

New Member Orientation

Collaborative Justice Courts
Advisory Committee

Agenda

- Part 1: Overall Governance Structure
- Part 2: Collaborative Justice Courts
Advisory Committee (CJCAC)
- Part 3: Your role and Next Steps
- Questions

Part 1: Overall Governance Structure & Roles

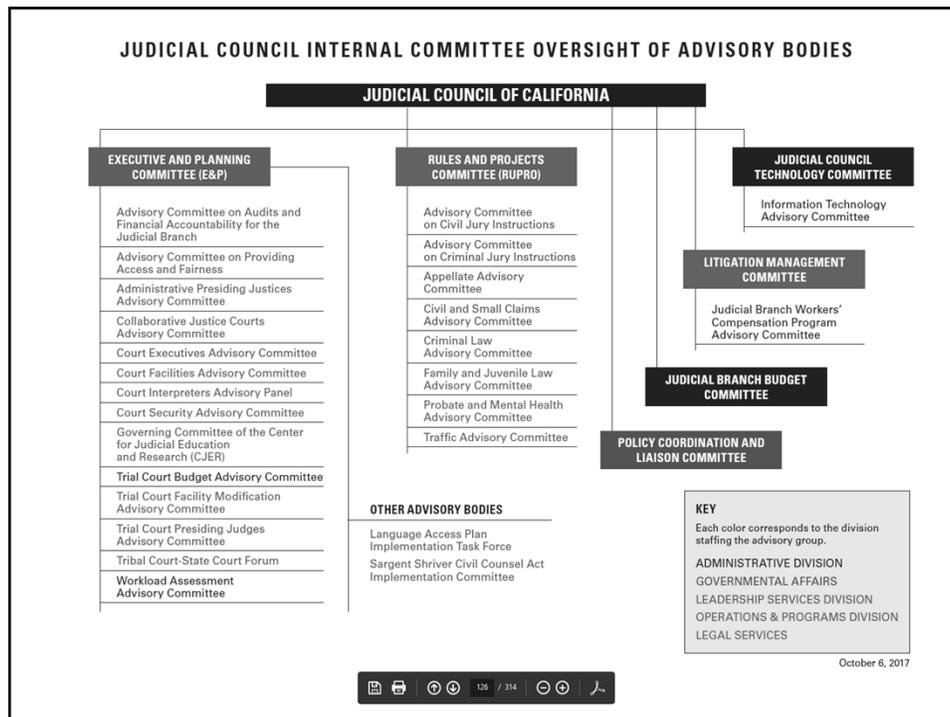
- Judicial Council
- Internal Committees
- Advisory Committees

Council and Internal Committees

- The Judicial Council establishes the strategic goals and policies for the branch
- “Internal” committees are drawn from the council’s membership:

| | |
|--|--------------------------------------|
| 1. Executive & Planning (E&P) | Chair: Justice Douglas Miller |
| 2. Rules & Projects (RUPRO) | Chair: Justice Harry Hull |
| 3. Technology Committee (JCTC) | Chair: Justice Marsha Slough |
| 4. Policy Coordination & Liaison (PCLC) | Chair: Judge Ken So |
| 5. Litigation Management Committee | Chair: Judge David Rubin |
| 6. Judicial Branch Budget Committee | Chair: Judge David Rubin |

- Internal committees provide recommendations in their assigned areas to the full membership



Advisory Committee Roles

Committees use the experience, opinions, and wisdom of members to:

- Identify important issues and concerns
- Recommend solutions
- Propose rules, forms, and legislation, as needed
- Act on other charges and assignments

Part 2: Collaborative Justice Courts Advisory Committee (CJCAC)

CJCAC's Rule of Court

California Rule of Court 10.56

- The committee makes recommendations to the Judicial Council on criteria for identifying and evaluating collaborative justice courts and for improving the processing of cases in these courts, which include drug courts, domestic violence courts, youth courts, and other collaborative justice courts. Those recommendations include "best practices" guidelines and methods for collecting data to evaluate the long-term effectiveness of collaborative justice courts.

CJCAC'S Rule of Court

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

- (1) Assess and measure the success and effectiveness of local collaborative justice courts;
- (2) Identify and disseminate to trial courts locally generated best practices;
- (3) Recommend minimum judicial education standards and educational activities to support those standards to the Governing Committee of the Center for Judicial Education and Research;
- (4) Advise the council of potential funding sources;
- (5) Make recommendations regarding grant funding programs that are administered by Judicial Council staff for drug courts and other treatment courts; and
- (6) Recommend appropriate outreach activities needed to support collaborative justice courts.

Membership

- | | |
|--|-------------------------------------|
| (A) Judicial administrator; | (F) Probation officer; |
| (B) District attorney; | (G) Court-treatment coordinator; |
| (C) Criminal defense attorney; | (H) Treatment court graduate; |
| (D) Law enforcement (police/sheriff); | (I) Public member; and |
| (E) Treatment provider or rehabilitation provider; | (J) At least five judicial officers |

CJCAC Roster

Hon. Richard Vlavianos, Chair, Judge of the Superior Court County of San Joaquin
 Hon. Rogelio R. Flores, Vice-Chair, Judge of the Superior Court County of Santa Barbara
 Hon. James N. Bianco, Judge of the Superior Court County of Los Angeles
 Mr. Steve Binder, Ret., Deputy Public Defender San Diego County Office of the Primary Public Defender
 Hon. Lawrence G. Brown, Judge of the Superior Court County of Sacramento
 Mr. Scott D. Brown, Senior Administrative Analyst Superior Court County of San Diego
 Ms. Deborah M. Cima, Retired Treatment Court Coordinator
 Mr. Richard Cota, Supervising Probation Officer, Orange County Probation Department
 Mr. Michael L. Elliott, Assistant Court Executive Officer, Superior Court County of Fresno
 Mr. Mark Gale, Criminal Justice Chair, NAMI Los Angeles County Council
 Ms. Cherie Garofalo, Deputy Court Executive Officer of Operations, Superior Court County of San Bernardino
 Hon. Kathleen A. Kelly, Judge of the Superior Court County of San Francisco
 Hon. Sam Lavorato, Jr., Judge of the Superior Court County of Monterey
 Hon. Elizabeth Lee, Judge of the Superior Court County of San Mateo
 Hon. Stephen V. Manley, Judge of the Superior Court County of Santa Clara
 Hon. Eileen C. Moore, Associate Justice of the Court of Appeal Fourth Appellate District, Division Three
 Ms. Sharon Owsley, Deputy Attorney General California Department of Justice San Francisco
 Ms. Marlies L. Perez, Division Chief, Substance Use Disorder Compliance Division
 Undersheriff Randolph Peshon, El Dorado County Sheriff's Office Placerville
 Ms. Sharon Di Pirro-Beard, Dependency Drug Court Program Coordinator, Sacramento County Depart. of Health & Human Services
 Ms. Jennie Rodriguez-Moore, Program Analyst, Superior Court County of San Joaquin
 Ms. Kulvindar "Rani" Singh, Deputy District Attorney San Francisco County District Attorney's Office
 Ms. Jessie Tessler, Yolo County Mental Health Court Graduate
 Dr. Kathleen West, Instructor, Department of Social Welfare, Los Angeles

Staff Support

- Criminal Justice Services (CJS)
 - Adult Criminal
- Center for Families, Children, and the Courts (CFCC)
 - Juvenile Dependency and Delinquency, Family Law, non-Criminal
- Office of Governmental Affairs
 - New and pending legislation for all case types

Structure

- Hon. Richard Vlavianos (Chair), Judge, Superior Court of San Joaquin County
- Hon. Rogelio Flores (Vice-chair), Judge, Superior Court of Santa Barbara County
- Ms. Francine Byrne (Staff), Manager, Criminal Justice Services
- Ms. Carrie Zoller (Staff), Supervising Attorney, Center for Families, Children, and Courts
- Andi Liebenbaum, Attorney, Governmental Affairs
- Sharon Reilly, Attorney, Governmental Affairs

Subcommittees

- Veterans Courts and Military Families (Hon. Eileen C. Moore)
- Juvenile Collaborative Justice Courts (Hon. Elizabeth Lee)
- Mental Health (Hon. Stephen Manley)

Annual Agenda

- Each year CJAC creates an annual agenda detailing the work it hopes to accomplish
- Ideas come from judges, committee members, and legislative changes
- The 2017 Annual Agenda is online:

<http://www.courts.ca.gov/documents/cjac-annual.pdf>

Meetings

- One in-person meeting per year
- Conference calls every 4th Wed. 12:15-1:30
- Discuss pending legislation, funding opportunities, educational needs and opportunities, and collaborative court research
- Work group conference calls as needed

Part 3: Your Role

CJCAC Member Responsibilities

- Provide subject matter expertise on pending legislation
- Support identification and dissemination of information on evidence based practices in collaborative courts
- Advising on the distribution of the Substance Abuse Focus Grant

Resources

- California Story
- Cost Study
- Transferability Studies
 - Phase II

AB 1810 Overview

Amy Kimpel, Criminal Justice Services

Amy.Kimpel@jud.ca.gov

Reasons for AB 1810

- Bed space crisis at Department of State Hospitals (DSH)
- Rising number of folks with mental health issues in criminal justice system

The Basics of AB 1810

- ✓ Creates Penal Code §§ 1001.35 & 1001.36
The Diversion Statutes
- ✓ Amends Penal Code §§ 1370 & 1370.01
Incompetent to Stand Trial (IST) Statutes
- ✓ Adds Welfare & Institutions Code § 4361
DSH Diversion funding

Penal Code § 1001.35

Purpose to promote:

- Increased diversion of individuals with mental disorders . . . while protecting public safety.
- Allowing local discretion and flexibility for counties in the development and implementation of diversion . . .
- Providing diversion that meets the unique mental health treatment and support needs of individuals with mental disorders.

Mental Health Diversion Eligibility Requirements

- Diagnosed DSM-5 disorder
- Disorder played significant role in charged offense (wording change 1/1/19)
- Disorder would respond to treatment
- Waives speedy trial rights & consents to diversion (unless IST)
- Agrees to comply with treatment
- No unreasonable risk of danger if treated in community

Penal Code §1001.36

Treatment requirements

Court finds treatment meets needs of defendant

- Can consider DA, defense, and community interests

In-patient or out-patient

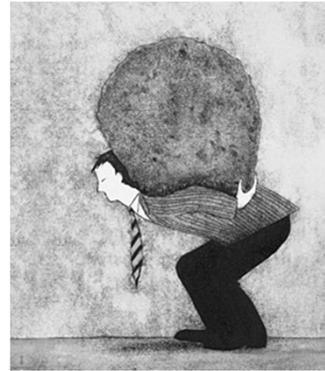
- Paid for with private or public funds

Treatment provider accepts defendant

- Provides reports regularly to court and parties

SB 215 Amends Penal Code 1001.36 effective 1/1/19

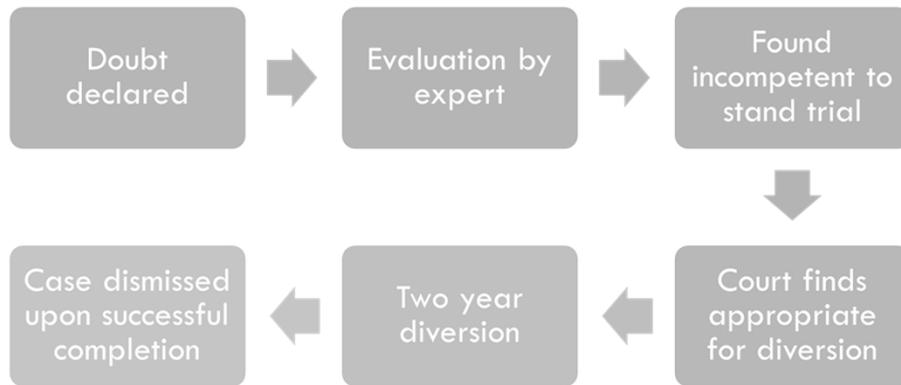
- List of ineligible offenses
- Defense makes prima facie showing
- Judge can deny if no prima facie showing
- Judge can order restitution



People v. Frahs

- Mr. Frahs presented evidence of his mental disorder at trial
- Jury found him guilty
- Sentenced to prison
- AB 1810 passed when pending appeal
- Conditionally reversed to allow consideration of diversion

DSH Diversion for Incompetent Defendants



DSH Diversion for Incompetent Defendants





DSH Diversion funding

- \$100 million
- DSH contracts with counties
 - 20% match for larger counties
 - 10% match for smaller counties
- Targeting 15 counties
- IST felony population & 3 diagnoses

Impact on existing collaborative courts

- Separate or integrated?
- Changing current mental health court population?
- How do you decide which track?



Questions?



**Behavioral Health
Education Series**

Format

- About 8 lunchtime webinars on behavioral health topics over calendar year
- Possibility of podcasts on smaller topics
- Produced by Criminal Justice Services at JCC

Episode 1 on 11/1

AB 1810 Implementation with presenters from JCC CJS

Arley Lindberg LCSW



Amy Kimpel JD



Episode 2 on 12/13

Webinar on serious mental illness
with Dr. Loren Roth of UCSF
Department of Psychiatry. Dr. Roth

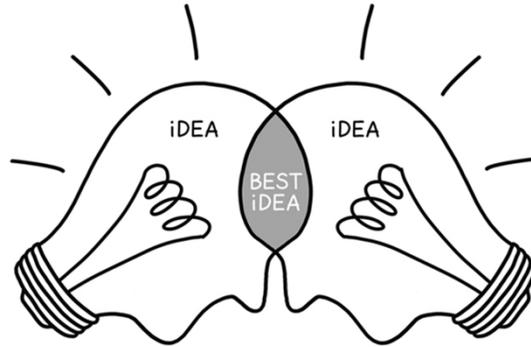


serves as the
medical director
of San Francisco's
jail behavioral
health services

Future topics may include:

- Talking to Defendants with Respect
- Pretrial Release and Mental Health Treatment Needs
- Countering Implicit Racial Bias in Collaborative Courts
- Mental Health Clinicians and Scope of Practice
- Community Treatment Options: Levels of Care
- Building a Successful Behavioral Health Court
- Collaborating with County Behavioral Health
- Creating a Trauma-Informed Courtroom
- Psychiatric Medications
- AB 1810 and Incompetent to Stand Trial Defendants
- Medically-assisted drug treatment
- Co-occurring Disorders

Other topics? Speaker ideas?



Veterans Treatment Courts: Judicial Council Assessment and Survey

Background of the JCC's Veteran Study

California Senate Bill 339

- SB 339 mandates the JCC to conduct an:
 1. Assessment of counties that operate a Veteran Treatment Court (VTC),
 2. Assessment of counties that do not operate a VTC, and
 3. Impact Study

Project Timeline

- SB 339, signed October 2017
- Contracted with Children and Family Futures, May 2018
- All contract deliverables due April 2019
- Impact Study Report June 2020
- Report due to Leg June 2020

Children and Family Futures

Sid Gardner, President

Larissa Owen, Ph.D., Director
of Special Projectors

Scope of Veterans Study

- The assessment study of counties without a VTC.
 - Barriers
 - Alternatives
 - Recommendations
- The assessment of counties that operate a VTC
- Both studies will highlight experiences and services available to female veterans and families of veterans

Impact Study

- Participant outcomes
 - Program recidivism
 - Mental health
 - Homelessness
 - Employment
 - Social stability
 - Substance abuse

Impact Study

- Sample of VTCs
 - Survey will help identify
- Data availability

Impact Study

- Your suggestions?
 - Connections to VA to access data?
 - Data on female veterans and families?
 - Other thoughts?

SERVING VETERANS AND THEIR FAMILIES IN CALIFORNIA COURTS SUMMIT

Veterans Summit Attendance

- A total of 80 people participated in the summit
- Statewide Participation with 16 Counties represented
Including:
 - Sacramento
 - Butte
 - Contra Costa
 - San Joaquin
 - Merced
 - Fresno
 - Tracy
 - Merced
 - Orange
 - Los Angeles

Veterans Summit Attendance

Attendance Highlights:

- 13 Judges and one Commissioner
- Probation, Court, and Treatment staff
- Mentors: CACC provided 10 Mentor Scholarships
 - 10 VTC mentors to cover conference expenses
- Attendees from the state of Arkansas and Kentucky were present

Continuing Education Credits

- Provided discipline specific continuing education credits to attendees:
- **MCLE** (Mandatory Continuing Legal Education) for attorneys
- **BBS** (California Board of Behavioral Sciences) for attendees who were LMFT and LCSWs
- **STC** (Standards and Training for Corrections) for probation staff
- **ROC** (Rules of Court) for court staff

Evaluation Feedback

Responses:

- Enjoyed hearing the judge's perspectives on veterans in the courts
- Hearing VTC Participant's personal story
- Learning about the role and importance of the mentors

Recommendations:

- Have a larger conference room

SERVING VETERANS AND THEIR FAMILIES IN CALIFORNIA COURTS SUMMIT

The Judicial Council of California, in conjunction with the 2018 California Association of Collaborative Courts Annual Conference, invites you to this statewide summit that will focus on how California courts and system partners can effectively serve court-involved veterans and their families. Anticipated topics include:

- + Utilizing Mentors
- + Behavioral Health Issues and Veterans
- + Meeting the needs of Military Families
- + Judicial Perspectives on Veterans in the Courts
- + Increasing Engagement of Female Veterans
- + Military Sexual Trauma

September 12, 2018, 10AM - 3PM

Doubletree Hotel
2001 Point West Way, Sacramento, CA

Summit registration is currently full.
Please email CollaborativeJustice@Jud.Ca.Gov
to be placed on the event waitlist.
STC and MCLE hours available.



[MORE DETAILS ON BACK](#)

SERVING VETERANS AND THEIR FAMILIES IN CALIFORNIA COURTS SUMMIT

Join us on September 12th at 10am for welcoming remarks

| | |
|------------------------|---|
| <p>10:35am-11:35am</p> | <p>Judicial Perspectives on Veterans in the Courts will explore PC 1170.9 and 1001.80. The judges' panel discussion will further address legal rights and counsel afforded to our members of the U.S. military and veterans.</p> |
| <p>12pm-1pm</p> | <p>Veteran Mental Health and VTCs: Improving Collaboration working lunch will highlight the collaboration between Mental Health Services Oversight & Accountability Commission and CalVets.</p> |
| <p>1:05pm-2pm</p> | <p>Mentors in VTCs: Why and How They Work will explore best practices for a successful mentor program, balancing duties between the court and veteran participant, and maintaining confidentiality and boundaries.</p> |
| <p>2:05pm-3pm</p> | <p>Strategies for Increasing Women in VTCs will explore barriers to female participation in VTCs and strategies for increasing access and retention.</p> <p style="text-align: center;">Closing remarks at 3pm</p> |

Featured Presenters

| | | | |
|--|---|--|---|
|  <small>Justice Eileen Moore</small> |  <small>Hon. Mary Kreber</small> |  <small>Tara Nianny</small> |  <small>RanDoe McLain</small> |
|  <small>Hon. Laurel Brady</small> |  <small>Hon Rogelio Flores (Ret.)</small> |  <small>Lindsay Sin</small> |  <small>Dr. Kathleen West</small> |



YOU SHOULD CONSULT WITH YOUR ATTORNEY ABOUT THE FOLLOWING INFORMATION

If you are a current or former member of any branch of the US Military, you may be entitled to certain rights under the law. Filling out the MIL-100 form is one way you can let the court know about your military status. It is an optional form. Letting the judge know about your military experience may allow them to consider possible benefits and protections for your case. Some examples of benefits include possible: consideration for alternative sentencing and restorative relief, diversion in misdemeanor cases, and additional time in family law cases.

You, your attorney, family member, friend, or advocate can fill out this form at any time if you:

- Are a current or former military member
- Are in the reserves or national guard
- Have no combat service
- Do not have an honorable discharge

You are not required to have an honorable discharge, to have combat service, or to be accepted or involved in a Veterans Court to be eligible for the possible rights and protections under the law.

If you are a current or former member of any branch of the US military who may be suffering from sexual trauma, traumatic brain injury (TBI), post-traumatic stress disorder (PTSD), substance abuse, or mental health issues as a result of your military service and charged with a crime, you may be entitled to certain rights under the following California laws:

California Penal Code 1170.9

Below is a brief description of possible rights and protections under this code:

- Treatment instead of prison or jail time for certain crimes;
- A greater chance of receiving probation;
- Conditions of probation deemed satisfied early, other than any victim restitution ordered, and early termination of probation;
- Felonies reduced to misdemeanors;
- Restoration of rights, dismissal of penalties, and/or setting aside of conviction for certain crimes

California Penal Code 1001.80

Below is a brief description of possible rights and protections under this code:

- Pretrial diversion program instead of trial and potential conviction and incarceration;
- Dismissal of eligible criminal charges following satisfactory performance in program;
- Arrest deemed to have "never occurred" for most purposes following successful completion of program

California Penal Code 1170.91

Below is a brief description of possible rights and protections under this code:

The court shall consider circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could mean a more lenient sentence.

If you are filing for relief from financial obligation during military service, a notification of military deployment and request to modify a support order, or other relief under the Service Members' Civil Relief Act (50 App. U.S.C. §§ 501-597(b)), you must complete the appropriate forms, and completion of this form is not required. Please see form MIL-010 (*Notice of Petition and Petition for Relief From Financial Obligations During Military Service*) and form FL-398 (*Notice of Activation of Military Service and Deployment and Request to Modify a Support Order*).

Filing of this notification form does not substitute for filing of other forms or petitions that are required by your court case.

| | |
|--|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. : E-MAIL ADDRESS: ATTORNEY FOR (Name): | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| CASE NAME: | |
| NOTIFICATION OF MILITARY STATUS / VETERAN STATUS | CASE NUMBER: |

I (name): _____ declare as follows:

1. I am a party in a criminal family juvenile other (specify): _____ court case.

2. I am currently a member of the state or federal armed services or reserves. My entry date is: _____, and I

a. am on active duty service.

b. have been called or ordered into active duty service.

c. am not on active duty service.

d. other (please explain): _____

3. I have served in the state or federal armed services or reserves. I was discharged on (date): _____

4. I understand that if I submit this form to the court as a defendant in a criminal case, the court will send copies of the form to the county veterans service officer and the Department of Veterans Affairs.

5. I am filing this form on behalf of _____, a party to the above entitled case, whom I am informed

a. member veteran of the state or federal armed services or reserves. I am the attorney other (specify): _____ of this party. My contact information is provided at the top of this form

follows: Name: _____ Address: _____

Telephone number: _____

Date: _____

 (TYPE OR PRINT NAME)

 SIGNATURE

| | |
|--|--|
| Local County Veterans Services Office Information (to be provided by local court): | |
|--|--|

NOTICE

There are provisions of California law that apply to current and former members of the U.S. Military who have been charged with a crime when certain conditions are met. To submit this form as a party in a criminal case you must file it with the court and serve it on the prosecuting attorney and defense counsel. Filing of this notification form does not substitute for filing of other forms or petitions that are required by your court case. Please see the back of this form for more information.

YOU SHOULD CONSULT WITH YOUR ATTORNEY ABOUT THE FOLLOWING INFORMATION

If you are a current or former member of any branch of the U.S. Military you may be entitled to certain rights under some California laws. If you are filing for relief from financial obligation during military service, a notification of military deployment and request to modify a support order, or other relief under the Service Members' Civil Relief Act (50 App. U.S.C. §§ 501-597(b)), you must complete the appropriate forms, and completion of this form is not required. Please see form MIL-010 (*Notice of Petition and Petition for Relief From Financial Obligations During Military Service*) and form FL-398 (*Notice of Activation of Military Service and Deployment and Request to Modify a Support Order*). **Below are brief explanations of some of those laws. Consult with your attorney to discuss how these and/or other laws may apply to you.**

You are not required to have an honorable discharge, to have combat service, or to be accepted into a Veterans Court to be eligible for the rights described in the following statutes.

California Penal Code 1170.9: Consideration for alternative sentencing and restorative relief.

If you are requesting consideration or restorative relief under Penal Code section 1170.9, this form alone will not meet the requirement that you assert to the court that the crime you were charged with was a result of a condition caused by your military service.

Rights include possibly:

- Receiving treatment instead of prison or jail time for certain crimes
- Having a greater chance of receiving probation
- Having conditions of probation deemed satisfied early, other than any victim restitution ordered, and probation terminated early
- Having some felonies reduced to misdemeanors
- Having the court restore rights, dismiss penalties, and/or set aside conviction for certain crimes

Requirements include:

- For consideration for alternative sentencing:
 - Convicted of certain criminal offenses (some crimes do not qualify)
 - Eligible for probation and court orders probation
- For restorative relief following order of probation:
 - In substantial compliance with conditions of probation
 - A successful participant in and demonstration of significant benefits from treatment and services
 - No danger to the health and safety of others

California Penal Code 1001.80: Diversion in misdemeanor cases.

Rights include possibly:

- *Pretrial* diversion program instead of trial and potential conviction and incarceration
- Dismissal of eligible criminal charges following satisfactory performance in program
- Arrest is deemed to have "never occurred" for most purposes following successful completion of program

Requirements include:

- Application to misdemeanors only, *not* felonies
- Eligible for diversion and court orders diversion
- Waiver of right to speedy trial and consent to diversion
- Satisfactory performance in program

California Penal Code 1170.91: Mitigating factor in felony sentencing.

- The court shall consider these circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could mean a more lenient sentence.

Updating Diversion Drug Courts Standard

Amy Kimpel, Attorney CJS

Annual Agenda

II. COMMITTEE PROJECTS

| # | New or One-Time Projects ³ | |
|----|--|-------------------------------|
| 1. | Project Title: Propose Standards of Judicial Administration that Define Collaborative Courts and Update Current Standards Related to Drug Court Diversion | Priority 1⁴ |
| | <p>Project Summary⁵: California's Standards of Judicial Administration regarding collaborative and drug courts needs to be updated to reflect changes in criminal law and collaborative court practices following changes in criminal justice policy including Public Safety Realignment and Proposition 47. The Committee will review current standards (Standard 4.10), as well as existing national standards, and propose revisions to existing standards or new standards to define collaborative courts in order to provide clear guidance to trial courts regarding the definitions and effective practices in these courts. This project supports ongoing activity/project #4.</p> <p>Status/Timeline: March 2019, deadline to complete proposal draft.</p> <p>Fiscal Impact/Resources: The project, including staff costs, is partially funded by external earmarked funding for collaborative courts and mental health. Resources include Judicial Council staff from the Center for Children, Family & the Courts (CFCC) and Criminal Justice Services (CJS) as well as Legal Services who would be part of review and preparation of proposal for RUPRO cycle.</p> <p>Internal/External Stakeholders: Local courts, justice partners, statewide and national professional organizations, such as the California Association of Collaborative Courts and California Association of Youth Courts.</p> <p>AC Collaboration: Policy Subcommittee, Criminal Law Advisory Committee, and Rules and Projects Committee (RUPRO).</p> | |

Current standard



California Rules Of Court (Revised July 1, 2017)

Standard 4.10. Guidelines for diversion drug court programs

(a) Minimum components

The components specified in this standard should be included as minimum requirements in any pre-plea diversion drug court program developed under Penal Code section 1000.5.

(Subd (a) amended effective January 1, 2007.)

(b) Early entry

Eligible participants should be identified early and enter into a supervision and treatment program promptly.

- (1) A declaration of eligibility should be filed by the district attorney no later than the date of the defendant's first appearance in court.
- (2) Participants designated as eligible by the district attorney should be ordered by the assigned drug court judge to report for assessment and treatment supervision within five days of the first court appearance.

Current standard

(c) Treatment services

Participants should be given access to a continuum of treatment and rehabilitative services.

- (1) The county drug program administrator should specify and certify appropriate drug treatment programs under Penal Code section 1211.
- (2) The certified treatment programs should provide a minimum of two levels of treatment services to match participants to programs according to their needs for treatment, recognizing that some divertees may be at the stage of experimenting with illicit drugs while others may be further along in the addiction's progression.
- (3) Each treatment level should be divided into phases in order to provide periodic reviews of treatment progress. Each phase may vary in length. It should be recognized that a participant is expected to progress in treatment but may relapse. Most participants, however, should be able to successfully complete the treatment program within 12 months.
- (4) Each pre-plea diversion drug court program should have an assessment component to ensure that participants are initially screened and then periodically assessed by treatment personnel to ensure that appropriate treatment services are provided and to monitor the participants' progress through the phases.
- (5) Treatment services should include educational and group outpatient treatment. Individual counseling, however, should be made available in special circumstances if an assessment based on acceptable professional standards indicates that individual counseling is the only appropriate form of treatment. Referrals should be made for educational and vocational counseling if it is determined to be appropriate by the judge.

(Subd (c) amended effective January 1, 2007.)

Current standard

(d) Monitoring

Abstinence from and use of drugs should be monitored by frequent drug testing.

- (1) Alcohol and other drug (AOD) testing is essential and should be mandatory in each pre-plea diversion drug court program to monitor participant compliance.
- (2) Testing may be administered randomly or at scheduled intervals, but should occur no less frequently than one time per week during the first 90 days of treatment.
- (3) The probation officer and court should be immediately notified when a participant has tested positive, has failed to submit to AOD testing, or has submitted an adulterated sample. In such cases, an interim hearing should be calendared and required as outlined in (e)(4).
- (4) Participants should not be considered to have successfully completed the treatment program unless they have consistently had negative test results for a period of four months.

(Subd (d) amended effective January 1, 2007.)

Current standard

(e) Judicial supervision

There should be early and frequent judicial supervision of each diversion drug court participant.

- (1) Each participant should appear in court before a specifically assigned diversion drug court judge within 30 days after the first court appearance. At this time the participant should provide proof of registration, proof of completion of assessment, proof of entry into a specific treatment program, and initial drug test results.
- (2) The second drug court appearance should be held no later than 30 days after the first drug court appearance. The third drug court appearance should be held no later than 60 days after the second drug court appearance.
- (3) A final drug court appearance should be required no sooner than 12 months from entry into treatment unless continued treatment is found to be appropriate and necessary.
- (4) Interim drug court appearances should be required within one week of the following: positive drug test results, failure to test, adulterated test, or failure to appear or participate in treatment.
- (5) At each drug court appearance, the judge should receive a report of the participant's progress in treatment and drug test results and should review, monitor, and impose rewards and sanctions based on the participant's progress or lack of progress.

Current standard

(f) Sanctions and incentives

The drug court responds directly to each participant's compliance or noncompliance with graduated sanctions or incentives.

- (1) A clear regimen of incentives and sanctions should be established and implemented at each court hearing.
- (2) The suggested range of incentives should be as follows:
 - (A) Encouragement;
 - (B) Advancement to next treatment phase;
 - (C) Reduction in diversion program fees (other than state-mandated fees);
 - (D) Completion of treatment and required court appearances and shortening of the term of diversion; and
 - (E) Other incentives the court may deem necessary or appropriate.
- (3) The suggested range of sanctions should be as follows:
 - (A) Demotion to earlier treatment phase;
 - (B) Increased frequency of testing, supervision, or treatment requirements;
 - (C) Graduated length of incarceration for violating diversion order to abstain from use of illegal drugs and for nonparticipation in treatment; and
 - (D) Reinstatement of criminal proceedings.
- (4) A participant should be terminated from the pre-plea diversion drug court, and criminal proceedings reinstated, if the drug court judge, after a hearing, makes a final and specific finding and determination at any time during the period of diversion that the participant has:
 - (A) Not performed satisfactorily in treatment;
 - (B) Failed to benefit from education, treatment, or rehabilitation;
 - (C) Been convicted of a misdemeanor that reflects the participant's propensity for violence; or
 - (D) Engaged in criminal conduct rendering him or her unsuitable for continued treatment.

(Subd (f) amended effective January 1, 2007.)

Current standard

(g) National standards

In addition to meeting the minimum guidelines provided in this standard, courts are encouraged to look to the nationally accepted guidelines, *Defining Drug Courts: The Key Components*, developed by the National Association of Drug Court Professionals in cooperation with the Department of Justice, for further and detailed guidance in developing an effective diversion drug court program.

(Subd (g) amended effective January 1, 2007.)

Standard 4.10 amended and renumbered effective January 1, 2007; adopted as sec. 36 effective January 1, 1998.

Other standards to include?
National Drug Court Standards?

Changes in landscape

- Realignment
- Prop 47
- Prop 64
- AB 208 (DEJ → Pre-plea)
- Medically-assisted treatment

What is a standard of judicial administration?

Standards are guidelines or goals recommended by the Judicial Council.

The nonbinding nature of standards is indicated by the use of "should" in the standards instead of the mandatory "must" used in the rules.

Only 5 criminal standards

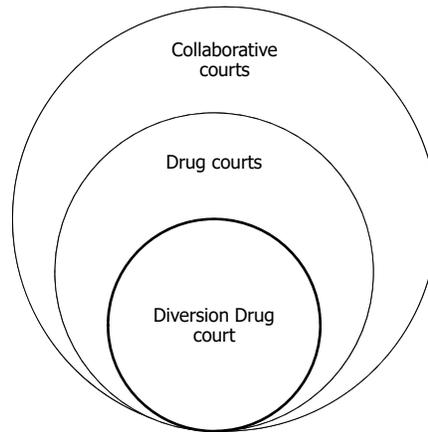
- 2 traffic-related
- 1 with voir dire script
- 1 regarding use of risk assessment at sentencing
- And diversion drug court

Procedural options

- Update the standard
- Convert to a rule & update
- Repeal the standard

Substantive options

- Expand it to all drug courts?
- Expand it to collaborative courts?



Time line

| | |
|------------------------------|------------------------|
| Proposals to RUPRO staff | March 5, 2019 |
| RUPRO meeting to approve ITC | April 4 |
| Comment period | April 8 – June 7 |
| Reports to RUPRO | July 24 |
| Judicial Council meeting | September 24 |
| Effective date if approved | January 1, 2020 |