthony Pico, and Ms. Jacqueline Wong; **staff:** Mr. Peter Allen, Ms. Heather Anderson, Ms. Carolynn Bernabe, Mr. Dennis Blanchard, Ms. Dianne Bolotte, Ms. Yelena Bondarenko, Ms. Deborah Brown, Ms. Marcia Caballin, Ms. Ayanna Cage, Ms. Sheila Calabro, Ms. Nicole Caldwell, Mr. Brad Campbell, Mr. Philip Carrizosa, Ms. Tina Carroll, Ms. Vida Castaneda, Ms. Deborah Chase, Ms. Roma Cheadle, Ms. Nicole Claro-Quinn, Ms. Christine Cleary, Ms. Deborah Collier-Tucker, Dr. Diane E. Cowdrey, Mr. Dexter Craig, Mr. Patrick Danna, Ms. Kim Davis, Mr. Douglas Denton, Ms. Charlene Depner, Mr. Kurt Duecker, Ms. Lura Dymond, Ms. Amelia Elgas, Mr. Edward Ellestad, Mr. Robert Emerson, Mr. Ekuike Falorca, Mr. Jonathan Feigenson, Ms. Claudia Fernandes, Mr. Chad Finke, Mr. Michael Fischer, Ms. Sara Fisher, Mr. Ernesto V. Fuentes, Mr. David Glass, Mr. Joe Glavin, Ms. Cynthia Go, Mr. Ruben Gomez, Ms. Marlene Hagman-Smith, Ms. Sue Hansen, Ms. Donna Hershkowitz, Mr. Burt Hirschfeld, Ms. Sidney Hollar, Ms. Lynn Holton, Ms. Bonnie Hough, Ms. Mary Jackson, Mr. Kenneth L. Kann, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Maria Kwan, Ms. Stephanie Leonard, Ms. Althea Lowe-Thomas, Mr. Robert

Lowney, Mr. Dag MacLeod, Ms. Susan McMullan, Mr. James Mensing, Mr. Frederick G. Miller, Mr. Lee Morhar, Mr. Stephen Nash, Mr. Joseph Nguyen, Ms. Diane Nunn, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Kelly Quinn Popejoy, Mr. Alan Price, Ms. Romunda Price, Ms. Susan Reeves, Mr. Christopher Rey, Ms. Jacquie Ring-Salguero, Ms. Mary M. Roberts, Ms. Jessica Sanora, Ms. Robin Seeley, Ms. Lucy Smallsreed, Ms. Nancy E. Spero, Ms. Marcia Taylor, Ms. Linda Theuriet, Mr. Don Will, Mr. Lee Willoughby, Ms. Leah Wilson, Mr. Christopher Wu, Ms. Josely Yangco-Fronda, Ms. Daisy Yee, and ; **media representatives:** Ms. Karen de Sá, *San Jose Mercury News;* Ms. Wendy Harper, KPFA radio; Ms. Dhyanna Levey, *San Francisco Daily Journal;* Ms. Pamela A. MacLean, *National Law Journal;* Ms. Cheryl Miller, *The Recorder;* Ms. Caille Millner, *San Francisco Chronicle;* Ms. Evelyn Neives, *Associated Press;* Mr. Will Reisman, *San Francisco Examiner;* Mr. Tim Ryan, KCBS; and Ms. Margie Samuel, KQED.

Public Comment Related to Trial Court Budget Issues
Chief Justice George noted that although one request to address the council had been received, the request did not pertain to a budget item and, as such, was not granted.

Approval of Minutes
The minutes of the April 25, 2008, business meeting were approved.

Visitors From the Superior Court of Sonoma County
Chief Justice George welcomed the group of visitors from the Superior Court of California, County of Sonoma.

Judicial Council Committee Presentations
Executive and Planning Committee
Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met six times since the April 25, 2008, Judicial Council meeting: in person on May 19 and August 13, 2008, and by teleconference on May 30, June 10, July 23, and August 7, 2008. On three occasions, May 22, August 4, and August 5, 2008, the committee deliberated by e-mail.

At its December 7, 2007, business meeting, the Judicial Council approved a policy delegating to E&P the authority and responsibility for confirming the conversion of subordinate judicial officer (SJO) positions to judgeships. Before adopting that policy, the council had approved 5 SJO conversions on October 26, 2007. Justice Huffman reported that E&P had, through its delegated authority from the council, confirmed the remaining 11 SJO positions available for conversion over the course of the remainder of fiscal year 2007–2008. E&P had confirmed some conversions during this fiscal year on the condition that the Governor sign the Budget Act of 2008–2009, which includes authorization to convert another 16 SJO positions to judgeships. AOC staff distributed to council members a memo that provides an overview of SJO conversion activity during FY 2007–2008. The memo also contains information regarding 10 more SJO conversions

during FY 2008–2009, contingent on the signing of the Budget Act with these conversions authorized. (A copy of the memo is attached to these minutes.)

Justice Huffman reported on the in-person and telephone meetings and the e-mail deliberations since the April 25, 2008, council meeting. The minutes of those E&P meetings can be found in the Committee Reports tab in the Judicial Council binders. The minutes are also linked to the Judicial Council Committee Presentation title on the business meeting agenda which is posted on the California Courts web site at: http://www.courtinfo.ca.gov/jc/meetings.htm

Rules and Projects Committee
Justice Eileen C. Moore, chair, reported that the Rules and Projects Committee (RUPRO) had met three times by telephone since the April 25, 2008, Judicial Council meeting.

RUPRO met on April 29 and July 8 to review a proposal to revise the individual recording and reporting form for judicial education, and it recommended approval of the proposal, which is item 4 on the consent agenda.

On June 16, RUPRO met to review a document intended to help orient future RUPRO members. Throughout the year, RUPRO members and staff compiled a list of questions that had arisen during their meetings, the answers to which required researching various rules, policies, standards, etc. The questions and answers were then combined in a document titled *Frequently Asked Questions and Answers* to serve as a future reference for committee member orientation. Justice Moore commended Ms. Deborah Brown and Ms. Susan McMullan for their extensive assistance while working on the document.

Policy Coordination and Liaison Committee
Judge Charles W. McCoy, Jr., reported that the Policy Coordination and Liaison Committee (PCLC) had met five times since the April 25, 2008, Judicial Council meeting.

The PCLC took positions on 11 pieces of legislation relating to appellate practice, civil law, court reporters, domestic violence, judicial retirement, juvenile dependency, outsourcing of information, and probate fees.

In addition, one proposal and two pieces of legislation were approved for council sponsorship addressing franchise tax board court-ordered debt collections, a court facilities revenue bond, and court interpreters.

Progress has been made on several Judicial Council–sponsored bills. Two court operations bills, Assembly Bill 1826 and Assembly Bill 1949, were signed by the Governor on August 1. Senate Bill 1407, the facilities revenue bond, is awaiting a vote on the assembly floor, and the council's fee waiver bill, Assembly Bill 2448, is back on the assembly floor for a final vote.

Legislators recessed for two weeks in July and on August 4, returned for the final push for a budget agreement and final action on bills before the legislative session concludes on August 31.

Since the last Judicial Council business meeting, 25 members of the Bench-Bar Coalition (BBC) participated in this year's second Day in Sacramento event, and in June, 35 BBC members attended Day in the District visits in legislative district offices throughout the state. Their visits with more than 50 targeted legislators and staff were ideally timed to support action on pending budget items and council-sponsored bills, with special focus on court facilities and the judicial branch budget. Judges and attorneys from all over the state reported that the visits were helpful and productive in advancing key judicial branch priorities.

In October, PCLC will be reviewing proposals for 2009 Judicial Council–sponsored legislation and will make recommendations to the full council in December.

Judicial Council Court Visit Report
Judge Thomas M. Maddock, team leader, and Ms. Jody Patel, Regional Administrative Director, AOC Northern/Central Regional Office, reported on visits to the Superior Courts of El Dorado and Yolo Counties, with the participation of Ms. Josely Yangco-Fronda.

Administrative Director's Report
Mr. Vickrey called the council's attention to the following items:

- The status of SB 1407, the courthouse construction bond authored by Senator Perata, and the efforts of Mr. Curtis Child, director of the Office of Government Affairs, Justices Brad R. Hill and Tani Cantil-Sakauye, and Judges Nancy Wieben Stock, Charles W. McCoy, Jr., and Lee Smalley Edmon toward the success of legislation to provide funding for courthouse construction and maintenance;
- Approval by the Joint Budget Legislative Committee of a performance-based infrastructure that allows the branch to proceed with the replacement of the Long Beach Courthouse;
- The status of the transfer of court facilities: 137 facilities have transferred, with 150 pending in various stages of review. About 70 facilities will be transferred in the next month;
- An update on the progress on the California Court Case Management System; and
- A report on judicial vacancies. Even with the recent appointments, there are still 66 superior court vacancies, and 50 new positions will not be funded until July 1, 2009.

Mr. Vickrey indicated he would be happy to respond to any questions. There being none, his report was concluded.

Chief Justice's Report

Chief Justice Ronald M. George thanked Associate Justice Ronald B. Robie, Court of Appeal, Third Appellate District, for facilitating the orientation during the past two days for the new Judicial Council members who will assume their positions on September 15, 2008. Justice Robie is a former council member and currently the chair of the Governing Committee of the Center for Judicial Education and Research (CJER), chair of the Task Force on Judicial Selection and Retention, which is part of the branch's Commission for Impartial Courts, a member of that commission's steering committee, and a member of the Appellate Advisory Committee.

The Chief Justice welcomed each of the incoming council members who were present at this meeting and acknowledged the passing of Paul Li, the first director of CJER.

He recognized the Superior Courts of Butte, Glenn, and Tehama Counties, which received the 2008 Justice Achievement Award for their Self-Help Assistance and Referral Program (SHARP), presented by the National Association for Court Management (NACM). SHARP was recognized by the council in 2004–2005 with a Kleps Award. Created in 1991 in honor of Ralph N. Kleps, the first Administrative Director of the Courts in California, the Kleps Award recognizes and celebrates the valuable innovations developed by courts around the state.

He also acknowledged that Governor Arnold Schwarzenegger strengthened the rights of 80,000 children in foster care by signing on July 21, 2008, a law that ensures greater opportunities for youths to be present at court hearings where significant decisions are made concerning their lives, such as where they will live, with whom, and whether and when they can see their parents.

The Chief Justice then reported on the activities in which he had been involved since the April 25, 2008, meeting, including speaking engagements, liaison meetings with justice system partners, and meetings of the State-Federal Judicial Council, the Standing Rules Committee of the Judicial Conference of the United States (on which he is the only state court judge), and the Conference of Chief Justices. The Chief reported on his efforts, along with those of the Administrative Director and the Chief Deputy Director, on the court facilities bond legislation.

CONSENT AGENDA (ITEMS 1–5)

Item 1 Court Facilities Planning: Seismic Safety Policy for Leased Buildings

The AOC recommended adoption of the policy in order to provide adequate assurance of seismic life safety for both employees and the public in buildings in which space is leased for court operations. As the AOC implements its responsibility to acquire leased space needed for new judgeships and associated staff, replacement of existing facilities, and expansion of court facilities, this policy defines the seismic safety requirements for the buildings to be leased. It applies to all new leases entered into by the AOC on behalf of

the court and to all leased court facilities whose responsibility has already transferred to the state under the Trial Court Facilities Act of 2002 (Sen. Bill 1732; Stats. 2002, ch. 1082). The policy supported the mission and policy direction of the Judicial Council in its Long-Range Strategic Plan—Goal III, Modernization of Management and Administration and Goal VI, Branchwide Infrastructure for Service Excellence—by providing safe and secure facilities and improving existing court facilities to allow adequate, suitable space for conducting court business.

Council action
The Judicial Council:
1. Adopted the Seismic Safety Policy for Leased Buildings; and
2. Authorized the Administrative Director of the Courts to approve updates to the policy as needed.

Item 2 Equal Access Fund: Distribution of Funds for IOLTA Formula Grants

The State Bar Legal Services Trust Fund Commission had submitted its annual report on distribution of Equal Access Fund grants. In that report, the commission requested that the Judicial Council approve distribution of $14,850,000 according to the statutory formula set out in the State Budget and reports that it has complied with the guidelines set forth for distribution of those funds. The Budget Act authorizing the Equal Access Fund provides that the Judicial Council must approve the commission's recommendations if the council determines that the awards comply with statutory and other relevant guidelines.

Council action
The Judicial Council voted to follow the recommendation of the State Bar Legal Services Trust Fund Commission and approved the distribution of $14,850,000 in Interest on Lawyers' Trust Accounts (IOLTA) Formula Grants for FY 2008–2009, according to the terms of the State Budget, once that budget is enacted, and approved the commission's determination that the proposed budget of each individual grant complies with statutory and other guidelines.

Item 3 Assembly Bill 1058: Base Allocations for Child Support Commissioner and Family Law Facilitator Program, FY 2008–2009

The Family and Juvenile Law Advisory Committee recommended that the council approve the allocation of non–trial court funding to local courts for the child support commissioner and family law facilitator program. The funds for this program are provided by a cooperative agreement between the California Department of Child Support Services (DCSS) and the Judicial Council. Two-thirds of these funds are federal funds and the remaining one-third are state General Funds (non–trial court funding). The courts are also being offered an option to use local court funds up to an approved amount to draw down federal matching funds.

Council action

The Judicial Council, effective immediately:

1. Approved the Family and Juvenile Law Advisory Committee's recommended revised base allocations for the child support commissioner program for FY 2008–2009, subject to the state Budget Act; and
2. Approved the Family and Juvenile Law Advisory Committee's recommended revised base allocations for the family law facilitator program for FY 2008–2009, subject to the state Budget Act.

Item 4 Judicial Branch Education: Minimum Education Requirements and Expectations—Justices' and Judges' Individual Recording and Reporting Form (amend Cal. Rules of Court, rules 10.461 and 10.462)

The Governing Committee of the Center for Judicial Education and Research (CJER) recommended the amendment of rules 10.461 and 10.462 of the California Rules of Court, effective immediately, to change the current requirement, which states that the form used by individual justices and judges to record and report their judicial education participation must be provided by the Judicial Council, and to allow courts to use other appropriate forms that include all the required information.

The proposed amendments authorize the Chief Justice, administrative presiding justices, and presiding judges to determine what recording and reporting form should be used in their court. They may determine that their court should use the form provided by the Judicial Council but may also have their court use another form that has the required information.

The purposes of the proposed amendments were to enable: (1) individual justices and judges to more effectively record and report their judicial education participation; (2) the Chief Justice, administrative presiding justices, and presiding judges to more effectively facilitate and monitor judicial education participation in their court; and (3) all justices and judges to more easily and effectively demonstrate their compliance with the education requirements and expectations in the rules.

Council action

The Judicial Council, effective immediately, amended California Rules of Court, rules 10.461 and 10.462 to change the current requirement—that the form used by individual justices and judges to record and report their judicial education participation must be one provided by the Judicial Council—to allow courts to use other appropriate forms that include all the required information.

Item 5 Court Interpreters: Testing and Fee Policies

The Court Interpreters Advisory Panel recommended raising the renewal fee for certified and registered court interpreters and modifying the court interpreter test retake policy. The Court Interpreters Program recommended approving the delegation of authority to the Administrative Director of the Courts to administer three operational areas concerning interpreter testing.

Approving these recommendations will increase the annual renewal fee, establish a more coherent and viable court interpreter test retake policy, and delegate to the Administrative Director of the Courts authority over three operational areas. Delegating authority to the Administrative Director provides the AOC greater flexibility to administer three operational aspects of the court interpreter testing program.

Council action

The Judicial Council approved the following policies for immediate action:

1. Raise and equalize the annual renewal fee for certified and registered court interpreters (currently set at $85 and $50, respectively) to $100, effective immediately;
2. Allow court interpreter certification test candidates who have passed the certified written exam to take the oral exam up to four times with no time restrictions on when the four attempts to pass occur. Require court interpreter certification test candidates who have not passed the certified oral exam after four attempts to begin the entire testing process again. This policy would go into effect beginning January 1, 2009. Preexisting test candidates who are in their 48-month test-retaking window as of December 31, 2008, will be allowed four attempts to pass the oral exam after January 1, 2009. (The 48-month window will no longer apply under the new policy.) After January 1, 2009, require preexisting test candidates who do not pass the oral exam within four attempts to begin the entire testing process again;
3. Delegate authority to the Administrative Director of the Courts to set retake policies for court interpreter certification and registration examinations, effective immediately;
4. Delegate authority to the Administrative Director of the Courts to determine the number of test administrations per year for court interpreter certification and registration examinations, effective immediately; and
5. Delegate authority to the Administrative Director of the Courts to determine the annual renewal fee that court interpreters pay to renew their certification and registration. The Administrative Director shall set the fee based on an analysis of the market rate other peer organizations charge for the renewal of professional certifications, effective immediately.

DISCUSSION AGENDA (ITEMS 6, A, 7, B, 8–11)

Item 6 Howell Heflin Award Presented by State Justice Institute

Mr. Keith McNamara made the presentation and the award to Ms. Bonnie Rose Hough on behalf of the AOC.

The State Justice Institute presented the Howell Heflin Award to the Administrative Office of the Courts for its *Benchguide for Judicial Officers on Handling Cases Involving Self-Represented Litigants.* This annual award is given to the State Justice Institute–funded project that had the greatest impact on the quality of justice in state courts.

> ***The council took no action on this item.***
> The presentation of the award was for informational purposes only.

Item A Judicial Council Distinguished Service Awards

Justice Richard D. Huffman, Chair, Executive and Planning Committee, presented this item on behalf of Justice Marvin R. Baxter, who was unable to attend the meeting.

The chairs of the three Judicial Council internal committees recommended that the council approve the winners of the 2008 Distinguished Service Awards. Their recommendations were distributed at the council meeting. The awards will be presented at the Summit of Judicial Leaders in October 2008.

Justice Huffman made special note of two other awards recently announced that will also be presented at the Summit of Judicial Leaders. The California Commission on Access to Justice will present the annual Benjamin Aranda III Access to Justice Award, cosponsored by the Judicial Council, the California Judges Association, and the State Bar of California, to Judge Francisco F. Firmat, Superior Court of Orange County, for his outstanding contributions to improving access to justice.

Judge Stephen V. Manley will be presented with Chief Justice Ronald M. George's Award for Exemplary Service and Leadership in 2008.

> ***Council action***
> The Judicial Council approved the recommendations to present the 2008 Distinguished Service Awards to the following individuals:
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> - Judge J. Richard Couzens (Ret.), Superior Court of Placer County: Jurist of the Year;
> - Judge David S. Wesley, Superior Court of Los Angeles County: Jurist of the Year;

- Ms. Sharol Strickland, Executive Officer, Superior Court of Butte County: Judicial Administration Award; and
- Mr. Kenneth W. Babcock, Executive Director and General Counsel, Public Law Center, Santa Ana, California: Bernard E. Witkin Amicus Curiae Award.

Item 7 Fiscal Year 2009–2010 Budget Requests for the Supreme Court, Courts of Appeal, Judicial Council/Administrative Office of the Courts, and Trial Courts

Mr. Stephen Nash and Mr. Ruben Gomez, both of the AOC's Finance Division, presented this item.

Approval by the Judicial Council is required before submitting budget requests for the Supreme Court, the Courts of Appeal, the Judicial Council/Administrative Office of the Courts (AOC), and the trial courts. Budget change proposals (BCPs) for FY 2009–2010 are due to be submitted to the California Department of Finance by September 12 of this year. Action by the council at its August business meeting was needed to enable staff to transmit proposals to the Department of Finance by the due date, addressing various service and programmatic needs in the next fiscal year.

Council action
The Judicial Council approved the development of budget change proposals (BCPs) for FY 2009–2010 to address issues identified in this report; to be submitted to the Department of Finance; and to communicate requests for additional expenditure authority for the Supreme Court, Courts of Appeal, Judicial Council/AOC, and the trial courts. These proposals will identify baseline resource needs associated with increased costs and workload related to the provision of services to the courts and the public, as well as for internal infrastructure needs to support judicial branch operations.

Item B Court Facilities Fund Authorization: Authorize Redirection and Commitment of Lease Payments to County for New East County Courthouse

Mr. Ronald G. Overholt, AOC Executive Office, and Ms. Kim Davis, AOC Office of Court Construction and Management, presented this item with the participation of Ms. Pat Sweeten, Executive Officer, Superior Court of Alameda County.

The County of Alameda and the Superior Court of Alameda County had been developing a new east county courthouse project for a number of years. A project design was developed, land was designated for donation, and funding was committed by the board of supervisors. However, because of market conditions and inflation, the designated funding was no longer sufficient to fund the project. A new funding strategy was developed to bridge the gap. The funding required that transferred lease payments be dedicated toward funding the

project debt service. Council approval was required for the use of $903,000 per year from the State Court Facilities Trust Fund to the county for debt amortization.

Council action
The Judicial Council:
1. Authorized the development of an agreement with the County of Alameda for the construction of the new East County Courthouse (ECC); and
2. Provided authority to submit to the Department of Finance a budget change proposal to use $903,000 per year from the State Court facilities Trust Fund for the term of the ECC project debt.

Item 8 Assembly Bill 367: Collections Performance Measures and Benchmarks, Best Practices, and Reporting Template

Ms. Sheila Calabro and Ms. Jessica Sanora, both of the AOC's Southern Regional Office, presented this item.

The Administrative Office of the Courts recommended adoption of the revised Collections Reporting Template, Collections Performance Measures and Benchmarks, and Collections Best Practices for use by the cooperative superior court and county collections programs. These recommendations would enable the Judicial Council to meet newly enacted legislative mandates in the area of collections.

Council action
The Judicial Council:
1. Adopted the Collections Performance Measures and Benchmarks to be used by collections programs beginning FY 2008–2009;
2. Adopted Collections Best Practices to be used by all collections programs and directed each superior court to collaborate with its county to establish and follow the adopted best practices; and
3. Approved the Collections Reporting Template as revised and directed each superior court to collaborate with its county to submit the Collections Reporting Template to the AOC Enhanced Collections Unit on or before September 1, 2009, and annually thereafter.

Item 9 Interim Report of the Commission for Impartial Courts

Justice Ming W. Chin, Chair, Commission for Impartial Courts Steering Committee; Judge William A. MacLaughlin, Chair, Task Force on Judicial Campaign Finance; Justice Judith D. McConnell, Chair, Task Force on Public Information and Education; Justice Douglas P. Miller, Chair, Task Force on Judicial Candidate Campaign Conduct; Justice Ronald B. Robie, Chair, Task Force on Judicial Selection and Retention; and Ms. Christine Patton, AOC Bay Area/Northern Coastal Regional Office, presented this item.

This was an interim report on the work of the Commission for Impartial Courts, which is charged with studying and recommending ways to ensure judicial impartiality and accountability. The commission will be making recommendations in its final report (to be presented to the council in 2009). However, in the interim, the commission wanted to inform council members about the progress of its steering committee and four task forces over the past months, describe the issues that had been identified and explored through its research, note challenges faced, and summarize some of the preliminary findings.

> ***The Council took no action on this item.***
> The report was presented for informational purposes only.

Item 10 Report of the Riverside Criminal Backlog Reduction Initiative

Justice Richard D. Huffman, Chair, Executive and Planning Committee; Ms. Sheila Calabro, AOC Southern Regional Office; and Mr. Frederick G. Miller, AOC Executive Office Programs Division, presented this item.

In June 2007, the Chief Justice outlined strategic actions to address the serious backlog of criminal cases facing Riverside County's justice system. He assigned to the superior court a team of both active and retired judges (the Strike Force) with extensive criminal trial experience to concentrate their efforts on the criminal case backlog. Justice Richard D. Huffman convened a task force of court and criminal justice system partners to identify ways to improve the management of criminal cases and to develop and implement positive solutions for the Riverside County justice system. The report was an update for the Judicial Council on the results of the Strike Force and the work of the task force to improve the management of criminal cases.

> ***The Council took no action on this item.***
> The report was presented for informational purposes only.

Item 11 Children in Foster Care: Final Recommendations of the California Blue Ribbon Commission on Children in Foster Care to Improve the Juvenile Dependency Courts and Foster Care System in California

Justice Carlos R. Moreno, Chair, Blue Ribbon Commission on Children in Foster Care, and Mr. Christopher Wu, AOC Center for Families, Children & the Courts, presented this item.

The Blue Ribbon Commission on Children in Foster Care submitted its final recommendations. The recommendations were designed to improve the juvenile dependency courts and the child welfare system. The commission further recommended that the Judicial Council direct the commission and AOC staff to take actions to implement the recommendations.

Council action
The Judicial Council, effective August 15, 2008:

1. Received and accepted the final recommendations of the California Blue Ribbon Commission on Children in Foster Care;
2. Approved the commission's principles and values as stated on page 4 of the report;
3. Acknowledged the California Blue Ribbon Commission on Children in Foster Care's 26 specific recommendations that are within the purview of the Judicial Council and can be implemented by the judicial branch without collaboration with nonbranch partners. (AOC staff distributed a list of the 26 recommendations which follow Judicial Council action number 7 below.);
   (a) Directed the Administrative Director of the Courts to refer these recommendations to the appropriate advisory committee or AOC division for review and preparation of proposals to be considered by the council through the normal judicial branch processes; and
   (b) Directed the Administrative Director of the Courts to provide a status report at the council's October 2008 meeting on the action that is being taken to create specific rules or proposals for council action;
4. Directed the commission to develop an implementation plan in keeping with its principles and values for recommendations that require collaboration with nonbranch partners, to include key milestones for implementing the recommendations;
5. Directed the commission to present the implementation plan to the council for approval by December 2008;
6. Directed the commission to prepare and distribute a final report to the public on the recommendations and implementation plan by December 2008; and
7. Requested the commission to report progress on implementation of the recommendations to the council by June 2009.

The California Blue Ribbon Commission's 26 recommendations are as follows:

1. Consistent with Judicial Council policy, judges—not subordinate judicial officers—hear dependency and delinquency cases. Pending a full transition from subordinate judicial officers to judges (through reassignment or conversion of subordinate judicial officer positions to judgeships), presiding judges should continue the assignment of well-qualified and experienced subordinate judicial officers to juvenile court.
2. Presiding judges follow standard 5.40 of the California Standards of Judicial Administration and assign judges to juvenile court for a minimum of three years and give priority to judges who are actively interested in juvenile law as an assignment.
3. The Judicial Council undertake a new judicial caseload study focused specifically on juvenile dependency courts. The study should take into account

the court's unique oversight and case management responsibilities and address the use of case managers to support judges in meeting their workloads.

4. Pending completion of the study, presiding judges evaluate their current allocation of judgeships and resources and make adjustments as necessary. If reallocation of existing resources is not sufficient, the Judicial Council should seek additional funding to ensure full implementation of the standards and statutory requirements.
5. The Administrative Office of the Courts (AOC) help courts comply with the judicial standard outlining the knowledge, commitment, and leadership role required of judicial officers who make decisions about children in foster care (see standard 5.40 of the California Standards of Judicial Administration). Presiding judges of the superior courts should receive training in the role and duties of juvenile court judicial officers as outlined in the standard.
6. Judicial officers identify and engage all parties in each case as early as possible. A particular emphasis should be placed on finding fathers and identifying Indian tribes where applicable.
7. The Judicial Council provide an expedited process for all juvenile dependency appeals by extending the application of rule 8.416 of the California Rules of Court to all dependency appeals.
8. The Judicial Council require the appointment of independent counsel for all children in juvenile dependency appeals.
9. Hearings be available at times that do not conflict with school or work or other requirements of a family's case plan.
10. To the extent feasible, hearings be set for a specific date and time. Delays should be minimized, and hearings should be conducted on consecutive days until completed.
11. A concurrent criminal proceeding should not mean delay of a dependency case.
12. All parties, including children, parents, and social workers, have the opportunity to review reports and meet with their attorneys before the initial hearing and in advance of all subsequent hearings.
13. Hearings be timely and meet all federal and state mandated timelines. Continuances should be minimized, and the reasons for systemic continuances should be addressed by the local court and child welfare agency.
14. All participants leave court hearings with a clear understanding of what happened, why decisions were made, and, if appropriate, what actions they need to take.
15. The AOC provide judicial officers and court participants with education and support to create courtroom environments that promote communication with, and meaningful participation of, all parties, including children, that takes into account age, development, language, and cultural issues.
16. The same judicial officer hears a case from beginning to end, when possible.
17. Courts explore telephonic appearance policies and new technology options to ensure participation in juvenile court hearings.
18. The Judicial Council advocate for the resources, including a stable funding source, necessary to implement the council's recently adopted attorney

caseload standards, to implement caseload standards for social workers, and to develop and implement caseload standards for social services agency attorneys.

19. The Administrative Office of the Courts expand multidisciplinary training opportunities for court professionals and other participants, including caregivers, educational representatives, CASA volunteers, and tribal leaders. Training should include conferences as well as distance learning opportunities.
20. The Judicial Council continue to support the development and expansion of CASA programs and to help make available CASA volunteers for all foster children in the dependency system. State funding for CASA programs should be expanded to allow for appointments in all cases.
21. Mediation and other forms of alternative dispute resolution be available in all courts at any time in the proceedings.
22. Families in all counties have access to other types of court proceedings—drug, mental health, and unified courts, for example—that can help them remain together or, if the children are removed, to stabilize and reunify the family as soon as possible.
23. The Judicial Council adopt and direct the AOC to work with local courts and state agencies to implement a rule of court that embodies the commission's following recommendations:
    - Court performance measures include those for safety, permanency, timeliness of court hearings, due process, and child well-being;
    - Court performance measures align with and promote the federal and • California Child and Family Services Review outcome measures and indicators;
    - The California Court Case Management System (CCMS) collect uniform court performance data and have the capability to produce management reports on performance measures; and
    - Trial court performance measures be included in a separate Judicial Council–approved AOC Implementation Guide to Juvenile Dependency Court Performance Measures.
24. These performance measures and management reports be used for the following:
    - To promote court accountability for ensuring fair and timely hearings and to inform improvements in local case processing;
    - To provide stakeholders and the public with an aggregate picture of the outcomes for children before the court and to increase the public's understanding of the court's role in the child welfare system; and
    - To measure compliance with statutory mandates and effective practices.
25. The Judicial Council continue its efforts to fully develop and implement the California Court Case Management System, as well as other data exchange protocols, so that the judicial branch, the California Department of Social Services, and other trusted partners will be able to exchange essential information about the children and families they are mandated to serve.
26. CCMS permit judicial officers in dependency courts to access information about children and families who are involved in cases in other courts.

Circulating Orders
Copies of circulating orders are for information only; no action was necessary.

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 12:55 p.m.

Respectfully submitted,

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

Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

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MEMORANDUM

Date
August 14, 2008

To
Hon. Richard D. Huffman, Chair
Executive and Planning Committee

From
Kenneth L. Kann, Director
Dag MacLeod, Manager
Executive Office Programs Division

Subject
Progress to Date on the Conversion of Subordinate Judicial Officer Vacancies

Action Requested
None: Informational Only

Deadline
None

Contact
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Background

At its December 7, 2007, business meeting, the Judicial Council approved a policy delegating to the Executive and Planning Committee (E&P) the authority and responsibility for confirming the conversion of Subordinate Judicial Officer (SJO) positions to judgeships. This memo provides an overview of SJO conversion activity during Fiscal Year 2007-2008 and during the initial weeks of 2008-2009.

Conversions During Fiscal Year 2007-2008

Prior to the adoption of the policy delegating authority to confirm conversions, the Judicial Council approved the first five SJO conversions on October 26, 2007. E&P then confirmed the remaining 11 SJO positions available for conversion over the course of the remainder of Fiscal Year 2007-2008. Table 1 shows all of the conversions that were approved by the Judicial

Council and, following the delegation of authority by the council, confirmed by E&P in Fiscal Year 2007-2008.

Table 1: SJO Conversions in Fiscal Year 2007-2008

	Number of Positions Converted	Date of JC / E&P Decision	Effective Date of Conversion
Contra Costa	1	October 26, 2007	January 1, 2008
Contra Costa	1	October 26, 2007	March 1, 2008
Contra Costa	1	October 26, 2007	April 1, 2008
San Francisco	1	October 26, 2007	January 26, 2008
San Luis Obispo	1	October 26, 2007	January 1, 2008
San Diego	1	January 29, 2008	February 1, 2008
Los Angeles	2	February 21, 2008	April 1, 2008
Sacramento	1	April 2, 2008	April 2, 2008
San Diego	1	April 2, 2008	April 2, 2008
Los Angeles	1	April 2, 2008	April 2, 2008
Solano	1	April 15, 2008	June 30, 2008
Orange County	1	May 19, 2008	May 19, 2008
Yolo	1	May 22, 2008	May 22, 2008
Los Angeles	1	June 10, 2008	June 10, 2008
Riverside	1	June 10, 2008	June 12, 2008
Total	**16**		

In addition to confirming the conversion of SJO positions listed in Table 1, E&P also acted on requests by courts to allow them to retain existing, vacant commissioner positions and refill these with subordinate judicial officers. Courts generally made these requests on the basis of hardship that they would incur due to (1) heavy workload, (2) judicial vacancies, and (3) the expectation that converted positions would remain vacant much longer prior to the appointment of a judge than it would take the court to fill a vacant commissioner position. In some cases E&P allowed courts an exemption from the conversion policy and did not convert the vacant position or positions; in other cases E&P declined the request of the court not to convert a position and confirmed the conversion of a vacant position.

The Superior Courts of San Diego and Kern received exemptions from the conversion policy in Fiscal Year 2007-2008 and were allowed to retain commissioner positions and refill these with a new commissioner. The Superior Court of San Diego was granted an exemption on the basis of workload, judicial vacancies and also in consideration of the fact that the court had already converted a position at the time of its request. Following the exemption granted to San Diego, E&P confirmed the conversion of another vacant position in that court. The Superior Court of Kern was granted an exemption from the conversion policy at the end of the Fiscal Year on the basis of workload and judicial vacancies but also because there were two vacant SJO positions available for conversion at that time – one in Kern and the other in Riverside – and only one remaining position available for conversion.

Requests for exemptions from the policy by the Superior Courts of Riverside and Yolo Counties were declined in Fiscal Year 2007-2008. While acknowledging the resource challenges facing the Superior Court of Riverside, staff recommended that position be converted rather than the position in Kern because (1) both courts face similar resource challenges and (2) the end of the fiscal year was approaching and only 15 of the 16 positions available for conversion had been confirmed. In Yolo, the court did not demonstrate that the conversion of the vacant commissioner position would create a hardship that outweighed the need to go forward with the conversion of all 16 available positions during the fiscal year.

Conversions During Fiscal Year 2008-2009

As part of this year's Budget Act, the Legislature has authorized the conversion of another 16 positions in Fiscal Year 2008-2009. Although the language authorizing conversions was approved by both the Assembly and Senate, this language is included in the budget bill and, thus, the action does not take effect until the budget is signed by the Governor. Given that the legislature has taken the necessary actions, staff anticipate full support of the Governor.

To provide courts with guidance regarding conversions in the interim, staff recommended that E&P take action to (1) confirm the conversion of vacant positions subject to the signing of the Budget Act with the SJO conversion authorization and, in the meantime, (2) allow courts with these conversions to fill vacant SJO positions with retired commissioners or to use the Assigned Judges Program until the conversion legislation is enacted and a judicial appointment made.

As of August 14, 2008, E&P has confirmed the conversion of ten vacant SJO positions contingent on the signing of the Budget Act with the SJO conversion authorization. Table 2 shows the conversions that have been confirmed by E&P in this Fiscal Year.

Table 2: SJO Conversions in Fiscal Year 2008-2009 as of August 14, 2008

	Number of Positions Converted	Date of E&P Confirmation	Effective Date of Conversion
El Dorado	1	July 23, 2008	July 23, 2008
Kern	1	July 23, 2008	January 1, 2009
Sacramento	1	July 23, 2008	October 1, 2008
Sacramento	1	July 23, 2008	January 1, 2009
Solano	1	July 23, 2008	July 23, 2008
Fresno	1	August 6, 2008	August 6, 2008
Los Angeles	2	August 13, 2008	August 13, 2008
Riverside	1	August 13, 2008	August 13, 2008
Solano	1	August 13, 2008	August 13, 2008
Total	**10**		

As with conversions in Fiscal Year 2007-2008, E&P has also acted on requests to exempt courts from the conversion of positions. The Superior Court of Los Angeles received an exemption for the conversion of two vacant positions on the basis of information presented as to the hardship that the conversions would create for the court. The Superior Court of Riverside was also granted an exemption from the conversion of a vacant position at the July 23, 2008 E&P meeting. A subsequent request for an exemption from the conversion of a position by the Riverside Superior Court presented at the August 13, 2008 E&P meeting was declined for the reason that Riverside had already been exempted from one conversion.

One additional issue that presented itself in Fiscal Year 2008-2009 is the blurring of the boundaries separating court groupings. Courts were organized into the set-aside groups shown in Table 3 to provide for an orderly conversion process. After the conversion of three positions from Group 4 at the July 23 E&P meeting only one position remained eligible for conversion from that group. At the August 13 E&P meeting, however, requests for conversion by the Superior Courts of Fresno and Solano – both in Group 4 – were presented to E&P.

Table 3: Allocation Groups for SJO Conversions FY 08-09 and Ongoing

	Number of Conversions Set Aside for FY 2008–2009 and Ongoing
Group 1: Los Angeles	7
Group 2: Orange	1
Group 3: Alameda, Contra Costa, Riverside, Sacramento, San Diego, San Francisco	4
Group 4: El Dorado, Fresno, Imperial, Kern, Marin, Merced, Napa, Placer, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus,	4

The policy on SJO conversion adopted by the Judicial Council at its December 7, 2007 business meeting actually anticipated the possibility of converting more positions than are set aside for a particular court grouping. However, this policy assumed that the need to do so would not occur until much later in the fiscal year, providing for the conversion of commissioners from any court grouping beginning in April. Converting an extra position in the group to which Fresno and Solano belong means that there will be one less position available for conversion from the other groups.

Staff recommended and E&P confirmed the conversion of both of these positions for the following reasons:

1) The number of SJOs in each of these set-aside groupings was established on the basis of the approximate proportions of total number of SJOs available for conversion;

2) The intent of creating these groups was to provide for an orderly conversion process in part by providing some certainty regarding the status of SJO positions available for conversion;

3) SJO vacancies, to date, however, have not occurred in a normally distributed manner across the different court groupings;

4) Therefore, confirmation of the conversion of these positions achieves the over-riding objective of ensuring that courts have judges performing work that is appropriate to judges while providing as much certainty as possible to the courts.

On the following page of this memo, Table 4 provides a summary of all of the SJO conversions that have been approved by the Judicial Council or confirmed by E&P in Fiscal Years 2007-2008 and in the first weeks of Fiscal Year 2008-2009. Table 4 shows the total number of SJO positions that are eligible for conversion in each court, the number of conversions that have occurred to date by Fiscal Year and the number of SJO positions that remain to be converted.

Table 4: Summary of All SJO Conversions as of August 14, 2008

	SJO Positions Eligible for Conversion	SJO Conversions			SJO Positions Remaining to Convert
		FY 07-08	FY 08-09	Total	
Alameda	6	0	0	0	6
Contra Costa	6	3	0	3	3
El Dorado	2	0	1	1	1
Fresno	3	0	1	1	2
Imperial	1	0	0	0	1
Kern	2	0	1	1	1
Los Angeles	78	4	2	6	72
Marin	2	0	0	0	2
Merced	2	0	0	0	2
Napa	1	0	0	0	1
Orange	14	1	0	1	13
Placer	1	0	0	0	1
Riverside	6	1	1	2	4
Sacramento	5	1	2	3	2
San Diego	7	2	0	2	5
San Francisco	9	1	0	1	8
San Luis Obispo	2	1	0	1	1
San Mateo	2	0	0	0	2
Santa Barbara	2	0	0	0	2
Santa Cruz	1	0	0	0	1
Solano	3	1	2	3	0
Sonoma	2	0	0	0	2
Stanislaus	1	0	0	0	1
Tulare	2	0	0	0	2
Yolo	2	1	0	1	1
Total	**162**	**16**	**10**	**26**	**136**