



JUDICIAL COUNCIL OF CALIFORNIA

EXECUTIVE AND
PLANNING COMMITTEE

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executiveandplanning@jud.ca.gov

EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF OPEN MEETING WITH CLOSED SESSION

Thursday, January 8, 2015
12:10 to 1:10 p.m.
Teleconference

Advisory Body Members Present: Justice Douglas P. Miller (Chair); Judge David M. Rubin (Vice Chair); Justice Judith Ashmann-Gerst; Judges Marla O. Anderson, James R. Brandlin, Marsha G. Slough, Dean T. Stout, Charles D. Wachob; Ms. Mary Beth Todd and Ms. Donna D. Melby

Advisory Body Members Absent: Judge Morris D. Jacobson

Invited Guests Present: Judge Manual J. Covarrubias, Superior Court of California, County of Ventura; Judge Laurie M. Earl, Superior Court of California, County of Sacramento; Judge Richard J. Loftus, Jr., Superior Court of California, County of Santa Clara

Committee Staff Present: Ms. Nancy Carlisle

Staff Present: Ms. Vickie Akers, Mr. Cliff Alumno, Mr. Patrick Ballard, Ms. Deborah Brown; Ms. Roma Cheadle, Mr. Curtis Child, Mr. Douglas Denton, Ms. Charlene Depner, Mr. Ed Ellestad, Ms. Cristina Foti, Mr. John Judnick, Mr. Patrick McGrath, Mr. Patrick O'Donnell, Ms. Catharine Price, Mr. Curt Soderlund, Ms. Nancy Taylor, Mr. Zlatko Theodorovic, Mr. Don Will, Mr. Michael Wright, Ms. Carrie Zoller

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:10 p.m. and committee staff took roll call.

Approval of Minutes

The committee reviewed and approved the minutes of its December 4, 2014, e-mail action and December 11, 2014, meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 1–2)

Item 1

Request to Extend the Duration of the Mental Health Issues Implementation Task Force

The committee reviewed a request from the chair of the Mental Health Issues Implementation Task Force to extend the term of the task force and its membership by one year through December 31, 2015.

Action: *The committee approved the extension of the task force and its membership by one year through December 31, 2015.*

Item 2

Agenda Setting for the January 22, 2015, Judicial Council Meeting

The committee reviewed available draft reports and set the agenda for the January Judicial Council meeting.

Action: *The committee approved the following items for placement on the January Judicial Council business meeting agenda:*

- *California State Auditor Report: Five Superior Courts Did Not Consistently Follow Judicial Branch Contracting Practices (Action Required)*
- *Child Support: Certification of Support Calculation Computer Software Programs (Action Required)*
- *Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)*
- *Trial Court Allocation: Final Reduction Related to Statutory 1% Cap on 2013–2014 Fund Balance Carry-Over (Action Required)*
- *Judicial Council Report to the Legislature: Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2013–2014 (Action Required)*
- *Judicial Council Report to the Legislature: Fee Revenue and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2013–2014 (Action Required)*
- *Judicial Council Report to the Legislature: State Trial Court Improvement and Modernization Fund Expenditures for Fiscal Year 2013–2014 (Action Required)*
- *Governor's Proposed Budget for 2015–2016 (No Action Required)*
- *Budget: Fiscal Year 2015–2016 Budget Request for the Trial Courts (Action Required)*
- *Juvenile Dependency: Court Appointed Counsel Funding Reallocation (Action Required)*
- *California's Language Access Plan: Strategic Plan for Language Access in the California Courts (Action Required)*
- *California State Auditor's 2013 Assessment of Judicial Council Information Technology System Controls and Data Reliability (No Action Required)*
- *Court Facilities: Trial Court Facility Modification Advisory Committee Fiscal Year 2013–2014 Annual Report*

- **Court Security: Report on Screening Equipment Replacement for Fiscal Year 2013-2014**

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:50 p.m.

C L O S E D S E S S I O N

Item 3

Pursuant to California Rules of Court, rule 10.75(d)(6)

Non-final audit reports

During the open meeting, the committee indicated that it did not have comments to present and discuss regarding the draft audit report to be discussed (see Item 2) which resolved the need for the closed session.

Approved by the advisory body on [insert date].



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EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF ACTION BY E-MAIL

Tuesday, January 13, 2015

4:00 p.m.

Action by E-Mail

**Advisory Body
Members Who
Participated:**

Justice Douglas P. Miller (Chair); Judge David M. Rubin (Vice Chair); Justice Judith Ashmann-Gerst; Judges Marla O. Anderson, James R. Brandlin, Morris D. Jacobson, Marsha G. Slough, Dean T. Stout, and Charles D. Wachob; Ms. Mary Beth Todd and Ms. Donna D. Melby

**Advisory Body
Members Who Did
Not Participate:**

None

Committee Staff:

Ms. Nancy Carlisle

DISCUSSION AND ACTION ITEM

Proposal for Review

The committee reviewed and considered the report *Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106—Report No. 29)* for placement on the January 22, 2015, Judicial Council business meeting agenda.

The report is the standing informational report to the council listing the latest court notices received by the council as mandated by Government Code section 68106, which directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature.

Action: *The committee approved the report for the discussion agenda of the January Judicial Council business meeting. The committee chair concluded that prompt action by e-mail was necessary because of the need to circulate the proposal for comment in time for it to be included on the Judicial Council's December business meeting agenda.*

CLOSURE OF ACTION

The action by e-mail concluded on Wednesday, January 14, 2015.

Approved by the advisory body on [insert date].



JUDICIAL COUNCIL OF CALIFORNIA

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Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date	Action Requested
January 13, 2015	Information only
To	Deadline
Members of the Executive and Planning Committee	N/A
From	Contact
Curtis L. Child, Chief Operating Officer	Capital Program Kelly Quinn, 818-558-3078 kelly.quinn@jud.ca.gov
Subject	
Submission of FY 2015–2016 Capital Outlay Budget Change Proposals for SB 1407 Funded Projects to DOF for Governor’s FY 2015–2016 Budget	

Executive Summary

In accordance with direction received by the Judicial Council in August 2014, on January 5, 2015, Judicial Council staff submitted FY 2015–2016 Capital Outlay Budget Change Proposals (COBCPs) for SB 1407 Funded Projects to the state Department of Finance (DOF). These documents, which were reviewed by the chair of the council’s Court Facilities Advisory Committee (CFAC), updated the documents initially submitted to DOF in September 2014.

The FY 2015–2016 COBCPs request funding for 12 projects scheduled to move forward to the next phase, including 2 projects scheduled to move into the Construction phase, 6 projects scheduled to move into the Working Drawings phase—2 of which include a small cash appropriation for removal of existing buildings in advance of the new construction phase—and 4 projects for which reappropriation of funds for either Acquisition or both Acquisition and Preliminary Plans is requested.

The documents reflect the following modifications:

1. The COBCPs for the two projects scheduled to move into construction conform to direction staff received from the CFAC at its December 3, 2014, meeting to finance—rather than cash fund—the Lake–New Lakeport Courthouse and Siskiyou–New Yreka Courthouse.
2. The COBCP for the Santa Barbara–New Santa Barbara Criminal Courthouse includes a small cash request for demolition of existing buildings on the site of the new courthouse. These buildings have become a nuisance to the community and are a financial liability to the Judicial Council.

Previous Council Action

Capital-outlay project funding requests and the accompanying *Judicial Branch AB 1473 Five-Year Infrastructure Plan* are submitted annually to meet DOF deadlines, which tend to be set approximately one year in advance from the passage of the next fiscal year’s state budget. On August 22, 2014, the council directed that council staff submit—to meet DOF’s September 2014 deadline—FY 2015–2016 funding requests to the DOF for the next phase in all SB 1407 projects pending availability of SB 1407 funds, along with the annually updated five-year infrastructure plan.

Attachment

Table of Contents – Binder of Fiscal Year 2015–2016 Judicial Branch Budget Request
Capital Outlay Budget Change Proposals



TABLE OF CONTENTS

**Fiscal Year 2015–2016 Judicial Branch Budget Request
Capital Outlay Budget Change Proposals**

January 5, 2015

Prepared by the Judicial Council, Capital Program

Tab	COBCP	Project	Phase	Fund	Amount
<i>1</i>	15-91-01	Lake New Lakeport Courthouse	C	0668	\$ 40,803,000
<i>2</i>	15-91-02	Siskiyou New Yreka Courthouse	C	0668	\$ 56,936,000
<i>3</i>	15-91-03	Mendocino New Ukiah Courthouse	W	3138	\$ 6,068,000
<i>4</i>	15-91-04	Santa Barbara New Santa Barbara Criminal Courthouse	W/C	3138	\$ 6,294,000
<i>5</i>	15-91-05	Shasta New Redding Courthouse	W/C	3138	\$ 8,849,000
<i>6</i>	15-91-06	Sonoma New Santa Rosa Criminal Courthouse	W	3138	\$ 11,252,000
<i>7</i>	15-91-07	Stanislaus New Modesto Courthouse	W	3138	\$ 15,252,000
<i>8</i>	15-91-08	Tuolumne New Sonora Courthouse	W	3138	\$ 4,066,000
<i>9</i>	15-91-09	El Dorado (Reappropriation) New Placerville Courthouse	A/P	3138	\$ 4,780,000
<i>10</i>	15-91-10	Inyo (Reappropriation) New Inyo County Courthouse	A/P	3138	\$ 1,930,000
<i>11</i>	15-91-11	Los Angeles (Reappropriation) New Eastlake Juvenile Courthouse	A	3138	\$ 13,772,000
<i>12</i>	15-91-12	Riverside (Reappropriation) New Mid-County Civil Courthouse	A/P	3138	\$ 4,673,000

Total: \$ 174,675,000Fund 0668 Total: \$ 97,739,000Fund 3138 Total: \$ 76,936,000



JUDICIAL COUNCIL OF CALIFORNIA MEETINGS

Open to the Public Unless Indicated as Closed (Cal. Rules of Court, rule 10.6(a))

Judicial Council of California • Sacramento Offices

2860 Gateway Oaks Drive, Suite 400 • Sacramento, California 95833

Thursday, February 19, 2015 • 9:30 a.m.–2:05 p.m.

Meeting materials will be hyperlinked to agenda titles as soon as possible after receipt by Judicial Council Support. For recent postings of hyperlinked reports, please check the agenda at [REPLACE WITH CURRENT JC MEETING PAGE ADDRESS](#).

THURSDAY, FEBRUARY 19, 2015, AGENDA

CLOSED SESSION (RULE 10.6(b))—PERSONNEL AND OTHER CONFIDENTIAL MATTERS

Session 9:30–10:00 a.m.

Transitional Break 10:00–10:10 a.m. (approx.)

NOTE: Time is estimated. Actual start and end times may vary.

OPEN SESSION (RULE 10.6(a))—MEETING AGENDA

10:10–10:15 a.m. Approval of Minutes

Approve minutes of the January 22, 2015, Judicial Council meeting.

10:15–10:25 a.m. Chief Justice’s Report

Chief Justice Tani G. Cantil-Sakauye will report.

10:25–10:35 a.m. Administrative Director’s Report

Mr. Martin Hoshino, Administrative Director, will report.

10:35–10:55 a.m. Judicial Council Members’ Liaison Reports

Judicial Council members will report on their liaison work.

10:55–11:25 a.m. Public Comment

The Judicial Council welcomes public comment on general matters of judicial administration and on specific agenda items, as it can enhance the council’s understanding of the issues coming before it.

Please see our [public comment procedures](#).

- 1) Submit advance requests to speak by **4:00 p.m., Tuesday, February 17, 2015**.
- 2) Submit written comments for this meeting by **1:00 p.m. on Wednesday, February 18, 2015**.

Contact information for advance requests to speak, written comments, and questions:

E-mail: judicialcouncil@jud.ca.gov

Postal mail or delivery in person:

Judicial Council of California
455 Golden Gate Avenue
San Francisco, California 94102-3688
Attention: Cliff Alumno

CONSENT AGENDA (ITEMS A–E)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Carlisle at 415-865-7614 at least 48 hours before the meeting.

Item A Jury Instructions: Revisions to Criminal Jury Instructions (Action Required)

The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions* (CALCRIM). These changes will keep CALCRIM current with statutory and case authority.

Hon. Sandy R. Kriegler, Chair, Advisory Committee on Criminal Jury Instructions

Ms. Robin S. Seeley, Legal Services

Item B Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) and Judicial Council staff recommend that the Judicial Council accept the audit report that pertains to the Superior Court of Madera County. This acceptance complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Hon. Richard Huffman, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch

Mr. John A. Judnick, Audit Services

Item C Judicial Council Report to the Legislature: Status Update of Judicial Branch Courthouse Construction Program for Fiscal Year 2014–2015 (Action Required)

The Judicial Council Capital Program recommends approving the status update of the judicial branch courthouse construction program for fiscal year 2014–2015 for submission to the Legislature. This report also indicates that actual fiscal year end revenues and expenditures of the construction program’s Immediate and Critical Needs Account will be made available this fall, as a change is being requested to the Legislature’s annual submission deadline so it aligns with when these figures become available. The annual submission of this report is required under Government Code section 70371.8.

Mr. Curtis L. Child, Chief Operating Officer

Mr. William J. Guerin, Capital Program

NOTE: Time is estimated. Actual start and end times may vary.

Item D Judicial Council Report to the Legislature: Fiscal Year 2013–2014 Expenditures of the Trial Court Interpreters Program (Action Required)

The Judicial Council’s Court Operations Services office recommends approving the annual report on trial court interpreter expenditures for submission to the Legislature and the Department of Finance. This report is required by the Budget Act of 2013.

Mr. Curtis L. Child, Chief Operating Officer

Ms. Donna Hershkowitz, Court Operations Services

Item E Education: Report to the Legislature on Compliance with Welfare and Institutions Code 304.7 (Action Required) REPORT RECEIVED TBD (DIANE COWDREY CONTACT)

Judicial Council review and approval of a report to be submitted to the Legislature on the compliance by judges, commissioners and referees with the education requirements of Welfare and Institutions Code section 304.7.

Dr. Diane E. Cowdrey, Center for Judiciary Education and Research

Item F Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers (Action Required)

The Civil and Small Claims Advisory Committee recommends modifying the Request to Waive Court Fees (form FW-001) effective March 1, 2015 to reflect the 2015 increase to the federal poverty guidelines and at the same time make other clarifying changes to the form. In addition, the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee jointly recommend amendments to the rules that list the court fees that must be waived as part of an initial fee waiver and those that may be waived at the court’s discretion. The Appellate Advisory Committee recommends amending these rules to consolidate the list of mandatorily waived fees in one rule and to also list the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript. The Civil and Small Claims Advisory Committee recommends further rule amendments to reflect recent changes in law that mandates that any fees charged for the court’s cost for court reporting services and assessments for court investigation under certain provisions of the Probate Code be included in a waiver. Several fee waiver forms and information sheets would be revised to reflect these changes.

Hon. Patricia M. Lucas, Chair, Civil and Small Claims Advisory Committee

Hon. Raymond J. Ikola, Chair, Appellate Advisory Committee

Ms. Anne M. Ronan, Legal Services

DISCUSSION AGENDA (ITEMS G–K)

Item G 11:25–11:55 a.m. 30 MINUTES

Judicial Branch Administration: California State Auditor's Report on the Judicial Council (Action Required) REPORT RECEIVED TBD (JOHN WILLIAMS CONTACT)

The newly formed Audit Recommendations Working Group, charged with reviewing recommendations by the California State Auditor, was asked to report back to the Judicial Council in February 2015. The Audit Recommendations Working Group recommends approval of the proposed audit implementations work plan.

Speakers: Hon. Douglas P. Miller, Chair, Work Group on Audit Recommendations
Mr. Martin Hoshino, Administrative Director

Item H 11:55 a.m.–12:15 p.m. 20 MINUTES

Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) and Judicial Council staff recommend that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Nevada*. This acceptance is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

Speakers: Hon. Richard Huffman, Chair, Advisory Committee on Financial
Accountability and Efficiency for the Judicial Branch
Mr. John A. Judnick, Audit Services
Mr. Robert Cabral, Audit Services

Recess 12:15–12:45 p.m. (approx.)

Item I 12:45–1:15 p.m. 30 MINUTES

Trial Court Trust Fund Allocations: 2 Percent State Level Reserve (Action Required) REPORT RECEIVED TBD (PATRICK BALLARD CONTACT)

The Trial Court Budget Advisory's subcommittee presents a recommendation on the Superior Court of Napa County application for supplemental funding for relocation costs due to the significant Napa earthquake on August 24, 2014, which required the immediate closure

of the historic courthouse. Under the current policy adopted by the Judicial Council, from January 1 through March 15, the remaining 25 percent of the 2 percent reserve are available for court requests due to unforeseen emergencies or unanticipated expenses. These court requests are to be reviewed and recommended to the Judicial Council by the Trial Court Budget Advisory Committee's subcommittee. For 2014-2015, the 25 percent amount remaining in the 2 percent state-level reserve set-aside in the Trial Court Trust Fund is \$9.34 million. The total amount requested by the Superior Court of Napa County is \$187,000.

Speaker: Mr. Zlatko Theodorovic, Finance

Item J 1:15–1:45 p.m. 30 MINUTES

Statewide Trial Court Technology Programs: Programmatic and Staffing Changes (Action Required)

The Judicial Council Technology Committee and Trial Court Budget Advisory Committee jointly recommend that the Judicial Council approve changes to a number of trial court related statewide technology programs that would achieve short-term, medium-term, and long-term savings in the State Trial Court Improvement and Modernization Fund, that the council's Information Technology Services Office consider reducing as many external contractors as possible, and that the council consider creating a working group or designating an existing committee to focus on information technology efficiencies and cost saving measures for smaller courts.

Speakers: Hon. Laurie M. Earl, Chair, Trial Court Budget Advisory Committee
Hon James E. Herman, Chair, Judicial Council Technology Committee
Mr. Zlatko Theodorovic, Finance

Item K 1:45–2:05 p.m. 20 MINUTES

Trial Courts: Recidivism Reduction Fund Court Grant Program Recommended Awards (Action Required)

Criminal Justice Services (CJS) recommends that the Judicial Council approve the Recidivism Reduction Fund Court Grant Program (RRF) funding allocation and distribution of \$13.625 million for the period April 1, 2015, through April 30, 2017. The funding allocations will be directed to 27 superior courts for programs that incorporate practices known to reduce adult offender recidivism, as authorized by Senate Bill 105 and California State Budget 2014–2015. CJS also recommends that the Judicial Council provide an opportunity for the six courts that applied for RRF Court Grant Program and did not meet the minimum requirements for funding to submit revised applications for review, re-scoring, and possible funding from the remaining balance of the RRF Court Grant Program. CJS recommends that the Judicial Council authorize CJS staff to assist courts with budget modifications, as necessary, provided that the modifications are within the courts' original award amounts.

Speakers: Mr. Curtis L. Child, Chief Operating Officer

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

INFO 1 Judicial Council: Implementation of Judicial Council Directives on Judicial Council Staff Restructuring

The chair of the Executive and Planning Committee (E&P) presents this informational report on the implementation of the Judicial Council Directives on Staff Restructuring, as approved by the Judicial Council on August 31, 2012. The Judicial Council Staff Restructuring Directives specifically direct the Administrative Director to report to E&P before each council meeting on every directive. This informational report provides an update on the progress of implementation efforts.

**INFO 2 Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106—Report No. 30)
REPORT DUE WEDNESDAY, FEB 4 (JOHN WILLIAMS CONTACT)**

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This is the 30th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, NUMBER superior courts—those of COUNTY NAME(S)—have issued new notices.

INFO 3 Court Facilities: Trial Court Facility Modification Quarterly Activity Report, Quarter 1 of Fiscal Year 2014–2015

The Trial Court Facility Modification Advisory Committee has completed its facility modification funding for the first quarter of fiscal year 2014–2015. In compliance with the *Trial Court Facility Modifications Policy*, adopted by the Judicial Council on July 27, 2012, the advisory body is submitting its *Trial Court Facility Modification Quarterly Activity Report: Quarter 1, Fiscal Year 2014–2015* as information for the council. This report summarizes the activities of the Trial Court Facility Modification Advisory Committee from July 1, 2014, to September 30, 2014.

INFO 4 Trial Courts: Report on Expedited Jury Trials

This report provides data regarding the number of expedited jury trials that have been conducted in the California trial courts since the enactment of the Expedited Jury Trial Act and the dispositions achieved in those cases.

Circulating Orders since the last business meeting.

Appointment Orders since the last business meeting.



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 19, 2015

Title	Agenda Item Type
Jury Instructions: Revisions to Criminal Jury Instructions	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
<i>Judicial Council of California Criminal Jury Instructions</i>	February 19, 2015
Recommended by	Date of Report
Advisory Committee on Criminal Jury Instructions	January 8, 2015
Hon. Sandy R. Kriegler, Chair	Contact
	Robin Seeley, 415-865-7710
	robin.seeley@jud.ca.gov

Executive Summary

The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*. These changes will keep *CALCRIM* current with statutory and case authority.

Recommendation

The Advisory Committee on Criminal Jury Instructions recommends that the Judicial Council, effective February 19, 2015, approve for publication under rule 2.1050 of the California Rules of Court the criminal jury instructions prepared by the committee. Once approved by the Judicial Council, the revised instructions will be published in the official 2015 edition of the *Judicial Council of California Criminal Jury Instructions*.

A table of contents and the proposed revisions to the criminal jury instructions are attached at pages 5–187.

Previous Council Action

At its meeting on July 16, 2003, the Judicial Council adopted what is now rule 10.59 of the California Rules of Court, which established the advisory committee and its charge.¹ In August 2005, the council voted to approve the *CALCRIM* instructions under what is now rule 2.1050 of the California Rules of Court. Since that time, the committee has complied with both rules by regularly proposing to the council additions and changes to *CALCRIM*.

The council approved the last *CALCRIM* release at its August 2014 meeting.

Rationale for Recommendation

The committee recommends proposed revisions to or deletions from the following instructions: 359, 402, 403, 460, 521, 540B, 571, 592, 601, 627, 840, 1005, 1021, 1036, 1051, 1128, 1140, 1151, 1202, 1300, 1602, 2350, 2351, 2352, 2360, 2361, 2362, 2363, 2370, 2375, 2376, 2377, 2500, 2652, 3160, 3426, 3517, 3518, and 3519. It also proposes three new instructions: 2024, 3412, and 3413.

The committee drafted or revised the instructions based on comments or suggestions from justices, judges, and attorneys; proposals by staff and committee members; and recent developments in the law. Below is a summary of a few of the proposed changes.

New False Personation instruction (CALCRIM No. 2024)

In response to a comment from a student at Loyola Law School, Daniel Reeves, the committee drafted CALCRIM No. 2024, *False Personation*, to fill an apparent need.

First Degree Murder; Attempted Murder: Premeditation and Deliberation (CALCRIM Nos. 521, 601)

In response to a comment from Charles B. Burch, Judge of the Superior Court of Contra Costa County, the committee revised the definitions of premeditation in both of these instructions to make them more consistent. It also added the Supreme Court's opinion in *People v. Pearson* (2013) 56 Cal.4th 393, 443–444, to the bench notes in support of that definition. The *Pearson* case makes clear that the premeditation must have taken place before the defendant acted.

Series of sex crimes by fraud (CALCRIM Nos. 1005, 1021, 1036, 1051)

The state Legislature—in direct response to the opinion of CALCRIM committee member Thomas Lyle Willhite, Jr., Justice of the Court of Appeal, Second Appellate District, Division Four, in *People v. Morales* (2013) 212 Cal.App.4th 583—revised sections 261, 286, 288a, and 289 of the Penal Code to expand the set of potential victims to this crime. It now includes anyone deceived into believing that the person committing the act “is someone known to the victim other

¹ Rule 10.59(a) states: “The committee regularly reviews case law and statutes affecting jury instructions and makes recommendations to the Judicial Council for updating, amending, and adding topics to the council's criminal jury instructions.”

than the accused.” Previously, the perpetrator had to have been impersonating the victim’s spouse.

Showing or Sending Harmful Material to Seduce a Minor (CALCRIM No. 1140)

The state Legislature completely redrafted and amended Penal Code section 288.2, leading the committee to thoroughly revise this jury instruction to conform to the changes.

Compassionate Use and cooperative collective marijuana instructions (CALCRIM Nos. 3412 and 3413)

In response to a suggestion from CALCRIM committee member René Auguste Chouteau, Judge of the Superior Court of Sonoma County, the committee decided to create a marijuana defense instruction for cooperative collectives.

The language for the compassionate use defense was previously embedded in the relevant marijuana instructions. Because that language is lengthy and the committee was drafting a different, lengthy defense for cooperative collectives as well, it decided to create these two stand-alone marijuana defense instructions instead of adding significant bulk to each relevant instruction in the marijuana series.

Comments, Alternatives Considered, and Policy Implications

The proposed additions and revisions to *CALCRIM* circulated for comment from November 17 to December 31, 2014. The committee received only two comments (see chart of comments, at page 188), which is not surprising because the changes during this round of revisions were not controversial.

Rule 2.1050 of the California Rules of Court requires the committee to update, amend, and add topics to *CALCRIM* on a regular basis and to submit its recommendations to the council for approval. The proposed revised instructions are necessary to ensure that the instructions remain clear, accurate, and complete; therefore, the advisory committee considered no alternative actions.

Implementation Requirements, Costs, and Operational Impacts

No implementation costs are associated with this proposal. To the contrary, under the publication agreement, the official publisher, LexisNexis, will print a new edition and pay royalties to the Judicial Council. The council’s contract with West Publishing provides additional royalty revenue.

The official publisher will also make the revised content available free of charge to all judicial officers in both print and HotDocs document assembly software. With respect to commercial publishers, the council will register the copyright of this work and continue to license its publication of the instructions under provisions that govern accuracy, completeness, attribution, copyright, fees and royalties, and other publication matters. To continue to make the instructions

freely available for use and reproduction by parties, attorneys, and the public, the council provides a broad public license for their noncommercial use and reproduction.

Attachments

1. Full text of revised *CALCRIM* instructions, including table of contents, at pages 5–187
2. Comments chart, at page 188

DRAFT

Instruction Number	Instruction Title
New 2024	False Personation
New 3412, 3413	Compassionate Use and Cooperative Collective/Marijuana
359	Corpus Delicti
402, 403, 3426	Natural and Probable Consequences Doctrine Series, Voluntary Intoxication: Effects on Homicide Cases
460, 1300	Attempt Other Than Attempted Murder, Criminal Threat
521, 601	First Degree Murder, Attempted Murder
540B	Felony Murder: First Degree—Cooparticipant Allegedly Committed Fatal Act
571, 627	Voluntary Manslaughter: Imperfect Self-Defense or Imperfect Defense of Another—Lesser Included Offense, Hallucination: Effect on Premeditation
592	Gross Vehicular Manslaughter
840	Inflicting Injury on Spouse, Cohabitant, or Fellow Parent Resulting in Traumatic Condition
1005, 1021, 1036, 1051	Sex Crime by Fraud Series
1128	Engaging in Oral Copulation or Sexual Penetration With Child 10 Years of Age or Younger
1140	Showing or Sending Harmful Material to Seduce a Minor
1151	Pandering
1202	Kidnapping: For Ransom, Reward, or Extortion
1602	Robbery: Degrees
2350, 2351, 2352, 2360, 2361, 2362, 2363, 2370, 2375, 2376, 2377	Marijuana Series
2500	Illegal Possession, etc., of Weapon

Instruction Number	Instruction Title
2652	Resisting an Executive Officer in Performance of Duty
3160	Great Bodily Injury Enhancement
3517, 3518, 3519	Lesser Included Offense Instructions

2024. False Personation (Pen. Code, §§ 529(a), 530)

The defendant is charged [in Count _____] with falsely impersonating another person in the other person's private or official capacity and performing certain acts [in violation of Penal Code section 529(a)][in violation of Penal Code section 530].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant falsely impersonated another person in the other person's private or official capacity;
AND
2. While falsely impersonating that person, the defendant:
 - [2A. Posted bail or acted as surety for anyone in any proceeding, before any judge or officer authorized to take that bail or surety(;/.)][or]
 - [2B1. Verified, published, acknowledged, or proved, in the name of that person, any written document;
[AND]
 - [2B2. When the defendant did so, he intended that the written document be recorded, delivered, or used as though it were an authentic document(./;)] [or]
 - [2C. Did anything which, if done by the person being falsely impersonated, might cause (that person to be liable in a lawsuit or criminal prosecution/ [or] that person to pay any amount of money/ [or] that person to be subject to any charge, forfeiture, or penalty/ [or] the defendant or anyone else to receive a benefit as a result)(./;)] [or]

<Use the following paragraph for violations of Penal Code section 530>

 - [2D1. Received money or property;
 - 2D2. The defendant knew that the money or property was intended to be delivered to the person that (he/she) was falsely impersonating;
 - 2D3. The money or property was worth (more than \$950/\$950 or less);
 - 2D4. When the defendant acted, (he/she) intended to deprive the true owner of the money or property, or use it for (his/her) own benefit, or let someone else use it.]

New [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

AUTHORITY

- Elements ▶ Pen. Code, §§ 529(a), 530(b).

RELATED ISSUES

Penal Code section 529(a)(3) does not require any specific mental state beyond intentionally falsely impersonating another. *People Rathert* (2000) 24 Cal.4th 200, 210 [99 Cal.Rptr.2d 779, 6 P.3d 700].

LESSER INCLUDED OFFENSES

- A violation of Penal Code section 529(b) is a lesser included offense of section 529(a).

2025–2039. Reserved for Future Use

3412. Compassionate Use Defense (Health & Saf. Code, § 11362.5)

Possession or cultivation of marijuana is lawful if authorized by the Compassionate Use Act. The Compassionate Use Act allows a person to possess or cultivate marijuana (for personal medical purposes/ [or] as the primary caregiver of a patient with a medical need) when a physician has recommended [or approved] such use. The amount of marijuana possessed or cultivated must be reasonably related to the patient’s current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or cultivate marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.

[A *primary caregiver* is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]

New January 2006; Revised June 2007, April 2010 *insert date of council approval*

BENCH NOTES

Instructional Duty

Pursuant to Health & Saf. Code, § 11362.5, defendants may raise a medical marijuana defense in appropriate cases. The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense where defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].)

If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the first paragraph of this instruction. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11362.5, *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067].
- Amount Must Be Reasonably Related to Patient's Medical Needs ▶ *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550–1551 [66 Cal.Rptr.2d 559].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- Defendant's Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292-294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J.).

Secondary Sources

2 Witkin & Epstein, *California Criminal Law* (4th ed. 2012) Crimes Against Public Peace and Welfare, §136.

3413. Collective or Cooperative Cultivation Defense (Health & Saf. Code, § 11362.775)

(Planting[,] [or]/ cultivating[,] [or]/ harvesting[,] [or]/ drying[,] [or]/ processing) marijuana is lawful if authorized by the Medical Marijuana Program Act. The Medical Marijuana Program Act allows qualified patients [and their designated primary caregivers] to associate within the State of California to collectively or cooperatively cultivate marijuana for medical purposes, for the benefit of its members, but not for profit.

In deciding whether a collective meets these legal requirements, consider the following factors:

- 1. The size of the collective’s membership;**
- 2. The volume of purchases from the collective;**
- 3. The level of members’ participation in the operation and governance of the collective;**
- 4. Whether the collective was formally established as a nonprofit organization;**
- 5. Presence or absence of financial records;**
- 6. Accountability of the collective to its members;**
- 7. Evidence of profit or loss.**

There is no limit on the number of persons who may be members of a collective.

Every member of the collective does not need to actively participate in the cultivation process. It is enough if a member provides financial support by purchasing marijuana from the collective.

A *qualified patient* is someone for whom a physician has previously recommended or approved the use of marijuana for medical purposes. [¶]

***Collectively* means involving united action or cooperative effort of all members of a group.**

***Cooperatively* means working together or using joint effort toward a common end.**

***Cultivate* means to foster the growth of a plant.**

[A *primary caregiver* is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]

The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to (plant[,] [or]/ cultivate[,] [or]/ harvest[,] [or]/ dry[,] [or]/ process) marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.]

New [insert date of council approval]

BENCH NOTES

Instructional Duty

A collective or cooperative cultivation defense under the Medical Marijuana Program Act may be raised to certain marijuana charges. (See Health & Saf. Code, § 11362.775) The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11362.775.
- Size of Collective and Member’s Role in Cultivation Not Factors ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, [192 Cal.Rptr. 674].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061]; *People v. Mitchell* (2014) 225 Cal.App.4th 1189, 1205-1206 [170 Cal.Rptr.3d 825].
- Defendant’s Burden of Proof on Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against Public Peace and Welfare, § 147.

3414–3424. Reserved for Future Use

359. Corpus Delicti: Independent Evidence of a Charged Crime

The defendant may not be convicted of any crime based on (his/her) out-of-court statement[s] alone. You may rely on the defendant's out-of-court statements to convict (him/her) only if you first conclude that other evidence shows that the charged crime [or a lesser included offense] was committed.

That other evidence may be slight and need only be enough to support a reasonable inference that a crime was committed.

This requirement of other evidence does not apply to proving the identity of the person who committed the crime [and the degree of the crime]. If other evidence shows that the charged crime [or a lesser included offense] was committed, the identity of the person who committed it [and the degree of the crime] may be proved by the defendant's statement[s] alone.

You may not convict the defendant unless the People have proved (his/her) guilt beyond a reasonable doubt.

New January 2006; Revised August 2006, February 2014 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on corpus delicti whenever an accused's extrajudicial statements form part of the prosecution's evidence. (*People v. Howk* (1961) 56 Cal.2d 687, 707 [16 Cal.Rptr. 370, 365 P.2d 426].)

The corpus delicti cannot be proved by statements made before or after the crime, but can be proved by statements made during the crime. (*People v. Carpenter* (1997) 15 Cal.4th 312, 394 [63 Cal.Rptr.2d 1, 935 P.2d 708].)

Give the bracketed language in the first paragraph if the court will be instructing on lesser included offenses.

An earlier version of this instruction was upheld in *People v. Reyes* (2007) 151 Cal.App.4th 1491, 1496 [60 Cal.Rptr.3d 777]. A later case, *People v. Rivas* (2013) 214 Cal.App.4th 1410, 1427-1429 [155 Cal.Rptr.3d 403], found fault with

the same earlier version of the instruction without referring to *Reyes*. The instruction has been modified in light of the discussion in *Rivas*.

Related Instructions

Since the corpus delicti instruction concerns statements of guilt by the defendant, this instruction must always be given along with CALCRIM No. 358, *Evidence of Defendant's Statements*. If the statements are reported oral statements, the bracketed cautionary paragraph in CALCRIM No. 358 must also be given.

AUTHORITY

- Instructional Requirements ▶ *People v. Ray* (1996) 13 Cal.4th 313, 342 [52 Cal.Rptr.2d 296, 914 P.2d 846]; *People v. Jennings* (1991) 53 Cal.3d 334, 368 [279 Cal.Rptr. 780, 807 P.2d 1009]; *People v. Hawk* (1961) 56 Cal.2d 687, 707 [16 Cal.Rptr. 370, 365 P.2d 426].
- Burden of Proof ▶ *People v. Lara* (1994) 30 Cal.App.4th 658, 676.
- [This Earlier Version of This Instruction Correctly States the Law ▶ *People v. Rosales* \(2014\) 222 Cal.App.4th 1254, 1260-1261 \[166 Cal.Rptr.3d 620\]; *People v. Reyes* \(2007\) 151 Cal.App.4th 1491, 1496 \[60 Cal.Rptr.3d 777\].](#)
- Proof of Identity Independent of “Elements” ▶ *People v. Rivas* (2013) 214 Cal.App.4th 1410, 1427-1429 [155 Cal.Rptr.3d 403].
- Corpus Delicti Rule Does Not Apply Generally to All Uncharged Acts ▶ *People v. Davis* (2008) 168 Cal.App.4th 617, 636 [86 Cal.Rptr.3d 55].

Secondary Sources

1 Witkin & Epstein, *California Criminal Law* (3d ed. 2000) Elements, §§ 45–52.

2 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 30, *Confessions and Admissions*, §§ 30.04[2], 30.57 (Matthew Bender).

4 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 85, *Submission to Jury and Verdict*, § 85.04[2][c], Ch. 87, *Death Penalty*, § 87.13[17][e] (Matthew Bender).

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 140, *Challenges to Crimes*, § 140.01 (Matthew Bender).

COMMENTARY

Harm Caused by Criminal Conduct

The instruction states that the other evidence need only “be enough to support a reasonable inference that someone’s criminal conduct caused an injury, loss, or harm.” This is based in part on *People v. Alvarez* (2002) 27 Cal.4th 1161, 1171 [119 Cal.Rptr.2d 903, 46 P.3d 372], in which the court stated that “[t]here is no requirement of independent evidence ‘of every physical act constituting an element of an offense,’ so long as there is some slight or prima facie showing of injury, loss, or harm by a criminal agency.” (Citing *People v. Jones* (1998) 17 Cal.4th 279, 303 [70 Cal.Rptr.2d 793, 949 P.2d 890].)

Scope of Corpus Delicti

The following are not elements of a crime and need not be proved by independent evidence: the degree of the crime charged (*People v. Cooper* (1960) 53 Cal.2d 755, 765 [3 Cal.Rptr. 148, 349 P.2d 964]), the identity of the perpetrator (*People v. Westfall* (1961) 198 Cal.App.2d 598, 601 [18 Cal.Rptr. 356]), elements of the underlying felony when the defendant is charged with felony murder (*People v. Cantrell* (1973) 8 Cal.3d 672, 680–681 [105 Cal.Rptr. 792, 504 P.2d 1256], disapproved on other grounds in *People v. Wetmore* (1978) 22 Cal.3d 318, 324 [149 Cal.Rptr. 265, 583 P.2d 1308] and *People v. Flannel* (1979) 25 Cal.3d 668, 684–685, fn. 12 [160 Cal.Rptr. 84, 603 P.2d 1]), special circumstances when the defendant is charged with a felony-based special circumstance murder as listed in Penal Code section 190.2(a)(17) (Pen. Code, § 190.41; see *People v. Ray* (1996) 13 Cal.4th 313, 341, fn. 13 [52 Cal.Rptr.2d 296, 914 P.2d 846]), the knowledge and intent required for aider-abettor liability (*People v. Gutierrez* (2002) 28 Cal.4th 1083, 1128–1129 [124 Cal.Rptr.2d 373, 52 P.3d 572]; *People v. Ott* (1978) 84 Cal.App.3d 118, 131 [148 Cal.Rptr. 479]), or facts necessary for a sentencing enhancement (see *People v. Shoemake* (1993) 16 Cal.App.4th 243, 252–256 [20 Cal.Rptr.2d 36]).

RELATED ISSUES

Truth-in-Evidence Initiative

The “truth-in-evidence” provision of the California Constitution abrogates the corpus delicti rule insofar as it restricts the admissibility of incriminatory extrajudicial statements by an accused. (*People v. Alvarez* (2002) 27 Cal.4th 1161, 1173–1174 [119 Cal.Rptr.2d 903, 46 P.3d 372]; see Cal. Const., art. I, § 28(d) [Proposition 8 of the June 8, 1982 General Election].) The constitutional provision, however, does not eliminate the rule insofar as it prohibits *conviction* when the only evidence that the crime was committed is the defendant’s own statements outside of court. Thus, the provision does not affect the rule to the extent it requires a jury instruction that no person may be convicted absent evidence of the crime independent of his or her out-of-court statements. (*People v. Alvarez, supra*, 27 Cal.4th at p. 1180.)

402. Natural and Probable Consequences Doctrine (Target and Non-Target Offenses Charged)

The defendant is charged in Count[s] ___ with _____ <insert target offense> and in Counts[s] ___ with _____ <insert non-target offense>.

You must first decide whether the defendant is guilty of _____ <insert target offense>. If you find the defendant is guilty of this crime, you must then decide whether (he/she) is guilty of _____ <insert non-target offense>.

Under certain circumstances, a person who is guilty of one crime may also be guilty of other crimes that were committed at the same time.

To prove that the defendant is guilty of _____ <insert non-target offense>, the People must prove that:

1. The defendant is guilty of _____ <insert target offense>;
2. During the commission of _____ <insert target offense> a coparticipant in that _____ <insert target offense> committed the crime of _____ <insert non-target offense>;

AND

3. Under all of the circumstances, a reasonable person in the defendant's position would have known that the commission of _____ <insert non-target offense> was a natural and probable consequence of the commission of the _____ <insert target offense>.

A *coparticipant* in a crime is the perpetrator or anyone who aided and abetted the perpetrator. It does not include a victim or innocent bystander.

A *natural and probable consequence* is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence.

If the _____ <insert non-target offense> was committed for a reason independent of the common plan to commit the _____ <insert target offense>, then the commission of _____ <insert non-target offense> was not a natural and probable consequence of _____ <insert target offense>.

[Do not consider evidence of defendant's intoxication in deciding whether _____ <insert non-target offense> was a natural and probable consequence of _____ <insert target offense>.]

To decide whether the crime of _____ <insert non-target offense> was committed, please refer to the separate instructions that I (will give/have given) you on that crime.

[The People allege that the defendant originally intended to aid and abet the commission of either _____ <insert target offense> or _____ <insert other target offense>. The defendant is guilty of _____ <insert non-target offense> if the People have proved that the defendant aided and abetted either _____ <insert target offense> or _____ <insert other target offense> and that _____ <insert non-target offense> was the natural and probable consequence of either _____ <insert target offense> or _____ <insert other target offense>. However, you do not need to agree on which of these two crimes the defendant aided and abetted.]

*New January 2006; Revised June 2007, April 2010, February 2013, August 2014***[insert date of council approval]**

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on aiding and abetting when the prosecution relies on that theory of culpability. (*People v. Beeman* (1984) 35 Cal.3d 547, 560-561[199 Cal.Rptr. 60, 674 P.2d 1318].)

The court has a **sua sponte** duty to identify and instruct on any target offense relied on by the prosecution as a predicate offense when substantial evidence supports the theory. Give all relevant instructions on the alleged target offense or offenses. The court, however, does not have to instruct on all potential target offenses supported by the evidence if the prosecution does not rely on those offenses. (*People v. Prettyman* (1996) 14 Cal.4th 248, 267–268 [58 Cal.Rptr.2d 827, 926 P.2d 1013]; see *People v. Huynh* (2002) 99 Cal.App.4th 662, 677–678 [121 Cal.Rptr.2d 340] [no sua sponte duty to instruct on simple assault when prosecutor never asked court to consider it as target offense].)

The target offense is the crime that the accused parties intended to commit. The non-target is an additional unintended crime that occurs during the commission of the target.

Give the bracketed paragraph beginning, “Do not consider evidence of defendant’s intoxication,” when instructing on aiding and abetting liability for a non-target offense. (People v. Mendoza (1998) 18 Cal.4th 1114, 1134 [77 Cal.Rptr.2d 428, 959 P.2d 735].)

Related Instructions

Give CALCRIM No. 400, *Aiding and Abetting: General Principles*, and CALCRIM No. 401, *Aiding and Abetting: Intended Crimes*, before this instruction.

This instruction should be used when the prosecution relies on the Natural and Probable Consequences Doctrine and charges both target and non-target crimes. If only non-target crimes are charged, give CALCRIM No. 403.

AUTHORITY

- Aiding and Abetting Defined. ▶ *People v. Beeman* (1984) 35 Cal.3d 547, 560–561 [199 Cal.Rptr. 60, 674 P.2d 1318].
- Natural and Probable Consequences, Reasonable Person Standard. ▶ *People v. Nguyen* (1993) 21 Cal.App.4th 518, 531 [26 Cal.Rptr.2d 323].
- A Verdict of First Degree Murder May Not Be Based on the Natural and Probable Consequences Doctrine; Murder Under That Doctrine is Second Degree Murder. ▶ *People v. Chiu* (2014) 59 Cal. 4th 155, 166 [172 Cal.Rptr.3d 438, 325 P.3d 972].
- Reasonably Foreseeable Crime Need Not Be Committed for Reason Within Common Plan ▶ *People v. Smith*, 2014 WL 6477208 (Cal.), (2014) ____ Cal.4th ____, ____ [____ Cal.Rptr.3d ____, ____ P.3d ____].

Secondary Sources

1 Witkin & Epstein, *California Criminal Law* (3d ed. 2000) Introduction to Crimes, §§ 82, 84, 88.

4 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 85, *Submission to Jury and Verdict*, §§ 85.02[1A][a], 85.03[2][d] (Matthew Bender).

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 140, *Challenges to Crimes*, § 140.10[3] (Matthew Bender).

COMMENTARY

In *People v. Prettyman* (1996) 14 Cal.4th 248, 268 [58 Cal.Rptr.2d 827, 926 P.2d 1013],

the court concluded that the trial court must sua sponte identify and describe for the jury any target offenses allegedly aided and abetted by the defendant.

Although no published case to date gives a clear definition of the terms “natural” and “probable,” nor holds that there is a sua sponte duty to define them, we have included a suggested definition. (See *People v. Prettyman*, *supra*, 14 Cal.4th at p. 291 (conc. & dis. opn. of Brown, J.); see also *People v. Coffman and Marlow* (2004) 34 Cal.4th 1, 107–109 [17 Cal.Rptr.3d 710, 96 P.3d 30] [court did not err in failing to define “natural and probable”].)

RELATED ISSUES

Lesser Included Offenses

The court has a duty to instruct on lesser included offenses that could be the natural and probable consequence of the intended offense when the evidence raises a question whether the greater offense is a natural and probable consequence of the original, intended criminal act. (*People v. Woods* (1992) 8 Cal.App.4th 1570, 1586-1588 [11 Cal.Rptr.2d 231] [aider and abettor may be found guilty of second degree murder under doctrine of natural and probable consequences although the principal was convicted of first degree murder].)

Specific Intent—Non-Target Crimes

Before an aider and abettor may be found guilty of a specific intent crime under the natural and probable consequences doctrine, the jury must first find that the perpetrator possessed the required specific intent. (*People v. Patterson* (1989) 209 Cal.App.3d 610, 614 [257 Cal.Rptr. 407] [trial court erroneously failed to instruct the jury that they must find that the perpetrator had the specific intent to kill necessary for attempted murder before they could find the defendant guilty as an aider and abettor under the "natural and probable" consequences doctrine], disagreeing with *People v. Hammond* (1986) 181 Cal.App.3d 463 [226 Cal.Rptr. 475] to the extent it held otherwise.) However, it is not necessary that the jury find that the aider and abettor had the specific intent; the jury must only determine that the specific intent crime was a natural and probable consequence of the original crime aided and abetted. (*People v. Woods* (1992) 8 Cal.App.4th 1570, 1586–1587 [11 Cal.Rptr. 2d 231].)

Target and Non-Target Offense May Consist of Same Act

Although generally, non-target offenses charged under the natural and probable consequences doctrine will be different and typically more serious criminal acts than the target offense alleged, they may consist of the same act with differing mental states. (*People v. Laster* (1997) 52 Cal.App.4th 1450, 1463–1466 [61 Cal.Rptr.2d 680] [defendants were properly convicted of attempted murder as natural and probable consequence of aiding and abetting discharge of firearm from vehicle. Although both

crimes consist of same act, attempted murder requires more culpable mental state].)

Target Offense Not Committed

The Supreme Court has left open the question whether a person may be liable under the natural and probable consequences doctrine for a non-target offense, if the target offense was not committed. (*People v. Prettyman* (1996) 14 Cal.4th 248, 262, fn. 4 [58 Cal.Rptr.2d 827, 926 P.2d 1013], but see *People v. Ayala* (2010) 181 Cal.App.4th 1440, 1452 [105 Cal.Rptr.3d 575]; *People v. Laster* (1997) 52 Cal.App.4th 1450, 1464-1465 [61 Cal.Rptr.2d 680].)

See generally, the related issues under CALCRIM No. 401, *Aiding and Abetting: Intended Crimes*.

403. Natural and Probable Consequences (Only Non-Target Offense Charged)

[Before you may decide whether the defendant is guilty of _____ <insert non-target offense>, you must decide whether (he/she) is guilty of _____ <insert target offense>.]

To prove that the defendant is guilty of _____ <insert non-target offense>, the People must prove that:

1. The defendant is guilty of _____ <insert target offense>;
2. During the commission of _____ <insert target offense> a coparticipant in that _____ <insert target offense> committed the crime of _____ <insert non-target offense>;

AND

3. Under all of the circumstances, a reasonable person in the defendant's position would have known that the commission of the _____ <insert non-target offense> was a natural and probable consequence of the commission of the _____ <insert target offense>.

A *coparticipant* in a crime is the perpetrator or anyone who aided and abetted the perpetrator. It does not include a victim or innocent bystander.

A *natural and probable consequence* is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence. ~~If the _____ <insert non-target offense> was committed for a reason independent of the common plan to commit the _____ <insert target offense>, then the commission of _____ <insert non-target offense> was not a natural and probable consequence of _____ <insert target offense>.~~

[Do not consider evidence of defendant's intoxication in deciding whether _____ <insert non-target offense> was a natural and probable consequence of _____ <insert target offense>.]

To decide whether crime of _____ <insert non-target offense> was committed, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s].

[The People are alleging that the defendant originally intended to aid and abet _____ <insert target offenses>.

If you decide that the defendant aided and abetted one of these crimes and that _____ <insert non-target offense> was a natural and probable consequence of that crime, the defendant is guilty of _____ <insert non-target offense>. You do not need to agree about which of these crimes the defendant aided and abetted.]

New January 2006; Revised June 2007, April 2010, August 2014 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on aiding and abetting when the prosecution relies on it as a theory of culpability. (*People v. Beeman* (1984) 35 Cal.3d 547, 560-561 [199 Cal.Rptr. 60, 674 P.2d 1318].)

The court has a **sua sponte** duty to identify and instruct on any target offense relied on by the prosecution as a predicate offense when substantial evidence supports the theory. Give all relevant instructions on the alleged target offense or offenses. The court, however, does not have to instruct on all potential target offenses supported by the evidence if the prosecution does not rely on those offenses. (*People v. Prettyman* (1996) 14 Cal.4th 248, 267–268 [58 Cal.Rptr.2d 827, 926 P.2d 1013]; see *People v. Huynh* (2002) 99 Cal.App.4th 662, 677–678 [121 Cal.Rptr.2d 340] [no sua sponte duty to instruct on simple assault when prosecutor never asked court to consider it as target offense].)

The target offense is the crime that the accused parties intended to commit. The non-target is an additional unintended crime that occurs during the commission of the target.

Do not give the first bracketed paragraph in cases in which the prosecution is also pursuing a conspiracy theory.

Give the bracketed paragraph beginning, “Do not consider evidence of defendant’s intoxication,” when instructing on aiding and abetting liability for a non-target

offense. (*People v. Mendoza* (1998) 18 Cal.4th 1114, 1134 [77 Cal.Rptr.2d 428, 959 P.2d 735].)

Related Instructions

Give CALCRIM No. 400, *Aiding and Abetting: General Principles*, and CALCRIM No. 401, *Aiding and Abetting: Intended Crimes*, before this instruction.

This instruction should be used when the prosecution relies on the Natural and Probable Consequences Doctrine and charges only non-target crimes. If both target and non-target crimes are charged, give CALCRIM No. 402.

AUTHORITY

- Aiding and Abetting Defined ▶ *People v. Beeman* (1984) 35 Cal.3d 547, 560–561 [199 Cal.Rptr. 60, 674 P.2d 1318].
- Natural and Probable Consequences, Reasonable Person Standard ▶ *People v. Nguyen* (1993) 21 Cal.App.4th 518, 531 [26 Cal.Rptr.2d 323].
- No Unanimity Required ▶ *People v. Prettyman* (1996) 14 Cal.4th 248, 267–268 [58 Cal.Rptr.2d 827, 926 P.2d 1013].
- Presence or Knowledge Insufficient ▶ *People v. Boyd* (1990) 222 Cal.App.3d 541, 557 fn.14 [271 Cal.Rptr. 738]; *In re Michael T.* (1978) 84 Cal.App.3d 907, 911 [149 Cal.Rptr. 87, 926 P.2d 1013].
- Withdrawal ▶ *People v. Norton* (1958) 161 Cal.App.2d 399, 403 [327 P.2d 87]; *People v. Ross* (1979) 92 Cal.App.3d 391, 404–405 [154 Cal.Rptr. 783].
- Verdict of First Degree Murder May Not Be Based on the Natural and Probable Consequences Doctrine; Murder Under That Doctrine is Second Degree Murder ▶ *People v. Chiu* (June 2, 2014, S202724) ___ Cal.4th ___, 2014 WL 2450814.
- Reasonably Foreseeable Crime Need Not Be Committed for Reason Within Common Plan ▶ *People v. Smith*, 2014 WL 6477208 (Cal.), (2014) ___ Cal.4th ___, ___ [___ Cal.Rptr.3d ___, ___ P.3d ___].

- ***Secondary Sources***

1 Witkin & Epstein, *California Criminal Law* (3d ed. 2000) Introduction to Crimes, §§ 82, 84, 88.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, Challenges to Crimes, § 140.10[3] (Matthew Bender).

COMMENTARY

In *People v. Prettyman* (1996) 14 Cal.4th 248, 268 [58 Cal.Rptr.2d 827, 926 P.2d 1013], the court concluded that the trial court must sua sponte identify and describe for the jury any target offenses allegedly aided and abetted by the defendant.

Although no published case to date gives a clear definition of the terms “natural” and “probable,” nor holds that there is a sua sponte duty to define them, we have included a suggested definition. (See *People v. Prettyman, supra*, 14 Cal.4th at p. 291 (conc. & dis. opn. of Brown, J.); see also *People v. Coffman and Marlow* (2004) 34 Cal.4th 1, 107–109 [17 Cal.Rptr.3d 710, 96 P.3d 30] [court did not err in failing to define “natural and probable.”])

RELATED ISSUES

See the Related Issues section under CALCRIM No. 401, *Aiding and Abetting*, and CALCRIM No. 402, *Natural and Probable Consequences Doctrine (Target and Non-Target Offenses Charged)*.

3426. Voluntary Intoxication (Pen. Code, § 22)

You may consider evidence, if any, of the defendant’s voluntary intoxication only in a limited way. You may consider that evidence only in deciding whether the defendant acted [or failed to do an act] with _____ *<insert specific intent or mental state required, e.g., “the intent to permanently deprive the owner of his or her property” or “knowledge that . . . ” or “the intent to do the act required”>*.

A person is *voluntarily intoxicated* if he or she becomes intoxicated by willingly using any intoxicating drug, drink, or other substance knowing that it could produce an intoxicating effect, or willingly assuming the risk of that effect.

~~[Do not consider evidence of intoxication in deciding whether _____ *<insert non-target offense>* was a natural and probable consequence of _____ *<insert target offense>*.]~~

In connection with the charge of _____ *<insert first charged offense requiring specific intent or mental state>* the People have the burden of proving beyond a reasonable doubt that the defendant acted [or failed to act] with _____ *<insert specific intent or mental state required, e.g., “the intent to permanently deprive the owner of his or her property” or “knowledge that . . . ”>*. If the People have not met this burden, you must find the defendant not guilty of _____ *<insert first charged offense requiring specific intent or mental state>*.

<Repeat this paragraph for each offense requiring specific intent or a specific mental state.>

You may not consider evidence of voluntary intoxication for any other purpose. [Voluntary intoxication is not a defense to _____ *<insert general intent offense[s]>*.]

New January 2006; Revised August 2012, August 2013 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has no sua sponte duty to instruct on voluntary intoxication; however, the trial court must give this instruction on request. (*People v. Ricardi* (1992) 9 Cal.App.4th 1427, 1432 [12 Cal.Rptr.2d 364]; *People v. Castillo* (1997) 16 Cal.4th 1009, 1014 [68 Cal.Rptr.2d 648, 945 P.2d 1197]; *People v. Saille* (1991) 54 Cal.3d 1103, 1119 [2 Cal.Rptr.2d 364, 820 P.2d 588].) Although voluntary intoxication is not an affirmative defense to a crime, the jury may consider evidence of voluntary intoxication and its effect on the defendant's required mental state. (Pen. Code, § 22; *People v. Reyes* (1997) 52 Cal.App.4th 975, 982–986 [61 Cal.Rptr.2d 39] [relevant to knowledge element in receiving stolen property]; *People v. Mendoza* (1998) 18 Cal.4th 1114, 1131–1134 [77 Cal.Rptr.2d 428, 959 P.2d 735] [relevant to mental state in aiding and abetting].)

Voluntary intoxication may not be considered for general intent crimes. (*People v. Mendoza* (1998) 18 Cal.4th 1114, 1127–1128 [77 Cal.Rptr.2d 428, 959 P.2d 735]; *People v. Atkins* (2001) 25 Cal.4th 76, 81 [104 Cal.Rptr.2d 738, 18 P.3d 660]; see also *People v. Hood* (1969) 1 Cal.3d 444, 451 [82 Cal.Rptr. 618, 462 P.2d 370] [applying specific v. general intent analysis and holding that assault type crimes are general intent; subsequently superceded by amendments to Penal Code Section 22 on a different point].)

If both specific and general intent crimes are charged, the court must specify the general intent crimes in the bracketed portion of the last sentence and instruct the jury that voluntary intoxication is not a defense to those crimes. (*People v. Aguirre* (1995) 31 Cal.App.4th 391, 399–402 [37 Cal.Rptr.2d 48]; *People v. Rivera* (1984) 162 Cal.App.3d 141, 145–146 [207 Cal.Rptr. 756].)

If the defendant claims unconsciousness due to involuntary intoxication as a defense to driving under the influence, see *People v. Mathson* (2012) 210 Cal.App.4th 1297, 1317-1323 [149 Cal.Rptr.3d 167].

~~Give the bracketed paragraph beginning, “Do not consider evidence of intoxication,” when instructing on aiding and abetting liability for a non-target offense. (*People v. Mendoza* (1998) 18 Cal.4th 1114, 1134 [77 Cal.Rptr.2d 428, 959 P.2d 735].)~~

The court may need to modify this instruction if given with CALCRIM No. 362, *Consciousness of Guilt*. (*People v. Wiidanen* (2011) 201 Cal.App.4th 526, 528, 533 [135 Cal.Rptr.3d 736].)

Related Instructions

CALCRIM No. 3427, *Involuntary Intoxication*.

CALCRIM No. 625, *Voluntary Intoxication: Effects on Homicide Crimes*.

CALCRIM No. 626, *Voluntary Intoxication Causing Unconsciousness: Effects on Homicide Crimes*.

AUTHORITY

- Instructional Requirements ▶ Pen. Code, § 22; *People v. Castillo* (1997) 16 Cal.4th 1009, 1014 [68 Cal.Rptr.2d 648, 945 P.2d 1197]; *People v. Saille* (1991) 54 Cal.3d 1103, 1119 [2 Cal.Rptr.2d 364, 820 P.2d 588].
- Effect of Prescription Drugs ▶ *People v. Mathson* (2012) 210 Cal.App.4th 1297, 1328, fn. 32 [149 Cal.Rptr.3d 167].

Secondary Sources

1 Witkin & Epstein, *California Criminal Law* (4th ed. 2012) Defenses, §§ 32-39.

3 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 73, *Defenses and Justifications*, § 73.04 (Matthew Bender).

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 124, *Jurisdiction and Disposition Hearings*, § 124.04 (Matthew Bender).

RELATED ISSUES

Implied Malice

“[E]vidence of voluntary intoxication is no longer admissible on the issue of implied malice aforethought.” (*People v. Martin* (2000) 78 Cal.App.4th 1107, 1114–1115 [93 Cal.Rptr.2d 433], quoting *People v. Reyes* (1997) 52 Cal.App.4th 975, 984, fn. 6 [61 Cal.Rptr.2d 39].)

Intoxication Based on Mistake of Fact Is Involuntary

Intoxication resulting from trickery is not “voluntary.” (*People v. Scott* (1983) 146 Cal.App.3d 823, 831–833 [194 Cal.Rptr. 633] [defendant drank punch not knowing it contained hallucinogens; court held his intoxication was result of trickery and mistake and involuntary].)

Premeditation and Deliberation

“[T]he trial court has no sua sponte duty to instruct that voluntary intoxication may be considered in determining the existence of premeditation and deliberation.” (*People v. Hughes* (2002) 27 Cal.4th 287, 342 [116 Cal.Rptr.2d 401,

39 P.3d 432], citing *People v. Saille* (1991) 54 Cal.3d 1103, 1120 [2 Cal.Rptr.2d 364, 820 P.2d 588]; see *People v. Castillo* (1997) 16 Cal.4th 1009, 1018 [68 Cal.Rptr.2d 648, 945 P.2d 1197] [counsel not ineffective for failing to request instruction specifically relating voluntary intoxication to premeditation and deliberation].)

Unconsciousness Based on Voluntary Intoxication Is Not a Complete Defense

Unconsciousness is typically a complete defense to a crime except when it is caused by voluntary intoxication. (*People v. Heffington* (1973) 32 Cal.App.3d 1, 8 [107 Cal.Rptr. 859].) Unconsciousness caused by voluntary intoxication is governed by Penal Code section 22, rather than by section 26 and is only a partial defense to a crime. (*People v. Walker* (1993) 14 Cal.App.4th 1615, 1621 [18 Cal.Rptr.2d 431] [no error in refusing to instruct on unconsciousness when defendant was voluntarily under the influence of drugs at the time of the crime]; see also *People v. Ochoa* (1998) 19 Cal.4th 353, 423 [79 Cal.Rptr.2d 408, 966 P.2d 442] [“if the intoxication is voluntarily induced, it can never excuse homicide. Thus, the requisite element of criminal negligence is deemed to exist irrespective of unconsciousness, and a defendant stands guilty of involuntary manslaughter if he voluntarily procured his own intoxication [citation].”].)

460. Attempt Other Than Attempted Murder (Pen. Code, § 21a)

[The defendant is charged [in Count ___] with attempted _____ <insert target offense>.]

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant took a direct but ineffective step toward committing _____ <insert target offense>;

AND

2. The defendant intended to commit _____ <insert target offense>.

A direct step requires more than merely planning or preparing to commit _____ <insert target offense> or obtaining or arranging for something needed to commit _____ <insert target offense>. A direct step is one that goes beyond planning or preparation and shows that a person is putting his or her plan into action. A direct step indicates a definite and unambiguous intent to commit _____ <insert target offense>. It is a direct movement towards the commission of the crime after preparations are made. It is an immediate step that puts the plan in motion so that the plan would have been completed if some circumstance outside the plan had not interrupted the attempt.

[A person who attempts to commit _____ <insert target offense> is guilty of attempted _____ <insert target offense> even if, after taking a direct step towards committing the crime, he or she abandoned further efforts to complete the crime or if his or her attempt failed or was interrupted by someone or something beyond his or her control. On the other hand, if a person freely and voluntarily abandons his or her plans before taking a direct step toward committing _____ <insert target offense>, then that person is not guilty of attempted _____ <insert target offense>.]

To decide whether the defendant intended to commit _____ <insert target offense>, please refer to the separate instructions that I (will give/have given) you on that crime.

[The defendant may be guilty of attempt even if you conclude that _____ <insert target offense> was actually completed.]

New January 2006; Revised August 2013 [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on the elements of the crime of attempt when charged, or, if not charged, when the evidence raises a question whether all the elements of the charged offense are present. (See *People v. Breverman* (1998) 19 Cal.4th 142, 154 [77 Cal.Rptr.2d 870, 960 P.2d 1094].)

If the jury is instructed on attempted criminal threat, give the following third element, as required by *People v. Chandler* (2014) 60 Cal.4th 508, 525 [176 Cal.Rptr.3d 548, 332 P.3d 538] along with CALCRIM No. 1300, *Criminal Threat*.

3. The intended criminal threat was sufficient under the circumstances to cause a reasonable person to be in sustained fear.

If an attempted crime is charged, give the first bracketed paragraph and choose the phrase “this crime” in the opening line of the second paragraph. If an attempted crime is not charged but is a lesser included offense, omit the first bracketed paragraph and insert the attempted target offense in the opening line of the second paragraph.

Give the bracketed paragraph that begins with “A person who attempts to commit” if abandonment is an issue.

If the attempted crime is murder, do not give this instruction; instead give the specific instruction on attempted murder. (*People v. Santascoy* (1984) 153 Cal.App.3d 909, 918 [200 Cal.Rptr. 709]; see CALCRIM No. 600, *Attempted Murder*.)

Do not give this instruction if the crime charged is assault. There can be no attempt to commit assault, since an assault is by definition an attempted battery. (*In re James M.* (1973) 9 Cal.3d 517, 522 [108 Cal.Rptr. 89, 510 P.2d 33].)

If instructing on attempt to escape, see *People v. Bailey* (2012) 54 Cal.4th 740, 748-752 [143 Cal.Rptr.3d 647, 279 P.3d 1120] [specific intent to escape and intent to avoid further confinement required].

AUTHORITY

- Attempt Defined ▶ Pen. Code, §§ 21a, 664; *People v. Toledo* (2001) 26 Cal.4th 221, 229–230 [109 Cal.Rptr.2d 315, 26 P.3d 1051].
- Conviction for Charged Attempt Even If Crime Is Completed ▶ Pen. Code, § 663.

Secondary Sources

1 Witkin & Epstein, *California Criminal Law* (4th ed. 2012) Elements, §§ 56-71.

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 141, *Conspiracy, Solicitation, and Attempt*, § 141.20 (Matthew Bender).

RELATED ISSUES

Insufficient Evidence of Attempt

The court is not required to instruct on attempt as a lesser-included offense unless there is sufficient evidence that the crime charged was not completed. (*People v. Aguilar* (1989) 214 Cal.App.3d 1434, 1436 [263 Cal.Rptr. 314]; *People v. Llamas* (1997) 51 Cal.App.4th 1729, 1743–1744 [60 Cal.Rptr.2d 357]; *People v. Strunk* (1995) 31 Cal.App.4th 265, 271–272 [36 Cal.Rptr.2d 868].)

Legal or Factual Impossibility

Although legal impossibility is a defense to attempt, factual impossibility is not. (*People v. Cecil* (1982) 127 Cal.App.3d 769, 775–777 [179 Cal.Rptr. 736]; *People v. Meyer* (1985) 169 Cal.App.3d 496, 504–505 [215 Cal.Rptr. 352].)

Solicitation

Some courts have concluded that a mere solicitation is not an attempt. (*People v. Adami* (1973) 36 Cal.App.3d 452, 457 [111 Cal.Rptr. 544]; *People v. La Fontaine* (1978) 79 Cal.App.3d 176, 183 [144 Cal.Rptr. 729], overruled on other grounds in *People v. Lopez* (1998) 19 Cal.4th 282, 292-293 [79 Cal.Rptr.2d 195, 965 P.2d 713].) At least one court disagrees, stating that simply because “an invitation to participate in the defendant’s commission of a crime consists only of words does not mean it cannot constitute an ‘act’ toward the completion of the crime, particularly where the offense by its nature consists of or requires the requested type of participation.” (*People v. Herman* (2002) 97 Cal.App.4th 1369, 1387 [119 Cal.Rptr.2d 199] [attempted lewd acts on a child under Pen. Code, § 288(c)(1)]; see *People v. Delvalle* (1994) 26 Cal.App.4th 869, 877 [31 Cal.Rptr.2d 725].)

Specific Intent Crime

An attempted offense is a specific intent crime, even if the underlying crime requires only general intent. (See *People v. Martinez* (1980) 105 Cal.App.3d 938, 942 [165 Cal.Rptr. 11].) However, an attempt is not possible if the underlying crime can only be committed unintentionally. (See *People v. Johnson* (1996) 51 Cal.App.4th 1329, 1332 [59 Cal.Rptr.2d 798] [no attempted involuntary manslaughter].)

461–499. Reserved for Future Use

1300. Criminal Threat (Pen. Code, § 422)

The defendant is charged [in Count ___] with having made a criminal threat [in violation of Penal Code section 422].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant willfully threatened to unlawfully kill or unlawfully cause great bodily injury to _____ <insert name of complaining witness or member[s] of complaining witness's immediate family>;
2. The defendant made the threat (orally/in writing/by electronic communication device);
3. The defendant intended that (his/her) statement be understood as a threat [and intended that it be communicated to _____ <insert name of complaining witness>];
4. The threat was so clear, immediate, unconditional, and specific that it communicated to _____ <insert name of complaining witness> a serious intention and the immediate prospect that the threat would be carried out;
5. The threat actually caused _____ <insert name of complaining witness> to be in sustained fear for (his/her) own safety [or for the safety of (his/her) immediate family];

AND

6. _____'s <insert name of complaining witness> fear was reasonable under the circumstances.

Someone commits an act *willfully* when he or she does it willingly or on purpose.

In deciding whether a threat was sufficiently clear, immediate, unconditional, and specific, consider the words themselves, as well as the surrounding circumstances.

Someone who intends that a statement be understood as a threat does not have to actually intend to carry out the threatened act [or intend to have someone else do so].

Great bodily injury means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm.

Sustained fear means fear for a period of time that is more than momentary, fleeting, or transitory.

[An immediate ability to carry out the threat is not required.]

[An *electronic communication device* includes, but is not limited to: a telephone, cellular telephone, pager, computer, video recorder, or fax machine.]

[*Immediate family* means (a) any spouse, parents, and children; (b) any grandchildren, grandparents, brothers and sisters related by blood or marriage; or (c) any person who regularly lives in the other person's household [or who regularly lived there within the prior six months].]

New January 2006; Revised August 2006; June 2007 [[insert date of council approval](#)]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

A specific crime or the elements of any specific Penal Code violation that might be subsumed within the actual words of any threat need not be identified for the jury. (See *People v. Butler* (2000) 85 Cal.App.4th 745, 758 [102 Cal.Rptr.2d 269].) The threatened acts or crimes may be described on request depending on the nature of the threats or the need to explain the threats to the jury. (*Id.* at p. 760.)

When the threat is conveyed through a third party, give the appropriate bracketed language in element three. (*People v. Felix* (2001) 92 Cal.App.4th 905, 913 [112 Cal.Rptr.2d 311]; *In re Ryan D.* (2002) 100 Cal.App.4th 854, 861–862 [123 Cal.Rptr.2d 193] [insufficient evidence minor intended to convey threat to victim].)

Give the bracketed definition of “electronic communication” on request. (Pen. Code, § 422; 18 U.S.C., § 2510(12).)

If there is evidence that the threatened person feared for the safety of members of his or her immediate family, the bracketed phrase in element 5 and the final bracketed paragraph defining “immediate family” should be given on request. (See Pen. Code, § 422; Fam. Code, § 6205; Prob. Code, §§ 6401, 6402.)

[If instructing on attempted criminal threat, give the third element in the bench notes of CALCRIM No. 460, *Attempt Other Than Attempted Murder*. \(*People v. Chandler* \(2014\) 60 Cal.4th 508, 525 \[176 Cal.Rptr.3d 548, 332 P.3d 538\].](#)

AUTHORITY

- Elements ▶ Pen. Code, § 422; *In re George T.* (2004) 33 Cal.4th 620, 630 [16 Cal.Rptr.3d 61, 93 P.3d 1007]; *People v. Melhado* (1998) 60 Cal.App.4th 1529, 1536 [70 Cal.Rptr.2d 878].
- Great Bodily Injury Defined ▶ Pen. Code, § 12022.7(f).
- Sufficiency of Threat Based on All Surrounding Circumstances ▶ *People v. Mendoza* (1997) 59 Cal.App.4th 1333, 1340 [69 Cal.Rptr.2d 728]; *People v. Butler* (2000) 85 Cal.App.4th 745, 752–753 [102 Cal.Rptr.2d 269]; *People v. Martinez* (1997) 53 Cal.App.4th 1212, 1218–1221 [62 Cal.Rptr.2d 303]; *In re Ricky T.* (2001) 87 Cal.App.4th 1132, 1137–1138 [105 Cal.Rptr.2d 165]; *People v. Solis* (2001) 90 Cal.App.4th 1002, 1013–1014 [109 Cal.Rptr.2d 464]; see *People v. Garrett* (1994) 30 Cal.App.4th 962, 966–967 [36 Cal.Rptr.2d 33].
- Crime that Will Result in Great Bodily Injury Judged on Objective Standard ▶ *People v. Maciel* (2003) 113 Cal.App.4th 679, 685 [6 Cal.Rptr.3d 628].
- Threat Not Required to Be Unconditional ▶ *People v. Bolin* (1998) 18 Cal.4th 297, 339–340 [75 Cal.Rptr.2d 412, 956 P.2d 374], disapproving *People v. Brown* (1993) 20 Cal.App.4th 1251, 1256 [25 Cal.Rptr.2d 76]; *People v. Stanfield* (1995) 32 Cal.App.4th 1152, 1162 [38 Cal.Rptr.2d 328].
- Conditional Threat May Be True Threat, Depending on Context ▶ *People v. Melhado* (1998) 60 Cal.App.4th 1529, 1540 [70 Cal.Rptr.2d 878].
- Immediate Ability to Carry Out Threat Not Required ▶ *People v. Lopez* (1999) 74 Cal.App.4th 675, 679 [88 Cal.Rptr.2d 252].
- Sustained Fear ▶ *In re Ricky T.* (2001) 87 Cal.App.4th 1132, 1139–1140 [105 Cal.Rptr.2d 165]; *People v. Solis* (2001) 90 Cal.App.4th 1002, 1024 [109

Cal.Rptr.2d 464]; *People v. Allen* (1995) 33 Cal.App.4th 1149, 1155–1156 [40 Cal.Rptr.2d 7].

- Verbal Statement, Not Mere Conduct, Is Required ▶ *People v. Franz* (2001) 88 Cal.App.4th 1426, 1441–1442 [106 Cal.Rptr.2d 773].
- Statute Not Unconstitutionally Vague ▶ *People v. Maciel* (2003) 113 Cal.App.4th 679, 684–686 [6 Cal.Rptr.3d 628].
- [Attempted Criminal Threats ▶ *People v. Chandler* \(2014\) 60 Cal.4th 508, 525 \[176 Cal.Rptr.3d 548, 332 P.3d 538\]](#) .

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. 200012) Crimes Against Public Peace and Welfare, § ~~2224~~30.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.11A[1] (Matthew Bender).

COMMENTARY

This instruction uses the current nomenclature “criminal threat,” as recommended by the Supreme Court in *People v. Toledo* (2001) 26 Cal.4th 221, 224, fn. 1 [109 Cal.Rptr.2d 315, 26 P.3d 1051] [previously called “terrorist threat”]. (See also Stats. 2000, ch. 1001, § 4.)

LESSER INCLUDED OFFENSES

- Attempted Criminal Threat ▶ See Pen. Code, § 422; *People v. Toledo* (2001) 26 Cal.4th 221, 230–231 [109 Cal.Rptr.2d 315, 26 P.3d 1051].
- Threatening a public officer of an educational institution in violation of Penal Code section 71 may be a lesser included offense of a section 422 criminal threat under the accusatory pleadings test. (*In re Marcus T.* (2001) 89 Cal.App.4th 468, 472–473 [107 Cal.Rptr.2d 451].) But see *People v. Chaney* (2005) 131 Cal.App.4th 253, 257–258 [31 Cal.Rptr.3d 714], finding that a violation of section 71 is not a lesser included offense of section 422 under the accusatory pleading test when the pleading does not specifically allege the intent to cause (or attempt to cause) a public officer to do (or refrain from doing) an act in the performance of official duty.

RELATED ISSUES

Ambiguous and Equivocal Poem Insufficient to Establish Criminal Threat

In *In re George T.* (2004) 33 Cal.4th 620, 628–629 [16 Cal.Rptr.3d 61, 93 P.3d 1007], a minor gave two classmates a poem containing language that referenced school shootings. The court held that “the text of the poem, understood in light of the surrounding circumstances, was not ‘as unequivocal, unconditional, immediate, and specific as to convey to [the two students] a gravity of purpose and an immediate prospect of execution of the threat.’ ” (*Id.* at p. 638.)

Related Statutes

Other statutes prohibit similar threatening conduct against specified individuals. (See, e.g., Pen. Code, §§ 76 [threatening elected public official, judge, etc., or staff or immediate family], 95.1 [threatening jurors after verdict], 139 [threatening witness or victim after conviction of violent offense], 140 [threatening witness, victim, or informant].)

Unanimity Instruction

If the evidence discloses a greater number of threats than those charged, the prosecutor must make an election of the events relied on in the charges. When no election is made, the jury must be given a unanimity instruction. (*People v. Butler* (2000) 85 Cal.App.4th 745, 755, fn. 4 [102 Cal.Rptr.2d 269]; *People v. Melhado* (1998) 60 Cal.App.4th 1529, 1534, 1539 [70 Cal.Rptr.2d 878].)

Whether Threat Actually Received

If a threat is intended to and does induce a sustained fear, the person making the threat need not know whether the threat was actually received. (*People v. Teal* (1998) 61 Cal.App.4th 277, 281 [71 Cal.Rptr.2d 644].)

521. First Degree Murder (Pen. Code, § 189)

<Select the appropriate section[s]. Give the final paragraph in every case.>

<Give if multiple theories alleged.>

[The defendant has been prosecuted for first degree murder under (two/___ <insert number>) theories: (1) _____ <insert first theory, e.g., “the murder was willful, deliberate, and premeditated”> [and] (2) _____ <insert second theory, e.g., “the murder was committed by lying in wait”> [_____ <insert additional theories>].

Each theory of first degree murder has different requirements, and I will instruct you on (both/all ___ <insert number>).

You may not find the defendant guilty of first degree murder unless all of you agree that the People have proved that the defendant committed murder. But all of you do not need to agree on the same theory.]

<A. Deliberation and Premeditation>

[The defendant is guilty of first degree murder if the People have proved that (he/she) acted willfully, deliberately, and with premeditation. The defendant acted *willfully* if (he/she) intended to kill. The defendant acted *deliberately* if (he/she) carefully weighed the considerations for and against (his/her) choice and, knowing the consequences, decided to kill. The defendant *acted with premeditation* if (he/she) decided to kill before completing the act[s] that caused death.

The length of time the person spends considering whether to kill does not alone determine whether the killing is deliberate and premeditated. The amount of time required for deliberation and premeditation may vary from person to person and according to the circumstances. A decision to kill made rashly, impulsively, or without careful consideration is not deliberate and premeditated. On the other hand, a cold, calculated decision to kill can be reached quickly. The test is the extent of the reflection, not the length of time.]

<B. Torture>

[The defendant is guilty of first degree murder if the People have proved that the defendant murdered by torture. The defendant murdered by torture if:

1. (He/She) willfully, deliberately, and with premeditation intended to inflict extreme and prolonged pain on the person killed while that person was still alive;
2. (He/She) intended to inflict such pain on the person killed for the calculated purpose of revenge, extortion, persuasion, or any other sadistic reason;
3. The acts causing death involved a high degree of probability of death;

AND

4. The torture was a cause of death.]

[A person commits an act *willfully* when he or she does it willingly or on purpose. A person *deliberates* if he or she carefully weighs the considerations for and against his or her choice and, knowing the consequences, decides to act.

The defendant acted with premeditation if (he/she) decided to kill before completing the act[s] that caused death.

~~An act is done with premeditation if the decision to commit the act is made before the act is done.]~~

[There is no requirement that the person killed be aware of the pain.]

[A finding of torture does not require that the defendant intended to kill.]

<C. Lying in Wait>

[The defendant is guilty of first degree murder if the People have proved that the defendant murdered while lying in wait or immediately thereafter. The defendant murdered by lying in wait if:

1. (He/She) concealed (his/her) purpose from the person killed;
2. (He/She) waited and watched for an opportunity to act;

AND

3. Then, from a position of advantage, (he/she) intended to and did make a surprise attack on the person killed.

The lying in wait does not need to continue for any particular period of time, but its duration must be substantial enough to show a state of mind equivalent to deliberation or premeditation. [*Deliberation* means carefully weighing the considerations for and against a choice and, knowing the consequences, deciding to act. An act is done with *premeditation* if the decision to commit the act is made before the act is done.]

[A person can conceal his or her purpose even if the person killed is aware of the person's physical presence.]

[The concealment can be accomplished by ambush or some other secret plan.]

<D. Destructive Device or Explosive>

[The defendant is guilty of first degree murder if the People have proved that the defendant murdered by using a destructive device or explosive.]

[An *explosive* is any substance, or combination of substances, (1) whose main or common purpose is to detonate or rapidly combust and (2) which is capable of a relatively instantaneous or rapid release of gas and heat.]

[An *explosive* is [also] any substance whose main purpose is to be combined with other substances to create a new substance that can release gas and heat rapidly or relatively instantaneously.]

[_____ <insert type of explosive from Health & Saf. Code, § 12000> is an *explosive*.]

[A *destructive device* is _____ <insert definition supported by evidence from Pen. Code, § 16460>.]

[_____ <insert type of destructive device from Pen. Code, § 16460> is a *destructive device*.]

<E. Weapon of Mass Destruction>

[The defendant is guilty of first degree murder if the People have proved that the defendant murdered by using a weapon of mass destruction.

[_____ <insert type of weapon from Pen. Code, § 11417(a)(1)> is a *weapon of mass destruction*.]

[_____ <insert type of agent from Pen. Code, § 11417(a)(2)> is a *chemical warfare agent*.]

<F. Penetrating Ammunition>

[The defendant is guilty of first degree murder if the People have proved that when the defendant murdered, (he/she) used ammunition designed primarily to penetrate metal or armor to commit the murder and (he/she) knew that the ammunition was designed primarily to penetrate metal or armor.]

<G. Discharge From Vehicle>

[The defendant is guilty of first degree murder if the People have proved that the defendant murdered by shooting a firearm from a motor vehicle. The defendant committed this kind of murder if:

- 1. (He/She) shot a firearm from a motor vehicle;**
- 2. (He/She) intentionally shot at a person who was outside the vehicle;**

AND

- 3. (He/She) intended to kill that person.**

A *firearm* is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.

A *motor vehicle* includes (a/an) (passenger vehicle/motorcycle/motor scooter/bus/school bus/commercial vehicle/truck tractor and trailer/_____ *<insert other type of motor vehicle>*).

<H. Poison>

[The defendant is guilty of first degree murder if the People have proved that the defendant murdered by using poison.

[*Poison* is a substance, applied externally to the body or introduced into the body, that can kill by its own inherent qualities.]

[_____ *<insert name of substance>* is a *poison*.]

[The requirements for second degree murder based on express or implied malice are explained in CALCRIM No. 520, *First or Second Degree Murder With Malice Aforethought*.]

The People have the burden of proving beyond a reasonable doubt that the killing was first degree murder rather than a lesser crime. If the People have not met this burden, you must find the defendant not guilty of first degree murder and the murder is second degree murder.

New January 2006; Revised August 2006; June 2007, April 2010, October 2010, February 2012, February 2013 [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime. Before giving this instruction, the court must give CALCRIM No. 520, *Murder With Malice Aforethought*. Depending on the theory of first degree murder relied on by the prosecution, give the appropriate alternatives A through H.

The court **must give** the final paragraph in every case.

If the prosecution alleges two or more theories for first degree murder, give the bracketed section that begins with “The defendant has been prosecuted for first degree murder under.” If the prosecution alleges felony murder in addition to one of the theories of first degree murder in this instruction, give CALCRIM No. 548, *Murder: Alternative Theories*, instead of the bracketed paragraph contained in this instruction.

When instructing on torture or lying in wait, give the bracketed sections explaining the meaning of “deliberate” and “premeditated” if those terms have not already been defined for the jury.

When instructing on murder by weapon of mass destruction, explosive, or destructive device, the court may use the bracketed sentence stating, “_____ is a weapon of mass destruction” or “is a chemical warfare agent,” only if the device used is listed in the code section noted in the instruction. For example, “Sarin is a chemical warfare agent.” However, the court may not instruct the jury that the defendant used the prohibited weapon. For example, the court may not state, “the defendant used a chemical warfare agent, sarin,” or “the material used by the defendant, sarin, was a chemical warfare agent.” (*People v. Dimitrov* (1995) 33 Cal.App.4th 18, 25–26 [39 Cal.Rptr.2d 257].)

AUTHORITY

- Types of Statutory First Degree Murder ▶ Pen. Code, § 189.
- Armor Piercing Ammunition Defined ▶ Pen. Code, § 16660.
- Destructive Device Defined ▶ Pen. Code, § 16460.
- For Torture, Act Causing Death Must Involve a High Degree of Probability of Death ▶ *People v. Cook* (2006) 39 Cal.4th 566, 602 [47 Cal.Rptr.3d 22, 139 P.3d 492].
- Mental State Required for Implied Malice ▶ *People v. Knoller* (2007) 41 Cal.4th 139, 143 [59 Cal.Rptr.3d 157, 158 P.3d 731].
- Explosive Defined ▶ Health & Saf. Code, § 12000; *People v. Clark* (1990) 50 Cal.3d 583, 604 [268 Cal.Rptr. 399, 789 P.2d 127].
- Weapon of Mass Destruction Defined ▶ Pen. Code, § 11417.
- Discharge From Vehicle ▶ *People v. Chavez* (2004) 118 Cal.App.4th 379, 386–387 [12 Cal.Rptr.3d 837] [drive-by shooting clause is not an enumerated felony for purposes of the felony murder rule].
- Lying in Wait Requirements ▶ *People v. Stanley* (1995) 10 Cal.4th 764, 794 [42 Cal.Rptr.2d 543, 897 P.2d 481]; *People v. Ceja* (1993) 4 Cal.4th 1134, 1139 [17 Cal.Rptr.2d 375, 847 P.2d 55]; *People v. Webster* (1991) 54 Cal.3d 411, 448 [285 Cal.Rptr. 31, 814 P.2d 1273]; *People v. Poindexter* (2006) 144 Cal.App.4th 572, 582-585 [50 Cal.Rptr.3d 489]; *People v. Laws* (1993) 12 Cal.App.4th 786, 794–795 [15 Cal.Rptr.2d 668].
- Poison Defined ▶ *People v. Van Deleer* (1878) 53 Cal. 147, 149.
- Premeditation and Deliberation Defined ▶ [*People v. Pearson* \(2013\) 56 Cal.4th 393, 443-444 \[154 Cal.Rptr.3d 541, 297 P.3d 793\]](#); *People v. Anderson* (1968) 70 Cal.2d 15, 26–27 [73 Cal.Rptr. 550, 447 P.2d 942]; *People v. Bender* (1945) 27 Cal.2d 164, 183–184 [163 P.2d 8]; *People v. Daugherty* (1953) 40 Cal.2d 876, 901–902 [256 P.2d 911].
- Torture Requirements ▶ *People v. Pensinger* (1991) 52 Cal.3d 1210, 1239 [278 Cal.Rptr. 640, 805 P.2d 899]; *People v. Bittaker* (1989) 48 Cal.3d 1046, 1101 [259 Cal.Rptr. 630, 774 P.2d 659], habeas corpus granted in part on other grounds in *In re Bittaker* (1997) 55 Cal.App.4th 1004 [64 Cal.Rptr.2d 679]; *People v. Wiley* (1976) 18 Cal.3d 162, 168–172 [133 Cal.Rptr. 135, 554 P.2d 881]; see also *People v. Pre* (2004) 117 Cal.App.4th 413, 419–420 [11 Cal.Rptr.3d 739] [comparing torture murder with torture].

Secondary Sources

1 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against the Person, §§ ~~117.02–162~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.01 (Matthew Bender).

LESSER INCLUDED OFFENSES

- Murder ▶ Pen. Code, § 187.
- Voluntary Manslaughter ▶ Pen. Code, § 192(a).
- Involuntary Manslaughter ▶ Pen. Code, § 192(b).
- Attempted First Degree Murder ▶ Pen. Code, §§ 663, 189.
- Attempted Murder ▶ Pen. Code, §§ 663, 187.

RELATED ISSUES

Premeditation and Deliberation—Anderson Factors

Evidence in any combination from the following categories suggests premeditation and deliberation: (1) events before the murder that indicate planning; (2) motive, specifically evidence of a relationship between the victim and the defendant; and (3) method of the killing that is particular and exacting and evinces a preconceived design to kill. (*People v. Anderson* (1968) 70 Cal.2d 15, 26–27 [73 Cal.Rptr. 550, 447 P.2d 942].) Although these categories have been relied on to decide whether premeditation and deliberation are present, an instruction that suggests that each of these factors *must* be found in order to find deliberation and premeditation is not proper. (*People v. Lucero* (1988) 44 Cal.3d 1006, 1020–1021 [245 Cal.Rptr. 185, 750 P.2d 1342].) *Anderson* also noted that the brutality of the killing alone is not sufficient to support a finding that the killer acted with premeditation and deliberation. Thus, the infliction of multiple acts of violence on the victim without any other evidence indicating premeditation will not support a first degree murder conviction. (*People v. Anderson, supra*, 70 Cal.2d at pp. 24–25.) However, “[t]he *Anderson* guidelines are descriptive, not normative.” (*People v. Perez* (1992) 2 Cal.4th 1117, 1125 [9 Cal.Rptr.2d 577, 831 P.2d 1159].) The holding did not alter the elements of murder or substantive law but was intended to provide a “framework to aid in appellate review.” (*Ibid.*)

Premeditation and Deliberation—Heat of Passion Provocation

Provocation may reduce murder from first to second degree. (*People v. Thomas* (1945) 25 Cal.2d 880, 903 [156 P.2d 7] [provocation raised reasonable doubt about premeditation or deliberation, “leaving the homicide as murder of the

second degree; i.e., an unlawful killing perpetrated with malice aforethought but without premeditation and deliberation”]; see *People v. Padilla* (2002) 103 Cal.App.4th 675, 679 [126 Cal.Rptr.2d 889] [evidence of hallucination is admissible at guilt phase to negate deliberation and premeditation and to reduce first degree murder to second degree murder].) There is, however, no sua sponte duty to instruct the jury on this issue. (*People v. Middleton* (1997) 52 Cal.App.4th 19, 31–33 [60 Cal.Rptr.2d 366], disapproved on other grounds in *People v. Gonzalez* (2003) 31 Cal.4th 745, 752 [3 Cal.Rptr.3d 676, 74 P.3d 771].) On request, give CALCRIM No. 522, *Provocation: Effect on Degree of Murder*.

Torture—Causation

The finding of murder by torture encompasses the totality of the brutal acts and circumstances that led to a victim’s death. “The acts of torture may not be segregated into their constituent elements in order to determine whether any single act by itself caused the death; rather, it is the continuum of sadistic violence that constitutes the torture [citation].” (*People v. Proctor* (1992) 4 Cal.4th 499, 530–531 [15 Cal.Rptr.2d 340, 842 P.2d 1100].)

Torture—Instruction on Voluntary Intoxication

“[A] court should instruct a jury in a torture-murder case, when evidence of intoxication warrants it, that intoxication is relevant to the specific intent to inflict cruel suffering.” (*People v. Pensinger* (1991) 52 Cal.3d 1210, 1242 [278 Cal.Rptr. 640, 805 P.2d 899]; see CALCRIM No. 625, *Voluntary Intoxication: Effects on Homicide Crimes*.)

Torture—Pain Not an Element

All that is required for first degree murder by torture is the calculated *intent to cause pain* for the purpose of revenge, extortion, persuasion, or any other sadistic purpose. There is no requirement that the victim actually suffer pain. (*People v. Pensinger* (1991) 52 Cal.3d 1210, 1239 [278 Cal.Rptr. 640, 805 P.2d 899].)

Torture—Premeditated Intent to Inflict Pain

Torture-murder, unlike the substantive crime of torture, requires that the defendant acted with deliberation and premeditation when inflicting the pain. (*People v. Pre* (2004) 117 Cal.App.4th 413, 419–420 [11 Cal.Rptr.3d 739]; *People v. Mincey* (1992) 2 Cal.4th 408, 434–436 [6 Cal.Rptr.2d 822, 827 P.2d 388].)

Lying in Wait—Length of Time Equivalent to Premeditation and Deliberation

In *People v. Stanley* (1995) 10 Cal.4th 764, 794 [42 Cal.Rptr.2d 543, 897 P.2d 481], the court approved this instruction regarding the length of time a person lies in wait: “[T]he lying in wait need not continue for any particular time, provided that its duration is such as to show a state of mind equivalent to premeditation or deliberation.”

Accomplice Liability

An aider and abettor is subject to this penalty provision where the principal attempted a willful, deliberate, and premeditated murder even though the accomplice did not personally deliberate or premeditate. (*People v. Lee* (2003) 31 Cal.4th 613, 622–623 [3 Cal.Rptr.3d 402, 74 P.3d 176]; *People v. Laster* (1997) 52 Cal.App.4th 1450, 1473 [61 Cal.Rptr.2d 680].) The accomplice must still share the intent to kill. (*People v. Lee, supra*, 31 Cal.4th at pp. 623–624.)

See the Related Issues Section to CALCRIM No. 521, *Murder: Degrees* for discussion of “deliberate and premeditated.”

601. Attempted Murder: Deliberation and Premeditation (Pen. Code, §§ 21a, 189, 664(a))

If you find the defendant guilty of attempted murder [under Count ___], you must then decide whether the People have proved the additional allegation that the attempted murder was done willfully, and with deliberation and premeditation.

(The defendant/_____ <insert name or description of principal if not defendant>) **acted willfully if (he/she) intended to kill when (he/she) acted.**
(The defendant/_____ <insert name or description of principal if not defendant>) **deliberated if (he/she) carefully weighed the considerations for and against (his/her) choice and, knowing the consequences, decided to kill.**
(The defendant/_____ <insert name or description of principal if not defendant>) **acted with premeditation if (he/she) decided to kill before completing the act[s] of attempted murder. ~~premeditated if (he/she) decided to kill before acting.~~**

[The attempted murder was done willfully and with deliberation and premeditation if either the defendant or _____ <insert name or description of principal> or both of them acted with that state of mind.]

The length of time the person spends considering whether to kill does not alone determine whether the attempted killing is deliberate and premeditated. The amount of time required for deliberation and premeditation may vary from person to person and according to the circumstances. A decision to kill made rashly, impulsively, or without careful consideration of the choice and its consequences is not deliberate and premeditated. On the other hand, a cold, calculated decision to kill can be reached quickly. The test is the extent of the reflection, not the length of time.

The People have the burden of proving this allegation beyond a reasonable doubt. If the People have not met this burden, you must find this allegation has not been proved.

New January 2006; Revised February 2013 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of

the sentencing enhancement. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 475–476, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435]; Pen. Code, § 664(a).) Give this instruction when an enhancement for deliberation and premeditation is charged.

This instruction **must** be given with CALCRIM No. 600, *Attempted Murder*.

When a charged attempted murder also forms the basis for a charge of provocative act murder, the court must take care to clarify that the defendant must have personally premeditated and deliberated an attempted murder in order to be convicted of *first degree murder* resulting from attempted murder under the provocative act doctrine. As described in CALCRIM No. 560, *Homicide: Provocative Act by Defendant*, the mental state for first degree murder under the provocative act murder doctrine requires that the defendant “personally premeditated and deliberated the attempted murder that provoked a lethal response.” (*People v. Gonzalez* (2012) 54 Cal.4th 643, 662 [142 Cal.Rptr.3d 893, 278 P.3d 1242].)

AUTHORITY

- Willful, Deliberate, and Premeditated Murder ▶ Pen. Code, § 189.
- Willful, Deliberate, and Premeditated Attempted Murder ▶ Pen. Code, § 664(a).
- Premeditation and Deliberation Defined ▶ [*People v. Pearson* \(2013\) 56 Cal.4th 393, 443-444 \[154 Cal.Rptr.3d 541, 297 P.3d 793\]](#); *People v. Anderson* (1968) 70 Cal.2d 15, 26–27 [73 Cal.Rptr. 550, 447 P.2d 942]; *People v. Bender* (1945) 27 Cal.2d 164, 183–184 [163 P.2d 8]; *People v. Daugherty* (1953) 40 Cal.2d 876, 901–902 [256 P.2d 911].
- Attempted Premeditated Murder and the Natural and Probable Consequences Doctrine ▶ *People v. Favor* (2012) 54 Cal.4th 868, 879 [143 Cal.Rptr.3d 659, 279 P.3d 1131].

Secondary Sources

1 Witkin & Epstein, *California Criminal Law* (~~3d~~4th ed. ~~2000~~2012) Elements, §§ ~~53–67~~56–57.

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 140, *Challenges to Crimes*, § 140.02[3]; Ch. 141, *Conspiracy, Solicitation, and Attempt*, §§ 141.20[2], 141.21; Ch. 142, *Crimes Against the Person*, § 142.01[1][e], [g], [3][e] (Matthew Bender).

RELATED ISSUES

Accomplice Liability

An aider and abettor is subject to this penalty provision where the principal attempted a willful, deliberate, and premeditated murder even though the accomplice did not personally deliberate or premeditate. (*People v. Lee* (2003) 31 Cal.4th 613, 622–623 [3 Cal.Rptr.3d 402, 74 P.3d 176]; *People v. Laster* (1997) 52 Cal.App.4th 1450, 1473 [61 Cal.Rptr.2d 680].) The accomplice must still share the intent to kill. (*People v. Lee, supra*, 31 Cal.4th at pp. 623–624.)

See the Related Issues Section to CALCRIM No. 521, *Murder: Degrees* for discussion of “deliberate and premeditated.”

540B. Felony Murder: First Degree—Coparticipant Allegedly Committed Fatal Act (Pen. Code, § 189)

<Give the following introductory sentence when not giving CALCRIM No. 540A.>
[The defendant is charged [in Count ___] with murder, under a theory of felony murder.]

The defendant may [also] be guilty of murder, under a theory of felony murder, even if another person did the act that resulted in the death. I will call the other person the *perpetrator*.

To prove that the defendant is guilty of first degree murder under this theory, the People must prove that:

1. The defendant (committed [or attempted to commit][,]/ [or] aided and abetted[,]/ [or] was a member of a conspiracy to commit) _____ *<insert felony or felonies from Pen. Code, § 189>*;
2. The defendant (intended to commit[,]/ [or] intended to aid and abet the perpetrator in committing[,]/ [or] intended that one or more of the members of the conspiracy commit) _____ *<insert felony or felonies from Pen. Code, § 189>*;
3. If the defendant did not personally commit [or attempt to commit] _____ *<insert felony or felonies from Pen. Code, § 189>*, then a perpetrator, (whom the defendant was aiding and abetting/ [or] with whom the defendant conspired), ~~personally~~ committed [or attempted to commit] _____ *<insert felony or felonies from Pen. Code, § 189>*;

AND

4. While committing [or attempting to commit] _____ *<insert felony or felonies from Pen. Code, § 189>*, the **[defendant or]** perpetrator caused the death of another person.

A person may be guilty of felony murder even if the killing was unintentional, accidental, or negligent.

To decide whether (the defendant/ [and] the perpetrator) committed [or attempted to commit] _____ *<insert felony or felonies from Pen. Code, §*

189>, please refer to the separate instructions that I (will give/have given) you on (that/those) crime[s]. [To decide whether the defendant aided and abetted a crime, please refer to the separate instructions that I (will give/have given) you on aiding and abetting.] [To decide whether the defendant was a member of a conspiracy to commit a crime, please refer to the separate instructions that I (will give/have given) you on conspiracy.] You must apply those instructions when you decide whether the People have proved first degree murder under a theory of felony murder.

<Make certain that all appropriate instructions on all underlying felonies, aiding and abetting, and conspiracy are given.>

[The defendant must have (intended to commit[,]/ [or] aid and abet[,]/ [or] been a member of a conspiracy to commit) the (felony/felonies) of _____
<insert felony or felonies from Pen. Code, § 189> before or at the time that (he/she) caused the death.]

[It is not required that the person die immediately, as long as the act causing death occurred while the defendant was committing the (felony/felonies).]

[It is not required that the person killed be the (victim/intended victim) of the (felony/felonies).]

[It is not required that the defendant be present when the act causing the death occurs.]

[You may not find the defendant guilty of felony murder unless all of you agree that the defendant or a perpetrator caused the death of another. You do not all need to agree, however, whether the defendant or a perpetrator caused that death.]

New January 2006; Revised April 2010, August 2013 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime. The court also has a **sua sponte** duty to instruct on the elements of any underlying felonies. (*People v. Cain* (1995) 10 Cal.4th 1, 36 [40 Cal.Rptr.2d 481, 892 P.2d 1224].)

If the facts raise an issue whether the homicidal act caused the death, the court has a **sua sponte** duty to give CALCRIM No. 240, *Causation*.

If the prosecution’s theory is that the defendant, as well as the perpetrator, committed or attempted to commit the underlying felony or felonies, then select “committed [or attempted to commit]” in element 1 and “intended to commit” in element 2. In addition, in the paragraph that begins with “To decide whether,” select both “the defendant and the perpetrator.” Give all appropriate instructions on any underlying felonies with this instruction. The court may need to modify the first sentence of the instruction on an underlying felony if the defendant is not separately charged with that offense. The court may also need to modify the instruction to state “the defendant and the perpetrator each committed [the crime] if”

If the prosecution’s theory is that the defendant aided and abetted or conspired to commit the felony, select one or both of these options in element 1 and the corresponding intent requirements in element 2. In addition, in the paragraph that begins with “To decide whether,” select “the perpetrator” in the first sentence. Give the second and/or third bracketed sentences. Give all appropriate instructions on any underlying felonies and on aiding and abetting and/or conspiracy with this instruction. The court may need to modify the first sentence of the instruction on an underlying felony if the defendant is not separately charged with that offense. The court may also need to modify the instruction to state “the perpetrator committed,” rather than “the defendant,” in the instructions on the underlying felony.

If the defendant was a nonkiller who fled, leaving behind an accomplice who killed, see *People v. Cavitt* (2004) 33 Cal.4th 187, 206, fn. 7 [14 Cal.Rptr.3d 281, 91 P.3d 222] [continuous transaction] and the discussion of *Cavitt* in *People v. Wilkins* (2013) 56 Cal.4th 333, 344 [153 Cal.Rptr.3d 519, 295 P.3d 903].

If there is evidence that the defendant did not form the intent to commit the felony until after the homicide, or did not join the conspiracy or aid and abet the felony until after the homicide, the defendant is entitled on request to an instruction pinpointing this issue. (*People v. Hudson* (1955) 45 Cal.2d 121, 124–127 [287 P.2d 497]; *People v. Silva* (2001) 25 Cal.4th 345, 371 [106 Cal.Rptr.2d 93, 21 P.3d 769].) Give the bracketed sentence that begins with “The defendant must have (intended to commit.” For an instruction specially tailored to robbery-murder cases, see *People v. Turner* (1990) 50 Cal.3d 668, 691 [268 Cal.Rptr. 706, 789 P.2d 887].

Give the bracketed sentence that begins with “It is not required that the person die immediately” on request if relevant based on the evidence.

The felony-murder rule does not require that the person killed be the victim of the underlying felony. (*People v. Johnson* (1972) 28 Cal.App.3d 653, 658 [104 Cal.Rptr. 807] [accomplice]; *People v. Welch* (1972) 8 Cal.3d 106, 117–119 [104 Cal.Rptr. 217, 501 P.2d 225] [innocent bystander]; *People v. Salas* (1972) 7 Cal.3d 812, 823 [103 Cal.Rptr. 431, 500 P.2d 7] [police officer].) Give the bracketed sentence that begins with “It is not required that the person killed be” on request.

Give the last bracketed sentence, stating that the defendant need not be present, on request.

If the prosecutor is proceeding under both malice and felony-murder theories, give CALCRIM No. 548, *Murder: Alternative Theories*. If the prosecutor is relying only on a theory of felony murder, no instruction on malice should be given. (See *People v. Cain* (1995) 10 Cal.4th 1, 35–37 [40 Cal.Rptr.2d 481, 892 P.2d 1224] [error to instruct on malice when felony murder only theory].)

There is **no** sua sponte duty to clarify the logical nexus between the felony and the homicidal act. If an issue about the logical nexus requirement arises, the court may give the following language:

There must be a logical connection between the cause of death and the _____ <insert felony or felonies from Pen. Code, § 189> [or attempted _____ <insert felony or felonies from Pen. Code, § 189>]. The connection between the cause of death and the _____ <insert felony or felonies from Pen. Code, § 189> [or attempted _____ <insert felony or felonies from Pen. Code, § 189>] must involve more than just their occurrence at the same time and place.]

People v. Cavitt (2004) 33 Cal.4th 187, 203-204 [14 Cal.Rptr.3d 281, 91 P.3d 222]; *People v. Wilkins* (2013) 56 Cal.4th 333, 347 [153 Cal.Rptr.3d 519, 295 P.3d 903].

Related Instructions—Other Causes of Death

This instruction should be used only when the prosecution alleges that a coparticipant in the felony committed the act causing the death.

When the alleged victim dies during the course of the felony as a result of a heart attack, a fire, or a similar cause, rather than as a result of some act of force or violence committed against the victim by one of the participants, give CALCRIM No. 540C, *Felony Murder: First Degree—Other Acts Allegedly Caused Death*. (Cf. *People v. Billa* (2003) 31 Cal.4th 1064, 1072 [6 Cal.Rptr.3d 425, 79 P.3d

542]; *People v. Stamp* (1969) 2 Cal.App.3d 203, 209–211 [82 Cal.Rptr. 598]; *People v. Hernandez* (1985) 169 Cal.App.3d 282, 287 [215 Cal.Rptr. 166]; but see *People v. Gunnerson* (1977) 74 Cal.App.3d 370, 378–381 [141 Cal.Rptr. 488] [simultaneous or coincidental death is not killing].)

If the evidence indicates that someone other than the defendant or a coparticipant committed the fatal act, then the crime is not felony murder. (*People v. Washington* (1965) 62 Cal.2d 777, 782–783 [44 Cal.Rptr. 442, 402 P.2d 130]; *People v. Caldwell* (1984) 36 Cal.3d 210, 216 [203 Cal.Rptr. 433, 681 P.2d 274]; see also *People v. Gardner* (1995) 37 Cal.App.4th 473, 477 [43 Cal.Rptr.2d 603].) Liability may be imposed, however, under the provocative act doctrine. (*Pizano v. Superior Court of Tulare County* (1978) 21 Cal.3d 128, 134 [145 Cal.Rptr. 524, 577 P.2d 659]; see CALCRIM No. 560, *Homicide: Provocative Act by Defendant*.)

Related Instructions

CALCRIM No. 400 et seq., *Aiding and Abetting: General Principles*.

CALCRIM No. 415 et seq., *Conspiracy*.

AUTHORITY

- Felony Murder: First Degree ▶ Pen. Code, § 189.
- Specific Intent to Commit Felony Required ▶ *People v. Gutierrez* (2002) 28 Cal.4th 1083, 1140 [124 Cal.Rptr.2d 373, 52 P.3d 572].
- Infliction of Fatal Injury ▶ *People v. Alvarez* (1996) 14 Cal.4th 155, 222–223 [58 Cal.Rptr.2d 385, 926 P.2d 365].
- Defendant Must Join Felonious Enterprise Before or During Killing of Victim ▶ *People v. Pulido* (1997) 15 Cal.4th 713, 726 [63 Cal.Rptr.2d 625, 936 P.2d 1235].
- Logical Nexus Between Felony and Killing ▶ *People v. Dominguez* (2006) 39 Cal.4th 1141 [47 Cal.Rptr.3d 575, 140 P.3d 866]; *People v. Cavitt* (2004) 33 Cal.4th 187, 197–206 [14 Cal.Rptr.3d 281, 91 P.3d 222].
- Merger Doctrine Does Not Apply to First Degree Felony Murder ▶ *People v. Farley* (2009) 46 Cal.4th 1053, 1118–1120 [96 Cal.Rptr.3d 191, 210 P.3d 361].

Secondary Sources

1 Witkin & Epstein, *California Criminal Law* (4th ed. 2012) Introduction to Crimes, §§ 98, 109.

1 Witkin & Epstein, California Criminal Law (4th ed. 2012) Crimes Against the Person, §§ 151–168, 178.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.10[3][b], Ch. 142, *Crimes Against the Person*, § 142.01[1][e], [2][b] (Matthew Bender).

RELATED ISSUES

Conspiracy Liability—Natural and Probable Consequences

In the context of nonhomicide crimes, a coconspirator is liable for any crime committed by a member of the conspiracy that was a natural and probable consequence of the conspiracy. (*People v. Superior Court (Shamis)* (1997) 58 Cal.App.4th 833, 842–843 [68 Cal.Rptr.2d 388].) This is analogous to the rule in aiding and abetting that the defendant may be held liable for any unintended crime that was the natural and probable consequence of the intended crime. (*People v. Nguyen* (1993) 21 Cal.App.4th 518, 531 [26 Cal.Rptr.2d 323].) In the context of felony murder, the Supreme Court has explicitly held that the natural and probable consequences doctrine does not apply to a defendant charged with felony murder based on aiding and abetting the underlying felony. (See *People v. Anderson* (1991) 233 Cal.App.3d 1646, 1658 [285 Cal.Rptr. 523].) The court has not explicitly addressed whether the natural and probable consequences doctrine continues to limit liability for felony murder where the defendant’s liability is based solely on being a member of a conspiracy.

In *People v. Pulido* (1997) 15 Cal.4th 713, 724 [63 Cal.Rptr.2d 625, 936 P.2d 1235], the court stated in dicta, “[f]or purposes of complicity in a cofelon’s homicidal act, the conspirator and the abettor stand in the same position. [Citation; quotation marks omitted.] In stating the rule of felony-murder complicity we have not distinguished accomplices whose responsibility for the underlying felony was pursuant to prior agreement (conspirators) from those who intentionally assisted without such agreement (aiders and abettors). [Citations].” In the court’s two most recent opinions on felony-murder complicity, the court refers to the liability of “cofelons” or “accomplices” without reference to whether liability is based on directly committing the offense, aiding and abetting the offense, or conspiring to commit the offense. (*People v. Cavitt* (2004) 33 Cal.4th 187, 197–205 [14 Cal.Rptr.3d 281, 91 P.3d 222]; *People v. Billa* (2003) 31 Cal.4th 1064, 1072 [6 Cal.Rptr.3d 425, 79 P.3d 542].) On the other hand, in both of these cases, the defendants were present at the scene of the felony and directly committed the felonious acts. (*People v. Cavitt, supra*, 33 Cal.4th at p. 194; *People v. Billa, supra*, 31 Cal.4th at p. 1067.) Thus, the court has not had occasion recently to

address a situation in which the defendant was convicted of felony murder based solely on a theory of coconspirator liability.

The requirement for a logical nexus between the felony and the act causing the death, articulated in *People v. Cavitt, supra*, 33 Cal.4th at p. 193, may be sufficient to hold a conspiring defendant liable for the resulting death under the felony-murder rule. However, *Cavitt* did not clearly answer this question. Nor has any case explicitly held that the natural and probable consequences doctrine does not apply in the context of felony murder based on conspiracy.

Thus, if the trial court is faced with a factual situation in which the defendant's liability is premised solely on being a member of a conspiracy in which another coparticipant killed an individual, the committee recommends that the court do the following: (1) give optional element on logical connection provided above; (2) request briefing and review the current law on conspiracy liability and felony murder; and (3) at the court's discretion, add as an additional element: "The act causing the death was a natural and probable consequence of the plan to commit _____ <insert felony or felonies from Pen. Code, § 189>."

See the Related Issues section of CALCRIM No. 540A, *Felony Murder: First Degree—Defendant Allegedly Committed Fatal Act*.

571. Voluntary Manslaughter: Imperfect Self-Defense or Imperfect Defense of Another—Lesser Included Offense (Pen. Code, § 192)

A killing that would otherwise be murder is reduced to voluntary manslaughter if the defendant killed a person because (he/she) acted in (imperfect self-defense/ [or] imperfect defense of another).

If you conclude the defendant acted in complete (self-defense/ [or] defense of another), (his/her) action was lawful and you must find (him/her) not guilty of any crime. The difference between complete (self-defense/ [or] defense of another) and (imperfect self-defense/ [or] imperfect defense of another) depends on whether the defendant's belief in the need to use deadly force was reasonable.

The defendant acted in (imperfect self-defense/ [or] imperfect defense of another) if:

1. The defendant actually believed that (he/she/ [or] someone else/ _____ <insert name of third party>) was in imminent danger of being killed or suffering great bodily injury;

AND

2. The defendant actually believed that the immediate use of deadly force was necessary to defend against the danger;

BUT

3. At least one of those beliefs was unreasonable.

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be.

In evaluating the defendant's beliefs, consider all the circumstances as they were known and appeared to the defendant.

<The following definition may be given if requested>

[A danger is imminent if, when the fatal wound occurred, the danger actually existed or the defendant believed it existed. The danger must seem immediate

and present, so that it must be instantly dealt with. It may not be merely prospective or in the near future.]

[Imperfect self-defense does not apply when the defendant, through his own wrongful conduct, has created circumstances that justify his adversary's use of force.]

[If you find that _____ <insert name of decedent/victim> threatened or harmed the defendant [or others] in the past, you may consider that information in evaluating the defendant's beliefs.]

[If you find that the defendant knew that _____ <insert name of decedent/victim> had threatened or harmed others in the past, you may consider that information in evaluating the defendant's beliefs.]

[If you find that the defendant received a threat from someone else that (he/she) reasonably associated with _____ <insert name of decedent/victim>, you may consider that threat in evaluating the defendant's beliefs.]

[Great bodily injury means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm.]

The People have the burden of proving beyond a reasonable doubt that the defendant was not acting in (imperfect self-defense/ [or] imperfect defense of another). If the People have not met this burden, you must find the defendant not guilty of murder.

New January 2006; Revised August 2012 **[insert date of council approval]**

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to instruct on voluntary manslaughter on either theory, heat of passion or imperfect self-defense, when evidence of either is “substantial enough to merit consideration” by the jury. (*People v. Breverman* (1998) 19 Cal.4th 142, 153–163 [77 Cal.Rptr.2d 870, 960 P.2d 1094]; *People v. Barton* (1995) 12 Cal.4th 186, 201 [47 Cal.Rptr.2d 569, 906 P.2d 531].

See discussion of imperfect self-defense in related issues section of CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

Perfect Self-Defense

Most courts hold that an instruction on imperfect self-defense **is required** in every case in which a court instructs on perfect self-defense. If there is substantial evidence of a defendant's belief in the need for self-defense, there will *always* be substantial evidence to support an imperfect self-defense instruction because the reasonableness of that belief will always be at issue. (See *People v. Ceja* (1994) 26 Cal.App.4th 78, 85–86 [31 Cal.Rptr.2d 475], overruled in part by *People v. Blakeley* (2000) 23 Cal.4th 82, 91 [96 Cal.Rptr.2d 451, 999 P.2d 675]; see also *People v. De Leon* (1992) 10 Cal.App.4th 815, 824 [12 Cal.Rptr.2d 825].) The court in *People v. Rodriguez* disagreed, however, and found that an imperfect self-defense instruction was not required sua sponte on the facts of the case where the defendant's version of the crime “could only lead to an acquittal based on justifiable homicide,” and when the prosecutor's version of the crime could only lead to a conviction of first degree murder. (See *People v. Rodriguez* (1997) 53 Cal.App.4th 1250, 1275 [62 Cal.Rptr.2d 345]; see also *People v. Williams* (1992) 4 Cal.4th 354, 362 [14 Cal.Rptr.2d 441, 841 P.2d 961] [in a rape prosecution, the court was not required to give a mistake of fact instruction where the two sides gave wholly divergent accounts with no middle ground to support a mistake of fact instruction].)

In evaluating whether the defendant actually believed in the need for self-defense, the jury may consider the effect of antecedent threats and assaults against the defendant, including threats received by the defendant from a third party that the defendant reasonably associated with the aggressor. (*People v. Minifie* (1996) 13 Cal.4th 1055, 1065, 1069 [56 Cal.Rptr.2d 133, 920 P.2d 1337].) If there is sufficient evidence, the court should give the bracketed paragraphs on prior threats or assaults on request.

Related Instructions

CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

CALCRIM 3470, *Right to Self-Defense or Defense of Another (Non-Homicide)*.

CALCRIM 3471, *Right to Self-Defense: Mutual Combat or Initial Aggressor*.

CALCRIM 3472, *Right to Self-Defense: May Not Be Contrived*.

AUTHORITY

- Elements ▶ Pen. Code, § 192(a).
- Imperfect Self-Defense Defined ▶ *People v. Flannel* (1979) 25 Cal.3d 668, 680–683 [160 Cal.Rptr. 84, 603 P.2d 1]; *People v. Barton* (1995) 12 Cal.4th 186, 201 [47 Cal.Rptr.2d 569, 906 P.2d 531]; *In re Christian S.* (1994) 7 Cal.4th 768, 773 [30 Cal.Rptr.2d 33, 872 P.2d 574]; see *People v. Uriarte*

(1990) 223 Cal.App.3d 192, 197–198 [272 Cal.Rptr. 693] [insufficient evidence to support defense of another person].

- Imperfect Defense of Others ▶ *People v. Randle* (2005) 35 Cal.4th 987, 995–1000 [28 Cal.Rptr.3d 725, 111 P.3d 987], overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172 [91 Cal.Rptr.3d 106, 203 P.3d 425].
- Imperfect Self-Defense May be Available When Defendant Set in Motion Chain of Events Leading to Victim’s Attack, but Not When Victim was Legally Justified in Resorting to Self-Defense ▶ *People v. Enraca* (2012) 53 Cal.4th 735, 761 [137 Cal.Rptr.3d 117, 269 P.3d 543]; *People v. Vasquez* (2006) 136 Cal.App.4th 1176, 1179–1180 [39 Cal.Rptr.3d 433].
- Imperfect Self-Defense Does Not Apply When Defendant’s Belief in Need for Self-Defense is Entirely Delusional ▶ *People v. Elmore* (2014) 59 Cal.4th 121, 145 [172 Cal.Rptr.3d 413, 325 P.3d 951].
- This Instruction Upheld ▶ *People v. Lopez* (2011) 199 Cal.App.4th 1297, 1306 [132 Cal.Rptr.3d 248]; *People v. Genovese* (2008) 168 Cal.App.4th 817, 832 [85 Cal.Rptr.3d 664].
- Defendant Relying on Imperfect Self-Defense Must Actually, Although Not Reasonably, Associate Threat With Victim (*People v. Minifie* (1996) 13 Cal.4th 1055, 1069 [56 Cal.Rptr.2d 133, 920 P.2d 1337][in dicta].)

Secondary Sources

1 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. 200012) Crimes Against the Person, §~~§~~ 240242-244.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.11[1][c], [2][a] (Matthew Bender).

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, §§ 85.03[2][g], 85.04[1][c] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.01[3][d.1], [e], 142.02[1][a], [e], [f], [2][a], [3][c] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Attempted Voluntary Manslaughter ▶ *People v. Van Ronk* (1985) 171 Cal.App.3d 818, 822 [217 Cal.Rptr. 581]; *People v. Williams* (1980) 102 Cal.App.3d 1018, 1024–1026 [162 Cal.Rptr. 748].

Involuntary manslaughter is *not* a lesser included offense of voluntary manslaughter. (*People v. Orr* (1994) 22 Cal.App.4th 780, 784 [27 Cal.Rptr.2d 553].)

RELATED ISSUES

Battered Woman’s Syndrome

Evidence relating to battered woman’s syndrome may be considered by the jury when deciding if the defendant actually feared the batterer and if that fear was reasonable. (See *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082–1089 [56 Cal.Rptr.2d 142, 921 P.2d 1].)

Blakeley Not Retroactive

The decision in *Blakeley*—that one who, acting with conscious disregard for life, unintentionally kills in imperfect self-defense is guilty of voluntary manslaughter—may not be applied to defendants whose offense occurred prior to *Blakeley*’s June 2, 2000, date of decision. (*People v. Blakeley* (2000) 23 Cal.4th 82, 91–93 [96 Cal.Rptr.2d 451, 999 P.2d 675].) If a defendant asserts a killing was done in an honest but mistaken belief in the need to act in self-defense and the offense occurred prior to June 2, 2000, the jury must be instructed that an unintentional killing in imperfect self-defense is involuntary manslaughter. (*People v. Johnson* (2002) 98 Cal.App.4th 566, 576–577 [119 Cal.Rptr.2d 802]; *People v. Blakeley, supra*, 23 Cal.4th at p. 93.)

Inapplicable to Felony Murder

Imperfect self-defense does not apply to felony murder. “Because malice is irrelevant in first and second degree felony murder prosecutions, a claim of imperfect self-defense, offered to negate malice, is likewise irrelevant.” (See *People v. Tabios* (1998) 67 Cal.App.4th 1, 6–9 [78 Cal.Rptr.2d 753]; see also *People v. Anderson* (1991) 233 Cal.App.3d 1646, 1666 [285 Cal.Rptr. 523]; *People v. Loustanaunau* (1986) 181 Cal.App.3d 163, 170 [226 Cal.Rptr. 216].)

Fetus

Manslaughter does not apply to the death of a fetus. (*People v. Carlson* (1974) 37 Cal.App.3d 349, 355 [112 Cal.Rptr. 321].) While the Legislature has included the killing of a fetus, as well as a human being, within the definition of murder under Penal Code section 187, it has “left untouched the provisions of section 192, defining manslaughter [as] the ‘unlawful killing of a human being.’” (*Ibid.*)

See also the Related Issues Section to CALCRIM No. 505, *Justifiable Homicide: Self-Defense or Defense of Another*.

Reasonable Person Standard Not Modified by Evidence of Mental Impairment
In *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519 [14 Cal.Rptr.3d 473], the court rejected the argument that the reasonable person standard for self-defense should be the standard of a mentally ill person like the defendant. “The common law does not take account of a person’s mental capacity when determining whether he has acted as the reasonable person would have acted. The law holds ‘the mentally deranged or insane defendant accountable for his negligence as if the person were a normal, prudent person.’ (Prosser & Keeton, Torts (5th ed. 1984) § 32, p. 177.)” (*Ibid.*; see also Rest.2d Torts, § 283B.)

627. Hallucination: Effect on Premeditation

A hallucination is a perception not based on objective reality. In other words, a person has a hallucination when that person believes that he or she is seeing or hearing [or otherwise perceiving] something that is not actually present or happening.

You may consider evidence of hallucinations, if any, in deciding whether the defendant acted with deliberation and premeditation.

The People have the burden of proving beyond a reasonable doubt that the defendant acted with deliberation and premeditation. If the People have not met this burden, you must find the defendant not guilty of first degree murder.

New January 2006 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give defense instructions supported by substantial evidence and not inconsistent with the defendant's theory of the case. (See *People v. Baker* (1999) 74 Cal.App.4th 243, 252 [87 Cal.Rptr.2d 803]; *People v. Barton* (1995) 12 Cal.4th 186, 195 [47 Cal.Rptr.2d 569, 906 P.2d 531].)

“[E]vidence of a hallucination—a perception with no objective reality—is inadmissible to negate malice so as to mitigate murder to voluntary manslaughter but is admissible to negate deliberation and premeditation so as to reduce first degree murder to second degree murder.” (*People v. Padilla* (2002) 103 Cal.App.4th 675, 677 [126 Cal.Rptr.2d 889].)

AUTHORITY

- Hallucination Evidence ▶ *People v. Padilla* (2002) 103 Cal.App.4th 675, 677 [126 Cal.Rptr.2d 889].
- Hallucination Alone Not a Basis for Imperfect Self-Defense ▶ *People v. Mejia-Lenares* (2006) 135 Cal.App.4th 1437 [38 Cal.Rptr.3d 404].

- Imperfect Self-Defense Does Not Apply When Defendant's Belief in Need for Self-Defense is Entirely Delusional ▶ *People v. Elmore* (2014) 59 Cal.4th 121, 145 [172 Cal.Rptr.3d 413, 325 P.3d 951].

Secondary Sources

1 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against the Person, § ~~169~~107-108.

3 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 73, *Defenses and Justifications*, § 73.03 (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.01[1][g] (Matthew Bender).

628–639. Reserved for Future Use

592. Gross Vehicular Manslaughter (Pen. Code § 192(c)(1))

<If gross vehicular manslaughter is a charged offense, give alternative A; if this instruction is being given as a lesser included offense, give alternative B.>

<Introductory Sentence: Alternative A—Charged Offense>

[The defendant is charged [in Count ___] with gross vehicular manslaughter [in violation of Penal Code section 192(c)(1)].]

<Introductory Sentence: Alternative B—Lesser Included Offense>

[Gross vehicular manslaughter is a lesser crime than gross vehicular manslaughter while intoxicated.]

To prove that the defendant is guilty of gross vehicular manslaughter, the People must prove that:

- 1. The defendant (drove a vehicle/operated a vessel);**
- 2. While (driving that vehicle/operating that vessel), the defendant committed (a/an) (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death);**
- 3. The defendant committed the (misdemeanor[,]/ [or] infraction[,]/ [or] otherwise lawful act that might cause death) with gross negligence;**

AND

- 4. The defendant’s grossly negligent conduct caused the death of another person.**

~~[The People allege that the defendant committed the following (misdemeanor[s]/ [and] infraction[s]): _____ <insert misdemeanor[s]/ infraction[s]>.~~

~~Instruction[s] ___ tell[s] you what the People must prove in order to prove that the defendant committed _____ <insert misdemeanor[s]/infraction[s]>.]~~

~~[The People [also] allege that the defendant committed the following otherwise lawful act(s) that might cause death: _____ <insert act[s]>~~

~~alleged~~>.]

Gross negligence involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with gross negligence when:

1. He or she acts in a reckless way that creates a high risk of death or great bodily injury;

AND

2. A reasonable person would have known that acting in that way would create such a risk.

In other words, a person acts with gross negligence when the way he or she acts is so different from how an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

[*Great bodily injury* means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm.]

[A person facing a sudden and unexpected emergency situation not caused by that person's own negligence is required only to use the same care and judgment that an ordinarily careful person would use in the same situation, even if it appears later that a different course of action would have been safer.]

[An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the act. A *natural and probable consequence* is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence.]

[There may be more than one cause of death. An act causes death only if it is a substantial factor in causing the death. A *substantial factor* is more than a trivial or remote factor. However, it does not need to be the only factor that causes the death.]

~~[The People allege that the defendant committed the following (misdemeanor[s][,]/ [and] infraction[s][,]/ [and] otherwise lawful act[s] that might cause death): _____ <insert alleged predicate acts when multiple acts alleged>.]~~[The People allege that the defendant committed the following

(misdemeanor[s]/ [and] infraction[s]): _____ <insert misdemeanor[s]/
infraction[s]>.

Instruction[s] _____ tell[s] you what the People must prove in order to prove that
the defendant committed _____ <insert misdemeanor[s]/infraction[s]>.

[The People [also] allege that the defendant committed the following
otherwise lawful act(s) that might cause death: _____ <insert act[s]/
alleged>.]

[-You may not find the defendant guilty unless all of you agree that the
People have proved that the defendant committed at least one **of these** alleged
(misdemeanor[s],/ [or] infraction[s],/ [or] otherwise lawful acts that might
cause death) and you all agree on which (misdemeanor[,]/ [or] infraction[,]/
[or] otherwise lawful act that might cause death) the defendant committed.]

[The People have the burden of proving beyond a reasonable doubt that the
defendant committed gross vehicular manslaughter. If the People have not
met this burden, you must find the defendant not guilty of that crime. You
must consider whether the defendant is guilty of the lesser crime[s] of
_____ <insert lesser offense[s]>.]

New January 2006

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

The court has a **sua sponte** duty to specify the predicate misdemeanor(s) or infraction(s) alleged and to instruct on the elements of the predicate offense(s). (*People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688]; *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].) In element 2, instruct on either theory of vehicular manslaughter (misdemeanor/infraction or lawful act committed with negligence) as appropriate. The court **must** also give the appropriate instruction on the elements of the the predicate misdemeanor or infraction.

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause. (*People v. Bernhardt* (1963) 222 Cal.App.2d 567, 590–591 [35 Cal.Rptr. 401].) If the evidence indicates that there was only one cause of death, the court should give the “direct, natural, and probable” language in the first bracketed

paragraph on causation. If there is evidence of multiple causes of death, the court should also give the “substantial factor” instruction in the second bracketed paragraph on causation. (See *People v. Autry* (1995) 37 Cal.App.4th 351, 363 [43 Cal.Rptr.2d 135]; *People v. Pike* (1988) 197 Cal.App.3d 732, 746–747 [243 Cal.Rptr. 54].)

There is a split in authority over whether there is a **sua sponte** duty to give a unanimity instruction when multiple predicate offenses are alleged. (*People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30] [unanimity instruction required, overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735] [unanimity instruction not required but preferable]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438] [unanimity instruction not required]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906] [unanimity instruction not required, harmless error if was required].) A unanimity instruction is included in a bracketed paragraph for the court to use at its discretion.

If there is sufficient evidence and the defendant requests it, the court should instruct on the imminent peril/sudden emergency doctrine. (*People v. Boulware* (1940) 41 Cal.App.2d 268, 269–270 [106 P.2d 436].) Give the bracketed sentence that begins with “A person facing a sudden and unexpected emergency.”

AUTHORITY

- Gross Vehicular Manslaughter ▶ Pen. Code, § 192(c)(1).
- Gross Vehicular Manslaughter During Operation of a Vessel ▶ Pen. Code, § 192.5(a).
- Unlawful Act Dangerous Under the Circumstances of Its Commission ▶ *People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374].
- Specifying Predicate Unlawful Act ▶ *People v. Milham* (1984) 159 Cal.App.3d 487, 506 [205 Cal.Rptr. 688].
- Elements of Predicate Unlawful Act ▶ *People v. Ellis* (1999) 69 Cal.App.4th 1334, 1339 [82 Cal.Rptr.2d 409].
- Unanimity Instruction ▶ *People v. Gary* (1987) 189 Cal.App.3d 1212, 1218 [235 Cal.Rptr. 30], overruled on other grounds in *People v. Flood* (1998) 18 Cal.4th 470, 481 [76 Cal.Rptr.2d 180, 957 P.2d 869]; *People v. Durkin* (1988) 205 Cal.App.3d Supp. 9, 13 [252 Cal.Rptr. 735]; *People v. Mitchell* (1986) 188 Cal.App.3d 216, 222 [232 Cal.Rptr. 438]; *People v. Leffel* (1988) 203 Cal.App.3d 575, 586–587 [249 Cal.Rptr. 906].

- Gross Negligence ▶ *People v. Bennett* (1992) 54 Cal.3d 1032, 1036 [2 Cal.Rptr.2d 8, 819 P.2d 849].
- Causation ▶ *People v. Rodriguez* (1960) 186 Cal.App.2d 433, 440 [8 Cal.Rptr. 863].
- Imminent Peril/Sudden Emergency Doctrine ▶ *People v. Boulware* (1940) 41 Cal.App.2d 268, 269 [106 P.2d 436].

Secondary Sources

1 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against the Person, §§ ~~238-245~~262-268.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 140, *Challenges to Crimes*, § 140.04, Ch. 142, *Crimes Against the Person*, § 142.02[1][a], [2][c], [4] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Vehicular Manslaughter With Ordinary Negligence ▶ Pen. Code, § 192(c)(2); see *People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1165–1166 [123 Cal.Rptr.2d 322].
- Manslaughter During Operation of a Vessel Without Gross Negligence ▶ Pen. Code, § 192.5(b).

RELATED ISSUES

Predicate Act Need Not Be Inherently Dangerous

“[T]he offense which constitutes the ‘unlawful act’ need not be an inherently dangerous misdemeanor or infraction. Rather, to be an ‘unlawful act’ within the meaning of section 192(c)(1), the offense must be dangerous under the circumstances of its commission. An unlawful act committed with gross negligence would necessarily be so.” (*People v. Wells* (1996) 12 Cal.4th 979, 982 [50 Cal.Rptr.2d 699, 911 P.2d 1374].)

Lawful Act in an Unlawful Manner: Negligence

The statute uses the phrase “lawful act which might produce death, in an unlawful manner.” (Pen. Code, § 192(c)(1).) “[C]ommitting a lawful act in an unlawful

manner simply means to commit a lawful act with negligence, that is, without reasonable caution and care.” (*People v. Thompson* (2000) 79 Cal.App.4th 40, 53 [93 Cal.Rptr.2d 803].) Because the instruction lists the negligence requirement as element 3, the phrase “in an unlawful manner” is omitted from element 2 as repetitive.

840. Inflicting Injury on Spouse, Cohabitant, or Fellow Parent Resulting in Traumatic Condition (Pen. Code, § 273.5(a))

The defendant is charged [in Count __] with inflicting an injury on [his/her] ([former] spouse/[former] cohabitant/the (mother/father) of (his/her) child) that resulted in a traumatic condition [in violation of Penal Code section 273.5(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant willfully [and unlawfully] inflicted a physical injury on [his/her] ([former] spouse/[former] cohabitant/the (mother/father) of (his/her) child)/someone with whom (he/she) had, or previously had, an engagement or dating relationship);

[AND]

2. The injury inflicted by the defendant resulted in a traumatic condition.

<Give element 3 when instructing on self-defense or defense of another>

[AND]

3. The defendant did not act (in self-defense/ [or] in defense of someone else).]

Someone commits an act *willfully* when he or she does it willingly or on purpose.

A *traumatic condition* is a wound or other bodily injury, whether minor or serious, caused by the direct application of physical force.

[The term *cohabitants* means two unrelated persons living together for a substantial period of time, resulting in some permanency of the relationship. Factors that may determine whether people are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same residence, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) the parties' holding themselves out as **(husband and**

wifespouses/domestic partners), (5) the continuity of the relationship, and (6) the length of the relationship.]

[A person may cohabit simultaneously with two or more people at different locations, during the same time frame, if he or she maintains substantial ongoing relationships with each person and lives with each person for significant periods.]

[A person is considered to be the (mother/father) of another person's child if the alleged male parent is presumed under law to be the natural father. _____ <insert name of presumed father> is presumed under law to be the natural father of _____ <insert name of child>.]

[A traumatic condition is the *result of an injury* if:

1. The traumatic condition was the natural and probable consequence of the injury;
2. The injury was a direct and substantial factor in causing the condition;

AND

3. The condition would not have happened without the injury.

A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence.

A substantial factor is more than a trivial or remote factor. However, it does not need to be the only factor that resulted in the traumatic condition.]

New January 2006; Revised June 2007, August 2012, [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

If there is sufficient evidence of self-defense or defense of another, the court has a **sua sponte** duty to instruct on the defense. Give bracketed element 3 and any appropriate defense instructions. (See CALCRIM Nos. 3470–3477.)

If causation is at issue, the court has a **sua sponte** duty to instruct on proximate cause. (*People v. Bernhardt* (1963) 222 Cal.App.2d 567, 590-591 [35 Cal.Rptr. 401]; *People v. Cervantes* (2001) 26 Cal.4th 860, 865–874 [111 Cal.Rptr.2d 148, 29 P.3d 225].) Give the bracketed paragraph that begins, “A traumatic condition is the *result of an injury* if”

If there is sufficient evidence that an alleged victim’s injuries were caused by an accident, the court has a **sua sponte** duty to instruct on accident. (*People v. Gonzales* (1999) 74 Cal.App.4th 382, 390 [88 Cal.Rptr.2d 111].) Give CALCRIM No. 3404, *Accident*.

Give the bracketed language “[and unlawfully]” in element 1 if there is evidence that the defendant acted in self-defense.

Give the third bracketed sentence that begins “A person may cohabit simultaneously with two or more people,” on request if there is evidence that the defendant cohabited with two or more people. (See *People v. Moore* (1996) 44 Cal.App.4th 1323, 1335 [52 Cal.Rptr.2d 256].)

Give on request the bracketed paragraph that begins “A person is considered to be the (mother/father)” if an alleged parental relationship is based on the statutory presumption that the male parent is the natural father. (See Pen. Code, § 273.5(d); see also *People v. Vega* (1995) 33 Cal.App.4th 706, 711 [39 Cal.Rptr.2d 479] [parentage can be established without resort to any presumption].)

If the defendant is charged with an enhancement for a prior conviction for a similar offense within seven years and has not stipulated to the prior conviction, give CALCRIM No. 3100, *Prior Conviction: Nonbifurcated Trial*. If the court has granted a bifurcated trial, see CALCRIM No. 3101, *Prior Conviction: Bifurcated Trial*.

If there is evidence that the traumatic condition resulted from strangulation or suffocation, consider instructing according to the special definition provided in Pen. Code, § 273.5(c).

[The amendment to Penal Code section 273.5\(b\) adding “someone with whom the offender has, or previously had, an engagement or dating relationship as defined in Penal Code section 243\(f\)\(10\)” to the list of potential victims became effective on January 1, 2014.](#)

AUTHORITY

- Elements ▶ Pen. Code, § 273.5(a).
- Traumatic Condition Defined ▶ Pen. Code, § 273.5(c); *People v. Gutierrez* (1985) 171 Cal.App.3d 944, 952 [217 Cal.Rptr. 616].
- Willful Defined ▶ Pen. Code, § 7, subd. 1; see *People v. Lara* (1996) 44 Cal.App.4th 102, 107 [51 Cal.Rptr.2d 402].
- Cohabitant Defined ▶ *People v. Holifield* (1988) 205 Cal.App.3d 993, 1000 [252 Cal.Rptr. 729]; *People v. Ballard* (1988) 203 Cal.App.3d 311, 318–319 [249 Cal.Rptr. 806].
- Direct Application of Force ▶ *People v. Jackson* (2000) 77 Cal.App.4th 574, 580 [91 Cal.Rptr.2d 805].
- Duty to Define Traumatic Condition ▶ *People v. Burns* (1948) 88 Cal.App.2d 867, 873–874 [200 P.2d 134].
- Strangulation and Suffocation ▶ Pen. Code, § 273.5(d).
- General Intent Crime ▶ See *People v. Thurston* (1999) 71 Cal.App.4th 1050, 1055 [84 Cal.Rptr.2d 221]; *People v. Campbell* (1999) 76 Cal.App.4th 305, 307–309 [90 Cal.Rptr.2d 315]; contra, *People v. Rodriguez* (1992) 5 Cal.App.4th 1398, 1402 [7 Cal.Rptr.2d 495] [dictum].
- Simultaneous Cohabitation ▶ *People v. Moore* (1996) 44 Cal.App.4th 1323, 1335 [52 Cal.Rptr.2d 256].

Secondary Sources

1 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against the Person, §§ ~~63~~, ~~64~~ 67.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.13[3] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Attempted Infliction of Corporal Punishment on Spouse ▶ Pen. Code, §§ 664, 273.5(a); *People v. Kinsey* (1995) 40 Cal.App.4th 1621, 1627, 1628 [47

Cal.Rptr.2d 769] [attempt requires intent to cause traumatic condition, but does not require a resulting “traumatic condition”].

- Misdemeanor Battery ▶ Pen. Code, §§ 242, 243(a); see *People v. Gutierrez* (1985) 171 Cal.App.3d 944, 952 [217 Cal.Rptr. 616].
- Battery Against Spouse, Cohabitant, or Fellow Parent ▶ Pen. Code, § 243(e)(1); see *People v. Jackson* (2000) 77 Cal.App.4th 574, 580 [91 Cal.Rptr.2d 805].
- Simple Assault ▶ Pen. Code, §§ 240, 241(a); *People v. Van Os* (1950) 96 Cal.App.2d 204, 206 [214 P.2d 554].

RELATED ISSUES

Continuous Course of Conduct

Penal Code section 273.5 is aimed at a continuous course of conduct. The prosecutor is not required to choose a particular act and the jury is not required to unanimously agree on the same act or acts before a guilty verdict can be returned. (*People v. Thompson* (1984) 160 Cal.App.3d 220, 224–225 [206 Cal.Rptr. 516].)

Multiple Acts of Abuse

A defendant can be charged with multiple violations of Penal Code section 273.5 when each battery satisfies the elements of section 273.5. (*People v. Healy* (1993) 14 Cal.App.4th 1137, 1140 [18 Cal.Rptr.2d 274].)

Prospective Parents of Unborn Children

Penal Code section 273.5(a) does not apply to a man who inflicts an injury upon a woman who is pregnant with his unborn child. “A pregnant woman is not a ‘mother’ and a fetus is not a ‘child’ as those terms are used in that section.” (*People v. Ward* (1998) 62 Cal.App.4th 122, 126, 129 [72 Cal.Rptr.2d 531].)

Termination of Parental Rights

Penal Code section 273.5 “applies to a man who batters the mother of his child even after parental rights to that child have been terminated.” (*People v. Mora* (1996) 51 Cal.App.4th 1349, 1356 [59 Cal.Rptr.2d 801].)

1005. Rape by Fraud (Pen. Code, § 261(a)(5))

The defendant is charged [in Count ___] with rape by fraud [in violation of Penal Code section 261(a)(5)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant had sexual intercourse with a woman;
2. ~~He~~ The defendant and the woman were not married to each other at the time of the intercourse;
3. The woman submitted to the intercourse because she believed the defendant was someone else known to the woman she knew, other than the defendant, her husband;

AND

4. The defendant tricked her, lied to her, [used an artifice or pretense,] or concealed information from her, intending to make her believe he was someone she knew, while intending to hide his own identity ~~they were married to each other.~~

Sexual intercourse means any penetration, no matter how slight, of the vagina or genitalia by the penis. [Ejaculation is not required.]

New January 2006, [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

Penal Code section 261(a)(5) was amended effective September 9, 2013, in response to *People v. Morales* (2013) 212 Cal.App.4th 583 [150 Cal.Rptr.3d 920].

AUTHORITY

- Elements ▶ Pen. Code, § 261(a)(5).
- Penetration Defined ▶ Pen. Code, § 263; *People v. Karsai* (1982) 131 Cal.App.3d 224, 233–234 [182 Cal.Rptr. 406], disapproved on other grounds by *People v. Jones* (1988) 46 Cal.3d 585, 600 [250 Cal.Rptr. 635, 758 P.2d 1165].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Sex Offenses and Crimes Against Decency, §§ ~~1–8, 13~~16-17.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.20[1][a], [6] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

COMMENTARY

Gender-specific language is used because rape usually occurs between a man and a woman. In keeping with plain English principles, the committee used those terms to make the instruction clear and concrete.

LESSER INCLUDED OFFENSES

- Attempted Rape ▶ Pen. Code, §§ 663, 261.

RELATED ISSUES

See the Related Issues section to CALCRIM No. 1000, *Rape or Spousal Rape by Force, Fear, or Threats*.

1006–1014. Reserved for Future Use

1021. Oral Copulation by Fraud (Pen. Code, § 288a(a), (j))

The defendant is charged [in Count ___] with oral copulation by fraud [in violation of Penal Code section 288a(j)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant committed an act of oral copulation with someone else;
2. The other person submitted to the oral copulation because (he/she) believed the ~~person~~ defendant was someone (he/she) knew, other than the defendant. (his/her) spouse;

AND

3. The defendant tricked, lied, [used an artifice or pretense,] or concealed information, intending to make the other person believe they were married to each other (he/she) was someone (he/she) knew, while intending to hide (his/her) own identity.

Oral copulation is any contact, no matter how slight, between the mouth of one person and the sexual organ or anus of another person. Penetration is not required.

New January 2006, [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

Penal Code section 288a(a) was amended effective September 9, 2013, in response to *People v. Morales* (2013) 212 Cal.App.4th 583 [150 Cal.Rptr.3d 920].

AUTHORITY

- Elements ▶ Pen. Code, § 288a(a), (j).

- Oral Copulation Defined ▶ *People v. Grim* (1992) 9 Cal.App.4th 1240, 1242–1243 [11 Cal.Rptr.2d 884].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Sex Offenses and Crime Against Decency, §§ ~~31–34~~8.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.20[1][c], [6] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

LESSER INCLUDED OFFENSES

- Attempted Oral Copulation ▶ Pen. Code, §§ 663, 288a.

RELATED ISSUES

See the Related Issues Section to CALCRIM No. 1015, *Oral Copulation by Force, Fear, or Threats*.

1036. Sodomy by Fraud (Pen. Code, § 286(j))

The defendant is charged [in Count ___] with sodomy by fraud [in violation of Penal Code section 286(j)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant committed an act of sodomy with someone else;
2. The other person submitted to the sodomy because (~~she/he~~/she) believed the defendant was someone (he/she) knew, other than the defendant (her/his) spouse;

AND

3. The defendant tricked, lied, [used an artifice or pretense,] or concealed information, intending to make the other person believe that he was someone (he/she) knew, while intending to hide his own identity, they were married to each other.

Sodomy is any penetration, no matter how slight, of the anus of one person by the penis of another person. [Ejaculation is not required.]

New January 2006, [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

Penal Code section 286(j) was amended effective September 9, 2013, in response to *People v. Morales* (2013) 212 Cal.App.4th 583 [150 Cal.Rptr.3d 920].

Related Instructions

CALCRIM No. 1031, *Sodomy in Concert*, may be given in conjunction with this instruction if appropriate.

AUTHORITY

- Elements ▶ Pen. Code, § 286(j).
- Sodomy Defined ▶ Pen. Code, § 286(a); see *People v. Singh* (1923) 62 Cal.App. 450, 452 [217 P. 121] [ejaculation is not required].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Sex Offenses and Crimes Against Decency, §§ ~~2630, 28~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.20[1][b], [6] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

LESSER INCLUDED OFFENSES

- Attempted Sodomy by Fraud ▶ Pen. Code, §§ 664, 286(j).

RELATED ISSUES

See the Related Issues section under CALCRIM No. 1030, *Sodomy by Force, Fear, or Threats*.

1051. Sexual Penetration by Fraud (Pen. Code, § 289(f))

The defendant is charged [in Count __] with sexual penetration by fraud [in violation of Penal Code section 289(f)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant committed an act of sexual penetration with another person;
2. At the time of the act, the defendant and the other person were not married to each other;
3. The penetration was accomplished by using (a/an) (foreign object[,]/ [or] substance[,]/ [or] instrument[,]/ [or] device[,]/ [or] unknown object);
4. The other person submitted to the act because (he/she) believed the person (committing the act/causing the act to be committed) someone (he/she) knew, other than the defendant, was (his/her) spouse;

AND

5. The defendant tricked, lied, [used an artifice or pretense,] or concealed information, intending to make the other person believe that (he/she) was someone (he/she) knew, while intending to hide (his/her) own identity~~they were married to each other.~~

Sexual penetration means (penetration, however slight, of the genital or anal opening of the other person/ [or] causing the other person to penetrate, however slightly, the defendant's or someone else's genital or anal opening/ [or] causing the other person to penetrate, however slightly, his or her own genital or anal opening) for the purpose of sexual abuse, arousal, or gratification.

[A *foreign object, substance, instrument, or device* includes any part of the body except a sexual organ.] [An *unknown object* includes any foreign object, substance, instrument, or device, or any part of the body, including a penis, if it is not known what object was used to accomplish the penetration.]

[Penetration for *sexual abuse* means penetration for the purpose of causing pain, injury, or discomfort.]

New January 2006, *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

Penal Code section 289(f) was amended effective September 9, 2013, in response to *People v. Morales* (2013) 212 Cal.App.4th 583 [150 Cal.Rptr.3d 920].

Related Instructions

CALCRIM No. 1046, *Sexual Penetration in Concert*, may be given in conjunction with this instruction if appropriate.

AUTHORITY

- Elements ▶ Pen. Code, § 289(f).
- Foreign Object, Substance, Instrument, or Device Defined ▶ Pen. Code, § 289(k)(2); see *People v. Wilcox* (1986) 177 Cal.App.3d 715, 717 [223 Cal.Rptr. 170] [a finger is a “foreign object”].
- Sexual Penetration Defined ▶ Pen. Code, § 289(k)(1); see *People v. Quintana* (2001) 89 Cal.App.4th 1362, 1371 [108 Cal.Rptr.2d 235] [penetration of genital opening refers to penetration of labia majora, not the vagina].
- Unknown Object Defined ▶ Pen. Code, § 289(k)(3).
- Sexual Abuse Defined ▶ *People v. White* (1986) 179 Cal.App.3d 193, 205–206 [224 Cal.Rptr. 467].

Secondary Sources

2 Witkin & Epstein, *California Criminal Law* (~~3d~~4th ed. ~~2000~~2012) Sex Offenses and Crimes Against Decency, § ~~4758~~49.

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 142, *Crimes Against the Person*, § 142.20[1][d], [6] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17
(The Rutter Group).

LESSER INCLUDED OFFENSES

- Assault ▶ Pen. Code, § 240.
- Attempted Sexual Penetration by Fraud ▶ Pen. Code, §§ 664, 289(f).
- Battery ▶ Pen. Code, § 242.

RELATED ISSUES

See the Related Issues section under CALCRIM No. 1045, *Sexual Penetration by Force, Fear, or Threats*.

1052–1059. Reserved for Future Use

1128. Engaging in Oral Copulation or Sexual Penetration With Child 10 Years of Age or Younger (Pen. Code, § 288.7(b))

The defendant is charged [in Count __] with engaging in (oral copulation/ [or] sexual penetration) with a child 10 years of age or younger [in violation of Penal Code section 288.7(b)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant engaged in an act of (oral copulation/ [or] sexual penetration) with _____ <insert name of complaining witness>;
2. When the defendant did so, _____ <insert name of complaining witness> was 10 years of age or younger;
3. At the time of the act, the defendant was at least 18 years old.

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

[*Oral copulation* is any contact, no matter how slight, between the mouth of one person and the sexual organ or anus of another person. Penetration is not required.]

[*Sexual penetration* means (penetration, however slight, of the genital or anal opening of the other person/ [or] causing the other person to penetrate, however slightly, the defendant's or someone else's genital or anal opening/ [or] causing the other person to penetrate, however slightly, his or her own genital or anal opening) by any foreign object, substance, instrument, device, or any unknown object for the purpose of sexual abuse, arousal, or gratification.]

[Penetration for *sexual abuse* means penetration for the purpose of causing pain, injury, or discomfort.]

[An *unknown object* includes any foreign object, substance, instrument, or device, or any part of the body, including a penis, if it is not known what object penetrated the opening.]

[A foreign object, substance, instrument, or device includes any part of the body except a sexual organ.]

New August 2009; Revised April 2010, February 2013 [\[insert date of council approval\]](#)

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

AUTHORITY

- Elements ▶ Pen. Code, § 288.7(b).
- Sexual Penetration Defined ▶ Pen. Code, § 289(k)(1); see *People v. Quintana* (2001) 89 Cal.App.4th 1362, 1371 [108 Cal.Rptr.2d 235] [penetration of genital opening refers to penetration of labia majora, not vagina].
- Unknown Object Defined ▶ Pen. Code, § 289(k)(3).
- Foreign Object, Substance, Instrument, or Device Defined ▶ Pen. Code, § 289(k)(2); *People v. Wilcox* (1986) 177 Cal.App.3d 715, 717 [223 Cal.Rptr. 170] [finger is “foreign object”].
- Oral Copulation Defined ▶ *People v. Grim* (1992) 9 Cal.App.4th 1240, 1242–1243 [11 Cal.Rptr.2d 884].
- Calculating Age ▶ Fam. Code, § 6500; *People v. Cornett* (2012) 53 Cal.4th 1261, 1264, 1275 [139 Cal.Rptr.3d 837, 274 P.3d 456] [“10 years of age or younger” means “under 11 years of age”]; *In re Harris* (1993) 5 Cal.4th 813, 849-850 [21 Cal.Rptr.2d 373, 855 P.2d 391].
- Sexual Abuse Defined ▶ *People v. White* (1986) 179 Cal.App.3d 193, 205-206 [224 Cal.Rptr. 467].

LESSER INCLUDED OFFENSE

- [Attempted Sexual Penetration. *People v. Ngo* \(2014\) 225 Cal.App.4th 126, 158-161 \[170 Cal.Rptr.3d 90\].](#)

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~ 4th ed. ~~2008-supp~~ 2012.) Sex Offenses and Crimes Against Decency, § ~~58~~ 33, 48.

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

1140. ~~Showing Distributing, Sending, or Exhibiting or Sending Harmful Material to Seduce a Minor~~ (Pen. Code, § 288.2(a)(1) & (b)(2))

The defendant is charged [in Count __] with (~~showing~~~~exhibiting~~[,]/ sending[,]/ distributing[,]/ [or] offering to ~~show~~ exhibit or distribute) harmful material to a minor [or to a person the defendant believed was a minor] [in violation of Penal Code section 288.2].

To prove that the defendant is guilty of this crime, the People must prove that:

<Give paragraph 1A for violations of Penal Code section 288.2(a)(1)>

[1A. The defendant (~~showed~~~~exhibited~~[,]/ sent[,]/ caused to be sent[,]/ distributed[,]/ [or] offered to ~~show~~ exhibit or distribute) harmful material depicting a minor or minors engaging in sexual conduct to a minor to another person {by any means, including (physical delivery[,]/ telephone[,]/ in person[,]/ electronic mail[,]/ the Internet[,]/ [or] a commercial online service/ _____ <insert other means>);}

<Give paragraph 1B for violations of Penal Code section 288.2(a)(2)>

[1B. The defendant (exhibited[,]/ sent[,]/ caused to be sent[,]/ distributed[,]/ [or] offered to exhibit or distribute) harmful material to another person by any means;]

2. When the defendant acted, (he/she) knew the character of the material;

<Alternative 3A—Pen. Code, § 288.2(a)>

~~[3. When the defendant acted, (he/she) (knew the other person was a minor/ [or] failed to use reasonable care to determine the minor's actual age);]~~

<Alternative 3B—Pen. Code, § 288.2(b)>

[3. When the defendant acted, (he/she) knew, should have known, or believed that the other person was a minor;]

4. When the defendant acted, (he/she) intended to ~~sexually~~ arouse, appeal to, or gratify the lust, passions, or sexual desires of (himself/herself) or of the ~~minor~~ other person;

{AND}

5. When the defendant acted, (he/she) intended ~~to seduce the~~ to engage in sexual intercourse, sodomy, or oral copulation with the other person or to have either person touch an intimate body part of the other person ~~minor. (;/.)~~

<Give element 6 when instructing on “offered to show or distribute” in element 1.>

{AND}

- ~~6. When the defendant acted, (he/she) intended to show or distribute the material to the minor.]~~

You must decide whether the material at issue in this case meet[s] the definition of harmful material. Material is *harmful* if, when considered as a whole:

1. It shows or describes sexual conduct in an obviously offensive way;
2. A reasonable person would conclude that it lacks serious literary, artistic, political, or scientific value for minors;

AND

3. An average adult person, applying contemporary statewide standards, would conclude it appeals to prurient interest.

For the purpose of this instruction, an *intimate body part* includes the sexual organ, anus, groin, or buttocks of any person, or the breasts of a female.

A *prurient interest* is a shameful or morbid interest in nudity, sex, or excretion.

Material, as used in this instruction, means any (book, magazine, newspaper, video recording, or other printed or written material[;]/ [or] any picture, drawing, photograph, motion picture, or other pictorial representation[;]/ [or] any statue or other figure[;]/ [or] any recording, transcription, or mechanical, chemical, or electrical reproduction[;]/ [or] any other articles, equipment, machines, or materials). [*Material* includes live or recorded telephone messages when transmitted or distributed as part of a commercial transaction.]

Applying contemporary statewide standards means using present-day standards and determining the effect of the material on all those whom it is likely to reach within the state, in other words, its impact on the average person in the statewide community. The *average adult person* is a hypothetical person who represents the entire community, including both men and women; religious and nonreligious people; and adults of varying ages, educational and economic levels, races, ethnicities, and points of view. The *contemporary statewide standard* means what is acceptable to the statewide community as a whole, not what some person or persons may believe the community ought to accept. The test you must apply is not what you find offensive based on your own personal, social, or moral views. Instead, you must make an objective determination of what would offend the statewide community as a whole.

[You may consider evidence of local community standards in deciding what the contemporary statewide standard is. However, you may not use the standard of a local community, by itself, to establish the contemporary statewide standard.]

The material is not harmful unless a reasonable person would conclude that, taken as a whole, it lacks serious literary, artistic, political, or scientific value **for minors**. When deciding whether the material is harmful, do not weigh its value against its prurient appeal.

[The depiction of nudity, by itself, does not make material harmful. In order for material containing nudity to be harmful, it must depict sexual activity and it must meet the requirements for harmful material listed above.]

[The depiction of sexual activity, by itself, does not make material harmful. In order for material depicting sexual activity to be harmful, it must meet the requirements for harmful material listed above.]

The People must prove that the defendant knew the character of the material but do not need to prove that the defendant knew whether the material met the definition of harmful material.

~~To seduce a minor means to entice the minor to engage in a sexual act involving physical contact between the seducer and the minor.~~

A *minor* is anyone under the age of 18. [Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

[If it appears from the nature of the material or the circumstances of its distribution or showing that it is designed for clearly defined deviant sexual groups, the appeal of the material must be judged based on its intended audience.]

[In deciding the material's nature and whether it lacks serious literary, artistic, political, or scientific value, consider whether the circumstances of its (production[,]/ presentation[,]/ sale[,]/ dissemination[,]/ distribution[,]/ publicity) indicate that the material was being commercially exploited because of its prurient appeal. You must determine the weight, if any, to give this evidence.]

[In deciding whether, applying contemporary statewide standards, the material appeals to a prurient interest, you may consider whether similar material is openly shown in the community. You must determine the weight, if any, to give this evidence.]

[Harmful material may be sent or distributed by live or recorded telephone messages.]

[To *distribute* means to transfer possession, whether or not the transfer is made for money or anything else of value.]

<Defense: Parent providing sex education>

[A parent or guardian is not guilty of this offense if he or she acted to promote legitimate sex education. The People must prove beyond a reasonable doubt that the defendant was not providing legitimate sex education. If the People have not met this burden, you must find the defendant not guilty of this crime.]

<Defense: Legitimate scientific or educational purpose>

[The defendant is not guilty of this crime if (he/she) was engaging in legitimate scientific or educational activities. The People have the burden of proving beyond a reasonable doubt that the defendant was not acting for a legitimate scientific or educational purpose. If the People have not met this burden, you must find the defendant not guilty of this crime.]

New January 2006, [insert date of council approval](#)

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

If the defendant is charged with a violation of Penal Code section 288.2(a)(2)(b), do NOT give the bracketed phrase **“depicting a minor or minors engaging in sexual conduct.”** ~~“by (electronic mail[,]/ the Internet[,]/ [or] a commercial online service)” in element 1 and give alternative 3B in element 3. If the defendant is charged with Penal Code section 288.2(a), do not give the bracketed language in element 1 and give alternative 3A in element 3.~~

~~Give bracketed element 6 if the prosecution alleges that the defendant offered to show or distribute the material to a minor.~~

Give the bracketed sentence about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

Penal Code section 288.2(a) was amended effective January 1, 2014.

Give any of the other bracketed paragraphs on request.

Defenses—Instructional Duty

If there is sufficient evidence that the defendant was “acting in aid of legitimate sex education,” the court has a **sua sponte** duty to instruct on that defense. (See Pen. Code, § 288.2(egf).) It is unclear who bears the burden of proof and what standard of proof applies to this defense. In the absence of statutory authority or case law stating that the defendant must prove the defense by a preponderance of the evidence, the committee has drafted the instruction to provide that the prosecution must prove beyond a reasonable doubt that the defense does not apply. (See *People v. Mower* (2002) 28 Cal.4th 457, 478–479 [122 Cal.Rptr.2d 326, 49 P.3d 1067].)

If there is sufficient evidence that the defendant was engaging in legitimate scientific or educational activities, the court has a **sua sponte** duty to instruct on that defense. (See Pen. Code, § 288.2(dg).) It is unclear who bears the burden of proof and what standard of proof applies to this defense. In the absence of statutory authority or case law stating that the defendant must prove the defense by a preponderance of the evidence, the committee has drafted the instruction to provide that the prosecution must prove beyond a reasonable doubt that the defense does not apply. (See *People v. Mower* (2002) 28 Cal.4th 457, 478–479

[122 Cal.Rptr.2d 326, 49 P.3d 1067]; see also *People v. Woodward* (2004) 116 Cal.App.4th 821, 840–841 [10 Cal.Rptr.3d 779] [“legitimate” does not require definition and the trial court erred in giving amplifying instruction based on *People v. Marler* (1962) 199 Cal.App.2d Supp. 889 [18 Cal.Rptr. 923]].)

AUTHORITY

- Elements ▶ Pen. Code, § ~~288.2(a)(1) & (ba)(2)~~288.2(a) & (b).
- Harmful Matter Defined ▶ Pen. Code, § 313.
- Know Character of Matter ▶ Pen. Code, § 313(e); see *People v. Kuhns* (1976) 61 Cal.App.3d 735, 756–758 [132 Cal.Rptr. 725] [no error in instructing that it was unnecessary to establish that the accused had knowledge that material was legally obscene].
- Means of Distribution ▶ Pen. Code, § ~~288.2(a)(1) & (ba)(2)~~288.2(a) & (b).
- Contemporary Community Standards ▶ See *Roth v. United States* (1957) 354 U.S. 476, 489–490 [77 S.Ct. 1304, 1 L.Ed.2d 1498] [quoting trial court instruction].
- ~~Seduce Defined ▶ *People v. Jensen* (2003) 114 Cal.App.4th 224, 239–240 [7 Cal.Rptr.3d 609]; *People v. Hsu* (2000) 82 Cal.App.4th 976, 992 [99 Cal.Rptr. 2d 184].~~
- Prurient Interest Defined ▶ *Bloom v. Municipal Court* (1976) 16 Cal.3d 71, 77 [127 Cal.Rptr. 317, 545 P.2d 229] [quoting former section 311].
- Taken or Considered as a Whole ▶ *People v. Goulet* (1971) 21 Cal.App.3d Supp. 1, 3 [98 Cal.Rptr. 782]; *Kois v. Wisconsin* (1972) 408 U.S. 229, 231 [92 S.Ct. 2245, 33 L.Ed.2d 312].
- Matter Designed for Deviant Sexual Group ▶ Pen. Code, § 313(a)(1); see *People v. Young* (1977) 77 Cal.App.3d Supp. 10, 14–15 [143 Cal.Rptr. 604].
- Commercial Exploitation Is Probative of Matter’s Nature ▶ Pen. Code, § 313(a)(2); *People v. Kuhns* (1976) 61 Cal.App.3d 735, 748–753 [132 Cal.Rptr. 725].
- Similar Matter Shown in Community ▶ *In re Harris* (1961) 56 Cal.2d 879, 880 [16 Cal.Rptr. 889, 366 P.2d 305]; *People v. Heller* (1979) 96 Cal.App.3d Supp. 1, 7 [157 Cal.Rptr. 830].
- Obscenity Contrasted With Sex ▶ *Roth v. United States* (1957) 354 U.S. 476, 487 [77 S.Ct. 1304, 1 L.Ed.2d 1498].
- Obscenity Contrasted With Nudity ▶ *People v. Noroff* (1967) 67 Cal.2d 791, 795–796 [63 Cal.Rptr. 575, 433 P.2d 479]; *In re Panchot* (1968) 70 Cal.2d 105, 108–109 [73 Cal.Rptr. 689, 448 P.2d 385].

- Defense of Sex Education ▶ Pen. Code, § 288.2(~~ef~~).
- Defense of Legitimate Scientific or Educational Activity ▶ Pen. Code, § 288.2(~~dg~~).
- Prior Version of This Instruction is Was Correct ▶ *People v. Richardson* (2007) 151 Cal.App.4th 790, 803 [60 Cal.Rptr.3d 458].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Sex Offenses and Crimes Against Decency, § 12508.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, §§ 142.21[1][d][iii], [2][c], Ch. 144, *Crimes Against Order*, § 144.10[2] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

LESSER INCLUDED OFFENSES

Under prior version of Penal Code section 288.2, in effect until December 31, 2013, the following were held to be lesser included offenses:

- Attempted Distribution of Harmful Matter to Minor ▶ Pen. Code, §§ 664, 288.2; see, e.g., *Hatch v. Superior Court* (2000) 80 Cal.App.4th 170, 185 [94 Cal.Rptr.2d 453].
- Misdemeanor Distribution of Harmful Matter ▶ Pen. Code, § 313.1(a); *People v. Jensen* (2003) 114 Cal.App.4th 224, 244 [7 Cal.Rptr.3d 609].

RELATED ISSUES

Telephone, Cable, or ISPs

A telephone corporation, a cable television company or its affiliates, an Internet service provider, or commercial online service provider does not violate section 288.2 by carrying, broadcasting, or transmitting harmful matter while providing its services. (Pen. Code, § 288.2(e).)

Expert Testimony Not Required

Neither the prosecution nor the defense is required to introduce expert witness testimony regarding the harmful nature of the matter. (Pen. Code, § 312.1 [abrogating *In re Giannini* (1968) 69 Cal.2d 563, 574 [72 Cal.Rptr. 655, 446 P.2d 535]].)

1151. Pandering (Pen. Code, § 266i)

The defendant is charged [in Count _____] with pandering [in violation of Penal Code section 266i].

To prove that the defendant is guilty of pandering, the People must prove that:

<Alternative 1A—persuaded/procured>

[1. The defendant **successfully** (persuaded/procured) _____ *<insert name>* to **become** a prostitute(;/.)]

<Alternative 1B—promises/threats/violence used to cause person to become prostitute>

[1. The defendant used (promises[,]/ threats[,]/ violence[,]/ [or] any device or scheme) to (cause/persuade/encourage/induce) _____ *<insert name>* to become a prostitute **although the defendant's efforts need not have been successful**(;/.)]

<Alternative 1C—arranged/procured a position>

[1. The defendant (arranged/procured a position) for _____ *<insert name>* to be a prostitute in either a house of prostitution or any other place where prostitution is encouraged or allowed(;/.)]

<Alternative 1D—promises/threats/violence used to cause person to remain>

[1. The defendant used (promises[,]/ threats[,]/ violence[,]/ [or] any device or scheme) to (cause/persuade/encourage/induce) _____ *<insert name>* to remain as a prostitute in a house of prostitution or any other place where prostitution is encouraged or allowed(;/.)]

<Alternative 1E—used fraud>

[1. The defendant used fraud, trickery, or duress [or abused a position of confidence or authority] to (persuade/procure) _____ *<insert name>* to (be a prostitute/enter any place where prostitution is encouraged or allowed/enter or leave California for the purpose of prostitution)(;/.)]

<Alternative 1F—received money>

[1. The defendant (received/gave/agreed to receive/agreed to give) money or something of value in exchange for (persuading/attempting to persuade/procuring/attempting to procure) _____ <insert name> to (be a prostitute/enter or leave California for the purpose of prostitution)(;/.)]

[AND]

2. The defendant intended to influence _____ <insert name> to be a prostitute(;/.)

<Give element 3 when defendant charged with pandering a minor.>

[AND]

3. _____ <insert name> was (over the age of 16 years old/under the age of 16) at the time the defendant acted.]

[It does not matter whether _____ <insert name> was (a prostitute already/ [or] an undercover police officer).]

A *prostitute* is a person who engages in sexual intercourse or any lewd act with another person in exchange for money [or other compensation]. Pandering requires that an intended act of prostitution be with someone other than the defendant. A *lewd act* means physical contact of the genitals, buttocks, or female breast of either the prostitute or customer with some part of the other person's body for the purpose of sexual arousal or gratification.

[*Duress* means a direct or implied threat of force, violence, danger, hardship, or retribution that would cause a reasonable person to do [or submit to] something that he or she would not do [or submit to] otherwise. When deciding whether the act was accomplished by duress, consider all the circumstances, including the person's age and (her/his) relationship to the defendant.]

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

New January 2006; Revised April 2011, February 2012, August 2012, [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

In element 1, give the appropriate alternative A-F depending on the evidence in the case. (See *People v. Montgomery* (1941) 47 Cal.App.2d 1, 12, 24, 27–28 [117 P.2d 437] [statutory alternatives are not mutually exclusive], disapproved on other grounds in *People v. Dillon* (1983) 34 Cal.3d 441, 454 fn. 2 [194 Cal.Rptr. 390, 668 P.2d 697] and *Murgia v. Municipal Court* (1975) 15 Cal.3d 286, 301 fn. 11 [124 Cal.Rptr. 204, 540 P.2d 44].)

The committee included “persuade” and “arrange” as options in element one because the statutory language, “procure,” may be difficult for jurors to understand.

Give bracketed element 3 if it is alleged that the person procured, or otherwise caused to act, by the defendant was a minor “over” or “under” the age of 16 years. (Pen. Code, § 266i(b).)

Give the bracketed paragraph defining duress on request if there is sufficient evidence that duress was used to procure a person for prostitution. (Pen. Code, § 266i(a)(5); see *People v. Leal* (2004) 33 Cal.4th 999, 1004–1010 [16 Cal.Rptr.3d 869, 94 P.3d 1071] [definition of “duress”].)

Give the bracketed paragraph about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

Defenses—Instructional Duty

If necessary for the jury’s understanding of the case, the court must instruct **sua sponte** on a defense theory in evidence, for example, that nude modeling does not constitute an act of prostitution and that an act of procuring a person solely for the purpose of nude modeling does not violate either the pimping or pandering statute. (*People v. Hill* (1980) 103 Cal.App.3d 525, 536–537 [163 Cal.Rptr. 99].)

AUTHORITY

- Elements ▶ Pen. Code, § 266i.
- Prostitution Defined ▶ Pen. Code, § 647(b); *People v. Hill* (1980) 103 Cal.App.3d 525, 534–535 [163 Cal.Rptr. 99]; *People v. Romo* (1962) 200 Cal.App.2d 83, 90–91

[19 Cal.Rptr. 179]; *Wooten v. Superior Court* (2001) 93 Cal.App.4th 422, 431–433 [lewd act requires touching between prostitute and customer].

- Procurement Defined ▶ *People v. Montgomery* (1941) 47 Cal.App.2d 1, 12 [117 P.2d 437], disapproved on other grounds in *People v. Dillon* (1983) 34 Cal.3d 441, 454 fn. 2 [194 Cal.Rptr. 390, 668 P.2d 697] and *Murgia v. Municipal Court* (1975) 15 Cal.3d 286, 301 fn. 11 [124 Cal.Rptr. 204, 540 P.2d 44].
- Proof of Actual Prostitution Not Required ▶ *People v. Osuna* (1967) 251 Cal.App.2d 528, 531–532 [59 Cal.Rptr. 559].
- Duress Defined ▶ *People v. Leal* (2004) 33 Cal.4th 999, 1004–1010 [16 Cal.Rptr.3d 869, 94 P.3d 1071]; *People v. Pitmon* (1985) 170 Cal.App.3d 38, 50 [216 Cal.Rptr. 221]; *People v. Cochran* (2002) 103 Cal.App.4th 8, 13–14 [126 Cal.Rptr.2d 416].
- Good Faith Belief That Minor Is 18 No Defense to Pimping and Pandering ▶ *People v. Branch* (2010) 184 Cal.App.4th 516, 521-522 [109 Cal.Rptr.3d 412].
- Specific Intent Crime ▶ *People v. Zambia* (2011) 51 Cal.4th 965, 980 [127 Cal.Rptr.3d 662, 254 P.3d 965].
- Victim May [Appear to] Be a Prostitute Already ▶ *People v. Zambia* (2011) 51 Cal.4th 965, 981 [127 Cal.Rptr.3d 662, 254 P.3d 965].
- Pandering Requires Services Procured for Person Other Than Defendant ▶ *People v. Dixon* (2011) 191 Cal.App.4th 1154, 1159-1160 [119 Cal.Rptr.3d 901].
- Encouraging Person to Become Prostitute Need Not Be Successful ▶ *People v. Zambia* (2011) 51 Cal.4th 965, 980 [127 Cal.Rptr.3d 662, 254 P.3d 965].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Sex Offenses and Crimes Against Decency, §§ ~~8570–78~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.11[3] (Matthew Bender).

Couzens & Bigelow, Sex Crimes: California Law and Procedure §§ 12:16, 12:17 (The Rutter Group).

LESSER INCLUDED OFFENSES

- Attempted Pandering ▶ Pen. Code, §§ 664, 266i; *People v. Charles* (1963) 218 Cal.App.2d 812, 819 [32 Cal.Rptr. 653]; *People v. Benenato* (1946) 77 Cal.App.2d 350, 366–367 [175 P.2d 296], disapproved on other grounds in *In re Wright* (1967) 65 Cal.2d 650, 654–655, fn. 3 [56 Cal.Rptr. 110, 422 P.2d

998].

There is no crime of aiding and abetting prostitution. (*People v. Gibson* (2001) 90 Cal.App.4th 371, 385 [108 Cal.Rptr.2d 809].)

RELATED ISSUES

See Related Issues section to CALCRIM No. 1150, *Pimping*.

1202. Kidnapping: For Ransom, Reward, or Extortion (Pen. Code, § 209(a))

The defendant is charged [in Count __] with kidnapping for the purpose of (ransom[,]/ [or] reward[,]/ [or] extortion) [that resulted in (death[,]/ [or] bodily harm[,]/ [or] exposure to a substantial likelihood of death)] [in violation of Penal Code section 209(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant (kidnapped[,]/ [or] abducted[,]/ [or] seized[,]/ [or] confined[,]/ [or] concealed[,]/ [or] carried away[,]/ [or] inveigled[,]/ [or] enticed[,]/ [or] decoyed) another person;

<Alternative 2A—held or detained>

2. The defendant held or detained the other person;

<Alternative 2B—intended to hold or detain that person>

2. When the defendant acted, (he/she) intended to hold or detain the other person;

3. The defendant did so (for ransom[,]/ [or] for reward[,]/ [or] to commit extortion[,]/ [or] to get money or something valuable);

[AND]

4. The other person did not consent to being (kidnapped[,]/ [or] abducted[,]/ [or] seized[,]/ [or] confined[,]/ [or] concealed[,]/ [or] carried away[,]/ [or] inveigled[,]/ [or] enticed[,]/ [or] decoyed)(;/.)

<Give element 5 if instructing on reasonable belief in consent>

[AND]

5. The defendant did not actually and reasonably believe that the other person consented to being (kidnapped[,]/ [or] abducted[,]/ [or] seized[,]/ [or] confined[,]/ [or] concealed[,]/ [or] carried away[,]/ [or] inveigled[,]/ [or] enticed[,]/ [or] decoyed).]

[It is not necessary that the person be moved for any distance.]

[In order to *consent*, a person must act freely and voluntarily and know the nature of the act.]

<Defense: Good Faith Belief in Consent>

[The defendant is not guilty of kidnapping if (he/she) reasonably and actually believed that the other person consented to the movement. The People have the burden of proving beyond a reasonable doubt that the defendant did not reasonably and actually believe that the other person consented to the movement. If the People have not met this burden, you must find the defendant not guilty of this crime.]

<Defense: Consent Given>

[The defendant is not guilty of kidnapping if the other person consented to go with the defendant. The other person consented if (he/she) (1) freely and voluntarily agreed to go with or be moved by the defendant, (2) was aware of the movement, and (3) had sufficient mental capacity to choose to go with the defendant. The People have the burden of proving beyond a reasonable doubt that the other person did not consent to go with the defendant. If the People have not met this burden, you must find the defendant not guilty of this crime.]

[Consent may be withdrawn. If, at first, a person agreed to go with the defendant, that consent ended if the person changed his or her mind and no longer freely and voluntarily agreed to go with or be moved by the defendant. The defendant is guilty of kidnapping if after the other person withdrew consent, the defendant committed the crime as I have defined it.]

[Someone intends to commit *extortion* if he or she intends to: (1) obtain a person's property with the person's consent and (2) obtain the person's consent through the use of force or fear.]

[Someone intends to commit *extortion* if he or she: (1) intends to get a public official to do an official act and (2) uses force or fear to make the official do the act.] [An *official act* is an act that a person does in his or her official capacity using the authority of his or her public office.]

<Sentencing Factor>

[If you find the defendant guilty of kidnapping for (ransom [,]/ [or] reward[,]/ [or] extortion), you must then decide whether the People have proved the additional allegation that the defendant (caused the kidnapped person to (die/suffer bodily harm)/ [or] intentionally confined the kidnapped person in a way that created a substantial risk of death).

[Bodily harm means any substantial physical injury resulting from the use of force that is more than the force necessary to commit kidnapping.]

[The defendant caused _____’s <insert name of allegedly kidnapped person> (death/bodily harm) if:

- 1. A reasonable person in the defendant’s position would have foreseen that the defendant’s use of force or fear could begin a chain of events likely to result in _____’s <insert name of allegedly kidnapped person> (death/bodily harm);**
- 2. The defendant’s use of force or fear was a direct and substantial factor in causing _____’s <insert name of allegedly kidnapped person> (death/bodily harm);**

AND

- 3. _____’s <insert name of allegedly kidnapped person> (death/bodily harm) would not have happened if the defendant had not used force or fear to hold or detain _____ <insert name of allegedly kidnapped person>.**

A substantial factor is more than a trivial or remote factor. However, it need not have been the only factor that caused _____’s <insert name of allegedly kidnapped person> (death/bodily harm).]

The People have the burden of proving this allegation beyond a reasonable doubt. If the People have not met this burden, you must find that the allegation has not been proved.]

New January 2006; Revised April 2011 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction defining the elements of the crime.

If the prosecution alleges that the kidnapping resulted in death or bodily harm, or exposed the victim to a substantial likelihood of death (see Pen. Code, § 209(a)), the court has a **sua sponte** duty to instruct on the sentencing factor. (See *People v. Schoenfeld* (1980) 111 Cal.App.3d 671, 685–686 [168 Cal.Rptr. 762] [bodily harm

defined]); see also *People v. Ryan* (1999) 76 Cal.App.4th 1304, 1318 [76 Cal.Rptr.2d 160] [court must instruct on general principles of law relevant to issues raised by the evidence].) The court must also give the jury a verdict form on which the jury can indicate whether this allegation has been proved. If causation is an issue, the court has a **sua sponte** duty to give the bracketed section that begins “The defendant caused.” (See Pen. Code, § 209(a); *People v. Monk* (1961) 56 Cal.2d 288, 296 [14 Cal.Rptr. 633, 363 P.2d 865]; *People v. Reed* (1969) 270 Cal.App.2d 37, 48–49 [75 Cal.Rptr. 430].)

Give the bracketed definition of “consent” on request.

Give alternative 2A if the evidence supports the conclusion that the defendant actually held or detained the alleged victim. Otherwise, give alternative 2B. (See Pen. Code, § 209(a).)

“Extortion” is defined in Penal Code section 518. If the kidnapping was for purposes of extortion, give one of the bracketed definitions of extortion on request. Give the second definition if the defendant is charged with intending to extort an official act. (*People v. Hill* (1983) 141 Cal.App.3d 661, 668 [190 Cal.Rptr. 628]; see *People v. Ordonez* (1991) 226 Cal.App.3d 1207, 1229–1230 [277 Cal.Rptr. 382]; *People v. Norris* (1985) 40 Cal.3d 51, 55–56 [219 Cal.Rptr. 7, 706 P.2d 1141] [defining “official act”].) Extortion may also be committed by using “the color of official right” to make an official do an act. (Pen. Code, § 518; see *Evans v. United States* (1992) 504 U.S. 255, 258 [112 S.Ct. 1881, 119 L.Ed.2d 57]; *McCormick v. United States* (1990) 500 U.S. 257, 273 [111 S.Ct. 1807, 114 L.Ed.2d 307] [both discussing common law definition].) It appears that this type of extortion rarely occurs in the context of kidnapping, so it is excluded from this instruction.

Defenses—Instructional Duty

The court has a **sua sponte** duty to instruct on the defense of consent if there is sufficient evidence to support the defense. (See *People v. Davis* (1995) 10 Cal.4th 463, 516–518 [41 Cal.Rptr.2d 826, 896 P.2d 119] [approving consent instruction as given]; see also *People v. Sedeno* (1974) 10 Cal.3d 703, 717, fn. 7 [112 Cal.Rptr. 1, 518 P.2d 913], overruled on other grounds in *People v. Breverman* (1998) 19 Cal.4th 142, 165 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [when court must instruct on defenses].) Give the bracketed paragraph on the defense of consent. On request, if supported by the evidence, also give the bracketed paragraph that begins with “Consent may be withdrawn.” (See *People v. Camden* (1976) 16 Cal.3d 808, 814 [129 Cal.Rptr. 438, 548 P.2d 1110].)

The defendant’s reasonable and actual belief in the victim’s consent to go with the defendant may be a defense. (See *People v. Greenberger* (1997) 58 Cal.App.4th

298, 375 [68 Cal.Rptr.2d 61]; *People v. Isitt* (1976) 55 Cal.App.3d 23, 28 [127 Cal.Rptr. 279] [reasonable, good faith belief that victim consented to movement is a defense to kidnapping].)

Related Instructions

For the elements of extortion, see CALCRIM No. 1830, *Extortion by Threat or Force*.

AUTHORITY

- Elements ▶ Pen. Code, § 209(a).
- Requirement of Lack of Consent ▶ *People v. Eid* (2010) 187 Cal.App.4th 859, 878 [114 Cal.Rptr.3d 520].
- Extortion ▶ Pen. Code, § 518; *People v. Hill* (1983) 141 Cal.App.3d 661, 668 [190 Cal.Rptr. 628]; see *People v. Ordonez* (1991) 226 Cal.App.3d 1207, 1229–1230 [277 Cal.Rptr. 382].
- Amount of Physical Force Required ▶ *People v. Chacon* (1995) 37 Cal.App.4th 52, 59 [43 Cal.Rptr.2d 434]; *People v. Schoenfeld* (1980) 111 Cal.App.3d 671, 685–686 [168 Cal.Rptr. 762].
- Bodily Injury Defined ▶ *People v. Chacon* (1995) 37 Cal.App.4th 52, 59; *People v. Schoenfeld* (1980) 111 Cal.App.3d 671, 685–686; see *People v. Reed* (1969) 270 Cal.App.2d 37, 48–50 [75 Cal.Rptr. 430] [injury reasonably foreseeable from defendant’s act].
- Control Over Victim When Intent Formed ▶ *People v. Martinez* (1984) 150 Cal.App.3d 579, 600–602 [198 Cal.Rptr. 565] [disapproved on other ground in *People v. Hayes* (1990) 52 Cal.3d 577, 627–628, fn. 10 [276 Cal.Rptr. 874, 802 P.2d 376].]
- No Asportation Required ▶ *People v. Macinnes* (1973) 30 Cal.App.3d 838, 844 [106 Cal.Rptr. 589]; see *People v. Rayford* (1994) 9 Cal.4th 1, 11–12, fn. 8 [36 Cal.Rptr.2d 317, 884 P.2d 1369]; *People v. Ordonez* (1991) 226 Cal.App.3d 1207, 1227 [277 Cal.Rptr. 382].
- Official Act Defined ▶ *People v. Mayfield* (1997) 14 Cal.4th 668, 769–773 [60 Cal.Rptr.2d 1, 928 P.2d 485]; *People v. Norris* (1985) 40 Cal.3d 51, 55–56 [219 Cal.Rptr. 7, 706 P.2d 1141].

Secondary Sources

1 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against the Person, §§ ~~266301–273302~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.14 (Matthew Bender).

COMMENTARY

A trial court may refuse to define “reward.” There is no need to instruct a jury on the meaning of terms in common usage. Reward means something given in return for good or evil done or received, and especially something that is offered or given for some service or attainment. (*People v. Greenberger* (1997) 58 Cal.App.4th 298, 367–368 [68 Cal.Rptr.2d 61].) In the absence of a request, there is also no duty to define “ransom.” The word has no statutory definition and is commonly understood by those familiar with the English language. (*People v. Hill* (1983) 141 Cal.App.3d 661, 668 [190 Cal.Rptr. 628].)

LESSER INCLUDED OFFENSES

- False Imprisonment ▶ Pen. Code, §§ 236, 237; *People v. Chacon* (1995) 37 Cal.App.4th 52, 65 [43 Cal.Rptr.2d 434]; *People v. Magana* (1991) 230 Cal.App.3d 1117, 1121 [281 Cal.Rptr. 338]; *People v. Gibbs* (1970) 12 Cal.App.3d 526, 547 [90 Cal.Rptr. 866].
- Extortion ▶ Pen. Code, § 518.
- Attempted Extortion ▶ Pen. Code, §§ 664, 518.
- Multiple Convictions of Lesser Included Offenses of Pen. Code, § 209(a) Possible ▶ *People v. Eid* (2014) 59 Cal.4th 650, 655-658 [174 Cal.Rptr.3d 82, 328 P.3d 69].

If the prosecution alleges that the kidnapping resulted in death or bodily harm, or exposed the victim to a substantial likelihood of death (see Pen. Code, § 209(a)), then kidnapping for ransom without death or bodily harm is a lesser included offense. The court must provide the jury with a verdict form on which the jury will indicate if the allegation has been proved.

Simple kidnapping under section 207 of the Penal Code is not a lesser and necessarily included offense of kidnapping for ransom, reward, or extortion. (*People v. Greenberger* (1997) 58 Cal.App.4th 298, 368, fn. 56 [68 Cal.Rptr.2d 61] [kidnapping for ransom can be accomplished without asportation while simple kidnapping cannot]; see *People v. Macinnes* (1973) 30 Cal.App.3d 838, 843–844 [106 Cal.Rptr. 589]; *People v. Bigelow* (1984) 37 Cal.3d 731, 755, fn. 14 [209 Cal.Rptr. 328, 691 P.2d 994].)

RELATED ISSUES

Extortion Target

The kidnapped victim may also be the person from whom the defendant wishes to extort something. (*People v. Ibrahim* (1993) 19 Cal.App.4th 1692, 1696–1698 [24 Cal.Rptr.2d 269].)

No Good-Faith Exception

A good faith exception to extortion or kidnapping for ransom does not exist. Even actual debts cannot be collected by the reprehensible and dangerous means of abducting and holding a person to be ransomed by payment of the debt. (*People v. Serrano* (1992) 11 Cal.App.4th 1672, 1677–1678 [15 Cal.Rptr.2d 305].)

1602. Robbery: Degrees (Pen. Code, § 212.5)

Robbery is divided into two degrees. If you conclude that the defendant committed a robbery, you must then decide the degree.

To prove that the defendant is guilty of first degree robbery, the People must prove that:

[The robbery was committed in an inhabited (dwelling/vessel/floating home/trailer coach/part of a building). A (dwelling/vessel/floating home/trailer coach/part of a building) is inhabited if someone lives there and either is present or has left but intends to return.]

[The robbery was committed while the person robbed was using or had just used an ATM machine and was still near the machine.]

[The robbery was committed while the person robbed was performing (his/her) duties as the driver of or was a passenger on (a/an) (bus/taxi/cable car/streetcar/trackless trolley/_____ <other kind of vehicle used to transport people.>.)

All other robberies are of the second degree.

The People have the burden of proving beyond a reasonable doubt that the robbery was first degree rather than a lesser crime. If the People have not met this burden, you must find the defendant not guilty of first degree robbery.

New January 2006, [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give an instruction if first degree robbery has been charged, or if the prosecution is seeking a first degree conviction based on the facts. Give one of the three bracketed paragraphs defining the elements of first degree robbery.

AUTHORITY

- Determination of Degrees ▶ Pen. Code, § 212.5.
- Floating Home Defined ▶ Health & Saf. Code, § 18075.55(d).
- Trailer Coach Defined ▶ Veh. Code, § 635; Health & Saf. Code, § 18009.3.
- Vessel Defined ▶ Harb. & Nav. Code, § 21.
- Inhabitation ▶ *People v. Jackson* (1992) 6 Cal.App.4th 1185, 1188 [8 Cal.Rptr.2d 239].
- Inhabited Jail Cell ▶ *People v. McDade* (1991) 230 Cal.App.3d 118, 127-128

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against Property, § ~~888~~886.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 142, *Crimes Against the Person*, § 142.10[1][a][i], [3] (Matthew Bender).

RELATED ISSUES

Hotel Room

A hotel room is an “inhabited dwelling house” for purposes of first degree robbery. (*People v. Fleetwood* (1985) 171 Cal.App.3d 982, 987–988 [217 Cal.Rptr. 612].)

Robbery in One’s Own Residence

A robbery committed in one’s own residence is still first degree robbery. (Pen. Code, § 212.5; *People v. Alvarado* (1990) 224 Cal.App.3d 1165, 1169 [274 Cal.Rptr. 452] [defendant robbed two salesmen after bringing them back to his hotel room]; *People v. McCullough* (1992) 9 Cal.App.4th 1298, 1300 [12 Cal.Rptr.2d 341].)

2350. Sale, Furnishing, etc., of Marijuana (Health & Saf. Code, § 11360(a))

The defendant is charged [in Count ___] with **[unlawfully]** (selling/furnishing/administering/importing) marijuana, a controlled substance [in violation of Health and Safety Code section 11360(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant **[unlawfully]** (sold/furnished/administered/imported into California) a controlled substance;
2. The defendant knew of its presence;
3. The defendant knew of the substance's nature or character as a controlled substance;

[AND]

4. The controlled substance was marijuana(;/.)

<Give element 5 when instructing on usable amount; see Bench Notes.>

[AND]

5. The controlled substance was in a usable amount.]

[*Selling* for the purpose of this instruction means exchanging the marijuana for money, services, or anything of value.]

[A person *administers* a substance if he or she applies it directly to the body of another person by injection, or by any other means, or causes the other person to inhale, ingest, or otherwise consume the substance.]

[A *usable amount* is a quantity that is enough to be used by someone as a controlled substance. Useless traces [or debris] are not usable amounts. On the other hand, a usable amount does not have to be enough, in either amount or strength, to affect the user.]

[*Marijuana* means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]

[The People do not need to prove that the defendant knew which specific controlled substance (he/she) (sold/furnished/administered/imported).]

[A person does not have to actually hold or touch something to (sell/furnish/administer/import) it. It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

New January 2006; Revised December 2008, October 2010, August 2014 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

Sale of a controlled substance does not require a usable amount. (See *People v. Peregrina-Larios* (1994) 22 Cal.App.4th 1522, 1524 [28 Cal.Rptr.2d 316].) When the prosecution alleges sales, do not give element 5 or the bracketed definition of “usable amount.” There is no case law on whether furnishing, administering, or importing require usable quantities. (See *People v. Emmal* (1998) 68 Cal.App.4th 1313, 1316 [80 Cal.Rptr.2d 907] [transportation requires usable quantity]; *People v. Ormiston* (2003) 105 Cal.App.4th 676, 682 [129 Cal.Rptr.2d 567] [same].) Element 5 and the definition of usable amount are provided for the court to use at its discretion.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

If the medical marijuana instructions are given, then also give the bracketed word “unlawfully” in the first paragraph and element 1.

~~Until courts of review provide further clarification, the court will have to determine whether under the facts of a given case the compassionate use defense should apply pursuant to Health & Saf. Code, §§ 11362.765 and 11362.775.~~

AUTHORITY

- Elements. ▶ Health & Saf. Code, § 11360(a); *People v. Van Alstyne* (1975) 46 Cal.App.3d 900, 906 [121 Cal.Rptr. 363].
- Knowledge. ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Selling. ▶ *People v. Lazenby* (1992) 6 Cal.App.4th 1842, 1845 [8 Cal.Rptr.2d 541].
- Administering. ▶ Health & Saf. Code, § 11002.
- Administering Does Not Include Self-Administering. ▶ *People v. Label* (1974) 43 Cal.App.3d 766, 770–771 [119 Cal.Rptr. 522].
- Constructive vs. Actual Possession. ▶ *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Usable Amount. ▶ *People v. Rubacalba* (1993) 6 Cal.4th 62, 65–67 [23 Cal.Rptr.2d 628, 859 P.2d 708]; *People v. Piper* (1971) 19 Cal.App.3d 248, 250 [96 Cal.Rptr. 643].
- Compassionate Use Defense Generally. ▶ *People v. Wright* (2006) 40 Cal.4th 81 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Urziceanu* (2005) 132 Cal.App.4th 747 [33 Cal.Rptr.3d 859]; *People v. Galambos* (2002) 104 Cal.App.4th 1147, 1165–1167 [128 Cal.Rptr.2d 844]; *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389 [70 Cal.Rptr.2d 20].

- [Medical Marijuana Program Act Defense ▶ *People v. Jackson* \(2012\) 210 Cal.App.4th 525, 529-531, 538-539 \[148 Cal.Rptr.3d 375\].](#)

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. 2000) Crimes Against Public Peace and Welfare, §§ ~~115-94-100~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a]–[c], [g]–[i], [3][a], [a.1] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Simple Possession Is Not a Lesser Included Offense of This Crime. (*People v. Murphy* (2007) 154 Cal.App.4th 979, 983-984 [64 Cal.Rptr.3d 926]; *People v. Peregrina-Larios* (1994) 22 Cal.App.4th 1522, 1524 [28 Cal.Rptr.2d 316] [lesser related offense but not necessarily included].)
- Possession for Sale Is Not a Lesser Included Offense of This Crime. (*People v. Peregrina-Larios* (1994) 22 Cal.App.4th 1522, 1524 [28 Cal.Rptr.2d 316] [lesser related offense but not necessarily included].)

2351. Offering to Sell, Furnish, etc., Marijuana (Health & Saf. Code, § 11360)

The defendant is charged [in Count ___] with offering to **[unlawfully]** (sell/furnish/administer/import) marijuana, a controlled substance [in violation of Health and Safety Code section 11360].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant **[unlawfully]** offered to (sell/furnish/administer/import into California) marijuana, a controlled substance;

AND

2. When the defendant made the offer, (he/she) intended to (sell/furnish/administer/import) the controlled substance.

[*Selling* for the purpose of this instruction means exchanging marijuana for money, services, or anything of value.]

[A person *administers* a substance if he or she applies it directly to the body of another person by injection, or by any other means, or causes the other person to inhale, ingest, or otherwise consume the substance.]

[*Marijuana* means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]

[The People do not need to prove that the defendant actually possessed the marijuana.]

New January 2006; Revised December 2008 **[insert date of council approval]**

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

If the medical marijuana instructions are given, then also give the bracketed word “unlawfully” in the first paragraph and element 1.

~~Until courts of review provide further clarification, the court will have to determine whether under the facts of a given case the compassionate use defense should apply pursuant to Health & Saf. Code, §§ 11362.765 and 11362.775.~~

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11360; *People v. Van Alstyne* (1975) 46 Cal.App.3d 900, 906 [121 Cal.Rptr. 363].
- Specific Intent ▶ *People v. Jackson* (1963) 59 Cal.2d 468, 469–470 [30 Cal.Rptr. 329, 381 P.2d 1].

- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Selling ▶ *People v. Lazenby* (1992) 6 Cal.App.4th 1842, 1845 [8 Cal.Rptr.2d 541].
- Administering ▶ Health & Saf. Code, § 11002.
- Administering Does Not Include Self-Administering ▶ *People v. Label* (1974) 43 Cal.App.3d 766, 770–771 [119 Cal.Rptr. 522].
- Compassionate Use Defense Generally ▶ *People v. Wright* (2006) 40 Cal.4th 81 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Urziceanu* (2005) 132 Cal.App.4th 747 [33 Cal.Rptr.3d 859]; *People v. Galambos* (2002) 104 Cal.App.4th 1147, 1165–1167 [128 Cal.Rptr.2d 844]; *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389 [70 Cal.Rptr.2d 20].
- [Medical Marijuana Program Act Defense ▶ *People v. Jackson* \(2012\) 210 Cal.App.4th 525, 529-531, 538-539 \[148 Cal.Rptr.3d 375\].](#)

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, §§ ~~115-94-100~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a], [g]–[j], [3][a], [a.1] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Simple Possession of Marijuana ▶ Health & Saf. Code, § 11357.
- Possession for Sale of Marijuana ▶ Health & Saf. Code, § 11359.

RELATED ISSUES

No Requirement That Defendant Delivered or Possessed Drugs

A defendant may be convicted of offering to sell even if there is no evidence that he or she delivered or ever possessed any controlled substance. (*People v. Jackson* (1963) 59 Cal.2d 468, 469 [30 Cal.Rptr. 329, 381 P.2d 1]; *People v. Brown* (1960) 55 Cal.2d 64, 68 [9 Cal.Rptr. 816, 357 P.2d 1072].)

2352. Possession for Sale of Marijuana (Health & Saf. Code, §§ 11018, 11359)

The defendant is charged [in Count ____] with **[unlawfully]** possessing for sale marijuana, a controlled substance [in violation of Health and Safety Code section 11359].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant **[unlawfully]** possessed a controlled substance;
2. The defendant knew of its presence;
3. The defendant knew of the substance's nature or character as a controlled substance;
4. When the defendant possessed the controlled substance, (he/she) intended to sell it;
5. The controlled substance was marijuana;

AND

6. The controlled substance was in a usable amount.

Selling for the purpose of this instruction means exchanging the marijuana for money, services, or anything of value.

A usable amount is a quantity that is enough to be used by someone as a controlled substance. Useless traces [or debris] are not usable amounts. On the other hand, a usable amount does not have to be enough, in either amount or strength, to affect the user.

[Marijuana means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there

from), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]

[The People do not need to prove that the defendant knew which specific controlled substance (he/she) possessed.]

[Two or more people may possess something at the same time.]

[A person does not have to actually hold or touch something to possess it. It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

[Agreeing to buy a controlled substance does not, by itself, mean that a person has control over that substance.]

New January 2006; Revised December 2008, October 2010 [*insert date of council approval*]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

If the medical marijuana instructions are given, then also give the bracketed word “unlawfully” in the first paragraph and element 1.

~~Until courts of review provide further clarification, the court will have to determine whether under the facts of a given case the compassionate use defense should apply pursuant to Health & Saf. Code, §§ 11362.765 and 11362.775.~~

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11359.
- “Marijuana” defined ▶ Health & Saf. Code, § 11018.
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Constructive vs. Actual Possession ▶ *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Selling ▶ *People v. Lazenby* (1992) 6 Cal.App.4th 1842, 1845 [8 Cal.Rptr.2d 541].
- Usable Amount ▶ *People v. Rubacalba* (1993) 6 Cal.4th 62, 65–67 [23 Cal.Rptr.2d 628, 859 P.2d 708]; *People v. Piper* (1971) 19 Cal.App.3d 248, 250 [96 Cal.Rptr. 643].
- Compassionate Use Defense Generally ▶ *People v. Wright* (2006) 40 Cal.4th 81 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Urziceanu* (2005) 132 Cal.App.4th 747 [33 Cal.Rptr.3d 859]; *People v. Galambos* (2002) 104 Cal.App.4th 1147, 1165–1167 [128 Cal.Rptr.2d 844]; *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389 [70 Cal.Rptr.2d 20].
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, §§ ~~90-68-93~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a]–[e], [3][a], [a.1] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Simple Possession of Marijuana ▶ Health & Saf. Code, § 11357.

2353–2359. Reserved for Future Use

2360. Transporting or Giving Away Marijuana: Not More Than 28.5 Grams—Misdemeanor (Health & Saf. Code, § 11360(b))

The defendant is charged [in Count ___] with **[unlawfully]** (giving away/transporting) 28.5 grams or less of marijuana, a controlled substance [in violation of Health and Safety Code section 11360(b)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] (gave away/transported) a controlled substance;
2. The defendant knew of its presence;
3. The defendant knew of the substance’s nature or character as a controlled substance;
4. The controlled substance was marijuana;

AND

5. The marijuana was in a usable amount but not more than 28.5 grams in weight.

A usable amount is a quantity that is enough to be used by someone as a controlled substance. Useless traces [or debris] are not usable amounts. On the other hand, a usable amount does not have to be enough, in either amount or strength, to affect the user.

*[Marijuana means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]*

[A person *transports* something if he or she carries or moves it from one location to another, even if the distance is short.]

[The People do not need to prove that the defendant knew which specific controlled substance (he/she) (gave away/transported).]

[A person does not have to actually hold or touch something to (give it away/transport it). It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

~~<Defense: Compassionate Use>~~

~~[Possession or transportation of marijuana is not *unlawful* if authorized by the Compassionate Use Act. The Compassionate Use Act allows a person to possess or transport marijuana (for personal medical purposes/ [or] as the primary caregiver of a patient with a medical need) when a physician has recommended [or approved] such use. The amount of marijuana possessed or transported must be reasonably related to the patient's current medical needs. In deciding if marijuana was transported for medical purposes, also consider whether the method, timing, and distance of the transportation were reasonably related to the patient's current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or transport marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.~~

~~[A *primary caregiver* is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]]~~

~~New January 2006; Revised April 2010, October 2010~~[insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

If the medical marijuana instructions are given, then also give the bracketed word “unlawfully” in the first paragraph and element 1.

~~The medical marijuana defense is available in some cases where a defendant is charged with transportation. (*People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531] (Medical Marijuana Program applies retroactively and defense may apply to transportation of marijuana); *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].) The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense where defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].) If the defendant meets this burden, the court has a **sua sponte** duty to give the bracketed paragraph of medical marijuana instructions.~~

~~If the medical marijuana instructions are given, then, in element 1, also give the bracketed word “unlawfully.” If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)~~

Related Instructions

Use this instruction when the defendant is charged with transporting or giving away 28.5 grams or less of marijuana. For offering to transport or give away 28.5 grams or less of marijuana, use CALCRIM No. 2362, *Offering to Transport or Give Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*. For transporting or giving away more than 28.5 grams, use CALCRIM No. 2361, *Transporting or Giving Away Marijuana: More Than 28.5 Grams*. For offering to

transport or give away more than 28.5 grams of marijuana, use CALCRIM No. 2363, *Offering to Transport or Give Away Marijuana: More Than 28.5 Grams*.

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11360(b).
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Constructive vs. Actual Possession ▶ *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Medical Marijuana ▶ Health & Saf. Code, § 11362.5.
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- Defendant’s Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292–294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J.).
- Compassionate Use Defense to Transportation ▶ *People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067].
- Usable Amount ▶ *People v. Rubacalba* (1993) 6 Cal.4th 62, 65–67 [23 Cal.Rptr.2d 628, 859 P.2d 708]; *People v. Piper* (1971) 19 Cal.App.3d 248, 250 [96 Cal.Rptr. 643].
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 *Witkin & Epstein, California Criminal Law* (~~3d~~ 4th ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, §§ ~~115-94~~ 101.

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a]–[c], [g], [3][a], [a.1] (Matthew Bender).

RELATED ISSUES

Transportation

Transportation does not require intent to sell or distribute. (*People v. Rogers* (1971) 5 Cal.3d 129, 134 [95 Cal.Rptr. 601, 486 P.2d 129].) Transportation also does not require personal possession by the defendant. (*Ibid.*) “Proof of his knowledge of the character and presence of the drug, together with his control over the vehicle, is sufficient to establish his guilt . . .” (*Id.* at pp. 135–136.) Transportation of a controlled substance includes transporting by riding a bicycle (*People v. LaCross* (2001) 91 Cal.App.4th 182, 187 [109 Cal.Rptr.2d 802]) or walking (*People v. Ormiston* (2003) 105 Cal.App.4th 676, 685 [129 Cal.Rptr.2d 567]). The controlled substance must be moved “from one location to another,” but the movement may be minimal. (*Id.* at p. 684.)

Medical Marijuana Not a Defense to Giving Away

The medical marijuana defense provided by Health and Safety Code section 11362.5 is not available to a charge of sales under Health and Safety Code section 11360. (*People v. Galambos* (2002) 104 Cal.App.4th 1147, 1165–1167 [128 Cal.Rptr.2d 844]; *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389 [70 Cal.Rptr.2d 20].) The defense is not available even if the marijuana is provided to someone permitted to use marijuana for medical reasons (*People v. Galambos, supra*, 104 Cal.App.4th at pp. 1165–1167) or if the marijuana is provided free of charge (*People ex rel. Lungren v. Peron, supra*, 59 Cal.App.4th at p. 1389).

**2361. Transporting or Giving Away Marijuana: More Than 28.5 Grams
(Health & Saf. Code, § 11360(a))**

The defendant is charged [in Count _____] with **[unlawfully]** (giving away/transporting) more than 28.5 grams of marijuana, a controlled substance [in violation of Health and Safety Code section 11360(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] (gave away/transported) a controlled substance;
2. The defendant knew of its presence;
3. The defendant knew of the substance's nature or character as a controlled substance;
4. The controlled substance was marijuana;

AND

5. The marijuana possessed by the defendant weighed more than 28.5 grams.

[*Marijuana* means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]

[A person *transports* something if he or she carries or moves it from one location to another, even if the distance is short.]

[The People do not need to prove that the defendant knew which specific controlled substance (he/she) (gave away/transported).]

[A person does not have to actually hold or touch something to (give it away/transport it). It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

~~<Defense: Compassionate Use>~~

~~[Possession or transportation of marijuana is lawful if authorized by the Compassionate Use Act. The Compassionate Use Act allows a person to possess or transport marijuana (for personal medical purposes/ [or] as the primary caregiver of a patient with a medical need) when a physician has recommended [or approved] such use. The amount of marijuana possessed or transported must be reasonably related to the patient's current medical needs. In deciding if marijuana was transported for medical purposes, also consider whether the method, timing, and distance of the transportation were reasonably related to the patient's current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or transport marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.~~

~~[A primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]~~

New January 2006; Revised April 2010, October 2010, April 2011 [*insert date of council approval*]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28

Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

If the medical marijuana instructions are given, then also give the bracketed word “unlawfully” in the first paragraph and element 1.

The medical marijuana defense is available in some cases when the defendant is charged with transportation. (*People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531] (Medical Marijuana Program applies retroactively and defense may apply to transportation of marijuana); *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].) The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense when defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].) If the defendant meets this burden, the court has a **sua sponte** duty to give the bracketed paragraph of medical marijuana instructions.

If the medical marijuana instructions are given, then, in element 1, also give the bracketed word “unlawfully.” If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)

Related Instructions

Use this instruction when the defendant is charged with transporting or giving away more than 28.5 grams of marijuana. For offering to transport or give away more than 28.5 grams of marijuana, use CALCRIM No. 2363, *Offering to Transport or Give Away Marijuana: More Than 28.5 Grams*. For transporting or giving away 28.5 grams or less, use CALCRIM No. 2360, *Transporting or Giving Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*. For offering to transport or give away 28.5 grams or less of marijuana, use CALCRIM No. 2362, *Offering to Transport or Give Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*.

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11360(a).
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Constructive vs. Actual Possession ▶ *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Medical Marijuana ▶ Health & Saf. Code, § 11362.5.
- Compassionate Use Defense to Transportation ▶ *People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- Defendant’s Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292–294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J.).
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].
- This Instruction Upheld. *People v. Busch* (2010) 187 Cal.App.4th 150, 155-156 [113 Cal.Rptr.3d 683].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, §§ ~~115-94-101~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a], [b], [g], [3][a], [a.1] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Transporting, Giving Away, etc., Not More Than 28.5 Grams of Marijuana ▶ Health & Saf. Code, § 11360(b).

RELATED ISSUES

See the Related Issues section to CALCRIM No. 2360, *Transporting or Giving Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*.

2362. Offering to Transport or Give Away Marijuana: Not More Than 28.5 Grams—Misdemeanor (Health & Saf. Code, § 11360(b))

The defendant is charged [in Count ___] with **[unlawfully]** (offering to give away/offering to transport/attempting to transport) 28.5 grams or less of marijuana, a controlled substance [in violation of Health and Safety Code section 11360(b)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] (offered to give away/offered to transport/attempted to transport) marijuana, a controlled substance, in an amount weighing 28.5 grams or less;

AND

2. When the defendant made the (offer/attempt), (he/she) intended to (give away/transport) the controlled substance.

*[Marijuana means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]*

[A person transports something if he or she carries or moves it from one location to another, even if the distance is short.]

~~*<Defense: Compassionate Use>*~~

~~*[Possession or transportation of marijuana is lawful if authorized by the Compassionate Use Act. The Compassionate Use Act allows a person to possess or transport marijuana (for personal medical purposes/ [or] as the primary caregiver of a patient with a medical need) when a physician has recommended [or approved] such use. The amount of marijuana possessed or transported must be reasonably related to the patient's current medical needs. In deciding if marijuana was transported for medical purposes, also*~~

~~consider whether the method, timing, and distance of the transportation were reasonably related to the patient's current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or transport marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.~~

~~[A primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]~~

[The People do not need to prove that the defendant actually possessed the controlled substance.]

New January 2006; Revised April 2010 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Also give CALCRIM No. 460, *Attempt Other Than Attempted Murder*, if the defendant is charged with attempt to transport.

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

~~The medical marijuana defense is available in some cases when the defendant is charged with transportation. (*People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531] (Medical Marijuana Program applies retroactively and defense may apply to transportation of marijuana); *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].) The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense when defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].) If the defendant meets this burden, the court has a **sua sponte** duty to give the bracketed paragraph of medical marijuana instructions.~~

If the medical marijuana instructions are given, then, in element 1, also give the bracketed word “unlawfully.” ~~If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)~~

Related Instructions

Use this instruction when the defendant is charged with offering to transport or give away 28.5 grams or less of marijuana. For transporting or giving away 28.5 grams or less of marijuana, use CALCRIM No. 2360, *Transporting or Giving Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*. For offering to transport or give away more than 28.5 grams of marijuana, use CALCRIM No. 2363, *Offering to Transport or Give Away Marijuana: More Than 28.5 Grams*. For transporting or giving away more than 28.5 grams, use CALCRIM No. 2361, *Transporting or Giving Away Marijuana: More Than 28.5 Grams*.

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11360(b).
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Specific Intent ▶ *People v. Jackson* (1963) 59 Cal.2d 468, 469–470 [30 Cal.Rptr. 329, 381 P.2d 1].
- Medical Marijuana ▶ Health & Saf. Code, § 11362.5.

- Compassionate Use Defense to Transportation ▶ *People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- Defendant’s Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292-294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J.).
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, §§ ~~115-94-101~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a], [g], [j], [3][a], [a.1] (Matthew Bender).

RELATED ISSUES

See the Related Issues section to CALCRIM No. 2360, *Transporting or Giving Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*.

2363. Offering to Transport or Give Away Marijuana: More Than 28.5 Grams (Health & Saf. Code, § 11360(a))

The defendant is charged [in Count ___] with **[unlawfully]** (offering to give away/offering to transport/attempting to transport) more than 28.5 grams of marijuana, a controlled substance [in violation of Health and Safety Code section 11360(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] (offered to give away/offered to transport/attempted to transport) marijuana, a controlled substance, in an amount weighing more than 28.5 grams;

AND

2. When the defendant made the (offer/attempt), (he/she) intended to (give away/transport) the controlled substance.

*[Marijuana means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]*

[A person transports something if he or she carries or moves it from one location to another, even if the distance is short.]

<Defense: Compassionate Use>

~~**[Possession or transportation of marijuana is lawful if authorized by the Compassionate Use Act. The Compassionate Use Act allows a person to possess or transport marijuana for personal medical purposes [or as the primary caregiver of a patient with a medical need] when a physician has recommended [or approved] such use. The amount of marijuana possessed or transported must be reasonably related to the patient's current medical needs. In deciding if marijuana was transported for medical purposes, also**~~

~~consider whether the method, timing, and distance of the transportation were reasonably related to the patient's current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or transport marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.~~

~~[A primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]~~

[The People do not need to prove that the defendant actually possessed the marijuana.]

New January 2006; Revised April 2010 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Also give CALCRIM No. 460, *Attempt Other Than Attempted Murder*, if the defendant is charged with attempt to transport.

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

~~The medical marijuana defense is available in some cases when the defendant is charged with transportation. (*People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].) The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense when defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].) If the defendant meets this burden, the court has a **sua sponte** duty to give the bracketed paragraph of medical marijuana instructions.~~

If the medical marijuana instructions are given, then, in element 1, also give the bracketed word “unlawfully.” ~~If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)~~

Related Instructions

Use this instruction when the defendant is charged with offering to transport or give away more than 28.5 grams of marijuana. For transporting or giving away more than 28.5 grams of marijuana, use CALCRIM No. 2361, *Transporting or Giving Away Marijuana: More Than 28.5 Grams*. For offering to transport or give away 28.5 grams or less of marijuana, use CALCRIM No. 2362, *Offering to Transport or Give Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*. For transporting or giving away 28.5 grams or less, use CALCRIM No. 2360, *Transporting or Giving Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*.

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11360(a).
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Specific Intent ▶ *People v. Jackson* (1963) 59 Cal.2d 468, 469–470 [30 Cal.Rptr. 329, 381 P.2d 1].
- Medical Marijuana ▶ Health & Saf. Code, § 11362.5.

- Compassionate Use Defense to Transportation ▶ *People v. Wright* (2006) 40 Cal.4th 81, 87–88 [51 Cal.Rptr.3d 80, 146 P.3d 531]; *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550 [66 Cal.Rptr.2d 559].
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- Defendant’s Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292-294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J.).
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d-4th~~ ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, §§ ~~115-94-101~~.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a], [g], [j], [3][a], [a.1] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Offering to Transport or Giving Away Not More Than 28.5 Grams of Marijuana ▶ Health & Saf. Code, § 11360(b).

RELATED ISSUES

See the Related Issues section to CALCRIM No. 2360, *Transporting or Giving Away Marijuana: Not More Than 28.5 Grams—Misdemeanor*.

2364–2369. Reserved for Future Use

2370. Planting, etc., Marijuana (Health & Saf. Code, § 11358)

The defendant is charged [in Count ___] with [unlawfully] (planting[,] [or]/ cultivating[,] [or]/ harvesting[,] [or]/ drying[,] [or]/ processing) marijuana, a controlled substance [in violation of Health and Safety Code section 11358].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] (planted[,] [or]/ cultivated[,] [or]/ harvested[,] [or]/ dried[,] [or]/ processed) one or more marijuana plants;

AND

2. The defendant knew that the substance (he/she) (planted[,] [or]/ cultivated[,] [or]/ harvested[,] [or]/ dried[,] [or]/ processed) was marijuana.

[*Marijuana* means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]

~~<Defense: Compassionate Use>~~

~~[Possession or cultivation of marijuana is lawful if authorized by the Compassionate Use Act. The Compassionate Use Act allows a person to possess or cultivate marijuana (for personal medical purposes/ [or] as the primary caregiver of a patient with a medical need) when a physician has recommended [or approved] such use. The amount of marijuana possessed or cultivated must be reasonably related to the patient's current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or cultivate marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.]~~

~~{A primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.}~~

New January 2006; Revised June 2007, April 2010 [insert date of council approval]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Defenses—Instructional Duty

~~The A~~ medical marijuana defense under the Compassionate Use Act or the Medical Marijuana Program Act may be raised to a charge of violating Health and Safety Code section 11358. (See Health & Saf. Code, §§ 11362.5, 11362.775.) The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that ~~possession~~ the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].~~*People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense where defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].~~) If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the ~~possession~~ conduct may have been lawful ~~under the act~~, the court has a **sua sponte** duty to give ~~the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.~~ the bracketed paragraph of medical marijuana instructions.

If the medical marijuana instructions are given, then also give the bracketed word “unlawfully” in the first paragraph and element 1. ~~If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)~~

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11358.
- Harvesting ▶ *People v. Villa* (1983) 144 Cal.App.3d 386, 390 [192 Cal.Rptr. 674].
- Aider and Abettor Liability ▶ *People v. Null* (1984) 157 Cal.App.3d 849, 852 [204 Cal.Rptr. 580].
- Medical Marijuana ▶ Health & Saf. Code, §§ 11362.5, [11362.775](#).
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067].
- Amount Must Be Reasonably Related to Patient's Medical Needs ▶ *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550–1551 [66 Cal.Rptr.2d 559].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- [Defendant's Burden of Proof on Compassionate Use Defense](#) ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292-294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J.).
- [Medical Marijuana Program Act Defense](#) ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d ed~~[4th ed.](#), ~~2000~~[2012](#)) Crimes Against Public Peace and Welfare, § ~~136-146~~[§ 70, 111](#).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a], [b], [3][a], [a.1] (Matthew Bender).

LESSER INCLUDED OFFENSES

- Simple Possession of Marijuana ▶ Health & Saf. Code, § 11357.

RELATED ISSUES

Aider and Abettor Liability of Landowner

In *People v. Null* (1984) 157 Cal.App.3d 849, 852 [204 Cal.Rptr. 580], the court held that a landowner could be convicted of aiding and abetting cultivation of marijuana based on his or her knowledge of the activity and failure to prevent it. “If [the landowner] knew of the existence of the illegal activity, her failure to take steps to stop it would aid and abet the commission of the crime. This conclusion is based upon the control that she had over her property.” (*Ibid.*)

2371–2374. Reserved for Future Use

2375. Simple Possession of Marijuana: Misdemeanor (Health & Saf. Code, § 11357(c))

The defendant is charged [in Count _____] with **[unlawfully]** possessing more than 28.5 grams of marijuana, a controlled substance [in violation of Health and Safety Code section 11357(c)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] possessed a controlled substance;
2. The defendant knew of its presence;
3. The defendant knew of the substance's nature or character as a controlled substance;
4. The controlled substance was marijuana;

AND

5. The marijuana possessed by the defendant weighed more than 28.5 grams.

[*Marijuana* means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]

[The People do not need to prove that the defendant knew which specific controlled substance (he/she) possessed.]

[Two or more people may possess something at the same time.]

[A person does not have to actually hold or touch something to possess it. It is enough if the person has (control over it/ [or] the right to control it), either

personally or through another person.]

[Agreeing to buy a controlled substance does not, by itself, mean that a person has control over that substance.]

~~<Defense: Compassionate Use>~~

~~[Possession of marijuana is lawful if authorized by the Compassionate Use Act. In order for the Compassionate Use Act to apply, the defense must produce evidence tending to show that (his/her) possession or cultivation of marijuana was (for personal medical purposes/ [or] as the primary caregiver of a patient with a medical need) with a physician's recommendation or approval. The amount of marijuana possessed must be reasonably related to the patient's current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or cultivate marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.~~

~~[A primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]]~~

New January 2006; Revised June 2007, April 2010, October 2010, April 2011 [*insert date of council approval*]

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant

introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*. ~~The medical marijuana defense may be raised to a charge of violating Health and Safety Code section 11357. (See Health & Saf. Code, § 11362.5.) The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense when defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].) If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the possession may have been lawful under the act, the court has a **sua sponte** duty to give the bracketed paragraph of medical marijuana instructions.~~

If the medical marijuana instructions are given, then, in element 1, also give the bracketed word “unlawfully.” ~~If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)~~

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11357(c); *People v. Palaschak* (1995) 9 Cal.4th 1236, 1242 [40 Cal.Rptr.2d 722, 893 P.2d 717].
- “Marijuana” Defined ▶ Health & Saf. Code, § 11018.
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Constructive vs. Actual Possession ▶ *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Medical Marijuana ▶ Health & Saf. Code, § 11362.5.
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Frazier* (2005) 128 Cal.App.4th 807, 820–821].
- Amount Must Be Reasonably Related to Patient’s Medical Needs ▶ *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550–1551 [66 Cal.Rptr.2d 559].

- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- Defendant’s Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292–294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J.).
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].
- This Instruction Upheld. *People v. Busch* (2010) 187 Cal.App.4th 150, 160 [113 Cal.Rptr.3d 683].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, §§ ~~64-92~~76-77.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a], [b], [d], [3][a], [a.1] (Matthew Bender).

**2376. Simple Possession of Marijuana on School Grounds:
Misdemeanor (Health & Saf. Code, § 11357(d))**

The defendant is charged [in Count ____] with **[unlawfully]** possessing marijuana, a controlled substance, on the grounds of a school [in violation of Health and Safety Code section 11357(d)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] possessed a controlled substance;
2. The defendant knew of its presence;
3. The defendant knew of the substance's nature or character as a controlled substance;
4. The controlled substance was marijuana;
5. The marijuana was in a usable amount but not more than 28.5 grams in weight;
6. The defendant was at least 18 years old;

AND

7. The defendant possessed the marijuana on the grounds of or inside a school providing instruction in any grade from kindergarten through 12, when the school was open for classes or school-related programs.

A usable amount is a quantity that is enough to be used by someone as a controlled substance. Useless traces [or debris] are not usable amounts. On the other hand, a usable amount does not have to be enough, in either amount or strength, to affect the user.

[Marijuana means all or part of the *Cannabis sativa L.* plant, whether growing or not, including the seeds and resin extracted from any part of the plant. [It also includes every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.] [It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the

seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or the sterilized seed of the plant, which is incapable of germination.]]

[The People do not need to prove that the defendant knew which specific controlled substance (he/she) possessed.]

[Two or more people may possess something at the same time.]

[A person does not have to actually hold or touch something to possess it. It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

[Agreeing to buy a controlled substance does not, by itself, mean that a person has control over that substance.]

[Under the law, a person becomes one year older as soon as the first minute of his or her birthday has begun.]

~~<Defense: Compassionate Use>~~

~~[Possession or cultivation of marijuana is lawful if authorized by the Compassionate Use Act. The Compassionate Use Act allows a person to possess or cultivate marijuana for personal medical purposes [or as the primary caregiver of a patient with a medical need] when a physician has recommended [or approved] such use. The amount of marijuana possessed or cultivated must be reasonably related to the patient's current medical needs. The People have the burden of proving beyond a reasonable doubt that the defendant was not authorized to possess or cultivate marijuana for medical purposes. If the People have not met this burden, you must find the defendant not guilty of this crime.~~

~~[A *primary caregiver* is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana.]]~~

New January 2006; Revised June 2007, April 2010, October 2010 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

When instructing on the definition of “marijuana,” the court may choose to give just the first bracketed sentence or may give the first bracketed sentence with either or both of the bracketed sentences following. The second and third sentences should be given if requested and relevant based on the evidence. (See Health & Saf. Code, § 11018 [defining marijuana].)

Give the bracketed paragraph about calculating age if requested. (Fam. Code, § 6500; *In re Harris* (1993) 5 Cal.4th 813, 849–850 [21 Cal.Rptr.2d 373, 855 P.2d 391].)

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*. The medical marijuana defense may be raised to a charge of violating Health and Safety Code section 11357. (See Health & Saf. Code, § 11362.5.) However, there are no cases on whether the defense applies to the charge of possession on school grounds. In general, the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense where defendant’s testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226] [defendant need not establish “medical necessity”].) If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the possession may have been lawful under the act, the court has a **sua sponte** duty to give the bracketed paragraph of medical marijuana instructions if the court concludes that the defense applies to possession on school grounds.

If the medical marijuana instructions are given, then, in element 1, also give the bracketed word “unlawfully.” ~~If the evidence shows that a physician may have~~

~~“approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. *People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)~~

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11357(d); *People v. Palaschak* (1995) 9 Cal.4th 1236, 1242 [40 Cal.Rptr.2d 722, 893 P.2d 717].
- “Marijuana” Defined ▶ Health & Saf. Code, § 11018.
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Constructive vs. Actual Possession ▶ *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Usable Amount ▶ *People v. Rubacalba* (1993) 6 Cal.4th 62, 65–67 [23 Cal.Rptr.2d 628, 859 P.2d 708]; *People v. Piper* (1971) 19 Cal.App.3d 248, 250 [96 Cal.Rptr. 643].
- Medical Marijuana ▶ Health & Saf. Code, § 11362.5.
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Frazier* (2005) 128 Cal.App.4th 807, 820–821 [27 Cal.Rptr.3d 336].
- Amount Must Be Reasonably Related to Patient’s Medical Needs ▶ *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550–1551 [66 Cal.Rptr.2d 559].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- Defendant’s Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292-294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J).
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (3d ed. 2000) Crimes Against Public Peace and Welfare, §§ 64–92.

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a]–[d], [3][a], [a.1] (Matthew Bender).

2377. Simple Possession of Concentrated Cannabis (Health & Saf. Code, § 11357(a))

The defendant is charged [in Count ___] with **[unlawfully]** possessing concentrated cannabis, a controlled substance [in violation of Health and Safety Code section 11357(a)].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant [unlawfully] possessed concentrated cannabis;
2. The defendant knew of its presence;
3. The defendant knew of the substance's nature or character as concentrated cannabis;

AND

4. The concentrated cannabis was in a usable amount.

A usable amount is a quantity that is enough to be used by someone as a controlled substance. Useless traces [or debris] are not usable amounts. On the other hand, a usable amount does not have to be enough, in either amount or strength, to affect the user.

Concentrated cannabis means the separated resin, whether crude or purified, from the cannabis plant.

[Two or more people may possess something at the same time.]

[A person does not have to actually hold or touch something to possess it. It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

[Agreeing to buy concentrated cannabis does not, by itself, mean that a person has control over that substance.]

~~<Defense: Compassionate Use>~~

~~[Possession of concentrated cannabis is lawful if authorized by the Compassionate Use Act. In order for the Compassionate Use Act to apply, the defendant must produce evidence tending to show that (his/her) possession or cultivation of concentrated cannabis was (for personal medical purposes/ [or] as the primary caregiver of a patient with a medical need) with a physician's recommendation or approval. The amount of concentrated cannabis possessed must be reasonably related to the patient's current medical needs. If you have a reasonable doubt about whether the defendant's possession or cultivation of concentrated cannabis was unlawful under the Compassionate Use Act, you must find the defendant not guilty.]~~

~~[A primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient who may legally possess or cultivate marijuana or concentrated cannabis.]~~

New January 2006; Revised June 2007 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

Defenses—Instructional Duty

If a medical marijuana defense applies under the Compassionate Use Act or the Medical Marijuana Program Act (See Health & Saf. Code, §§ 11362.5, 11362.775.), the burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that the conduct was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375]. If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the conduct may have been lawful, the court has a **sua sponte** duty to give the relevant defense instruction: CALCRIM No. 3412, *Compassionate Use Defense*, or CALCRIM No. 3413, *Collective or Cooperative Cultivation Defense*.

“Concentrated cannabis or hashish is included within the meaning of ‘marijuana’ as the term is used in the Compassionate Use Act of 1996.” (86 Ops.Cal.Atty.Gen. 180, 194 (2003).) ~~The burden is on the defendant to produce sufficient evidence to raise a reasonable doubt that possession was lawful. (*People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Jones* (2003) 112 Cal.App.4th 341, 350 [4 Cal.Rptr.3d 916] [error to exclude defense where defendant's testimony raised reasonable doubt about physician approval]; see also *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433, 1441 [7 Cal.Rptr.3d 226]~~

~~[defendant need not establish “medical necessity”].) If the defendant introduces substantial evidence, sufficient to raise a reasonable doubt that the possession may have been lawful under the act, the court has a sua sponte duty to give the bracketed paragraph of medical marijuana instructions.~~

If the medical marijuana instructions are given, then, in element 1, also give the bracketed word “unlawfully.” ~~If the evidence shows that a physician may have “approved” but not “recommended” the marijuana use, give the bracketed phrase “or approved” in the paragraph on medical marijuana. (*People v. Jones, supra*, 112 Cal.App.4th at p. 347 [“approved” distinguished from “recommended”].)~~

AUTHORITY

- Elements ▶ Health & Saf. Code, § 11357(a); *People v. Palaschak* (1995) 9 Cal.4th 1236, 1242 [40 Cal.Rptr.2d 722, 893 P.2d 717].
- “Concentrated Cannabis” Defined ▶ Health & Saf. Code, § 11006.5.
- Knowledge ▶ *People v. Romero* (1997) 55 Cal.App.4th 147, 151–153, 157, fn. 3 [64 Cal.Rptr.2d 16]; *People v. Winston* (1956) 46 Cal.2d 151, 158 [293 P.2d 40].
- Constructive vs. Actual Possession ▶ *People v. Barnes* (1997) 57 Cal.App.4th 552, 556 [67 Cal.Rptr.2d 162].
- Usable Amount ▶ *People v. Rubacalba* (1993) 6 Cal.4th 62, 65–67 [23 Cal.Rptr.2d 628, 859 P.2d 708]; *People v. Piper* (1971) 19 Cal.App.3d 248, 250 [96 Cal.Rptr. 643].
- Medical Marijuana ▶ Health & Saf. Code, § 11362.5.
- Burden of Proof for Defense of Medical Use ▶ *People v. Mower* (2002) 28 Cal.4th 457, 460 [122 Cal.Rptr.2d 326, 49 P.3d 1067]; *People v. Frazier* (2005) 128 Cal.App.4th 807, 820–821 [27 Cal.Rptr.3d 336].
- Amount Must Be Reasonably Related to Patient’s Medical Needs ▶ *People v. Trippet* (1997) 56 Cal.App.4th 1532, 1550–1551 [66 Cal.Rptr.2d 559].
- Primary Caregiver ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 282–292 [85 Cal.Rptr.3d 480, 195 P.3d 1061].
- ~~Defendant’s Burden of Proof on Compassionate Use Defense ▶ *People v. Mentch* (2008) 45 Cal.4th 274, 292-294 [85 Cal.Rptr.3d 480, 195 P.3d 1061] (conc.opn. of Chin, J).~~
- Medical Marijuana Program Act Defense ▶ *People v. Jackson* (2012) 210 Cal.App.4th 525, 529-531, 538-539 [148 Cal.Rptr.3d 375].

Secondary Sources

2 Witkin & Epstein, *California Criminal Law* (3d ed. 2000) Crimes Against Public Peace and Welfare, §§ 64–92.

6 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 145, *Narcotics and Alcohol Offenses*, § 145.01[1][a]–[d], [3][a], [a.1] (Matthew Bender).

2500. Illegal Possession, etc., of Weapon

The defendant is charged [in Count __] with unlawfully (possessing/manufacturing/causing to be manufactured/importing/keeping for sale/offering or exposing for sale/giving/lending/**buying/receiving**) a weapon, specifically (a/an) _____ <insert type of weapon > [in violation of Penal Code section[s] _____ <insert appropriate code section[s]>].

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant (possessed/manufactured/caused to be manufactured/imported into California/kept for sale/offered or exposed for sale/gave/lent/**bought/received**) (a/an) _____ <insert type of weapon>;
2. The defendant knew that (he/she) (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/**bought/received**) the _____ <insert type of weapon>;

[AND]

<Alternative 3A—object capable of innocent uses>

3. The defendant (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/**bought/received**) the object as a weapon. When deciding whether the defendant (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/**bought/received**) the object *as a weapon*, consider all the surrounding circumstances relating to that question, including when and where the object was (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/**bought/received**)[,] [and] [where the defendant was going][,] [and] [whether the object was changed from its standard form][,] and any other evidence that indicates whether the object would be used for a dangerous, rather than a harmless, purpose.(;/.)]

<Alternative 3B—object designed solely for use as weapon>

[3. The defendant knew that the object (was (a/an) _____
<insert characteristics of weapon, e.g., “unusually short shotgun, penknife containing stabbing instrument”>/could be used _____ <insert description of weapon, e.g., “as a stabbing weapon,” or “for purposes of offense or defense”>).

<Give element 4 only if defendant is charged with offering or exposing for sale.>

[AND

4. The defendant intended to sell it.]

<Give only if alternative 3B is given.>

[The People do not have to prove that the defendant intended to use the object as a weapon.]

(A/An) _____ <insert type of weapon> means _____ <insert appropriate definition>.

<Give only if the weapon used has specific characteristics of which the defendant must have been aware.>

[A _____ <insert type of weapon specified in element 3B> is _____ <insert defining characteristics of weapon>.

[The People do not have to prove that the object was (concealable[,/ [or] carried by the defendant on (his/her) person[,/ [or] (displayed/visible)).]

[(A/An) _____ <insert prohibited firearm> does not need to be in working order if it was designed to shoot and appears capable of shooting.]

[Two or more people may possess something at the same time.]

[A person does not have to actually hold or touch something to possess it. It is enough if the person has (control over it/ [or] the right to control it), either personally or through another person.]

[The People allege that the defendant (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/bought/received) the following weapons: _____ <insert description of each weapon when multiple items alleged>. You may not find the defendant guilty unless all of you agree that the People have proved that the defendant (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/bought/received) at least one of these weapons and you all agree

on which weapon (he/she) (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/**bought/received**).

<Defense: Statutory Exemptions>

[The defendant did not unlawfully (possess/manufacture/cause to be manufactured/import/keep for sale/offer or expose for sale/give/lend/**buy/receive**) (a/an) _____ *<insert type of weapon>* if _____ *<insert exception>*. The People have the burden of proving beyond a reasonable doubt that the defendant unlawfully (possessed/manufactured/caused to be manufactured/imported/kept for sale/offered or exposed for sale/gave/lent/**bought/received**) (a/an) _____ *<insert type of weapon>*. If the People have not met this burden, you must find the defendant not guilty of this crime.]

*New January 2006; Revised August 2006, April 2008, February 2012, *[insert date of council approval]**

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

Penal Code section 12020 has been repealed. In its place, the legislature enacted numerous new statutes that became effective January 1, 2012. Whenever a blank in the instruction calls for inserting a type of weapon, an exception, or a definition, refer to the appropriate new Penal Code section. ~~In element 1, insert one of the following weapons as enumerated in the code:~~

~~_____ *Firearms*~~

~~short barreled shotgun~~

~~short barreled rifle~~

~~undetectable firearm~~

~~firearm that is not immediately recognizable as a firearm~~

~~unconventional pistol~~

~~cane gun, wallet gun, or zip gun~~

~~*Firearm Equipment and Ammunition*~~

~~camouflaging firearm container~~

~~ammunition that contains or consists of any fléchette dart~~

~~bullet containing or carrying an explosive agent~~

~~multiburst trigger activator~~

~~large capacity magazine~~

~~large capacity magazine conversion kit~~

~~———— Knives and Swords~~

~~———— ballistic knife~~

~~———— belt buckle knife~~

~~———— lipstick case knife~~

~~———— cane sword~~

~~shobi zue~~

~~air gauge knife~~

~~writing pen knife~~

~~———— Martial Arts Weapons~~

~~———— nunchaku~~

~~———— shuriken ————~~

~~———— Other Weapons~~

~~metal knuckles~~

~~leaded cane~~

~~metal military practice handgrenade or metal replica handgrenade~~

~~instrument or weapon of the kind commonly known as a blackjack,~~

~~—slungshot, billy, sandclub, sap, or sandbag~~

Element 3 contains the requirement that the defendant know that the object is a weapon. A more complete discussion of this issue is provided in the Commentary section below. Select alternative 3A if the object is capable of innocent uses. In such cases, the court has a **sua sponte** duty to instruct on when an object is possessed “as a weapon.” (*People v. Fannin, supra*, 91 Cal.App.4th at p. 1404; *People v. Grubb* (1965) 63 Cal.2d 614, 620–621, fn. 9 [47 Cal.Rptr. 772, 408 P.2d 100].)

Select alternative 3B if the object “has no conceivable innocent function” (*People v. Fannin* (2001) 91 Cal.App.4th 1399, 1405 [111 Cal.Rptr.2d 496]), or when the item is specifically designed to be one of the weapons defined in the Penal Code (see *People v. Gaitan* (2001) 92 Cal.App.4th 540, 547 [111 Cal.Rptr.2d 885]).

Give element 4 only if the defendant is charged with offering or exposing for sale. (See *People v. Jackson* (1963) 59 Cal.2d 468, 469–470 [30 Cal.Rptr. 329, 381 P.2d 1].)

For any of the weapons not defined in the Penal Code, use an appropriate definition from the case law, where available.

If the prosecution alleges under a single count that the defendant possessed multiple weapons and the possession was “fragmented as to time . . . [or] space,” the court has a **sua sponte** duty to instruct on unanimity. (See *People v. Wolfe* (2003) 114 Cal.App.4th 177, 184–185 [7 Cal.Rptr.3d 483].) Give the bracketed paragraph beginning “The People allege that the defendant possessed the following weapons,” inserting the items alleged. Also make the appropriate adjustments to the language of the instruction to refer to multiple weapons or objects.

Defenses—Instructional Duty

If there is sufficient evidence to raise a reasonable doubt about the existence of one of the statutory exemptions, the court has a **sua sponte** duty to give the bracketed instruction on that defense. (See *People v. Mower* (2002) 28 Cal.4th 457, 478–481 [122 Cal.Rptr.2d 326, 49 P.3d 1067] [discussing affirmative defenses generally and the burden of proof].) Insert the appropriate language in the bracketed paragraph beginning, “The defendant did not unlawfully”

AUTHORITY

Elements ▶ Pen. Code, §§ 19200, 20310, 20410, 20510, 20610, 20710, 20910, 21110, 21810, 22010, 22210, 24310, 24410, 24510, 24610, 24710, 30210, 31500, [32310](#), [32311](#), 32900, 33215, 33600.

- Need Not Prove Intent to Use ▶ *People v. Rubalcava* (2000) 23 Cal.4th 322, 328 [96 Cal.Rptr.2d 735, 1 P.3d 52]; *People v. Grubb* (1965) 63 Cal.2d 614, 620–621, fn. 9 [47 Cal.Rptr. 772, 408 P.2d 100].
- Knowledge Required ▶ *People v. Rubalcava* (2000) 23 Cal.4th 322, 331–332 [96 Cal.Rptr.2d 735, 1 P.3d 52]; *People v. Gaitan* (2001) 92 Cal.App.4th 540, 547 [111 Cal.Rptr.2d 885].
- Specific Intent Required for Offer to Sell ▶ *People v. Jackson* (1963) 59 Cal.2d 468, 469–470 [30 Cal.Rptr. 329, 381 P.2d 1].
- Specific Intent Includes Knowledge of Forbidden Characteristics of Weapon ▶ *People v. King* (2006) 38 Cal.4th 617, 627–628 [42 Cal.Rptr.3d 743, 133 P.3d 636].
- Innocent Object—Must Prove Possessed as Weapon ▶ *People v. Grubb* (1965) 63 Cal.2d 614, 620–621 [47 Cal.Rptr. 772, 408 P.2d 100]; *People v. Fannin* (2001) 91 Cal.App.4th 1399, 1404 [111 Cal.Rptr.2d 496].
- Definition of Blackjack, etc. ▶ *People v. Fannin* (2001) 91 Cal.App.4th 1399, 1402 [111 Cal.Rptr.2d 496]; *People v. Mulherin* (1934) 140 Cal.App. 212, 215 [35 P.2d 174].

- Firearm Need Not Be Operable ▶ *People v. Favalora* (1974) 42 Cal.App.3d 988, 991 [117 Cal.Rptr. 291].
- Measurement of Sawed-Off Shotgun ▶ *People v. Rooney* (1993) 17 Cal.App.4th 1207, 1211–1213 [21 Cal.Rptr.2d 900]; *People v. Stinson* (1970) 8 Cal.App.3d 497, 500 [87 Cal.Rptr. 537].
- Measurement of Fléchette Dart ▶ *People v. Olmsted* (2000) 84 Cal.App.4th 270, 275 [100 Cal.Rptr.2d 755].
- Constructive vs. Actual Possession ▶ *People v. Azevedo* (1984) 161 Cal.App.3d 235, 242–243 [207 Cal.Rptr. 270], questioned on other grounds in *In re Jorge M.* (2000) 23 Cal.4th 866, 876, fn. 6 [98 Cal.Rptr.2d 466, 4 P.3d 297].
- Knowledge of Specific Characteristics of Weapon ▶ *People v. King* (2006) 38 Cal.4th 617, 628 [42 Cal.Rptr.3d 743, 133 P.3d 636].

Secondary Sources

2 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Crimes Against Public Peace and Welfare, § ~~161~~211-212.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

6 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 144, *Crimes Against Order*, § 144.01 (Matthew Bender).

COMMENTARY

Element 3—Knowledge

“Intent to use a weapon is not an element of the crime of weapon possession.” (*People v. Fannin* (2001) 91 Cal.App.4th 1399, 1404 [111 Cal.Rptr.2d 496].) However, interpreting now-repealed Penal Code section 12020(a)(4), possession of a concealed dirk or dagger, the Supreme Court stated that “[a] defendant who does not know that he is carrying the weapon or that the concealed instrument may be used as a stabbing weapon is . . . not guilty of violating section 12020.” (*People v. Rubalcava* (2000) 23 Cal.4th 322, 331–332 [96 Cal.Rptr.2d 735, 1 P.3d 52].) Applying this holding to possession of other weapons prohibited under now-repealed Penal Code section 12020(a), the courts have concluded that the defendant must know that the object is a weapon or may be used as a weapon, or must possess the object “as a weapon.” (*People v. Gaitan* (2001) 92 Cal.App.4th 540, 547 [111 Cal.Rptr.2d 885]; *People v. Taylor* (2001) 93 Cal.App.4th 933, 941 [114 Cal.Rptr.2d 23]; *People v. Fannin, supra*, 91 Cal.App.4th at p. 1404.)

In *People v. Gaitan*, *supra*, 92 Cal.App.4th at p. 547, for example, the court considered the possession of “metal knuckles,” defined in now-repealed Penal Code section 12020(c)(7) as an object “worn for purposes of offense or defense.” The court held that the prosecution does not have to prove that the defendant *intended* to use the object for offense or defense but must prove that the defendant *knew* that “the instrument may be used for purposes of offense or defense.” (*Id.* at p. 547.)

Similarly, in *People v. Taylor*, *supra*, 93 Cal.App.4th at p. 941, involving possession of a cane sword, the court held that “[i]n order to protect against the significant possibility of punishing innocent possession by one who believes he or she simply has an ordinary cane, we infer the Legislature intended a scienter requirement of actual knowledge that the cane conceals a sword.”

Finally, *People v. Fannin*, *supra*, 91 Cal.App.4th at p. 1404, considered whether a bicycle chain with a lock at the end met the definition of a “slungshot.” The court held that “if the object is not a weapon per se, but an instrument with ordinary innocent uses, the prosecution must prove that the object was possessed *as a weapon*.” (*Ibid.* [emphasis in original]; see also *People v. Grubb* (1965) 63 Cal.2d 614, 620–621 [47 Cal.Rptr. 772, 408 P.2d 100] [possession of modified baseball bat].)

In element 3 of the instruction, the court should give alternative 3B if the object has no innocent uses, inserting the appropriate description of the weapon. If the object has innocent uses, the court should give alternative 3A. The court may choose not to give element 3 if the court concludes that a previous case holding that the prosecution does not need to prove knowledge is still valid authority. However, the committee would caution against this approach in light of *Rubalcava* and *In re Jorge M.* (See *People v. Schaefer* (2004) 118 Cal.App.4th 893, 904–905 [13 Cal.Rptr.3d 442] [observing that, since *In re Jorge M.*, it is unclear if the prosecution must prove that the defendant knew shotgun was “sawed off” but that failure to give instruction was harmless if error].)

It is not unlawful to possess a large capacity magazine or large capacity conversion kit. It is unlawful, however, to receive or buy these items after January 1, 2014, the effective date of Penal Code sections 32310 or 32311.

2652. Resisting an Executive Officer in Performance of Duty (Pen. Code, § 69)

The defendant is charged [in Count __] with resisting an executive officer in the performance of that officer's duty [in violation of Penal Code section 69].

To prove that the defendant is guilty of this crime, the People must prove that:

- 1. The defendant [unlawfully] used force [or violence] to resist an executive officer;**
- 2. When the defendant acted, the officer was performing (his/her) lawful duty;**

AND

- 3. When the defendant acted, (he/she) knew the executive officer was performing (his/her) duty.**

An *executive officer* is a government official who may use his or her own discretion in performing his or her job duties. [(A/An) _____ <insert title, e.g., peace officer, commissioner, etc.> is an *executive officer*.]

[A sworn member of _____ <insert name of agency that employs peace officer>, authorized by _____ <insert appropriate section from Pen. Code, § 830 et seq.> to _____ <describe statutory authority>, is a *peace officer*.]

[The duties of (a/an) _____ <insert title of officer specified in Pen. Code, § 830 et seq.> include _____ <insert job duties>.]

<When lawful performance is an issue, give the following paragraph and Instruction 2670, Lawful Performance: Peace Officer.>

[A peace officer is not lawfully performing his or her duties if he or she is (unlawfully arresting or detaining someone/ [or] using unreasonable or excessive force in his or her duties). Instruction 2670 explains (when an arrest or detention is unlawful/ [and] when force is unreasonable or excessive)

New January 2006

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction defining the elements of the crime.

In order to be “performing a lawful duty,” an executive officer, including a peace officer, must be acting lawfully. (*In re Manuel G.* (1997) 16 Cal.4th 805, 816 [66 Cal.Rptr.2d 701, 941 P.2d 880]; *People v. Gonzalez* (1990) 51 Cal.3d 1179, 1217 [275 Cal.Rptr. 729, 800 P.2d 1159].) The court has a **sua sponte** duty to instruct on lawful performance and the defendant’s reliance on self-defense as it relates to the use of excessive force when this is an issue in the case. (*People v. Castain* (1981) 122 Cal.App.3d 138, 145 [175 Cal.Rptr. 651]; *People v. Olguin* (1981) 119 Cal.App.3d 39, 46–47 [173 Cal.Rptr. 663]; *People v. White* (1980) 101 Cal.App.3d 161, 167–168 [161 Cal.Rptr. 541].)

If there is an issue in the case as to the lawful performance of a duty by a peace officer, give the last bracketed paragraph and CALCRIM No. 2670, *Lawful Performance: Peace Officer*.

If a different executive officer was the alleged victim, the court will need to draft an appropriate definition of lawful duty if this is an issue in the case.

AUTHORITY

- Elements ▶ Pen. Code, § 69.
- General Intent Offense ▶ *People v. Roberts* (1982) 131 Cal.App.3d Supp. 1, 9 [182 Cal.Rptr. 757].
- Lawful Performance Element to Resisting Officer ▶ *In re Manuel G.* (1997) 16 Cal.4th 805, 816 [66 Cal.Rptr.2d 701, 941 P.2d 880].

Secondary Sources

2 Witkin & Epstein, *California Criminal Law* (3d ed. 2000) Crimes Against Governmental Authority, § 119.

1 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 11, *Arrest*, § 11.06[3] (Matthew Bender).

3 Millman, Sevilla & Tarlow, *California Criminal Defense Practice*, Ch. 73, *Defenses and Justifications*, § 73.15[2] (Matthew Bender).

LESSER INCLUDED OFFENSES

Penal Code section 148(a) is not a lesser included offense of this crime under the statutory elements test, but may be one under the accusatory pleading test. *People v. Smith* (2013) 57 Cal.4th 232, 241-242 [159 Cal.Rptr.3d 57, 303 P.3d 368]; may be a lesser included offense of this crime, see *People v. Lacefield* (2007) 157 Cal.App.4th 249, 259 [68 Cal.Rptr.3d 508], which found that the trial court had a *sua sponte* duty to instruct on the lesser included offense defined by Penal Code section 148(a)(1), disagreeing with see also *People v. Belmares* (2003) 106 Cal.App.4th 19, 26 [130 Cal.Rptr.2d 400] and *People v. Lopez* (2005) 129 Cal.App.4th 1508, 1532 [29 Cal.Rptr.3d 586].

3160. Great Bodily Injury (Pen. Code, §§ 667.5(c)(8), 667.61(e)(3), 1192.7(c)(8), 12022.7, 12022.8)

If you find the defendant guilty of the crime[s] charged in Count[s] __[,] [or of attempting to commit (that/those) crime[s]] [or the lesser crime[s] of _____ <insert name[s] of alleged lesser offense[s]>], you must then decide whether[, for each crime,] the People have proved the additional allegation that the defendant personally inflicted great bodily injury on _____ <insert name of injured person> in the commission [or attempted commission] of that crime. [You must decide whether the People have proved this allegation for each crime and return a separate finding for each crime.]

[The People must also prove that _____ <insert name of injured person> was not an accomplice to the crime.]

Great bodily injury means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm.

[Committing the crime of _____ <insert sexual offense charged> is not by itself the infliction of great bodily injury.]

<Group Assault>

[If you conclude that more than one person assaulted _____ <insert name of injured person> and you cannot decide which person caused which injury, you may conclude that the defendant personally inflicted great bodily injury on _____ <insert name of injured person> if the People have proved that:

1. Two or more people, acting at the same time, assaulted _____ <insert name of injured person> and inflicted great bodily injury on (him/her);
2. The defendant personally used physical force on _____ <insert name of injured person> during the group assault;

AND

[3A. The amount or type of physical force the defendant used on _____ <insert name of injured person> was enough that it alone could have caused _____ <insert name of injured person> to suffer great bodily injury(;/.)]

[OR]

[3B. The physical force that the defendant used on _____ <insert name of injured person> was sufficient in combination with the force used by the others to cause _____ <insert name of injured person> to suffer great bodily injury.]

The defendant must have applied substantial force to _____ <insert name of injured person>. If that force could not have caused or contributed to the great bodily injury, then it was not substantial.]

[A person is an *accomplice* if he or she is subject to prosecution for the identical crime charged against the defendant. Someone is subject to prosecution if he or she personally committed the crime or if:

- 1. He or she knew of the criminal purpose of the person who committed the crime;**

AND

- 2. He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/ [or] participate in a criminal conspiracy to commit the crime).]**

<If there is an issue in the case over whether the defendant inflicted the injury “in the commission of” the offense, see Bench Notes.>

The People have the burden of proving each allegation beyond a reasonable doubt. If the People have not met this burden, you must find that the allegation has not been proved.

New January 2006; Revised June 2007 *[insert date of council approval]*

BENCH NOTES

Instructional Duty

The court has a **sua sponte** duty to give this instruction on the enhancement when charged. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490 [120 S.Ct. 2348, 147 L.Ed.2d 435].)

Give the bracketed sentence that begins with “Committing the crime of” if the defendant is charged with a sexual offense. (*People v. Escobar* (1992) 3 Cal.4th

740, 746 [12 Cal.Rptr.2d 586, 837 P.2d 1100] [injury must be more than that which is present in every offense of rape].)

The bracketed section beneath the heading “Group Assault” is designed to be used in cases where the evidence shows a group assault.

If the court gives the bracketed sentence instructing that the People must prove that the person assaulted “was not an accomplice to the crime,” the court should also give the bracketed definition of “accomplice.” (*People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322].) Additional paragraphs providing further explanation of the definition of “accomplice” are contained in CALCRIM No. 334, *Accomplice Testimony Must Be Corroborated: Dispute Whether Witness Is Accomplice*. The court should review that instruction and determine whether any of these additional paragraphs should be given.

The jury must determine whether an injury constitutes “great bodily injury.” (*People v. Escobar* (1992) 3 Cal.4th 740, 750 [12 Cal.Rptr.2d 586, 837 P.2d 1100]; *People v. Nava* (1989) 207 Cal.App.3d 1490, 1498 [255 Cal.Rptr. 903] [reversible error to instruct that a bone fracture is a significant or substantial injury].)

If there is an issue in the case over whether the defendant inflicted the injury “in the commission of” the offense, the court may give CALCRIM No. 3261, *In Commission of Felony: Defined—Escape Rule*. (See *People v. Jones* (2001) 25 Cal.4th 98, 109 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].)

There is a conflict in authority about whether this enhancement applies in vehicular manslaughter cases. Until the Supreme Court provides further guidance, the trial court must decide which opinion to follow. (See *People v. Hale* (2014) 225 Cal.App.4th 268, 275 [170 Cal.Rptr.3d 166][Penal Code section 12077.7(g) precludes application of the enhancement], disagreeing with *People v. Julian* (2011) 198 Cal.App.4th 1524, 1529-1530 [131 Cal.Rptr.3d 561][applying section 12077.7(g) would cause a defendant to benefit from the death of one of his victims and rejecting that result as grotesque].)

AUTHORITY

- Enhancements ▶ Pen. Code, §§ 667.5(c)(8), 667.61(e)(3), 12022.7, 12022.8.
- Great Bodily Injury Defined ▶ Pen. Code, § 12022.7(f); *People v. Escobar* (1992) 3 Cal.4th 740, 749–750 [12 Cal.Rptr.2d 586, 837 P.2d 1100].

- Great Bodily Injury May Be Established by Pregnancy or Abortion ▶ *People v. Cross* (2008) 45 Cal.4th 58, 68 [82 Cal.Rptr.3d 373, 190 P.3d 706].
- Must Personally Inflict Injury ▶ *People v. Lee* (2003) 31 Cal.4th 613, 631 [3 Cal.Rptr.3d 402, 74 P.3d 176]; *People v. Cole* (1982) 31 Cal.3d 568, 571 [183 Cal.Rptr. 350, 645 P.2d 1182]; *People v. Ramirez* (1987) 189 Cal.App.3d 603, 627 [236 Cal.Rptr. 404] [Pen. Code, § 12022.8].
- Sex Offenses—Injury Must Be More Than Incidental to Offense ▶ *People v. Escobar* (1992) 3 Cal.4th 740, 746 [12 Cal.Rptr.2d 586, 837 P.2d 1100].
- Group Beating Instruction ▶ *People v. Modiri* (2006) 39 Cal.4th 481, 500–501 [46 Cal.Rptr.3d 762].
- This Instruction Is Correct In Defining Group Beating ▶ *People v. Dunkerson* (2007) 155 Cal.App.4th 1413, 1418 [66 Cal.Rptr.3d 795].
- Accomplice Defined ▶ See Pen. Code, § 1111; *People v. Verlinde* (2002) 100 Cal.App.4th 1146, 1167–1168 [123 Cal.Rptr.2d 322]; *People v. Stankewitz* (1990) 51 Cal.3d 72, 90–91 [270 Cal.Rptr. 817, 793 P.2d 23].
- “In Commission of” Felony ▶ *People v. Jones* (2001) 25 Cal.4th 98, 109–110 [104 Cal.Rptr.2d 753, 18 P.3d 674]; *People v. Masbruch* (1996) 13 Cal.4th 1001, 1014 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *People v. Taylor* (1995) 32 Cal.App.4th 578, 582 [38 Cal.Rptr.2d 127].
- This Instruction Correctly Omits Requirement Of Intent to Inflict GBI ▶ *People v. Poroj* (2010) 190 Cal.App.4th 165, 176 [117 Cal.Rptr.3d 884].

Secondary Sources

3 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Punishment, §§ ~~288–291~~350–351.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, § 85.02[2][a][i] (Matthew Bender).

5 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 91, *Sentencing*, § 91.35 (Matthew Bender).

RELATED ISSUES

Specific Intent Not Required

Penal Code section 12022.7 was amended in 1995, deleting the requirement that the defendant act with “the intent to inflict such injury.” (Stats. 1995, ch. 341, § 1;

see also *People v. Carter* (1998) 60 Cal.App.4th 752, 756 [70 Cal.Rptr.2d 569] [noting amendment].)

Instructions on Aiding and Abetting

In *People v. Magana* (1993) 17 Cal.App.4th 1371, 1378–1379 [22 Cal.Rptr.2d 59], the evidence indicated that the defendant and another person both shot at the victims. The jury asked for clarification of whether the evidence must establish that the bullet from the defendant’s gun struck the victim in order to find the enhancement for personally inflicting great bodily injury true. (*Id.* at p. 1379.) The trial court responded by giving the instructions on aiding and abetting. (*Ibid.*) The Court of Appeal reversed, finding the instructions erroneous in light of the requirement that the defendant must personally inflict the injury for the enhancement to be found true. (*Id.* at p. 1381.)

Sex Offenses—Examples of Great Bodily Injury

The following have been held to be sufficient to support a finding of great bodily injury: transmission of a venereal disease (*People v. Johnson* (1986) 181 Cal.App.3d 1137, 1140 [225 Cal.Rptr. 251]); pregnancy (*People v. Sargent* (1978) 86 Cal.App.3d 148, 151 [150 Cal.Rptr. 113]); and a torn hymen (*People v. Williams* (1981) 115 Cal.App.3d 446, 454 [171 Cal.Rptr. 401]).

Enhancement May be Applied Once Per Victim

The court may impose one enhancement under Penal Code section 12022.7 for each injured victim. (Pen. Code, § 12022.7(h); *People v. Ausbie* (2004) 123 Cal.App.4th 855, 864 [20 Cal.Rptr.3d 371].)

3517. Deliberations and Completion of Verdict Forms: For Use When Lesser Included Offenses and Greater Crimes Are Not Separately Charged and the Jury Receives Guilty and Not Guilty Verdict Forms for Greater and Lesser Offenses (Non-Homicide)

If all of you find that the defendant is not guilty of a greater charged crime, you may find (him/her) guilty of a lesser crime if you are convinced beyond a reasonable doubt that the defendant is guilty of that lesser crime. A defendant may not be convicted of both a greater and lesser crime for the same conduct.

[Now I will explain to you ~~which charges~~ the crimes are affected by this instruction [including lesser crimes of the lesser crimes].:]

[_____ <insert crime> is a lesser crime of
_____ <insert crime> [charged in Count ____].]

[_____ <insert crime> is a lesser crime of
_____ <insert crime> [charged in Count ____].]

[_____ <insert crime> is a lesser crime of
_____ <insert crime> [charged in Count ____].]

It is up to you to decide the order in which you consider each crime and the relevant evidence, but I can accept a verdict of guilty of a lesser crime only if you have found the defendant not guilty of the corresponding greater crime.

<Give the following paragraphs if the jury has separate guilty and not guilty forms for both greater and lesser offenses pursuant to Stone v. Superior Court. >

[[For (the/any) count in which a greater and lesser crime is charged,] (Y/y)ou will receive verdict forms of guilty and not guilty for the greater crime and also verdict forms of guilty and not guilty for the lesser crime. Follow these directions before you give me any completed and signed, final verdict form. Return any unused verdict forms to me, unsigned.

- 1. If all of you agree the People have proved that the defendant is guilty of the greater crime, complete and sign the verdict form for guilty of that crime. Do not complete or sign any other verdict form [for that count].**

2. **If all of you cannot agree whether the People have proved that the defendant is guilty of the greater crime, inform me only that you cannot reach an agreement and do not complete or sign any verdict form [for that count].**
3. **If all of you agree that the People have not proved that the defendant is guilty of the greater crime and you also agree that the People have proved that (he/she) is guilty of the lesser crime, complete and sign the verdict form for not guilty of the greater crime and the verdict form for guilty of the lesser crime.**
4. **If all of you agree the People have not proved that the defendant is guilty of the greater or lesser crime, complete and sign the verdict form for not guilty of the greater crime and the verdict form for not guilty of the lesser crime.**
5. **If all of you agree the People have not proved that the defendant is guilty of the greater crime, but all of you cannot agree on a verdict for the lesser crime, complete and sign the verdict form for not guilty of the greater crime and inform me only that you cannot reach an agreement about the lesser crime.]**

<Give the following paragraphs if the jury has a combined verdict form for both greater and lesser offenses.>

[[For (the/any) charge with a lesser crime,] (Y/y)ou will receive a form for indicating your verdict on both the greater crime and the lesser crime. The greater crime is listed first. When you have reached a verdict, have the foreperson complete the form, sign, and date it. Follow these directions before writing anything on the form.

1. **If all of you agree that the People have proved that the defendant is guilty of the greater crime as charged, (write “guilty” in the blank/circle the word “guilty”/check the box for “guilty”) for that crime, then sign, date, and return the form. Do not (write/circle/check) anything for the lesser crime.**
2. **If all of you cannot agree whether the People have proved that the defendant is guilty of the greater crime as charged, inform me only that you cannot reach an agreement and do not write anything on the verdict form.**

3. If all of you agree that the People have not proved that the defendant is guilty of the greater crime and you also agree that the People have proved that (he/she) is guilty of the lesser crime, (write “not guilty” in the blank/circle the words “not guilty”/check the box for “not guilty”) for the greater crime and (write “guilty” in the blank/circle the word “guilty”/check the box for “guilty”) for the lesser crime. You must not (write/circle/check) anything for the lesser crime unless you have (written/circled/checked) “not guilty” for the greater crime.
4. If all of you agree that the People have not proved that the defendant is guilty of either the greater or the lesser crime, (write “not guilty” in the blank/circle the words “not guilty”/check the box for “not guilty”) for both the greater crime and the lesser crime.
5. If all of you agree that the People have not proved that the defendant is guilty of the greater crime, but all of you cannot agree on a verdict for the lesser crime, (write “not guilty” in the blank/circle the words “not guilty”/check the box for “not guilty”) for the greater crime, then sign, date, and return the form. Do not (write/circle/check) anything for the lesser crime, and inform me only that you cannot reach an agreement about that crime.]

Whenever I tell you the People must prove something, I mean they must prove it beyond a reasonable doubt [unless I specifically tell you otherwise].

~~<Give the following paragraph if the court is instructing on a lesser included offense within another lesser included offense.>~~

~~[Follow these directions when you decide whether a defendant is guilty or not guilty of _____<insert crime>, which is a lesser crime of _____<insert crime>.]~~

*New January 2006; Revised August 2006, June 2007, February 2012, August 2012,
[insert date of council approval]*

BENCH NOTES

Instructional Duty

If lesser included crimes are not charged separately and the jury receives only one verdict form for each count, the court should use CALCRIM 3518 instead of this instruction. For separately charged greater and lesser included offenses, use CALCRIM 3519. In all cases in which one or more lesser included offenses are submitted to the jury, whether charged or not, the court has a **sua sponte** duty to instruct on the applicable procedures. (*People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [duty to instruct on lesser included offenses]; *People v. Dewberry* (1959) 51 Cal.2d 548, 555-557 [334 P.2d 852] [duty to instruct that if jury has reasonable doubt of greater offense, must acquit of that charge]; *People v. Fields* (1996) 13 Cal.4th 289, 309-310 [52 Cal.Rptr.2d 282, 914 P.2d 832] [duty to instruct that jury cannot convict of a lesser included offense unless it has concluded that defendant is not guilty of the greater offense]; *Stone v. Superior Court* (1982) 31 Cal.3d 503, 519 [183 Cal.Rptr. 647, 646 P.2d 809] [duty to give jury opportunity to render a verdict of partial acquittal on a greater offense], clarified in *People v. Marshall* (1996) 13 Cal.4th 799, 826 [55 Cal.Rptr.2d 347, 919 P.2d 1280] [no duty to inquire about partial acquittal in absence of indication jury may have found defendant not guilty of greater offense].)

In *Stone v. Superior Court*, *supra*, 31 Cal.3d at p. 519, the Supreme Court suggested that the trial court provide the jury with verdict forms of guilty/not guilty on each of the charged and lesser included offenses. The court later referred to this “as a judicially declared rule of criminal procedure.” (*People v. Kurtzman* (1988) 46 Cal.3d 322, 328 [250 Cal.Rptr. 244, 758 P.2d 572].) However, this is not a mandatory procedure. (*Ibid.*) If the court chooses not to follow the procedure suggested in *Stone*, the court may give CALCRIM No. 3518 in place of this instruction.

Do not give this instruction for charges of murder or manslaughter; instead give the appropriate homicide instruction for lesser included offenses: CALCRIM No. 640, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*, CALCRIM No. 641, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not To Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses*, CALCRIM No. 642, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*, or CALCRIM No. 643, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses*.

The court should tell the jury it may not return a guilty verdict on a lesser included offense unless it has found the defendant not guilty of the greater offense. (*People v. Fields, supra*, 13 Cal.4th at pp. 310–311.) If the jury announces that it is deadlocked on the greater offense but, despite the court’s instructions, has returned a guilty verdict on the lesser included offense, the court should again instruct the jury that it may not convict of the lesser included offense unless it has found the defendant not guilty of the greater offense. (*Ibid.*) The court should direct the jury to reconsider the “lone verdict of conviction of the lesser included offense” in light of this instruction. (*Ibid.*; Pen. Code, § 1161.) If the jury is deadlocked on the greater offense but the court nevertheless records a guilty verdict on the lesser included offense and then discharges the jury, retrial on the greater offense will be barred. (*People v. Fields, supra*, 13 Cal.4th at p. 307; Pen. Code, § 1023.)

The court may not control the sequence in which the jury considers the offenses. (*People v. Kurtzman, supra*, 46 Cal.3d at p. 330.)

AUTHORITY

- Lesser Included Offenses—Duty to Instruct ▶ Pen. Code, § 1159; *People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094].
- Lesser Included Offenses—Standard ▶ *People v. Birks* (1998) 19 Cal.4th 108, 117 [77 Cal.Rptr.2d 848, 960 P.2d 1073].
- Reasonable Doubt as to Degree or Level of Offense ▶ Pen. Code, § 1097; *People v. Dewberry* (1959) 51 Cal.2d 548, 555–557 [334 P.2d 852].
- Conviction of Lesser Precludes Retrial on Greater ▶ Pen. Code, § 1023; *People v. Fields* (1996) 13 Cal.4th 289, 309–310 [52 Cal.Rptr.2d 282, 914 P.2d 832]; *People v. Kurtzman* (1988) 46 Cal.3d 322, 329 [250 Cal.Rptr. 244, 758 P.2d 572].
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- Must Permit Partial Verdict of Acquittal on Greater ▶ *People v. Marshall* (1996) 13 Cal.4th 799, 826 [55 Cal.Rptr.2d 347, 919 P.2d 1280]; *Stone v. Superior Court* (1982) 31 Cal.3d 503, 519 [183 Cal.Rptr. 647, 646 P.2d 809].

Secondary Sources

5 Witkin & Epstein, California Criminal Law (~~3d~~^{4th} ed. ~~2000~~²⁰¹²) Criminal Trial, §§ ~~630, 631~~⁷⁰⁸⁻⁷¹².

6 Witkin & Epstein, California Criminal Law (3d ed. 2000) Criminal Judgment, § 61.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, §§ 85.03[2][g], 85.05, 85.20 (Matthew Bender).

RELATED ISSUES

Duty to Instruct on Lesser

The court has a **sua sponte** duty to instruct “on lesser included offenses when the evidence raises a question as to whether all of the elements of the charged offense were present [citation] but not when there is no evidence that the offense was less than that charged. [Citations.] The obligation to instruct on lesser included offenses exists even when as a matter of trial tactics a defendant not only fails to request the instruction but expressly objects to its being given. [Citations.] Just as the People have no legitimate interest in obtaining a conviction of a greater offense than that established by the evidence, a defendant has no right to an acquittal when that evidence is sufficient to establish a lesser included offense. [Citations.]” (*People v. Breverman* (1998) 19 Cal.4th 142, 154–155 [77 Cal.Rptr.2d 870, 960 P.2d 1094].)

Acquittal of Greater Does Not Bar Retrial of Lesser

Where the jury acquits of a greater offense but deadlocks on the lesser, retrial of the lesser is not barred. (*People v. Smith* (1983) 33 Cal.3d 596, 602 [189 Cal.Rptr. 862, 659 P.2d 1152].)

Lesser Included Offenses Barred by Statute of Limitations

The defendant may waive the statute of limitations to obtain a jury instruction on a lesser offense that would otherwise be time-barred. (*Cowan v. Superior Court* (1996) 14 Cal.4th 367, 373 [58 Cal.Rptr.2d 458, 926 P.2d 438].) However, the court has no sua sponte duty to instruct on a lesser that is time-barred. (*People v. Diedrich* (1982) 31 Cal.3d 263, 283 [182 Cal.Rptr. 354, 643 P.2d 971].) If the court instructs on an uncharged lesser offense that is time-barred without obtaining an explicit waiver from the defendant, it is unclear if the defendant must object at that time in order to raise the issue on appeal or if the defendant may raise the issue for the first time on appeal. (See *People v. Stanfill* (1999) 76 Cal.App.4th 1137, 1145–1151 [90 Cal.Rptr.2d 885] [reasoning criticized in *People v. Smith* (2002) 98 Cal.App.4th 1182, 1193–1194 [120 Cal.Rptr.2d 185]].) The better

practice is to obtain an explicit waiver on the statute of limitations when instructing on a time-barred lesser.

Conviction of Greater and Lesser

The defendant cannot be convicted of a greater and a lesser included offense. (*People v. Moran* (1970) 1 Cal.3d 755, 763 [83 Cal.Rptr. 411, 463 P.2d 763].) If the evidence supports the conviction on the greater offense, the conviction on the lesser included offense should be set aside. (*Ibid.*)

3518. Deliberations and Completion of Verdict Forms: For Use When Lesser Included Offenses and Greater Crimes Are Not Separately Charged and the Jury Is Given Only One Not Guilty Verdict Form for Each Count (Non-Homicide)

If all of you find that the defendant is not guilty of a greater charged crime, you may find (him/her) guilty of a lesser crime if you are convinced beyond a reasonable doubt that the defendant is guilty of that lesser crime. A defendant may not be convicted of both a greater and lesser crime for the same conduct.

[Now I will explain to you ~~the crimes which charges are~~ affected by this instruction [including lesser crimes of the lesser crimes]:]

[_____ <insert crime> is a lesser crime of _____ <insert crime> [charged in Count ____].]

[_____ <insert crime> is a lesser crime of _____ <insert crime> [charged in Count ____].]

[_____ <insert crime> is a lesser crime of _____ <insert crime> [charged in Count ____].]

It is up to you to decide the order in which you consider each crime and the relevant evidence, but I can accept a verdict of guilty of a lesser crime only if you have found the defendant not guilty of the corresponding greater crime.

[[For count[s] ____,] (Y/you) will receive (a/multiple) verdict form[s]. Follow these directions before you give me any completed and signed final verdict form. Return any unused verdict forms to me, unsigned.

1. If all of you agree the People have proved that the defendant is guilty of the greater crime, complete and sign the verdict form for guilty of that crime. Do not complete or sign any other verdict form [for that count].
2. If all of you agree the People have not proved that the defendant is guilty of the greater crime and also agree the People have proved that (he/she) is guilty of (the/a) lesser crime, complete and sign the verdict form for guilty of the lesser crime. Do not complete or sign any other verdict form[s] [for that count].

3. If all of you agree the People have not proved that the defendant is guilty of the greater or lesser crime, complete and sign the verdict form for not guilty.
4. If all of you cannot agree whether the People have proved that the defendant is guilty of a charged or lesser crime, inform me only that you cannot reach agreement [as to that count] and do not complete or sign any verdict form [for that count].]

Whenever I tell you the People must prove something, I mean they must prove it beyond a reasonable doubt [unless I specifically tell you otherwise].

~~<Give the following paragraph if the court is instructing on a lesser included offense within another lesser included offense.>~~

~~[Follow these directions when you decide whether a defendant is guilty or not guilty of _____<insert crime>, which is a lesser crime of _____<insert crime>.]~~

New January 2006; Revised August 2006, June 2007, April 2010, February 2012, August 2012, {insert date of council approval}

BENCH NOTES

Instructional Duty

If lesser crimes are not charged separately and the jury receives separate not guilty and guilty verdict forms for each count, the court should use CALCRIM 3517 instead of this instruction. For separately charged greater and lesser included offenses, use CALCRIM 3519.

In all cases in which one or more lesser included offenses are submitted to the jury, whether charged or not, the court has a **sua sponte** duty to instruct on the applicable procedures. (*People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [duty to instruct on lesser included offenses]; *People v. Dewberry* (1959) 51 Cal.2d 548, 555-557 [334 P.2d 852] [duty to instruct that if jury has reasonable doubt of greater offense, must acquit of that charge]; *People v. Fields* (1996) 13 Cal.4th 289, 309-310 [52 Cal.Rptr.2d 282, 914 P.2d 832] [duty to instruct that jury cannot convict of lesser included offense unless it has concluded that defendant is not guilty of greater offense]; *Stone v. Superior Court* (1982) 31 Cal.3d 503, 519 [183 Cal.Rptr. 647, 646 P.2d 809] [duty to give jury opportunity to render verdict of partial acquittal on greater

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In *Stone v. Superior Court, supra*, 31 Cal.3d at p. 519, the Supreme Court suggested that the trial court provide the jury with verdict forms of guilty/not guilty on each of the charged and lesser included offenses. The court later referred to this “as a judicially declared rule of criminal procedure.” (*People v. Kurtzman* (1988) 46 Cal.3d 322, 329 [250 Cal.Rptr. 244, 758 P.2d 572].) However, this is not a mandatory procedure. (*Ibid.*) If the court chooses to follow the procedure suggested in *Stone*, the court should give CALCRIM No. 3517 in place of this instruction.

Do not give this instruction for charges of murder or manslaughter; instead give the appropriate homicide instruction for lesser included offenses:

CALCRIM No. 640, *Deliberations and Completion of Verdict Forms: For Use When Defendant is Charged With First Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*, CALCRIM No. 641, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses*, CALCRIM No. 642, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*, or CALCRIM No. 643, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses*.

The court should tell the jury it may not return a guilty verdict on a lesser included offense unless it has found the defendant not guilty of the greater offense. (*People v. Fields, supra*, 13 Cal.4th at pp. 310–311.) If the jury announces that it is deadlocked on the greater offense but, despite the court’s instructions, has returned a guilty verdict on the lesser included offense, the court should again instruct the jury that it may not convict of the lesser included offense unless it has found the defendant not guilty of the greater offense. (*Ibid.*) The court should direct the jury to reconsider the “lone verdict of conviction of the lesser included offense” in light of this instruction. (*Ibid.*; Pen. Code, § 1161.) If the jury is deadlocked on the greater offense but the court nevertheless records a guilty verdict on the lesser included offense and then discharges the jury, retrial on the greater offense will be barred. (*People v. Fields, supra*, 13 Cal.4th at p. 307; Pen. Code, § 1023.)

The court may not control the sequence in which the jury considers the offenses. (*People v. Kurtzman, supra*, 46 Cal.3d at p. 330.)

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- Lesser Included Offenses—Duty to Instruct ▶ Pen. Code, § 1159; *People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094].
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Secondary Sources

5 Witkin & Epstein, California Criminal Law (~~3d~~4th ed. ~~2000~~2012) Criminal Trial, §§ ~~630, 631~~708-712.

6 Witkin & Epstein, California Criminal Law (3d ed. 2000) Criminal Judgment, § 61.

4 Millman, Sevilla & Tarlow, California Criminal Defense Practice, Ch. 85, *Submission to Jury and Verdict*, §§ 85.03[2][g], 85.05, 85.20 (Matthew Bender).

RELATED ISSUES

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The court has a **sua sponte** duty to instruct “on lesser included offenses when the evidence raises a question as to whether all of the elements of the charged offense were present [citation] but not when there is no evidence that the offense was less than that charged. [Citations.] The obligation to instruct on lesser included offenses exists even when as a matter of trial tactics a defendant not only fails to request the instruction but expressly objects to its being given. [Citations.] Just as the People have no legitimate

interest in obtaining a conviction of a greater offense than that established by the evidence, a defendant has no right to an acquittal when that evidence is sufficient to establish a lesser included offense. [Citations.]” (*People v. Breverman* (1998) 19 Cal.4th 142, 154–155 [77 Cal.Rptr.2d 870, 960 P.2d 1094].)

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Lesser Included Offenses Barred by Statute of Limitations

The defendant may waive the statute of limitations to obtain a jury instruction on a lesser offense that would otherwise be time-barred. (*Cowan v. Superior Court* (1996) 14 Cal.4th 367, 373 [58 Cal.Rptr.2d 458, 926 P.2d 438].) However, the court has no sua sponte duty to instruct on a lesser that is time-barred. (*People v. Diedrich* (1982) 31 Cal.3d 263, 283 [182 Cal.Rptr. 354, 643 P.2d 971].) If the court instructs on an uncharged lesser offense that is time-barred without obtaining an explicit waiver from the defendant, it is unclear if the defendant must object at that time in order to raise the issue on appeal or if the defendant may raise the issue for the first time on appeal. (See *People v. Stanfill* (1999) 76 Cal.App.4th 1137, 1145–1151 [90 Cal.Rptr.2d 885] [reasoning criticized in *People v. Smith* (2002) 98 Cal.App.4th 1182, 1193–1194 [120 Cal.Rptr.2d 185]].) The better practice is to obtain an explicit waiver on the statute of limitations when instructing on a time-barred lesser.

Conviction of Greater and Lesser

The defendant cannot be convicted of a greater and a lesser included offense. (*People v. Moran* (1970) 1 Cal.3d 755, 763 [83 Cal.Rptr. 411, 463 P.2d 763].) If the evidence supports the conviction on the greater offense, the conviction on the lesser included offense should be set aside. (*Ibid.*)

3519. Deliberations and Completion of Verdict Forms: Lesser Offenses—For Use When Lesser Included Offenses and Greater Crimes Are Separately Charged (Non-Homicide)

If all of you find that the defendant is not guilty of a greater charged crime, you may find (him/her) guilty of a lesser crime if you are convinced beyond a reasonable doubt that the defendant is guilty of that lesser crime. A defendant may not be convicted of both a greater and lesser crime for the same conduct.

[Now I will explain to you ~~which charges are~~ the crimes affected by this instruction [including lesser crimes of the lesser crimes]:]

[_____ <insert crime>, as charged in Count ____, is a lesser crime to _____ <insert crime> [as charged in Count ____].]

[_____ <insert crime>, as charged in Count ____, is a lesser crime to _____ <insert crime> [as charged in Count ____].]

[_____ <insert crime>, as charged in Count ____, is a lesser crime to _____ <insert crime> [as charged in Count ____].]

It is up to you to decide the order in which you consider each greater and lesser crime and the relevant evidence, but I can accept a verdict of guilty of the lesser crime only if you have found the defendant not guilty of the greater crime.

[[For (the/any) count in which a greater and lesser crime is charged,] (Y/y)ou will receive verdict forms of guilty and not guilty for [each/the] greater crime and lesser crime. Follow these directions before you give me any completed and signed, final verdict form. Return any unused verdict forms to me, unsigned.

1. If all of you agree the People have proved that the defendant is guilty of the greater crime, complete and sign the verdict form for guilty of that crime. Do not complete or sign any verdict form for the [corresponding] lesser crime.
2. If all of you cannot agree whether the People have proved that the defendant is guilty of the greater crime, inform me of your disagreement and do not complete or sign any verdict form for that

crime or the [corresponding] lesser crime.

3. If all of you agree the People have not proved that the defendant is guilty of the greater crime and also agree the People have proved that (he/she) is guilty of the lesser crime, complete and sign the verdict form for not guilty of the greater crime and the verdict form for guilty of the [corresponding] lesser crime. Do not complete or sign any other verdict forms [for those charges].
4. If all of you agree the People have not proved that the defendant is guilty of the greater or lesser crime, complete and sign the verdict form for not guilty of the greater crime and the verdict form for not guilty of the [corresponding] lesser crime.
5. If all of you agree the People have not proved that the defendant is guilty of the greater crime, but all of you cannot agree on a verdict for the lesser crime, complete and sign the verdict form for not guilty of the greater crime and inform me about your disagreement on the lesser crime.]

Whenever I tell you the People must prove something, I mean they must prove it beyond a reasonable doubt [unless I specifically tell you otherwise].

~~<Give the following paragraph if the court is instructing on a lesser included offense within another lesser included offense.>~~

~~[Follow these directions when you decide whether a defendant is guilty or not guilty of _____<insert crime>, which is a lesser crime of _____<insert crime>.]~~

New June 2007; Revised August 2012, insert date of council approval

BENCH NOTES

Instructional Duty

In all cases in which one or more lesser included offenses are submitted to the jury, whether charged or not, the court has a sua sponte duty to instruct on the applicable procedures. (*People v. Breverman* (1998) 19 Cal.4th 142, 162 [77 Cal.Rptr.2d 870, 960 P.2d 1094] [duty to instruct on lesser included offenses]; *People v. Dewberry* (1959) 51 Cal.2d 548, 555-557 [334 P.2d 852] [duty to instruct that if jury has reasonable doubt of greater offense, must acquit of that charge]; *People v. Fields* (1996) 13 Cal.4th 289, 309-

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Whenever greater and lesser included crimes are separately charged the court must use this instruction instead of CALCRIM 3517 or 3518.

Do not give this instruction for charges of murder or voluntary manslaughter; give CALCRIM No. 640, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*, CALCRIM No. 641, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With First Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses*, CALCRIM No. 642, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Not Guilty Forms for Each Level of Homicide*, or CALCRIM No. 643, *Deliberations and Completion of Verdict Forms: For Use When Defendant Is Charged With Second Degree Murder and Jury Is Given Only One Not Guilty Verdict Form for Each Count; Not to Be Used When Both Voluntary and Involuntary Manslaughter Are Lesser Included Offenses*.

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RELATED ISSUES

Duty to Instruct on Lesser

The court has a **sua sponte** duty to instruct “on lesser included offenses when the evidence raises a question as to whether all of the elements of the charged offense were present [citation] but not when there is no evidence that the offense was less than that charged. [Citations.] The obligation to instruct on lesser included offenses exists even when as a matter of trial tactics a defendant not only fails to request the instruction but expressly objects to its being given. [Citations.] Just as the People have no legitimate

interest in obtaining a conviction of a greater offense than that established by the evidence, a defendant has no right to an acquittal when that evidence is sufficient to establish a lesser included offense. [Citations.]” (*People v. Breverman* (1998) 19 Cal.4th 142, 154–155 [77 Cal.Rptr.2d 870, 960 P.2d 1094].)

Acquittal of Greater Does Not Bar Retrial of Lesser

Where the jury acquits of a greater offense but deadlocks on the lesser, retrial of the lesser is not barred. (*People v. Smith* (1983) 33 Cal.3d 596, 602 [189 Cal.Rptr. 862, 659 P.2d 1152].)

Lesser Included Offenses Barred by Statute of Limitations

The defendant may waive the statute of limitations to obtain a jury instruction on a lesser offense that would otherwise be time-barred. (*Cowan v. Superior Court* (1996) 14 Cal.4th 367, 373 [58 Cal.Rptr.2d 458, 926 P.2d 438].) However, the court has no sua sponte duty to instruct on a lesser that is time-barred. (*People v. Diedrich* (1982) 31 Cal.3d 263, 283 [182 Cal.Rptr. 354, 643 P.2d 971].) If the court instructs on an uncharged lesser offense that is time-barred without obtaining an explicit waiver from the defendant, it is unclear if the defendant must object at that time in order to raise the issue on appeal or if the defendant may raise the issue for the first time on appeal. (See *People v. Stanfill* (1999) 76 Cal.App.4th 1137, 1145–1151 [90 Cal.Rptr.2d 885] [reasoning criticized in *People v. Smith* (2002) 98 Cal.App.4th 1182, 1193–1194 [120 Cal.Rptr.2d 185]].) The better practice is to obtain an explicit waiver on the statute of limitations when instructing on a time-barred lesser.

Conviction of Greater and Lesser

The defendant cannot be convicted of a greater and a lesser included offense. (*People v. Moran* (1970) 1 Cal.3d 755, 763 [83 Cal.Rptr. 411, 463 P.2d 763].) If the evidence supports the conviction on the greater offense, the conviction on the lesser included offense should be set aside. (*Ibid.*)

3520–3529. Reserved for Future Use

CALCRIM 2014 Invitation to Comment
Revised CALCRIM Instructions

All comments are verbatim.

Instruction	Commentator	Comment	Response
601	Judge Charles 'Ben' Birch	On Proposed Instruction 601, in the <u>Authority</u> section, do you think it would be a good idea to also add the Pearson case citation as you did in Proposed instruction 521?	The committee agrees with this comment and has added the citation.
601	Judge Russell D. Scott	The highlighted text is the same language used in the proposed amendment to CALCRIM 521 (Defining First Degree Murder.) It works for 521 but needs to be modified for attempt to something like: "... acted with premeditation if (he/she) decided to kill before completing the act[s] that caused death constituted the attempt."	The committee agrees with this comment and has made the suggested change with a slight modification.



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 19, 2015

Title	Agenda Item Type
Judicial Council Report to the Legislature: Status Update of Judicial Branch Courthouse Construction Program for Fiscal Year 2014– 2015	Action Required
	Effective Date
	February 19, 2015
Rules, Forms, Standards, or Statutes Affected	Date of Report
None	January 16, 2015
Recommended by	Contact
Judicial Council Staff	Kelly Quinn, 818-558-3078
Curtis L. Child, Chief Operating Officer	kelly.quinn@jud.ca.gov
William J. Guerin, Director, Capital Program	

Executive Summary

The Judicial Council Capital Program recommends approving the status update of the judicial branch courthouse construction program for fiscal year 2014–2015 for submission to the Legislature. This report also indicates that actual fiscal year end revenues and expenditures of the construction program's Immediate and Critical Needs Account (ICNA) will be made available this fall, as a change is being requested to the Legislature's annual submission deadline so it aligns with when these figures become available. The annual submission of this report is required under Government Code section 70371.8.

Recommendation

The Chief Operating Officer recommends the Judicial Council direct staff to submit the attached status update report to the Legislature.

Previous Council Action

The previous report for fiscal years 2008–2009 through 2013–2014 can be found at www.courts.ca.gov/documents/lr-Status-of-JB-courthouse-const-prog.pdf.

Rationale for Recommendation

The annual submission of this report to the Legislature is required under Government Code section 70371.8—to report on the status of the courthouse capital projects in the judicial branch courthouse construction program and provide an accounting of their revenues and expenditures in the ICNA. The statute requires this report to be submitted to the Joint Legislative Budget Committee (JLBC) and the chairs of the budget committees in the state senate and assembly.

Because the deadline for the report's submission is March 1st of each year, rather than after fiscal year-end financial information is available, Capital Program staff is currently working through the council's Governmental Affairs office to request its change to a time after the end of the fiscal year (anticipated to be in the fall). This change is expected to be incorporated into 2015 budget act trailer bill language and take effect this summer, at the time the 2015 Budget Act is passed. In the interim, and to satisfy the upcoming legislative deadline of March 1, 2015, the attached report has been prepared to provide the current FY 2014–2015 status of the courthouse capital projects in the judicial branch courthouse construction program. Also, the report indicates that fiscal year end revenues and expenditures of the ICNA will be forthcoming this fall based on the requested change to the submission deadline.

Estimated ICNA figures for FY 2014–2015 have not been provided in the attached report because JLBC staff has communicated their preference for actual figures. JLBC staff supports a change in the submission deadline so that it will align in the future with the availability of actual figures from accounting closeout after the end of each fiscal year. The council's Capital Program is responsible for the accounting of revenues and expenditures in the ICNA and is able to generate an account summary within a few months following the close of each fiscal year.

Comments, Alternatives Considered, and Policy Implications

Council staff did not solicit comments on the recommended council action because it is factual and does not contain recommendations. However, JLBC staff was engaged for input on the content of the report and its timing for submission to the Legislature.

No alternatives were considered because submission of this report is required by statute.

Implementation Requirements, Costs, and Operational Impacts

The attached report is factual, with no recommendations and no consequential costs or impacts determined at this time.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommended council action supports Goal III (Modernization of Management and Administration) and Goal VI (Branchwide Infrastructure for Service Excellence).

Attachment

1. Status update of Judicial Branch Courthouse Construction Program, as required under Government Code section 70371.8



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Hon. Joan P. Weber*

MR. MARTIN HOSHINO
*Administrative Director,
Judicial Council*

February 19, 2015

Hon. Mark Leno
Chair, Joint Legislative Budget and
Senate Budget and Fiscal Review
Committees
1020 N Street, Room 553
Sacramento, California 95814

Hon. Shirley N. Weber
Vice-Chair, Joint Legislative
Budget Committee and Chair,
Assembly Budget Committee
1020 N Street, Room 553
Sacramento, California 95814

Re: Status Update of Judicial Branch Courthouse Construction Program,
as Required under Government Code Section 70371.8

Dear Senator Leno and Assembly Member Weber:

The Judicial Council respectfully submits this report to the Legislature in
accordance with Government Code section 70371.8.

Attached is a table that comprises the annual status update on the
courthouse capital projects of the judicial branch's Senate Bill 1407
courthouse construction program. This attachment lists the current status
of each capital project.

Please note that we are in the process of requesting a change to this
report's submission deadline in order to provide the legislature an entire
fiscal year's accounting of actual revenues and expenditures of the
construction program's Immediate and Critical Needs Account (ICNA).
Actual ICNA figures for fiscal years 2008–2009 through 2013–2014 were
submitted to you in October 2014. In fall 2015, we plan to submit an
update to this report containing actual ICNA revenues and expenditures
for fiscal year 2014–2015.

If you have questions related to this report, please contact Ms. Kelly
Quinn, Assistant Director for Business and Planning of the Judicial
Council's Capital Program at 818-558-3078 or kelly.quinn@jud.ca.gov.

Hon. Mark Leno
Hon. Shirley N. Weber
February 19, 2015
Page 2

Very truly yours,

Martin Hoshino
Administrative Director
Judicial Council of California

MH/CM

Attachment

cc: Members of the Joint Legislative Budget Committee

Hon. Brad R. Hill, Administrative Presiding Justice, Court of Appeal, Fifth Appellate District

Ms. Diane F. Boyer-Vine, Legislative Counsel

Mr. Daniel Alvarez, Secretary of the Senate

Mr. E. Dotson Wilson, Chief Clerk of the Assembly

Ms. Margie Estrada, Policy Consultant, Office of Senate President pro Tempore Kevin de León

Ms. Fredericka McGee, Deputy Chief of Staff, Office of Assembly Speaker Toni G. Atkins

Ms. Anita Lee, Fiscal & Policy Analyst, Legislative Analyst's Office

Ms. Tina McGee, Executive Secretary, Legislative Analyst's Office

Mr. Greg Rogers, Assistant Program Budget Manager, Department of Finance

Ms. Madelynn McClain, Program Budget Analyst, Department of Finance

Mr. Jason Haas, Program Budget Analyst, Department of Finance

Ms. Peggy Collins, Principal Consultant, Joint Legislative Budget Committee

Ms. Julie Salley-Gray, Consultant, Senate Budget and Fiscal Review Committee

Mr. Matt Osterli, Consultant, Senate Republican Fiscal Office

Mr. Marvin Deon, Consultant, Assembly Budget Committee

Mr. Allan Cooper, Consultant, Assembly Republican Fiscal Office

Ms. Jolie Onodera, Consultant, Senate Appropriations Committee

Mr. Chuck Nicol, Principal Consultant, Assembly Appropriations Committee

Mr. Benjamin Palmer, Chief Counsel, Senate Judiciary Committee

Ms. Leora Gershenzon, Staff Counsel, Assembly Judiciary Committee

Mr. Mike Petersen, Consultant, Senate Republican Policy Office

Mr. Paul Dress, Consultant, Assembly Republican Policy Office

Mr. Curtis L. Child, Chief Operating Officer, Judicial Council

Mr. Cory T. Jaspersen, Director, Governmental Affairs, Judicial Council

Mr. William J. Guerin, Director, Capital Program, Judicial Council

Ms. Kelly Quinn, Assistant Director for Business and Planning, Capital Program, Judicial Council

Mr. Peter Allen, Senior Manager, Communications, Judicial Council

Ms. Angela Guzman, Supervising Budget Analyst, Capital Program, Judicial Council

Ms. Keby Boyer, Communications Specialist, Communications, Judicial Council

Ms. Yvette Casillas-Sarcos, Administrative Coordinator, Governmental Affairs, Judicial Council

Status of Judicial Branch Courthouse Construction Program
(required under Senate Bill 12, Special Session (SBX2 12, Ch. 10, Statutes of 2009)/Gov. Code § 70371.8)
February 19, 2015

County	Capital Project Name	Capital Project Status
1 Alameda	New East County Courthouse	Construction began in August 2014 and is scheduled to end in first quarter of 2017
2 Butte	New North Butte County Courthouse	Construction began in May 2013 and is scheduled to end in first quarter of 2015
3 El Dorado	New Placerville Courthouse	In site acquisition; reappropriate site acquisition and preliminary plans in FY 2015–2016
4 Glenn	Renovate and Addition to Willows Courthouse	In working drawings; construction to start in FY 2014–2015 and is scheduled to end in fourth quarter of 2016
5 Imperial	New El Centro Courthouse	In design; proceed with working drawings in FY 2014–2015 and into FY 2015–2016
6 Inyo	New Inyo County Courthouse	In site acquisition; reappropriate site acquisition and preliminary plans in FY 2015–2016
7 Kings	New Hanford Courthouse	Construction began in August 2013 and is scheduled to end in fourth quarter of 2015
8 Lake	New Lakeport Courthouse	In working drawings; start construction in FY 2015–2016
9 Los Angeles	New Eastlake Juvenile Courthouse	In site acquisition; reappropriate site acquisition in FY 2015–2016
10 Los Angeles	New Hollywood Courthouse Modernization	In design; construction to start in FY 2015–2016 and is scheduled to end in second quarter of 2017
11 Mendocino	New Ukiah Courthouse	In site acquisition; proceed with design in FY 2014–2015; start working drawings in FY 2015–2016
12 Merced	New Los Banos Courthouse	Bidding in process; construction to start in FY 2014–2015 and is scheduled to end in second quarter of 2016
13 Riverside	New Indio Juvenile and Family Courthouse	In design; proceed with working drawings in FY 2014–2015 and into FY 2015–2016
14 Riverside	New Mid-County Civil Courthouse	In site acquisition; reappropriate site acquisition and preliminary plans in FY 2015–2016
15 Sacramento	New Sacramento Criminal Courthouse	In design; proceed with preliminary plans and working drawings using one-time funds authorized by AB 1476
16 San Diego	New Central San Diego Courthouse	Construction began in December 2013 and is scheduled to end in fourth quarter of 2016
17 San Joaquin	Renovate Juvenile Justice Center	Construction began in June 2014 and is scheduled to end in second quarter of 2015
18 Santa Barbara	New Santa Barbara Criminal Courthouse	In design; proceed with working drawings and demolition of existing structures on new courthouse site (using construction-phase funding of \$0.400 million) in FY 2015–2016
19 Santa Clara	New Santa Clara Family Justice Center	Construction began in August 2013 and is scheduled to end in first quarter of 2016
20 Shasta	New Redding Courthouse	In design; proceed with working drawings and demolition of existing structures on new courthouse site (using construction-phase funding of \$0.174 million) in FY 2015–2016
21 Siskiyou	New Yreka Courthouse	In working drawings; construction bidding in FY 2015–2016
22 Sonoma	New Santa Rosa Criminal Courthouse	In design; proceed with working drawings in FY 2015–2016
23 Stanislaus	New Modesto Courthouse	In design; proceed with working drawings in FY 2015–2016
24 Sutter	New Yuba City Courthouse	Construction began in August 2013 and is scheduled to end in second quarter of 2015
25 Tehama	New Red Bluff Courthouse	Construction began in December 2014 and is scheduled to end in third quarter of 2016
26 Tuolumne	New Sonora Courthouse	In design; proceed with working drawings in FY 2015–2016
27 Yolo	New Woodland Courthouse	Construction began in May 2013 and is scheduled to end in second quarter of 2015

County	Capital Project Name	Indefinitely-Delayed Capital Project Status
28 Fresno	Renovate Fresno County Courthouse	Indefinitely delayed as of Judicial Council meetings on October 26, 2012, and January 17, 2013
29 Kern	New Delano Courthouse	
30 Kern	New Mojave Courthouse	
31 Los Angeles	New Glendale Courthouse	
32 Los Angeles	New Santa Clarita Courthouse	
33 Los Angeles	New Southeast Los Angeles Courthouse	
34 Monterey	New South Monterey County Courthouse	
35 Nevada	New Nevada City Courthouse	
36 Placer	New Tahoe Area Courthouse	
37 Plumas	New Quincy Courthouse	

Proceed – Projects will move forward as indicated above.

Indefinitely Delayed – Projects are indefinitely delayed until funds become available in the future. No work to proceed on site acquisition or design, unless specified above.

Note: In October 2012, the Judicial Council referred one project, a renovation of the Lancaster (McCourtney Juvenile) Courthouse in Los Angeles County, to its Trial Court Facility Modification Advisory Committee for consideration of funding as a facility modification. The scope of this project is currently being developed with the Los Angeles Superior Court.



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 19, 2015

Title	Agenda Item Type
Judicial Council Report to the Legislature: Fiscal Year 2013–2014 Expenditures of the Trial Court Interpreters Program	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	February 19, 2015
Recommended by	Date of Report
Donna Hershkowitz, Director Court Operations Services, Judicial Council	January 20, 2015
	Contact
	Catharine Price, 415-865-7783 cat.price@jud.ca.gov

Executive Summary

The Judicial Council's Court Operations Services office recommends approving the annual report on trial court interpreter expenditures for submission to the Legislature and the Department of Finance. This report is required by the Budget Act of 2013.

Recommendation

The Judicial Council's Court Operations Services office respectfully recommends that the Judicial Council, effective February 19, 2015:

1. Approve the attached report to the Legislature summarizing the fiscal year 2013–2014 trial court interpreter expenditures in conformance with the requirements of the Budget Act of 2013 (Stats. 2013, ch. 20); and
2. Direct staff to submit the report to the Legislature and the Department of Finance.

Previous Council Action

At the Judicial Council business meeting on February 20, 2014, the Judicial Council approved the *Trial Court Interpreters Program Expenditure Report for Fiscal Year 2012–2013* for submission to the Legislature, summarizing the fiscal year 2012–2013 trial court interpreter expenditures in conformance with the requirements of the Budget Act of 2012 (Stats. 2012, ch. 21) and directed submission of the report to the Legislature. The Judicial Council has also approved previous reports submitted in prior years. Copies of previous reports can be found at www.courts.ca.gov/7466.htm.

Rationale for Recommendation

The Budget Act of 2013 (Stats. 2013, ch. 20), item 0250-101-0932, Schedule (4), provides appropriation from the Trial Court Trust Fund for the services of court interpreters. Provision 3 states that “[t]he Judicial Council shall report to the Legislature and the Director of Finance annually regarding expenditures from Schedule (4).” In fulfillment of that provision, this report details trial court expenditures for court interpreters.

Comments, Alternatives Considered, and Policy Implications

This report was not circulated for comment. Preparation and submission of this report is mandated by the annual Budget Act, and thus no alternatives were considered.

Implementation Requirements, Costs, and Operational Impacts

No costs or operational impacts are associated with the approval of this report.

Attachments

1. Attachment A: *Trial Court Interpreters Program Expenditure Report for Fiscal Year 2013–2014*

ATTACHMENT A



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MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

Report Summary

Report title: *Trial Court Interpreters Program Expenditure Report for Fiscal Year 2013–2014*

Statutory citation: Budget Act of 2013 (Stats. 2013, ch. 20)

Date of report: February 19, 2015

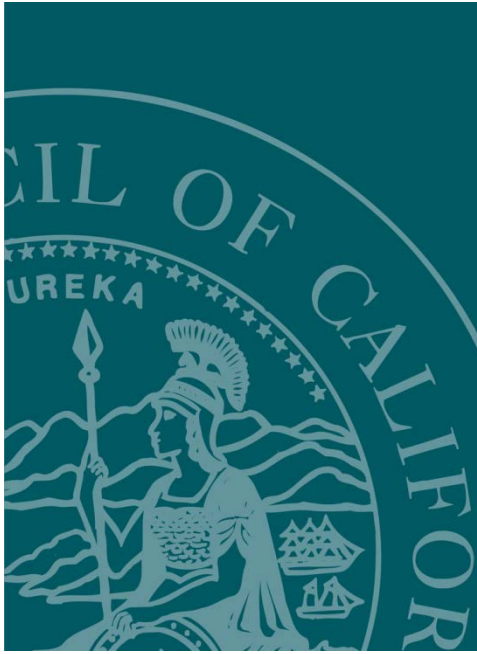
The Judicial Council has submitted a report to the Legislature in accordance with provision 3, item 0250-101-0932, of the Budget Act of 2013 (Stats. 2013, ch. 20).

The following summary of the report is provided under the requirements of Government Code section 9795.

Funding appropriated in the Trial Court Trust Fund line item for Program 45.45 in fiscal year (FY) 2013–2014 was \$92,794,000. Reimbursements reported for allowable court interpreter expenditures incurred in FY 2013–2014 totaled \$92,471,280, an increase of \$4,662,760, a 5.31 percent increase over FY 2012–2013 expenditures (\$87,808,520).

Of the 5.31 percent increase in expenditures, \$2,442,546 is attributable to costs related to court interpreter services for all appearances in domestic violence cases, family law cases with a domestic violence issue, and elder or dependent adult abuse cases, as well as for expenditures on court interpreter services for indigent parties in civil cases as authorized by the Judicial Council in January 2014.

The full *Trial Court Interpreters Program Expenditure Report for Fiscal Year 2013–2014* is available at www.courts.ca.gov/7466.htm. A printed copy of the report may be obtained by calling 415-865-4288.



Trial Court Interpreters Program Expenditure Report for Fiscal Year 2013–2014

REPORT TO THE LEGISLATURE
FEBRUARY 2015



JUDICIAL COUNCIL
OF CALIFORNIA

COURT LANGUAGE ACCESS
SUPPORT PROGRAM

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Tani G. Cantil-Sakauye
*Chief Justice of California and
Chair of the Judicial Council*

Mr. Martin Hoshino
*Administrative Director
Judicial Council*

Mr. Curtis L. Child
Chief Operating Officer
**OPERATIONS AND PROGRAMS
DIVISION**

COURT OPERATIONS SERVICES
Ms. Donna Hershkowitz
Director

Court Language Access Support Program
Ms. Catharine Price
Manager

Ms. Sonia Sierra Wolf
Primary Author of Report

I. Background

Mandates to Provide Court Interpreting Services

Article I, section 14, of the California Constitution was amended in 1974 to provide that “[a] person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.” This provision establishes a mandate for the courts to provide interpreters in criminal matters to all defendants who have a limited ability to understand or speak English. Further state court rulings subsequent to the constitutional amendment established the right to a court interpreter in delinquency and some family law matters for individuals with limited English proficiency. On January 23, 2014, the Judicial Council took action to expand the allowable expenditures authorized for reimbursement from the Trial Court Trust Fund, Program 45.45 appropriation.¹

In addition to the constitutional mandate and state court rulings, under federal law, individuals with hearing disabilities who require sign language interpreters must receive court interpreter services at no cost in all court proceedings.

Statutory Requirement to Report on Expenditures

The Budget Act of 2013 (Stats. 2013, ch. 20), item 0250-101-0932, Schedule (4), provides appropriation from the Trial Court Trust Fund for the services of court interpreters. Provision 3 states that “[t]he Judicial Council shall report to the Legislature and the Director of Finance annually regarding expenditures from Schedule (4).” Consistent with the requirements, this report details trial court expenditures for court interpreter services.

Program 45.45 Funding

- Funding appropriated in the Trial Court Trust Fund for Program 45.45 in fiscal year (FY) 2013–2014 was \$92,794,000, of which \$92,707,000 was available for reimbursement to courts for allowable court interpreter costs.²
- The appropriation amount has remained unchanged since FY 2009–2010.
- Program 45.45 savings are restricted by the Judicial Council to be used for court interpreter costs.³
- Court reimbursements reported for allowable court interpreter expenditures incurred in FY 2013–2014 totaled \$92,471,280, or 99.74 percent of available funds, an increase of \$4,662,760 (5.31 percent) over FY 2012–2013 appropriated funds (\$87,808,520).

¹ The full report to the council is available on the California Courts website at www.courts.ca.gov/documents/jc-20140123-itemD.pdf.

² Of the TCTF Program 45.45 appropriation, \$87,000 is authorized for funding the Court Interpreter Data Collection System.

³ On October 29, 2010, the Judicial Council approved the savings from FY 2009–2010 and any future expenditure savings to be set aside to address future reimbursable court interpreter costs. The cumulative savings exclude the \$3 million redirected by the Judicial Council at its July 22, 2011, meeting to offset trial court budget reductions.

- Of the 5.31 percent increase in expenditures, \$2,442,546 is attributable to costs related to court interpreter services for all appearances in domestic violence cases, family law cases with a domestic violence issue, and elder or dependent adult abuse cases, as well as for expenditures on court interpreter services for indigent parties in civil cases as authorized by the Judicial Council in January 2014.

II. Allowable Expenditures

The following expenditures qualify for reimbursement under Program 45.45:

1. Contract court interpreters, including per diems (see section III) and travel;
2. Certified and registered court interpreters employed by the courts, including salaries, benefits, and travel;
3. Court interpreter coordinators who are certified or registered court interpreters, including salaries and benefits; and
4. Four court interpreter supervisor positions: two in Los Angeles County, one in Orange County, and one in San Diego County. These are the only positions funded under Program 45.45 that include funding for standard operating expenses and equipment.⁴

On January 23, 2014, the Judicial Council adopted the recommendations of the Ad Hoc Joint Working Group to Address Court Interpreter Issues to expand the allowable use of the Program 45.45 appropriation (funding for court interpreter services). The Judicial Council authorized trial courts to request reimbursement from the Trial Court Trust Fund Program 45.45 appropriation for costs related to court interpreter services for all appearances in domestic violence cases, family law cases with a domestic violence issue, and elder or dependent adult abuse cases. The council also approved that trial courts can request reimbursement from the Trial Court Trust Fund Program 45.45 appropriation, and any unused savings from that appropriation, for expenditures on court interpreter services for indigent parties in civil cases.

Attachment 1 provides a summary by court, as well as by category, of the reimbursements for allowable court interpreter expenditures.

III. Rates of Pay for Court Interpreters

The Judicial Council first established statewide standards for court interpreter compensation in January 1999 at two defined levels, a full-day rate and a half-day rate.

⁴ Limited by item 0250-101-0932, provision 3, of the Budget Act of 2013 to 1.0 personnel year (PY) each for counties in classes 1–15, 0.5 PY each for counties in classes 16–31, and 0.25 PY each for counties in classes 32–58. The Budget Act of 2013 defines county classes based on size of population: counties in classes 1–15 have populations greater than 500,000; classes 16–31 have populations between 130,000 and 500,000; and classes 32–58 have populations less than 130,000.

Statewide Standard Rate for Certified and Registered Contract Court Interpreters

Effective September 1, 2007, the Judicial Council increased the statewide standard pay rate for certified and registered independent contractor interpreters to \$282.23 for a full day and \$156.56 for a half day. The full-day rate of \$282.23 represents a 41 percent increase over the original January 1999 rate of \$200.

Certified Court Interpreters vs. Registered Court Interpreters

Interpreters who pass the Written Exam and the Bilingual Interpreting Exam or the required exam for American Sign Language and fulfill the corresponding Judicial Council requirements are referred to as certified court interpreters. Currently, California recognizes 15 certified languages: American Sign Language, Arabic, Eastern Armenian, Western Armenian, Cantonese, Japanese, Khmer, Korean, Mandarin, Portuguese, Punjabi, Russian, Spanish, Tagalog, and Vietnamese.

An interpreter of a spoken language that is not a certified language is required to pass the Written Exam and a two-part Oral Proficiency Exam; one in English and one in the non-English (foreign) language. In order to be recognized as registered interpreters, these interpreters must also fulfill all corresponding Judicial Council requirements.

Statewide Standard for Noncertified and Nonregistered Interpreters

During FY 2013–2014, the statewide standard rate for noncertified and nonregistered interpreters remained \$175 for a full day and \$92 for a half day, the same rate established by the Judicial Council in July 1999. Actual rates paid to contract interpreters, whether certified/registered or noncertified/nonregistered, often exceed the statewide standards because each assignment must be negotiated by the trial court and is subject to current market rates, including supply and demand.

Noncertified and Nonregistered Interpreters

Noncertified and nonregistered court interpreters who have not taken or passed the required examinations but who have demonstrated language proficiency may be provisionally qualified by the court. They may be used when no certified or registered interpreter is available, as may be the case when a rare dialect or indigenous language is needed.⁵

⁵ The court is required to appoint a certified interpreter to interpret in a language designated by the Judicial Council (Gov. Code, § 68561) or a registered interpreter to interpret in a language not designated by the Judicial Council. The court may appoint a noncertified interpreter if the court (1) on the record finds good cause to appoint a noncertified interpreter and finds the interpreter to be qualified and (2) follows the procedures adopted by the Judicial Council (Gov. Code, §§ 68561(c), 68564(d) and (e); Cal. Rules of Court, rule 2.893). The court may appoint nonregistered interpreters only if (1) a registered interpreter is unavailable and (2) the good cause qualifications and procedures adopted by the Judicial Council under Government Code section 68561(c) have been followed. (See Gov. Code, § 71802(b)(1) and (d).)

Comparison with Federal Rates

Provision 3 of the Budget Act states that “*the Judicial Council shall set statewide or regional rates and policies for payment of court interpreters, not to exceed the rate paid to certified interpreters in the federal court system.*”

The current federal rates for contract court interpreters are \$412/full day and \$233/half day for certified interpreters and \$198/full day and \$109/half day for noncertified interpreters.⁶ California employee court interpreters negotiate salaries, benefits, and working conditions regionally. They receive health and retirement benefits that increase the total value of their compensation by 30 to 35 percent. The federal system relies almost exclusively on contract interpreters, whereas court interpreter assignments in the California state courts are increasingly performed by employee court interpreters.

IV. Expenditures for Employee and Contract Interpreters in Mandated Cases

Expenditures for Certified and Registered Employees and Contract Interpreters

Table 1 details reimbursed expenditures for the past five years for employee-related and contract court interpreter costs expended for mandated cases. Total employee-related expenditures were 77.36 percent of total interpreter reimbursements in FY 2009–2010, progressively increasing to 84.35 percent of total interpreter reimbursements in FY 2013–2014. Contract interpreter expenditures, in the same period decreased from 22.64 percent to 15.65 percent. The trend of expenditures, both in actual dollars expended and percentage of total expenditures continues to shift toward employee-related costs.

Table 1. Expenditures for Certified and Registered Employees and Contract Interpreters for Mandated Cases

Fiscal Year	2009–2010	2010–2011	2011–2012	2012–2013	2013–2014
Total Employee-Related Expenditures	\$68,042,596	\$71,763,311	\$72,835,667	\$73,871,935	\$75,939,519
% of Total	77.36	79.78	81.67	84.13	84.35
Total Contractor Expenditures	\$19,912,471	\$18,188,643	\$16,351,818	\$13,936,585	\$14,089,215
% of Total	22.64	20.22	18.33	15.87	15.65
Total	\$87,955,067	\$89,951,954	\$89,187,485	\$87,808,520	\$90,028,374

⁶ Federal rates of pay for court interpreters are available at www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters/ContractInterpretersFees.aspx.

Expenditures for Noncertified and Nonregistered Contract Interpreters

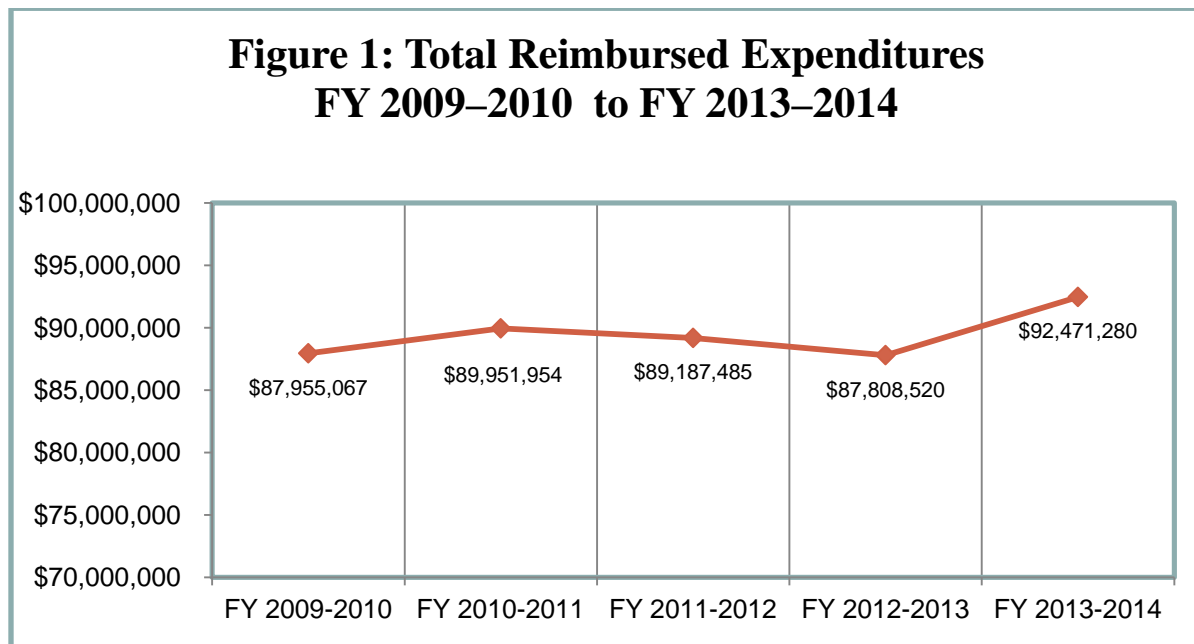
During FY 2013–2014, statewide expenditures for noncertified contract interpreters equaled \$1,233,769, or 1.33 percent of total statewide expenditures (\$92,471,280). Statewide expenditures for nonregistered contract interpreters equaled \$745,004, or 0.81 percent of total statewide expenditures. Statewide expenditures for noncertified and nonregistered contract interpreters decreased by \$40,856 from the prior year and accounted for 2.14 percent of total statewide interpreter costs.

Table 2 illustrates annual statewide expenditures over the past five years (excluding travel) for noncertified and nonregistered interpreters, and the percentage of total reimbursements for court interpreter services for mandated cases (\$90,028,374). The annual percentages show a continuous downward trend, from 4.18 percent in FY 2009–2010 to 2.14 percent in FY 2013–2014.

Table 2. Expenditures for Noncertified and Nonregistered Contract Interpreters for Mandated Cases

Fiscal Year	2009–2010	2010–2011	2011–2012	2012–2013	2013–2014
Noncertified Expenditures	\$2,816,013 3.20%	\$2,488,385 2.77%	\$1,642,989 1.84%	\$1,338,401 1.52%	\$1,233,769 1.37%
Nonregistered Expenditures	\$862,814 0.98%	\$797,239 0.89%	\$735,860 0.83%	\$681,188 0.78%	\$745,004 0.83%
Combined Expenditures	\$3,678,827 4.18%	\$3,285,624 3.65%	\$2,378,849 2.67%	\$2,019,589 2.30%	\$1,978,733 2.14%

Figure 1 depicts total reimbursed court interpreter expenditures over the past five years.



V. Distribution of Reimbursed Expenditures

Table 4 lists the 11 courts that received the largest reimbursements for allowable court interpreter expenditures in FY 2013–2014. These 11 courts accounted for \$73,011,489 or 78.96 percent of the state’s reimbursed expenditures for court interpreters.

Table 4. Distribution of Reimbursed Expenditures		
Superior Court	FY 2013–2014 Reimbursed Expenditures (\$)	Percentage of Statewide Total
Los Angeles	33,487,246	36.21%
Orange	8,454,234	9.14
San Diego	5,703,061	6.17
San Bernardino	4,383,902	4.74
Santa Clara	4,022,324	4.35
Alameda	3,974,706	4.30
Sacramento	3,420,909	3.70
Riverside	3,341,903	3.61
Kern	2,186,666	2.36
Fresno	2,060,261	2.23
San Francisco	1,976,637	2.14
Subtotal	73,011,849	78.96
Remaining Courts	19,459,431	21.04
Statewide Total	\$92,471,280	100.00%

VI. Conclusion

In FY 2013–2014, the state appropriation was sufficient to provide all courts with full reimbursement of their reported allowable court interpreter expenditures. However, the expansion of services to provide interpreters in all civil proceedings may result in the need for future additional funding to continue to adequately meet the anticipated increase in services provided.

The California judicial branch is committed to providing meaningful language access to the state’s seven million limited-English-proficient individuals by expanding language access services statewide. In April 2013, the Joint Working Group for California’s Language Access Plan (JWG) was established. The JWG’s final report, *Strategic Plan for Language Access in the California Courts*, was adopted by the Judicial Council on January 22, 2015. The Language Access Plan provides recommendations to expand language access in the courts, including the need to expand court interpreter services to all civil proceedings.

VII. Attachment

1. FY 2013–2014 Court Interpreters Program 45.45 Year-End Reimbursed Expenditures Using TCTF Program 45.45 (Court Interpreter) Appropriation

Reimbursement of Courts

FY 2013-2014 Court Interpreter-Related Expenditures Using TCTF Program 45.45 (Court Interpreter) Appropriation

Court	Mandated Cases -- Reimbursed Employee-Related Interpreter Costs							Total Employee-Related Costs H (D+E+F+G)
	Staff Interpreter Salaries & Benefits A	Staff Interpreter Travel B	Staff Cross Assignment Costs C	Total Staff Interpreter Salaries, Benefits & Travel D (A + B + C)	CIP Arbitration Awards E	Interpreter Coordinator Reimbursed Amount F	Supervisor Salaries, Benefits, & OE&E (\$12,500/FTE) G	
	Alameda	3,220,338	11,028		3,231,366		138,298	
Alpine				-				-
Amador				-				-
Butte				-				-
Calaveras				-				-
Colusa				-				-
Contra Costa	1,457,238	3,222		1,460,460				1,460,460
Del Norte				-				-
El Dorado	110,140	3,311		113,451				113,451
Fresno	1,741,470	5,974	5,483	1,752,927		133,164		1,886,091
Glenn				-				-
Humboldt				-				-
Imperial	420,144	329		420,473				420,473
Inyo				-				-
Kern	1,835,771	17,000		1,852,771				1,852,771
Kings	190,794	1,437		192,231				192,231
Lake				-				-
Lassen				-				-
Los Angeles	29,148,770	346	390,603	29,539,719			319,393	29,859,112
Madera	357,012			357,012				357,012
Marin	426,603	985		427,588				427,588
Mariposa				-				-
Mendocino	131,213			131,213				131,213
Merced	587,352	2,973		590,325				590,325
Modoc				-				-
Mono	26,766			26,766				26,766
Monterey	612,541	170	535	613,246				613,246
Napa	307,881			307,881				307,881
Nevada				-				-
Orange	6,888,765	6,233	72,106	6,967,104			163,195	7,130,299
Placer	127,509			127,509				127,509
Plumas				-				-
Riverside	2,617,805	1,366	1,067	2,620,238				2,620,238
Sacramento	2,593,887	9,508	190,910	2,794,305				2,794,305
San Benito				-				-
San Bernardino	3,933,903	177	2,975	3,937,055				3,937,055
San Diego	5,050,349	6,844	23,850	5,081,043			48,627	5,129,670
San Francisco	1,513,745	259	9,527	1,523,531				1,523,531
San Joaquin	647,430	1,099	133,308	781,837				781,837
San Luis Obispo	360,331	435		360,766				360,766
San Mateo	1,331,642	1,442	311	1,333,395				1,333,395
Santa Barbara	960,814	923		961,737				961,737
Santa Clara	3,239,055	13,517	95,872	3,348,444				3,348,444
Santa Cruz	801,570	8		801,578				801,578
Shasta				-				-
Sierra				-				-
Siskiyou				-				-
Solano	108,840			108,840				108,840
Sonoma	1,034,735	23	23,988	1,058,746				1,058,746
Stanislaus	284,682	337		285,019		10,514		295,533
Sutter	115,514	407		115,921				115,921
Tehama	242,717			242,717				242,717
Trinity				-				-
Tulare	730,089			730,089				730,089
Tuolumne				-				-
Ventura	705,971	479		706,450		97,522		803,972
Yolo	62,526			62,526		62,527		125,053
Yuba				-				-
TOTAL	73,925,912	89,832	950,535	74,966,279	-	442,025	531,215	75,939,519

FY 2013-2014 Court Interpreter-Related Expenditures Using TCTF Program 45.45 (Court Interpreter) Appropriation

Court	Mandated Cases -- Reimbursed Contractor-Related Interpreter Costs									Mandated Cases Total Reimbursed Expenditures
	Registered Contractor Per Diems	Certified Contractor Per Diems	Non-Registered Contractor Per Diems	Non-Certified Contractor Per Diems	ASL Contractor Per Diems	Telephonic Interpreting	Total Contractor Per Diems	Contractor Travel, Mileage, Meals, & Lodging	Total Contractor-Related Costs	
	I	J	K	L	M	N	(I thru N)	P	(O + P)	
Alameda	79,237	186,528	60,721	75,618	80,553	1,550	484,207	83,745	567,952	3,937,616
Alpine						294	294		294	294
Amador		10,597					10,597	10,105	20,702	20,702
Butte	2,701	67,814	525	1,333	7,589	1,043	81,005	58,639	139,644	139,644
Calaveras		7,152	744	1,898			9,794	2,525	12,319	12,319
Colusa		65,112			595		65,707	27,596	93,303	93,303
Contra Costa	50,441	162,549	4,444	33,521	430		251,385	27,392	278,777	1,739,237
Del Norte		24,179					24,179	7,906	32,085	32,085
El Dorado		23,892		3,752		1,446	29,090	9,825	38,915	152,366
Fresno	14,629	50,530	12,320	39,501	36,630		153,610	4,632	158,242	2,044,333
Glenn		5,167		26,368		126	31,661	21,144	52,805	52,805
Humboldt		48,001					48,001	25,869	73,870	73,870
Imperial		8,471				332	8,803	6,084	14,887	435,360
Inyo		23,847		175		600	24,622	11,231	35,853	35,853
Kern	46,392	118,248	8,213	72,650			245,503	60,076	305,579	2,158,350
Kings		54,768	6,733	175	2,715		64,391	19,030	83,421	275,652
Lake		61,503			920		62,423	9,071	71,494	71,494
Lassen		1,976		692	847	103	3,618	5,032	8,650	8,650
Los Angeles	152,490	1,117,829	207,187	89,694	732,088		2,299,288	326,638	2,625,926	32,485,038
Madera		70,681		21,359			92,040	45,507	137,547	494,559
Marin		35,830		3,978			39,808	15,086	54,894	482,482
Mariposa	282	8,553		452			9,287	12,571	21,858	21,858
Mendocino	17,600	34,564	40		2,474		54,678	64,868	119,546	250,759
Merced	13,254	64,420	1,187	15,120	5,520		99,501	107,307	206,808	797,133
Modoc	462	157	4,725				5,344	335	5,679	5,679
Mono		170		895	1,217		2,282	3,738	6,020	32,786
Monterey	30,299	95,553	23,607	60,154	1,400		211,013	43,785	254,798	868,044
Napa		143,869		92			143,961	26,305	170,266	478,147
Nevada		17,163		467	938	1,558	20,126	3,060	23,186	23,186
Orange	35,090	822,629	56,210	125,906	152,765		1,192,600	31,231	1,223,831	8,354,130
Placer	19,501	69,390	938	24,501	27,163	132	141,625	79,406	221,031	348,540
Plumas	1,690	706			313		2,709	6,897	9,606	9,606
Riverside	20,912	211,837	10,578	14,626	152,516	115	410,584	99,862	510,445	3,130,683
Sacramento	113,954	238,955	28,289	30,692	11,710		423,600	117,158	540,758	3,335,063
San Benito		93,076		1,044			94,120		94,120	94,120
San Bernardino	17,874	183,290	26,932	11,989			240,085	34,231	274,316	4,211,371
San Diego	85,600	213,253	37,742	133,399		1,992	471,986	77,328	549,314	5,678,984
San Francisco	50,022	182,078	40,080	64,056	33,714		369,950	31,869	401,819	1,925,350
San Joaquin	39,541	228,422	20,788	40,325			329,076	74,063	403,139	1,184,976
San Luis Obispo	3,960	31,458	1,231		8,450		45,099	11,847	56,946	417,712
San Mateo	24,302	122,116	18,422	62,135	7,112		234,087	35,145	269,232	1,602,627
Santa Barbara	32,898	204,463	24,869	530	8,427	311	271,498	54,569	326,067	1,287,804
Santa Clara	15,973	166,337	54,205	86,830	84,000		407,345	59,478	466,823	3,815,267
Santa Cruz	7,212	5,346	2,503	-	4,140		19,201	13,803	33,004	834,582
Shasta	41,236	35,787	847	11,633	10,897		100,400	122,424	222,824	222,824
Sierra		42				689	731		731	731
Siskiyou	220	38,247		875		2,025	41,367	19,045	60,412	60,412
Solano	11,850	123,360	5,507	57,339	20,369		218,425	23,522	241,947	350,787
Sonoma	19,789	70,558	13,011	4,656	24,953	29	132,996	26,867	159,863	1,218,609
Stanislaus	31,544	188,269	8,329	23,914	14,006		266,062	93,680	359,742	655,275
Sutter	7,051	9,779	3,854	21,741	3,231		45,656	31,329	76,985	192,906
Tehama	1,129	6,188	147	350	313		8,127	7,730	15,857	258,574
Trinity		6,072	92	92			6,256	10,140	16,396	16,396
Tulare	20,971	446,138	6,626	29,800	46,489		550,024	112,918	662,942	1,393,031
Tuolumne		12,064		92			12,156	3,093	15,249	15,249
Ventura	24,699	657,525	19,120	31,162			732,506	72,420	804,926	1,608,898
Yolo	28,581	226,924	34,081	8,188	4,606		302,380	116,740	419,120	544,173
Yuba	5,076	16,649	157		783	884	23,549	12,901	36,450	36,450
TOTAL	1,068,462	7,120,081	745,004	1,233,769	1,489,873	13,229	11,670,418	2,418,798	14,089,215	90,028,734

Reimbursement of Courts

FY 2013-2014 Court Interpreter-Related Expenditures Using TCTF Program 45.45 (Court Interpreter) Appropriation

Court	Newly Eligible Expenditures				Total Newly Eligible Expenditures	Total W (R:W)
	Domestic Violence	Family Law with Domestic Violence Issues	Elder/ Dependent Adult Physical Abuse (non- financial)	Civil Cases with Indigent Parties		
	S	T	U	V		
Alameda	37,090				37,090	3,974,706
Alpine					-	294
Amador					-	20,702
Butte		4,013			4,013	143,657
Calaveras					-	12,319
Colusa					-	93,303
Contra Costa		89,057			89,057	1,828,294
Del Norte	-	-	-	-	-	32,085
El Dorado	442	5,164			5,606	157,972
Fresno		15,928			15,928	2,060,261
Glenn					-	52,805
Humboldt	1,870	3,508		456	5,834	79,704
Imperial	21,136				21,136	456,496
Inyo	6,290	8,573			14,863	50,716
Kern	28,316				28,316	2,186,666
Kings					-	275,652
Lake	-	-	-	-	-	71,494
Lassen					-	8,650
Los Angeles	464,490	498,792	5,682	33,244	1,002,208	33,487,246
Madera	37,306				37,306	531,865
Marin	7,633	1,604			9,237	491,719
Mariposa					-	21,858
Mendocino					-	250,759
Merced	4,511				4,511	801,644
Modoc	70				70	5,749
Mono					-	32,786
Monterey	24,207				24,207	892,251
Napa	6,757	6,238			12,995	491,142
Nevada	422				422	23,608
Orange	100,104				100,104	8,454,234
Placer		15,533			15,533	364,073
Plumas					-	9,606
Riverside	137,293	73,927			211,220	3,341,903
Sacramento	85,846				85,846	3,420,909
San Benito					-	94,120
San Bernardino	49,324	119,831	3,376		172,531	4,383,902
San Diego		24,077			24,077	5,703,061
San Francisco	51,287				51,287	1,976,637
San Joaquin		1,007			1,007	1,185,983
San Luis Obispo					-	417,712
San Mateo	5,663	7,760			13,423	1,616,050
Santa Barbara	3,122	10,998			14,120	1,301,924
Santa Clara	207,057				207,057	4,022,324
Santa Cruz					-	834,582
Shasta	3,904	19,978			23,882	246,706
Sierra		2,190			2,190	2,921
Siskiyou					-	60,412
Solano		10,240			10,240	361,027
Sonoma		24,306			24,306	1,242,915
Stanislaus	36,034	50			36,084	691,359
Sutter	8,324	12,524			20,848	213,754
Tehama					-	258,574
Trinity					-	16,396
Tulare		36,610	459	50,750	87,819	1,480,850
Tuolumne		645			645	15,894
Ventura	22,078				22,078	1,630,976
Yolo	1,883				1,883	546,056
Yuba	342	1,516		1,709	3,567	40,017
TOTAL	1,352,801	994,069	9,517	86,159	2,442,546	92,471,280



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 19, 2015

Title	Agenda Item Type
Judicial Branch Education: Report to the Legislature on Compliance with Welfare and Institutions Code Section 304.7	Action Required
	Effective Date
	February 19, 2015
Recommended by	Date of Report
Diane Cowdrey, Director Center for Judiciary Education & Research	February 4, 2015
	Contact
	Nanette Zavala, Attorney, 415-865-4379 nanette.zavala@jud.ca.gov

Executive Summary

The Judicial Council's Center for Judiciary Education and Research recommends that the council review and approve the attached report to be submitted to the Legislature on the compliance by judges, commissioners, and referees with the education requirements of Welfare and Institutions Code section 304.7.

Recommendation

Judicial Council staff recommends that the Judicial Council, after reviewing the attached 2014 Juvenile Judicial Officer Training Survey, approve it to be submitted to the Legislature pursuant to Welfare and Institutions code section 304.7(c).

Previous Council Action

The Judicial Council has developed education and training for judges, commissioners, and referees in the area of juvenile dependency that satisfies the requirements of Welfare and

Institutes Code section I 304.7(a) and (b). With respect to subdivision (c), submitting an annual report to the Legislature, up until the present, it had been the policy that the report on compliance with Welfare and Institutions Code section 304.7 be sent directly to the Legislature from the Administrative Office of the Courts. This policy has recently been changed and this report shall now be submitted to the Judicial Council for review and approval prior to its submission to the Legislature.

Rationale for Recommendation

Welfare and Institutions Code section 304.7 requires the following:

- (a) The Judicial Council shall develop and implement standards for the education and training of all judges who conduct hearings pursuant to Section 300. The training shall include, but not be limited to, both of the following:
 - (1) A component relating to Section 300 proceedings for newly appointed or elected judges and an annual training session in Section 300 proceedings.
 - (2) Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth.
- (b) Any commissioner or referee who is assigned to conduct hearings held pursuant to Section 300 shall meet the minimum standards for education and training established pursuant to subdivision (a), by July 31, 1998.
- (c) The Judicial Council shall submit an annual report to the Legislature on compliance by judges, commissioners and referees with the education and training standards described in subdivisions (a) and (b).

Comments, Alternatives Considered, and Policy Implications

This is a mandated report to the Legislature.

Implementation Requirements, Costs, and Operational Impacts

There are no costs to submitting the mandated report to the Legislature.

Attachments and Links

1. 2014 Juvenile Judicial Officer Training Survey



JUDICIAL COUNCIL OF CALIFORNIA

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HON. DOUGLAS P. MILLER
Chair, Executive and Planning Committee

HON. DAVID M. RUBIN
Chair, Litigation Management Committee

HON. KENNETH K. SO
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Liaison Committee

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MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

February 6, 2015

Ms. Diane Boyer-Vine
Legislative Counsel
State Capitol, Suite 3021
Sacramento, California 95814

Mr. Daniel Alvarez
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

Re: 2014 Juvenile Judicial Officer Training Surveys as required under the
Welfare and Institutions Code Section 304.7

Dear Ms. Boyer-Vine, Mr. Alvarez, and Mr. Wilson:

Attached is the Judicial Council report for calendar year 2014, required
under Welfare and Institutions Code section 304.7, regarding the
education and reporting requirements for judicial officers who hear
juvenile dependency matters.

Ms. Diane F. Boyer-Vine
Mr. Daniel Alvarez
Mr. E. Dotson Wilson
February 6, 2015
Page 2

If you have any questions about this report, please contact Diane E Cowdrey, Director, Center for Judiciary Education and Research, Judicial Council, at 415-865-7795.

Sincerely,

Martin Hoshino
Administrative Director
Judicial Council

SJ/BL/rl
Attachment

cc: Margie Estrada, Policy Consultant, Office of Senate President pro Tempore Kevin de León
Fredericka McGee, Special Assistant to Assembly Speaker Toni G. Atkins
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REPORT SUMMARY

Report title: 2014 Juvenile Judicial Officer Training Survey

Statutory citation: Welfare and Institutions Code section 304.7

Date of report: February 6, 2015

The Judicial Council has submitted a report to the Legislature in accordance with Welfare and Institutions Code section 304.7.

The following summary of the report is provided under the requirements of Government Code section 9795.

This annual report to the Legislature describes compliance by judges, commissioners, and referees with the education and training standards described in subdivisions (a) and (b) of section 304.7 of the Welfare and Institutions Code.

The full report can be accessed at: www.courts.ca.gov/7466.htm

A printed copy of the report may be obtained by calling 415-865-7807.

2014 Juvenile Judicial Officer Training Survey

	<i>Judges</i>		<i>Commissioners</i>		<i>Referees</i>	
County	Assigned	Attended Training	Assigned	Attended Training	Assigned	Attended Training
Alameda	4	4	0	0	9	9
Alpine	0	0	0	0	0	0
Amador	2	2	0	0	0	0
Butte	3	3	1	1	0	0
Calaveras	1	1	0	0	0	0
Colusa	1	1	0	0	0	0
Contra Costa	4	4	0	0	0	0
Del Norte	2	2	0	0	0	0
El Dorado	4	4	1	1	0	0
Fresno	11	8	1	1	0	0
Glenn	1	1	0	0	0	0
Humboldt	2	2	0	0	0	0
Imperial	8	8	0	0	0	0
Inyo	2	2	0	0	0	0
Kern	3	3	0	0	1	1
Kings	7	7	0	0	0	0
Lake	2	2	0	0	0	0
Lassen	1	1	0	0	0	0
Los Angeles	15	15	6	6	4	4
Madera	3	0	0	0	0	0
Marin	2	2	0	0	0	0
Mariposa	2	2	0	0	0	0
Mendocino	3	2	0	0	0	0
Merced	4	4	0	0	0	0
Modoc	2	2	0	0	0	0
Mono	1	1	0	0	0	0
Monterey	0	0	0	0	0	0
Napa	6	6	2	2	0	0
Nevada	2	2	0	0	0	0
Orange	7	7	1	1	0	0
Placer	4	4	1	1	0	0
Plumas	1	0	0	0	0	0
Riverside	4	4	2	2	0	0
Sacramento	2	2	0	0	3	3
San Benito	2	2	0	0	0	0
San Bernardino	4	4	0	0	0	0
San Diego	14	11	2	2	0	0
San Francisco	3	3	2	2	0	0
San Joaquin	2	2	0	0	0	0
San Luis Obispo	5	1	1	1	0	0
San Mateo	6	6	0	0	0	0
Santa Barbara	6	3	0	0	0	0
Santa Clara	4	4	2	0	0	0
Santa Cruz	2	2	0	0	0	0
Shasta	3	3	0	0	0	0

2014 Juvenile Judicial Officer Training Survey

	<i>Judges</i>		<i>Commissioners</i>		<i>Referees</i>	
County	Assigned	Attended Training	Assigned	Attended Training	Assigned	Attended Training
Sierra	1	1	0	0	0	0
Siskiyou	3	3	0	0	0	0
Solano	0	0	0	0	0	0
Sonoma	3	1	1	1	0	0
Stanislaus	3	3	0	0	0	0
Sutter	5	5	0	0	0	0
Tehama	4	1	0	0	0	0
Trinity	2	2	0	0	0	0
Tulare	2	2	1	1	0	0
Tuolumne	2	2	0	0	0	0
Ventura	3	0	0	0	0	0
Yolo	4	1	0	0	0	0
Yuba	1	1	0	0	0	0
* No response received						



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 19, 2015

Title	Agenda Item Type
Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers	Action Required
	Effective Date
	March 1, 2015 and July 1, 2015
Rules, Forms, Standards, or Statutes Affected	Date of Report
Amend Cal. Rules of Court, rules 3.52, 3.55, and 8.818; revise forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015/FW-015-INFO	February 3, 2015
	Contact
	Anne M. Ronan, Senior Attorney, 415-865-8933, anne.ronan@jud.ca.gov
Recommended by	Heather Anderson, Senior Attorney, 415-865-7691, heather.anderson@jud.ca.gov
Civil and Small Claims Advisory Committee Hon. Patricia M. Lucas, Chair	Legal Services, Judicial Council
Appellate Advisory Committee Hon. Raymond Ikola, Chair	

Executive Summary

The Civil and Small Claims Advisory Committee recommends modifying the *Request to Waive Court Fees* (form FW-001) effective March 1, 2015 to reflect the 2015 increase to the federal poverty guidelines and at the same time make other clarifying changes to the form.

In addition, the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee jointly recommend amendments to the rules that list the court fees that must be waived as part of an initial fee waiver and those that may be waived at the court's discretion. The Appellate Advisory Committee recommends amending these rules to consolidate the list of mandatorily waived fees in one rule and to also list the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript. The Civil and Small Claims Advisory

Committee recommends further rule amendments to reflect recent changes in law that mandates that any fees charged for the court's cost for court reporting services and assessments for court investigation under certain provisions of the Probate Code be included in a waiver. Several fee waiver forms and information sheets would be revised to reflect these changes.

Recommendation

1. The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective March 1, 2015, amend *Request to Waive Court Fees* (form FW-001), to reflect 2015 increases in the federal poverty guidelines. Other non-substantive, clarifying changes would be made to the form at the same time.
2. The Civil and Small Claims Advisory Committee and Appellate Advisory Committee recommend that the Judicial Council, effective July 1, 2015:
 - Amend California Rules of Court, rules 3.52, 3.55, 3.56, and 8.818 to:
 - consolidate in rule 3.55 the list of superior court fees relating to appellate matters that are waived as part of an initial fee waiver;
 - add to rule 3.55 the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript on appeal; and
 - reflect in rules 3.55 and 3.56 the new statutory requirement that court fees for court reporting services be included in all fee waivers, and add an advisory committee comment to rule 3.55 to clarify that the inclusion of all court reporter's fees in the rule is not intended to mandate that a court reporter be provided for all fee waiver recipients.
 - Revise the list of waived fees on all the fee waiver order forms (forms FW-002, FW-003, FW-005, FW-008, and FW-012) and information sheets (forms FW-001-INFO, APP-001, and APP-015/FW-015-INFO) to reflect the changes in rules 3.55 and 3.56 and the recently enacted amendments to Government Code section 68631.
3. The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2015 amend rule 3.52 to provide a grace period for courts in which they may use order forms created within their own electronic case management system rather than the newly amended Judicial Council forms.
4. The Appellate Advisory Committee recommends that the Judicial Council, effective July 1, 2015, further revise form APP-001 to reflect recent changes in appellate fees, rules, and procedures.

The text of the amended rules and the revised forms are attached at pages 15-35.

Previous Council Action

The Judicial Council last amended the rules on fee waivers in July 2009, to implement council-sponsored legislation that revised the fee waiver procedures. New and revised forms became operative at that same time. Since then, only minor changes have been made to the rules and

forms—primarily annual revisions of an income eligibility chart on forms FW-001 and APP-015/FW-015 to reflect changes in the federal poverty guidelines on which the chart is based.

The list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver was referenced in a report to the council in 2013. A proposal to establish a new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter's transcript on appeal was approved by the Judicial Council at its October 2013 meeting, and the new fee took effect on January 1, 2014. In the report to the council on the proposal, the Appellate Advisory Committee and the Court Executives Advisory Committee indicated that, based on the public comments received, they would recommend that this fee be added to the list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver.

Rationale for Recommendation

Request to Waive Court Fees (form FW-001)

Federal poverty guidelines

The eligibility of indigent litigants to proceed without paying filing fees or other court costs is determined by California Government Code section 68632. Among other things, section 68632(b) provides that a fee waiver shall be granted to litigants whose household monthly income is 125 percent or less of the current poverty guidelines established by the United States Department of Health and Human Services (HHS).

The Judicial Council has adopted rules of court and forms for litigants to obtain fee waivers. The application form, *Request to Waive Court Fees* (form FW-001), contains a table in item 5b that provides monthly income figures on which a court may base a decision to grant a fee waiver in accordance with Government Code section 68632. These income figures are based on the Federal poverty guidelines

The monthly income figures currently on the form reflects 125 percent of the 2014 poverty guidelines established by the HHS. The HHS released revised federal poverty guidelines on January 22, 2015.¹ As a result, the figures on the form must be revised to reflect the 2015 federal poverty guideline revisions.

To determine the new monthly income figures for the forms, the federal poverty guidelines must be multiplied by 125 percent and divided by 12.² The new figures are reflected in item 5b of the revised fee waiver application form (at page 18 of this report).

Other changes to form FW-001

The advisory committees recommend the following additional, non-substantive changes to the fee waiver application form:

- *Item 5a, for eligibility based on eligibility to receive public benefits.* This item would be amended to further abbreviate some of the longer names of the public benefits programs,

¹ See Annual Update of the HHS Poverty Guidelines, 80 *Fed. Reg.* 3236 (January 22, 2015), attached at pages 68-69.

² The Computation Sheet is attached at page 70.

to make one name longer (the descriptor of Supplemental Security Income) to avoid confusion, and to include an express reference to the information sheet (form FW-001-INFO) where the full names of all the public benefits programs can now be found.

- *Item 5c, for eligibility based on income not being sufficient for common necessities of life (§ 68633(c)).* The instruction that an applicant checking this basis for eligibility must complete all of the items on the back of the form has been moved and made more emphatic, in response to requests by several court administrators to emphasize this direction. The item would otherwise retain the same content as currently on the form.
- *Items 8, 9, and 11, seeking financial information.* These items would be amended, so that all items in the left column of the form are for gross income figures—rather than some seeking net income and others gross—and the item for payroll deductions is moved from the income items to the list of expenses in renumbered item 12 (*Your Monthly Deductions and Expenses*). The text in these items has also been clarified.

Recommended effective date for form FW-001

The committee recommends making all the amendments to form FW-001 effective March 1, 2015, to ensure that litigants are provided with accurate monthly income guidelines on which a court may base a decision regarding fee waivers or financial liability. This rapid change to the form is necessary because the revised poverty guidelines take effect immediately upon release. Once adopted by the Judicial Council, the revised form will be distributed to the courts and forms publishers and posted to the California Courts website. The March effective date will result in this form only being amended once in 2015.

Fees waived by initial fee waiver

Background. Last year, the Appellate Advisory Committee and the Court Executives Advisory Committee circulated for public comment a proposal to amend the California Rules of Court relating to reporter's transcripts in civil appeals. Among other things, that proposal recommended the establishment of a new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter's transcript on appeal. Because this was a new fee, the committees anticipated that there would be questions about the potential waiver of this fee. The invitation to comment therefore also specifically solicited comments on whether this fee should be listed among the superior court fees that must be waived under rule 3.55³ or may be waived under rule 3.56. All four commentators who responded to this question suggested that the new fee should be on the list of specific superior court fees and costs that must be waived as part of an initial fee waiver under rule 3.55.

As indicated above, the proposal to establish the new \$50 fee was approved by the Judicial Council at its October 2013 meeting, and the new fee took effect on January 1, 2014. In the report to the Judicial Council, the committees indicated that, based on the public comments received, they would recommend that this fee be added to the list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver.

³ All references to rules in this report are to the California Rules of Court.

There is also another rule—rule 8.818, part of the appellate division rules—that currently includes a separate list of superior court fees that must be waived as part of an initial fee waiver in an appeal in a limited civil case. The list in rule 8.818 identifies several of the same fees as rule 3.55. However, it also includes one fee that is not currently identified in rule 3.55: the fee for transcribing or copying an official electronic recording. Because this fee is not currently listed in rule 3.55, there may be confusion about whether it must be waived as part of an initial fee waiver.

There has also been a recent change in the law regarding court reporting fees in trial courts that must be reflected in the fee waiver rules and forms. Government Code section 68086 on court reporter’s fees was amended a year ago to include a \$30 court reporter fee for hearings taking less than an hour, as well as pro rated daily fees for hearings taking less than half a day. That statute has recently been amended further to expressly require that fees for court reporting services provided at the expense of the court must be waived for a person who has been granted a fee waiver under section 68631. (See § 68086(b).) This statutory amendment requires that rule 3.55(7) and rule 3.56(4) be amended not only so that the \$30 fee is covered, but also so that the time distinction in the current rules, giving a court the discretion to waive the reporter fees for a hearing more than 60 days after the grant of the fee waiver, is eliminated. As the rules currently read, they are in conflict with statute.

The statutory fee waiver provisions in section 68631 have also been recently amended, effective January 1, 2105, to expressly provide that assessments for court investigations under Probate Codes sections 1513, 1826, or 1851 are included in all initial fee waivers granted by a court.⁴

Proposal regarding rules on fees. The Appellate Advisory Committee recommends amending rule 3.55, which lists the superior court fees and costs that must be waived upon granting an application for an initial fee waiver, to add to this list the new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter’s transcript on appeal. The proposed language of the amendment is based on language from rules 8.130 and 8.334 referring to the \$50 fee as being for “the superior court to hold this deposit [for the reporter’s transcript] in trust.”

In the interest of ensuring that all of the fees that the superior court must waive upon granting an application for an initial fee waiver can easily be found in one place, the committee recommends further amending rule 3.55 to add the fee now listed in rule 8.818—for transcribing official electronic recordings—to the list of superior court fees in rule 3.55 that must be waived and amending rule 8.818 to simply cross-reference to rule 3.55 for the list of fees that must be waived.

The Civil and Small Claims Advisory Committee recommends amending rule 3.55(7), which currently includes on the list of fees that must be waived only those court reporters fees for hearing held within 60 days of the issuance of the fee waiver order, to eliminate the time restriction in light of the new mandate in Government Code section 68086(b) that all court

⁴ See Assembly Bill 2747 (Wieckowski) (Stats. 2014; ch. 913). Recommendations regarding rules and forms implementing other provisions in that legislation concerning fee waivers in probate matters will be addressed by the Probate and Mental Health Advisory Committee.

reporter's fees otherwise charged by a court are waived for a party who has received a fee waiver. For the same reason, the committee recommends that the item including reporter's fees for hearing held more than 60 days after the issuance of the fee waiver order be deleted from the list of fees the court has discretion to grant a waiver for in rule 3.56, since the waiver of such fees are no longer discretionary. An advisory committee comment has been added following rule 3.55 to clarify that the inclusion of such fees in the list of waived fees is in no way intended to mandate that reporters be provided by the court for all hearings or trials at which a fee waiver recipient appears.

Trial court forms. Several trial court forms would be revised to reflect the recommended amendments to rules 3.55 and 3.56, and the recently enacted amendments to Government Code section 68631. Some additional clarifying amendments are recommended at the same time.

- *Form FW-001-INFO.* Some new items have been added to the *Information Sheet on Waiver of Superior Court Fees and Costs* and three current items have been revised, as described below. The changes will make this a two-page form.
 - Paragraph 1 in the general instructions section, containing a list of fees that will be waived if a fee waiver is granted, would be revised to add fees for court investigations under certain Probate Code provisions and two fees regarding appellate records, and to revise the item for court reporter's fees to include all such fees.
 - Paragraph 2, listing the fees the court has the discretion to waive upon an additional request for waiver from the parties, would be revised to delete the item regarding court reporter's fees for a hearing after 60 days from the list of items the court has the discretion to waive, as all court reporter's fees are now automatically included in any fee waiver.
 - A new paragraph on public benefits programs would be added, to list the full names of all the public programs listed in item 5a on the fee waiver application. The programs are in the same order as they appear on the application form.
 - The paragraph on court collections would be amended to expand the warning that the court can use collection proceedings and add a fee and costs for collection, to include the court's efforts to collect any unpaid fees that a party was permitted to pay over time.
 - The paragraph on prisoner applicants would be revised to include a citation to the portion of the fee waiver statutes addressing applications by prisoners (§ 68635). This is an area that has caused some confusion among applicants and, while there has not yet been a separate set of forms developed for prisoner applications, the committee concluded that a cross-reference to the applicable statute may be helpful.
- *Form FW-002, Request to Waive Additional Court Fees (Superior Court).* This form is used by a party to request that a court exercise its discretion to waive one or more of the court fees that are not automatically included in a fee waiver. Item 5 of this form would

be revised to delete the item for court reporters' fees for hearings 60 days after the fee waiver has been granted. Such fees are now automatically included in any fee waiver and so should not be included in this application for waiver of additional fees.

- *Form FW-003, Order on Court Fee Waiver (Superior Court)*. The first section of item 4, on the first page of the form, would be revised as follows:
 - The current direction to “check one”, which indicates that the form could be used only to rule on either a *Request to Waive Court Fees* or a *Request to Waive Additional Court Fees*, but not both, has been removed.
 - Item 4a(1) has been amended to include a reference to the rule of court providing for waiver of fees on appeals, some of which occur in the superior court.
 - The item for court reporter's fees has been amended in item 4(a)(1) and deleted from item 4(a)(2) to reflect proposed changes in rule 3.55 and 3.56.
 - A new item has been added for fees for court investigations under Probate Code sections 1513, 1826, or 1587, as provided in recently amended section 68631.
 - The two new items for fees proposed for addition to rule 3.55, relating to trial court fees for appellate records, are added to the list of waived fees and costs in item 4a(1), and the other item relating to appellate fees has been expanded to track the language of the rule more exactly in light of the additional space available on the revised form.
 - Current item 4a(3), Fee Waiver for Appeal, has been deleted because the items listed were duplicative of those already listed in item 4a(1).
- *Form FW-005, Notice: Waiver of Court Fees (Superior Court)*. This is the form issued by a court when a fee waiver is granted by operation of law when no court action is taken within five days of filing a request. The only change to this form is in item 4, where the item for court reporter's fees has been amended to include all such fees, and the new appellate fees and probate fees have been added.
- *Form FW-008, Order on Court Fee Waiver After Hearing (Superior Court)*. This form would be revised in parallel with the changes described above in form FW-003, in that item 5a, listing the items included in a fee waiver, would be amended in all the ways item 4a on form FW-003 has been amended.
- *Form FW-012, Order on Court Fee Waiver After Reconsideration Hearing (Superior Court)*. The only change to this form is in item 6d(2), where the item for court reporter's fees has been amended to parallel that same item in the other orders.⁵

Appellate Court Forms. Two appellate court forms, *APP-015/FW-015-INFO*, and *APP-001*, would also be revised.

⁵ These revisions and three of these forms, forms FW-002, FW-005, and FW-012, were not among those circulated for comment. The committee is recommending that the council approve the further changes without circulation, as “minor substantive change[s] that [are] unlikely to create controversy,” under rule 10.22(d)(2). While the change to the statutes to waive all fees for court reporting services and for investigations under the Probate Code may themselves have been likely to create a controversy, the changes to the rule and forms now that the laws are in effect are not, in that they are essentially mandated by the change in statute. Making the changes without circulation would allow all the changes to the fee waiver forms and rules to take place at the same time, rather than having some forms continue to be in non-compliance with the law until next January.

The *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO) is the form that provides litigants with information about waiver of appellate court fees. Like *Request to Waive Court Fees* (form FW-001), this form contains a table that provides monthly income figures on which a court may base a decision to grant a fee waiver in accordance with Government Code section 68632. These income figures are based on the Federal poverty guidelines and must be updated to reflect the revised 2015 poverty figures.

The *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001) provides general information about appeals to the Court of Appeal in civil cases, including information about fee waivers. Both APP-001 and APP-015/FW-015-INFO currently identify the superior court fees related to appeals that must be waived upon granting an application for an initial fee waiver. These forms would be revised in the following places to reflect the proposed amendments to rule 3.55:

- APP-001 –page 2, item 5, Reporter’s Transcripts section, middle paragraph; and
- APP-015/FW-015-INFO – page 1, item 2, paragraph 1.

Because form APP-001 must be revised to reflect these changes in the fee waiver rules, the Appellate Advisory Committee is also recommending a number of other updates to form APP-001 to reflect recent changes in appellate fees, rules, and procedures, including:

- Updating the amount of the fee to file a notice of appeal (page 1, item 4);
- Adding information about new fees for respondents (page 1, item 4);
- Reflecting that there are permissible substitutes to depositing funds with the court for a reporter’s transcript (page 2, item 5, Reporter’s Transcript section, middle paragraph);
- Updating rule references and the procedures relating to designation of the record (pages 2 and 3, item 5, Clerk’s Transcript or Appendix section);
- Updating the procedures for filing a *Civil Case Information Statement* (form APP-004) (page 3, item 8); and
- Updating information about required copies of briefs (page 4, item 10, Service and Filing of Briefs section).

Rule 3.52. Subdivision (6) of this rule, concerning how a superior court processes a fee waiver application, would be amended to allow courts a grace period after this latest revision of the order forms, in which they may use forms created within their own electronic case management system rather than the Judicial Council so long as the forms met certain requirements. This is similar to the grace period provided when the current forms were adopted in 2009.

Recommended effective date for rules and forms other than form FW-001

The committees recommends making all the proposed amendments other than those to form FW-001 effective July 1, 2015, to ensure that courts have time to implement the changes in the rules and forms.⁶

Comments, Alternatives Considered, and Policy Implications

The proposal was circulated with an invitation to comment in spring 2014. As circulated, the proposal also included amendments and revisions to certain fee waiver rules and forms that relate to a court's permitting payments over time in the event a fee waiver application is denied. Those modifications would have (1) permitted parties to waive the right to a hearing prior to the court's issuing an order denying a fee waiver application if the court has authorized payments over time following the denial and the parties are satisfied with making payments over time; (2) limited payments over time to first appearance fees and a payment period of three months. The committee has removed this part of the proposal from its final recommendations, in light of opposition to any change in the forms or rules relating to payments over time, as described below.

Summary of comments received

Fourteen comments were received, some extensive, from 16 different commentators (three public interest law organizations from Los Angeles submitted a joint comment). Comments were received from five courts (Los Angeles, Orange, Riverside, Sacramento, and San Diego), a judicial officer (from San Bernardino), a family law facilitator, two State Bar committees, two county bar associations, an individual lawyer, the Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC), and the three public interest law organizations (Harriett Buhai Center for Family Law, Western Center on Law & Poverty, and Public Counsel).

Of the 16 commentators:

- 2 agree with the proposal as circulated: Superior Court of Riverside County and the Committee on Administration of Justice (CAJ), with CAJ expressly agreeing that there should be a method to waive the advance hearing when the party agrees to payments over time.⁷

⁶ Note that making the revisions to APP-015/FW-015-INFO effective July 1, 2015 means that the income eligibility chart on this form will be not be updated until that time. Thus, for the four month period from March 1 until July 1, the charts on FW-001 and APP-015/FW-015-INFO will be different and courts will need to explain that the chart on FW-001 is the applicable one. The alternative would be to revise APP-015/FW-015-INFO twice in this four month period – once effective March 1 to update the chart and once effective July 1 to reflect the amendments to rule 3.55 that are recommended to take effect on that date.

⁷ The Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee also reviewed the proposal as circulated, and provided informal comments to staff. The large majority of members of both groups who reviewed the invitation to comment were in favor of going forward with the proposal to allow a party to waive a hearing before receiving permission to make payments over time in the event the fee waiver request was denied. The groups noted that procedures could be used to provide better access to the courts for lower-income parties who are not eligible for fee waivers generally. Some members of the Family and Juvenile Law Advisory Committee were opposed to the proposal, however, noting that payments over time are seldom completed by the parties and place a heavy administrative burden on the courts, and so should not be facilitated.

- 6 agree with the proposal *but propose it be modified*: the individual attorney, individual judge, family law facilitator, Orange County Bar Association, Superior Courts of Orange County and San Diego County (many of the modifications requested have been made, as described below);
- 6 *oppose* making the proposed changes relating to payments over time: the three public interest law groups, Superior Court of Los Angeles County and Superior Court of Sacramento County, and the TCPJAC/CEAC Joint Rules Working Group; and
- 2 commented only on the appellate portion of the proposal: Appellate Courts Section of Los Angeles Bar and Committee on Appellate Courts of State Bar.

A chart listing all commentators and showing all the comments received and modifications requested is attached, at pages 36-67. In light of the variety of issues in this proposal, and the variety of concerns raised, the comments chart is organized by subject matter. The chart starts with a list of all commentators in alphabetical order, and a note of the position taken by the commentator. The comments are then organized by topics, so that it is easier to see comments on each topic all together.

The main points raised by the commentators and the committees' proposed responses are summarized below, by topic.

Comments on payments of trial court fees over time

Opposition to proposal. As noted above, while the majority of commentators agree with the proposal generally, at least with some minor modifications, six commentators strongly oppose the portion of the proposal relating to payments over time. All six note that this portion of the proposal will encourage courts to make more orders for payments over time rather than either granting fee waiver applications or simply denying them outright—and conclude that this is not desirable. The commentators have different reasons for why they view the expected outcome negatively.

The Superior Court of Los Angeles County and the TCPJAC/CEAC Joint Rules Working Group, in identical comments, expressed concern that the increased amount of orders allowing payments over time will increase the work of court staff, requiring substantial additional staff time for processing multiple payments, especially with older court computerized case systems and with the fact that cash will frequently be involved. The commentators are also concerned that collections will be difficult and time consuming. The Superior Court of Sacramento County agrees that the proposed amendments would burden the courts more than benefit them, due to the increased time that would have to be spent on handling multiple payments and collections.

While the advisory committee agrees that payments over time are administratively burdensome, the majority had originally concluded that the proposed amendment, particularly eliminating some hearings, would benefit the courts. The committee's view was that the statute already provides that judicial officers should consider the alternative of payments over time at any eligibility hearing at which the court denies a fee waiver application (see § 68634(c)(5), at last paragraph) and that the proposal was not intended to change or expand the law authorizing payments over time. However, in further conversations with members of the advisory committee, representatives of the TCPJAC/CEAC Joint Rules Working Group voiced strong objections that whether intended to or not, the proposed modifications regarding payments over

time were perceived as adding additional burdens to the courts at a time when they could ill afford them. The representatives also reported that this concern was widespread among the members of their respective committees. In light of this strong opposition, the committee decided to withdraw all of its proposed changes relating to payments over time. The forms as recommended contain no changes relating to payments over time. All items regarding such payments have been left as in the current forms.

The three public interest law groups oppose the proposal as it relates to payments over time from a different viewpoint, from the harm they perceive it will cause to the parties. They have provided an extensive comment pointing out the flaws they perceive in the proposal. While the majority of the advisory committee members disagreed with their general objections, as set forth in the comment chart, there is no need to summarize the comments here in light of the decision to withdraw all aspects of the proposal relating to payments over time. Those comments will be reconsidered when the committee works on this issue in the future.

There were several requests for modifications to the forms, some to sections not related to the payment of fees over time. Those requests not directed to payments over time, but to other proposed changes to forms, can be found in the section of the chart entitled “Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008”. Requests for modifications that relate to payments over time are included in the first topic section of the chart. They are not summarized here in light of the committee’s withdrawal of that part of its proposal.

Comments on chart showing income eligibility dollar amounts and effective date

As noted above, the fee waiver application, form FW-001, contains a chart showing the income amounts for fee waiver eligibility based on 125% of the current poverty guidelines.⁸ Members of the council’s Rules and Projects Committee suggested that this chart be removed from FW-001 on the grounds that such amounts (and hence the form) have to be revised almost every year. The suggestion was that the information could instead be maintained on the Judicial Council’s website, where revisions would not automatically result in changes to the forms. To assist in assessing this suggestion, the invitation to comment asked for specific input on this issue.

Five commentators opposed removing the chart from the forms in spite of the annual revisions required: Committee on Administration of Justice of State Bar, family law facilitator Larsen, the Orange County Bar Association, and Superior Courts of Orange and Riverside Counties. The two courts noted that having the chart of the form was valuable to court staff and judicial officers as well as to fee waiver applicants.

Two commentators, Superior Court of Los Angeles County and TCPJAC/CEAC Joint Rules Working Group, made identical comments, noting the cost of having to revise the form yearly.

⁸ Government Code section 68632(b) provides that a fee waiver should be given to any applicant “whose monthly income is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services.” The proposal circulated for comment did not include the specific numbers for 2015 forms, which were just released last week. The circulated proposal did, however, note that the change to the chart was an almost annual event, and figures likely to be issued in February would require revisions to the chart.

They propose, instead, that form FW-001 could include a pointer to the website containing the information *and* that an optional form be created that would include both the information in the family size/income eligibility chart and explanations of the public benefits abbreviations (which they suggest be removed from the proposed INFO sheets). According to these commentators, courts could then choose to use that optional form if they wished, to hand out to all applicants or to post in clerk's office of self-help center.

Because FW-001 is used in both the superior court and Court of Appeal, removal of the chart from this form would impact both levels of court. For this reason, both the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee considered this issue. In addition, informal comments on this issue were received from the Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee. All of these Judicial Council committees agree with the majority of the commentators that the chart should stay on the form, in order to assist both the applicants and the courts in determining eligibility.

The Civil and Small Claims Advisory Committee and the Appellate Advisory Committee particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, many without easy access to the Internet, and that they are asserting their eligibility under penalty of perjury. The committees also note that the chart was originally on the information sheet, rather than the application, but was moved to the application in 2009 at the recommendation of the Fee Waiver Working Group that developed the fee waiver legislation sponsored by the council back at that time. They proposed the move in order to make clearer to both the applicant and the court the factual basis for the applicant's assertion being made under penalty of perjury that he or she is eligible for a fee waiver under section 68632(b). In addition, the committees noted that, since the amendments to reflect the change in eligibility amounts are regularly issued in late February of each year, courts can plan for the changes in stocking the fee waiver forms.

Comments on types of fees included in all initial fee waivers

Appellate fees. Three commentators—the Appellate Courts Section of the Los Angeles County Bar, the State Bar's Committee on Appellate Courts, and Superior Court of San Diego County—submitted comments on the proposal to amend rule 3.55 and related forms to add the two additional appellate fees that must be waived as part of an initial fee waiver. All agreed with the proposed amendments to the rule and the resulting changes to the forms to reflect the change.

The Superior Court of Los Angeles County and TCPJAC/CEAC Joint Rules Working Group raised a somewhat different issue relating to appellate fees, stating that appellate fees should not be referenced in the initial fee waiver forms (presumably meaning in the application form FW-001, which includes requests for waiver of fees for appeals, and the two order forms, FW-003 and FW-008) because it was confusing to applicants to see information regarding appellate fees on forms at the start of the case. Removing this information from the fee waiver forms would be an important substantive change and thus is not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver

application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. Removing the appellate fee references from these forms requires the committees to reconsider that earlier policy decision. The committees will add this suggestion to the list of proposals for future consideration by the committees.

Trial court fees. Several commentators also raised some points about some of trial court fees listed in rule 3.55, with particularly strong concerns raised by both the Superior Court of Orange County and Superior Court of San Diego County concerning the recent amendments to Government Code section 68086 regarding court reporter's fees that they believe should be reflected in modifications to current rule 3.55(7). As the commentators note, the Government Code section on court reporter's fees was amended this past year to expressly require that the fees for all court reporting services provided at the expense of the court—whether a daily fee or the new \$30 fee for a short hearing—must be waived for a person who has been granted a fee waiver under section 68631. (See §68086(b).) The three public interest law groups that jointly commented on the circulated proposal also sent a separate joint proposal to the committee that that rules 3.55(7) and 3.56(4) should be changed, to reflect the current state of the law under section 68086 that the waiver of court reporter's fees is now unconditional and cannot be time-restricted by rule of court.

As discussed above, the Civil and Small Claims Advisory Committee agrees that, as the rules currently read, the two rules are in conflict with statute and is recommending that modifications to rules 3.55 and 3.56, and to the forms that include the lists of items in those rules, to conform the rules and forms to statute.

Other alternatives considered

In addition to the alternatives raised in the comments, the following alternatives were considered by the committees.

No changes. The Appellate Advisory Committee considered the alternative of not proposing amendments to the fee waiver rules and forms. However, based on the comments received last year, the committee concluded that it was important to specifically provide that the new fee for holding deposits for reporters' transcripts in trust is among those superior court fees that must be waived when an initial fee waiver is granted. Given that changes to the fee waiver rules and forms were being considered by both the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee, the committees also concluded that it would be most economical to consider all of the potential changes to these forms at the same time.

Separate forms for payments over time. The Civil and Small Claims Advisory Committee considered the alternative of developing another set of forms (application and order) solely focused on requests for payments over time. This alternative had the advantage of leaving the fee waiver forms unchanged on this issue and so might result in a lesser training burden on the courts. The committee decided not to recommend this approach at this time, but may revisit this concept in light of the opposition to the proposed changes to the current fee waiver forms that were circulated on this topic.

Implementation Requirements, Costs, and Operational Impacts

The proposal will impose a need for training of court clerks and judicial officers on the new items that should be included in fee waivers. It will also impose a cost in producing or procuring new forms. Some of that cost, at least as to the application, form FW-001, would be required in any event because of the change in the federal poverty guidelines.

Adding the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript to the list of fees that must be waived when an initial fee waiver is granted may result in a reduction in revenues to the trial court from this fee. It is anticipated that this reduction would be small, as indigent parties may already request that the court waive this fee under rule 3.56(6) (“Other fees or expenses as itemized in the application”). There may also be some off-setting reduction in costs, as the court will not have to consider separate requests to waive this fee.

Attachments

1. Cal. Rules of Court, rules 3.52, 3.55, 3.56, and 8.818, at pages 15-17.
2. Forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015-INFO, at pages 18-35.
3. Chart of comments, at pages 36-67.
4. Excerpt from Federal Register, at pages 68-69.
5. Computation Sheet, at page 70.

California Rules of Court, rules 3.52, 3.55, 3.56, and 8.818 would be amended, effective March 1, 2015, to read:

1 **Title 3. Civil Rules**

2
3 **Division 2. Waiver of Fees and Costs**

4
5 **Rule 3.52. Procedure for determining application**

6
7 The procedure for determining an application is as follows:

- 8
9 (1) The trial court must consider and determine the application as required by Government
10 Code sections 68634 and 68635.
11
12 (2) An order determining an application for an initial fee waiver without a hearing must be
13 made on *Order on Court Fee Waiver (Superior Court)* (form FW-003), except as provided
14 in (6) below.
15
16 (3)–(5) ***
17
18 (6) Until January 1, ~~2013~~ 2016, a court with a computerized case management system may
19 produce electronically generated court fee waiver orders as long as:
20 (A) The document is substantively identical to the mandatory Judicial Council form it is
21 replacing;
22 (B) Any electronically generated form is identical in both language and legally
23 mandated elements, including all notices and advisements, to the mandatory
24 Judicial Council form it is replacing; and
25 (C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g),
26 concerning orders not on Judicial Council mandatory forms.
27

28 **Rule 3.55. Court fees and costs included in all initial fee waivers**

29
30 Court fees and costs that must be waived upon granting an application for an initial fee waiver
31 include:

- 32
33 (1) Clerk’s fees for filing papers;
34
35 (2) Clerk’s fees for reasonably necessary certification and copying;
36
37 (3) Clerk’s fees for issuance of process and certificates;
38
39 (4) Clerk’s fees for transmittal of papers;
40
41 (5) Court-appointed interpreter’s fees for parties in small claims actions;

- 1
2 (6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of
3 the Government Code (commencing with section 26720);
4
5 (7) Reporter's ~~daily~~ fees for attendance at hearings and trials, if the reporter is provided by the
6 court held within 60 days of the date of the order granting the application;
7
8 (8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; ~~and~~
9
10 (9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's transcript on
11 appeal to the reviewing court and the party. A party proceeding under an initial fee waiver
12 must specify with particularity the documents to be included in the clerk's transcript on
13 appeal;
14
15 (10) The fee under rule 8.130(b) or rule 8.834(b) for the court to hold in trust the deposit for a
16 reporter's transcript on appeal; and
17
18 (11) The clerk's fee for preparing a transcript of an official electronic recording under rule
19 8.835 or a copy of such an electronic recording.
20

21 **Advisory Committee Comment**

22 The inclusion of court reporter's fees in the fees waived upon granting an application for an
23 initial fee waiver is not intended to mandate that a court reporter be provided for all fee waiver
24 recipients. Rather, it is intended to include within a waiver all fees mandated under the
25 Government Code for the cost of court reporting services provided by a court.
26
27

28 **Rule 3.56. Additional court fees and costs that may be included in initial fee waiver**
29

30 Necessary court fees and costs that may be waived upon granting an application for an initial fee
31 waiver, either at the outset or upon later application, include:
32

- 33 (1) Jury fees and expenses;
34
35 (2) Court-appointed interpreter's fees for witnesses;
36
37 (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or
38 defense of the case;
39
40 ~~(4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date~~
41 ~~of the order granting the application;~~
42
43 ~~(5)~~ (4) Witness fees of court-appointed experts; and
44

1 (65) Other fees or expenses as itemized in the application.
2
3

4 **Title 8. Appellate Rules**
5

6 **Division 2. Rules Relating to the Superior Court Appellate Division**
7

8 **Chapter 1. General Rules Applicable to Appellate Division Proceedings**
9

10 **Rule 8.818. Waiver of fees and costs**
11

12 (a)–(c) * * *

13
14 (d) **Court fees and costs waived**
15

16 Court fees and costs that must be waived upon granting an application for initial waiver of
17 court fees and costs ~~include:~~ are listed in rule 3.55. The court may waive other necessary
18 court fees and costs itemized in the application upon granting the application, either at the
19 outset or upon later application.
20

21 (1) ~~The fee for filing the notice of appeal;~~

22
23 (2) ~~The clerk's fees for preparing and certifying the clerk's transcript on appeal and for~~
24 ~~copying and transmitting a copy of this transcript to the applicant;~~

25
26 (3) ~~The fee for preparing a transcript of an official electronic recording under rule 8.835~~
27 ~~or a copy of such an electronic recording; and~~
28

29 (4) ~~Any court fee for telephonic oral argument.~~
30

31 (e)–(f) * * *

Clerk stamps date here when form is filed.

DRAFT
01/30/14
NOT APPROVED BY
THE JUDICIAL COUNCIL

If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs and your court fees, you may use this form to ask the court to waive your court fees.

- You cannot give the court proof of your eligibility,
Your financial situation improves during this case, or
You settle your civil case for \$10,000 or more.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

1 Your Information (person asking the court to waive the fees):

Name:
Street or mailing address:
City: State: Zip:
Phone number:

2 Your Job, if you have one (job title):

Name of employer:
Employer's address:

3 Your Lawyer, if you have one (name, firm or affiliation, address, phone number, and State Bar number):

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes No

b. (If yes, your lawyer must sign here) Lawyer's signature:

If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

4 What court's fees or costs are you asking to be waived?

- Superior Court (See Information Sheet on Waiver of Superior Court Fees and Costs (form FW-001-INFO).)
Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See Information Sheet on Waiver of Appellate Court Fees (form APP-015/FW-015-INFO).)

5 Why are you asking the court to waive your court fees?

- I receive (check all that apply; see form FW-001-INFO for definitions): Food Stamps Supp. Sec. Inc. SSP Medi-Cal County Relief/Gen. Assist. IHSS CalWORKS or Tribal TANF CAPI
My gross monthly household income (before deductions for taxes) is less than the amount listed below. (If you check 5b, you must fill out 8, 9, and 10 on page 2 of this form.)

Table with 6 columns: Family Size, Family Income, Family Size, Family Income, Family Size, Family Income. Includes a note: If more than 6 people at home, add \$433.34 for each extra person.

c. I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to: (check one and you must fill out page 2):

- wave all court fees and costs wave some of the court fees
let me make payments over time

6 Check here if you asked the court to waive your court fees for this case in the last six months. (If your previous request is reasonably available, please attach it to this form and check here:)

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.

Date:

Print your name here

Sign here

Your name: _____

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 7, 8, and 9 only. If you checked 5c, you **must** fill out this entire page. If you need more space, attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

7 Check here if your income changes a lot from month to month. If it does, complete the form based on your average income for the past 12 months.

8 Your Gross Monthly Income

a. List the source and amount of **any** income you get each month, including: wages or other income from work before deductions, spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.

- (1) _____ \$ _____
- (2) _____ \$ _____
- (3) _____ \$ _____
- (4) _____ \$ _____

b. Your total monthly income: \$ _____

9 Household Income

a. List the income of all other persons living in your home who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.

Name	Age	Relationship	Gross Monthly Income
(1) _____	_____	_____	\$ _____
(2) _____	_____	_____	\$ _____
(3) _____	_____	_____	\$ _____
(4) _____	_____	_____	\$ _____

b. Total monthly income of persons above: \$ _____

Total monthly income and household income (8b plus 9b): \$ _____

10 Your Money and Property

- a. Cash \$ _____
- b. All financial accounts (List bank name and amount):
 - (1) _____ \$ _____
 - (2) _____ \$ _____
 - (3) _____ \$ _____

c. Cars, boats, and other vehicles

Make / Year	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____

d. Real estate

Address	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

Describe	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____

11 Your Monthly Deductions and Expenses

- a. List any payroll deductions and the monthly amount below:
 - (1) _____ \$ _____
 - (2) _____ \$ _____
 - (3) _____ \$ _____
 - (4) _____ \$ _____
- b. Rent or house payment & maintenance \$ _____
- c. Food and household supplies \$ _____
- d. Utilities and telephone \$ _____
- e. Clothing \$ _____
- f. Laundry and cleaning \$ _____
- g. Medical and dental expenses \$ _____
- h. Insurance (life, health, accident, etc.) \$ _____
- i. School, child care \$ _____
- j. Child, spousal support (another marriage) \$ _____
- k. Transportation, gas, auto repair and insurance \$ _____

l. Installment payments (list each below):

Paid to:

(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____

m. Wages/earnings withheld by court order \$ _____

n. Any other monthly expenses (list each below):

	How Much?
(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____

Total monthly expenses (add 11a – 11n above): \$ _____

To list any other facts you want the court to know, such as unusual medical expenses, etc., attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

Check here if you attach another page.

Important! If your financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010.

INFORMATION SHEET ON WAIVER OF SUPERIOR COURT FEES AND COSTS

If you have been sued or if you wish to sue someone, or if you are filing or have received a family law petition, and if you cannot afford to pay court fees and costs, you may not have to pay them in order to go to court. If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs *and* your court fees, you may ask the court to waive all or part of your court fees.

1. To make a request to the court to waive your fees in superior court, complete the *Request to Waive Court Fees* (form FW-001). If you qualify, the court will waive all or part of its fees for the following:
 - Filing papers in superior court (other than for an appeal in a case with a value of over \$25,000)
 - Making and certifying copies
 - Sheriff's fee to give notice
 - Court fee for telephone hearing
 - Reporter's fee for attendance at hearing or trial, if a reporter is provided by the court.
 - Assessment for court investigations under Probate Code section 1513, 1826, or 1851.
 - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
 - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.833 or 8.834.
 - Making a transcript or copy of an official electronic recording under rule 8.835
 - Giving notice and certificates
 - Sending papers to another court department
 - Having a court-appointed interpreter in small claims court
2. You may ask the court to waive other court fees during your case in superior court as well. To do that, complete a *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The court will consider waiving fees for items such as the following, or other court services you need for your case:
 - Jury fees and expenses
 - Fees for court-appointed experts
 - Other necessary court fees
 - Fees for a peace officer to testify in court
 - Court-appointed interpreter fees for a witness
3. If you want the Appellate Division of Superior Court or the Court of Appeal to review an order or judgment against you and you want the court fees waived, ask for and follow the instructions on *Information Sheet on Waiver of Appellate Court Fees, Supreme Court, Court of Appeal, Appellate Division* (form APP-015/FW-015-INFO).

IMPORTANT INFORMATION!

- **You are signing your request under penalty of perjury. Answer truthfully, accurately, and completely.**
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **Public benefits programs listed on the application form.** In item 5 on the *Request to Waive Court Fees*, there is a list of programs from which you may be receiving benefits, listed by the abbreviations they are commonly known by. The full names of those programs can be found in Government Code section 68632(a), and are also listed here:
 - Medi-Cal
 - Food Stamps—California Food Assistance Program, CalFresh Program, or SNAP
 - Supp. Sec. Inc.—Supplemental Security Income (not Social Security)
 - SSP—State Supplemental Payment
 - County Relief/General Assistance—County Relief, General Relief (GR) or General Assistance (GA)
 - IHSS—In Home Supportive Services
 - CalWORKS—California Work Opportunity and Responsibility to Kids Act
 - Tribal TANF—Tribal Temporary Assistance for Needy Families
 - CAPI—Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court within five days if your finances improve or if you become able to pay court fees or costs during this case. (File *Notice to Court of Improved Financial Situation or Settlement* (form FW-010) with the court.) You may be ordered to repay any amounts that were waived after your eligibility came to an end.
- **If you receive a judgment or support order in a family law matter:** You may be ordered to pay all or part of your waived fees and costs if the court finds your circumstances have changed so that you can afford to pay. You will have the opportunity to ask the court for a hearing if the court makes such a decision.

- **If you win your case in the trial court:** In most circumstances the other side will be ordered to pay your waived fees and costs to the court. The court will not enter a satisfaction of judgment until the court is paid. (This does not apply in unlawful detainer cases. Special rules apply in family law cases. (Government Code, section 68637(d), (e).)
- **If you settle your civil case for \$10,000 or more:** Any trial court waived fees and costs must first be paid to the court out of the settlement. **The court will have a lien on the settlement in the amount of the waived fees and costs.** The court may refuse to dismiss the case until the lien is satisfied. A request to dismiss the case (use form CIV-110) must have a declaration under penalty of perjury that the waived fees and costs have been paid. Special rules apply to family law cases.
- **The court can collect fees and costs due to the court.** If waived fees and costs are ordered paid to the trial court, or if you fail to make the payments over time, the court can start collection proceedings and add a \$25 fee plus any additional costs of collection to the other fees and costs owed to the court.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or earlier if a court finds that you are not eligible for a fee waiver.
- **If you are in jail or state prison:** Prisoners may be required to pay the full cost of the filing fee in the trial court but may be allowed to do so over time. See Government Code section 68635.

Clerk stamps date here when form is filed.
DRAFT
02.02.15
Not approved by the
Judicial Council

This form asks the court to waive *additional* court fees that are not covered in a current order. If you have not already received an order that waived or reduced your court fees, you must complete and file a *Request to Waive Court Fees (Superior Court)*, form FW-001, along with this form.

1 Your Information (person asking the court to waive the fees):

Name: _____
Street or mailing address: _____
City: _____ State: _____ Zip: _____
Phone number: _____

2 Your lawyer, if you have one (name, firm or affiliation, address, phone number, and State Bar number):

- a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes No
- b. (If yes, your lawyer must sign here):
Lawyer's signature: _____
If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

3 Date your last court fee waiver order, if any, was granted: _____

4 Has your financial situation improved since your last Request to Waive Court Fees? No Yes
(If yes, you must fill out a new Request to Waive Court Fees, form FW-001, and attach it to this form.)

5 What other fees do you want your court fee waiver order to cover? (Check all that apply):

- a. Jury fees and expenses
- b. Court-appointed interpreter fees for a witness
- c. Fees for a peace officer to testify in court
- d. Fees for court-appointed experts
- e. Other (specify): _____

6 Why do you need these other services? (Explain):

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Print your name here

Sign here

**Order on Court Fee Waiver
(Superior Court)**

Clerk stamps date here when form is filed.

**DRAFT
02.02.2015
NOT APPROVED
BY
THE JUDICIAL COUNCIL**

1 Person who asked the court to waive court fees:
Name: _____
Street or mailing address: _____
City: _____ State: _____ Zip: _____

2 Lawyer, if person in **1** has one (name, address, phone number, e-mail, and State Bar number): _____

3 A request to waive court fees was filed on (date): _____
 The court made a previous fee waiver order in this case on (date): _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

Read this form carefully. All checked boxes are court orders.

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

4 After reviewing your: Request to Waive Court Fees Request to Waive Additional Court Fees
the court makes the following orders:

a. The court **grants** your request, as follows:

(1) **Fee Waiver.** The court grants your request and waives your court fees and costs listed below. (*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:

- Filing papers in Superior Court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Court fee for phone hearing
- Reporter's fee for attendance at hearing or trial, if reporter provided by the court
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court

(2) **Additional Fee Waiver.** The court grants your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for a peace officer to testify in court
- Fees for court-appointed experts
- Court-appointed interpreter fees for a witness
- Other (specify): _____

Case Number: _____

Your name: _____

b. The court **denies** your fee waiver request, as follows:

Warning! If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

(1) The court **denies** your request because it is incomplete. You have **10 days** after the clerk gives notice of this order (see date of service on next page) to:

- Pay your fees and costs, or
- File a new revised request that includes the items listed below (*specify incomplete items*):

(2) The court **denies** your request because the information you provided on the request shows that you are not eligible for the fee waiver you requested (*specify reasons*): _____

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Superior Court)*, form FW-006. You have **10 days** after the clerk gives notice of this order (see date of service below) to:

- Pay your fees and costs in full or the amount listed in c. below, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006 to request hearing.*)

c. The court needs more information to decide whether to grant your request. You must go to court on the date below. The hearing will be about (*specify questions regarding eligibility*): _____

Bring the following proof to support your request if reasonably available: _____

Name and address of court if different from above: _____



Date: _____ Time: _____

Dept.: _____ Room: _____

Warning! If item c is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay your fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

Date: _____

Signature of (check one): Judicial Officer Clerk, Deputy



Request for Accommodations. Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8.)

Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*): A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): _____, California on the date below.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

**Notice: Waiver of Court Fees
(Superior Court)**

Clerk stamps date here when form is filed.

**DRAFT 02.02.15
Not approved
by the
Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:
Case Name:

1 Person who asked the court to waive court fees:
Name: _____
Mailing address: _____
City: _____ State: _____ Zip: _____
Phone number: _____

2 Lawyer, if person in 1 has one: (name, address, phone number, e-mail, and State Bar number):

3 Your Request to Waive Court Fees was filed on (date):

4 Your request is **granted by operation of law because no court action was taken within five days after it was filed. A fee waiver is granted for the following court fees and costs (*Cal. Rules of Court, rule 3.55*):**

- Filing papers
- Giving notice and certificates
- Sending papers to another court department
- Court fee for phone hearing
- Reporter’s fee for attendance at hearing or trial, if reporter provided by the court
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk’s transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rules 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835
- Making copies and certifying copies
- Sheriff’s fee to give notice
- Court-appointed interpreter in small claims court

Date: _____ Clerk, by _____, Deputy

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*): A certificate of mailing is attached.
 I handed a copy of this notice to the party and attorney, if any, listed in 1 and 2, at the court, on the date below.
 This notice was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in 1 and 2, from (*city*): _____, California on the date below.

Date: _____ Clerk, by _____, Deputy

Order on Court Fee Waiver After Hearing (Superior Court)

Clerk stamps date here when form is filed.

DRAFT

02.02.15

NOT APPROVED BY JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

1 Person who asked the court to waive court fees:

Name: _____

Street or mailing address: _____

City: _____ State: _____ Zip: _____

2 Lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number):

3 A request to waive court fees was filed (date): _____

4 There was a hearing on (date): _____
at (time): _____ **in (Department):** _____

The following people were at the hearing (check all that apply):

Person in 1 Lawyer in 2

Others (names): _____

Read this form carefully. All checked boxes are court orders.

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

5 After reviewing your: Request to Waive Court Fees Request to Waive Additional Court Fees **the court makes the following order:**

a. The court **grants** our request and waives your court fees and costs as follows:

(1) **Fee Waiver.** The court **grants** your request and waives your court fees and costs listed below (*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:

- Filing papers in superior court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's fee for attendance at hearing or trial, if reporter provided by the court
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing and certifying the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
- Making a transcript or copy of an official electronic recorder under rule 8.835
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearing

(2) **Additional Fee Waiver.** The court **grants** your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for court-appointed experts
- Other: (*specify*): _____
- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness



Case Name: _____	Case Number: _____
-------------------------	---------------------------

- b. The court **denies** your request and **will not waive or reduce** your fees and costs.
- (1) The reason for this denial is as follows:
- (a) Your request is incomplete, and you did not provide the information that the court requested (*specify items missing*): _____
- (b) You did not go to court on the hearing date to provide the information the court needed to make a decision.
- (c) The information you provide shows that you are not eligible for the fee waiver you requested because (*check all that apply*):
- i. Your income is too high.
- ii. Other (*explain*): _____
- (d) There is not enough evidence to support a fee waiver.
- (e) Other (*state reasons*): _____
- _____
- (2) You may pay some court fees and costs over time. You must make monthly payments of \$ _____ beginning (*date*): _____ and then payable on the 1st of each month after that, until the fees checked below are paid in full.
- Filing fees
- Other (*specify*): _____

You must pay all other court fees and costs as they are due.

- c. The court **partially grants** your request so you can pay court fees without using money you need to pay for your household's basic needs. You are ordered to pay a portion of your fees, **as checked below**. The court only partially grants the request because (*state reasons for partial denial*):
- _____
- _____

- (1) You must pay _____ % of your court fees.
- (2) The court waives some fees. The fees checked below are waived. You must pay all other court fees.
- | | |
|---|---|
| <input type="checkbox"/> Filing papers at superior court | <input type="checkbox"/> Giving notice and certificates |
| <input type="checkbox"/> Sheriff's fee to give notice | <input type="checkbox"/> Sending papers to another court department |
| <input type="checkbox"/> Court-appointed interpreter | <input type="checkbox"/> Court-appointed interpreter fees for a witness |
| <input type="checkbox"/> Reporter's fee for attendance at trial or hearing if reporter provided by the court. | |
| <input type="checkbox"/> Jury fees and expenses | <input type="checkbox"/> Fees for a peace officer to testify in court |
| <input type="checkbox"/> Court-appointed experts' fees | <input type="checkbox"/> Court fees for telephone hearings |
| <input type="checkbox"/> Making certified copies | |
| <input type="checkbox"/> Other (<i>specify</i>): _____ | |
- (3) Other (*specify*): _____

Warning! If b or c above are checked: You have **10 days** after the clerk gives notice of this order (see date below) to pay your fees as ordered, unless there is a later date for beginning payments in item b(2). If you do not pay, your court papers will not be processed. If the papers are a notice of appeal, your appeal may be dismissed.

Date: _____

▶ _____
Signature of Judicial Officer

Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*): A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): _____, California on the date below.

Date: _____ Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

**DRAFT
02.02.14
Not approved
by the
Judicial Council**

① Name of person who asked the court to waive court fees:

Street or mailing address: _____
City: _____ State: _____ Zip: _____

② Lawyer, if person in ① has one: *(name, address, phone number, e-mail,
and State Bar number):*

③ The court made a previous fee waiver order in this case on *(date)*:

④ The court sent you a notice to go to court about your fee waiver on *(date)*:

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

Case Name:

Read this form carefully. All checked boxes are court orders.

⑤ There was a hearing on *(date)*: _____
at *(time)*: _____ in *(Department)*: _____

The following people were at the hearing *(check all that apply)*:

Person in ① Lawyer in ②

Others *(names)*: _____

⑥ After considering the information provided at the hearing, **the court makes the following order:**

- a. No Change to Fee Waiver. The *Order on Court Fee Waiver* issued by this court on *(date)*: _____ remains in effect. No change is made at this time.
- b. Fee Waiver Is Ended as of: *(date)*: _____. The court finds that beginning on that date you were no longer eligible for a fee waiver because: _____

- (1) You must pay all court fees in this case from the date of this order.
- (2) You must also pay the court \$ _____ for fees that were initially waived after you were no longer eligible.
 - (a) You must pay that amount within 10 days of this order.
 - (b) You may pay that amount in monthly payments of \$ _____ beginning *(date)*: _____ and payable on the 1st of each month after that until paid in full.

c. **Fee Waiver Is Retroactively Withdrawn.** The court finds that you were never entitled to a fee waiver in this case because: _____

- (1) You must pay all court fees in this case from the date of this order.
- (2) You must also pay the court \$ _____ for fees that the court initially waived.
 - (a) You must pay that amount within 10 days of this order.
 - (b) You may pay that amount in monthly payments of \$ _____ beginning *(date)*: _____ and payable on the 1st of each month after that until paid in full.

Case Number: _____

Your name: _____

6 d. Fee Waiver Is Modified. The court finds that you obtained the initial fee waiver in bad faith, for an improper purpose, or to needlessly increase the costs of litigation. The court places the following limitations on the fee waiver that was granted to you:

- (1) You must pay all court fees in this case from the date of this order.
- (2) From the date of this order, only the following court fees will be waived (*court to check all that apply*).

You must pay for all court fees that are not checked below:

- Filing papers at superior court Making certified copies Giving notice and certificates
- Sheriff's fee to give notice Sending papers to another court department
- Court-appointed interpreter Court-appointed interpreter fees for a witness
- Reporter's fee for attendance at hearing or trial, if reporter provided by court
- Jury fees and expenses Fees for a peace officer to testify in court
- Court-appointed expert's fees Court fees for telephone hearings
- Other (*specify*): _____

(3) Other modification: _____

e. Other Order: _____

Date: _____


Signature of Judge or Judicial Officer

Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*): A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): _____, California on the date below.

Date: _____ Clerk, by _____, Deputy

INFORMATION ON APPEAL PROCEDURES FOR UNLIMITED CIVIL CASES

The following is general information about the procedures for appeals of unlimited civil cases (“unlimited civil case” generally means a civil case in which the amount in controversy is more than \$25,000; see Code of Civil Procedure sections 85 and 88). This information is not intended to be comprehensive, but to provide an overview to help guide you through the appeal process. **You should thoroughly read rules 8.100–8.276 of the California Rules of Court. If you have questions about the appellate process, you should consult an attorney of your own choosing.**

1. NATURE OF AN APPEAL

An appeal is a review of a court’s decision by another court. A party may appeal an unfavorable judgment and certain orders in an unlimited civil case made in the superior court to the Court of Appeal for the district in which the superior court is located. Generally, the appeal must be based on an argument that a **legal error** was made by the superior court. An appeal is not a retrial. You will not be permitted to introduce new evidence, and the appellate court will not reassess conflicting evidence. You may not appeal on behalf of a friend, a spouse, a child, or other relative (unless you are a legally appointed guardian).

2. PARTIES

The party filing the appeal is called the APPELLANT. The party against whom the appeal is brought is called the RESPONDENT.

STEPS IN THE APPEAL PROCESS AT THE SUPERIOR COURT

3. NOTICE OF APPEAL

To appeal from a superior court decision in an unlimited civil case, the appellant must file a notice of appeal **in the superior court** (Cal. Rules of Court, rule 8.100). A notice of appeal tells the other party or parties in the case and the superior court that you are appealing the decision of the superior court. You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file a notice of appeal in an unlimited civil case.

The notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court. Generally, this service and filing must be completed within **60 calendar days** after the clerk or a party serves either a notice of entry of judgment or a file-stamped copy of the judgment. If neither of these documents is served, the notice of appeal must be filed within **180 calendar days** after entry of judgment (generally the date the judgment is file-stamped). **If your notice of appeal is filed late, your appeal will be dismissed** (Cal. Rules of Court, rules 8.104 and 8.108).

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a cross-appeal. To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later (Cal. Rules of Court, rule 8.108). You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file this notice in an unlimited civil case.

4. FEES ON APPEAL

The notice of appeal must be accompanied by a \$775 filing fee (Gov. Code, §§ 68926 and 68926.1) made payable to “Clerk, Court of Appeal” and a \$100 deposit (Gov. Code, § 68926.1) made payable to “Clerk of the Superior Court.” Parties other than the appellant must pay a fee of \$390 when they file their first document in the Court of Appeal. If you do not have the money for the fees, you may submit an application for waiver of court fees and costs on appeal under rules 8.26 and 3.50–3.63 of the California Rules of Court (Cal. Rules of Court, rule 8.100).

5. DESIGNATION OF RECORD

See rules 8.120–8.163 of the California Rules of Court, which govern the preparation of the record on appeal.

Since the appellate court was not present at the trial or other proceedings in the superior court, there must be an official record of the proceedings from the superior court for the appellate court to review in assessing the appeal. Within 10 days of filing the notice of appeal, the appellant must tell the superior court in writing (“designate”) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. **You will need to designate all the parts of the record that the Court of Appeal will need to decide the issues you raise in the appeal.** You can use Judicial Council form APP-003, *Notice Designating Record on Appeal (Unlimited Civil Case)* to designate the record in an unlimited civil case.

Reporter’s Transcript

A court reporter’s transcript is a written record (often called the “verbatim” record) of the oral proceedings in the superior court. A reporter’s transcript is not required but is usually necessary.

Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk either a notice designating a reporter’s transcript or a notice of intent to proceed without a reporter’s transcript (Cal. Rules of Court, rule 8.121). You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a reporter’s transcript, among other things, the notice designating this transcript must specify the date of each proceeding to be included in the transcript and must be served on each known court reporter (Cal. Rules of Court, rule 8.130). The names of the court reporters who reported the proceedings are found in the superior court clerk’s minute orders, which are prepared for each day of the proceedings and then placed in the superior court file.

With the notice designating the reporter’s transcript, the appellant must deposit the approximate cost of transcribing the proceedings designated or one of the substitutions authorized by rule 8.130(b)(3) (Cal. Rules of Court, rule 8.130). The cost may be obtained from the reporter’s written estimate or calculated at \$650 per day (more than three hours of court time) or \$325 per fraction of a day (less than three hours of court time) for proceedings that were not previously transcribed. For previously transcribed proceedings, the deposit is calculated at \$160 per day (more than three hours of court time) or \$80 per fraction of a day (less than three hours of court time). If the appellant deposits these funds with the court, the appellant must also pay the court a \$50 fee for holding this deposit in trust, unless the trial court has waived the appellant’s fees under rules 3.50–3.63 (Cal. Rules of Court, rule 8.130).

Within 10 days after service of the appellant’s designation of the reporter’s transcript, the respondent may serve and file a notice designating additional proceedings to be included in the reporter’s transcript (Cal. Rules of Court, rule 8.130). Respondent must pay for the cost of transcribing any additional proceedings designated.

If the appellant chooses to proceed without a reporter’s transcript, the respondent may not designate a reporter’s transcript without first obtaining an order from the reviewing court (Cal. Rules of Court, rule 8.130).

Clerk’s Transcript or Appendix

The clerk’s transcript is a compilation of the documents filed in the superior court that is prepared by the clerk. An appendix is a compilation of these documents prepared by a party (Cal. Rules of Court, rule 8.124). Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk a notice indicating what form of the record of the documents filed in the trial court the appellant wants to use. You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a clerk’s transcript, the appellant must identify (designate) the documents from the court file that the appellant wants the superior court to include in the clerk’s transcript (Cal. Rules of Court, rule 8.122). Each document designated for inclusion in the clerk’s transcript must be identified by its title and filing date. If the filing date is not known, the date the document was signed may be used instead (Cal. Rules of Court, rule 8.122).

Within 10 days after service of a notice designating the documents to be included in the clerk’s transcript, respondent may serve and file a notice designating additional documents to be included in the clerk’s transcript (Cal. Rules of Court, rule 8.122).

The superior court clerk will send the appellant a bill for the cost of preparing an original and one copy of the transcript (Cal. Rules of Court, rule 8.122). Unless the trial court has waived the appellant's fees and costs under rules 3.50–3.63, this bill must be paid within 10 days or the appeal may be dismissed by the Court of Appeal.

If the appellant chooses to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by California Rules of Court, rule 8.124. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the cost will be paid by the appellant(s) (Cal. Rules of Court, rule 8.124).

6. FILING OF CLERK'S AND REPORTER'S TRANSCRIPTS (IF ANY)

If the appellant chooses to designate a clerk's transcript, after all the fees have been paid, the superior court clerk will compile the requested documents into a transcript format and forward the original clerk's transcript, together with the original reporter's transcript, if any, to the Court of Appeal for filing. A copy of the transcript(s) will be sent to the appellant. If the respondent has purchased a copy, the clerk's transcript will also be mailed to the respondent (Cal. Rules of Court, rules 8.122, 8.130, and 8.150).

7. ABANDONMENT OF APPEAL

If the appellant decides not to proceed with the appeal and the record has not yet been filed in the Court of Appeal, the appellant must file an abandonment of appeal in the superior court (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-005, *Abandonment of Appeal (Unlimited Civil Case)*, for this purpose.

STEPS IN THE APPEAL PROCESS AT THE COURT OF APPEAL

8. CIVIL CASE INFORMATION STATEMENT

Within 15 days after the trial court clerk mails out a notice that a notice of appeal has been filed in an unlimited civil case, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form APP-004), attaching a copy of the judgment or appealed order that shows the date it was entered (Cal. Rules of Court, rules 8.100 and 8.104).

9. SERVING AND FILING APPENDIX IN LIEU OF CLERK'S TRANSCRIPT

If a party chooses to prepare an appendix of the documents filed in the superior court under rule 8.124 rather than designating a clerk's transcript, the party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. A joint appendix or an appellant's appendix must be served and filed with the appellant's opening brief. A respondent's appendix, if any, must be served and filed with the respondent's brief. An appellant's reply appendix, if any, must be served and filed with the appellant's reply brief (Cal. Rules of Court, rule 8.124).

10. BRIEFS

A brief is a party's written description of the facts in the case, the relevant law, and the party's argument. The preparation and filing of briefs is governed by rules 8.200–8.224 of the California Rules of Court. Parties are encouraged to read these rules thoroughly and comply accordingly.

Contents and Format of Briefs

See rule 8.204 of the California Rules of Court.

The brief must clearly explain, using references to the clerk's and reporter's transcripts (or other form of the record being used), the claimed legal errors in the superior court proceedings. Each brief must be no longer than 14,000 words if produced on a computer (you can rely on the word count provided by your computer in meeting this requirement) or up to 50 pages if produced on a typewriter. The brief must contain a table of contents and a table of authorities.

Service and Filing of Briefs

The appellant's opening brief must be served and filed within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant elects to proceed under rule 8.124 with no reporter's

transcript. The cover of the appellant's opening brief must be green (Cal. Rules of Court, rules 8.212 and rule 8.40).

The respondent's brief must be served and filed within 30 days after the appellant's opening brief is filed. If this brief is the first document you have filed in the Court of Appeal in this case, you may have to pay a filing fee with the brief. The cover of the respondent's brief must be yellow.

The appellant's reply brief, if any, must be served and filed within 20 days after the respondent's brief is filed. The cover of the appellant's reply brief must be tan.

Generally, an original and four paper copies of each brief, along with proof of service, must be filed with the Court of Appeal. However, the court may provide by local rule that an electronic copy of the brief substitutes for one or more of the paper copies. If a brief is not filed electronically under rules 8.70–8.79, one electronic copy must be submitted to the Court of Appeal or, if it would cause undue hardship for the party filing the brief to submit an electronic copy to the Court of Appeal, the party may instead serve four paper copies on the California Supreme Court (Cal. Rules of Court, rule 8.212). The addresses of the California Supreme Court, Courts of Appeal, and superior courts can be found on the Internet at www.courts.ca.gov/courts.htm.

A copy of each brief must be served on all counsel and self-represented parties and on the superior court clerk for delivery to the trial judge. In some instances a copy of each brief must also be served on the Attorney General or the local district attorney. See rule 8.29 of the California Rules of Court and the *Civil Case Information Statement* (form APP-004).

Cover:	Appellant's opening brief—green Respondent's brief—yellow Appellant's reply brief—tan
File:	Original plus 4 paper copies along with proof of service in the Court of Appeal, unless court has local rule substituting electronic copy for one or more paper copies
Submit:	1 electronic copy to the Court of Appeal (or, if this is a hardship, serve 4 paper copies on the California Supreme Court)
Serve:	Superior court—1 copy All counsel All self-represented parties

Extension of Time to File Brief

If the time to file a brief has not already been extended by the court on application of a party, the parties may extend the time to file a brief for up to 60 days by filing a stipulation (agreement) in the Court of Appeal (Cal. Rules of Court, rule 8.212).

An application for extension of time must be filed with the Court of Appeal before the brief is due when:

- The parties cannot agree to a stipulation; or
- The parties have stipulated to the maximum automatic extension permitted under rule 8.212 of the California Rules of Court, and the applicant seeks a further extension.

Judicial Council form APP-006, *Application for Extension of Time to File Brief (Civil Case)*, can be used to apply to the Court of Appeal for an extension of time to file a brief.

11. DISMISSAL OF APPEAL

If the appellant decides not to proceed with the appeal after the record has been filed in the Court of Appeal, the appellant must file a request for dismissal in the Court of Appeal (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-007, *Request for Dismissal of Appeal (Civil Case)* for this purpose (Cal. Rules of Court, rule 8.244).

INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES
(SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

If you file an appeal, a petition for a writ, or a petition for review in a civil case, such as a family law case or a case in which you sued someone or someone sued you, you must generally pay a filing fee to the court. If you are a party other than the party who filed the appeal or the petition, you must also generally pay a fee when you file your first document in a case in the Court of Appeal or Supreme Court. You and the other parties in the case may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk’s transcript in an appeal. However, if you cannot afford to pay these court fees and costs, you may ask the court to issue an order saying you do not have to pay these fees (this is called “waiving” these fees).

1. Who can get their court fees waived? The court will waive your court fees and costs if:

- **You are getting public assistance**, such as Medi-Cal, Food Stamps, Supplemental Security Income (not Social Security), State Supplemental Payment, County Relief/General Assistance, In-Home Supportive Services, CalWORKS, Tribal Temporary Assistance for Needy Families, or Cash Assistance Program for Aged, Blind, and Disabled.
- **You have a low income level.** Under the law you are considered a low-income person if the gross monthly income (before deductions for taxes) of your household is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

If more than 6 people at home, add \$433.34 for each extra person.

- **You do not have enough income to pay for your household’s basic needs *and* your court fees .**

2. What fees and costs will the court waive? If you qualify for a fee waiver, the Supreme Court, Court of Appeal, or Appellate Division will waive the filing fee for the notice of appeal, a petition for a writ, a petition for review, or the first document filed by a party other than the party who filed the appeal or petition, and any court fee for participating in oral argument by telephone. The trial court will also waive costs related to the clerk’s transcript on appeal, the fee for the court to hold in trust the deposit for a reporter’s transcript on appeal under rule 8.130(b) or rule 8.834(b) of the California Rules of Court, and the fees for making a transcript or copy of an official electronic recording under rule 8.835. If you are the appellant (the person who is appealing the trial court decision), the fees waived include the deposit required under Government Code section 68926.1 and the costs for preparing and certifying the clerk’s transcript and sending the original to the reviewing court and one copy to you. If you are the respondent (a party other than the appellant in a case that is being appealed), the fees waived include the costs for sending you a copy of the clerk’s transcript. You can also ask the trial court to waive other necessary court fees and costs.

The court **cannot** waive the fees for preparing a reporter’s transcript in a civil case. A special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See <http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf> and Business and Professions Code sections 8030.2 and following for more information about this fund.) If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by preparing an agreed statement or, in some circumstances, a statement on appeal or settled statement.

3. How do I ask the court to waive my fees?

- **Appeal in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** In a limited civil case, if the trial court already issued an order waiving your court fees *and that fee waiver has not ended* (fee waivers automatically end 60 days after the judgment), the fees and costs identified in item 2 above are already waived; just give the court a copy of your current fee waiver. If you do not already have an order waiving your fees or you had a fee waiver but it has ended, you must complete and file a *Request to Waive Court Fees* (form FW-001). If you are the appellant (the party who is appealing), you should check both boxes in item 4 on FW-001 and file the completed form with your notice of appeal. If you are the respondent (a party other than the appellant in a case that is being appealed), the completed form should be filed in the court when the fees you are requesting to be waived, such as the fee for the clerk’s transcript or telephonic oral argument, are due.

- **Writ Proceeding in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** If you want the Superior Court to waive the fees in a writ proceeding in a limited civil case, you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box. The completed form should be filed with your petition for a writ.
- **Appeal in Other Civil Cases.** If you want the court to waive fees and costs in an appeal in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box to ask the Court of Appeal to waive the fee for filing the notice of appeal or, if you are a respondent (a party other than the one who filed the appeal), the fee for the first document you file in the Court of Appeal. Check both boxes if you also want the trial court to waive your costs for the clerk's transcript (if the trial court already issued an order waiving your fees *and that fee waiver has not ended*, you do not need to check the first box; the fees and costs identified in item 2 above are already waived, just give the court a copy of your current fee waiver). If you are the appellant, the completed form should be submitted with your notice of appeal (if you check both boxes in item 4, the court may ask for two signed copies of this form). If you are the respondent, the completed form should be submitted at the time the fee you are asking the court to waive is due. For example, file the form in the trial court with your request for a copy of the clerk's transcript if you are asking the court to waive the transcript fee or file the form in the Court of Appeal with the first document you file in that court if you are asking the court to waive the fee for filing that document. To request waiver of a court fee for telephonic oral argument, you should file the completed form in the Court of Appeal when the fee for telephonic oral argument is due.
- **Writ Proceeding in Other Civil Cases.** If you want the Supreme Court or Court of Appeal to waive the fees and costs in a writ proceeding in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner (the party filing the petition), the completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court or Court of Appeal.
- **Petition for Review.** If you want to request that the Supreme Court waive the fees in a petition for review proceeding, you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner, you should submit the completed form with your petition for review. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court.

IMPORTANT INFORMATION!

- **Fill out your request completely and truthfully.** When you sign your request for a fee waiver, you are declaring under penalty of perjury that the information you have provided is true and correct.
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court immediately if your finances improve or if you become able to pay court fees or costs during this case (file form FW-010 with the court). You may be ordered to repay any amounts that were waived after your eligibility ended. If the trial court waived your fees and costs and you settle your case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or when the court finds that you are not eligible for a fee waiver.

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
1.	Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
2.	Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	A	As a whole, CAJ agrees with the proposed amendments and supports the amendments as proposed to the Rules of Court and the Forms. See comments on specific provisions below.	See committee responses to comments on specific provisions below.
3.	Committee on Appellate Courts State Bar of California By: Saul Bercovitch, Staff Attorney	A	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
4.	Magda Conant Oceanside, California	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
5.	Hon. Janet M. Frangie Superior Court of San Bernardino County	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
6.	<i>[joint comment by three legal aid organizations in Los Angeles area]</i> -Harriett Buhai Center for Family Law By: Betty Norwind, Executive Director and David S. Ettinger, Member Board of Directors -Western Center on Law & Poverty By: Richard A. Rothschild, Director of Litigation	N	On behalf of the Harriett Buhai Center for Family Law, Western Center on Law & Poverty, and Public Counsel, we write concerning SPR 14-05, which proposes various changes to rules and forms concerning waivers of court fees and costs for indigent litigants. We appreciate the opportunity to comment. (Last month, we separately submitted our own proposal to make other changes to the fee	See committee responses to comments on specific provisions below.

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List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
	-Public Counsel By: Lisa R. Jaskol Directing Attorney - Appellate Law		waiver rules and forms.) See comments on specific provisions below.	
7.	Stacy Larsen Family Law Facilitator Superior Court of Shasta County	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
8.	Orange County Bar Association By: Thomas Bienert, Jr., President	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
9.	Superior Court of Los Angeles County (no name provided)	N	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
10.	Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
11.	Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney	A	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
12.	Superior Court of Sacramento County By: Elaine Flores	N	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
13.	Superior Court of San Diego County By: Michael Roddy, Executive Officer	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
14.	TCPJAC/CEAC Joint Rules Working Group	N	See comments on specific provisions below.	See committee responses to comments on specific provisions below.

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>It will be much more efficient to have both fee waivers and payment plans for those denied a full fee waiver addressed within the Rules of Court and on the same forms. We agree that there should be a method to waive the hearing when a payment plan is agreed to. We also agree that having a separate set of forms set up for payment plans is not efficient, especially when these issues are generally addressed together.</p> <p>We are also in favor of limiting the payment period time to three (3) months or less, absent good cause, and allowing for those litigants who agree to a payment plan to waive the court appearance.</p>	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
Hon. Janet M. Frangie Superior Court of San Bernardino County	I believe the length of time for installment payments should be for up to six months instead of three months. For the court to find good cause there may be a hearing required in any event if the applicant fails to provide good cause for a longer period. In my experience the applicant may miss that he/she will have to establish "good cause" up front when submitting the fee waiver and unless I missed it I did not see a place for the applicant to list the reasons a longer period is needed. The fees can be in excess of \$400 and a longer period may be needed.	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit.
<i>[joint comment by three legal aid organizations]</i> -Harriett Buhai Center for Family Law By: Betty Norwind, Executive Director and David S. Ettinger, Member Board of Directors	SPR 14-05's primary focus concerns the trial court's authority to deny a fee waiver application under Government Code section 68632, subdivision (c), and instead require the fee waiver applicant to pay court fees over a period of time. For several reasons, we are opposed to most of the changes in this regard.	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit.

SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
<p>-Western Center on Law & Poverty By: Richard A. Rothschild, Director of Litigation -Public Counsel By: Lisa R. Jaskol Directing Attorney - Appellate Law</p>	<p>To begin with, although section 68632, subdivision (c), allows a court to require certain fee waiver applicants to pay fees over time, that is contrary to the Supreme Court’s landmark opinion in <i>Earls v. Superior Court</i> (1971) 6 Cal.3d 109. The trial court there denied a fee waiver application because the court concluded the applicant could set aside a little money over a number of months to pay the fee. The Supreme Court rejected this approach, concluding, “We know of no authority permitting a court to deny an application to proceed in forma pauperis upon the ground that, although the applicant is currently indigent, he may, over a period of months, succeed in accumulating the amount necessary to defray his costs.” (Id. at p. 117.)</p> <p>“The right of an indigent civil litigant to proceed in forma pauperis is grounded in a common law right of access to the courts and constitutional principles of due process.” (<i>Cruz v. Superior Court</i> (2004) 120 Cal.App.4th 175, 185, emphasis added.) Because of this, and because of the holding in <i>Earls</i>, the practice of ordering payment of fees over time, even though permitted by statute, is constitutionally suspect.</p> <p>Additionally, we have always been skeptical that courts can make such a fine distinction as the payment-over-time option requires. At what point is an indigent litigant able to “afford” to pay a court fee over time, but would be sacrificing “the common necessities of life” (§ 68632, subd. (c)) if ordered to pay the entire court fee at once? Although possible in theory, such a determination in</p>	<p>The committee appreciates the thoughtful comments, but disagrees with this analysis. The fee waiver statute, which was enacted after the <i>Earl</i> decision, can be read as consistent with that decision, because it expressly authorizes a court to allow payments over time or a partial waiver only when a court has determined that a party is <u>not</u> indigent at the time of the application, and so is not eligible for a full fee waiver under the standards of the statute, and when the court provides a written statement of the reasons why not. See § 68634(c)(5). As noted above, however, the proposal will not be moving forward at this time. The committee will reconsider this comment in any future work on this issue.</p>

SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>practice is an exercise in false precision.</p> <p>Payment of fees over time is thus at the least an option that should not be encouraged. But encouraging the practice is what SPR 14-05’s proposed changes do. The following proposals are particularly objectionable:</p> <ol style="list-style-type: none">1. The possibility of paying fees over time should not be mentioned at all on the fee waiver request form (FW-001). The fee waiver statutes do not state that payment over time is a type of relief that an applicant may request. (See §§ 68632, subd. (c), 68633, subd. (c).) Rather, it is an option — albeit a questionable one — given to the trial court in ruling on a fee waiver application if an applicant claims that she or he “cannot pay court fees without using moneys that normally would pay for the common necessities of life for the applicant and the applicant’s family.” (§ 68632, subd. (c).) Moreover, there is unlikely to be any person who would apply only to pay court fees over time instead of seeking to have fees waived entirely. Therefore, including a payment-over-time option on a fee waiver request form is confusing for litigants, who are typically unrepresented.2. The proposed form FW-001 is contradictory in instructing the applicant that she or he can ask the court to both “waive all court fees and costs” and let her or him pay the “initial Superior Court filing fees over time.” If the applicant wants all fees waived, he or she does not want to pay fees over time.	<ol style="list-style-type: none">1. The committee agrees that permission for payments over time is indeed an alternative to be considered only in the event that a fee waiver has been denied, and has modified the text of the form to more clearly express this. See also § 68640, which authorizes the council to make rules of court to allow parties who are not eligible for a fee waiver to pay court fees in installments. The committee will consider this comment in any future work on this issue.2. The committee will consider this comment in any future work on this issue.

SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>3. The proposed form FW-001 should not include an item allowing the applicant to waive a hearing if the court orders payment of fees over time. There should be no prospective waiver of a right to a hearing. Instead, the court order form (FW-003) should be revised to allow the court to deny the fee waiver application and to indicate that it will permit the applicant to pay fees over time without a hearing, and to then give the applicant the option of either appearing at a scheduled hearing or agreeing to pay fees over time without a hearing. The form should also state that foregoing a hearing does not waive the applicant’s right to seek appellate review of the court’s order.</p> <p>4. The proposed form FW-003 should not include an option for the court to state that it “denies your request for payments over time.” As explained, it is confusing to include on the fee waiver application form (FW-001) a place to ask to pay fees over time, so there should be no such requests for the court to rule on.</p> <p>5. The proposed amendments of rules 3.50(a) and 3.51 should not be made. As explained, there should be no applications for leave to pay filing fees over time.</p> <p>6. The proposed changes concerning paying fees over time should not be adopted, but are incomplete in any event. The “partial initial fee waiver” permitted by section 68632, subdivision (c), and section 68643, subdivision (e)(5), includes the possibility of paying “a portion of court fees”</p>	<p>3. The committee will consider this comment in any future work on this issue.</p> <p>4. This will no longer be on form FW-003. Because the committee is not recommending any amendments relating to payments over time, the item on FW-001 will remain as it currently stands for the time being.</p> <p>5. In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time.</p> <p>6. Because the committee is not recommending any amendments relating to payments over time, the item on FW-001 will remain as it currently stands for the time being.</p>

SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	in addition to the option of paying fees over time. However, the proposed changes to rules 3.50(a) and 3.51 and to forms FW-001 and FW-003 do not mention the partial payment option. If changes are to be made, the partial payment option should be included along with the payment over time option.	
Stacy Larsen Family Law Facilitator Superior Court of Shasta County	<p>I agree that providing an option for litigants to voluntarily waive their right to a hearing in circumstances where their fee waiver is denied but the court is willing to allow them payments over time will likely eliminate unnecessary hearings. However, if the Court approves a payment schedule or amount that is not financially possible for the litigants, and they have already waived their right to a hearing on this issue, will they have the ability to request a hearing on these issues?</p> <p>Limiting payments over time, generally, to three months and payments over time to first-appearance fees creates a general rule that limits access to the courts for our most financially needy, disenfranchised, and challenged litigants. Courts already have discretion to set the monthly payment amount and to limit payments to three months or less if appropriate. My concern is that the possible result in creating this rule is an automatic setting the monthly payment at \$145 per month for a period of three months rather than carefully considering each case on its facts. While those of us with steady incomes may believe that this amount is do-able for all Californians, this is not the case. When marriages or relationships fail, the financially weaker person in the relationship may be forced to remain in the</p>	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.

SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>home with the primary breadwinner whose income makes the household members ineligible for a fee waiver. This individual is often the primary caretaker of the couple’s children, and his/her primary concern is opening a dissolution case to obtain emergency temporary custody/visitation orders due to threats that the children will be taken away. The Court would have discretion to grant a fee waiver under subsection (c) but may choose not to do so given the gross income of the household members, instead ordering payments. This proposed revision allows the Court to make a finding of “good cause” to make payments smaller than the minimum \$145 and the payment schedule to stretch beyond the three months, but the Court already has that discretion. Creating a “rule of thumb” of three months creates a “default” order for litigants allowed to make payments and given the volume of fee waivers requested in each court everyday reduces the likelihood that each litigant’s financial position will be carefully considered on its merits. If the party requesting the fee waiver and/or option to make payments checked the new box to waive hearing if the Court allows him/her to make payments, it is not clear how he/she would obtain a court hearing to request different payment arrangements than the court ordered.</p> <p>CRC 3.50(a): As discussed above, I do not agree that the option of payments over time should be limited to first-appearance fees only. However, if this proposal is adopted, it should be made clear in CRC 3.50(a) that “leave to pay filing fees over time” is only an option when paying the \$435 first-appearance fee and that payments over time are</p>	

SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>not an option when paying the subsequent \$85 Request for Orders to Modify Custody/Parenting Time, etc. A possible revision would be as follows: “The rules in this division govern applications in the trial court for an initial waiver of court fees and costs or for leave to pay first-appearance filing fees over time . . .” This is particularly necessary as subdivision (b) defines “initial fee waiver” to mean the first time someone obtains a fee waiver, regardless of whether it’s at the time of first-appearance (\$435) or “at any stage of the proceedings.” For the layperson, it may not be clear that “initial fee waivers” apply to waivers of fee only and not to payments over time.</p> <p>CRC 3.51: As discussed above, I do not agree that the option of payments over time should be limited to first-appearance fees only. However, if this proposal is adopted, it should be made clear in CRC 3.51 that “leave to pay filing fees over time” is only an option when paying the \$435 first-appearance fee and that payments over time are not an option when paying the subsequent \$85 Request for Orders to Modify Custody/Parenting Time, etc. A possible revision would be as follows: “An application for initial fee waiver under rule 3.55 or for leave to pay first-appearance filing fees over time . . .”</p> <p>CRC 3.52(6): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “Any order allowing “payment of first-appearance fees over time should limit the time for payments . . .”</p>	

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>FW-001, first paragraph: If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “. . . waive your court fees or allow payment of your first-appearance fee over time.”</p> <p>FW-001, Item 7: If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. The paragraph reads awkwardly and is a bit confusing. It’s definitely not an easy rule to word clearly and concisely, but here is a possible revision: “You may request that the Court allow you to make payments instead of, or in addition to, requesting that the Court waive your first-appearance fee. If the Court denies your request for a fee waiver, you have the right to a hearing on that issue before the Court decides whether you qualify to make payments over time. You may waive this hearing in advance if you wish the Court to make a ruling on your request to make payments over time without a hearing on the denial of your fee-waiver request. Do you waive your right to come to court for a hearing before the court rules on your application to make payments toward your first-appearance fee over time?” In the alternative, the wording on FW-001-INFO, Item (3), is helpful and could be integrated in modified form here.</p> <p>FW-001-INFO, Item (3): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “You may ask to pay your first-appearance filing fee . . .”</p>	

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>FW-003, page 2, Item (d): If the individual waives his right to a denial-of-fee-waiver hearing in advance and the Court sets the payments at an amount or on a payment schedule that is not financially possible, how does the litigant request a hearing on this issue?</p> <p>FW-003, page 2, Item (d): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “Having waived . . . you may pay your first-appearance fee over time.” It is not clear what the “other” box would be for under this proposal if payments over time would be limited to first-appearance fees.</p>	
<p>Orange County Bar Association By: Thomas Bienert, Jr., President</p>	<p>Comments: The fee waiver statutes and rules are complex and over-lapping with the Legislative findings for implementation set forth at Govt. Code §68630. With these findings in mind, we believe the proposal needs modification in the following areas:</p> <p>(1) a limit on installment payments to 3 months is too restrictive and does not allow for consideration of other factors—the justification for such limit is not sound;</p> <p>(2) Govt. Code §68634(e) requires the court to give a written statement of reasons if an application is denied in whole or part but this proposal does not advise applicants of this right nor provide a statement of reasons at all for a denial of installment payments under FW-003;</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>(3) FW-001 was inexplicably modified to delete in total a request for partial waiver of some but not all fees which request appears authorized by statute;</p> <p>(4) the proposal and specifically FW-001 asks the applicant to “waive” in advance any and all hearings without any explanation of the entitlements to an “in camera” hearing required by statute prior to any denial under Govt. Code §68633 and §68641;</p> <p>(5) FW-001—INFO adds new instructions at paragraph 3 that the court will allow only up to 3 months for installment payments “unless you can show a really good reason for a longer time”, but that language is not instructive nor helpful to the applicant; . . .</p> <p>If the stated purpose is solely to allow parties to waive rights to a hearing in exchange for installment payments then the proposal is defective as outlined above.</p>	
Superior Court of Los Angeles County	<p>Making the proposed changes in the fee waiver forms has the potential to increase the number of requests for an order permitting payment over time. Staff time for processing multiple payments over time is substantial, especially with the antiquated case management systems that many courts currently have. Moreover, collections from fee waiver applicants can be very difficult and time consuming for staff, particularly when multiple payments are involved. Many low-income individuals pay by cash rather than credit card.</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	<ul style="list-style-type: none">• There were opposing viewpoints when soliciting comments by the Orange County Superior Court related to the proposed three month time frame for a payment plan. From one end of the spectrum, the opinion was that three months seemed to be too short of a time period for a person to pay in excess of \$100 each month for the filing fee. Judicial Officers in Family Law matters typically order payments of less than \$50 per month. One recommendation was to propose a one year payment plan. Another suggestion was to have a six-month time frame because it would coincide with the time frame for finalization of status in a dissolution, and provides a logical nexus to finalization time frames in family law matters. But at the other end of the spectrum, the opinion was that three months was a lenient time frame in which to pay fees on a payment plan when the party did not qualify for a fee waiver.• For Civil Unlawful Detainer and Small Claims actions that conclude within three months (parties being unwilling to pay remaining fees due), Staff proposes maintaining the three-month timeframe with a discretionary allowance for a judicial officer to assign an altered timeframe.▪ FW-001 and FW-001-INFO are silent as to when fees are due if a payment plan is denied. We suggest adding clarifying language on the forms for when a payment plan is denied.• What is the penalty for non-payment of payment plan	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	<p>fees? Do petitions get voided?</p> <ul style="list-style-type: none">• What if a hearing document is filed after the initial fee waiver is granted?<ul style="list-style-type: none">○ Is a new fee waiver required for the additional fees?○ What if a new payment plan is ordered?○ Please clarify how subsequently filed documents that trigger filing fees are included or considered if there is already a payment plan in place.• Under section 5c suggest adding wording to clarify that a party may choose both boxes with the payment plan being considered if the waiver is denied: “...waive all court fees and costs OR, if waiver is denied, let me pay my initial Superior Court filing fees over time.”• Under Section 7 the wording “in advance” is not clear to a person unfamiliar with the process (in advance of what?)<ul style="list-style-type: none">○ Suggest changing text in form to read: “...you may have the right to a hearing on your request in advance which means you will need to come to court...”○ Suggest changing the first check box to read: “Yes, I waive the right to a hearing in advance, and request that the court make its decision based on this written request.”• FW-003: Order on Court Fee Waiver, Page 2, number	

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	4b(3): The denial of the request for time payments seems out of place in the section that addresses the denial of the fee waiver. Item 4b(3) would only be used if the application did not contain a request for a fee waiver.	
Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney	This proposal will eliminate unnecessary hearings where the fee waiver applicant is willing to provide installment payments and does not want to attend a hearing in order to receive authorization to do so.	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
Superior Court of Sacramento County By: Elaine Flores	<p>6466 fee waivers filed 4121 granted w/out hearing 345 denied w/out hearing 51 granted after hearing 56 denied after hearing</p> <p>In a year and 4 months, we've had 107 fee waiver hearings which is an average of just over 1 per week...not the biggest workload. If all of the denials without hearing were allowed to make payments, the court would have to implement account monitoring for 345 people over that same period of time. Questions regarding procedure for failure to make payments timely/failure to pay would need to be answered. Our current case management system is not developed to accommodate collections so this would need to be done outside of the CMS and manually updated until modifications to the system could be made. This expense</p>	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue..

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	and workload doesn't seem to outweigh the expense and workload for conducting fee waiver hearings.	
Superior Court of San Diego County By: Michael Roddy, Exexutive Officer	FW001, number 7 on the second page [re the waiver of a hearing], does not read well at all. I would suggest using the wording in #3 on FW-001-INFO as a template for number 7 on FW-001.	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
TCPJAC/CEAC Joint Rules Working Group	<p>Although the proposal is purportedly intended to save time with respect to fee waiver adjudications, the TCPJAC/CEAC Joint Rules Working Group believes that in operation, the proposal would significantly increase burdens on staff.</p> <p>General comments</p> <p>While the proposed changes may eliminate the need for some fee waiver hearings, these changes are likely to increase the number of partial payment requests and the number of partial payments that court staff must process. More applicants may be attracted to requesting installment payment plans if a hearing before a bench officer is not required, and if the forms are changed as proposed.</p> <p>Staff time for processing multiple payments over time is substantial, especially with the antiquated case management systems that many courts currently have. Moreover, collections from fee waiver applicants can be very difficult and time consuming for staff, particularly when multiple</p>	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.

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Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008		
Commentator	Comment	Committee Response
	payments are involved. Many low- income individuals pay by cash rather than credit card, and therefore court staff must monitor compliance with progress payments. In addition, there is concern that litigants with credit cards may elect installment payments over time in lieu of single credit card payment transaction. This would result in further unnecessary court expenditure of resources used to establish, process, and follow up on payment arrangements. Unlike in criminal and minor offense cases, courts have little leverage to enforce collection efforts.	

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>2. Should the chart of income amounts for eligibility under Government Code section 68632(b) be removed from the application (form FW-001) and placed on the judicial branch’s website, so that yearly changes to those amounts would not require changes to the form? Would the resulting savings to the courts offset the added burden to the parties and judicial officers in finding that information? CAJ supports the inclusion of the chart on the application at this time. While there is a concern regarding the costs to update these forms each year, CAJ supports having the chart readily accessible on the applications for the benefit of the applicants and the Court. CAJ questions whether the costs to revise these forms each year would be drastically different than the costs to update the website to show the updated income amounts each year and the costs to have a conspicuously posted form at the clerk locations available for those applicants without internet access. In fact, the ability and/or costs to monitor the availability of this chart in each of the clerk’s offices may not be efficient. Accordingly, the savings of the form costs incurred would not appear to offset the added burden to the parties and judicial officers in finding the income amount information.</p> <p>3. In light of the fact that one item on form FW-001 (the figures in the eligibility chart in item 5b) is likely to have to be revised in late February 2015, would it be helpful to make the effective date of the proposed amendments to all the rules and forms March 1, to coincide with changes to the amounts in the eligibility chart? CAJ recommends that in an effort to be as cost effective as possible, the proposed amendments to all the rules and forms should coincide with the late February 2015 date. Inasmuch as there will be necessary costs to update and</p>	<p>2. Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>3. The committees agree and are recommending a March 1 effective date for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
	change the forms regardless, CAJ believes it makes economic sense to make all changes at the same time to avoid duplicative costs.	
Stacy Larsen Family Law Facilitator Shasta County Superior Court	<p>I agree that maintaining the chart showing the cut-offs for incomes above 125 percent of the current poverty guidelines on the FW-001 is a good idea. In its current location, litigants can more easily determine whether they are eligible, and the majority of self-represented litigants would find it overly burdensome, confusing, and overwhelming to access the chart online. My understanding is that fee waivers are designed to ensure equal access to the courts for our indigent litigants, many of whom have limited education, literacy skills, and resources. Litigants frequently do not file responses, erroneously allowing default to be entered against them, because they do not understand the availability of or eligibility criteria for fee waivers. Removing the chart places one more obstacle in their path to obtaining access to the courts.</p> <p>I support the alternative to make the changes to the fee-waiver forms/rules go into effect on March 1, 2015, rather than January 1, 2015. Two changes so close together leads to confusion and waste of paper. The court already has discretion to limit payments over time, etc., and the disadvantages of this brief delay are outweighed (at least in my opinion) by the benefits.</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>The committees agree and are recommending a March 1 effective date for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>
Orange County Bar Association By: Thomas Bienert, Jr., President	The chart of income amounts for eligibility should not be removed from Form FW-001 and placed on a website since applicants, court personnel, and others need that information readily available. Whether the proposed amendments are effective January 1 or March 1 depends on the amount of	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>The committees believe a March 1 effective date will achieve cost savings in eliminating a second amendment</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
	associated costs savings (if any).	to the same form within a two month period..
Superior Court, County of Los Angeles (no name provided)	If, however, this proposal is adopted, every effort should be taken to (1) make the forms as short as possible, and (2) to draft the forms in such a way that they do not need regular revision. For this reason the chart in 5b of FW-001 should be eliminated. In addition to directing applicants to the website, as suggested, there should be an optional form that explains both the public benefits abbreviations (which should be removed from the information sheet) and the 5b family size/income charts. Courts can decide to hand the optional form to all applicants, to post the optional form as information in the clerk’s office or self-help center, or to use the form in some other way that would supplement information available on the website.	Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001. The committees agree with generally trying to keep the forms as short as possible, but not at the cost of leaving off information useful to the parties or the court. The committees do not agree that the income eligibility chart should be removed from the fee waiver request form. The chart should stay on the form in order to assist both the applicants and the courts in determining eligibility. The committees particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy ongoing access to the internet, and that they are asserting their eligibility based on the federal poverty guidelines under penalty of perjury.
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	2. Should the chart of income amounts for eligibility under Government Code section 68632(b) be removed from the application (form FW-001) and placed on the judicial branch’s website, so that yearly changes to those amounts would not require changes to the form? <ul style="list-style-type: none"> We would not recommend removing the chart that shows the Family Size to Family Income from page 1 of the FW-001. This chart has proved to be valuable for the clerk as well as the applicant when explaining, completing and evaluating if the fee waiver can be granted under this provision. 3. Would the resulting savings to the courts [by removing income form from chart] offset the added burden to the parties	Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
	<p>and judicial officers in finding that information? (See discussion under Alternatives Considered, at page 12)</p> <ul style="list-style-type: none"> • See number 5 below; no cost savings identified <p>4. In light of the fact that one item on form FW-001 (the figures in the eligibility chart in item 5b) is likely to have to be revised in late February 2015, would it be helpful to make the effective date of the proposed amendments to all the rules and forms March 1, to coincide with changes to the amounts in the eligibility chart? (See discussion under Alternatives Considered, at page 13)</p> <ul style="list-style-type: none"> • Yes, the March 1st date would be an effective timeframe. 	<p>The committees appreciate the response.</p> <p>The committees agree and are recommending a March 1 effective date for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>
<p>Superior Court of Riverside By: Daniel Wolfe, Managing Attorney</p>	<p>The chart of income amounts for eligibility should not be removed from the application (FW-001). If it was removed it would make it more difficult for judicial officers and clerks to process the fee waivers effectively if the chart was removed.</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p>
<p>TCPJAC/CEOC Joint Rules Working Group</p>	<p>If, however, this proposal is adopted, every effort should be taken to (1) make the forms as short as possible, and (2) to draft the forms in such a way that they do not need regular and costly revision. For this reason the chart in 5b of FW-0010 should be eliminated. In addition to directing applicants to the website, as suggested, there should be an optional form that explains both the public benefits abbreviations (which should be removed from the information sheet) and the 5b family size/income charts. Courts can decide to hand the optional form to all applicants, to post the optional form as information in the clerk's office or self-help center, or to use the form in some other way that would supplement information available on the</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001. The committees agree with generally trying to keep the forms as short as possible, but not at the cost of leaving off information useful to the parties or the court. The committees do not agree that the income eligibility chart should be removed from the fee waiver request form. The chart should stay on the form in order to assist both the applicants and the courts in determining eligibility. The committees particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy ongoing access</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
	website.	to the internet, and that they are asserting their eligibility based on the federal poverty guidelines under penalty of perjury.

Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO		
Commentator	Comment	Committee Response
Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	The Appellate Courts Section of the Los Angeles County Bar Association has reviewed SPR14-05 insofar as it affects appellate courts and practitioners, and supports the proposal with one suggested modification to account more clearly for a recent rule change regarding payment for appellate transcripts.	The committees note the commentator's support for the proposal.
Committee on Appellate Courts State Bar of California By: Saul Bercovitch, Staff Attorney	The Committee on Appellate Courts limited its review to issues relating to the recommendations of the Appellate Advisory Committee, and agrees with those recommendations.	The committees note the commentator's support for the proposal.
Stacy Larsen Family Law Facilitator Shasta County Superior Court	CRC 3.55(3): A recent question has arisen regarding whether waiver of "clerks fees for reasonably necessary certification and copying" includes post-judgment copies. Since post-judgment copies are often necessary to prepare pleadings to modify or enforce judgments, it would seem these fees are covered in this provision. A secondary issue that has arisen is whether this provision waives fees for copying paperwork originally submitted by the litigant who is now requesting copies. Specifically, family-law cases continue long past judgment due to ongoing child support, custody, visitation, and	The committee notes that the cost of post-judgment copies would be covered for parties with a fee waiver in place. As to the issue of amending item 3.55(3) regarding making reasonably necessary copies in order to assure consistent application throughout the state, that issue is beyond the scope of the current proposal. The committee will consider it in the future as time and resources permit.

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Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO		
Commentator	Comment	Committee Response
	<p>spousal support issues. The family-law litigants are frequently the most financially challenged litigants in our courthouses, and their issues are often urgent. This population is the most impacted when there is significant “wobble room” in fee waiver statutes. These sorts of issues will continue to arise as our budgetary constraints increase, and it would be helpful if some uniformity was obtained through guidance from the Committee. Interpretation of “reasonably necessary copying” easily varies between individuals and courts, and it is not fair for one court to implement a blanket prohibition of waiving post-judgment copy fees or fees to copy pleadings prepared/filed by the litigants when the same fees are waived in another court. Guidance is appreciated given our ongoing struggle to balance fiscal demands of maintaining a court with ensuring indigent litigants meaningful access to justice.</p> <p>FW-001-INFO, Item 1, “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p> <p>FW-003 Item (4) “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p> <p>FW-008, Item (5) “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p>	
Superior Court, County of Los Angeles	With respect to fees related to appeal to the appellate division of the Superior Court, these fees should not be referenced on	Removing this information from the fee waiver forms would be an important substantive change and thus is

SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO		
Commentator	Comment	Committee Response
(no name provided)	the initial fee waiver forms but rather should be explained in the context of other information with respect to appeal on the “Information Sheet on Waiver of Appellate Court Fees.” It is simply confusing to applicants to be presented to information with respect to appeal when they are applying for a fee waiver at the outset of litigation.	not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. The committees will add this suggestion to reconsider that earlier policy decision to the list of suggestions for future consideration by the committees.
Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	Rule 3.55(7) speaks to reporter’s daily fees for attendance at hearings and trials held within 60 days of the date of the order granting the applications. However, there is no reference to the reporter fee (currently \$30.00, Gov. Code 68086(a)(1)(A)) for hearings lasting less than 1 hour). <ul style="list-style-type: none">• Suggest revising rule by striking the word “daily,” and recommend removing the 60 day reference.• Suggest referencing the same period of time for all fee waivers related to court reporter fees.	The committees agree with this comment, and are recommending amendment of rule 3.55 and 3.56 to reflect the change in law, along with recommending amendments to the items in forms FW-001-NFO, FW-002, FW-003, FW-005, FW-008, and FW-012 which set out the items included in those rules.-
Superior Court of San Diego County By: Michael Roddy, Executive Officer	Additional suggested question/revisions are as follows: <ol style="list-style-type: none">1. Should we add the new Government Code sect. 68086 Court Reporter Fee of \$30 to FW-001?	The committees agrees with this suggestion, and are recommending amendment of rule 3.55 and 3.56 to reflect the change in law, along with recommending amendments to the items in forms FW-001-NFO, FW-002, FW-003, FW-005, FW-008, and FW-012 which set out the items included in those rules.-

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO		
Commentator	Comment	Committee Response
TCPJAC/CEAC Joint Rules Working Group	With respect to fees related to appeal to the appellate division of the Superior Court, these fees should not be referenced on the initial fee waiver forms but rather should be explained in the context of other information with respect to appeal on the "Information Sheet on Waiver of Appellate Court Fees." It is simply confusing to applicants to be presented to information with respect to appeal when they are applying for a fee waiver at the outset of litigation.	Removing this information from the fee waiver forms would be an important substantive change and thus is not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. The committees will add this suggestion to reconsider that earlier policy decision to the list of suggestions for future consideration by the committees.

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008		
Commentator	Comment	Committee Response
Stacy Larsen Family Law Facilitator Shasta County Superior Court	FW-001, first paragraph, second line: There seems to be a word (“your”) missing before “household’s basic needs” in both this and the current version. FW-001, subsection (5)(c): It seems redundant to direct the litigant that he/she “must fill out page 2” in the first checkbox item and then tell him/her to “complete item 7 on page 2, along with all other items on that page” in the second checkbox item. Perhaps the first checkbox item on (c) should state that they	The committee has modified the form in light of this comment. This instruction has been modified in light of the removal of the circulated item 7.

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008		
Commentator	Comment	Committee Response
	<p>must “fill out page 2 with the exception of item 7” and the second should remain as is (?).</p> <p>FW-001, page 2, Directions: If the litigant checked 5c, he/she needs to complete only all of page 2 except Item 7. If he/she is requesting payments, he/she must complete Item 7. Can this be clarified?</p> <p>FW-001, page 2, Item (8): The wording “fill out below” is a bit awkward. A possible revision is as follows: “Fill out the remainder of this page based on your . . .”</p> <p>FW-001, page 2, Item (9): It’s a great idea to group all income in one category and one side of the page, and then all deductions/expenses in another category on the other side of the page. This will help litigants to fill out the page more correctly.</p> <p>FW-002, page 2, box at bottom of page: It reads awkwardly to start the second sentence with the conjunction “Or.” It could be combined with the first sentence (with a comma before the “or”), or it could be made into two sentences separated by a period or semicolon, starting the second sentence with “In the alternative, attach a sheet of paper . . .”</p> <p>FW-003, Item (1): In this, and the current, version of this form, the litigant must provide his/her name and address but is not required to provide his/her telephone number. Is this an omission?</p> <p>FW-008, Item (1): In this, and the current, version of this form,</p>	<p>This instruction has been modified in light of the removal of the circulated item 7.</p> <p>The committee has modified the form in light of this comment.</p> <p>The committee agrees.</p> <p>The committee has modified the form in light of this comment.</p> <p>This form is an order, and the information regarding party’s name and address is to identify who the order applies to, not to provided contact information.</p> <p>See above.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008		
Commentator	Comment	Committee Response
	the litigant must provide his/her name and address but is not required to provide his/her telephone number. Is this an omission?	
Orange County Bar Association By: Thomas Bienert, Jr., President	. (6) FW-003 at paragraph 4.a(3) and generally at App-001 have deleted all references to the waiver of appellate fees without explanation and contrary to Govt. Code §68634.5.	As explained in the Invitation to Comments, current item 4a(3), Fee Waiver for Appeal, has been deleted, because the items listed were duplicative of those already listed in item 4a(1).
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	<p>Form FW-001: Request to Waive Court Fees</p> <ul style="list-style-type: none"> Under Section 9, the first sentence is confusing: “List the source and amount of any other income you get each month;” Other than what income? At this point the party has not listed any income. Suggest rewording as follows: “List the source and amount of all income you get each month. Under Section 10 the first sentence is confusing: “List all other persons living in your home and their income; include only your spouse and all individuals who depend...” The party is first asked to list ALL other persons and then to include ONLY a select group of persons. The sentence seems to be contradictory. Suggest changing text to read as follows: “List your spouse and all individuals who live in your home and depend in whole or in part on you for support,...” <p>FW-001-INFO: Information Sheet on Waiver of Superior Court Fees and Costs</p> <ul style="list-style-type: none"> Recommend aligning all bullet points with the left margin throughout the form. 	<p>The committee has modified the form in light of this comment.</p> <p>The committee has modified the form in light of this comment.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008		
Commentator	Comment	Committee Response
	<ul style="list-style-type: none">• Under the first bullet under “IMPORTANT INFORMATION”: Suggest the word “Please” be removed. To answer “truthfully, accurately, and completely” should not be a request. <p>FW-003: Order on Court Fee Waiver</p> <ul style="list-style-type: none">• Page 3, ,Clerk’s Certificate of Service should include language to allow for electronic service.	<p>The fee waiver application, generally filed by self-represented parties, does not have a space for a party to include information regarding electronic addresses or to agree to electronic service. Amending the forms to allow for such information and such service will be considered in the future.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Other Comments/Suggestions – Form APP-001		
Commentator	Comment	Committee Response
Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	<p>SPR14-05 includes certain proposed revisions to Judicial Council appellate form APP-001, which provides general information regarding appellate procedures in unlimited civil cases. Page 2 of that form contains information about the designation of the reporter’s transcript, stating that “the appellant must deposit the approximate cost of transcribing the proceedings designated,” which may be “calculated at \$650 per day (more than three hours of court time) or \$325 per fraction of a day (less than three hours of court time).” SPR14-05 would add “for proceedings that were not previously transcribed” to this description of the statutory deposit amounts.</p> <p>This new language hints at a recent addition to rule 8.130 of the California Rules of Court that provides for a lesser deposit “[f]or proceedings that have previously been transcribed: \$80 per fraction of the day’s proceedings that did not exceed three hours, or \$160 per day or fraction that exceeded three hours.” (Cal. Rules of Court, rule 8.130(b)(1)(B)(ii).) However, the new language proposed by SPR14-05 does not go far enough, because it obscures the fact that a lesser deposit is required for proceedings that were previously transcribed, and it does not state what those lesser amounts are. A practitioner not already familiar with rule 8.130 would not be alerted to the availability of a lesser deposit amount from the new language that is proposed by SPR14-05.</p> <p>To make APP-001 more helpful to practitioners, the Appellate Courts Section suggests that after the new proposed language “for proceedings that were not previously transcribed,” the following sentence be inserted: “For previously transcribed</p>	The committee has revised its proposal to include the sentence suggested by the commentator in the proposed revisions to form APP-001.

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Other Comments/Suggestions – Form APP-001		
Commentator	Comment	Committee Response
	proceedings, the cost is calculated at \$160 per day (more than three hours of court time) or \$80 per fraction of a day (less than three hours of court time).”	

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Other Comments/Suggestions – General		
Commentator	Comment	Committee Response
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>Our comments in response to specific questions that are asked are as follows:</p> <p>1. Does the proposal appropriately address the stated purpose? Yes, the proposal is an appropriate response to address the stated purpose. The forms will adequately address the concerns and with the amendments will efficiently allow a waived hearing for payment plans and will also effectively include the new \$50 court reporter fee deposit.</p>	The committee agrees.
Magda Conant Oceanside, California	<p>Why not also allow the Judge discretion to decide whether a “reduced” fee be allowed in lieu of waiving the entire amount, based upon review of the income of the applicant?</p> <p>Perhaps a matriculation of reduced fees would be available to the court/applicant for a clear determination of the reduced amount they qualify to pay based on the amount of applicant's income.</p> <p>This coincides with the suggested “payment plan” which affords the courts some income as opposed to waiving the fee entirely.</p>	That discretion to grant a partial fee waiver is already provided for in Government Code section 68634(c)(5), which allows a court to grant a partial waiver if a full waiver has been denied. See also form FW-008, order after hearing on fee waiver application.
Stacy Larsen Family Law Facilitator Shasta County Superior Court	Although beyond the scope of this “Invitation to Comment” cycle, it would be helpful to provide guidance on these forms regarding how litigants can prepare/submit an amended fee-waiver request for use when they are granted payments over time but then their financial situation dramatically changes such that they wish to request that the remaining unpaid fees be waived.	If a party’s financial circumstances change after a fee waiver has been denied, he or she may apply again for a waiver. The only additional requirement is to inform the court if a prior request had been made within 6 months and to attach the previous request. See form FW-001, item 6.

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (*).

Other Comments/Suggestions – General		
Commentator	Comment	Committee Response
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	<p>SPR 14-05: Request for Specific Comments</p> <p>1. Does the proposal appropriately address the stated purpose?</p> <ul style="list-style-type: none">• Yes <p>[¶¶]</p> <p>5. Would the proposal provide cost savings? If so, please quantify.</p> <ul style="list-style-type: none">• No <p>6. What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</p> <ul style="list-style-type: none">• Brief staff training sessions and procedural updates; no case management system updates. <p>7. Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <ul style="list-style-type: none">• Yes	The committee appreciates the responses to the specific questions asked.

Computation Sheet

Number in Family	2015 Federal Poverty Guidelines (A)	125% of Poverty Guidelines (B) (B = A x 125%)	2015 California Monthly Income (C) (C = B / 12)*
1	\$11,770.00	\$14,712.50	\$1,226.05
2	15,930.00	19,912.50	1,659.38
3	20,090.00	25,112.50	2,092.71
4	24,250.00	30,312.50	2,526.05
5	28,410.00	35,512.50	2,959.38
6	32,570.00	40,712.50	3,392.71
Each additional person	4,160.00	5,200.00	433.34

*Figures are rounded up to the nearest cent.

By Order of the Federal Maritime Commission.

Dated: January 16, 2015.

Rachel E. Dickon,
Assistant Secretary.

[FR Doc. 2015-01033 Filed 1-21-15; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of December 16-17, 2014

In accordance with Section 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 16-17, 2014.¹

Consistent with its statutory mandate, the Federal Open Market Committee seeks monetary and financial conditions that will foster maximum employment and price stability. In particular, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range from 0 to 1/4 percent. The Committee directs the Desk to undertake open market operations as necessary to maintain such conditions. The Committee directs the Desk to maintain its policy of rolling over maturing Treasury securities into new issues and its policy of reinvesting principal payments on all agency debt and agency mortgage-backed securities in agency mortgage-backed securities. The Committee also directs the Desk to engage in dollar roll and coupon swap transactions as necessary to facilitate settlement of the Federal Reserve's agency mortgage-backed securities transactions. The System Open Market Account manager and the secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

By order of the Federal Open Market Committee, January 9, 2015.

William B. English,
Secretary, Federal Open Market Committee.

[FR Doc. 2015-01008 Filed 1-21-15; 8:45 am]

BILLING CODE 6210-01-P

¹ Copies of the Minutes of the Federal Open Market Committee at its meeting held on December 16-17, 2014, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's Annual Report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From the Westinghouse Electric Corp. in Bloomfield, New Jersey, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, HHS.

ACTION: Notice.

SUMMARY: NIOSH gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from the Westinghouse Electric Corp. in Bloomfield, New Jersey, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Westinghouse Electric Corp.

Location: Bloomfield, New Jersey.

Job Titles and/or Job Duties: All employees who worked in any plant production area.

Period of Employment: January 1, 1950 through March 1, 2011.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C-46, Cincinnati, OH 45226-1938, Telephone 877-222-7570. Information requests can also be submitted by email to DCAS@CDC.GOV.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2015-01056 Filed 1-21-15; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the Department of Health and Human Services (HHS) poverty guidelines to account for last calendar year's increase in prices as measured by the Consumer Price Index.

DATES: *Effective Date:* January 22, 2015, unless an office administering a program using the guidelines specifies a different effective date for that particular program.

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the guidelines are used or how income is defined in a particular program, contact the Federal, state, or local office that is responsible for that program. For information about poverty figures for immigration forms, the Hill-Burton Uncompensated Services Program, and the number of people in poverty, use the specific telephone numbers and addresses given below.

For general questions about the poverty guidelines themselves, contact Kendall Swenson, Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201, telephone: (202) 690-7507, or visit <http://aspe.hhs.gov/poverty/>.

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I-864, Affidavit of Support, contact U.S. Citizenship and Immigration Services at 1-800-375-5283.

For information about the Hill-Burton Uncompensated Services Program (free or reduced-fee health care services at certain hospitals and other facilities for persons meeting eligibility criteria involving the poverty guidelines), contact the Health Resources and Services Administration Information Center at 1-800-275-4772. To receive a Hill-Burton information package, call 1-800-638-0742 (for callers outside Maryland) or 1-800-492-0359 (for callers in Maryland). You also may visit <http://www.hrsa.gov/gethealthcare/affordable/hillburton/>.

For information about the number of people in poverty, visit the Poverty section of the Census Bureau's Web site at <http://www.census.gov/hhes/www/poverty/poverty.html> or contact the Census Bureau's Customer Service Center at 1-800-923-8282 (toll-free) or visit <https://ask.census.gov> for further information.

SUPPLEMENTARY INFORMATION:

Background

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of

the Department of Health and Human Services to update the poverty guidelines at least annually, adjusting them on the basis of the Consumer Price Index for All Urban Consumers (CPI-U). The poverty guidelines are used as an eligibility criterion by the Community Services Block Grant program and a number of other Federal programs. The *poverty guidelines* issued here are a simplified version of the *poverty thresholds* that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty.

As required by law, this update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI-U). The guidelines in this 2015 notice reflect the 1.6 percent price increase between calendar years 2013 and 2014. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes. The same calculation procedure was used this year as in previous years. (Note that these 2015 guidelines are roughly equal to the poverty thresholds for calendar year 2014 which the Census Bureau expects to publish in final form in September 2015.)

The poverty guidelines continue to be derived from the Census Bureau's current official poverty thresholds; they are not derived from the Census Bureau's new Supplemental Poverty Measure (SPM).

The following guideline figures represent annual income.

2015 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in family/household	Poverty guideline
1	\$11,770
2	15,930
3	20,090
4	24,250
5	28,410
6	32,570
7	36,730
8	40,890

For families/households with more than 8 persons, add \$4,160 for each additional person.

2015 POVERTY GUIDELINES FOR ALASKA

Persons in family/household	Poverty guideline
1	\$14,720
2	19,920
3	25,120

2015 POVERTY GUIDELINES FOR ALASKA—Continued

Persons in family/household	Poverty guideline
4	30,320
5	35,520
6	40,720
7	45,920
8	51,120

For families/households with more than 8 persons, add \$5,200 for each additional person.

2015 POVERTY GUIDELINES FOR HAWAII

Persons in family/household	Poverty guideline
1	\$13,550
2	18,330
3	23,110
4	27,890
5	32,670
6	37,450
7	42,230
8	47,010

For families/households with more than 8 persons, add \$4,780 for each additional person.

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. (Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii.) The poverty guidelines are not defined for Puerto Rico or other outlying jurisdictions. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is generally responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.

Due to confusing legislative language dating back to 1972, the poverty guidelines sometimes have been mistakenly referred to as the “OMB” (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as “the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).”

Some federal programs use a percentage multiple of the guidelines

(for example, 125 percent or 185 percent of the guidelines), as noted in relevant authorizing legislation or program regulations. Non-Federal organizations that use the poverty guidelines under their own authority in non-Federally-funded activities also may choose to use a percentage multiple of the guidelines.

The poverty guidelines do not make a distinction between farm and non-farm families, or between aged and non-aged units. (Only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.)

Note that this notice does not provide definitions of such terms as “income” or “family,” because there is considerable variation in defining these terms among the different programs that use the guidelines. These variations are traceable to the different laws and regulations that govern the various programs. This means that questions such as “Is income counted before or after taxes?”, “Should a particular type of income be counted?”, and “Should a particular person be counted as a member of the family/household?” are actually questions about how a specific program applies the poverty guidelines. All such questions about how a specific program applies the guidelines should be directed to the entity that administers or funds the program, since that entity has the responsibility for defining such terms as “income” or “family,” to the extent that these terms are not already defined for the program in legislation or regulations.

Dated: January 16, 2015.

Sylvia M. Burwell,
Secretary of Health and Human Services.

[FR Doc. 2015–01120 Filed 1–21–15; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15KX]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 19, 2015

Title	Agenda Item Type
Statewide Trial Court Technology Programs: Programmatic and Staffing Changes	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	February 19, 2015
Recommended by	Date of Report
Judicial Council Technology Committee	January 30, 2015
Hon. James E. Herman, Chair	Contact
Trial Court Budget Advisory Committee	Jessica Craven, 818-558-3101
Hon. Laurie M. Earl, Chair	jessica.craven@jud.ca.gov
	Steven Chang, 415-865-7195
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Executive Summary

The Judicial Council Technology Committee and Trial Court Budget Advisory Committee jointly recommend that the Judicial Council approve changes to a number of trial court related statewide technology programs that would achieve short-term, medium-term, and long-term savings in the State Trial Court Improvement and Modernization Fund, that the council's Information Technology Services Office consider reducing as many external contractors as possible, and that the council consider creating a working group or designating an existing committee to focus on information technology efficiencies and cost saving measures for smaller courts.

Recommendation

On January 15, 2015, the Trial Court Budget Advisory Committee (TCBAC) unanimously adopted, and on January 16, 2015, the Judicial Council Technology Committee (JCTC) unanimously adopted, the following recommendations:

1. The Judicial Council should direct the Judicial Council Technology Committee to oversee the implementation of the proposed actions outlined in Attachment 4. Short-term actions (within 12 months) will result in a savings of approximately \$1.0 million. However, medium-term (12-24 months) to long-term (24-36 months) actions are anticipated to result in additional savings. Long-term actions should be initiated immediately due to the length of time required for analysis, implementation, and transition from existing to new solutions.
2. The Judicial Council Information Technology Services Office should consider reducing as many external contractors as possible.
3. The Judicial Council should create a working group, or designate an existing advisory committee, to focus on information technology (IT) efficiencies and cost saving measures for smaller courts.

Previous Council Action

In March 2012, the Judicial Council voted to terminate deployment of the California Court Case Management System (CCMS) as a statewide court technology solution. The council directed the CCMS Internal Committee to work in partnership with the trial courts to develop timelines and recommendations to the council for strategies to assist trial courts with existing critical case management system needs, to establish a judicial branch court technology governance structure that would best serve the implementation of technology solutions, and to provide technology solutions in the near term to improve efficiencies in court operations by maximizing the value of document management systems, e-filing capabilities, and e-delivery services for the benefit of litigants, attorneys, justice partners, and the public.

In June 2012, the Judicial Council updated the name and structure of the CCMS Internal Committee to the JCTC to be in alignment with the Judicial Council direction. The new committee charge was to oversee the council's policies concerning technology, with responsibility in partnership with the courts for coordinating with the Administrative Director and all internal committees, advisory committees, commissions, working groups, task forces, justice partners, and stakeholders on technological issues relating to the branch and the courts.

In October 2012, the JCTC hosted a Judicial Branch Technology Summit where branch stakeholders assembled for a collaborative discussion on branch technology governance, vision, and planning. The discussions and feedback from the summit reinforced the need for a new governance and funding model and a long-term strategic plan for branch technology.

In February 2013, the Chief Justice authorized the creation of the Technology Planning Task Force (TPTF). The task force was charged with working collaboratively to define judicial branch technology governance in terms of statewide versus local decision-making, to develop a strategic plan for technology across all court levels that provides a vision and direction for technology within the branch, and to develop recommendations for a stable, long-term funding source for supporting branch technology, as well as a delineation of technology funding sources.

In January 2014, the Judicial Council approved the concept of the court technology governance and strategic plan, prepared by the Technology Planning Task Force, based on the information provided in the executive summary for the governance and funding model and plans.

At its April 24, 2014 business, the council tasked the JCTC to develop a plan to eventually eliminate subsidies from the Trial Court Trust Fund and State Trial Court Improvement and Modernization Fund (IMF) to courts for V3 (civil, small claims, probate, and mental health) case management system and Sustain Justice Edition costs.

In August 2014, the Judicial Council approved the Court Technology Governance and Strategic Plan. The chair of the JCTC stated that the plan would return to the council with updates related to language access.

In October 2014, the Judicial Council approved the Update to the Court Technology Governance and Strategic Plan.

Rationale for Recommendations

Changes to Trial Court Information Technology Programs Funded from the IMF

Background

A September 2014 review of the fund condition for the IMF indicated a projected deficit of approximately \$12 million dollars. This includes an estimated funding reduction in overall funding of approximately \$6 million for fiscal year 2015–2016 compared to the previous fiscal year. Since IT expenditures are almost 50% of the IMF expenditures, Judge James Herman, Chair of the JCTC, and Judge Laurie Earl, Chair of the TCBAC, established a working group comprised of trial court Judges, Chief Executive Officers, Chief Information Officers, and members of Judicial Council IT and Finance staff to identify options for reducing IMF-funded IT expenditures.

Attachment 1 represents projected IMF expenditures of approximately \$72 million for fiscal year 2015–16. Attachment 2 illustrates the twelve branchwide trial court IT programs that are funded by the IMF and managed by Judicial Council IT office. As reflected in Attachment 2, the projected allocation for IT programs in fiscal year 2015–16 is \$36 million. Attachment 3 includes short descriptions for each of the programs.

Analysis

The working group focused their analysis on the first eight programs listed in Attachment 2 which represent 96% of the proposed IT expenditures for 2015–2016. They evaluated the following options for each of the programs with the associated considerations:

- ***Fund program as proposed*** – Do not reduce expenditure. Program is a high priority to the courts. 1 of 8 programs was identified in this category.
- ***Postpone expenditure*** – Expenditure can be postponed to the future. 3 of 8 programs were identified in this category.
- ***Launch technology workstream to investigate new solutions*** – The Judicial Branch Tactical Plan for Technology (2014-2016), approved by the Judicial Council at its public meeting on August 21-22, 2014 includes recommendations to launch projects (workstreams) to identify new efficient cost-effective technology solutions. 2 of 8 programs were identified in this category.
- ***Trial courts provide service to other courts*** – Identify one or more trial courts to provide a branchwide IT program/service to the other courts. 0 of 8 programs were identified in this category due to high cost and effort.
- ***Trial courts absorb costs for programs*** – Transfer cost of program to individual courts and have them absorb the cost in their existing budget. 0 of 8 programs were identified in this category due to constraints on existing trial court budgets.
- ***Cancel/sunset program*** – Eliminate or sunset program based upon JCTC recommendations. 2 of 8 programs were identified in this category.
- ***Re-negotiate contract agreement with vendor*** – Evaluate current business requirements against existing contracted services to determine if contract can be re-negotiated to reduce costs. 1 of 8 programs was identified in this category.

The working group identified short-term, medium-term and long-term actions designed to reduce program expenditures. These proposed actions, also summarized in Attachment 4, are as follows:

Short-Term Actions (within 12 months)

1. Interim Case Management Systems – Postpone non-critical Sustain projects with no major impact on courts resulting in a \$100,000 savings.
2. California Courts Protective Order Registry (CCPOR) – Continue deployment if grant funds are available. Do not fund deployment from IMF resulting in a \$332,000 savings. If grant funding is not available, CCPOR deployment would be delayed at 4-6 courts.
3. Jury Management System – Postpone spending funds, which would delay non-critical upgrades to local jury management systems resulting in a \$600,000 savings.

Medium-Term Actions (12-24 months)

1. Enterprise Policy/Planning – Determine if the Oracle branchwide license agreement is aligned with current business needs or requires re-negotiation. No impact to courts in the short term but potential savings in the future.

Long-Term Actions (24-36 months)

1. California Courts Technology Center – Initiate Next Generation Hosting workstream (project) as outlined in the Judicial Branch Tactical Plan for Technology (2014-2016) to identify cost reduction and service improvement opportunities. No impact to courts in the short term but potential savings and effort required to implement and migrate to new solutions in the future.
2. Data Integration – Include data integration services as a component of the Next Generation Hosting workstream described above. No impact to courts in the short term but potential savings and effort required to implement and migrate to new solutions in the future.
3. Interim Case Management Systems – Align V2, V3, and Sustain Justice Edition case management systems with JCTC strategy. Impact and benefits to the courts to be identified by the JCTC.
4. Testing Tools – Enterprise Test Management Suite – The elimination or reduction of testing tools for CCPOR and V2 and V3 case management systems to be aligned with the JCTC strategy for Interim Case Management Systems. No impact to the courts in the short term but new testing tools for CCPOR would need to be identified.

In the short-term, it is projected that approximately \$1 million in savings can be achieved by delaying non-critical Sustain projects, delaying CCPOR deployment to 4-6 courts, and delaying non-critical jury system improvements.

In the medium-term, it is important to determine if there would be potential savings by re-negotiating the Oracle enterprise licensing agreement. Savings are unknown until this analysis is done. This project is complex and will require 18-24 months to complete; thus it is recommended that this project commence immediately.

In the long-term it is anticipated that major savings can be achieved by re-evaluating the CCTC data center services and the data integration services and the costs associated with those services. There is newer technology and new services that the branch could potentially adopt which could be more cost effective. The majority of potential savings resides in these two largest IT programs. The task of re-evaluating these services and associated costs are very complex and will require 24-36 months to complete; thus it is recommended that this project commence immediately in order to realize potential savings in the next couple of years.

Reducing IT Contractors

In their analysis, the working group identified the opportunity to reduce costs by reducing external contractors. It was discovered that IMF IT personnel costs represent about 18% of the total costs of the four most expensive IT programs. There is an equal number of permanent staff compared to contracted staff assigned to these programs; however, the cost of the contracted staff (\$3.4 million) is about 60% higher than the cost of permanent staff (\$2.1 million). This represents a potential savings of \$1.3 million if all contractors were replaced with permanent employees and more savings if some of the contractor work were to be absorbed by existing staff. Therefore the JCTC and TCBAC recommend the consideration of the reduction of external contractors.

IT Efficiencies and Cost Saving Measures for Smaller Courts

In the course of the working group's analysis it was determined that there is a need to provide IT support and consulting to some of the smaller trial courts in order to assist them in identifying and achieving efficiencies and cost savings opportunities. While such action would not result in reduction of IMF IT costs, it would benefit the smaller courts to explore these opportunities especially at a time when funding for IT programs will be reduced and would assist the branch in the overall management of costs. Therefore the JCTC and TCBAC recommend the creation of a working group, or designate an existing advisory committee, for such purpose.

Comments, Alternatives Considered, and Policy Implications

The analysis related to proposed changes to information technology programs was reviewed and positive input provided by trial court IT managers who attended the Court Information Technology Management Forum meeting on October 17, 2014.

Implementation Requirements, Costs, and Operational Impacts

Attachments

1. Attachment 1: IMF – Fund Condition Statement
2. Attachment 2: IMF – IT Program Allocation (as of September 2014)
3. Attachment 3: IMF – IT Program Descriptions
4. Attachment 4: IMF – IT Proposed Actions

**IMF -- Fund Condition Statement
(excerpt)**

			Estimate as of 10/9/2014		
Line No.		FY 2013-14 (Year-end Financial Statement)	2014-15	2015-16	Difference (Column D-C)
		B	C	D	
3	Adjusted Beginning Balance	49,237,913	29,333,045	3,631,046	(25,701,999)
15	Net Revenue/Transfers	47,428,770	43,150,350	62,106,425	18,956,075
16	Total Resources	96,666,683	72,483,395	65,737,471	(6,745,924)
18	Program and Project Allocations	69,878,695	71,466,600	71,732,095	265,495

**IMF – IT Program Allocation
(as of September 2014)**

		FY 2013-14	FY 2014-15	FY 2015-16
Project and Program		Approved Allocation	Approved Allocation	Estimated Allocation
		A	B	C
1	Telecommunications Support	15,608,480	11,705,000	10,649,166
2	California Courts Technology Center (CCTC)	9,465,100	10,487,200	10,583,037
3	Enterprise Policy/Planning (Statewide Development)	5,122,800	5,268,500	5,220,302
4	Data Integration	3,906,900	3,903,600	3,850,213
5	Interim Case Management Systems	1,650,600	1,246,800	1,996,034
6	California Courts Protective Order Registry (CCPOR)	675,800	585,600	1,047,954
7	Testing Tools - Enterprise Test Management Suite	582,500	624,300	619,699
8	Jury Management System	600,000	-	600,000
9	CLETS Services/Integration	515,200	433,400	513,620
10	Justice Partner Outreach / e-Services	572,000	200,700	442,957
11	Uniform Civil Fees	385,000	343,000	366,544
12	Adobe LiveCycle Reader Service Extension	129,800	133,700	141,000
	Total, Information Technology	<i>39,214,180</i>	<i>34,931,800</i>	<i>36,030,526</i>

IMF – IT Program Descriptions

1. **Telecommunications Support** - This program develops and supports a standardized level of network infrastructure for the California superior courts. The core objective of the program is to maintain the investment made in the original telecommunications project by updating local network equipment that is no longer supported due to aging technology.
2. **California Courts Technology Center (CCTC)** - The CCTC program provides a Judicial Branch Technology Center (data center) for use by all courts and a comprehensive disaster recovery program for court management systems, including Phoenix Financial and Human Resources Systems (SAP), California Courts Protective Order Registry (CCPOR), and Interim Case Management Systems, (CMS V2, CMS V3, and Sustain Justice Edition). The CCTC also provides a complete suite of IT services to five hosted Superior Courts (Madera, Modoc, San Benito, Lake, and Plumas). The hosted courts are charged annually for their services via the Schedule C process.
3. **Enterprise Policy/Planning (Statewide Development)** - This budget primarily funds the Oracle Branchwide License Agreement (BWL), which includes four components: Enterprise Database, Advanced Security, BEA WebLogic Suite, and Identity Manager with additional options. In addition, this budget funds one enterprise architect for the Enterprise Architecture (EA) program, and funds the Innotas project portfolio management tool.
4. **Data Integration** - The Data Integration (DI) program currently provides services that enable the secure and efficient exchange of information between the courts and their justice and integration partners.
5. **Interim Case Management Systems** – This program provides support for the Criminal and Traffic Case Management System (V2), the Civil, Probate and Mental Health Case Management System (V3), and Sustain Justice Edition.
6. **California Courts Protective Order Registry (CCPOR)** - CCPOR creates a statewide repository for restraining and protective orders that contains both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement officers. While usually funded by a grant, those funds may not be available for 2015-2016.
7. **Testing Tools - Enterprise Test Management Suite** - The Enterprise Test Management Suite (ETMS) is a program that provides a suite of software quality assurance tools, staff and testing expertise for CCPOR, the Criminal and Traffic Case Management System (V2) and the Civil, Probate and Mental Health Case Management System (V3).
8. **Jury Management System** - Jury grant program for trial courts to improve their jury management systems. Per Government Code section 77029(h), these funds can only be used for jury improvement.

Attachment 4

IMF – IT Proposed Actions

	Project and Program	Short Description	Proposed Action	Time frame*	Impact	Cost Savings
1	Telecommunications Support	LAN/WAN Network Refresh	Fund as proposed.		None.	None
2	California Courts Technology Center (CCTC)	Judicial Branch Data Center hosted by SAIC	Initiate Next Generation Hosting Tactical Plan workstream to identify cost reduction opportunities.	Long term	Complex analysis and transition requires work to start as soon as possible.	To be identified
3	Enterprise Policy/Planning (Statewide Development)	Oracle Branchwide License Agreement	Determine if agreement is aligned with current business needs or requires re-negotiation.	Medium term	None in short term. Potential savings in future.	To be identified
4	Data Integration	Tibco Integration Services Backbone (ISB)	Initiate Next Generation Hosting Tactical Plan workstream to identify cost reduction opportunities.	Long term	Complex analysis and transition requires work to start as soon as possible.	To be identified
5	Interim Case Management Systems	V2, V3, Sustain Justice Edition Case Management Systems	Postpone non-critical Sustain projects.	Short term	Delays non-critical projects.	\$100K
			Align with Judicial Council Technology Committee strategy.	Long term	To be identified.	To be identified
6	California Courts Protective Order Registry (CCPOR)	Judicial Branch Protective Order Registry	Continue deployment if grant funds are available. Do not fund deployment from IMF.	Short term	Delay deployment to 4-6 courts if grant funds not available.	\$332K
7	Testing Tools - Enterprise Test Management Suite	Testing tools for CCPOR, V2,V3 Case Management Systems	Align with Judicial Council Technology Committee strategy.	Long term	None.	To be identified
8	Jury Management System	Jury Improvement Grant	Postpone spending funds.	Short term	Delay non-critical jury improvements.	\$600K
Total Short-term Savings						\$1.0M

*Short term = within 12 months; Medium term = 12-24 months; Long term = 24-36 months.



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 19, 2015

Title	Agenda Item Type
Trial Courts: Recidivism Reduction Fund Court Grant Program Recommended Awards	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	February 19, 2015
Recommended by	Date of Report
Judicial Council staff Curtis L. Child, Chief Operating Officer, Shelley Curran, Senior Manager Criminal Justice Services	February 5, 2015
	Contact
	Shelley Curran, 415-865-4013 shelley.curran@jud.ca.gov

Executive Summary

As part of the Budget Act of 2014, the Legislature directed the Judicial Council of California to develop and administer a competitive grant program for trial courts that incorporate practices known to reduce adult offender recidivism. Criminal Justice Services, staff to the Judicial Council, recommends approving the Recidivism Reduction Fund (RRF) Court Grant Program funding allocation and distribution as well as recommendations related to further RRF funding opportunities for the courts and for grant administration activities.

Recommendation

Criminal Justice Services (CJS), staff to the Judicial Council, recommends that the council, effective February 19, 2015:

1. Approve awards of approximately \$13.654 million to 27 superior courts for the period of April 1, 2015, to April 30, 2017, from the Recidivism Reduction Fund Court Grant Program, as stated in Attachment A.

2. Allow the six courts that did not meet the minimum 65-point requirement for funding (per Section 2.5.1 of the request for proposals; see Attachment B) to submit revised proposals for review, rescoring by Judicial Council staff, and possible funding from the remaining balance of the RRF Court Grant Program.
3. After funds have been distributed to courts for the implementation and operation of programs outlined in recommendations 1 and 2, make any remaining funds available to all interested California trial courts for small training, planning, or technical assistance grants related to programs known to reduce adult offender recidivism.
4. Authorize CJS staff to work with the grantee courts to enable them to shift budgeted amounts from one fiscal year to another, modify budgets if necessary, or roll over unspent funds at fiscal year-end, provided these funds are within the courts' original award amounts.

Previous Council Action

The Budget Act of 2014 (Sen. Bill 852; Stats. 2014, ch. 25) appropriated \$15 million from the RRF for a competitive grant program to be developed and administered by the Judicial Council with the intent to support the administration and operation of trial court programs and practices known to reduce adult offender recidivism and enhance public safety. Five percent of the funds were directed to the Judicial Council for the administration and evaluation of this program. The remaining \$14.250 million was to be distributed to the trial courts for the operation of collaborative courts for adult offenders, pretrial programs, and court use of risk and needs assessments.

At its August 19, 2014, meeting, the Judicial Council's Executive and Planning Committee (E&P) approved the RRF Court Grant Program timeline and procedures for CJS staff to administer the program while avoiding any potential conflicts of interest. In its report *Recidivism Reduction Grant Administration Procedure* presented at the aforementioned meeting, CJS was to "be responsible for all aspects of administering the grant program, including developing the request for proposals (RFP), developing a review methodology and process for scoring [proposals], evaluating [proposals] . . . [and] making funding allocation recommendations to the Judicial Council." CJS would "score the proposals based upon specific criteria that will be included in the RFP" and to make an effort to "adequately fund as many grants as possible, emphasizing a diversity of program types throughout the state." CJS was also to submit final funding recommendations to E&P and the Judicial Council for consideration and approval.

At the Judicial Council meeting on October 27, 2014, CJS staff presented an update to the Judicial Council on the feedback provided by external experts and stakeholders during the development of the RFP, the release of the RFP on September 15, 2014, the general funding methodology, and the proposal review process in anticipation of receiving proposal submissions by December 15, 2014.

Rationale for Recommendation

As a part of its grant administration responsibility, CJS was directed to submit grant funding recommendations to E&P and the Judicial Council for consideration and approval. As noted in the RFP and frequently asked questions (see Attachment C), recommended grant awards typically range from \$300,000 to \$600,000. Proposals for grant awards outside that range were considered only if/when the cost proposals clearly demonstrated a need for an increased or reduced level of funding.

Funding policies

The following policies were developed and recommended during the proposal review process to ensure funding for the maximum number of programs that met the RFP criteria:

- Per the RFP (Section 2.5.1), fund only those programs that meet the minimum score requirement of 65 points.
- Fund all courts that submitted a proposal that scored at least 65 points.
- Limit each court to funding in only one program category (i.e., collaborative courts for adult offenders, pretrial programs, or court use of risk and needs assessments) even if a court has received a score of 65 points in more than one program category. Courts that qualified in more than one program category were asked to choose the preferred category in which to receive funding.
- Limit grant awards to a maximum of \$600,000.

Grant funds were intended to be awarded to as many courts as possible with the condition that each grant would provide beneficial services and satisfy the overall goals of the RRF Court Grant Program as outlined in the budget bill language. Funding was also designated to represent statewide geographical and program diversity, and funding priority was given to planning and implementation proposals for new programs (RFP Section 2.5.1).

From the 38 grant proposals received, 27 court programs are recommended for funding, representing a tentative total of \$13.654 million in grant awards.¹ CJS staff anticipates that small adjustments may be necessary to address computation errors, elimination of nonallowable costs, and the like. After any necessary adjustments, CJS anticipates that approximately \$600,000 to \$650,000 will remain unallocated. CJS recommends that the Judicial Council allow the six courts (Colusa, Lassen, Los Angeles, Placer, San Luis Obispo, and Stanislaus) that did not meet the minimum 65-point requirement for funding to submit revised proposals for review and rescoring by Judicial Council staff and for possible funding from the unallocated balance of the RRF Court Grant Program.

¹ Award amounts are considered tentative until any necessary budget adjustments are made and the contracting process is completed.

CJS staff has worked with the Judicial Council's Office of Accounting and Business Services to prepare for the execution and administration of contracts with the superior court grantees. Over the course of the grant period, several courts will likely require budget modifications. CJS staff would assist the grantee courts to enable them to shift budgeted amounts from one fiscal year to another, modify budgets if necessary, or roll over unspent funds at fiscal year-end provided these funds are within the courts' original award amounts. To ensure that all RRF court grants are fully spent, midterm financial evaluations (per RFP section 2.5.4) may necessitate budget reallocations from one court to another, which would revise the original awards for affected courts. If so, Judicial Council approval would be requested for any redistribution of funds among different trial courts.

Should RRF Court Grant Program funds be available at another time in the grant process, CJS suggests offering interested courts the opportunity to apply for small training, planning, or technical assistance grants of \$10,000 to \$20,000 for implementation of programs known to reduce adult offender recidivism. More information on this proposal will be available at a future Judicial Council meeting.

Scoring methodology and peer review process

A total of 38 proposals were received from the courts, totaling \$20.757million in requested funding. Courts were permitted to submit a proposal in more than one grant category. A review panel of five members with a designated panel lead was formed for each of the three RRF grant program categories: collaborative courts (23 proposals received), pretrial programs (13 proposals received), and court use of risk and needs assessments (2 proposals received²). Review panels were made up of multidisciplinary teams of Judicial Council staff. A summary of the review process is included in Attachment D.

The reviewers focused on evaluating the proposals consistent with the RFP, not against each other. Each RFP section had a maximum possible number of points. Proposals were scored based on their responsiveness to the RFP criteria, the quality of responses to each section, and the level of detail provided.

After the proposals were scored by the reviewers individually, category panel meetings were held on January 5 and 6, 2015. The panel leads facilitated group discussion of the strengths and weaknesses of each proposal to enable the panel to resolve any areas of misunderstanding or disagreement regarding proposal evaluation and funding recommendations.

On January 8, 2015, panel leads met with the CJS office head to review and evaluate the group scores and comments for each proposal, consider the statewide geographic representation,

² Our recommendations do not include funding for any court in the use of risk and needs assessment category. Of the two proposals received, one court's proposal did not meet the minimum score requirement of 65 points. The second court submitted proposals in two categories and chose to accept grant funding in another category instead.

confirm final scores, and draft proposed grant allocation recommendations for consideration and approval by the Judicial Council at the February 19, 2015, meeting.

Comments, Alternatives Considered, and Policy Implications

Alternatives to the recommendations in this report include:

1. Funding courts above \$600,000. Six court proposals included requests for more than \$600,000. The Judicial Council may consider funding these courts at an amount higher than \$600,000.
2. Funding multiple programs in a single court. Two courts submitted multiple proposals that met the 65-point minimum threshold. The Judicial Council may consider funding multiple programs in a single court.

CJS does not recommend either of these alternatives because fewer court programs would receive funding, which is contrary to the Judicial Council's intent of adequately funding as many grants as possible, emphasizing a diversity of program types throughout the state.

Implementation Requirements, Costs, and Operational Impacts

Once the courts receive their award notifications, CJS staff will work with the Judicial Council's Office of Accounting and Business Services to finalize contracts with each court as close to the April 1, 2015, grant start date as possible. Within four weeks of contract execution, courts requesting support for startup costs must submit the Start-up Cost Report that itemizes and documents funding needed to initiate and/or operate the program until June 30, 2015 (up to a maximum of 20 percent of the grant). Funds will be distributed to the courts for this deliverable as soon as possible. A follow-up report with documentation is required before release of any further funding. The Judicial Council will reimburse the courts on a monthly basis for their qualified expenses based on submission of invoices and financial documentation and contingent on the timely submission of all quarterly reports. Quarterly financial and program progress reports must be submitted, along with quarterly data submissions. CJS will compile information annually and report aggregate-level data generated by the awarded programs to the Department of Finance and the Joint Legislative Budget Committee as required in the Budget Act of 2014.

Attachments and Links

1. Attachment A: Summary of Recidivism Reduction Fund Proposed Grant Funding
2. Attachment B: Request for Proposals
3. Attachment C: Frequently Asked Questions, from December 10, 2014
4. Attachment D: Peer Review Process

**Judicial Council of California
Criminal Justice Services
Summary of Recidivism Reduction Fund Proposed Grant Funding**

CATEGORY: PRETRIAL			
No.	Applicant Court	Budget Amount Requested	Approximate Proposed Grant Funding Allocation
1	Alameda	598,270	598,270
2	El Dorado	763,799	600,000
3	Fresno	599,935	599,935
4	Imperial	378,041	378,041
5	Monterey	338,754	338,754
6	Orange	618,878	600,000
7	Shasta	902,642	600,000
8	Solano	302,049	302,049
9	Sonoma	855,336	600,000
10	Yuba	293,930	293,930
		\$ 5,651,634	\$ 4,910,979
CATEGORY: COLLABORATIVE COURTS			
11	Contra Costa	572,037	572,037
12	Kern	600,000	600,000
13	Lake	439,613	439,613
14	Mendocino	508,425	508,425
15	Merced	582,877	582,877
16	Modoc	343,477	343,477
17	Sacramento	597,131	597,131
18	San Diego	827,823	600,000
19	San Francisco	599,687	599,687
20	San Joaquin	598,500	598,500
21	San Mateo	603,378	600,000
22	Santa Clara	600,000	600,000
23	Santa Cruz	591,401	591,401
24	Tehama	599,705	599,705
25	Tulare	600,000	600,000
26	Tuolumne	134,176	134,176
27	Ventura	175,248	175,248
		\$ 8,973,478	\$ 8,742,277
TOTAL Proposed Grant Awards		\$	13,653,256

REQUEST FOR PROPOSALS

**JUDICIAL COUNCIL OF CALIFORNIA
CRIMINAL JUSTICE SERVICES**

Recidivism Reduction Fund Court Grant Program

GRANT PERIOD: April 1, 2015 – April 30, 2017

TYPICAL GRANT AWARDS: \$300,000 - \$600,000

ELIGIBLE APPLICANTS: Superior Courts of California

PROPOSALS DUE: 5:00 p.m. on Monday, December 15, 2014

NOTICE OF INTENT TO APPLY:

Applicant courts should submit a “Notice of Intent to Apply” via email to crimjusticeoffice@jud.ca.gov by 5:00 p.m. on October 8, 2014. Notice should include program category and phase.

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1.0 BACKGROUND INFORMATION

1.1 Organizational Background

- 1.1.1 The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. Judicial Council staff implements the council's policies.
- 1.1.2 The staff arm of the Judicial Council of California is comprised of three divisions, including the Operations and Programs Division, of which Criminal Justice Services (CJS) is a part. CJS oversees and coordinates the Judicial Council staff's efforts related to adult criminal justice, including the 2011 Criminal Justice Realignment Act and community corrections, in order to improve efficiencies and provide assistance to the courts, justice system partners, and the public. CJS also provides legal, program, and research assistance.

1.2 Creation of Recidivism Reduction Fund by Senate Bill 105 (SB 105)¹

- 1.2.1 For over two decades, California's prison system faced many challenges with overcrowding and lawsuits related to the provision of health and mental health services in prison. The population increased from approximately 60,000 inmates in 1986 to an all-time high of 173,479 in 2006. In 2011, the United States Supreme Court upheld a lower court ruling requiring the California Department of Corrections and Rehabilitation (CDCR) to reduce the population in its institutions to 137.5 percent of the system's design capacity by June 30, 2013. Subsequent orders extended the deadline, and on February 10, 2014, the lower court issued a final order granting the state a two-year extension to meet the cap by February 28, 2016. As of September 10, 2014, the State's prison population is approximately 140.6 percent of design capacity.
- 1.2.2 SB 105 provided \$315 million to CDCR to house inmates in contracted facilities to avoid early release and comply with the court-imposed population cap. It specified that if a sufficient time extension were granted by the court and all of the funding was not used for increased prison capacity, the first \$75 million of any savings would be transferred into the Recidivism Reduction Fund (RRF) created by SB 105. Savings beyond the \$75 million would be split, with half going to the RRF and half going to the General Fund. As a result, \$91 million is available in the RRF in Fiscal Year 2014–2015, and is allocated to various entities. Fifteen million dollars of the fund is designated for court programs that

¹ Senate Bill No. 105, Chapter 310, 2013. See also, California State Budget 2014–2015, Public Safety, pages 31–33.

are known to reduce adult offender recidivism including collaborative courts, pretrial programs, and court use of risk and needs assessment information.

2.0 RECIDIVISM REDUCTION FUND COURT GRANT PROGRAM

2.1 Program Overview and Purpose

As part of the Budget Act of 2014, the Legislature allocated \$15 million from the RRF for a competitive grant program to be administered by the Judicial Council of California. The funds are designated for courts to use in the administration and operation of programs and practices known to reduce offender recidivism and enhance public safety, including the use of validated² risk and needs assessments, other evidence-based practices,³ and programs that specifically address the needs of mentally ill and drug addicted offenders. Because these funds are specifically designated for court programs, judicial leadership is critical for all funded programs.

These funds are available to the Superior Courts of California for the establishment or ongoing operation and staffing for three categories of programs known to reduce adult recidivism and enhance public safety:

- Adult criminal collaborative courts that serve moderate and high-risk offenders (hereafter referred to as collaborative courts),
- Pretrial programs, and
- Court use of validated risk and needs assessment information.

Within each grant category courts may apply for either a planning/implementation grant or an enhancement grant. See Sections 2.4.1 and 2.4.2 for additional information.

Note: This is a competitive bidding process and therefore courts will not automatically receive RRF court grant program funding.

² For the purpose of this RFP, risk and needs assessments must be validated on a similar offender population.

³ Programs and practices are considered to be evidence-based when their effectiveness has been demonstrated by causal evidence, generally obtained through one or more outcome evaluations. As defined in California Penal Code section 1229(d), evidence-based practices refers to supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision. Specific examples of evidence-based practices can be found on the National Institute of Justice web page at www.crimesolutions.gov. The Substance Abuse and Mental Health Services Administration provides information related to the use of evidence-based practices when working with adult criminal offenders with substance abuse and mental health disorders. (See www.samhsa.gov.)

2.2 Grant Category Descriptions

Background information is provided below for the three grant categories that will be funded by the RRF court grant program.

2.2.1 Adult criminal collaborative court programs that serve moderate and high-risk offenders

Adult criminal collaborative court programs combine intensive judicial supervision and collaboration among justice system partners with rehabilitation services to reduce recidivism and improve outcomes for moderate and high-risk offenders with significant treatment needs. Examples of eligible criminal collaborative courts include community courts, drug courts, mental health courts, reentry courts, and veterans courts. Eligible collaborative courts may address various offender needs (mental health, substance abuse, etc.) and/or varied adult populations (veterans, women with substance abuse issues, etc.).

Although program models differ among court types and local jurisdictions, eligible adult criminal collaborative courts are generally led by a judge and include an interdisciplinary team consisting of a defense attorney, a prosecutor, a representative from probation or parole, and treatment staff and/or case managers or other representatives specific to the particular court. Participants are assessed for their risk of reoffending and for their mental health, substance abuse/dependence, and other treatment needs. Community supervision and treatment plans are created based on the information obtained from these assessments. Participants also attend regularly scheduled court sessions, usually one to four times a month, to discuss their adherence to the individualized supervision/treatment plans and other program requirements. Graduated sanctions, such as admonishments, increased frequency of court sessions, and jail sanctions are used to respond to noncompliant behaviors. Incentives, such as verbal praise, reduced frequency of court hearings, and transportation or food vouchers are used to reward and encourage participants' progress. Participants typically remain in the program and receive case management and treatment services for approximately 12 months or other length of time as determined in the treatment plan.

All collaborative court programs funded under this court grant program must:

- Target moderate and high-risk felony offenders using a validated risk assessment tool;
- Develop appropriate supervision and treatment recommendations based upon risk and needs assessment information;

- Collect program data to evaluate the effectiveness of the program; and
- Adhere to the collaborative court principles as defined by the Judicial Council's Collaborative Justice Courts Advisory Committee,⁴ as follows:
 - Collaborative justice courts integrate services with justice system processing.
 - Collaborative justice courts emphasize achieving the desired goals without using the traditional adversarial process.
 - Eligible participants are identified early and promptly placed in the collaborative justice court program.
 - Collaborative justice courts provide access to a continuum of services, including treatment and rehabilitation services.
 - Compliance is monitored frequently.
 - A coordinated strategy governs the court's responses to participants' compliance, using a system of sanctions and incentives to foster compliance.
 - Ongoing judicial interaction with each collaborative justice court participant is essential.
 - Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
 - Effective collaborative justice court operations require continuing interdisciplinary education.
 - Forging partnerships among collaborative justice courts, public agencies, and community-based organizations increases the availability of services, enhances the program's effectiveness, and generates local support.
 - Effective collaborative justice courts emphasize a team and individual commitment to cultural competency. Awareness of and responsiveness to diversity and cultural issues help ensure an attitude of respect within the collaborative justice court setting.

2.2.2 Pretrial Programs

Pretrial programs are an integral component of local criminal justice systems. Their three primary functions are to:

- Collect and analyze information about pretrial detainees for use in determining risk for committing new crimes during the pretrial phase of case adjudication, and risk of failure to appear for court hearings;
- Make recommendations to the court regarding pretrial release including, where appropriate, recommendations for release on own recognizance or conditions of pretrial release; and,

⁴ These collaborative court principles are based on the National Association of Drug Court Professionals' (NADCP) key components described in "Defining Drug Courts: The Key Components." <https://www.ncjrs.gov/pdffiles1/bja/205621.pdf>, (accessed September 12, 2014).

- Supervise defendants who are released from secure custody during the pretrial phase, where appropriate.

Pretrial supervision programs provide county justice systems with intermediate options between releasing a detainee on his/her own recognizance and remanding him/her to jail. Risk-based assignment to a continuum of pretrial supervision options, with intensity of supervision matched to risk level, can help assure that offenders return to court, maintain public safety, address jail overcrowding, and conserve resources for more intensive supervision of high-risk caseloads.

Pretrial programs may use a variety of tools, including validated risk assessment instruments, to gather relevant information for assessing defendants' risk of failure to appear in court for hearings and risk of committing a new crime if released pending trial. Pretrial programs also incorporate the use of specialized domestic violence, substance abuse/dependence, and/or mental health assessments. Components of a program often include automated reminders of court dates, expanded use of citation releases by law enforcement, designated prosecutors to review new arrests before the initial appearance in court for bail setting, defense representation at bail hearings, electronic monitoring of the offender, a needs assessment for individuals on supervised release, and periodic check-ins with supervision officers. Pretrial programs funded under this court grant program may operate to release defendants pre- or post-arraignment.

Many different pretrial program models may be used to reduce the risk of failure to appear and the likelihood of re-arrest while on pretrial status. The following components must be included in programs funded under this court grant program:

- The program must be designed to work closely with the court and other justice system partners.
- If a program is based in an entity other than the court—probation departments, jail or sheriff's department, or in an independent organization that contracts with the court—the court and judge must play a central role as the lead of the program.
- Funded programs must incorporate the use of a pretrial risk assessment tool and provide appropriate supervision and monitoring based on risk level and type of risk.
- Courts must be provided with risk assessment information for making release decisions; these decisions should be made at the earliest stages of case processing, including pre-arraignment.
- Data must be collected on individuals participating in the program.

2.2.3 Court use of validated risk and needs assessment information

Validated risk and needs assessments provide judges with additional information to consider when making sentencing decisions and determining the courts' responses to violations of supervision, including probation, postrelease community supervision, mandatory supervision and parole.

Courts funded under this grant category should use the funds to facilitate the incorporation of risk and needs assessment information at sentencing and/or in responding to noncompliant offender behavior. Courts, in consultation with their probation department or other assessment agency, and consistent with the California Rules of Court, should determine the format and content of the risk and needs assessment information provided to the court, and develop a formal and consistent protocol to enable courts to integrate this information into sentencing decisions and in responding to violations of supervision.

Jurisdictions are encouraged to assist probation departments in the development of integrated models that incorporate additional evidence-based practices, including targeted interventions that:

- Structure treatment, supervision, and responses to offender behavior based on offender risk level, needs, and personal characteristics;
- Enhance intrinsic motivation by applying the use of communication techniques that assist offenders in identifying their own reasons and readiness for change;
- Integrate substance abuse/dependence, mental health, and other treatment services with sentence/sanction requirements;
- Use cognitive behavioral treatment methods to disrupt criminal thinking, and provide opportunities to practice pro-social behaviors;
- Affirm and reward compliant behavior including, where possible, at a greater rate than punishing non-compliant behavior;
- Connect offenders to pro-social family, friends, and activities in the community so that their time is structured positively;
- Collect data on the effectiveness of the program; and
- Analyze and use the data to provide feedback to systems, agencies, teams, and individuals.

2.3 Eligibility and Application

- 2.3.1 All California superior courts are eligible to apply for a planning/implementation grant or an enhancement grant for any one of the three categories of the RRF

court grant program described in Section 2.2 above. Courts may apply for more than one grant category (i.e., collaborative court, pretrial programs, or court use of validated risk and needs assessment information). Note that separate applications must be submitted if a court is applying in more than one grant category.

2.3.2 Regional/joint court applications will be accepted provided there is a designated lead court.

2.3.3 Courts shall submit a proposal on behalf of the court, county,⁵ and other appropriate local justice system partners that clearly details the initiative(s) for which funding is sought, including the grant category and program phase; the associated staffing activities, programs, and services to be delivered by each of the partner organizations; and how the grant funds will be used to cover those costs. Courts must consult with relevant local justice system partners for the development of the proposal to avoid duplication of services that may be provided by a partner. Letters of support for the project from justice system partners must be submitted with the proposal. Information that briefly describes the process by which this proposal for funding was developed must also be submitted. (Detailed information regarding proposal contents can be found in Section 6.0.)

2.4 Phases of the Recidivism Reduction Fund Court Grant Program

For each of the three grant categories (collaborative courts, pretrial programs, and court use of validated risk and needs assessment information), the RRF court grant program provides funding for two program phases: planning/implementation, and enhancement.

2.4.1 Planning/Implementation Phase for Initial Program Development

Planning/implementation grants are available for jurisdictions that have not yet established but are committed to instituting one or more of the following: an adult criminal collaborative court that serves moderate and high-risk offenders, a pretrial program, and/or a court program that incorporates the use of risk and needs assessment information.

⁵ Persons authorized to act on behalf of the county include a member of the board of supervisors, the county administrative officer (CAO), or a designee named by the board or CAO.

Allowable uses of award funds for planning the program include the following:

- Support of, and training for, a Project Management Team (PMT) comprised of the court and local justice system partners and representatives of relevant agencies, service providers, nonprofit organizations, and other key stakeholders (See Section 3.1);
- Costs for court staff and local justice system partners involved in planning the program;
- Collection and analysis of local data that will be used in the development of a project plan;
- Development of a project plan by the PMT; and
- Contracts with subject matter experts for technical assistance in developing the project plan.

Allowable uses of award funds for implementing the program include the following:

- Court operations and services, including court staff;
- Staffing costs for local justice system partners involved in the program;
- Program training of judicial officers, staff, volunteers, mentors, and other partners involved in the program;
- Contracts for treatment services;
- Purchase or development of validated risk assessment tools and associated reporting and tracking software, drug testing and electronic monitoring equipment, and other program elements;
- Collection and reporting of data, as required; and
- Technical assistance.

2.4.2 Enhancement Phase for Ongoing Program Support and Expansion

Enhancement grants are available to courts with fully operational programs.

Allowable uses of award funds for program enhancement include the following:

- Ongoing operation of an existing program that meets all of the requirements of this grant program;
- Costs for court staff and local justice system partners involved in the program;
- Collection and reporting of data, as required;
- Program training of judicial officers, staff, volunteers, mentors, and other partners involved in the program;
- Increasing the number of participants served who meet the existing criteria for the target population;

- Expansion of the criteria for the target population to serve additional participants who meet the expanded description; and
- Enhancement of court or other local justice system operations, including supervision and treatment services.

2.5 Recidivism Reduction Fund Court Grant Awards and Funding

- 2.5.1 The Judicial Council seeks to adequately fund as many qualified RRF court grant programs as possible, emphasizing a diversity of program types throughout the state. Funding priority will be given to planning/implementation grants for new programs.

Total grant awards will typically range from \$300,000 to \$600,000. Applications outside of the range will be considered when the cost proposals clearly demonstrate a need for funding outside of the range.

In order to make funds available to courts of various sizes, applications will be considered in one of four designated pools based upon the number of offenders supervised in each county as a percent of the statewide total. The supervised populations include: probation, mandatory supervision, postrelease community supervision, and parole. Pools are broken down as follows:

- Pool 1 Supervised population is less than 0.4% of the statewide total
- Pool 2 Supervised population is between 0.4 and 1% of the statewide total
- Pool 3 Supervised population is between 1 and 5% of the statewide total
- Pool 4 Supervised population is greater than 5% of the statewide total

Courts are assigned to one of the designated pools based upon data provided to the Judicial Council by the Chief Probation Officers of California (CPOC) and the California Department of Corrections and Rehabilitation. Please see Appendix A for individual court designations.

It is the intent of the Judicial Council to fund applicants in each of the pools. Funds will not necessarily be allocated equally among the four pools.

Applications within the same pool will be scored against other applications of the same grant category (i.e., collaborative courts, pretrial programs, court use of validated risk and needs assessment information). In order to be awarded a grant, a proposal must score at least 65 percent of the possible points. (See Section 7.0.)

- 2.5.2 Funds must be fully expended by April 30, 2017, after which any unexpended funds shall revert to the State. Courts must submit final invoices prior to May 5,

2017. Invoices received by the Judicial Council after this date will not be accepted.

- 2.5.3 Grant funds will be disbursed as one payment in Fiscal Year 2014-2015 (up to 20% of the total grant award) upon receipt of a deliverable (see Section 3.3.1) and shall be reimbursement-based in Fiscal Years 2015–2016 and 2016–2017 (see Section 3.3.2). The purpose in distributing the funds in this manner is to assist courts with program start-up costs.
- 2.5.4 To ensure that all RRF court grant program funds are fully spent, the Judicial Council will conduct a mid-term financial evaluation. If the Judicial Council determines that courts will not be able to spend their full grant allocation, the Judicial Council may redistribute funds as necessary to support other RRF court grant programs. The Judicial Council may also redistribute any unspent funds if a court terminates its program prior to the end of the grant period.
- 2.5.5 The Judicial Council may offer partial grant awards, and courts may be asked to submit modified project plans and revised budgets that reflect the award amounts offered.

2.6 General Approved Use of Recidivism Reduction Fund Court Grant Program Funds

- 2.6.1 The Court shall follow applicable federal, state, and local laws and regulations, including but not limited to the following:
- The Judicial Branch Contracting Manual and Trial Court Financial Policies and Procedures Manual, as applicable; and,
 - The State of California’s Manual of Accounting for Audit Guidelines for Trial Courts as published by the State Controller’s Office, which is applicable when the court utilizes county administrative services.
- 2.6.2 Acceptable uses of funds include the following:
- Salary and benefits for court employees necessary to meet the operational requirements of the program;
 - Contractor/subcontractor/consultants/professional services, including training. Subcontracts may include salaries and benefits for employees of local justice system partners necessary to meet the operational requirements of the program. A copy of all subcontracts must be provided to Judicial Council Grant Accounting before any reimbursement can be made;
 - Services including but not limited to electronic monitoring and ongoing supervision, assessment, job/educational training, residential or outpatient

treatment for mental health or substance abuse/dependence treatment, health screening, transitional/temporary housing;

- Drug testing, alcohol monitoring, and related supplies;
- Registration fees for trainings and conferences, with proof of attendance, that are directly related to the grant programs;
- Travel as required pursuant to items in Section 3.2;
- Equipment, defined as non-expendable items costing \$5,000 or above. Such items must be clearly related to the program objectives and directly contribute to program activities and be pre-approved in writing by the Judicial Council project manager;
- Purchase, production, or reproduction of educational and training materials;
- Courts' indirect costs calculated as a percentage of court employee salaries and benefits charged to this grant (as outlined in Section 6.4.1);
- Costs of incentives given to program participants. Incentives may include gift cards, food coupons, bus and other transportation passes, field trip passes, movie tickets, etc. Funds must not be distributed as cash. Maximum amount of incentive reimbursements per program is \$1,500 per year. The Judicial Council will provide a form for reporting incentive distribution. Funds are reimbursed only upon submission of both proof of purchase and proof of distribution to program participants within the grant contract period. Court employees, subcontractors, or anyone other than a program participant are not allowed to receive incentives;
- Computers, staffing, and other costs associated with collecting, maintaining and reporting required data; and
- Any other expenses directly related to the project not listed herein, as properly budgeted and approved by Judicial Council Grant Accounting.

2.6.3 Ineligible use of funds includes the following except in situations where prior approval has been obtained by the Judicial Council program manager:

- Duplication of services that are already being provided by a justice system partner;
- Food and/or drink of any kind including bottled water and related purified water dispensers (either by the court and/or subcontractor except as outlined in incentives or associated with approved travel);
- Membership dues;
- Penalties, fines, late fees, licenses, interest, damages, and/or settlements resulting from violations or noncompliance by program participants;
- Costs for fundraising, scholarships, tuition, stipend, contributions and donations, or non-incentive-related gifts;

- Construction, rehabilitation, and/or remodeling of any building and/or structure;
- Entertainment costs such as show tickets, sporting events, and/or any other events except for use as participant incentives as described above; and
- Participant living expenses including rent, hotel lodging, food, utility bills, vehicle expenses, parking, medical insurance premiums, etc.

3.0 COURT GRANT PROGRAM REQUIREMENTS

3.1 Project Management

Each court will be required to establish a project management team (PMT) chaired by a judge, and include, as appropriate, a court manager and a representative of: the sheriff, probation chief, district attorney, criminal defense, pretrial services, parole, treatment provider, etc. The PMT should meet at least two times per year to discuss shared issues.

3.2 Program Training

The Judicial Council will host meetings related to each of the grant categories in the RRF. Court grant program funds may be used for travel expenses for attendance at required meetings.

- Pretrial programs: Applicant courts and their PMTs are strongly encouraged to attend an initial Pretrial Summit scheduled for February 17-18, 2015, in San Francisco. Applicant courts that are awarded a pretrial program grant may use RRF grant funding for expenses associated with attendance. Because courts will not receive the notice of intent to award until after the Summit, applicant courts that are not awarded a pretrial program grant will be reimbursed by the Judicial Council for the expenses associated with attendance at the Pretrial Summit.
- Court use of validated risk and needs assessment information: Courts awarded grants for court use of validated risk and needs assessment information are required to attend, with their PMT, a meeting scheduled for April 2, 2015, in San Francisco.
- Collaborative court programs: Courts awarded grants for collaborative court programs are required to attend, with their PMT, a meeting that will be scheduled for fall 2015.

3.3 Process for Funding Courts

- 3.3.1 Program Start-up Costs, Fiscal Year 2014-2015 (April 1 to June 30, 2015): Deliverable-based program start-up costs. At any time, but no later than four weeks after contract execution, courts must submit a Program Start-up Cost Report to the satisfaction of the Judicial Council project manager that documents the funding needed to initiate program planning/implementation or enhancement. This Program Start-up Cost Report must detail the amount of funds needed by the courts until June 30, 2015, how the funding will be utilized, and include an itemized budget. This report will serve as the deliverable referenced in Section 2.5.3 and a template will be provided.

Before the reimbursement portion of the grant contract is initiated as described below, courts must submit a narrative and budget report that describes and accounts for the use of these initial funds, which must be reviewed and approved by the Judicial Council project manager. A template will be provided for this report.

- 3.3.2 Fiscal Year 2015–2016 and Fiscal Year 2016–2017: Reimbursement-based contracts payable with proper financial documentation. Requests for reimbursement, with proper financial documentation, should be submitted monthly by the 20th of the following month. Only approved, allowable expenses incurred during the contractual funding grant period will be considered reimbursable.
- 3.3.3 Courts may request funds from the Judicial Council in advance for expenses that are necessary to implement the program. A copy of a fully executed contract, approved invoice, and explanation of the services must be provided to the Judicial Council program manager for review and approval at the time of the request. Payments in advance will not be made for amounts less than \$25,000 and generally should not be requested by a court more than once per year. Proof of payment by the court must be provided and approved within 90 days of the Judicial Council advance. After this time period, no other reimbursements will be paid until the court’s proof of payment is received and approved by the Judicial Council program manager.
- 3.3.4 Funds must be fully expended by April 30, 2017, and final reimbursement submissions must be received by the Judicial Council no later than May 5, 2017. Invoices received by the Judicial Council after this date will not be accepted.

3.4 Grant Administration Reporting and Tracking

- 3.4.1 Quarterly Grant Administration Reports: Award recipients must submit quarterly

grant administration reports that summarize grant-related activities, including progress towards goals and objectives, program achievements and challenges, collaboration with justice system and other local partners, and changes to key staff or procedures. Reports are due no later than 30 days following the end of each calendar quarter. A template will be provided.

- 3.4.2 **Fiscal Tracking:** Award recipients agree to track, account for, and report on all funds from the RRF court grant program separately from all other funds used for the same or similar purposes or programs. RRF court grant program funds may be used in conjunction with other funding as necessary to complete projects; however, tracking and reporting of these funds must be separate. Accordingly, the accounting systems of award recipients must ensure that funds from the RRF court grant program are not commingled with funds from any other source.
- 3.4.3 **Supporting Documentation:** Award recipients agree to maintain supporting documentation (e.g., timesheets, invoices, contracts, etc.) used to compile reports, and to provide copies of this supporting documentation to the Judicial Council, if requested.

3.5 Program Evaluation and Data Collection

- 3.5.1 Grant recipients agree to adhere to quarterly data collection and reporting requirements as outlined by the Judicial Council. The CJS will provide data collection tools, reporting templates, and instructions for submitting data using the Judicial Council's secure file transfer protocol (FTP) site, where necessary. CJS staff will provide data collection technical assistance and will work with funded programs to ensure that data can be collected and reported to the Judicial Council.
- 3.5.2 Judicial Council staff will compile data reported by courts awarded RRF court grant program funds and annually report aggregate level data related to awarded programs to the Department of Finance and the Joint Legislative Budget Committee, as required in the Budget Act of 2014. In consultation with CDCR and CPOC, the Judicial Council shall establish performance-based outcome measures appropriate for each program.
- 3.5.3 Awardees must report program process data as well as aggregate level outcome data. Depending on program type, size, and data collection capacity, participant (i.e., individual) level data may be required. Courts must submit required data and participate in data quality conference calls. Required data elements will differ depending on the program type (i.e., collaborative court, pretrial program, court use of validated risk and needs assessment information). Judicial Council staff will finalize the data elements necessary to measure required outcomes before

contract execution. Examples of the types of data that will likely be required appear below.

Program Data

- Program operations and polices (e.g. eligibility criteria, referral and admission processes, validated risk and needs assessment instruments utilized, termination and completion criteria, program phases, etc.);
- Aggregate program data for each program category to determine whether the program plan was adhered to and whether the program was implemented as intended (e.g., number of persons assessed and/or referred, number of persons in the program, service referrals, services provided, participant outcomes, other program outcomes, etc.).

Individual Level Data

- Participant demographic characteristics such as race, ethnicity, gender, and age;
- Risk and needs assessment information including risk level and substance abuse/dependence or mental health issues identified;
- Participant criminal activity information such as arrests, convictions, jail and prison stays;
- Participant case disposition information, if applicable, including length of sentence;
- Participant failures to appear at court hearings.

4.0 TIMELINE FOR THIS RFP

4.1 Grant Applicants' Teleconference

Judicial Council staff will host four applicant teleconferences for superior courts interested in applying for this grant. The purpose of the applicant teleconferences is to provide an opportunity for courts to ask specific questions regarding the RFP grant application, grant program requirements, and terms and conditions for funding.

The applicant teleconferences are scheduled for:

Tuesday, October 7, 2014, from 10:00–11:30 a.m., and from 2:00–3:30 p.m.

Thursday, October 16, 2014, from 9:00–10:30 a.m., and from 3:00–4:30 p.m.

Interested applicants should email crimjusticeoffice@jud.ca.gov to RSVP for a teleconference.

To ensure a fair process, applicants (including interested justice system partners, and co-applicants) should submit their questions in advance to crimjusticeoffice@jud.ca.gov. Questions must be received by 12:00 p.m. on October 3, 2014, for the October 7, 2014, calls; and by 12:00 p.m. on October 14, 2014, for the October 16, 2014, calls. Requests for clarification or guidance should indicate the RFP page number and section, and state the question clearly. Judicial Council staff will consolidate or paraphrase questions for efficiency and clarity. Questions and answers will be posted here <http://www.courts.ca.gov/RecidivismReduction.htm> within one week following the conference call and may be updated, as needed.

4.2 List of key events related to this RFP.

All dates are subject to change at the discretion of the Judicial Council.

EVENT	DATE
RFP issued	Monday, September 15, 2014
Deadline for questions for applicant teleconferences on October 7, 2014	Friday, October 3, 2014, no later than 12:00 p.m.
Applicant calls – October 7, 2014	Tuesday, October 7, 2014, 10:00–11:30 a.m.
	Tuesday, October 7, 2014, 2:00–3:30 p.m.
Deadline for Notice of Intent to Apply	Wednesday, October 8, 2014, no later than 5:00 p.m.
Deadline for questions for applicant teleconferences on October 16, 2014	Tuesday, October 14, 2014, no later than 12:00 p.m.
Applicant calls – October 16, 2014	Thursday, October 16, 2014, 9:00–10:30 a.m.
	Thursday, October 16, 2014, 3:00–4:30 p.m.
Latest date and time proposal may be submitted	Monday, December 15, 2014, no later than 5:00 p.m.
Presentation to Judicial Council	Thursday, February 19, 2015 or Friday, February 20, 2015
Notice of Intent to Award	Monday, February 23, 2015
Negotiation and execution of contract	Monday, February 23, 2015–Wednesday, April 1, 2015

EVENT	DATE
Contract start date	Wednesday, April 1, 2015
Contract end date	Friday, April 30, 2017
Final reimbursement submissions received by the Judicial Council	Friday, May 5, 2017

5.0 SUBMISSIONS OF PROPOSALS

- 5.1 Proposals should provide information that satisfies the requirements outlined in this RFP. Expensive bindings, color displays, etc., are not necessary or desired. Emphasis should be placed on conformity to the RFP's instructions and requirements, and completeness and clarity of content.
- 5.2 The Applicant must submit one (1) original and five (5) copies of the proposal in a sealed envelope. The original must be signed by the court's executive officer or presiding judge. The original proposal (and the copies) must be submitted to Judicial Council of California/Criminal Justice Services. The Applicant must write the RFP title on the outside of the sealed envelope.
- 5.3 The Applicant must submit an electronic version of the entire proposal to crimjusticeoffice@jud.ca.gov.
- 5.4 Proposals must be delivered by Monday, December 15, 2014, no later than 5:00 p.m., to:
- Judicial Council of California
Criminal Justice Services
Attn: Barbara Whiteoak, Executive Secretary
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102-3688
- 5.5 Late proposals will not be accepted.

6.0 PROPOSAL CONTENTS

The following information must be included in the proposal and must cover the full twenty-five month grant period (April 1, 2015 to April 30, 2017). A proposal lacking any of the following information may be deemed non-responsive.

6.1 Court Contact Information

Provide lead court name, address, and telephone number in addition to the name, title, and email address of the individual who will act as the court Project Manager for purposes of this RFP.

6.2 Project Abstract

Maximum 1 page, 12 point, Times New Roman, double-spaced.

Clearly state: the grant category(s) (i.e., collaborative court, pretrial program, court use of validated risk and needs assessment information); the program phase (i.e., planning/implementation or enhancement) for which the court is applying; the target population and eligibility criteria; the projected number of persons to be served with funding under this grant, and the total number of persons served by the program, if different; the total dollar amount requested; and a brief description of the proposed use of funds.

6.3 Project Narrative

Maximum 15 pages, 12 point, Times New Roman, double-spaced.

The project narrative should address the requirements of this RFP and include the components described below depending on the grant category(s) (i.e., collaborative court, pretrial program, court use of validated risk and needs assessment information) and program phase (i.e., planning/implementation or enhancement). If an item listed below is not applicable to the program, briefly explain why it does not apply.

6.3.1 Problem statement

- Describe the local problem to be addressed by the project, including contributing factors (be specific and concise), and include local data where possible.
- Describe previous efforts to address the identified local problem including effectiveness and limitations of these efforts.

6.3.2 Project plan

- Describe the purpose, goals, and objectives of the proposed program, including how the program meets the requirements outlined in Section 2.2. Goals are broad statements of what the program seeks to achieve in the long term, and are generally not measurable. Objectives focus on the strategies that

will be used to achieve the program goals and should be clearly stated, specific, realistic, and measurable. Objectives should reflect the project description and support the achievement of project goals. It is not necessary to list specific program activities in the program narrative as they must be identified in Attachment B, Project Time-Task Plan (described in more detail below).

- If applying for a planning/implementation grant and significant planning activities have already taken place, describe those planning efforts and any changes proposed to the plan to meet the requirements of this RFP. If applying for an enhancement grant, describe how the grant will be used to enhance or expand an existing program and how the program meets the requirements of Section 2.2.
- Describe program operations and policies, as applicable:
 - Identify the target population, projected number of persons the program is designed to serve over the grant period, and whether the target population includes persons with a mental illness or substance abuse/dependence issue;
 - Describe program eligibility criteria and any excluded populations;
 - Describe the referral and admission process;
 - Describe program components/services and identify the agency that will oversee/provide each component/service. Indicate whether the component/service(s) described qualifies as an evidence-based practice, and;
 - Describe criteria for successful program completion or revocation/termination.
- In the template provided in Attachment B, Project Time-Task Plan, identify key project activities (for planning/implementation or enhancement, as applicable) and link these activities to each goal and objective described in the program narrative, as well as expected completion dates and the agency responsible for each activity. Activities are the key operational elements of the program. Description of the activities must be specific, and must correspond with the project timeline.

6.3.3 Capabilities, Roles, and Competencies

- Describe relevant experience related to implementing or managing the proposed project or a similar project.
- Provide overall management/staffing plan for the project, including information on the establishment and role of the required PMT outlined in Section 3.1. Include a brief description of proposed key program staff, their roles and responsibilities, and their training and qualifications.
- List justice system partners who may be involved in the project but not included as part of the overall management/staffing plan, and their roles,

responsibilities, and qualifications. In order to avoid duplication of services, describe how the services to be provided under this proposal differ from those already offered by other local justice system partners.

- Describe ability to collect data as outlined in Section 3.5, including current data collection practices. Identify possible data sources and explain the plan for collaborating with justice system partners to collect and report required data. Include anticipated challenges related to collecting data as well as data quality issues. Briefly describe methods for assuring data quality and maintaining data confidentiality.

6.3.4 Local Collaboration

Describe how the court developed this proposal and grant program in collaboration with other local justice system partners. In addition to this description, letters of support from each agency involved in the project must be attached. (See Section 2.3.3.)

6.4 Cost Proposal

The cost proposal is not included in the Project Narrative's 15 page limit.

6.4.1 Proposed Costs

Budget Detail Worksheets: Using the attached Budget Detail Worksheet template, Attachment C, include a detailed line item budget showing costs of the proposed services. This worksheet is broken out into three sections: 1) Program Start-up Budget; 2) Annual Fiscal Year 2015–2016 Budget; and, 3) Annual Fiscal Year 2016–2017 Budget.

- 1) Program Start-up Budget (April 1 to June 30, 2015): The proposed funding request detailed in the Program Start-up Budget should document the amount of funding needed for program start-up costs.
- 2) Annual Budget Fiscal Year 2015–2016 (July 1, 2015 to June 30, 2016): The estimated funding need for Fiscal Year 2015–2016 must be included in this section.
- 3) Annual Budget Fiscal Year 2016–2017 (July 1, 2016 to April 30, 2017): The estimated funding need for Fiscal Year 2016–2017 must be included in this section.

All Budget Detail Worksheets include four main budget categories: Personnel Services/Benefits, Operating Expenses, Consultants/Contractors, and Indirect Costs.

- Expense items listed under Personnel Services/Benefits should list each position by title and name of employee (if known), show the monthly salary rate, the percentage of time to be devoted to the project or number of months

the employee will be needed for the project. A full benefit breakdown should also be included for the same time base and number of months.

- Project expense items listed under Operating Expenses, including travel expenses, equipment, supplies, and other costs, should consist of actual costs paid by the court and/or the court's contractor, not to exceed the contract amount.
- Consultant expense items should include a breakdown of type and cost of services to be provided and estimated time on the project.
- Courts' indirect costs are costs that cannot be directly assigned to a particular activity but are necessary to the operation of the organization and the performance of the project. The costs of operating and maintaining facilities, accounting services, and administrative salaries are examples of indirect costs. In order to qualify to be reimbursed for indirect costs, the program must comply with the following:
 - Court staff salaries and benefits funded by this grant must appear in the Personnel Services cost category on the budget sheet;
 - The indirect cost rate of no more than 20% of the court staff salaries and benefits funded by this grant may be reimbursed if the court has a current Judicial Council approved indirect cost rate on file; and
 - Partner agency and subcontractor indirect costs are not allowed.
- Calculating indirect costs: Add the court employee salary and benefits funded through this grant and multiply that total by the Judicial Council approved indirect cost rate or 20% (whichever is lower). This is the maximum amount that will be reimbursed to the court.

6.4.2 **Budget Justification:** A full explanation of all budget line items in narrative form. The Budget Justification should thoroughly and clearly describe every category of expense listed in the Budget Detail Worksheets. Proposed budgets should be complete, cost effective, and allowable (e.g., reasonable, allocable, and necessary for project activities). Applicants should describe cost effectiveness in relation to potential alternatives, goals of the project, and number of individuals served. For example, the narrative could detail why some in-person meetings are necessary, or how collaboration with an outside organization could reduce costs. The narrative should explain how the applicant estimated and calculated costs, and how those costs are relevant to the completion of the proposed project.

7.0 EVALUATION OF PROPOSALS

The Judicial Council staff will evaluate the proposals on a 100 point scale using the criteria set forth in the table below. Applicants may be asked to respond to questions from Judicial Council staff to clarify elements set forth in their proposals.

Grant awards will be posted at <http://www.courts.ca.gov/RecidivismReduction.htm>.

CRITERION	RFP SECTION	MAXIMUM NUMBER OF POINTS
Problem statement	6.3.1	15
Project plan	6.3.2	25
Capabilities, roles, and competencies	6.3.3	20
Local collaboration	6.3.4	15
Cost proposal	6.4	25

APPENDIX A: COURT POOLS

Pools are based on statewide percentage of supervised populations (i.e. felony probation, mandatory supervision, post-release community supervision, and parole) as of 3/31/14.

Pool 1: Supervision population is less than 0.4% of the statewide total.

Court	Total supervised population	% of statewide total
Alpine	34	0.0%
Amador	380	0.1%
Calaveras	458	0.1%
Colusa	176	0.0%
Del Norte	300	0.1%
Glenn	436	0.1%
Imperial	1,342	0.3%
Inyo	246	0.1%
Lake	965	0.3%
Lassen	269	0.1%
Marin	910	0.2%
Mariposa	124	0.0%
Mendocino	873	0.2%
Modoc	86	0.0%
Mono	270	0.1%
Nevada	581	0.2%
Plumas	167	0.0%
San Benito	695	0.2%
Sierra	29	0.0%
Siskiyou	745	0.2%
Sutter	1,079	0.3%
Tehama	1,060	0.3%
Trinity	223	0.1%
Tuolumne	969	0.3%
Yuba	913	0.2%

Pool 2: Supervised population is between 0.4 and 1% of the statewide total.

Court	Total supervised population	% of statewide total
Butte	2,202	0.6%
El Dorado	1,481	0.4%
Humboldt	1,750	0.5%
Kings	2,735	0.7%
Madera	3,436	0.9%
Merced	3,523	0.9%
Napa	1,511	0.4%
Placer	2,673	0.7%
San Luis Obispo	2,771	0.7%
Santa Cruz	3,296	0.9%
Shasta	2,127	0.6%
Solano	3,238	0.8%
Sonoma	3,275	0.8%
Yolo	3,075	0.8%

Pool 3: Supervised population is between 1 and 5% of the statewide total.

Court	Total supervised population	% of statewide total
Alameda	13,875	3.6%
Contra Costa	4,806	1.2%
Fresno	13,031	3.4%
Kern	11,639	3.0%
Monterey	4,035	1.0%
San Francisco	4,837	1.3%
San Joaquin	9,146	2.4%
San Mateo	4,126	1.1%
Santa Barbara	5,690	1.5%
Santa Clara	14,910	3.9%
Stanislaus	7,653	2.0%
Tulare	8,295	2.1%
Ventura	4,544	1.2%

Pool 4: Supervised population is greater than 5% of the statewide total.

Court	Total supervised population	% of statewide total
Los Angeles	103,217	26.7%
Orange	31,345	8.1%
Riverside	27,661	7.2%
Sacramento	20,401	5.3%
San Bernardino	25,294	6.6%
San Diego	21,091	5.5%

Recidivism Reduction Fund Court Grant Program
Frequently Asked Questions
 (Updated December 10, 2014¹)

ADMINISTRATIVE QUESTIONS

Notice of Intent to Apply

1. **Q:** I will be unable to attend the conference call on October 7 and plan to attend the October 16 call instead. Will this impact the notice of intent deadline of October 8?
 - A.** *The October 8 deadline to submit the Notice of Intent to Apply does not impact the applicant teleconferences. If your court is considering applying, we ask that you submit the notice by October 8. If, after you participate on a conference call, your court decides not to apply, please submit an e-mail withdrawing your Notice of Intent to Apply.*

2. **Q:** What is the format for the Notice of Intent to Apply?
 - A.** *Applicant courts should submit a ‘Notice of Intent to Apply’ via email to crimjusticeoffice@jud.ca.gov by 5:00 p.m. on October 8, 2014. Notice should include program category and phase. There is no other specified format.*

3. **Q:** I have a question regarding the intent to apply requirement on this grant. The Department of Justice is planning to partner with a Superior Court that will be applying for this grant. Can the Department of Justice submit an intent to apply notice on behalf of the Court that it will be partnered with? Or does the notice need to come directly from the potential recipient?
 - A.** *The Superior Court, as the applicant, should submit the Notice of Intent to Apply.*

4. **Q:** Will you be sending out any more specific details about the grant application prior to the conference calls? We are trying to establish a pre-trial program, but need to know what the grant will fund.
 - A.** *We will not be sending more specific details prior to the conference calls. The specific details about funding are included in the RFP. (See sections 2.4 - 2.6 of the RFP.)*

5. **Q:** Should I have letters of support to accompany my notice of intent to apply or is notification from the court alone sufficient?
 - A.** *No, an emailed notice from the court, including category and phase, is sufficient.*

6. **Q:** On page 16, in the list of key events, the deadline for the notice of intent to apply is 5:00 PM, Wednesday, October 8. Can you clarify the method of delivery? Does the Court simply send an email to this address specifying its intent to apply, or must a letter be delivered to the address on page 17?
 - A.** *Please see the answer to question 2 under “Notice of Intent to Apply,” above.*

¹ New questions and answers are included in bold and italic.

7. Q. If a court submitted a notice of intent to apply for an implementation grant and now would also like to add an enhancement grant should the Judicial Council staff be notified?
 - A. *Yes, please email Criminal Justice Services to confirm your revised plans as soon as a final decision has been made.*

8. Q. If a court submitted a notice of intent to apply for a collaborative court planning and implementation grant, can it still apply for a pretrial program planning and implementation grant, either in addition to the collaborative court application or in the alternative?
 - A. *Yes, a court can still apply for a pretrial program planning and implementation grant. Please email Criminal Justice Services to confirm your revised plans as soon as a final decision has been made.*

Application

1. Q. Is any match, whether of funds, in-kind, or otherwise, required of the Court applying for the Grant?
 - A. *No, there is no match whether of funds, in-kind, or otherwise required of the court applying for the grant.*

2. Q. May we submit an application for a criminal collaborative court jointly with a neighboring county? Our two courts serve the same population and utilize the same treatment resources, etc.
 - A. *Yes, regional or joint applications will be accepted provided there is a designated lead court. (See section 2.3.2 of the RFP.)*

3. Q: Can we apply for one grant, but apply the dollars to two different programs, i.e., more than one court?
 - A. *Courts may apply for a grant to support more than one program in the same category. As an example, if an adult criminal collaborative court grant is used to fund both a veterans' court and a mental health court, a single application is appropriate. In this example, the court may need to complete some of the proposal elements twice, one for each type of collaborative court, e.g., provide two sets of budget detail worksheets, etc. Additionally, if a court seeks funding for more than one court program in the same category and the application seeks funding for different phases (planning/implementation and enhancement), courts should still submit one application and will receive priority in scoring related to the planning/implementation components of the program. Courts must submit two applications if they are applying for a grant for two different program categories, for example, a collaborative court program and a pretrial program. (See answer to question 6 and question 9 under "Application," below and section 2.3.1 of the RFP.)*

4. Q. We are interested in applying for the first category, “Adult criminal collaborative courts”. Does that mean we can only apply for one grant for one court under this category?
- A. *Please see answer to question 3 under “Application,” above.*
5. Q. What constitutes an “implementation grant” for the purposes of this grant? We have a mental health court pilot program that we initiated in May that we would like to now take to scale. Can we apply for an “implementation grant” or must we apply for an “enhancement grant?”
- A: *Implementation grants are appropriate for court programs that have been operational for less than a year. In the grant application the court should clearly state why a planning/implementation grant is the appropriate phase under which funding is being sought.*
6. Q. Our court is interested in possibly incorporating various components of the different grant categories into one program. For example, we anticipate incorporating risk (and needs) assessments into a pretrial program and collaborative courts, as well as at sentencing and/or in responding to noncompliant offender behavior. Rather than applying for all three grant categories separately, which is not practical given our limited court staff resources, do you have any guidance about how to handle this situation?
- A. *Courts may apply for more than one grant category (i.e., collaborative court, pretrial programs, or court use of validated risk and needs assessment information) but separate applications must be submitted for each grant category. If limited staff resources preclude a court from applying in more than one grant category, courts are encouraged to consult with local justice system partners and choose the grant category that is most appropriate for the needs in their county. For the “court use of risk and needs assessment information” grant category, the RFP requires courts to use the funds to facilitate the incorporation of risk and needs assessment information at sentencing and/or in responding to noncompliant offender behavior. Note, however, that courts applying for a grant in the “court use of risk and needs assessment information” category are not precluded from seeking funds to also incorporate risk and needs assessments into their collaborative courts and pretrial programs, and may do so in the same grant application. Applicants must specify whether they are applying for a planning/implementation grant or an enhancement grant, and all programs in the grant application must fit the criteria for the selected phase. (See section 2.3.1 of the RFP.)*
7. Q. If we apply for a grant to enhance our collaborative criminal courts, may we ask for funds to enhance more than one court (e.g., Veterans Court and Domestic Violence Court). If so, can we do so with one application?
- A. *Yes, the court may submit a single application since these are both collaborative criminal courts in the same grant category; however, the court may need to separately complete some elements of the proposal for each court since the two court programs may have separate budgets.*

8. Q. Regarding the Recidivism Reduction Fund Court Grant Notice of Intent to Apply, are Courts able to apply for more than one program category, or are they to apply for one category only?
- A. *Courts may apply for more than one grant category, but must submit a separate application for each category under which they are applying. (See section 2.3.1 of the RFP; and see answer to question 3 under “Application,” above.)*
9. Q. If a court seeks to fund a new program and enhance an existing program within the same grant category, should the court submit a single application or separate applications -- one for an implementation grant and one for an enhancement grant? An example is a court that seeks an enhancement grant for an existing veterans’ court and a planning/implementation grant for a new drug court.
- A. *Although courts must submit separate applications if seeking funding in more than one grant category, (i.e. collaborative court, pre-trial programs, or the use of risk and needs assessment at sentencing), courts should use only one application if seeking funding for more than one program within a category even if they are in different phases (planning/implementation or enhancement). In the application, courts should make clear what funding is sought for planning/implementation and what funding is sought for enhancement. In this instance, courts will receive priority in scoring related to the planning/implementation components of the program. Using the example included in this question, the court would submit one application for funding both the existing veterans court and the new drug court and should specify the amount of funding requested for each court program. (See section 2.5.1 of the RFP.)*
10. Q. Our collaborative drug court has been operational for over a year but is not running at an optimal level. Would the court be able to submit an application for a planning/implementation grant or only for an enhancement grant?
- A. *If there is a significant difference between the existing program and changes to the structure or process of the court proposed in the application, the court can seek funding under either category. However, in the grant application the court should clearly state why a planning/implementation grant is the appropriate phase under which funding is being sought. Judicial Council staff will evaluate the request for consideration of the proposed planning/implementation and may find the application more suitable for the enhancement phase and adjust the scoring accordingly.*
11. Q. In the Project Narrative, would charts and tables be included in the double-spaced, 15 page maximum limit?
- A. *Yes. Charts and tables must be included in the 15 page limit but do not need to be double-spaced.*
12. Q. Regarding the Project Time-Task Plan specified as part of the proposal, is there a particular goal structure or model that is required?
- A. *No specific model is required or sought. As shown in the template in Attachment B to the RFP, simply list your key project goals with your measurable objectives for achievement,*

along with a timeline for completion and indicate the agency that will be fulfilling the objective. (See section 6.3.2 of the RFP for additional information on the definition of goals, objectives, and activities.)

13. Q. What is the maximum number of proposals a court can submit under this grant program?
- A. *A court may submit up to three applications under this grant program, one for each of the three grant categories. While a court may seek funding for more than one court program within a single category (for example, more than one collaborative court), a court should only submit one application per grant category. (See question 9 in “Application” above.)*
14. Q. Can a court switch our application from an enhancement grant to a planning and implementation grant if, after we get more deeply into the planning process it is more appropriately a planning and implementation grant?
- A. *If a court has not yet submitted an application, it may change from an enhancement grant application to a planning and implementation grant application as long as appropriate notification is emailed to Criminal Justice Services. Note that enhancement grants are generally for programs that have been operational for more than one year, and planning and implementation grants are appropriate for court programs that have been operational for less than a year. (Also, see answer to questions 5 and 10 under “Application,” above.)*
15. Q. We are considering applying for funding to plan and implement a Veteran’s Treatment Court and also to enhance our existing Adult Drug Court Program. Do we do one grant application describing both projects or two separate applications? If we can do one application, can our justice partners provide one letter in support of both projects or do we need separate letters of support for each project?
- A. *Courts should use only one application if seeking funding for more than one program within a category even if they are in different phases (planning/implementation or enhancement). (See answer to question 9 under “Application” above.) All impacted justice system partners must provide letters of support and one letter of support from each is sufficient; however, the justice system partners should acknowledge their support of one or both of the projects.*
16. Q. Is Attachment B – Time Task Plan included in the 15 page limit for the narrative? Or is Attachment B separate from the narrative and, therefore, not included in the 15 page limit?
- A. *Attachments B (Time Task Plan) and C (Budget Detail Worksheets) are both separate from the narrative and, therefore, not included in the 15-page limit.*
17. Q. Our court is struggling a bit with conceptual overlap between the different grant categories. Procedurally much of what we’re looking to accomplish with funding from the RRF falls within the “Pretrial Programs” category. However, the changes that we will

be seeking to implement within that area involve the adoption of validated risk and needs assessments to screen the pretrial population. To further complicate matters, we fully expect that improved screening will result in more referrals to our adult criminal collaborative court.

Is there some way of providing a bright line to help us understand where exactly to divide up a proposal that might involve, say, reengineering our pretrial programs to use risk & needs assessments to identify more defendants who would benefit from our adult collaborative courts?

- A. *We agree that there is overlap between the use of a validated risk and needs assessment tool, an evidence-based practice, with the pretrial program and collaborative court program categories. Some form of risk assessment is typically used in pretrial programs; when a validated risk and needs assessment tool is used in a pretrial program, the appropriate grant category is a pretrial program. If the primary focus of a grant request is a collaborative court program, and one element of the collaborative court is the use of a validated risk and needs assessment tool, the appropriate grant category is a collaborative court program. When a validated risk and needs assessment tool is used by the court at sentencing, or in some other context that is not a pretrial program or a collaborative court program, then the appropriate grant category is use of risk and needs assessment.*

18. Q. I cannot find guidance on formatting other than 12pt font Times New Roman. Does the department have a requirement for margins, footers, headers, etc? We would not want to be disqualified or lose points because of margin size error.

- A. *The only formatting requirements are that the text font used for the project abstract and project narrative should be 12pt Times New Roman, and that text be double-spaced for readability.*

19. Q. Is it acceptable to submit a joint letter of support from three or more of our justice partners, signed by each agency department head?

- A. *Yes, this would be acceptable.*

20. Q. What date will you accept the proposal? The email copy or the hard copies? Mailing date stamp or arrival at your offices?

- A. *Applicants must submit one original and five hard copies of the proposal which must be received by the Judicial Council by Monday, December 15, 2014, no later than 5:00 p.m. An electronic version of the entire proposal must be delivered to crimjusticeoffice@jud.ca.gov by the same deadline. (See section 5.0 of the RFP.)*

Grant Funding

1. Q. Is there a funding cap based on the pool?

- A. *No. The typical grant range of \$300,000 to \$600,000 is applicable to all pools, categories, and phases. Applications outside of the range will be considered when the cost proposals demonstrate a need for funding outside of the range. Please note that courts may seek funding amounts that are lower or higher than the range and will be evaluated on the reasonableness of their cost proposal. (See sections 2.5.1 and 7.0 of the RFP.)*
2. Q. Are the grant awards, ex. \$300,000 over a 3 year period? Or is it \$300,000 each year for 3 years?
- A. *Grants are awarded for the 25-month period of April 1, 2015 through April 30, 2017. (See Cover Sheet to the RFP.)*
3. Q. \$91M is available in the RRF for FY 14-15. Is the \$15M designated for court programs a per year amount?
- A. *No. Funding specified in the Budget Act of 2014-15 comprises the entire amount of available funds for the 25-month period of April 1, 2015 through April 30, 2017. At this time, we do not anticipate any additional funding.*
4. Q. Are “typical grants” \$300,000 to \$600,000 per fiscal year or is that one-time during the grant period through 04/2017? Can individual courts apply for multiple grants covering different programs? For example, one \$600,000 proposal for collaborative courts, another \$600,000 proposal for pretrial.
- A. *The \$300,000 - \$600,000 typical grants are for the 25-month grant period, April 1, 2015 through April 30, 2017. Courts may apply for multiple grants covering different programs, however, a separate application must be submitted for each grant category.*
5. Q. Is funding priority given to new programs within each pool, or overall? Applications within each pool are scored against others in the same grant category, is this how funding is distributed?
- A. *The Judicial Council seeks to adequately fund as many qualified RRF court grant programs as possible, emphasizing a diversity of program types throughout the state. In order to make funds available to courts of various sizes, applications will be considered in one of four designated pools. Pool designation is based upon the number of offenders supervised in each county, as defined in section 2.5.1 of the RFP, as a percent of the statewide total number of supervised persons. Applications within the same pool will be scored against other applications of the same grant category (i.e., collaborative courts, pretrial programs, court use of validated risk and needs assessment information), and priority will be given to planning/implementation grants for new programs within that pool. (See section 2.5.1 of the RFP.)*
6. Q. Appendix A states that funds will not be equally allocated among the four pools. However, it is confusing if counties in the same pool will be competing with each other for a specified (fixed) amount of funding. Will Pools 1 & 2 receive the most funding because there are 39 counties represented? Yet, Pool 4 counties combine to represent

59% of the states supervised populations and could provide ample justification for the upper limit of \$600,000 each, or more, or multiple \$600,000 awards. Will this be factored into the decision making?

- A. *The Judicial Council will consider applications in one of four pools as described in question 5 under “Grant Funding.” There is no set amount of funding designated for any of the pools and the funds will not necessarily be allocated equally among the designated pools. Therefore, courts within the same pool will not be competing for a specified or fixed amount of grant funding. The Judicial Council seeks to adequately fund as many qualified RRF court grant programs as possible, emphasizing a diversity of program types throughout the state. We anticipate that grants will be awarded in each pool, and the size of the grant awards will depend on the number and quality of the applications. (See section 2.5.1 of the RFP.)*
7. Q. What is the range of funding that is available for an individual court in Pool 1 for an adult criminal collaborative court or for a pre-trial release program?
- A. *The typical grant range of \$300,000 to \$600,000 is applicable to all pools, categories, and phases. Applications outside of the range will be considered when the cost proposals demonstrate a need for funding outside of the range. Please note that courts may seek funding amounts that are lower or higher than the range and will be evaluated on the reasonableness of their cost proposal. (See section 2.5.1 and Section 7.0)*
8. Q. Is the level of funding increased if two courts apply jointly?
- A. *No. The typical grant range of \$300,000 to \$600,000 is still applicable to all pools, categories, and phases. However, applications outside of the range will be considered when the cost proposals demonstrate a need for funding outside of the range. (See section 2.5.1 of the RFP.)*
9. Q. Would courts that submit joint applications move into another pool and be evaluated with the new pool?
- A. *No. Joint applications will be considered in the designated pool of the lead or primary court. (See section 2.5.1 of the RFP.)*
10. Q. Should courts include costs for attending the Judicial Council trainings specified in Section 3.2 in their budget proposals?
- A. *Yes. Court grant program funds may be used for travel expenses for attendance at required meetings and should be included in budget proposals. (See section 2.6.2 of the RFP.)*
11. Q. When the court is in the reimbursement phase of funding, will budget modifications be allowed and is there flexibility for reallocating funds?
- A. *Yes. Budget modifications will be allowed with flexibility to reallocate funds from one category to another. Courts should submit revised budget detail worksheets for all*

affected years in advance for approval by Judicial Council project manager with a narrative explanation of the requested changes.

12. Q. Is there any expectation of continued funding for these programs beyond April 2017 or is this considered one-time funding?
- A. *The Recidivism Reduction Fund Court Grant Program is one-time funding.*
13. Q. Will standard budgetary forms be released to include in the proposal?
- A. *Yes, there are three budget forms that are required to be included in the application, for three different time frames within the grant period. The forms are posted at <http://www.courts.ca.gov/RecidivismReduction.htm> (See Attachment C to the RFP.)*
14. Q. Will there be standardized programmatic evaluation and fiscal forms issued that pertain to the required quarterly reporting requirements?
- A. *Yes, forms for these purposes are presently being developed and will be provided in advance of the reporting periods. We hope to create a web-based reporting template.*
15. Q. Is there a ceiling for the allowable amount of indirect administrative expenses?
- A. *Yes, 20% or the approved trial court indirect cost rate, whichever is lower. (See Section 6.4.1 of the RFP.)*
16. Q. After preparing my budget for the Pretrial grant category, I realized that I have exceeded the maximum award. Should I pair down my budget to balance or should I leave it as is and assume I will be responsible for the balance of funds?
- A. *The typical grant range of \$300,000 to \$600,000 is applicable to all pools, categories, and phases. Applications outside of the range will be considered when the cost proposals demonstrate a need for funding outside of the range. Please note that courts may seek funding amounts that are lower or higher than the range and will be evaluated on the reasonableness of their cost proposal. (See section 2.5.1 and Section 7.0) The Judicial Council may offer partial grant awards, and courts may be asked to submit modified project plans and revised budgets that reflect the award amounts offered. (See section 2.5.5 of the RFP.)*
- 17. Q. Can the court apply for this grant and, if awarded, have another entity handle the fiscal responsibilities and grant reporting?**
- A. ***This is a court program. The grant contract will be between the Judicial Council and the applicant court. The court may enter into a subcontract or other professional services agreement with an entity that can provide these services, however, the court will be responsible for ensuring that contractual obligations, trial court policies, and all reporting deadlines, etc. are met. A copy of the subcontract also must be provided to Judicial Council Grant Accounting before any reimbursement can be made.***

Data Reporting Requirements

1. Q. What types of “performance-based outcome measures” will be established with CDCR and CPOC? Are these fiscal measures, recidivism, risk-need assessment, programmatic, or something else?
 - A. *The Budget Bill Act of 2014-15 requires that the Judicial Council work with the California Department of Corrections and Rehabilitation (CDCR) and the Chief Probation Officers of California (CPOC) to identify the performance-based outcome measures. The performance-based outcome measures have not yet been identified but will focus primarily on the impact of these grant programs on recidivism reduction. (See section 3.5.2 of the RFP.)*

2. Q. How often will data quality conference calls be held? Is input welcome prior to the establishment of a data template?
 - A. *It is anticipated that the data quality conference calls will be held quarterly, but will be conducted as needed. These calls may be held more frequently at the beginning of the program period. Input on data elements will be welcome and solicited.*

3. Q. The RFP notes that individual level data collection may be required. When are awardees notified they will be required to do this level of data collection?
 - A. *All applicants who are awarded grants will be required to submit individual-level data. Required data elements will vary depending on program type, size, and data collection capacity. Specific data elements are being developed. Information will be provided to the courts prior to contract execution.*

4. Q. Due to the current ambiguities of the evaluation component, how are data collection/evaluation expenses to be reported, i.e., as a separate line-item or as part of the indirect expenses?
 - A. *Program data collection is a direct expense, so it is suggested that data collection time expenses be included in personnel or sub-contracting expenses. Courts will have the ability to submit budget modifications if their cost estimates need to be adjusted based on the data collected.*

Miscellaneous

1. Q. What does the presentation to the Judicial Council consist of? Who represents the applicant in this representation?
 - A. *Judicial Councils staff will evaluate proposals and present final grant funding recommendations to the Judicial Council for the Council’s consideration and approval.*

2. Q. How often are mid-term financial evaluations conducted? Does this occur once, or several times over the grant period (every fiscal year)?

- A. *For reallocation purposes, financial evaluations may be conducted no more than twice over the grant period. See section 2.5.4 of the RFP.)*
3. Q. Does the Project Management Team require an MOU? How will courts be required to prove they have a Project Management Team?
- A. *The Project Management Team (PMT) does not require an MOU. Courts may demonstrate that a PMT has been established through the required letters of support, which must indicate whether the entity/agency submitting the letter of support is a member of the PMT. The Quarterly Grant Reports also must summarize collaboration with justice system and other local partners. (See section 3.4.1 of the RFP.)*
4. Q. “...the accounting systems of award recipients must ensure that funds from the RRF court grant program are not commingled with funds from any other source.” Does Phoenix/SAP comply with the fiscal tracking requirements?
- A. *Yes, Phoenix will be able to meet the courts’ fiscal tracking requirements for the grant program. Award recipients must also agree to maintain supporting documentation (e.g., timesheets, invoices, contracts, etc.) used to compile reports and to provide copies to the Judicial Council upon request. (See sections 3.4.2 and 3.4.3 of the RFP.)*
5. Q. What is the approximate length of time from the court’s submission of a reimbursement request to the Judicial Council until the court receives payment?
- A. *The Judicial Council’s Grants Accounting staff will process properly submitted claims within 7 days of receipt and then forward the claims to the State Controller’s Office for payment. It is anticipated that this process will take approximately 6-8 weeks.*
6. Q. The grant limits participation to felony offenders for programs funded by this grant. Would the passage of Proposition 47 change this requirement?
- A. *The grant program is limited to felony offenders in the categories of collaborative courts and use of risk and needs assessment information. The specific grant requirements related to the felony offenders will not change even if the definition of “felony” under California law changes. Courts are encouraged to discuss the potential implications of Proposition 47 to the extent it may relate to the development of their applications.*
7. Q. What is the definition of “recidivism” being used for this program?
- A. *The budget bill language that allocates the Recidivism Reduction Fund does not include a specific definition of recidivism. As stated in Section 3.5.3 of the RFP outcome measures will vary based on program category and may include arrests, convictions, jail and prison stays, and failures to appear at court hearings. As required in the budget bill language, the Judicial Council is working with CDCR and CPOC to identify performance-based outcome measures (See Data Reporting Requirements FAQ #1).*
8. Q. When is the cut-off to submit questions for this RFP?

- A. *Questions will be accepted until Monday, December 8, 2014 in order to allow time to post the responses.*
9. Q. Regarding the Time Task Outline, are courts required to have three objectives for each goal? Or may we have more objectives, or less than three objectives for each outlined goal?
- A. *Courts are not required to have a specific number of goals or objectives and should determine the number of goals and objectives appropriate for their projects.*

PROGRAM QUESTIONS

Collaborative Courts

1. Q: The Judicial Council's collaborative court principles (page 6 of the RFP) do not spell out required agencies that must staff collaborative courts. Is it left up to courts to determine the specific member agencies of their collaborative court teams?
- A. *While the collaborative court principles listed in the RFP do not dictate the specific member agencies of the collaborative court team, please note the following relevant sections of the RFP:*

Section 2.2.1, "...eligible adult criminal collaborative courts are generally led by a judge and include an interdisciplinary team consisting of a defense attorney, a prosecutor, a representative from probation or parole, and treatment staff and/or case managers or other representatives specific to the particular court."

Section 3.1, "Each court will be required to establish a project management team (PMT) chaired by a judge, and include, as appropriate, a court manager and a representative of: the sheriff, probation chief, district attorney, criminal defense, pretrial services, parole, treatment provide, etc."

Section 6.3.3, "Provide overall management/staffing plan for the project, including information on the establishment and role of the required PMT outlined in Section 3.1. Include a brief description of proposed key program staff, their roles and responsibilities, and their training and qualifications. List justice system partners who may be involved in the project but not included as part of the overall management/staff plan, and their roles, responsibilities, and qualifications..."

2. Q. Page 3 of the RFP document states that all collaborative court programs funded under this grant program must target moderate and high-risk felony offenders using a validated risk assessment tool. How is "felony offender" defined in the context of this program? Some defendants are arrested and charged on felony offenses but their case is reduced to a

misdemeanor. Would this defendant still be considered a “felony offender” for the purposes of this program?

- A. *For the most part, a defendant must be convicted of a felony offense to be considered a “felony offender” for purposes of this grant program. However, pre-plea model collaborative courts may be funded through this grant if the defendant’s pending charge +is a felony. Additionally, please see the answer to question 3 below related to violations of felony supervision.*
3. Q. Similarly, we might have a defendant who has felony convictions on his or her record but is picked up on new misdemeanor charge, which results in him/her being placed in a collaborative court program. Would you consider this defendant to be a “felony offender?”
- A. *No, a prior felony conviction does not make someone a felony offender for the purposes of this program. However, if an individual is on supervision (parole, probation, post release community supervision, or mandatory supervision) for a felony offense and violates a condition of supervision (including committing a new misdemeanor) the individual may be referred to a collaborative court program funded under this grant program as a response to the violation.*
4. Q: Can a Subordinate Judicial Officer (SJO) chair the Project Management Team (PMT) and preside over the collaborative court? If the answer is yes, can funds from the grant be used to pay the SJO’s salary and benefits?
- A: *A commissioner may preside over the type of collaborative court the grant program is intended to support if: 1) the commissioner is appointed as a hearing officer, and/or 2) the commissioner is sworn in as a temporary judge and stipulated to by the parties. If an SJO is presiding over a collaborative court, the SJO may chair the PMT and funds from the grant can be used to pay the SJO’s salary and benefits.*
5. Q. Collaborative courts must serve moderate to high-risk offenders. Are these offenders screened as “high-risk” to recidivate? Or high risk of something else?
- A. *The offenders who participate in a collaborative court must have been assessed as moderate to high-risk to recidivate using a validated risk assessment tool. (See section 2.2.1 of the RFP.)*
6. Q. Can the collaborative court funding be used to support a program that has both misdemeanor and felony participants?
- A. *The collaborative court funding can be used for felony offenders only. If a jurisdiction has a program that serves both misdemeanants and felons, the grant application budget should reflect a prorated amount based on the number of felony offenders in the program.*
7. Q. Our county uses COMPAS as a risk-needs tool for collaborative court clients on probation. For clients who are not on probation, our court is interested in pursuing a risk-needs tool. On the top of page 6 under 2.2.3, the risk/needs section references working

with probation in choosing a tool. Is the request to pursue a tool for non-probationers an appropriate use of funds?

- A. *Yes, as the question is stated, this would be an appropriate use of funds. Note that courts funded under this grant must avoid duplication of services that may be provided by a system partner and will need to explain how the services funded through this grant differ from those already offered by other local justice system partners. (See section 6.3.3 of the RFP.)*
8. Q. Are all members of the PMT required to attend the Collaborative Court Programs meeting (that has yet to be scheduled) or can a representative and a select few representatives attend?
- A. *The court and other members of the PMT should plan to attend the meeting.*
9. Q. Our court is interested in applying for a grant for our Adult Criminal Collaborative Court. We have checked with the County Probation Office who performs the criminogenic assessments. The Probation Office has been using the Strong Assessment tool for several years. At the time this assessment tool was purchased they researched the tool with the State of Washington where the Strong Assessment is used throughout the state. In addition, this tool had been reviewed and recommended by the Washington State Institute for Public Policy prior to implementation in the state of Washington. Does the Strong Assessment meet with the Judicial Council's approval?
- A. *To be considered 'validated' a tool has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and men, and for racial or ethnic minority groups that are represented in the local arrestee population. The Strong has been validated for adult men and women and racial and ethnic minority groups on both community supervision and incarcerated populations and would be considered an appropriate tool unless your program targets a significantly different population.*
10. Q. We are hoping to use some of the funding to assist participants with housing, but we are confused by pages 11-12 of the RFP. Under acceptable uses of funds (Section 2.6.2) it says funds can be used for transitional/temporary housing but rent would be considered an ineligible use of funds (Section 2.6.3). Please clarify if it would be acceptable to use funds to help a participant get into permanent housing by helping with the upfront move-in costs, e.g., first month's rent, last month's rent, and/or deposit only, but not covering monthly rental payments. Also, if we apply for funds to enhance our existing Adult Drug Court program, can funds be used for residential treatment and other services such as bus vouchers, incentives, etc.?
- A. *Funds may be used for move-in costs associated with housing including first month's rent. Funds may not be used for on-going rent, deposits, or similar types of expenditures. Residential or outpatient treatment for mental health or substance abuse/dependence treatment is an acceptable use of funds. The costs of incentives given to program participants are also acceptable. Incentives may include gift cards, food*

coupons, bus and other transportation passes, field trip passes, movie tickets, etc. Funds must not be distributed as cash, and the maximum amount of incentive reimbursements per program is \$1,500 per year and \$50 per participant. The Judicial Council will provide a form for reporting incentive distributions. Funds are reimbursed only upon submission of both proof of purchase and proof of distribution to program participants within the grant contract period. Court employees, subcontractors, or anyone other than a program participant are not allowed to receive incentives. (See Section 2.6.2 of the RFP.)

11. Q. May we use funds for sober transitional living for program participants?
- A. *Funds may be used for services including but not limited to electronic monitoring and ongoing supervision, assessment, job/educational training, residential or outpatient treatment for mental health or substance abuse/dependence treatment, health screening, transitional/temporary housing. (See Section 2.6.2 of the RFP.)*
12. Q. I have an additional question regarding the Recidivism Reduction Fund regarding section 2.6.2 Acceptable uses of funds include: Salary and benefits for court employees necessary to meet operational requirements for the program. Is there a definition of “operational requirements for the program”? We are looking at staffing a collaborative court coordinator whose duties would include those listed below and we want to ensure that these duties are considered as necessary to meet operational requirements for the program.
- Facilitates group or team meetings and acts as liaison/representative for the Court with various service providers, community agencies and/or other related parties;
 - Writes and disseminates correspondence including program bulletins, newsletters and other court related materials;
 - May assist judicial officers in composing correspondence, talking points and/or presentations;
 - May make presentations to the community through outreach and education programs;
 - Facilitates the development and documentation of standards and policies related to the Collaborative Court Teams; develops, communicates, and implements recommended improvements when necessary;
 - Maintains program data, compiles data from Justice Partners and services provided and prepares monthly reports; assist with compiling budget status and statistical information for grant reporting;
 - Reviews case eligibility following established criteria;
 - Monitors case loads and program participant progress;
 - May attend hearings and prepare minute orders;
 - Coordinates graduation ceremonies; invitations, guest speakers and graduation certificates; arranges for photographic coverage of events;
 - Develops agreements and MOUs with Justice Partners;
 - Assists in the development and execution of contracts with services providers;
 - Prepares reports that summarize grant-related activities; and

- Coordinates the collection of timesheets, invoices, and supporting documentation to support grant.
- A. *As long as the work described above is conducted for the collaborative court program, funding this Collaborative Court Coordinator position would be an acceptable use of Recidivism Reduction Funds.*
- 13. The RFP prohibits expenses for housing, on-going living costs, utilities, and the like. However, based on the FAQs, one-time housing expenses, such as move-in costs, are allowable.**
- (a) **Q. Using the same reasoning, would an emergency fund for one-time expenses, such as emergency appliance repair or replacement for safety or habitability issues, hygiene supplies, socks/underwear/warm clothing/work-appropriate shoes, be allowable? Would it be necessary to limit each offender to a one-time use of the fund? We are proposing a Veterans Court and many of our veterans are homeless or in substandard housing. Employability typically requires cleanliness and clean, appropriate clothing.**
- A. *The above expenses would all be considered living expenses and would not be acceptable under this grant program. However, if the court were to use socks, for example, as an incentive for participants, those expenses would be acceptable up to a maximum incentive reimbursement per program of \$1,500 per year and \$50 per participant. (See RFP Section 2.6.2 and FAQ #10 under Collaborative Courts.)*
- (b) **Q. Could we create an employability fund for tools, boots, books, etc., but excluding tuition for vocational education or other education?**
- A. *Books could be considered educational and training materials and as such would be an acceptable expense as described in RFP Section 2.6.2.*
- (c) **Q. It appears that GED testing fees are permissible. Please confirm.**
- A. *Yes, GED testing fees would be an acceptable use of funds.*
- (d) **Q. The RFP also prohibits costs such as “licenses” arising from violations. Does this prohibition apply to the expense of obtaining a current California Drivers’ License if the reason the offender does not have a license is not connected to the current felony, conviction or charge?**
- A. *Funds from this grant program may not be utilized to cover the cost to reinstate a participant’s driving privileges. This cost could be considered living expenses and also may consist of fine/fees resulting from violations by program participants. (See RFP Section 2.6.3)*
- (e) **Q. If the license was suspended or revoked due to a prior offense and could be recovered, is it possible for the collaborative court program to cover those expenses? Individuals in rural areas typically must have drivers’ licenses to get to work, vocational education, or other services. There are either no buses or the buses require 4+ hours to make one trip and/or shut down in the early evening.**
- A. *Please see response to above question 13(d).*

14. Q. May funds be used for a vehicle?

A. *No, purchase of a vehicle is not an acceptable use of funds for the RRF Court Grant Program.*

Pretrial Programs

1. Q. Can a pretrial program encompass misdemeanor charges as well?

A: *Yes. Because pretrial programs may interact with detainees prior to the identification of the charge, a pretrial program funded under this court grant program may serve pretrial detainees charged with misdemeanors. Section 2.2.2 of the RFP describes pretrial programs and sets forth the components that must be included in pretrial programs funded under this court grant program. Section 2.2.2 does not restrict pretrial programs to assessing and serving solely those charged with felonies; programs may assess all pretrial detainees, recommend for release or continuing detention and, if appropriate, supervise on release.*

2. Q. Is a Pretrial Program funded under the Recidivism Reduction Fund Court Grant Program limited to conducting risk assessments for pretrial offenders *who are in-custody* at the time of the assessment? Pursuant to the RFP, a primary function of a pretrial program is to “collect and analyze information about pretrial *detainees*” (Section 2.2.2, page 4); however, it is possible that the Sheriff’s Department may make a release decision prior to a judicial officer making a determination as to whether or not to release the pretrial offender. We believe we could meet such a requirement, but we would like to know if an agency could also conduct risk assessments for pretrial offenders once they are released by the Sheriff’s Department.

A. *The RRF grant program is designed to encourage coordination among justice system partners. We anticipate that courts will work closely with sheriffs and other partners to ensure that assessments generally are conducted early in the detention process, and that custody and release decisions are informed by those assessments. However, we recognize that there may be times when an initial release from custody will occur before the defendant has appeared before the court, and that an assessment may be useful in informing the court’s decision on custody, release and terms of supervision at arraignment or a subsequent hearing; such an assessment would be a permissible usage of RRF funds.*

3. Q. I am trying to finalize the budget portion of the grant and I need additional information regarding the Pretrial Summit on February 17 and 18 so I can properly account for lodging, meals and other travel costs. Do we have info on where the summit will be held in San Francisco? Will the Judicial Council be getting a block of rooms? We need information on when the program starts/ends and which meals are provided during the summit so we can properly calculate expenditures.

- A. *The 2015 Pretrial Summit will be held in the Milton Marks Conference Center at the Judicial Council's San Francisco office at 455 Golden Gate Avenue on February 17 and February 18, 2015. The Judicial Council has contracted for a block of sleeping rooms for the evening of February 17. The contracted rate is \$140 per night plus \$2.24 surcharges (total \$142.24 per night). Day one of the program (February 17) is scheduled for 10:00 a.m. to 5:00 p.m. Day two of the program (February 18) is scheduled for 8:00 a.m. to 2:00 p.m. Current Judicial Council daily meal allowance is \$8 for breakfast and \$20 for dinner. Lunch will be provided on day one; breakfast and lunch will be provided on day two.*
4. Q. **The Court also intends to pay for all the justice partners costs to attend the Pretrial Summit as much as possible (e.g., lodging) and seek reimbursement from the Judicial Council. Mileage and meals will be reimbursed by the Court to the agencies and then the court will seek reimbursement from the Judicial Council. Is this the appropriate way to handle this? Or, should the agencies make their claims directly to the Judicial Council for all costs (lodging, meals and travel.)**
- A. *Applicant courts that are awarded a pretrial program grant may use RRF grant funding for expenses associated with attendance. In this case, your court would process reimbursement of your justice partners from your RRF grant funds. Because courts will not receive the notice of intent to award until after the Summit, applicants that are not awarded a pretrial program grant will be reimbursed by the Judicial Council for the expenses associated with attendance at the Pretrial Summit. In this case, your court and your justice partners should send Judicial Council travel claim forms to Criminal Justice Services for reimbursement. (See section 3.2 of the RFP.)*

Risk and Needs Assessments

1. Q. Is there a list of recommended risk and needs assessments?
- A. *The RFP does not include recommendations for any specific risk and needs assessment instruments, however, the assessment tool must be validated on the offender population that is the target of the program or on a similar offender population.*
2. Q. Are all members of the PMT required to attend the Risk and Needs Assessment Information meeting on April 2 or can a representative and a select few representatives attend?
- A. *The court and other members of the PMT should plan to attend the meeting.*
3. Q. Can our court apply for a grant for a program that will facilitate the incorporation of risk assessment information at sentencing for the purpose of determining length of offender sentences?
- A. *The primary expected use of reliable risk/needs assessment information at sentencing is to determine appropriate conditions of supervision and effective treatment programming, thereby promoting effective local supervision practices to reduce recidivism. It is not*

expected that risk/needs assessment information will be used to determine the length of any custody term imposed if supervision is denied.

- 4. Q Please provide any information you have on the April 2 Risk and Needs Assessment meeting in order to incorporate those costs into the grant, e.g., start/end times, meals included, etc.**
- A. *The anticipated schedule for the Risk and Needs Assessment meeting on April 2, 2015, is 9:00 a.m. to 4:30 p.m. The Judicial Council will provide breakfast and lunch. Dinner may be reimbursed at \$20 provided a traveler is unable to reach their home or office, whichever is closer, within one hour after their normal commute. Due to the early start time, the council has contracted for a block of sleeping rooms for the evening of April 1. The contracted rate is \$140 per night plus \$2.24 surcharges (total \$142.24 per night).***

Recidivism Reduction Fund Court Grant Program **Peer Review Process**

Grant program summary

The Budget Act of 2014 appropriated \$15 million from the Recidivism Reduction Fund (RRF) for a competitive grant program designated to support the administration and operation of trial court programs and practices known to reduce adult offender recidivism and enhance public safety, including the use of validated risk and needs assessments, other evidence-based practices, and programs that specifically address the needs of mentally ill and drug addicted offenders. Because these funds are specifically designated for court programs, judicial leadership is critical for all funded programs.

Funds were available to the Superior Courts of California for the establishment (planning and implementation) or ongoing operations and staffing (enhancement) of three categories of programs:

- Adult criminal collaborative courts that serve moderate and high-risk offenders,
- Pretrial programs, and
- Court use of validated risk and needs assessment information.

Development of the grant program RFP

In developing the RFP for the grant program, Criminal Justice Services (CJS) consulted with experts in the areas of collaborative courts, pretrial programs, and risk and needs assessments. CJS sought assistance in the review and development of the RFP from appellate court justices, retired judges, out-of-state judges, and representatives of national organizations with relevant experience. These impartial individuals provided valuable input to the RFP development process.

In addition, to benefit from the subject matter expertise of individual judges and court executive officers, CJS developed a brief survey of general questions designed to elicit substantive feedback on elements that should be included in the RFP—both subject matter feedback and feedback that would assist courts in the administration of the grant program. These questions were provided to all of the presiding judges, court executive officers, and members of the Judicial Council's Criminal Law Advisory Committee and Collaborative Justice Courts Advisory Committee. Their comments were received, reviewed, and incorporated into the RFP, as appropriate.

CJS also sought input from the Department of Finance, Governor's Office, legislative staff, and representatives of the Chief Probation Officers of California and California State Association of Counties in order to ensure that the program accurately reflected the objectives of the RRF. These entities were asked to review the RFP in its draft form. CJS specifically requested feedback on the emphasis on funding many courts of various sizes across the state. These stakeholders were supportive of this approach which encouraged courts of all sizes to apply as they had an equal chance of receiving a grant award. Funding priority was given to planning and implementation grants for new programs.

The RFP was issued on September 15, 2014, potential applicant calls were held on October 7 and 16, and interested courts submitted notices of intent to apply on October 8.

Peer review process

A review panel of five members was formed for each of the three RRF grant category areas: collaborative courts, pretrial programs, and court use of risk and needs assessments. Review panels were made up of multidisciplinary teams of Judicial Council staff. Each panel had a team lead. In order to address confidentiality issues, each reviewer was assigned an ID number to use instead of their names on all review documents. Reviewers were instructed to regard the court proposals as proprietary information, and to not share any information contained in the proposals with outside parties. They also signed “Conflict of Interest” and “Confidentiality” agreements.

The reviewers attended a mandatory training/presentation held on December 16, 2014. They received their panels’ proposals and all related reviewer documents:

- Original Recidivism Reduction Fund Court Grant Program RFP
- Final version of the Frequently Asked Questions from December 10, 2014
- Reviewer’s Checklist
- Peer Reviewer Assessment Form
- Strength/weakness statement examples
- Step-by-Step review instructions

The reviewer training focused on reviewing the proposals against the RFP, not against each other. The reviewers were instructed to read all Planning/Implementation proposals together and all enhancement proposals together. The RFP directed that each proposal be divided into five sections (Problem statement; Project plan; Capabilities, role, and competencies; Local collaboration; and Cost proposal). Each section had a maximum number of possible points that could be awarded (per RFP section 7.0). The reviewers scored each proposal based upon its responsiveness to the RFP criteria, the quality of responses to each section and the level of detail provided. Points were deducted if elements of a particular section were not addressed or if responses were not included in the appropriate sections. Each section was reviewed and scored separately. Reviewers were also directed to provide comments (strengths and weaknesses) that supported their evaluation of the proposals—providing details about the ways in which the proposal did or did not satisfy the selection criteria. Reviewers were given two weeks to score the proposals in their assigned category.

After all the proposals were scored by the reviewers individually, category panel meetings were held on January 5 and 6, 2015. The panel leads facilitated group discussion of the strengths and weaknesses of each proposal to enable the panel to resolve any areas of misunderstanding or disagreement regarding proposal evaluation and funding recommendations. The category panels were responsible for reaching a score on each proposal in their category based on the strengths and weaknesses of the proposal, with comments supporting the scores.

The panel leads met with the Criminal Justice Services office head on January 8, 2015 to review and evaluate the panel scores and comments for all the proposals, consider the statewide geographic representation, and reach consensus on final scores.

The panel leads then drafted proposed grant allocation recommendations for consideration and approval by the Executive and Planning Committee and by the Judicial Council at its February 19, 2015 meeting.



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 20, 2015

Title
Judicial Council: Implementation of Judicial
Council Directives on Judicial Council Staff
Restructuring

Agenda Item Type
Information Only

Date of Report
January 20, 2015

Submitted by
Executive and Planning Committee
Hon. Douglas P. Miller, Chair

Contact
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Executive Summary

The chair of the Executive and Planning Committee (E&P) presents this informational report on the implementation of the Judicial Council Directives on Staff Restructuring, as approved by the Judicial Council on August 31, 2012. The Judicial Council Staff Restructuring Directives specifically direct the Administrative Director to report to E&P before each council meeting on every directive. This informational report provides an update on the progress of implementation efforts.

Previous Council Action

The Judicial Council approved directives presented by E&P on August 31, 2012. These directives reaffirmed Judicial Council authority over the staff to the Judicial Council, restructured the staff agency, and endorsed a plan for monthly monitoring of the implementation of the directives by E&P. The last report to the Judicial Council on implementation efforts was provided by E&P at the December 12, 2014, Judicial Council meeting.

Implementation Progress

The staff to the Judicial Council offices continue to progress in implementing the Restructuring Directives in accordance with the timelines for implementation approved by the Judicial Council.

Since the December 2014 council meeting, the following directives were reported as complete:

- Directive 43—Audit Services reported on internal audits of the Judicial Council for fiscal year (FY) 2014–2015. The audit plan includes internal audits in the facilities areas such as the capital program change order process and the operational process of the delegated facilities maintenance program. Other planned internal audit work includes the review of application controls over Oracle Financials. Beyond FY 2014–2015, Audit Services will work with the Executive Office to include audit activities for higher risk functions in future audit plans.

Attachments

1. *Status Report: Judicial Council Directives on Staff Restructuring*

STATUS REPORT
JUDICIAL COUNCIL DIRECTIVES
ON STAFF RESTRUCTURING

February 20, 2015

#	Directive *	Timeline	Status	Status Updates
1	<p>The Administrative Director of the Courts operates subject to the oversight of the Judicial Council. E&P recommends that the Judicial Council direct the Administrative Director of the Courts to report to E&P before each Judicial Council meeting on each item on this chart approved by the Judicial Council.</p> <p>SEC Recommendation The Administrative Director must operate subject to the oversight of the Judicial Council and will be charged with implementing the recommendations in this report if so directed.</p>	For immediate implementation (Ongoing)	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
2	<p>E&P recommends that the Judicial Council take an active role in overseeing and monitoring the AOC to ensure transparency, accountability, and efficiency in the AOC's operations and practices.</p> <p>SEC Recommendation The Judicial Council must take an active role in overseeing and monitoring the AOC and demanding transparency, accountability, and efficiency in the AOC's operations and practices.</p>	For immediate implementation (Ongoing)	Ongoing	

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.

#	Directive *	Timeline	Status	Status Updates
3	<p>E&P recommends that the Judicial Council promote the primary role and orientation of the AOC as a service provider to the Judicial Council and the courts for the benefit of the public.</p> <p>SEC Recommendation</p> <p>The primary role and orientation of the AOC must be as a service provider to the Judicial Council and the courts.</p>	For immediate implementation (Ongoing)	Ongoing	
4	<p>E&P recommends that the Judicial Council, in exercising its independent and ultimate governance authority over the operations and practices of the AOC, must ensure that the AOC provide it with a comprehensive analysis, including a business case analysis, a full range of options and impacts and pros and cons, before undertaking any branch-wide project or initiative. In exercising its authority over committees, rules, grants, programs and projects, the Judicial Council must ensure that the AOC provide it with a full range of options and impacts, including fiscal, operational, and other impacts on the courts.</p> <p>SEC Recommendation</p> <p>In exercising its independent and ultimate governance authority over the operations and practices of the AOC, the Judicial Council must demand that the AOC provide it with a business case analysis, including a full range of options and impacts, before undertaking any branch-wide project or initiative. In exercising its authority over committees, rules, grants, programs, and projects, the Judicial Council must demand that the AOC provide it with a full range of options and impacts, including fiscal, operational, and other impacts on the courts.</p>	For immediate implementation (Ongoing)	Ongoing	

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#	Directive *	Timeline	Status	Status Updates
5	<p>E&P recommends that the Judicial Council conduct an annual review of the performance of the Administrative Director of the Courts (ADOC). The review must take into consideration input submitted by persons inside and outside the judicial branch.</p> <p>SEC Recommendation</p> <p>The Judicial Council must conduct periodic reviews of the performance of the Administrative Director of the Courts. These reviews must take into consideration input submitted by persons inside and outside the judicial branch.</p>	For initiation October 2013	Ongoing	

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#	Directive *	Timeline	Status	Status Updates
6	E&P recommends that the Judicial Council direct the Rules and Projects Committee, consistent with its responsibility under rule 10.13 of the California Rules of Court, to establish and maintain a rule-making process that is understandable and accessible to justice system partners and the public, to consider SEC Recommendation 6-8 and report on any changes to the rule-making process to the Judicial Council.	RUPRO to propose a timeline to return to the council to present its recommendations.	Completed	<p>RUPRO will continue to address this directive on an ongoing basis. Most recently, on behalf of RUPRO, Justice Hull attended the meetings of the executive committees of the Trial Court Presiding Judges and Court Executives Advisory Committees to summarize RUPRO's actions to address this directive and seek their input on the effect of the changes. As it does annually, through the process for review and approval of annual agendas, RUPRO applied priority levels to rules and forms proposals when RUPRO approved annual agendas of advisory groups that it oversees. RUPRO considered whether there is an urgent need for proposals and whether they will provide significant benefits to the courts and public. Since January 2013, actions by RUPRO related to this directive include directing two advisory groups to submit proposals to the Presiding Judges and Court Executive Officers for early input on the proposals, including requesting information about fiscal and operational impacts.</p> <p>RUPRO will, as part of annual agenda review, continue to review all advisory body proposals for rules and forms under RUPRO policies in effect at that time (the current policy is to give priority to proposals that are statutorily required or promote cost savings or efficiencies). The RUPRO Chair will continue to meet with TCPJAC Executive Committee on an ongoing basis to discuss the issues identified in this directive.</p>

SEC Recommendation

The AOC must develop a process to better assess the fiscal and operational impacts of proposed rules on the courts, including seeking earlier input from the courts before proposed rules are submitted for formal review. The AOC should establish a process to survey judges and court executive officers about the fiscal and operational impacts of rules that are adopted, and recommend revisions to the rules where appropriate. The AOC should

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#	Directive *	Timeline	Status	Status Updates
	recommend changes in the rules process, for consideration by the Judicial Council, to limit the number of proposals for new rules, including by focusing on rule changes that are required by statutory changes.			

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#	Directive *	Timeline	Status	Status Updates
7	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to propose a procedure to seek the fully informed input and collaboration of the courts before undertaking significant projects or branchwide initiatives that affect the courts. The AOC should also seek the input of all stakeholder groups, including the State Bar.	ADOC to propose a procedure for Judicial Council approval at the October 2013 council meeting.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>

SEC Recommendation

The AOC must seek the fully informed input and collaboration of the courts before undertaking significant projects or branch-wide initiatives that affect the courts.

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#	Directive *	Timeline	Status	Status Updates
8	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to develop a procedure to first employ a comprehensive analysis, including an appropriate business case analysis of the scope and direction of significant projects or initiatives, taking into account the range of fiscal, operational, and other impacts to the courts and stakeholders.	ADOC to propose a procedure for Judicial Council approval at the October 2013 council meeting.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>
	SEC Recommendation The AOC must first employ an appropriate business case analysis of the scope and direction of significant projects or initiatives, taking into account the range of fiscal, operational, and other impacts to the courts.			

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#	Directive *	Timeline	Status	Status Updates
9	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to develop a procedure for developing and communicating accurate cost estimates for projects, programs, and initiatives.	ADOC to propose a procedure for Judicial Council approval at the October 2013 council meeting.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>

[SEC Recommendation](#)

The AOC must develop and communicate accurate cost estimates for projects, programs, and initiatives.

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#	Directive *	Timeline	Status	Status Updates
10	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to develop a procedure to apply proper cost and contract controls and monitoring, including independent assessment and verification, for significant projects and programs.	ADOC to propose a procedure for Judicial Council approval at the October 2013 council meeting.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>
	SEC Recommendation The AOC must apply proper cost and contract controls and monitoring, including independent assessment and verification, for significant projects and programs.			

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#	Directive *	Timeline	Status	Status Updates
11	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to develop a procedure to maintain proper documentation and records of its decision making process for significant projects and programs.	ADOC to propose a procedure for Judicial Council approval at the October 2013 council meeting.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>
	SEC Recommendation The AOC must maintain proper documentation and records of its decision making process for significant projects and programs.			

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#	Directive *	Timeline	Status	Status Updates
12	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to develop a procedure to identify and secure sufficient funding and revenue streams necessary to support projects and programs, before undertaking them.	ADOC to propose a procedure for Judicial Council approval at the October 2013 council meeting.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>
	SEC Recommendation The AOC must identify and secure sufficient funding and revenue streams necessary to support projects and programs, before undertaking them.			

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#	Directive *	Timeline	Status	Status Updates
13	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to develop a procedure to accurately report and make available information on potential costs of projects and impacts on the courts.	ADOC to propose a procedure for Judicial Council approval at the October 2013 council meeting.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>

[SEC Recommendation](#)

The AOC must accurately report and make available information on potential costs of projects and impacts on the courts.

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#	Directive *	Timeline	Status	Status Updates
14	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to conduct a comprehensive review of the AOC position classification system as soon as possible. The focus of the review must be on identifying and correcting misallocated positions, particularly in managerial classes, and on achieving efficiencies by consolidating and reducing the number of classifications.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

[SEC Recommendation](#)

The Executive Leadership Team must direct that a comprehensive review of the AOC position classification system begin as soon as possible. The focus of the review should be on identifying and correcting misallocated positions, particularly in managerial classes, and on achieving efficiencies by consolidating and reducing the number of classifications. The Chief Administrative Officer should be given lead responsibility for implementing this recommendation.

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#	Directive *	Timeline	Status	Status Updates
15	The Administrative Office of the Courts must also undertake a comprehensive review of the AOC compensation system as soon as possible. The AOC must review all compensation-related policies and procedures, including those contained in the AOC Personnel Policies and Procedures Manual.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The Executive Leadership Team must direct that a comprehensive review of the AOC compensation system be undertaken as soon as possible. All compensation-related policies and procedures must be reviewed, including those contained in the AOC personnel manual. AOC staff should be used to conduct this review to the extent possible. If outside consultants are required, such work could be combined with the classification review that is recommended above. The Chief Administrative Officer should be given lead responsibility for implementing this recommendation.

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#	Directive *	Timeline	Status	Status Updates
16	<p>The AOC must overhaul current practices for its classification and compensation systems. The AOC must develop and consistently apply policies for classification and compensation of employees, by actions including the following:</p> <p>(a) A comprehensive review of the classification and compensation systems should be undertaken as soon as possible, with the goal of consolidating and streamlining the classification system.</p>	<p>The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.</p>	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The AOC must commit to overhauling current practices for its classification and compensation systems. The AOC then must develop and consistently apply policies for classification and compensation of employees by actions including the following:

(a) A comprehensive review of the classification and compensation systems should be undertaken as soon as possible, with the goal of consolidating and streamlining the classification system.

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#	Directive *	Timeline	Status	Status Updates
17	<p>The AOC must overhaul current practices for its classification and compensation systems. The AOC must develop and consistently apply policies for classification and compensation of employees, by actions including the following:</p> <p>(b) Priority should be placed on reviewing all positions classified as supervisors or managers, as well as all attorney positions, to identify misclassified positions and take appropriate corrective actions.</p>	<p>The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.</p>	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The AOC must commit to overhauling current practices for its classification and compensation systems. The AOC then must develop and consistently apply policies for classification and compensation of employees by actions including the following:

(b) Priority should be placed on reviewing all positions classified as supervisors or managers, as well as all attorney positions, to identify misclassified positions and take appropriate corrective actions.

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18	<p>The AOC must overhaul current practices for its classification and compensation systems. The AOC must develop and consistently apply policies for classification and compensation of employees, by actions including the following:</p> <p>(c) The manner in which the AOC applies its geographic salary differential policy (section 4.2 of the AOC Personnel Policies and Procedures Manual) should be reviewed and, if maintained, applied consistently.</p>	<p>The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.</p>	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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#	Directive *	Timeline	Status	Status Updates
	SEC Recommendation The AOC must commit to overhauling current practices for its classification and compensation systems. The AOC then must develop and consistently apply policies for classification and compensation of employees by actions including the following: (c) The manner in which the AOC applies its geographic salary differential policy (section 4.2 of the AOC personnel manual) should be reviewed and, if maintained, applied consistently.			In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

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#	Directive *	Timeline	Status	Status Updates
19	<p>The AOC must overhaul current practices for its classification and compensation systems. The AOC must develop and consistently apply policies for classification and compensation of employees, by actions including the following:</p> <p>(d) Given current HR staffing and expertise levels, the Administrative Director of the Courts is directed to consider whether an outside entity should conduct these reviews and return to the Judicial Council with an analysis and a recommendation.</p> <p>SEC Recommendation</p> <p>The AOC must commit to overhauling current practices for its classification and compensation systems. The AOC then must develop and consistently apply policies for classification and compensation of employees by actions including the following:</p> <p>(d) Given current HR staffing and expertise levels, an outside entity should be considered to conduct these reviews.</p>	<p>Due date will be modified after September 2013 after the selection of a vendor for the AOC Classification and Compensations study as directed by the Judicial Council.</p>	Completed	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest-scored bidder. The AOC is working with the successful bidder to develop and execute an agreement, expected to be finalized no later than October 31, 2013. If the parties are able to reach agreement, the contract start date will begin in October 2013 with an estimated end date of November 24, 2014. The study is expected to commence following the contract start date.</p> <p>In October 2013, E&P will provide an update to the Judicial Council on the results of the Classification and Compensation study RFP, and outline next steps for the commencement of the organization-wide AOC Classification and Compensation study.</p>

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#	Directive *	Timeline	Status	Status Updates
20	E&P also recommends that the Judicial Council direct the Administrative Director of the Courts to assess the results of the compensation and classification studies to be completed and propose organizational changes that take into account the SEC recommendation 7-75 and the analysis of the classification and compensation studies.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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#	Directive *	Timeline	Status	Status Updates
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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

[SEC Recommendation](#)

The Administrative Director should make an AOC-wide assessment to determine whether attorneys employed across the various AOC divisions are being best leveraged to serve the priority legal needs of the organization and court users.

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#	Directive *	Timeline	Status	Status Updates
21	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to implement a formalized system of program and project planning and monitoring that includes, at minimum, a collaborative planning process that requires an analysis of impacts on the judicial branch at the outset of all projects; use of workload analyses where appropriate; and development of general performance metrics for key AOC programs that allow expected performance levels to be set and evaluated.	Completion by December 2013.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>

SEC Recommendation

The AOC Executive Leadership Team must begin to implement a formalized system of program and project planning and monitoring that includes, at minimum, a collaborative planning process that requires an analysis of impacts on the judicial branch at the outset of all projects; use of workload analyses where appropriate;

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#	Directive *	Timeline	Status	Status Updates
	and development of general performance metrics for key AOC programs that allow expected performance levels to be set and evaluated.			
22	E&P recommends that the Judicial Council direct the AOC to renegotiate or terminate, if possible, its lease in Burbank. The lease for the Sacramento North spaces should be reviewed and, if possible, renegotiated to reflect actual usage of the office space. The AOC should explore lower cost lease options in San Francisco, recognizing that the State Department of General Services would have to find replacement tenants for its space.	ADOC recommendations to the council at the 10/26/12, council meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
	<p>SEC Recommendation</p> <p>The AOC should renegotiate or terminate its lease in Burbank. The lease for the Sacramento North spaces should be reviewed and renegotiated to reflect actual usage of the office space. The AOC should explore lower cost lease options in San Francisco, recognizing that DGS would have to find replacement tenants for its space.</p>			

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#	Directive *	Timeline	Status	Status Updates
23	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to identify legislative requirements that impose unnecessary reporting or other mandates on the courts and the AOC. Appropriate efforts should be made to revise or repeal such requirements.	ADOC report to E&P identifying legislative requirements by December 2013.	Completed	<p>The Office of Governmental Affairs continues to identify statutory requirements that impose unnecessary reporting or other mandates and, on behalf of and at the direction of the Judicial Council, advocate for revising and/or repealing such requirements.</p> <p>OGA continues to work with Judicial council staff to identify legislatively mandated reporting requirements for the Judicial Council, AOC and the courts that are unnecessary, outdated, or overly burdensome. In 2012, OGA worked with AOC divisions to identify several such reporting requirements. OGA then recommended to the legislature that these requirements be repealed. One such reporting requirement was eliminated. OGA has once again asked AOC divisions to identify additional unnecessary, outdated, or overly burdensome reporting requirements. OGA will continue to take ideas for eliminating unnecessary reporting requirements to the PCLC to seek legislative action to eliminate these requirements. This is a ongoing duty that will continue on beyond the life of the directive.</p>

SEC Recommendation

The Office of Governmental Affairs should be directed to identify legislative requirements that impose unnecessary reporting or other mandates on the AOC. Appropriate efforts should be made to revise or repeal such requirements.

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#	Directive *	Timeline	Status	Status Updates
24	On August 9, 2012, E&P directed the interim Administrative Director of the Courts and incoming Administrative Director of the Courts to consider the SEC recommendations on AOC organizational structure (recommendations 5-1–5-6, 6-1) and present their proposal for an organizational structure for the consideration of the full Judicial Council at the August 31, 2012, council meeting.	Interim and incoming ADOC to present proposed organizational chart and implementation proposal to the council for consideration at the 8/31/12, council meeting. With council approval, an organizational design will be implemented by October 2012.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

SEC Recommendation

5-1. The AOC should be reorganized. The organizational structure should consolidate programs and functions that primarily provide operational services within the Judicial and Court Operations Services Division. Those programs and functions that primarily provide administrative services should be consolidated within the Judicial and Court Administrative Services Division. Other programs and functions should be grouped within an Executive Office organizational unit. The Legal Services Office also should report directly to the Executive Office but no longer should be accorded divisional status.

5-2. The Chief Operating Officer should manage and direct the Judicial and Court Operations Services Division, consisting of functions located in the Court Operations Special Services Office; the Center for Families, Children and the Courts; the Education Office/Center for Judicial Education and Research; and the Office of Court Construction and Facilities Management.

5-3. The Chief Administrative Officer should manage and direct the Judicial and Court Administrative Services Division, consisting of functions located in the Fiscal Services Office, the Human Resources Services Office, the Trial Court Administrative Services Office, and the Information and Technology Services Office.

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#	Directive *	Timeline	Status	Status Updates
	<p>5-4. Other important programs and functions should be consolidated within an Executive Office organizational unit under the direction of a Chief of Staff. Those functions and units include such functions as the coordination of AOC support of the Judicial Council, Trial Court Support and Liaison Services, the Office of Governmental Affairs, the Office of Communications, and a Special Programs and Projects Office.</p>			
	<p>5-5. The Chief Counsel, manager of the Legal Services Office (formerly the Office of the General Counsel) should report directly to the Administrative Director depending on the specific issue under consideration and depending on the preferences of the Administrative Director.</p>			
	<p>5-6. The Chief Deputy Administrative Director position must be eliminated. If the absence of the Administrative Director necessitates the designation of an Acting Administrative Director, the Chief Operating Officer should be so designated.</p>			
	<p>6-1. The Administrative Director, the Chief Operations Officer, the Chief Administrative Officer, and the Chief of Staff should be designated as the AOC Executive Leadership Team, the primary decision making group in the organization.</p>			

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#	Directive *	Timeline	Status	Status Updates
25	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require immediate compliance with the requirements and policies in the AOC Personnel Policies and Procedures Manual, including formal performance reviews of all employees on an annual basis; compliance with the rules limiting telecommuting; and appropriate utilization of the discipline system.</p> <p>SEC Recommendation</p> <p>The AOC Executive Leadership Team must order immediate compliance with the requirements and policies in the AOC personnel manual, including formal performance reviews of all employees on an annual basis; compliance with the rules limiting telecommuting; and appropriate utilization of the discipline system.</p>	<p>Administrative Director of the Courts to provide final report to the council at the June 2013 Judicial Council meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
26	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to ensure that the AOC adheres to its telecommuting policy consistently and identifies and corrects all existing deviations and violations of the existing policy. The Administrative Director of the Courts must review the AOC telecommuting policy and provide the council with a report proposing any recommendations on amendments to the policy, by the December 13-14, 2012, council meeting. Based on a recommendation from the Executive and Planning Committee, the Judicial Council added an additional directive to the existing telecommute directives at the December 14, 2012, meeting to consider and report on alternatives for the telecommute policy, including whether this policy should remain in force and directed the ADOC to return to the council with a report and recommendations for the council's February 2013 meeting.</p> <p>SEC Recommendation</p> <p>The AOC must adhere to its telecommuting policy (Section 8.9 of the AOC personnel manual). It must apply the policy consistently and must identify and correct all existing deviations and violations of the existing policy.</p>	<p>Administrative Director of the Courts to report to the Executive & Planning Committee on the use of the amended telecommute policy for the period of June 2013 - August 2013. The Administrative Director of the Courts will provide a year-end report/evaluation to the Judicial Council once a final timeline has been determined by the Committee.</p>	Completed	<p>Judicial Council report presented to the Judicial Council for consideration at the April 25, 2014, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
27	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to ensure that, with an appropriate individual employee performance planning and appraisal system in place, the AOC utilizes the flexibility provided by its at-will employment policy to address employee performance issues. The AOC's at-will employment policy provides management with maximum hiring and firing flexibility, and should be exercised when appropriate.</p> <p>SEC Recommendation</p> <p>6-4. With an appropriate individual employee performance planning and appraisal system in place, the AOC must utilize the flexibility provided by its at-will employment policy to address serious employee performance issues.</p> <p>7-36. The AOC's at-will employment policy provides management with maximum hiring and firing flexibility, and should be exercised when appropriate.</p>	<p>ADOC report to the council at the April 2013 meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.</p>
28	<p>E&P recommends that the Judicial Council direct that the Administrative Director of the Courts require compliance with the AOC's existing policy calling for annual performance appraisals of all AOC employees (AOC Personnel Policies and Procedures Manual, section 3.9) and that performance appraisals are uniformly implemented throughout the AOC as soon as possible.</p> <p>SEC Recommendation</p> <p>The AOC's existing policy calling for annual performance appraisals of all AOC employees (AOC personnel manual, section 3.9) must be implemented uniformly throughout the AOC as soon as possible.</p>	<p>Administrative Director of the Courts to provide final report to the council at the June 2013 Judicial Council meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
29	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to develop an employment discipline policy to be implemented consistently across the entire AOC that provides for performance improvement plans.</p> <p>SEC Recommendation</p> <p>A consistent employment discipline policy must accompany the employee performance appraisal system. Section 8.1B of the AOC personnel manual discusses disciplinary action, but is inadequate. A policy that provides for performance improvement plans and for the actual utilization of progressive discipline should be developed and implemented consistently across the entire AOC.</p>	<p>Administrative Director of the Courts to provide final report to the council at the June 2013 Judicial Council meeting.</p>	Completed	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.</p>
30	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to utilize the AOC's layoff process to provide management with a proactive way to deal with significant reductions in resources.</p> <p>SEC Recommendation</p> <p>The AOC must utilize its layoff process to provide management with a proactive way to deal with significant reductions in resources.</p>	<p>Revised policy adopted May 18, 2012.</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
31	E&P recommends that the Judicial Council direct that the Administrative Director of the Courts require the AOC leadership to develop, maintain, and support implementation of effective and efficient human resources policies and practices uniformly throughout the AOC.	The Administrative Director of the Courts will provide a report to the Judicial Council at the August 2014 meeting.	Completed	<p>The Human Resources Services Office (HRSO) has concluded its review of the Personnel Policies and Procedures Manual (Manual). In conducting its review, the HRSO focused on updating policies to reflect legislative and organizational changes to the Judicial Council since July 2011, while simultaneously addressing issues raised by related Judicial Council Directives. All policies were reviewed within different areas of the HRSO. The office also received feedback from the Legal Services Office.</p> <p>The Manual has been and continues to be a living document. While this review is comprehensive and is intended to be inclusive of recent changes to the organization and state/federal employment law, the HRSO fully expects to make continuing adjustments as it relates to business needs/practices, and constantly changing legal environments while ensuring that policies remain relevant and accurate.</p> <p>The updated Policy Manual will be presented to the Executive and Planning Committee for final review.</p>

SEC Recommendation

The AOC leadership must recommit itself to developing and maintaining effective and efficient HR policies and practices. The new Administrative Director, among other priority actions, must reestablish the AOC's commitment to implement sound HR policies and practices.

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#	Directive *	Timeline	Status	Status Updates
32	E&P recommends that the Judicial Council direct the Administrative Director of the Courts that a gradual, prioritized review of all HR policies and practices, including all those incorporated in the AOC Personnel Policies and Procedures Manual, should be undertaken to ensure they are appropriate and are being applied effectively and consistently throughout the AOC.	The Administrative Director of the Courts will provide a report to the Judicial Council at the August 2014 meeting.	Completed	<p>The Human Resources Services Office (HRSO) has concluded its review of the Personnel Policies and Procedures Manual (Manual). In conducting its review, the HRSO focused on updating policies to reflect legislative and organizational changes to the Judicial Council since July 2011, while simultaneously addressing issues raised by related Judicial Council Directives. All policies were reviewed within different areas of the HRSO. The office also received feedback from the Legal Services Office.</p> <p>The Manual has been and continues to be a living document. While this review is comprehensive and is intended to be inclusive of recent changes to the organization and state/federal employment law, the HRSO fully expects to make continuing adjustments as it relates to business needs/practices, and constantly changing legal environments while ensuring that policies remain relevant and accurate.</p> <p>The updated Policy Manual will be presented to the Executive and Planning Committee for final review.</p>
	<p><u>SEC Recommendation</u></p> <p>A gradual, prioritized review of all HR policies and practices, including all those incorporated in the AOC personnel manual should be undertaken to ensure they are appropriate and are being applied effectively and consistently throughout the AOC.</p> <hr/>			

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#	Directive *	Timeline	Status	Status Updates
33	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to report back on the budget and fiscal management measures implemented by the AOC to ensure that the AOC's fiscal and budget processes are transparent.</p> <p>The Administrative Director of the Courts should develop and make public a description of the AOC fiscal and budget process, including a calendar clearly describing how and when fiscal and budget decisions are made. The AOC should produce a comprehensive, publicly available midyear budget report, including budget projections for the remainder of the fiscal year and anticipated resource issues for the coming year.</p>	<p>Final report on measures taken to implement a new approach to the budget process by April 2015.</p>	<p>In Progress</p>	<p>The JCC Finance Office has already implemented various improvements to the JCC's budgeting process, but additional improvements are still being developed. JCC staff are also working to implement other fiscal and budget processes, such as improved budget & allocation reports and developing enhanced training options for division/office budget liaisons. As part of this process, the Finance Office staff will confer with other state entities on their respective practices. In addition, the Finance Office will build upon the DOF annual budget development calendar to more fully document the JCC fiscal and budget processes.</p> <p>A budget process survey was distributed to 23 executive branch departments as a tool to gather information regarding their internal budget and fiscal processes. A total of 16 departments/agencies responded to the survey including 7 which utilize CALSTARS. JCC Finance Office will review, evaluate and summarize the survey results and also develop recommendations for improvements that can be made to JCC processes. We expect this phase of the process will take until the June 2014 reporting period to be completed.</p> <p>Staff progress has been delayed due to workload associated with the audit of the Judicial Council authorized by the Joint Legislative Audit Committee and conducted by the California State Auditor. Additionally, process and schedule changes related to Department of Finance's implementation of the Financial Information System for California (also known as FI\$CAL) have contributed to the delay.</p> <p>Given that the California State Auditor's JCC (AOC) Audit Report includes findings and recommendations related to internal budget processes, additional time is necessary for staff to compare and consolidate the SEC and CSA recommendations, which along with the</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>The AOC's fiscal and budget processes must be transparent. The Executive Leadership Team should require the Fiscal Services Office to immediately develop and make public a description of the fiscal and budget process, including a calendar clearly describing how and when fiscal and budget decisions are made. The Fiscal Services Office should be required to produce a comprehensive, publicly available midyear budget report, including budget projections for the remainder of the fiscal year and anticipated resource issues for the coming year. The Chief Administrative Officer should be given lead responsibility for developing and implementing an entirely new approach to fiscal processes and fiscal information for the AOC.</p>			budget survey responses, will provide the basis for defining the budget process and development of the budget calendar.
34	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that all fiscal information must come from one source within the AOC, and that single source should be what is currently known as the Finance Division.</p> <p>SEC Recommendation</p> <p>All fiscal information must come from one source within the AOC, and that single source should be what is currently known as the Finance Division (to become the Fiscal Services Office under the recommendations in this report).</p>	Immediate implementation with ADOC report to the council at the 10/26/2012, meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
35	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that budget and fiscal tracking systems be in place so that timely and accurate information on resources available and expenditures to date are readily available. SEC Recommendation Tracking systems need to be in place so that timely and accurate information on resources available and expenditures to date are readily available. Managers need this information so they do not spend beyond their allotments.	ADOC interim report to the council at the February 2013 meeting and final report at the June 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.
36	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that budget and fiscal information displays be streamlined and simplified so they are clearly understandable. SEC Recommendation Information displays need to be streamlined and simplified so they are clearly understandable.	ADOC interim report to the council at the February 2013 meeting and final report at the June 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
37	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that the Finance Division track appropriations and expenditures by fund, and keep a historical record of both so that easy year-to-year comparisons can be made. This can be done by unit, division, or by program, whichever provides the most informed and accurate picture of the budget.	ADOC interim report to the council at the February 2013 meeting and final report at the October 2013 meeting.	Completed	<p>This directive is considered complete as AOC FSO staff currently tracks appropriations and expenditures by fund. As required by Department of Finance and to comply with State of California Legal Basis Accounting, the Oracle financial system maintains all of this information dating back to 1996-97. Additionally, the Judicial Branch display in the annual Governor's Budget and supporting schedules provide appropriations and expenditures by fund.</p> <p>Also, the AOC FSO conducts regular reviews of budget and expenditure information to ensure divisions/offices are functioning within available resources. This includes monthly budget forecasting for the remainder of the fiscal year as well as year-end planning activities. AOC staff also provides these budget support services to the Supreme Court, Courts of Appeal, and the Habeas Corpus Resource Center.</p> <p>Finally, after the end of this fiscal year, FSO will review existing reports and develop a standard year-end summary to facilitate comparative year-to-year funding changes. AOC staff will continue to review existing processes and procedures to determine what improvements can be implemented on an ongoing basis.</p>
	<p><u>SEC Recommendation</u></p> <p>The Finance Division (Fiscal Services Office) should track appropriations and expenditures by fund, and keep a historical record of both so that easy year-to-year comparisons can be made. This can be done by unit, division or by program — whichever provides the audience with the most informed and accurate picture of the budget.</p>			

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#	Directive *	Timeline	Status	Status Updates
38	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that expenditures be split into those for state operations and local assistance (funds that go to the trial courts) so it is clear which entity benefits from the resources. State operations figures must be further broken down as support for the Supreme Court and Appellate Courts. The AOC should adopt the methodology of distributing the administrative costs among programs.	Administrative Director interim report to the council at the February 2013 meeting and the final report at the April 2015 meeting.	In Progress	<p>The JCC Finance Office does track expenditures split into those for state operations and local assistance. Local assistance expenditures are tracked by trial court (if an individual trial court directly benefited) and state-wide (for expenditures that benefits more than one trial court). State operations expenditure tracking is further broken down by the program and entity specified in each year's Budget Act.</p> <p>With respect to the distribution of administrative costs, JCC Finance Office staff will be evaluating methodologies employed by other state-funded entities to determine which method should be applied at the JCC.</p> <p>A budget process survey was distributed to 23 executive branch departments as a tool to gather information regarding their internal budget and fiscal processes. A total of 16 departments/agencies responded to the survey including 7 which utilize CALSTARS. JCC Finance Office staff will review, evaluate and summarize the survey results and also develop recommendations for improvements that can be made to JCC processes. We expect this phase of the process will take until the June 2014 reporting period to be completed.</p> <p>Staff progress has been delayed due to workload associated with the audit of the Judicial Council authorized by the Joint Legislative Audit Committee and conducted by the California State Auditor. Additionally, process and schedule changes related to Department of Finance's implementation of the Financial Information System for California (also known as FI\$CAL) have contributed to the delay.</p> <p>Given that the California State Auditor's JCC (AOC) Audit Report includes findings and recommendations related to internal budget processes, additional time is necessary for staff to compare and consolidate the</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>Expenditures should be split into those for state operations and local assistance (funds that go to the trial courts) so it is clear which entity benefits from the resources. State operations figures should be further broken down as support for the Supreme Court and Appellate Courts. In most state departments, administrative costs are distributed among programs. The AOC should adopt this methodology.</p>			SEC and CSA recommendations, which along with the budget survey responses, will provide the basis for defining the budget process and development of the budget calendar.
39	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that the AOC schedule its budget development and budget administration around the time frames used by all state entities.</p> <p>SEC Recommendation</p> <p>The AOC should schedule its budget development and budget administration around the time frames used by all state entities. Assuming the budget for any fiscal year is enacted by July 1, the AOC should immediately allocate its budgeted resources by fund among programs, divisions, units.</p>	Administrative Director of the Courts to provide update to Judicial Council at the October 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
40	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that requests for additional resources be presented to the Judicial Council at its August meeting, identify the increased resources requested, and be accompanied by clear statements of the need and use of the resources and the impact on the AOC, as well as the impact on the judicial branch, if any. A cost-benefit analysis should be part of any request and there should be a system to prioritize requests.	Immediate implementation	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>

SEC Recommendation

Requests for additional resources are presented to the Judicial Council at its August meeting. These requests identify increased resources requested and should be accompanied by clear statements of need and use of the resources and the impact on the AOC, as well as the impact on the judicial branch, if any. A cost-benefit

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#	Directive *	Timeline	Status	Status Updates
	<p>analysis should be part of any request, and there should be a system to prioritize requests.</p>			
41	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that, after the Governor's Budget is released in January, the AOC should present a midyear update of the judicial branch budget at the next scheduled Judicial Council meeting. All figures provided by the AOC should tie back to the Governor's Budget or be explained in footnotes.</p> <p><u>SEC Recommendation</u></p> <p>After the Governor's Budget is released in January, the AOC should present a midyear update of the judicial branch budget at the next scheduled Judicial Council meeting. This presentation should tie to the figures in the Governor's Budget so that everyone has the same understanding of the budget.</p>	<p>Immediate implementation. ADOC report to the council at the February 2013 council meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.</p>
42	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that, except for budget changes that must be made to comply with time requirements in the state budget process, the AOC not change the numbers in the budget statements it presents. All figures provided by the AOC must tie back to the Governor's budget or be explained in footnotes.</p> <p><u>SEC Recommendation</u></p> <p>Except for changes that must be made to comply with time requirements in the state budget process, the AOC should not change the numbers it presents – continual changes in the numbers, or new displays, add to confusion about the budget.</p>	<p>Immediate implementation (Ongoing)</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the December 14, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
43	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to perform internal audits upon completion of the restructuring of the AOC.	Judicial Council Administrative Director to report to council at the February 2015 council meeting.	Completed	<p data-bbox="1440 168 2022 483">Audit Services (AS) balances its audit activities between the branch and the Judicial Council based on staffing availability. Historically, AS had an authorized staff high of 17 positions and actual of 15 positions in Fiscal Year (FY) 2006-2007 and has a current authorized and actual staff of 14 in FY 2014-2015. These staffing levels do not reflect the external audit contract that was in place from FY 2001-2002 through FY 2012-2013 that provided up to six supplemental auditors.</p> <p data-bbox="1440 521 2022 1089">With this staffing, AS conducts superior court audits and internal audits of the Judicial Council. The primary focus of the AS work at the Judicial Council has been in facilities where AS has audited the work of the external facilities maintenance vendors and capital construction. AS continues to perform work in this area. Internal audits of high risk and exposure areas that the executive office has concurred to for FY 2014-2015 as part of AS's Audit Plan includes initiating internal audits in the facilities areas such as the: 1) capital program change order process (started in January 2015) 2) documentation and operational process concerning the delegated facilities maintenance program; 3) Computer Aided Facilities Management (CAFM) system for logical and physical security access controls and data integrity testing; and 3) Court Facilities Architecture Revolving Fund established under Government Code Section 70379.</p> <p data-bbox="1440 1127 2022 1437">Other AS internal audit work at the Judicial Council planned for fiscal year 2014-2015 initiation includes: 1) review of certain general and application controls over Oracle Financials including: (a) data integrity testing of information in the database used for decision making purposes and financial reporting; (b) logical and physical access controls to the system; and 2) review of the overall logical access to the Judicial Council's network as a follow-up to the CSA audit of December 2013.</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>Significantly impacting the audit plan for fiscal year 2014-2015 are external audits of the Judicial Council and the A&E Advisory Committee activities that have recently been performed or are in process. AS has been involved in the work and will evaluate it as part of its on-going risk assessment and work plans.</p> <p>AS work is subject to change based upon changes occurring in the Judicial Branch and within the Judicial Council. The executive office of the Judicial Council can also review and request work based upon these changes that will affect the plan for fiscal year 2014-2015 with trade-offs if new work is prioritized.</p> <p>Beyond 2014-2015, AS will work with the Executive Office to continue to identify and include internal audit activities for those offices believed to have higher risk profile (i.e., accounting functions, Phoenix financials, etc.) as part of its future audit plans while balancing this workload with audit services provided to the superior courts.</p>
	<p>SEC Recommendation</p> <p>The AOC must perform internal audits. This will allow the leadership team and the Judicial Council to know how a particular unit or program is performing. An audit can be both fiscal and programmatic so that resources are tied to performance in meeting program goals and objectives.</p>			

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#	Directive *	Timeline	Status	Status Updates
44	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that the leadership team must develop and employ budget review techniques so that the budget of an individual unit is aligned with its program responsibilities.	The Administrative Director of the Courts to report to the council at the December 2014 meeting.	Completed	<p>In 2013, the JCC staff Executive Office retained an individual with extensive departmental budget experience with both the judicial and executive branch to undertake a review of the JCC office's budget and forecast processes. Budget and forecasting recommendations from this effort were received and are planned for implementation in July 2014. These process improvements along with periodic reviews of individual JCC offices' budgets will provide the framework upon which budget allocations are based beginning in FY 2014-15 as well as a structure for ensuring that unit budgets are aligned with program responsibilities.</p> <p>Following the JCC's determination of staff services and workload priorities the Finance Office will work with the Executive Office to align individual units with their program responsibilities.</p> <p>Although process improvements will be implemented in July 2014 with the first financial forecast under the new process occurring in November 2014, the FSO will continue to make modifications to its budget review techniques as part of an ongoing process of continuous improvement.</p>
<u>SEC Recommendation</u>				
As part of the reorganization and downsizing of the AOC, the leadership team should employ budget review techniques (such as zero-based budgeting) so that the budget of an individual unit is aligned with its program responsibilities. In the future, there should be periodic reviews of units and or programs to make sure funding is consistent with mandated requirements.				

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#	Directive *	Timeline	Status	Status Updates
45	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that the total staff size of the AOC must be reduced significantly and must not exceed the total number of authorized positions. The consolidation of divisions, elimination of unnecessary and overlapping positions, and other organizational changes should reduce the number of positions.</p> <p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to require that staffing levels of the AOC be made more transparent and understandable. Information on staffing levels must be made readily available, including posting the information online. All categories of staffing — including, but not limited to, authorized positions, “909” staff, employment agency temporary employees and contract staff — must be accounted for in a manner understandable to the public.</p> <p>SEC Recommendation</p> <p>9-1. The total staff size of the AOC should be reduced significantly.</p> <p>9-2. The total staff size of the AOC must be reduced significantly and should not exceed the total number of authorized positions. The current number of authorized positions is 880. The consolidation of divisions, elimination of unnecessary and overlapping positions and other organizational changes recommended in this report should reduce the number of positions by an additional 100 to 200, bringing the staff level to approximately 680 to 780.</p> <p>9-5. The staffing levels of the AOC must be made more transparent and understandable. Information on staffing levels must be made readily available, including posting the information online. All categories of staffing—including, but not limited to, authorized positions, “909” staff, employment agency temporary employees and contract staff—must be accounted for in</p>	Immediate implementation (Ongoing)	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
	a manner understandable to the public.			
46	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to report to the Judicial Council vacant authorized positions if they have remained unfilled for six months.	(Ongoing) ADOC to provide updates to the council for each council meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
	<u>SEC Recommendation</u> Vacant authorized positions should be eliminated if they have remained unfilled for six months.			
47	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to ensure that the employment of temporary or other staff to circumvent a hiring freeze is not permitted. The Administrative Director must review all temporary staff assignments and eliminate those that are being used to replace positions subject to the hiring freeze. Temporary employees should be limited to periods not exceeding six months and should be used only in limited circumstances of demonstrated need, such as in the case of an emergency or to provide a critical skill set not available through the use of authorized employees.	Completion by June 2013	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.
	<u>SEC Recommendation</u> Employment of temporary or other staff to circumvent a hiring freeze should not be permitted. The Executive Leadership Team should immediately review all temporary staff assignments and eliminate those that are being used to replace positions subject to the hiring freeze. Temporary employees should be limited to periods not exceeding six months and should be used only in limited circumstances of demonstrated need, such as in the case of an emergency or to provide a critical skill set not available through the use of authorized employees.			

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#	Directive *	Timeline	Status	Status Updates
48	E&P recommends that the Judicial Council direct the Administrative Director of the Courts, as part of the council's long-term strategic planning, to evaluate the location of the AOC main offices based on a cost-benefit analysis and other considerations.	For long term consideration	In Progress	A series of real estate transactions resulted in an expense reduction of nearly \$8.6 million in rent and a space contraction of 82,761 SF (25%) through FY 2014-15. These were subsequently approved in fulfillment of Directive 22, which represents the initial phase implementation of Directive 48. The California State Auditor's JCC (AOC) Audit Report of January 7, 2015 includes a recommendation regarding this same issue. As such, the directive's full implementation will occur as part of the Council's long-term strategic planning and in response to the audit recommendation language, evaluating the location of the Judicial Council main offices based on a cost-benefit analysis and other considerations.
	<p>SEC Recommendation</p> <p>As part of its long-term planning, the AOC should consider relocation of its main offices, based on a cost-benefit analysis of doing so.</p>			
49	E&P recommends that the Judicial Council support SEC Recommendation 7-2 with no further action. The AOC has terminated special consultants hired on a continuous basis.	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
	<p>SEC Recommendation</p> <p>The practice of employing a special consultant on a continuous basis should be reevaluated and considered for termination taking into account the relative costs, benefits, and other available resources.</p>			

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#	Directive *	Timeline	Status	Status Updates
50	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-3 and implement the necessary organizational changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The Center for Families, Children and the Courts should be an office reporting to the Chief Operating Officer in the AOC's Judicial and Court Operations Services Division, rather than a stand-alone division. The CFCC manager position should be compensated at its current level.

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#	Directive *	Timeline	Status	Status Updates
51	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-4(a) and implement the necessary organizational and staffing changes, taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of this directive is directly tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:

(a) CFCC has a one-over-one management structure with a Division Director and an Assistant Division Director position. The Assistant Division Director position should be eliminated.

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#	Directive *	Timeline	Status	Status Updates
52	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-4(b) and (c) and implement the necessary organizational and staffing changes, taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:

(b) There are nearly 30 attorney positions in CFCC, including 7 attorneys who act as Judicial Court Assistance Team Liaisons. All attorney position allocations should be reviewed with a goal of reducing their numbers and/or reallocating them to nonattorney classifications.

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#	Directive *	Timeline	Status	Status Updates
52.1	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-4(b) and (c) and implement the necessary organizational and staffing changes, taking into account the results of the classification and compensation studies to be completed.	Administrative Director of the Courts to provide an Interim Report to the council at the June 2013 Judicial Council meeting.	Completed	<p>CFCC reports that this directive is completed. The total number of authorized CFCC positions has been reduced by 32%. The percentage of reductions was nearly equivalent in positions funded by CFCC's general fund allocation (33%) and other funding sources (27%).</p> <p>Additionally, CFCC reports the following:</p> <ul style="list-style-type: none"> * CFCC's Rules and Forms Unit has been eliminated. * CFCC follows the new guidance from the Judicial Council Rules and Projects Committee (RUPRO) regarding the production of new and revised rules and forms proposals. This new guidance has not resulted in staffing reductions in CFCC. * This directive has been tied to directive 145 which includes a proposed process and policy for pursuing competitive grants for the council at the August 2013 council meeting. CFCC external funding sources come from long-standing state and federal allocations which are not subject to competitive grant process. As such, the proposed grant process and policy referenced in directive 145 is not applicable to current CFCC external funding and will not result in a reduction in CFCC staffing. <p>For these reasons, no further staffing reductions are anticipated as a result of implementation of Judicial Council Directives regarding grants and rule-making.</p>

SEC Recommendation

CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:

(c) The CFCC has numerous grant-funded positions, including five in its Rules and Forms Unit. Implementation of our recommendations for the AOC's Grants and Rule-making Processes could result in some reductions in these positions.

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#	Directive *	Timeline	Status	Status Updates
53	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-4(d) and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.	Administrative Director of the Courts to present a report of available options regarding the study's implementation to the Judicial Council for their consideration at the July 2013 Judicial Council meeting.	Completed	Since the end of FY 10-11, the number of AOC employees in research classifications has declined by approximately 45%. To improve the efficiency and effectiveness of research in support of the Judicial Council and the courts, and consistent with Judicial Council Directives 53 and 72.1, all research analysts currently at the AOC have been consolidated into offices within the Judicial and Court Operations Division. Managers overseeing research in those offices began discussions in October 2012 and have implemented a protocol to manage workforce reduction and address staffing current and future projects.
	<p>SEC Recommendation</p> <p>CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:</p> <p>(d) The CFCC has a number of positions devoted to research programs, as do other offices to be placed within the Judicial and Court Operations Services Division, presenting opportunities for efficiencies by consolidating divisional research efforts.</p>			

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#	Directive *	Timeline	Status	Status Updates
54	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>After the completion of the AOC Classification and Compensation Study, the Executive Team will have more information necessary for determining staffing needs and resources for committee support. As such, this directive will be addressed after the completion of the Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:</p> <p>(e) CFCC staff members provide support to a number of Judicial Council committees and task forces. The recommended consolidation of this support function under the direction of the Chief of Staff will present opportunities for efficiencies and resource reduction.</p>			In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
55	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-4(f) with no further action, as these administrative and grant support functions have been consolidated through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p>SEC Recommendation</p> <p>CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:</p> <p>(f) The CFCC maintains a Core Operations Unit, which is essentially an administrative and grant support unit. The consolidation of administrative functions and resources within the Judicial and Court Administrative Services Division should lead to the downsizing of this unit.</p>	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
56	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider reducing or eliminating various publications produced by the Center for Families, Children, & the Courts.</p> <p><u>SEC Recommendation</u> CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:</p> <p>(g) CFCC staff members produce various publications. They should be considered for reduction or elimination</p>	<p>ADOC to report to the council at the February 2013 council meeting.</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>
57	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-4(h) with no further action. The Judge-in Residence is now volunteering time to fulfill this responsibility.</p> <p><u>SEC Recommendation</u> CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:</p> <p>(h) The Judge-in-Residence position in this division should be eliminated.</p>	<p>Completed</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>
58	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-4(i) with no further action, as the positions related to CCMS have been eliminated through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p><u>SEC Recommendation</u> CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:</p> <p>(i) Positions related to CCMS should be eliminated.</p>	<p>Completed</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
59	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to propose an organizational plan for the Center for Families, Children, & the Courts that allows for reasonable servicing of the diverse programs mandated by statute and assigned to this division.</p> <p><u>SEC Recommendation</u></p> <p>CFCC's current number of authorized positions should be reduced. To achieve the reduction, these areas should be reviewed and considered, and appropriate actions taken:</p> <p>(j) Although staffing reductions in this division are feasible, any reorganization or downsizing of this division must continue to allow for reasonable servicing of the diverse programs mandated by statute and assigned to this division, including such programs as the Tribal Project program.</p>	<p>ADOC to report to the council at the February 2013 council meeting.</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>
60	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider maximizing and combining self-help resources with resources from similar subject programs, including resources provided through the Justice Corps and the Sargent Shriver Civil Counsel program, and return to the council with an assessment and proposal.</p> <p><u>SEC Recommendation</u></p> <p>Self-represented litigants in small claims, collection matters, foreclosures, and landlord-tenant matters are frequent users of court self-help centers. A majority of self-help clients seek assistance in family law matters. Consideration should be given to maximizing and combining self-help resources with resources from similar subject programs, including resources provided through the Justice Corps and the Sargent Shriver Civil Counsel program.</p>	<p>ADOC to propose a plan for implementation to the council at the February 2013 meeting.</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
61	<p>E&P recommends to the Judicial Council that any legislative proposals generated by the AOC must follow the process established by the Policy Coordination and Liaison Committee.</p> <p>SEC Recommendation</p> <p>Consistent with recommendations in this report calling for a review of AOC's rule-making process, legislative proposals generated through this division should be limited to those required by court decisions and statutory mandates and approved by the Judicial Council Advisory Committees.</p>	Immediate implementation (Ongoing)	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
62	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that a systems review of the manner in which AOC staff review trial court records should be conducted to streamline Judicial Review and Technical Assistance audits, if possible, and to lessen the impact on court resources.</p> <p>SEC Recommendation</p> <p>A systems review of the manner in which trial court records are reviewed should be conducted to streamline audits, if possible, and to lessen the impact on court resources.</p>	ADOC to report to the council on the audit process at the June 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.
63	<p>With the exception of assigned judges, AOC staff must not investigate complaints from litigants about judicial officers.</p> <p>SEC Recommendation</p> <p>The CFCC should discontinue investigating and responding to complaints from litigants about judicial officers who handle family law matters, as such matters are handled by other entities.</p>	Ongoing	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
64	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-10 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>The Court Operations Special Services Office (COSSO), formerly CPAS, should be an office reporting to the Chief Operating Officer within the AOC's Judicial and Court Operations Services Division, rather than a stand-alone division. The COSSO manager position should be at the Senior Manager level.</p>			structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
65	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-12 and implement the necessary organizational changes, contingent upon the council's approval of an organizational structure for the AOC.</p>	Interim and incoming ADOC organizational proposal to be presented for council consideration at the 8/31/12, council meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
	<p>SEC Recommendation</p> <p>The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings.</p>			
65.1	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-12(a) with no further action, due to the temporary suspension of the Kleps Program initiated to reduce branch costs.</p>	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
	<p>SEC Recommendation</p> <p>The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings. Consideration should be given to the following:</p> <p>(a) To save resources, the Kleps Award Program should be suspended temporarily.</p>			

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#	Directive *	Timeline	Status	Status Updates
66	<p>E&P recommends that the Judicial Council defer a decision on SEC Recommendation 7-12(b), pending a recommendation from the Trial Court Budget Working Group.</p> <p><u>SEC Recommendation</u></p> <p>The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings. Consideration should be given to the following:</p> <p>(b) The Justice Corps Program should be maintained, with AOC's involvement limited to procuring and distributing funding to the courts.</p>		Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>
67	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-12(c) with no further action as the Procedural Fairness/Public Trust and Confidence program has been eliminated through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p><u>SEC Recommendation</u></p> <p>The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings. Consideration should be given to the following:</p> <p>(c) Since funding for the Procedural Fairness/Public Trust and Confidence program has ceased, it should be eliminated.</p>	Completed	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
68	<p>E&P recommends that the Judicial Council consider whether to continue support for the Civics Education Program after the conclusion of the 2013 summit. The California On My Honor Program has been suspended for 2 years due to the lack of funding.</p> <p><u>SEC Recommendation</u></p> <p>The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings. Consideration should be given to the following:</p> <p>(d) Once the 2013 summit has concluded, the Administrative Director and Judicial Council should evaluate continuing support for the Civics Education Program/California On My Honor program.</p>	<p>ADOC to report to the council at the April 2013 council meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.</p>
69	<p>E&P recommends that the Judicial Council direct the ADOC to evaluate the extent to which financial and personnel support for the Jury Improvement Project should be maintained, recognizing the high value of the project to the judicial branch, especially because jury service represents the single largest point of contact between citizens and the courts.</p> <p><u>SEC Recommendation</u></p> <p>The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings. Consideration should be given to the following:</p> <p>(e) The Jury Improvement Project is of high value to the judicial branch, especially as jury service represents the single largest point of contact between citizens and the courts. The Judicial Council should evaluate the extent to which financial and personnel support for the project should be maintained.</p>	<p>ADOC to report to the council at the 10/26/12, council meeting.</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
70	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to study the budget and operational components of the Court Interpreters Program to determine whether greater efficiencies can be implemented to deliver interpreter services to the courts. The Finance Division should not act as an impediment in the delivery of interpreter services to the courts.</p> <p><u>SEC Recommendation</u></p> <p>The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings. Consideration should be given to the following:</p> <p>(g) The Administrative Director and Judicial Council should study the budget and operational components of Court Interpreters Program to determine whether greater efficiencies can be implemented to deliver interpreter services to the courts. Internally, the Finance Division should not act as an impediment in the delivery of interpreter services to the courts.</p>	ADOC to report to the council at the April 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.
71	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-16 with no further action as the Judicial Administration Library has been eliminated through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p><u>SEC Recommendation</u></p> <p>The Judicial Administration Library should be consolidated with the Supreme Court Library.</p>	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
72	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendations 7-11(a) and (b) and 7-14 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
	SEC Recommendation 7-11. COSSO's current level of approximately 74 positions (including those reassigned from the former regional offices as recommended in this report) should be reduced. To achieve the reduction the areas listed below should be reviewed and considered, and appropriate actions taken. (a) COSSO should have a management structure that includes a Unit Manager, but the Assistant Division Director position should be eliminated			structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

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#	Directive *	Timeline	Status	Status Updates
72.1	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendations 7-11(a) and (b) and 7-14 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p><u>SEC Recommendation</u></p> <p>7-11. COSSO's current level of approximately 74 positions (including those reassigned from the former regional offices as recommended in this report) should be reduced. To achieve the reduction the areas listed below should be reviewed and considered, and appropriate actions taken.</p> <p>(b) The research functions and units of COSSO should be reviewed for possible consolidation with other research programs in the Judicial and Court Operations Services Division, presenting opportunities for efficiencies and position reductions.</p>	<p>Administrative Director of the Courts to present a report of available options regarding the study's implementation to the Judicial Council for their consideration at the July 2013 Judicial Council meeting.</p>	Completed	<p>Since the end of FY 10-11, the number of AOC employees in research classifications has declined by approximately 45%. To improve the efficiency and effectiveness of research in support of the Judicial Council and the courts, and consistent with Judicial Council Directives 53 and 72.1, all research analysts currently at the AOC have been consolidated into offices within the Judicial and Court Operations Division. Managers overseeing research in those offices began discussions in October 2012 and have implemented a protocol to manage workforce reduction and address staffing current and future projects.</p>

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#	Directive *	Timeline	Status	Status Updates
72.2	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendations 7-11(a) and (b) and 7-14 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p><u>SEC Recommendation</u></p> <p>7-14. A significant number of COSSO staff members, such as those in the Administration and Planning unit, are assigned to various functions in support of the Judicial Council. The recommended consolidation of Judicial Council support activities under the direction of the Chief of Staff will present opportunities for efficiencies and resource reductions.</p>	<p>Incoming ADOC's organizational proposal to be presented for council consideration at the 8/31/12, council meeting.**</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>
73	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-13 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.</p> <p><u>SEC Recommendation</u></p> <p>The Editing and Graphics Group, with half of its eight positions currently vacant, should be considered for elimination.</p>	<p>Interim and incoming ADOC organizational proposal to be presented for council consideration at the 8/31/12, council meeting.</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
74	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that activities related to the education and training of Appellate Court Justices in the COSSO should be consolidated with the Education Division/CJER.</p> <p>SEC Recommendation</p> <p>Some COSSO staff are engaged in activities relating to the education and training of Appellate Court Justices. These functions should be consolidated with the Education Division/CJER.</p>	Completion by June 2013.	Closed	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013 Judicial Council Meeting. At the April 26, 2013 Judicial Council Meeting, the Administra</p>
75	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-17(a) with no further action as the Assigned Judges Program and Assigned Judges Program Regional Assignment Units have merged through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p>SEC Recommendation</p> <p>Modifications to the Assigned Judges Program should be considered, including the following:</p> <p>(a) The Assigned Judges Program and Assigned Judges Program Regional Assignments units should be merged, resulting in the elimination of a unit supervisor position.</p>	Completed	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
76	<p>E&P recommends that SEC Recommendations 7-17(b), (c), and (d) be referred to the Chief Justice for consideration. The AOC's Assigned Judges Program provides support to the Chief Justice in the assignment of judges under California Constitution Article VI, Section 6(e).</p> <p><u>SEC Recommendation</u></p> <p>Modifications to the Assigned Judges Program should be considered, including the following:</p> <p>(b) The program's travel and expense policies should be reviewed to mitigate adverse impacts on the availability of assigned judges to smaller and rural courts.</p> <p>(c) Consideration should be given to a pilot program to allow half-day assignments of judges, taking into account the probable inability of small, rural courts to attract judges on this basis.</p> <p>(d) Consideration should be given to development of an Assigned Commissioner Program to assist courts with such matters as AB1058 child support cases.</p>		Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
77	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-18 and implement the necessary organizational changes, contingent upon the council's approval of an organizational structure for the AOC.</p> <p><u>SEC Recommendation</u></p> <p>The functions of the Trial Court Leadership Service unit should be moved under the auspices of the new Executive Office, as matters of policy emanating from the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee often relate to branch-wide policies.</p>	Interim and incoming ADOC organizational proposal to be presented for council consideration at the 8/31/12, meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
78	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-19 and implement the necessary organizational changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>The Education Division should be an office within the Judicial and Court Operations Services Division, under the direction of the Chief Operating Officer, rather than a stand-alone division. The Education Division/CJER manager position should be compensated at its current level.</p>			structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
79	<p>E&P recommends that the Judicial Council direct the Rules and Projects Committee to evaluate relaxation of mandatory education requirements to allow the Administrative Director of the Courts and Court Executive Officers greater discretion and flexibility in utilizing their workforces during times of budget constraints.</p>	<p>Final reporting on this directive will be submitted at the June 2014 council meeting.</p>	Completed	<p>RUPRO recommended that the council adopt a proposal to amend rule 10.474 on education for trial court employees at its April 25, 2014 meeting. The amendments provide that each court executive officer has discretion to determine the number of hours, if any, of traditional (live, face-to-face) education required to meet the continuing education requirement, and may, for good cause, grant a one-year extension of time to complete the education requirements. The council adopted the rule proposal at its April 25th council meeting and the amendments will be effective January 1, 2015.</p>
	<p>SEC Recommendation</p> <p>As to training currently required of AOC staff and court personnel, the Judicial Council should examine and consider a relaxation of current mandatory requirements to allow the Administrative Director of the AOC and/or court executive officers greater discretion and flexibility in utilizing their workforces during times of budget constraints.</p>			

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#	Directive *	Timeline	Status	Status Updates
80	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to evaluate the efficiencies identified by the working group reviewing all education for new judges to ensure that education is provided in the most effective and efficient way possible.	Administrative Director of the Courts to provide report that evaluates education for new judges at the June 2013 council meeting.	Completed	Judicial Council report presented to the Judicial Council for consideration at the June 28, 2013 Judicial Council Meeting.
	<u>SEC Recommendation</u>			
	The Education Division's current staffing level is one of the highest in the AOC and should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:			
	(a) A workgroup has been formed to review all education for new judges to ensure that it is being provided in the most effective and efficient way possible. The efficiencies identified by this working group may present opportunities for reductions.			

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#	Directive *	Timeline	Status	Status Updates
81	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-20(b), taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p data-bbox="1440 168 2011 386">On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p data-bbox="1440 425 2011 578">In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p data-bbox="1440 617 2011 932">In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p data-bbox="1440 971 2011 1188">In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p data-bbox="1440 1227 2011 1347">In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p data-bbox="1440 1386 2011 1438">In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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#	Directive *	Timeline	Status	Status Updates
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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The Education Division's current staffing level is one of the highest in the AOC and should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:

(b) There are in excess of a dozen attorney positions in the Education Division in units such as Design and Consulting, and Publications and Resources, in addition to the Judicial Education unit. All attorney position allocations should be reviewed with a goal of reducing their numbers and/or reallocating them to nonattorney classifications. In particular, education specialist positions are staffed by attorneys, a staffing practice that appears unnecessary.

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#	Directive *	Timeline	Status	Status Updates
82	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-20(c) with no further action, as the positions and activities related to the Court Case Management System in the Education Division have been eliminated, through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p><u>SEC Recommendation</u></p> <p>The Education Division's current staffing level is one of the highest in the AOC and should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(c) The Court Case Management System training unit and any other positions engaged in CCMS-related activities should be eliminated in light of the Judicial Council's decision to cancel the full deployment of the CCMS system.</p>	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
83	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to evaluate the impacts of a reduction in the size of the Production, Delivery, and Educational Technologies Unit and the reduction in services that would result, and provide the findings and recommendations to the Judicial Council.</p> <p><u>SEC Recommendation</u></p> <p>The Education Division's current staffing level is one of the highest in the AOC and should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(d) The Production, Delivery and Educational Technologies unit has grown to more than 25 positions plus several temporary staff. The number of staff in this unit should be reduced in light of the difficult fiscal environment.</p>	ADOC to report to council with recommendations at the June 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
84	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to evaluate and consider reducing the positions assigned to develop training for AOC Staff in the Curriculum and Course Development Unit, especially if training requirements are relaxed	ADOC to report to council with recommendations following recommendations from RUPRO on training requirements.	Completed	<p>This directive is completed after action on Judicial Council directive #79 was taken. Directive #79 was referred to RUPRO for action, and states: E&P recommends that the Judicial Council direct the Rules and Projects Committee to evaluate relaxation of mandatory education requirements to allow the Administrative Director of the Courts and Court Executive Officers greater discretion and flexibility in utilizing their workforces during times of budget constraints.</p> <p>At its meeting in March, RUPRO reviewed and discussed a letter from Judge Jahr (attached) in which he provided recommendations for relaxation of the education rules to provide him with greater discretion and flexibility in utilizing AOC staff during this time of budget constraint. RUPRO appointed a subcommittee to evaluate the relaxation of education rules for AOC and court staff.</p> <p>The RUPRO subcommittee recommended and RUPRO adopted a modification of the rule that governs education for AOC staff (CRC 10.491) which will extend the time frame for completing education requirements by one year and allow the ADOC discretion in determining how much of that education needs to be live face to face or distance. The Judicial Council adopted this rule amendment at its June 28, 2013, meeting. On August 6, 2013, a memorandum was issued to all AOC staff advising them that the Administrative Director was authorizing a one-year extension for all AOC staff to meet their education requirements. The Administrative Director of the Courts has considered reducing the positions assigned to develop training for AOC staff in the Curriculum and Course Development Unit (now the Judicial Branch Education Development Unit) in light of the recent revision to CRC 10.491 and has determined that a reduction in positions is not warranted. The</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>relaxation of the education requirements for AOC staff is not on-going. During this relaxation period, any staff resources which may be partially relieved will be assigned to work on other existing education programs.</p> <p>CJER conducted a comprehensive review of AOC education it provides and made extensive revisions in an effort to streamline this education by reducing classes that were not well attended, and increasing the education which is court focused. This was done to implement Judicial Council directive #88 and was completed. Directive #88 states that: E&P recommends that the Judicial Council direct the Administrative Director of the Courts to report to the council on a review of the content of training courses offered to AOC managers, supervisors, and employees, the number and location of courses offered, and the means by which courses and training are delivered. Training opportunities should include greater orientation and development of understanding of court functions.</p> <p>SERVICE LEVEL IMPACT</p> <p>The recent revisions to AOC education will result in providing AOC staff with more court focused education which will enhance the level of service AOC staff provide to the courts.</p>
	<p>SEC Recommendation</p> <p>The Education Division's current staffing level is one of the highest in the AOC and should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(e) The Curriculum and Course Development unit includes several positions assigned to develop training for AOC staff. This activity should be evaluated and reduced, especially if training requirements are relaxed.</p>			

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#	Directive *	Timeline	Status	Status Updates
85	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to evaluate the impacts of a reduction in the size of the Administrative Services Unit and the reduction in services that would result, and provide the findings and recommendations to the Judicial Council.</p> <p>SEC Recommendation</p> <p>The Education Division's current staffing level is one of the highest in the AOC and should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(f) The Administrative Services unit contains more than 20 staff engaged in support activities such as records management, printing and copying, scheduling and planning training delivery, and coordinating logistics for all AOC events. The number of staff in this unit should be evaluated and reduced commensurate with the reduction in the number of live programs and events, and reflecting a reduction in the number of employees AOC-wide.</p>	<p>ADOC to report to council with recommendations at the June 2013 council meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.</p>
86	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that the Education Division should conduct true cost benefit analyses in determining the types of training and education it provides for new judicial officers and others, and to report to the council on the results. Analyses should include types, lengths, locations of programs, delivery methods, and the costs to courts.</p> <p>SEC Recommendation</p> <p>The Education Division should conduct true cost-benefit analyses — and not rely only on its own preferences — in determining the types of training and education it provides, including types, lengths, and locations of programs, delivery methods, and the costs to courts. This type of analysis should apply to training and education programs for new judicial officers.</p>	<p>ADOC to provide recommendations on the process at 12/14/12, council meeting with a final report at the April 2013 meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
87	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that the AOC should support and provide requested assistance to those courts that collaborate with other regional courts in providing judicial education and staff training or that request support in providing their own programs.</p> <p>SEC Recommendation</p> <p>The Education Division should support and provide requested assistance to those courts that collaborate with other regional courts in providing judicial education and staff training or that request support in providing their own programs.</p>	Ongoing	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
88	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to report to the council on a review of the content of training courses offered to AOC managers, supervisors, and employees, the number and location of courses offered, and the means by which courses and training are delivered. Training opportunities should include greater orientation and development of understanding of court functions.</p> <p>SEC Recommendation</p> <p>As to training currently required of AOC managers, supervisors, and employees, the Administrative Director should order a review of the content of training courses offered, the number and location of courses offered, and the means by which courses and training are delivered. Training opportunities should include greater orientation and development of understanding of court functions.</p>	ADOC report to the council at the 12/14/12, council meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the December 14, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
89	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-25 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
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structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The functions performed by the Finance Division should be placed in the Judicial and Court Administrative Services Division. The Finance Division should be renamed the Fiscal Services Office, reporting to the Chief Administrative Officer. The Fiscal Services Office Manager position should be at the Senior Manager level.

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#	Directive *	Timeline	Status	Status Updates
90	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-26 and implement the necessary organizational and staffing changes, taking into account the results of the classification and compensation studies to be completed.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

[SEC Recommendation](#)

The number of managers and supervisors should be reduced.

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#	Directive *	Timeline	Status	Status Updates
91	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to ensure through the budget and fiscal management measures implemented by the AOC that the AOC's Finance Division is involved in all phases of fiscal planning and budgeting, especially with regard to large-scale or branch-wide projects or initiatives.	ADOC interim report to the council at the February 2013 council meeting and final report at the meeting in October 2013.	Completed	<p>Directives 7-13, 21, 40, 91, and 145 have been combined as part of a broader review and policy discussion relating to the development of a cost-benefit analysis proposal for the AOC. After a review of existing internal processes, AOC staff have developed general guidelines that seek to ensure that all elements within each of these 10 directives were adequately addressed. A process for approval of branchwide projects and other significant initiatives was developed to ensure an appropriate evaluation is completed, which can include a full and comprehensive cost-benefit analysis, as necessary. That evaluation will include the input and collaboration of all stakeholders, a complete analysis of scope, accurate cost estimates and funding streams and associated controls, documentation of the decision-making processes, and the full transparent consideration of fiscal, operational, and other impacts to the courts and stakeholders.</p> <p>The AOC fully recognizes the value of implementing guidelines to effectively coordinate and manage important branchwide projects. The new "Guidelines for the Administration of Branchwide Projects and Initiatives" have been reviewed and approved by the Administrative Director of the Courts and will be implemented as the official AOC process in the coming weeks. These guidelines will be presented to the Judicial Council at its December 2013 meeting. At this time, having addressed the matters in each, the AOC will close Directives 7-13, 21, 40, 91, and 145.</p>
	SEC Recommendation The AOC must improve its fiscal decision making processes. The AOC must make a commitment to involve the Fiscal Services Office in all phases of fiscal planning and budgeting, especially with regard to large-scale or branch-wide projects or initiatives.			

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#	Directive *	Timeline	Status	Status Updates
92	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to report back on the budget and fiscal management measures implemented by the AOC to ensure that the AOC's fiscal and budget processes are more transparent.	ADOC interim report to the council at the February 2013 meeting and final report at the October 2013 meeting.	Completed	<p>This directive is considered complete as the Fiscal Services Office continues to work on ensuring that budget information is readily available to the public via the courts website which includes the link to the DOF ebudget website (http://www.ebudget.ca.gov/). The branch's fiscal information is displayed here as part of the Governor's budget package, including three year expenditures and position detail, fund condition statements, and fund transfer information. The AOC mid-year forecast as well as fiscal and budget processes calendar are planned future additions to the court website. Other detailed fiscal reports, such as reports to the legislative on branch expenditures, can be accessed on the public website as well (see attached example on special fund expenditures for 2011-12).</p> <p>The AOC will build upon the DOF annual budget development calendar to document the AOC fiscal and budget processes. Additionally, the Fiscal Services Office will confer with other state departments to obtain feedback regarding their internal fiscal and budget processes.</p>

SEC Recommendation

The budgeting process must become more transparent. Budget information must be readily available to the public, including online. Budget documents must provide understandable explanations and detail concerning revenue sources, fund transfers, and expenditures.

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#	Directive *	Timeline	Status	Status Updates
93	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to ensure that the budget and fiscal management measures implemented by the AOC enable the Finance Division to improve the timeliness of processing contracts to better serve courts, contractors, vendors, and others.	Interim report to the council on the changes in progress by the February 2013 council meeting. Final report on measures taken to implement a new approach to the budget process, by June 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.
	<p><u>SEC Recommendation</u></p> <p>This division must make a commitment to processing contracts in more timely fashion, with an eye toward better serving courts, contractors, vendors, and others.</p> <hr/>			
94	E&P recommends that the Judicial Council direct the Administrative Director of the Courts that the Finance Division must assess its workload needs, especially in light of legislation on court security and auditing functions being assumed by the State Controller's Office, so that any necessary adjustments in staffing positions can be made.	ADOC to report to the council at the June 2013 council meeting.	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.
	<p><u>SEC Recommendation</u></p> <p>The Finance Division must assess its workload needs, especially in light of legislation on court security and auditing functions being assumed by the State Controller's Office, so that any necessary adjustments in staffing positions can be made.</p> <hr/>			

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#	Directive *	Timeline	Status	Status Updates
95	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-31 with no further action as the unit has been eliminated through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p>SEC Recommendation The need for a Strategic Policy, Communication, and Administration Unit should be reevaluated by the Chief Administrative Officer and, most likely, be eliminated.</p>	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
96	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-32 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.</p> <p>SEC Recommendation Consistent with recent consolidation of this division, the HR function should no longer be assigned stand-alone division status in the AOC organizational structure and should be combined with other administrative functions, reporting to the Chief Administrative Officer in the AOC's Administrative Services Division.</p>	Interim and incoming ADOC to present organizational proposal the council at the 8/31/12, meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
97	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-34 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p><u>SEC Recommendation</u> The current number of higher-level positions in the HR Division should be reduced, as follows:</p> <p>(a) The Division Director position should be permanently eliminated as the HR function should no longer be a stand-alone division.</p>	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
97.1	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-34 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p><u>SEC Recommendation</u> The current number of higher-level positions in the HR Division should be reduced, as follows:</p> <p>(b) The number of manager positions should be reduced from five to three, with some of the resulting resources allocated to line HR functions.</p>	ADOC to make a proposal based on the classification and compensation study.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
97.2	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-34 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p><u>SEC Recommendation</u></p> <p>The current number of higher-level positions in the HR Division should be reduced, as follows:</p> <p>(c) One of the three Senior Manager positions is vacant, a vacancy that should be made permanent by reallocating managerial responsibilities to the two filled Senior Manager positions.</p>	Completed. This Division has 2 senior manager positions.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
98	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to report back on the progress and results of staffing changes being implemented in the Human Resources unit as part of the AOC's internal restructuring process.</p> <p><u>SEC Recommendation</u></p> <p>The current number of higher-level positions in the HR Division should be reduced, as follows:</p> <p>(d) With the elimination of the positions discussed above, consideration should be given to redirecting the resources from those positions to support vacant HR analyst positions that can be assigned work needed to help reestablish effective HR policies and practices in the AOC.</p>	ADOC to report to the council on the results and status of AOC restructuring at the February 2013 council meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
99	E&P recommends that the Judicial Council support SEC Recommendation 7-42 with no further action, as the issues have been resolved. SEC Recommendation The Administrative Director should resolve any remaining issues that have existed between the HR Division and Office of General Counsel, including by redefining respective roles relating to employee discipline or other HR functions.	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
100	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-43 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>The committee recommends that the functions of this division be placed under a unit titled Information and Technology Services Office, combined with any remaining functions of CCMS. The office should report to the Chief Administrative Officer of the Judicial and Court Administrative Services Division. The IS Manager position should be compensated at its current level.</p>			structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
101	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-44 and direct the council's Technology Committee to reexamine technology policies in the judicial branch to formulate any new branch-wide technology policies or standards, based on the input, needs, and experiences of the courts and court users, and including cost-benefit analysis.</p> <p>SEC Recommendation</p> <p>A reexamination of technology policies in the judicial branch must occur now that CCMS does not represent the technology vision for all courts. Formulation of any new branch-wide technology policies or standards must be based on the input, needs, and experiences of the courts, and including cost-benefit analysis.</p>	Report to the council at the October 2014 council meeting.	Completed	The Technology Committee has developed a unified, long-term plan to achieve funding stability for court technology that was approved by the Judicial Council. The Technology Planning Task Force was charged with developing this plan. Three tracks were launched: governance, strategic plan, and funding. The new Court Technology Governance and Strategic Plan was developed and reviewed by the Judicial Council. A period of public comment period was held. The plan was approved by the council in August 2014, and was updated and approved at the October 2014 council meeting, with revised language around language access. Work has started to implement the recommendations from the Court Technology Governance and Strategic Plan.

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#	Directive *	Timeline	Status	Status Updates
102	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-45(a) with no further action, as the recommended staff reductions have occurred through the AOC's initiatives to reduce costs and downsize its workforce and operations.</p> <p>SEC Recommendation Especially with CCMS not being fully deployed, staff reductions in this division are in order, including:</p> <p>(a) Unnecessary CCMS positions should be eliminated.</p>	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
103	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-45(b) and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p>SEC Recommendation Especially with CCMS not being fully deployed, staff reductions in this division are in order, including:</p> <p>(b) The total number of senior managers should be reduced.</p>	ADOC to make a proposal based on the classification and compensation study.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
104	E&P recommends that the Judicial Council direct that the Administrative Director of the Courts should review and reduce accordingly the use of temporary employees, consultants, and contractors.	ADOC will report to the council at the April 2014 meeting.	Completed	<p data-bbox="1440 168 2028 545">In 2012, the AOC Executive Office approved a program that converts full-time employees into a limited number of contractor positions in critical long-term maintenance and support roles to provide cost savings and longer term stability and support. A three phase project was developed by ITSO and recruitments began in April 2013 with the hiring of eight (8) positions followed by a second recruitment in November 2013 that resulted in the hiring of two additional positions. (It should be noted that one of these hires resigned a short time after being employed in a regular position).</p> <p data-bbox="1440 581 2028 958">The program has been a success to date with cost savings of 35% for each position hired. However, ITSO has been met with challenges in hiring permanent staff due to a competitive IT market, the exclusion of short term programs or assignments from the program, a pay structure that is generally perceived to be non-competitive for skilled and experienced IT resources, and the policy that new hires may not participate in the pilot telecommunication program. For these reasons, the program appears to have plateaued with 50% of external candidates declining offers for positions.</p> <p data-bbox="1440 993 2028 1279">The organization will continue its efforts on a periodic basis to review opportunities for converting contractor positions to full time employees with the understanding that not all contractor positions can be converted, that there will always be a need for contractors on short term programs with specialized skill sets, and that with the termination of some interim programs, the overall number of programs will be reduced (i.e., V2).</p> <p data-bbox="1440 1315 2028 1438">The infrastructure for this process has been developed and the organization will periodically review the program with the goal of hiring full time staff for full time programs to provide the best</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>Especially with CCMS not being fully deployed, staff reductions in this division are in order, including:</p> <p>(c) The use of temporary employees, consultants, and contractors should be reviewed and reductions made accordingly.</p>			<p>services to the user community and experience cost savings for the organization.</p>
105	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-46 and direct the Administrative Director of the Courts, as part of AOC long-term planning, to conduct a review and audit of all technology currently used at the AOC and to return to the Judicial Council with a progress report on the findings, including efficiencies and potential cost savings.</p>	<p>ADOC will report to the council at the February 2014 meeting.</p>	<p>Completed</p>	<p>This directive has been closed. The Information Technology Services Office continues to review technology currently used in AOC data centers and utilizes Enterprise Technology Standards established by the AOC Enterprise Architecture Working Group. These standards define technologies that should be leveraged and those that should be phased out in order to maximize efficiencies and cost savings, and they are updated twice each year with the next update scheduled for December 2013. The standards are discussed with the application and infrastructure teams during monthly meetings to monitor compliance and identify strategies for ensuring compliance. Additional detail regarding the technology audit, standards and processes was added to the drafted closure documentation for targeted completion in February 2014.</p>
	<p>SEC Recommendation</p> <p>Different divisions in AOC operate from different technology platforms, including SAP used for the Phoenix system, Oracle, and CCMS. As part of a long range plan for the use of technology in AOC operations, the AOC should conduct a review and audit of all technology currently used in the AOC.</p> <p>Efficiencies and cost savings could result from the use of a single platform.</p>			

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#	Directive *	Timeline	Status	Status Updates
106	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-71 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The Office of General Counsel should be renamed Legal Services Office, consistent with its past designation, and should be a stand-alone office reporting to the Administrative Director of the Courts. The Legal Services Office manager position should be compensated at its current level. The Legal Services Office should not be at the same divisional level as the Judicial and Court Operations Services Division or the Judicial and Court Administrative Services Division. The Chief Counsel, manager of the Legal Services Office, should not be a member of the Executive Leadership Team.

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#	Directive *	Timeline	Status	Status Updates
107	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-72(a) and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p><u>SEC Recommendation</u></p> <p>The Legal Services Office's current level of approximately 75 positions, including more than 50 attorney positions, should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(a) In addition to the General Counsel, there are nine management level attorney positions in the Legal Services Office, including the Assistant General Counsel, three Managing Attorneys, and five Supervising Attorneys. This is an excessive number of management positions, which should be reduced. The position of Assistant General Counsel position could be eliminated. One managing attorney could be assigned to manage each of the two major functional components of the division, house counsel, and Judicial Council services, with each managing attorney reporting directly to the Chief Counsel.</p> <hr/>	<p>ADOC to make recommendations to the council at the April 2014 council meeting.</p>	<p>Completed</p>	<p>Judicial Council report presented to the Judicial Council for consideration at the April 25, 2014, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
108	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-72(b) and direct the Administrative Director of the Courts to direct implementation of fundamental management practices to address underperformance of staff members and provide better supervision and allocation of work.</p> <p>SEC Recommendation</p> <p>The Legal Services Office's current level of approximately 75 positions, including more than 50 attorney positions, should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(b) Despite the large number of management positions, management systems and processes are particularly lacking in the Legal Services Office. Implementing fundamental management practices to address the underperformance of staff members and provide better supervision and allocation of work should produce efficiencies that can result in reductions.</p>	<p>ADOC interim report to the council on the changes in progress by the February 2013 council meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
109	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-72(c) and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p>SEC Recommendation</p> <p>The Legal Services Office's current level of approximately 75 positions, including more than 50 attorney positions, should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(c) A large number of Legal Services Office positions are dedicated to supporting the Judicial Council and its various committees and task forces. Assigning responsibility for coordinating the AOC's Judicial Council support activities to the Executive Office under the direction of the Chief of Staff will lead to efficiencies that should result in reductions of Legal Services Office positions dedicated to these activities.</p>	<p>Interim and incoming ADOC organizational proposal to be presented to the council at the 8/31/12, meeting.</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
110	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-72(d) and direct the Administrative Director of the Courts to report to the council on measures to streamline and improve the AOC's contracting processes and reduce contract-related work performed by this office.</p> <p>SEC Recommendation</p> <p>The Legal Services Office's current level of approximately 75 positions, including more than 50 attorney positions, should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(d) Implementation of the recommendations designed to streamline and improve the AOC's contracting processes should reduce contract-related work performed by the Legal Services Office.</p>	<p>Final report to the council at June 2013 meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
111	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-72 (e) and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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#	Directive *	Timeline	Status	Status Updates
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SEC Recommendation

The Legal Services Office's current level of approximately 75 positions, including more than 50 attorney positions, should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:

(e) The Legal Services Office has promoted and contributed to the "lawyerizing" of numerous activities and functions in the AOC. There are opportunities for work currently performed by attorneys in the Rules and Projects, Transactions and Business Operations, Real Estate, and Labor and Employment units to be performed by nonattorneys, resulting in efficiencies and possible staff reductions.

In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

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#	Directive *	Timeline	Status	Status Updates
112	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-72(f) and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC and taking into account the results of the classification and compensation studies to be completed.</p> <p><u>SEC Recommendation</u></p> <p>The Legal Services Office's current level of approximately 75 positions, including more than 50 attorney positions, should be reduced. To achieve the reduction, the following areas should be reviewed and considered, and appropriate actions taken:</p> <p>(f) Development and use of paralegal classifications, as found elsewhere in legal services throughout both the public and private sectors, could lead to the reduction of attorney positions in the Legal Services Office.</p>	<p>ADOC to make recommendations to the council at the April 2014 council meeting.</p>	Completed	<p>Judicial Council report presented to the Judicial Council for consideration at the April 25, 2014, Judicial Council Meeting.</p>
113	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-73 with no further action. The telecommuting status of one position has ended and, as of September 7, 2012, the telecommuting status of the second position will end.</p> <p><u>SEC Recommendation</u></p> <p>There currently are at least two positions in the Legal Services Office that violate the AOC's telecommuting policy. These should be terminated immediately, resulting in reductions. Nor should telecommuting be permitted for supervising attorneys in this division.</p>	<p>ADOC to report to the council with proposal for a revised policy at the 12/14/12, council meeting.</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
114	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to evaluate the costs and benefits of allocating staff attorneys and resources to various advisory committees, task forces, and working groups.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>After the completion of the AOC Classification and Compensation Study, the Executive Team will have more information necessary for determining staffing needs and resources for committee support. As such, this directive will be addressed after the completion of the Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>As recommended elsewhere, the Judicial Council should assess the costs and benefits of allocating staff attorneys and resources to various advisory committees, task forces, and working groups.</p>			In February 2015, employees are expected to be informed of their new classifications within the new structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
115	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts, as part of the review of the AOC organizational structure, to review current responsibilities and clearly define the role of the Chief Counsel.</p> <p>SEC Recommendation</p> <p>The role of the Chief Counsel should be redefined to reflect the primary role of providing legal advice and services, as opposed to developing policy for the judicial branch.</p>	ADOC to make recommendations to the council at the April 2014 council meeting.	Completed	Judicial Council report presented to the Judicial Council for consideration at the April 25, 2014, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
116	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-77(a) and (d), and direct the Administrative Director of the Courts that the Office of the General Counsel should employ and emphasize a customer service model of operation, recognizing a primary goal of providing timely service and advice to its clients, including to internal clients in the AOC and to those courts that request legal advice or services from this office.</p> <p>SEC Recommendation</p> <p>This office must place greater emphasis on being a service provider and in improving how it provides services, including as follows:</p> <p>(a) Most fundamentally, this division should employ and emphasize a customer service model of operation — recognizing a primary goal of providing timely service and advice to its clients, including to internal clients in the AOC and to those courts that request legal advice or services from this office.</p>	<p>ADOC to report back to the council at the February 2013 council meeting</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
117	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to adopt an operations model whereby attorneys generally are housed at one location with flexibility to adjust as necessary to meet court needs regionally, including regional demand for additional attorney support and smaller courts that have fewer staff for research and other legal services. The location where attorneys report to work should ensure proper supervision.	Administrative Director of the Courts to provide an interim report at the July 2013 council meeting with a final report at a later date.	Completed	At the June 28, 2013, Judicial Council meeting, the council approved recommendations contained in a report from the council Liaisons to the Legal Services Office (LSO) including a recommendation regarding LSO attorney resources housed in AOC field offices. The council liaisons identified that having attorneys housed in field offices is consistent with other government agencies and private law firms and allows for more direction communication between LSO attorneys and the courts in their region. As such, the council approved the liaisons' recommendation that the current practice of employing LSO attorney staff in AOC field offices is appropriate.
	<p>SEC Recommendation</p> <p>This office must place greater emphasis on being a service provider and in improving how it provides services, including as follows:</p> <p>(b) This office should adopt an operations model whereby its attorneys generally are housed at one location. This would eliminate nonsupervision of some attorneys, promote better and more regular supervision of staff attorneys, and promote better utilization of available skills.</p>			

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#	Directive *	Timeline	Status	Status Updates
118	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that the Office of the General Counsel service model should emphasize that time is of the essence when it comes to delivering advice and opinions to the courts; that recommendations and advice to courts should include a full range of options available to the courts; and that there must be a greater recognition that the AOC's interests may conflict with the specific interests of the courts. Clearer procedures should be put in place to safeguard the interests of individual courts in those instances when legitimate conflicts arise.</p> <p><u>SEC Recommendation</u></p> <p>This office must place greater emphasis on being a service provider and in improving how it provides services, including as follows:</p> <p>(c) The service model should emphasize that time is of the essence when it comes to delivering advice and opinions to the courts; that recommendations and advice to courts should include a full range of options available to the courts; and that there must be a greater recognition that the AOC's interests may conflict with the specific interests of the courts. Clearer procedures should be put in place to safeguard the interests of individual courts in those instances when legitimate conflicts arise.</p>	<p>ADOC to report back to the council at the February 2013 council meeting.</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
119	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to place emphasis on reducing bottlenecks for advice, contracts, and other projects. More effective tickler and tracking systems for opinions, contracts, and other documents should be put in place.</p> <p>SEC Recommendation</p> <p>This office must place greater emphasis on being a service provider and in improving how it provides services, including as follows:</p> <p>(d) Emphasis must be placed on reducing bottlenecks for advice, contracts, and other projects. More effective tickler and tracking systems for opinions, contracts, and other documents should be put in place.</p>	<p>ADOC to report back to the council at the June 2013 council meeting.</p>	<p>Completed</p>	<p>Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the April 26, 2013, Judicial Council Meeting.</p>
120	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that court users of legal services should be surveyed periodically to determine if such services are performed in a timely and satisfactory manner.</p> <p>SEC Recommendation</p> <p>This office must place greater emphasis on being a service provider and in improving how it provides services, including as follows:</p> <p>(e) Court users of legal services should be surveyed periodically to determine if such services are performed in a timely and satisfactory manner.</p>	<p>ADOC to make recommendations to the council at the April 2014 council meeting.</p>	<p>Completed</p>	<p>Judicial Council report presented to the Judicial Council for consideration at the April 25, 2014, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
121	E&P recommends that the Judicial Council support SEC Recommendation 7-78 with no further action, as the issues have been resolved.	Completed	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
	<p><u>SEC Recommendation</u></p> <p>The Administrative Director should resolve issues that have existed between the HR Division and OGC, including by redefining respective roles relating to employee discipline or other HR functions.</p>			
122	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to order an independent review of the Office of General Counsel's use, selection, and management of outside legal counsel to determine whether outside counsel is being utilized in a cost effective manner. Before initiating the independent review, the Administrative Director of the Courts must provide a proposal with options for conducting the review, including the associated costs.	ADOC to present a proposal with options to the council by the February 2013 council meeting, with a final report at the December 2013 meeting.	Completed	At the June 28, 2013, Judicial Council meeting, the council approved recommendations contained in a report from the council Liaisons to the Legal Services Office (LSO) relating to the use of outside counsel by LSO. The council liaisons concluded that the use of outside counsel is appropriate and in some cases mandated providing valuable legal resources for the varying needs of LSO. The council approved various recommendations proposed by the council liaisons designed to assist LSO in reinforcing its existing protocols for utilizing outside counsel to ensure that outside counsel is monitored, supervised, and managed. These recommendations included an annual report from the Administrative Director to the Advisory Committee on Financial Accountability and Efficiency (A&E) for review and reporting to the council. The council directed the Administrative Director to implement the recommendations and report back to the council on the implementation by March 31, 2014.
	<p><u>SEC Recommendation</u></p> <p>The Judicial Council and/or Administrative Director should order an independent review of this office's use, selection, and management of outside legal counsel to determine whether outside counsel is being utilized in a cost-effective manner.</p>			

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#	Directive *	Timeline	Status	Status Updates
123	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-52 and implement the necessary organizational changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>The Office of Communications should remain in the Executive Office and under the direction of a Chief of Staff. The Office of Communications manager position should be placed at the Senior Manager level.</p>			structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
124	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts, to the extent that resources are available, that Office of Communication resources, including the Public Information Officer, should be made more available to furnish increased media relations services to courts requesting such assistance</p> <p>SEC Recommendation</p> <p>The resources of this office, including the Public Information Officer, should be made more available to furnish increased media relations services to courts requesting such assistance.</p>	ADOC to report to the council on the restructuring changes to this office at the February 2013 council meeting.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
125	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to return to the Judicial Council with an analysis, defining the necessary emergency response and security functions for the branch and a recommendation on the organizational plan for council approval.	Administrative Director of the Courts to provide an interim report to the council at the July 2014 council meeting with a final report at the February 2015 council meeting.	In Progress	<p>The Judicial Council approved the recommendation by the Administrative Director of the Courts (ADOC) to maintain the Office of Security, but deferred action on directing a proposed Court Security Advisory Committee to review the Office of Security and make recommendations on its functions, pending further review of advisory groups by the Executive and Planning Committee (E&P) and Rules and Projects Committee (RUPRO). After completion of that review, the Judicial Council approved the related recommendation by E&P and RUPRO, directing them to propose establishment of a Court Security Advisory Committee with a rule of court, charge, and appointments made through the annual nominations process. Proposed rule 10.61 to establish the committee was circulated for public comment and submitted to the council for consideration at its October 25, 2013, meeting. The council adopted rule 10.61 establishing the committee. E&P issued a solicitation for nominations for membership in the committee on November 8, 2013. Nominations were due by December 4, 2013. The Chief Justice appointed the members to the committee and announced Judge Thomas Maddock as chair of the committee on February 10, 2014. The committee convened briefly for an introductory meeting on June 18, 2014.</p> <p>At its first in-person meeting on September 4, 2014, the committee approved a draft Annual Agenda for submission to E&P. Members discussed recommendations on emergency response and security functions and the organization of the Office of Security. An Ad Hoc Short Term Subcommittee on Office of Security Functions and Duties was formed to further develop recommendations and return to the full committee with a draft report for its consideration. The committee will meet its obligation to provide a final report to the Judicial Council on the</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>7-54. There is no need for a stand-alone Office of Emergency Response and Security. Most necessary functions performed by the office can be reassigned and absorbed by existing units in the Judicial and Court Operations Services Division.</p> <p>7-55. The functions of this office should be refocused and limited to those reasonably required by statute or by the Rules of Court, primarily including review of security plans for new and existing facilities; review of court security equipment, if requested by the courts; and review of emergency plans.</p> <p>7-56. Reductions in this office are feasible. The office cannot effectively provide branch-wide judicial security and online protection for all judicial officers. Positions allocated for such functions should be eliminated. The Administrative Director should evaluate whether some activities undertaken by this office are cost effective, such as judicial security and online protection functions.</p>			<p>functions of the Office of Security at the April 2015 meeting. As such, it is requested that the timeline be modified to read “Administrative Director of the Courts to provide an interim report to the council at the July 2014 council meeting with a final report at the April 2015 council meeting.”</p>

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#	Directive *	Timeline	Status	Status Updates
126	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-84 with no further action, as the Bay Area, Northern Central, and Southern Regional Offices no longer have any direct regional office staff. The Northern Central Regional Office has been reorganized as the Trial Court Liaison Office reporting to the Executive Office.</p> <p><u>SEC Recommendation</u></p> <p>The regional offices should cease to exist as a separate division within AOC. The BANCRO and SRO offices should close. Advocacy and liaison services provided to the trial courts should be provided through the office of Trial Court Support and Liaison in the new Executive Office.</p>	<p>Completed. ADOC to report to the council on specific actions taken.</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>
127	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to renegotiate or terminate, if possible, the leases for space utilized by SRO and BANCRO. To the extent AOC staff from other divisions is assigned to work at leased space at the regional offices, the need for locating such staff in currently leased space should be reevaluated.</p> <p><u>SEC Recommendation</u></p> <p>Leases for space utilized by SRO and BANCRO should be renegotiated or terminated, if possible, as such lease costs cannot be justified. To the extent AOC staff from other divisions is assigned to work at leased space at the regional offices, the need for locating such staff in currently leased space should be reevaluated.</p>	<p>Completed. ADOC to update the council on the status of the leases at the 10/26/12, council meeting.</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
128	<p>E&P recommends that the Judicial Council support SEC Recommendation 7-86 and direct the Administrative Director of the Courts to provide the council with an update on organizational changes made with the elimination of the regional office staff.</p> <p><u>SEC Recommendation</u> While responsibility for essential services currently provided to courts through regional offices should be consolidated and placed under the direction of Trial Court Support and Liaison Services in the Executive Office, a physical office should be maintained in the Northern California Region area to provide some services to courts in the region.</p>	<p>Completed. ADOC to update the council on the status of the leases at the 10/26/12, council meeting.</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>
129	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider placing the significant special projects previously assigned to the regional offices under the direction of the Chief of Staff in the Executive Office, contingent upon council approval of the organizational structure for the AOC.</p> <p><u>SEC Recommendation</u> The significant special projects previously assigned to the regional offices should be placed under the direction of the Chief of Staff in the Executive Office.</p>	<p>Interim and incoming ADOC to present organizational proposal to the council at the 8/31/12, council meeting.</p>	Completed	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

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#	Directive *	Timeline	Status	Status Updates
130	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-47 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>TCAS should be made a unit under the Judicial and Court Administrative Services Division, reporting to the Chief Administrative Officer. The TCAS Manager position should be at the Senior Manager level.</p>			structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
131	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that, subject to available resources, trial court use of the Phoenix HR/Payroll functionality should remain optional to individual trial courts.</p> <p>SEC Recommendation</p> <p>The Phoenix Financial System is in place in all 58 superior courts; however, trial court use of the Phoenix HR/Payroll functionality should remain optional to individual trial courts.</p>	Ongoing	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.
132	<p>E&P recommends that the Judicial Council determine whether to continue with the charge-back model whereby courts reimburse the AOC from their Trial Court Trust Fund allocations for the courts' use of the Phoenix financial system; and whether the Los Angeles court will be required to reimburse the AOC for use of the Phoenix financial system.</p> <p>SEC Recommendation</p> <p>As policy matters, it is recommended that the Judicial Council determine whether to continue with the charge-back model whereby courts reimburse the AOC from their Trial Court Trust Fund allocations for the courts' use of the Phoenix financial system; and whether the Los Angeles court will be required to reimburse the AOC for use of the Phoenix financial system.</p>	Trial Court Budget Working Group to propose a timeline to return to the council to present its recommendations.	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the February 26, 2013, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
133	E&P recommends that the Judicial Council support SEC recommendations 7-46 and 7-50 and direct the Administrative Director of the Courts, as part of AOC long-term planning, to review the information technology systems currently implemented Branch wide to support enterprise resource planning: finance, human resources, and education functional areas; to identify costs, benefits, and potential long-term savings, and the challenges of migrating support to a single IT platform; and to return to the council with a progress report on the findings.	ADOC final report to the council at the December 2014 council meeting.	Completed	<p>Judicial Council staff reviewed the Phoenix Financial System and Oracle Financial System to determine whether the council should expend future time and resources to consolidate the systems into a single platform.</p> <p>Combining the two systems into a single platform will require legislative and, potentially, constitutional changes that would allow the judicial branch to have a single branchwide enterprise resource planning IT platform, including deposit of all judicial branch funds into a single judicial branch treasury. If successful in gaining the authority to have a single branch treasury, then Oracle System would then be moved to the Phoenix System. A preliminary staff estimate suggests there would be approximately \$5,000,000 in deployment costs with an ongoing annual savings of \$250,000. This will also require significant effort from council's Legal Services and Governmental Affairs, and will require a complete cost-benefit analysis once the requirements are solidified.</p> <p>Based on the review, it was determined that consolidating the two systems into a single platform is cost prohibitive at this time, and there is no monetary benefit to separating from the State Controller's Office. For this reason, we are recommending that this directive be closed. However, there is an argument for future consideration that the branch would be better able to manage its resources if accounting for the state entities and the trial courts were in one system.</p>

SEC Recommendation

As with the Information Services Division, the AOC should determine whether to continue use of multiple or overlapping technologies for similar functions, as using a single technology could result in efficiencies and savings, both operationally and in personnel cost.

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#	Directive *	Timeline	Status	Status Updates
134	E&P recommends that the Judicial Council direct the Administrative Director of the Courts that the Trial Court Administrative Services division should continue to provide clear service-level agreements with respect to services provided to the courts. SEC Recommendation TCAS should continue to provide clear service-level agreements with respect to services provided to the courts.	Immediate implementation (Ongoing)	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

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#	Directive *	Timeline	Status	Status Updates
135	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-64 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.

SEC Recommendation

The OCCM should be renamed Office of Court Construction and Facilities Management Services. The functions of this unit should be placed under the Judicial and Court Operations Services Division and reporting to the Chief Operating Officer. The manager of this unit should be compensated at the same level.

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.

#	Directive *	Timeline	Status	Status Updates
136	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to evaluate and propose an approach to evaluate cost effectiveness for the entire scope of Office of Court Construction and Management operations.	Administrative Director interim update to the council at the June 2013 council meeting and final report at the June 2015 meeting.	Completed	<p>Real Estate and Facilities Management (REFM) has now had over 9 years of experience using two general approaches to the delivery of facility management services :1) using a largely outsourced service-provider model, contracting for routine maintenance (Firm Fixed Price and Cost-Plus contracting), plant engineers, trades and crafts personnel (Job Order and Cost-Plus Contracting), supervised by in-house management staff in or near the court facilities, and 2), the court-delegated facility management program, piloted by four trial courts (Orange, Riverside, Imperial, San Luis Obispo) with limited discussion by the Trial Court Facility Modifications Working Group to expand the program if there is interest by other interested courts.</p> <p>The only untried general model is an in-house, limited contacting organization similar to the Department of General Services in the Executive Branch, where management, plant engineers, trades and other technicians are state employees. Implementation of this model would represent a significant departure from the models used thus far, and based on the limited information previously received, may be considerably more expensive on a per square foot basis and would require hiring approximately 125 more employees (initial OCCM staffing plan based on information from DGS indicated the need to staff facility management unit with 180 employees).</p> <p>The management of REFM has evaluated the scope of former OCCM operations concerning facilities management and is of the opinion that engaging a consultant would not yield the value gained from 10 years of “field-tested” experience of using several contract and delegation models. The projected cost of hiring an outside consultant to perform an analysis would also reduce funding available to support court facilities. This finding will be further evaluated by the</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>A cost-benefit analysis of the entire scope of OCCM operations is needed.</p>			Executive Office, and will engage in consultation with the Executive and Planning Committee for further direction.
137	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-66 and, once organizational changes are made as approved by the Judicial Council, evaluate and make recommendations to the council on facilities maintenance program efficiencies, including broadening courts' responsibilities for maintenance of court facilities and for smaller scale projects.	Administrative Director interim update to the council at the June 2013 council meeting and final report at the June 2015 meeting.	In Progress	<p>The Orange, San Luis Obispo, Imperial and Riverside County Superior Courts have been participating in a pilot program for the delegation of facility management services. The four courts presented preliminary findings on the program to the Trial Court Facility Modifications Advisory Committee (Advisory Committee) at its May, 2014 meeting. The courts reported generally positive results, but felt the requirements of the Intrabranh agreements (IBAs) limited their success; consequently, it was determined that expansion of the program to include other courts should be deferred for approximately one year.</p> <p>JCC staff revised the IBA to streamline the administrative requirements of the program, particularly in relation to invoicing procedures. The Delegation Working Group, the Advisory Committee and JCC staff agree that an extension of the pilot with the existing courts for an additional year would provide an opportunity to re-evaluate the program before reconsidering a recommendation to expand participation by other courts.</p>
	<p>SEC Recommendation</p> <p>The current facilities maintenance program appears inefficient and unnecessarily costly. The consultant report is necessary and should be considered part of a necessary reevaluation of the program. Courts should be given the option to assume responsibility for maintenance of court facilities and for smaller-scale projects.</p>			

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#	Directive *	Timeline	Status	Status Updates
138	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-67 and, once organizational changes are made as approved by the Judicial Council, evaluate and make recommendations to the Judicial Council regarding fiscal planning for facilities maintenance for new and existing facilities and revenue streams to fund increased costs for maintenance of court facilities.	Final report at the October 2014 council meeting.	Completed	<p>All efforts designed to implement this Directive have now been completed, including:</p> <ul style="list-style-type: none"> ● The renegotiation of rent and generation of revenues, yielding gross expense reductions of over \$8 million during the prior 12-month period. ● Approval of a Budget Change Proposal (BCP) to use Facility Program resources to fund a 10-year, \$150 million appropriation in support of the Trial Court Facility Modifications program. <p>The Judicial Council subsequently approved the recommendation for additional resources to implement budgeted projects.</p>
	<p>SEC Recommendation</p> <p>Fiscal planning for facilities maintenance for new and existing facilities needs to become an immediate priority, and revenue streams to fund increased costs for maintenance of court facilities must be identified and obtained.</p>			

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#	Directive *	Timeline	Status	Status Updates
139	E&P recommends that the Judicial Council direct the Administrative Director of the Courts, once organizational changes are made as approved by the Judicial Council, to evaluate and make recommendations regarding staff reductions.	Administrative Director of the Courts to provide an interim report to the council at the December 2013 council meeting.	Completed	The office director, in collaboration with the Chief Operating Officer, has completed organizational changes and an assessment of the staffing and resource requirements to execute the \$5 billion construction program without increasing risk to the branch. As indicated in the October 2013 interim report to the Judicial Council, the office is proceeding with hiring three construction inspector positions critically needed now to effectively manage the current program, which will include 15 projects in construction totaling about \$2 billion by the end of 2013.
<u>SEC Recommendation</u>				
Staff reductions appear feasible in light of the slowdown in new court construction and should be made accordingly. The Chief Operating Officer should be charged with implementing necessary reductions.				
140	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to ensure that the employment of temporary or other staff to circumvent a hiring freeze is not permitted. The Administrative Director must review all temporary staff assignments and eliminate those that are being used to replace positions subject to the hiring freeze. Temporary employees should be limited to periods not exceeding six months and should be used only in limited circumstances of demonstrated need, such as in the case of an emergency or to provide a critical skill set not available through the use of authorized employees.	Completion by June 2013	Completed	Status on implementation progress for this directive is included in the Activity Reporting and Proposal Form submitted to the Judicial Council for the June 28, 2013, Judicial Council Meeting.
<u>SEC Recommendation</u>				
The use of temporary or other staff to circumvent the hiring freeze should cease.				

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.

#	Directive *	Timeline	Status	Status Updates
141	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to review, as part of the AOC-wide review of its contracting processes, the contracting process utilized by the Office of Court Construction and Management.	Completion by December 2013.	Completed	<p>This directive was addressed as part of the AOC's ongoing contract process improvement efforts. In addition, the requirements of the Judicial Branch Contracting Manual has resulted in better standardization and better compliance with procurement practices for the non-capital projects divisions and offices. For the capital projects area, recommendations by a competitively solicited consultant (Pegasus) for procurement, contract administration and project management have been implemented and will go to the Judicial Council in January of 2014.</p> <p>Business Services staff have worked with Judicial Branch Capital Program Office and Office of Real Estate and Facilities Management to review and implement the Pegasus recommendations so that the current processes to the contracting process are improved.</p> <p>It should be recognized that the administration and maintenance of policies and procedures is an ongoing process of continuous improvement, and although milestones can be achieved, this maintenance effort will be an ongoing process.</p>
<p>SEC Recommendation</p> <p>The contracting process utilized by OCCM needs to be improved. This process should be reviewed as part of the AOC-wide review of its contracting processes.</p> <hr/>				

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.

#	Directive *	Timeline	Status	Status Updates
142	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to consider SEC Recommendation 7-80 and implement the necessary organizational and staffing changes, contingent upon the council's approval of an organizational structure for the AOC.	The Classification & Compensation Study is scheduled to be adopted by the Judicial Council at its meeting in April 2015; based upon the direction provided by the Judicial Council, the Executive Office will implement the plan accordingly and will provide an update to council at the October 2015 council meeting.	In Progress	<p>Implementation of directives 50, 64, 72, 78, 89, 100, 106, 123, 130, 135, and 142 are tied to the outcome of the AOC Classification and Compensation Study.</p> <p>On September 9, 2013, the Executive and Planning Committee (E&P) reviewed the methodology, criteria, and process used to score the Request for Proposal (RFP) bids, reviewed the final bid scoring and findings, and approved the awarding of the contract to the highest scored bidder.</p> <p>In October 2013, E&P provided an update to the Judicial Council notifying them that the highest scored bidder was selected to conduct the classification and compensation study.</p> <p>In November 2013, Fox Lawson & Associates was awarded the contract to conduct the Judicial Council's classification and compensation study. Four meetings were held with Fox Lawson & Associates, members of the Human Resources (HR) staff, and the Executive Office to establish the specifics of the study, including methodology, timeline, and a review of the current classification and compensation system at the Judicial Council.</p> <p>In December 2013, communications were sent to all Judicial Council staff informing them of the beginning of the study and outlining the requirements, including completing employee Position Description Questionnaires (PDQ), which were due in February 2014.</p> <p>In January 2014, Judicial Council staff conducted information sessions at each Judicial Council office to answer employees' questions regarding the study.</p> <p>In April and May 2014, Fox Lawson completed meeting with approximately 20 occupational panels across Judicial Council offices and locations, and will</p>

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#	Directive *	Timeline	Status	Status Updates
				<p>be scheduling regular updates to brief the Executive Office.</p> <p>In June 2014, the Judicial Council Human Resources office and Fox Lawson discussed the current progress of the study with the council. Fox Lawson also began a series of one-on-one phone interviews with a small number of employees. The purpose was to clarify specific information provided in the PDQs regarding essential duties.</p> <p>In July 2014, the Executive Office held all-staff meetings to update Judicial Council staff about the progress of the study and discussed the selected comparator markets.</p> <p>In August 2014, Fox Lawson met with the Internal Chairs and the Executive Office to discuss recommendations for the proposed classification structure. The Internal Chairs and the Executive Office briefed the Judicial Council in closed session.</p> <p>In September 2014, Fox Lawson took steps to draft classification specifications and finalized job description summaries for market survey.</p> <p>In October 2014, Fox Lawson continued to draft and finalize the classification specifications and initiated the market survey to begin the compensation phase of the study.</p> <p>All-staff meetings were held in November 2014 to communicate the current status of the Classification and Compensation Study. During the meeting, employees were provided with an overview of the new classification system and were given information on the appeals process.</p> <p>In February 2015, employees are expected to be informed of their new classifications within the new</p>

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#	Directive *	Timeline	Status	Status Updates
	<p>SEC Recommendation</p> <p>The Office of Governmental Affairs should be placed in the Executive Office, under the direction of the Chief of Staff. The OGA Manager position should be at the Senior Manager level.</p>			structure and will have an opportunity to submit an appeal if they feel that their position has been incorrectly classified.
143	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that the Office of Governmental Affairs (OGA) should represent the interests of the judicial branch on the clear direction of the Judicial Council and its Policy Coordination and Liaison Committee (PCLC), and take steps to ensure that the PCLC is apprised fully of varying viewpoints of the courts, court executive officers, and judges before determining legislation positions or proposals.</p> <p>SEC Recommendation</p> <p>The OGA should represent the interests of the judicial branch on the clear direction of the Judicial Council and its Policy Coordination and Liaison Committee. The Chief of Staff should take steps to ensure that the PCLC is apprised fully of varying viewpoints of the courts, court executive officers, and judges before determining legislation positions or proposals.</p>	Ongoing	Completed	Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.

#	Directive *	Timeline	Status	Status Updates
144	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts that attorney resources in the AOC be utilized to best leverage and draw on subject matter expertise, which may assist OGA as legislative demands may require.</p> <p>SEC Recommendation</p> <p>The Administrative Director should direct that attorney resources in the AOC be utilized to best leverage and draw on subject matter expertise, which may assist OGA as legislative demands may require.</p>	<p>Completed. ADOC will continue to monitor the deployment of expertise.</p>	<p>Completed</p>	<p>Activity Reporting and Proposal Form submitted to the Judicial Council for the October 26, 2012, Judicial Council Meeting.</p>

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.

#	Directive *	Timeline	Status	Status Updates
145	<p>E&P recommends that the Judicial Council direct the Administrative Director of the Courts to propose to the council a process and policies for pursuing grants. The process should mandate a detailed impact analysis for every grant proposal, including consideration of all anticipated impacts on the workload and resources of the courts and the impacts to the AOC as a whole. Until a process of review and oversight is finalized, the Administrative Director of the Courts must approve the AOC's engagement in all grant proposals and agreements.</p> <p>SEC Recommendation</p> <p>6-9. The Executive Leadership Team must develop and make public a description of the AOC's process for determining which grants to pursue. The process should mandate a detailed impact analysis for every grant proposal, including consideration of all anticipated impacts on the workload and resources of the courts and the impacts to the AOC as a whole. Only after such analysis should the Executive Leadership Team make a determination whether the AOC should pursue grant funding.</p> <p>7-5. The Judicial Council should exercise oversight to assure that grant-funded programs are undertaken only when consistent with predetermined, branch-wide policy and plans. The fiscal and operational impacts of grant-funded programs on the courts should be considered as part of the fiscal planning process.</p> <p>7-12. The Promising and Effective Programs Unit functions are largely discretionary and should be considered for reduction or elimination, resulting in position savings. Consideration should be given to the following.</p> <p>Excerpt:</p> <p>(f) The Fund Development Group concerns itself with training to obtain grants, seeking grants, and grant reporting. As is the case with other divisions in the AOC,</p>	<p>ADOC to recommend to the council a process and policies for evaluating appropriate grants by August 2013 and a cost benefit analysis proposal by October 2013.</p>	Completed	<p>The Administrative Director of the Courts has approved a staff recommendation for a new policy and process for pursuing competitive grants that are in line with the branch's strategic goals, and--assuming the council approved--has directed staff to take steps to publicize and implement the new policy and process, which are appended to the staff report to the Administrative Director, dated July 30, 2013, and entitled "Judicial Council Directive 145 re Grant Seeking."</p>

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.

#	Directive *	Timeline	Status	Status Updates
	<p>grants should be sought in accordance with well-articulated AOC-wide priorities, as established by the Judicial Council. The Administrative Director and the Judicial Council should develop written policies and guidelines that control the pursuit and acceptance of grants and other funding, including utilizing a cost-benefit analysis.</p> <hr/>			

* This document retains the wording presented by the Judicial Council's Executive and Planning Committee approved by the Judicial Council on August 31, 2012.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courtinfo.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 19, 2015

Title	Agenda Item Type
Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106— Report No. 30)	Information Only
	Date of Report
	February 5, 2015
Submitted by	Contact
Jody Patel, Chief of Staff Pam Reynolds, Manager Leadership Services Division	Pam Reynolds, 916-263-1462 pam.reynolds@jud.ca.gov

Executive Summary

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This is the 30th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, two superior courts—those of Mendocino and Shasta Counties—have issued new notices.

Previous Council Action

In 2010, the Legislature enacted a Judiciary Budget Trailer Bill with fee increases and fund transfers for the courts that also added section 68106 to the Government Code.¹ Section 68106 requires trial courts to notify the public and the Judicial Council in advance of any closures or reductions in service, and the council in turn to post all such notices on its website and report them to the Legislature. Since the enactment of section 68106, a total of 48 courts have issued

¹ Sen. Bill 857; Stats. 2010, ch. 720, § 13. Attachment A contains the full text of Government Code section 68106, as amended effective January 1, 2011, and June 27, 2012.

notice under its requirements.² The Judicial Council has received 29 prior informational reports listing such notices as they have been received.

Notice Received From Two Courts Since Last Report

This is the 30th report provided to date on trial court notices submitted under Government Code section 68106. Since the previous report, the Judicial Council has received new notices of closures or reduced hours from two trial courts:

1. As of January 23, 2015, the Superior Court of **Mendocino** County discontinued hearing cases at the Round Valley/Covelo location. The court is also reducing from five to three the total number of days each year that it will hear matters at the Point Arena location. The three days on which matters will be scheduled for hearing this year at the Point Arena location will be March 19, July 9, and November 19. (*Attachment B*)
2. Effective February 20, 2015, the Superior Court of **Shasta** County will temporarily close the Family Law Facilitator's Office and Self-Help Center located in the main courthouse of the Shasta County Superior Court, for approximately three months. (*Attachment C*)

Mandate in Government Code Section 68106

In providing fee increases and fund transfers for the courts in the Judiciary Budget Trailer Bill in 2010, the Legislature expressly declared its intention that trial courts remain open to the public on all days that are not judicial holidays and that access to court services for civil litigants be preserved to the extent practicable. Statements in Government Code section 68106 affirmed this intent, and the recent amendment of the statute strengthened it.

Section 68106 imposes the following requirements on trial courts and the Judicial Council:

- Trial courts must provide written notice to the public at least 60 days before closing any courtroom or closing or reducing the hours of clerks' offices, although "[n]othing in this section is intended to affect, limit, or otherwise interfere with regular court management decisionmaking, including calendar management and scheduling decisions."³ The trial court is to provide this notice "by conspicuous posting within or about its facilities, on its public Internet Web site, by electronic distribution to individuals who have subscribed to the court's electronic distribution service, and to the Judicial Council"⁴ The notice must describe the scope of the closure or reduction in hours, state the financial constraints or other reasons that make the closure or reduction necessary, and invite public comment.⁵ Courts expressly are *not* obligated to respond to comments received.⁶ If a court changes its plan "as a result of

² All courts' notices are listed and posted at www.courts.ca.gov/12973.htm. Some courts have given more than one notice.

³ Gov. Code, § 68106(c).

⁴ *Id.*, § 68106(b)(1).

⁵ *Id.*, § 68106(b)(1), (2)(A).

⁶ *Id.*, § 68106(b)(2)(B).

the comments received or for any other reason” during the 60-day notice period, it must “immediately provide notice to the public” by posting and distributing “a revised notice” using the procedure previously described, including distribution to the council.⁷ The change in plan does not require notification, however, beyond the original 60-day period.⁸

- The Judicial Council must, within 15 days of receiving a notice from a trial court, “conspicuously” post the notice “on its Internet Web site” and forward a copy to the chairs and vice-chairs of both houses’ Committees on the Judiciary, the chair of the Assembly Committee on Budget, and the chair of the Senate Committee on Budget and Fiscal Review.⁹

Implementation Efforts

Judicial Council staff notified all trial court presiding judges and court executive officers of the enactment of this statutory mandate, and the Judicial Council Legal Services (LS) staff provided legal guidance to help courts comply with the requirements of the statute. Trial courts have been requested to e-mail such notices to Debora Morrison, LS Senior Attorney, who has provided legal review of the courts’ notices since Government Code section 68106 first took effect in 2010.

To fulfill the Judicial Council’s obligations under section 68106, the Judicial Council staff has placed on the home page of the California Courts website a prominent link to the Reduced Court Services page (www.courts.ca.gov/12973.htm), which contains a summary of Government Code section 68106 and all notices received from trial courts about closures of courtrooms or clerks’ offices or reductions in clerks’ office hours. Since the previous report to the council, the notices from the courts detailed above have been added to the web page. The Judicial Council staff has also forwarded the notices from these courts to the designated legislative leaders.

Attachments

Attachment A: Government Code section 68106

Attachment B: Notice from the Superior Court of Mendocino, January 29, 2015

Attachment C: Notice from the Superior Court of Shasta, February 4, 2015

⁷ *Id.*, § 68106(b)(3).

⁸ *Id.*, § 68106(b)(2)(A).

⁹ *Id.*, § 68106(b)(3).

Government Code section 68106:

(a) (1) In making appropriations for the support of the trial courts, the Legislature recognizes the importance of increased revenues from litigants and lawyers, including increased revenues from civil filing fees. It is therefore the intent of the Legislature that courts give the highest priority to keeping courtrooms open for civil and criminal proceedings. It is also the intent of the Legislature that, to the extent practicable, in the allocation of resources by and for trial courts, access to court services for civil litigants be preserved, budget cuts not fall disproportionately on civil cases, and the right to trial by jury be preserved.

(2) Furthermore, it is the intent of the Legislature in enacting the Budget Act of 2010, which includes increases in civil and criminal court fees and penalties, that trial courts remain open to the public on all days except judicial holidays, Saturdays, and Sundays, and except as authorized pursuant to Section 68115.

(b)(1) A trial court shall provide written notification to the public by conspicuous posting within or about its facilities, on its public Internet Web site, and by electronic distribution to individuals who have subscribed to the court's electronic distribution service, and to the Judicial Council, not less than 60 days prior to closing any courtroom, or closing or reducing the hours of clerks' offices during regular business hours on any day except judicial holidays, Saturdays, and Sundays, and except as authorized pursuant to Section 68115. The notification shall include the scope of the closure or reduction in hours, and the financial constraints or other reasons that make the closure or reduction necessary.

(2)(A) The notification required pursuant to paragraph (1) shall include information on how the public may provide written comments during the 60-day period on the court's plan for closing a courtroom, or closing or reducing the hours of clerks' offices. The court shall review and consider all public comments received. If the court plan for closing a courtroom, or closing or reducing the hours of clerks' offices, changes as a result of the comments received or for any other reason, the court shall immediately provide notice to the public by posting a revised notice within or about its facilities, on its public Internet Web site, and by electronic distribution to individuals who have subscribed to the court's electronic distribution service, and to the Judicial Council. Any change in the court's plan pursuant to this paragraph shall not require notification beyond the initial 60-day period.

(B) This paragraph shall not be construed to obligate courts to provide responses to the comments received.

(3) Within 15 days of receipt of a notice from a trial court, the Judicial Council shall conspicuously post on its Internet Web site and provide the chairs and vice chairs of the Committees on Judiciary, the Chair of the Assembly Committee on Budget, and the Chair of the Senate Committee on Budget and Fiscal Review a copy of any notice received pursuant to this subdivision. The Legislature intends to review the information obtained pursuant to this section to ensure that California trial courts remain open and accessible to the public.

(c) Nothing in this section is intended to affect, limit, or otherwise interfere with regular court management decisionmaking, including calendar management and scheduling decisions.



**Superior Court of California
County of Mendocino**

DAVID E. NELSON
Presiding Judge

JOHN A. BEHNKE
Assistant Presiding Judge

CHRISTOPHER D. RUHL
Court Executive Officer

PUBLIC NOTICE*

**NOTICE OF REDUCED COURT CALENDAR IN POINT ARENA
AND DISCONTINUATION OF COURT CALENDAR
IN ROUND VALLEY/COVELO**

Due to decreased demand and limited staffing:

1. The number of days court will be held in Point Arena in 2015 is being reduced from five days to three days; and
2. Following the next scheduled Jan. 23, 2015 court date in Round Valley/Covelo, the court calendar in Round Valley/Covelo will be discontinued.

Following are the days court will now be held in 2015:

Point Arena:

March 19th
July 9th
November 19th

Round Valley/Covelo:

January 23rd (Final court date)

*Government Code sec. 68106 requires trial courts to provide notice to the public at least 60 days before closing any courtroom or closing or reducing hours of clerks' offices by conspicuous posting within its facilities and on its public website. Although the Court is not technically required by GC sec. 68106 to provide notice of the above planned reduction in court dates as they do not constitute court closures or reductions in clerk's office hours, the Court is providing this notice as a service to the public. Any comments regarding these planned reductions in court dates should be directed to: Superior Court of California, County of Mendocino, ATTN: Public Comment RE: Calendar Reduction, 100 North State St., Room 303, Ukiah, CA, 95482-4416, or by email at ceo@mendocino.courts.ca.gov. The Court will review all comments received. However, the Court is not required to respond to comments received. See Government Code sec. 68106(b)(2)(B).



**Superior Court of California
County of Shasta**

MELISSA FOWLER-BRADLEY
Court Executive Officer/Clerk of the Court

JOHN ZEIS
Assistant Executive Officer/Clerk of the Court

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SHASTA**

**IMPORTANT PUBLIC NOTICE
(Pursuant To Government Code § 68106
And Rule 10.620(d)(4)(A) of the California Rules of Court)**

Effective February 20, 2015 the Self-Help Center and Family Law Facilitator's Office located in the main courthouse of the Shasta County Superior Court will be temporarily closed for approximately three months.

The court finds the above action necessary due to a staff resignation resulting in the vacancy of the Family Law Facilitator position. As a result, it will not be possible to keep the office open in the absence of a staff attorney. The court is currently conducting a personnel recruitment to fill the vacancy.

The court's Internet site (www.shasta.courts.ca.gov) contains helpful information about court services under the shortcuts button for the Family Law Facilitator/Self Help and links to the California Courts website, self-help section (www.courts.ca.gov/selfhelp.htm) and Judicial Council forms (www.courts.ca.gov/forms.htm).

We apologize for the inconvenience this may cause. If you would like submit comments about the temporary closure, please submit them to Melissa Fowler-Bradley, Court Executive Officer, 1500 Court Street, Redding, California 96001 or by calling 530-245-6761.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 20, 2015

Title	Agenda Item Type
Court Facilities: Trial Court Facility Modification Quarterly Activity Report, Quarter 1 of Fiscal Year 2014–2015	Information Only
Submitted by	Date of Report
Trial Court Facility Modification Advisory Committee Hon. David Edwin Power, Chair	November 18, 2014
	Contact
	Patrick McGrath, 916-643-8051 patrick.mcgrath@jud.ca.gov

Executive Summary

The Trial Court Facility Modification Advisory Committee has completed its facility modification funding for the first quarter of fiscal year 2014–2015. In compliance with the *Trial Court Facility Modifications Policy*, adopted by the Judicial Council on July 27, 2012, the advisory body is submitting its *Trial Court Facility Modification Quarterly Activity Report: Quarter 1, Fiscal Year 2014–2015* as information for the council. This report summarizes the activities of the Trial Court Facility Modification Advisory Committee from July 1, 2014, to September 30, 2014.

Previous Council Action

The Trial Court Facility Modification Working Group was established by Judicial Council policy in 2005. The working group first met in April 2006 and operated under the *Trial Court Facility Modifications Policy*,¹ adopted by the Judicial Council in 2005 and revised on July 27, 2012. The working group's primary oversight responsibilities included reviewing statewide facility modification requests and approving facility modification funding.

¹ As adopted in 2005, the policy was known as the *Prioritization Methodology for Modifications to Court Facilities*. When it was revised in 2012, the name also changed. See www.courts.ca.gov/documents/jc-20120727-itemG.pdf.

The working group's charge was formalized by the Judicial Council on December 14, 2012, and the working group was assigned additional oversight responsibility for the operations and maintenance of existing facilities, noncapital-related real estate transactions, energy management, and environmental management and sustainability. On April 25, 2013, the working group's status was elevated to that of advisory committee.

An updated Court-Funded Facilities Request approval process was submitted and approved by the Judicial Council on August 23, 2013, requiring all Court-Funded Facilities Requests to be reviewed and approved by the Trial Court Facility Modification Advisory Committee (TCFMAC). These submittals may include lease-related costs (e.g., lease payments and operating costs, repairs, or modifications required by a lease); allowable court operations expenditures under rule 10.810 of the California Rules of Court (e.g., equipment, furnishings, interior painting, flooring replacement or repair, furniture repair, or records storage); and other facility improvements that are not allowable court operations expenditures under rule 10.810 (e.g., facilities operations, maintenance, repairs, and modifications, but not capital projects), if they would improve a court's functioning or reduce ongoing court operating costs.

Reports previously approved by the Judicial Council are available at www.courts.ca.gov/2567.htm under Research and Reports: Conditions in Our Courts.

Methodology and Process

Funding decisions were based on the prioritization and ranking methodologies in accordance with the *Trial Court Facility Modifications Policy*. Facility modifications are assigned one of six priority categories: Priority 1—Immediate or Potentially Critical; Priority 2—Necessary, But Not Yet Critical; Priority 3—Needed; Priority 4—Does Not Meet Current Codes or Standards; Priority 5—Beyond Rated Life, But Serviceable; and Priority 6—Hazardous Materials, Managed But Not Abated. These categories are based on methods commonly used by private-sector facility management firms. Facility modifications that are determined to be Priority 1 are to be addressed immediately and regardless of whether the court occupies a shared-use facility. With current budget constraints, the TCFMAC primarily limits approvals of facility modification projects to Priority 1 and Priority 2 projects. Delaying TCFMAC approval of these projects would cause continued court closures, operational failures, and undue risk to continued court operations.

Policy and Cost Implications

During the first quarter of fiscal year 2014–2015, the TCFMAC reviewed and approved a total of 265 facility modifications for a total projected cost of \$8,418,471. The Facility Modification Program's share of these projects totals \$7,075,625. These approved projects are limited to Priority 1 emergency projects and Priority 2 critical needs projects. Please see Attachment A for a detailed list of all approved projects.

During this quarter, seven projects required additional funds in excess of \$50,000 over their original estimates. The Facility Modification Program's share of these cost increases totals

\$1,016,850. Projects that require excess costs of this magnitude are typically Priority 1 emergency projects that do not have a full scope and cost estimate developed at the onset of the project and for which significantly more work or testing is discovered after commencement.

During this quarter, 10 Court-Funded Facilities Requests (CFRs) were reviewed and approved by the TCFMAC, including requests from Fresno, Mariposa, San Bernardino, Santa Barbara, and Tulare courts. As stated above, CFR submittals may include lease-related costs, allowable court operations expenditures under rule 10.810 of the California Rules of Court, and other facility improvement costs that are not allowable under rule 10.810. See Attachment B for a detailed list of CFRs approved by the TCFMAC during the first quarter of fiscal year 2014–2015.

Implementation Efforts

The TCFMAC conducted an in person meeting on July 11, 2014 at the Sacramento field office, an out-of-cycle teleconference meeting on July 25, 2014, and a regularly scheduled teleconference on August 25, 2014, to review facility modification funding requests and to discuss the following topics:

- The committee conducted its regular review of facility modification projects lists: A (Emergency and Priority 1), B (FMs Less than \$50K), C (Cost Increases Over \$50K), D (FMs Greater than \$50K Eligible for Funding), and F (Court-Funded Facilities Requests).
- Judicial Council Real Estate staff presented an overview of leases, licenses, and dispositions of the judicial branch portfolio.
- The committee considered and unanimously approved a draft Trial Court Food Vendor Policy be released to the courts for comment and input. This document provides for standardized policies and practices for licensed vendor operations within Judicial Council–managed facilities.
- The committee implemented the requirements of California Rules of Court rule 10.75 (Meetings of advisory bodies), which became effective July 1, 2014.
- The committee considered and unanimously approved a six-month increase of the Judicial Council staff’s preliminary approval authority for Priority 2 facility modifications from \$15,000 to \$50,000. The intent of this change is to improve responsiveness to the courts and eliminate administrative processing delays for Priority 2 projects under \$50,000, while maintaining appropriate TCFMAC oversight of the facility modification program. A permanent approval of this authority will be considered by the committee in January of 2015.
- The committee reviewed the FY 2014–2015 budget plan. The Judicial Council previously recommended approval of an augmentation to the Facility Modification Program budget of \$15 million for a 10-year period beginning in FY 2014–2015, which is now authorized in the Budget Act. This increased the budget from \$50 million in the prior fiscal year to \$65 million for the current fiscal year.
- The committee considered and unanimously approved a Judicial Council staff proposal to begin exploring participating in load-shedding programs with local utilities.
- The committee received a report on the damage that occurred at the Napa Historic Courthouse, which has been red tagged by the fire marshal and is currently fenced and

inaccessible. The three-courtroom civil and family courthouse sustained major structural damage, a water main break, fire system failure, a gas leak, elevator failure, partial roof collapse, and lighting and other fixture failures.

- The committee considered and unanimously approved a budget allocation of \$1 million for energy efficiency projects for fiscal year 2014–2015.

Next Steps

The *Trial Court Facility Modification Quarterly Activity Report, Quarter 2 of Fiscal Year 2014–2015* will be submitted to the Judicial Council in February 2015.

Attachments

1. Attachment A: *TCFMAC Funded Project List: Quarter 1, Fiscal Year 2014–2015*
2. Attachment B: *Court-Funded Facilities Requests (CFRs): Quarter 1, Fiscal Year 2014–2015*



	FM NUMBER	LOCATION	FACILITY NAME	BUILDING ID	PRIORITY	SHORT TITLE	PRELIMINARY ESTIMATE	FACILITY MODIFICATION PROGRAM SHARE OF PRELIMINARY ESTIMATE	FACILITY MODIFICATION PROGRAM SHARE % OF COST
1	FM-0052104	Alameda	Hayward Hall of Justice	01-D1	2	Phones - Replace interview phones in holding cells damaged by unknown in-custodies	\$ 985	\$ 985	100.00
2	FM-0052139	Alameda	Wiley W. Manuel Courthouse	01-B3	2	Plumbing & Interior finishes - Replace failed and leaking two inch cast-iron floor drain p-trap and no-hub fittings - Replace approximately six hundred square feet of splined puzzle piece tile ceiling in two locations where removed for access - Work to be performed afterhours	\$ 12,037	\$ 12,037	100.00
3	FM-0052145	Alameda	Fremont Hall of Justice	01-H1	2	In-custody interview phones - Replace one destroyed handset on in-custody side - Replace three phones on attorneys side that have failed and do not provide clear transmission so that attorneys can hear in-custody communications	\$ 2,515	\$ 2,515	100.00
4	FM-0052268	Alameda	Hayward Hall of Justice	01-D1	2	Interior Finishes - Replace failed holding cell door parts and weld securely in place - Door damaged by in-custodies - Work to be performed after hours	\$ 2,135	\$ 2,135	100.00
5	FM-0052326	Alameda	Hayward Hall of Justice	01-D1	1	Electrical - Rewire five light circuits which have shorted in a conduit welding them in place so they cannot be removed to pull new wires - Install approximately 300 feet of new conduit above ceilings and pull five circuits with three wires each to re-feed existing light fixtures and associated temporary lighting - Work to be performed on overtime Saturday May 31, 2014	\$ 18,681	\$ 18,681	100.00
6	FM-0052349	Alameda	Wiley W. Manuel Courthouse	01-B3	2	HVAC - Replace failed bearings on the 225 horsepower supply fan number one - Work to be performed off site - Includes a crane and rigging to remove and place fan which is in the west rooftop mechanical room	\$ 47,063	\$ 39,439	83.80
7	FM-0052384	Alameda	Hayward Hall of Justice	01-D1	2	Phones - In Holding Phone - Remove and replace the existing interview phone handsets in holding cell 3-C with ones with short cords for in-custody safety - Compliance issue	\$ 985	\$ 985	100.00
8	FM-0052398	Alameda	Wiley W. Manuel Courthouse	01-B3	2	Elevator - Replace failed relay on Judge's elevator - Carriage intermittently fails to respond when called - Work to be performed after hours	\$ 6,030	\$ 6,030	100.00
9	FM-0052399	Alameda	George E. McDonald Hall of Justice	01-F1	2	HVAC - Replace failed and leaking chiller condensing coil - Units cooling is at half capacity and will not meet demand if weather becomes hot	\$ 42,309	\$ 42,309	100.00
10	FM-0052713	Alameda	Wiley W. Manuel Courthouse	01-B3	2	Grounds/Parking Lot - Replace dead 125' redwood tree - Remove tree and grind stump and plant (1) 24inch box Redwood tree with new irrigation	\$ 3,253	\$ 2,726	83.80
11	FM-0052774	Alameda	Hayward Hall of Justice	01-D1	2	Vandalism - Telephones - Replace Dept. 519 holding cell interview phone handset destroyed by in-custody vandalism - Replace failed power supply wiring	\$ 1,835	\$ 1,835	100.00
12	FM-0018296	Amador	New Amador County Courthouse	03-C1	2	Exterior - Site stabilization - Install approximately 150 LF of rock retaining wall to the entire north side of building walkway and break area to eliminate the erosion and mud gathering on the sidewalk and break area concrete. Work includes the installation of 115 LF of wrought iron fence and three gates with hardware.	\$ 95,507	\$ 95,507	100.00
13	FM-0010643	Butte	Butte County Courthouse	04-A1	2	Exterior Renovation - Renovate - Remove, replace and repaint damaged EIFS and failing architectural metal and stress cracks at main entry to facility. Restoring the reglet metal and rigid insulation will maintain the facilities water barrier. Scaffolding required for 3-story facility.	\$ 244,073	\$ 244,073	100.00
14	FM-0052410	Butte	Butte County Courthouse	04-A1	2	Parking Lots - Resurface several sections of the public and staff parking lots. Potholing and deterioration of the asphalt have caused safety and erosion hazards. Remove and replace approximately 18,000 square feet of asphalt and apply 105,000 square feet of slurry seal in several sections of the parking as shown on the uploaded area map. Stripe with reflective road paint approximately 432 parking stalls, all No-Parking and Loading zones, direction and control markings, and ADA parking stalls.	\$ 146,000	\$ 146,000	100.00



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15	FM-0049202	Contra Costa	Wakefield Taylor Courthouse	07-A2	2	HVAC - IT Server Room - Install two new 2.5 ton AC split systems to replace temporary floor fans, project will also require one 5 ton condensing unit and approximately 125 LF of new condenser line - Server room cannot maintain temperature and has insufficient airflow to reach critical equipment causing IT equipment failures.	\$ 55,411	\$ 55,411	100.00
16	FM-0049210	Contra Costa	Wakefield Taylor Courthouse	07-A2	2	HVAC - Cooling tower basin and support structure - Recoat basin and replace tower support structure - Rusted basin causing leaks - structure deterioration impacts capacity to support the cooling tower and maintain its operation - preventing impact to court.	\$ 82,899	\$ 82,899	100.00
17	FM-0052254	Contra Costa	George D. Carroll Courthouse	07-F1	2	Plumbing - Main Water Line - Cut and remove an 18' long x 6' wide section of concrete; dig a trench 7' below ground; Remove and dispose of concrete and soil; Shore up trench with plywood, rails and hydraulic cylinders; Remove and replace 20 linear feet of 4" pipe; Pressure test and flush the water line pipe; Install new soil to fill trench; Replace concrete slab to match existing concrete. There is a substantial water leak in this section of pipe.	\$ 54,848	\$ 41,131	74.99
18	FM-0052256	Contra Costa	Bray Courts	07-A3	2	HVAC - Boiler - Remove and replace the failing 1,800 MBH boiler. Fabricate and install a new skid for the outdoor heating hot water boiler, air separator with vent, 2 gallon chemical pot feeder, 2hp hot water circulation pump, and flue stack with in-line booster fan. Secure to existing rooftop platform. Work requires a crane and must be done off hours.	\$ 45,169	\$ 38,629	85.52
19	FM-0052257	Contra Costa	Arnason Justice Center	07-E3	2	Fire/Life/Safety - Alarm and Strobe - Install a notification Strobe/Audible Alarm in the break room, run 25 feet of cable and tie into the existing beam detector, Work to be done after hours. Employees continue to ignore the signage (about 3 times per week) and stand or leave items in front of the fire door sensor, this causes the fire panel to report a trouble call and requires attention from the service provider. This will provide a warning to notify employees that the sensor is being blocked	\$ 3,940	\$ 3,940	100.00
20	FM-0052319	Contra Costa	Wakefield Taylor Courthouse	07-A2	2	Fire Protection - Remove sixteen (16) fire hoses; Install removable plugs on (16) existing fireman's hose valves (1.5"); Remove fire hose signage, where applicable; add (16) new 5 LB fire extinguishers. Hoses are due for replacement (every 5 yrs); This is an alternate and less expensive method of compliance.	\$ 4,497	\$ 4,497	100.00
21	FM-0052327	Contra Costa	George D. Carroll Courthouse	07-F1	2	HVAC - Replace failed capacity control assembly and gasket; Replace bellows adjusting screw and gasket. Chiller has failed due to refrigerant leaks.	\$ 8,465	\$ 6,348	74.99
22	FM-0052370	Contra Costa	George D. Carroll Courthouse	07-F1	2	HVAC - Recover/Weigh refrigerant to determine the amount lost due to the leak, replace failed seal; Laser align shaft on compressor and motor Replace 3 gallons oil; recharge system with R134a Refrigerant; Check systems operation - Oil seal is leaking refrigerant and the chiller will soon be non-functional	\$ 7,871	\$ 5,902	74.99
23	FM-0052388	Contra Costa	George D. Carroll Courthouse	07-F1	1	Electrical - At the lighting panels, Replace 3 ancillary breakers; Replace main breaker for the elevator - Breakers failed during testing and need immediate replacement	\$ 3,823	\$ 2,867	74.99
24	FM-0052397	Contra Costa	Concord-Mt. Diablo District	07-D1	2	Grounds and Parking Lot - Tripping hazard in the employee parking lot - Remove and replace 35 sqft of crumbled and loose asphalt	\$ 3,455	\$ 3,455	100.00
25	FM-0052751	Contra Costa	Wakefield Taylor Courthouse	07-A2	2	HVAC - Replace failed computer and outdated software and programming - Provide and install a new computer for the BAS system to replace the failed existing computer; Provide and install up to date BAS software (The old software ran on Windows XP); Provide remote access software; verify operation. The existing computer has failed. Data cannot be accessed, the system cannot receive alarms, and there is no remote access.	\$ 14,526	\$ 14,526	100.00



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26	FM-0052753	Contra Costa	Family Law Center	07-A14	2	HVAC - Replace failed computer and outdated software and programming - Provide and install a new computer for the BAS system to replace the failed existing computer; Provide and install up to date BAS software (The old software ran on Windows XP); Provide remote access software; verify operation. The existing computer has failed. Data cannot be accessed, the system cannot receive alarms, and there is no remote access.	\$ 14,526	\$ 14,526	100.00
27	FM-0052766	Contra Costa	Danville District Courthouse	07-C1	2	Grounds and Parking Lot - Replace 120' of wooden retaining wall that has broken down over time- Rocks have begun to fall into the parking lot causing a tripping hazard and providing projectiles for unhappy people.	\$ 5,414	\$ 5,414	100.00
28	FM-0052416	Del Norte	Del Norte County Superior Court	08-A1	1	Fire Protection - Remediation to SWO # 1347673 - Fire Panel and Device replaced - Due to Multiple false alarms and Panel Failure.	\$ 50,000	\$ 30,635	61.27
29	FM-0052417	Del Norte	Del Norte County Superior Court	08-A1	1	Fire Protection - Provide labor and material to replace (10) 4-wire Photoelectric i3 smoke detector with thermal sensor and Form C relay.	\$ 9,425	\$ 5,775	61.27
30	FM-0052422	El Dorado	Bldg. C	09-B1	2	HVAC - New 2 Ton HVAC Split System - Server Room needs a secondary HVAC unit to keep temperatures under 80 degrees. Building's HVAC is not adequate and temps have exceeded equipment tolerances consistently during the summer months. Install a complete 2 ton HVAC split system. Includes all materials and labor.	\$ 13,000	\$ 13,000	100.00
31	FM-0052343	Fresno	B.F. Sisk Federal Courthouse	10-O1	1	HVAC - Replace failed refrigerant monitoring panel and program settings and RMS detectors back into the system - Refrigerant Monitoring Panel has failed and detection system is inoperable. Critical safety risk and potential to shut down chillers.	\$ 3,784	\$ 3,784	100.00
32	FM-0052125	Humboldt	Humboldt County Courthouse (Eureka)	12-A1	2	County Managed -Exterior Shell - Doors - Replace doors - Replace one set of double glass doors (6'), install new set of metal framed glass doors, including new panic hardware tied into alarm/lock down system. This is a security issue as the current doors are not securing when locked down.	\$ 4,954	\$ 4,954	100.00
33	FM-0052274	Humboldt	Humboldt County Courthouse (Eureka)	12-A1	2	HVAC - Renovate - Modifications to AHU 9 controller, Modifications to controller programming to solve air temp set points, air flow amounts and schedules. Return to proper configurations for all VAV's and entire system	\$ 4,671	\$ 4,671	100.00
34	FM-0052727	Humboldt	Humboldt County Courthouse (Eureka)	12-A1	2	HVAC - Provide and install five (5) new VFDs on exhaust and supply fans for AHUs 4, 5, 6, 7, & 8. Each VFD will be mounted on the ducting of the unit and will intercept the feed in between the disconnect and the motor.	\$ 12,989	\$ 4,333	33.36
35	FM-0052320	Imperial	Imperial County Courthouse	13-A1	2	Exterior - Slip trips to be replaced at west and east exit, front main entrance and ADA access. South steps to be painted with grit paint due to metal diamond plate surface. Anti slip tape is missing or old and not functioning, creating a safety issue and has caused several people to fall. Concrete becomes very slippery when wet	\$ 3,390	\$ 3,390	100.00
36	FM-0052276	Kern	Bakersfield Juvenile Center	15-C1	2	Fire Protection - Sprinkler Heads - Remove forty (40) Quick response heads and replace with forty (40) standard response heads to match remainder of facility. Per National Fire Protection Association (NFPA) guidelines sprinkler heads cannot be mixed and matched in a given facility.	\$ 3,905	\$ 2,607	66.76
37	FM-0052277	Kern	Bakersfield Justice Bldg.	15-B1	2	COUNTY MANAGED - Plumbing - Domestic Water Line Replacement - Remove and replace the domestic water supply, return and distribution lines throughout the facility (each floor), the pipes have deteriorated over time and there have been many leaks occurring.	\$ 469,180	\$ 469,180	100.00
38	FM-0052340	Kern	Bakersfield Juvenile Center	15-C1	1	HVAC - HVAC Chiller compressor failed and subject to oil contamination from water. Removed and replaced the failed fittings, failed pressure gauge, two new driers and a new compressor. Chiller #2 offline rendering facility at 50 percent efficiency.	\$ 8,825	\$ 5,892	66.76



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39	FM-0052741	Kern	Delano/North Kern Court	15-D1	2	HVAC - Install two new 5 ton rooftop high efficiency gas electric package units: AC Units PKU #8 and PKU #9 including new Seismic Vibration Isolation Roof Curbs. A 90 ton crane will be used to remove the (2) package units from the roof and lift the new units into place. Two rooftop HVAC units (5 ton each) no longer provide sufficient cooling to Judge's Chambers and the Deliberation room. Both units have had multiple parts replaced to no avail and units are operating at less than 60% capacity.	\$ 39,293	\$ 24,613	62.64
40	FM-0052772	Kern	Bakersfield Superior Court Modular	15-A2	2	HVAC - Replace compressor on AC-PKU to return unit to 100% functionality. HVAC BARD unit not providing cooling, unit has a failed compressor which must be replaced.	\$ 2,929	\$ 1,835	62.64
41	FM-0052744	Kings	Corcoran Court	16-D1	2	Electrical - Remove and replace all parts involving the camshaft and governor assembly and perform necessary adjustments and test operation - Failed assemblies are causing the generator to surge beyond 240-250 volts during operation and threaten to damage the generator and attached load.	\$ 3,521	\$ 3,084	87.60
42	FM-0051548	Los Angeles	Edmund D. Edelman Children's Court	19-Q1	1	Electrical - Remove and replace 4000 amp hub electrical assembly due to the existing one having a broken handle and is a hazard if the power to the building has to be shut off.	\$ 38,082	\$ 26,654	69.99
43	FM-0052108	Los Angeles	Edmund D. Edelman Children's Court	19-Q1	2	Plumbing - Install a catch basin under the backflow check valve and trench it to the storm drain. City water pressure fluctuating between a pound of pressure causing the backflow check valve to purge water onto the ground. Catch valve is not working properly. Standing water on the floor is causing a slip hazard and the standing water has algae growing in it.	\$ 6,925	\$ 4,847	69.99
44	FM-0052109	Los Angeles	East Los Angeles Courthouse	19-V1	2	Fire Protection - Replace 17 concealed sprinkler heads & missing escutcheons. Missing escutcheons are no longer manufactured therefore sprinkler heads and escutcheons must be replaced. Work is required by code.	\$ 2,705	\$ 2,102	77.72
45	FM-0052116	Los Angeles	Compton Courthouse	19-AG1	2	Grounds and Parking Lot - Install clearance bars at all entrance lanes and exit lanes. Remove damaged stucco and replace backing then re-stucco. . There are no clearance bars on the entrance and exit lanes, which has caused people with taller vehicles to hit the opening damaging the stucco.	\$ 13,025	\$ 8,613	66.13
46	FM-0052126	Los Angeles	El Monte Courthouse	19-O1	2	Elevators, Escalators, & Hoists - Replace door rollers and door lock contacts on floors B, 1, 2, and 3. Check function of elevator and return to service. Elevator is stuck on 1st floor with doors closed. Intermittent issues with doors cause elevator to go down.	\$ 8,213	\$ 4,773	58.12
47	FM-0052129	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	2	HVAC - Renovate the BAS - Convert the existing pneumatic controls to DDC, replace the front end control to the system, install VFD's on all AHU supply fans, Isolate and eliminate all leaks throughout the system, replace the worn bearings on AH 19-1 AHU fan, replace the failed return air sensor on AHU 1-9 and insulate the chilled and hot water piping at thirty-one (31) locations.	\$ 1,905,593	\$ 1,310,857	68.79
48	FM-0052160	Los Angeles	Norwalk Courthouse	19-AK1	1	HVAC - Replace faulty isolation valves on cooling tower pumps 1 and 2 and rebuild cooling tower pumps 1 and 2.	\$ 29,411	\$ 25,008	85.03
49	FM-0052164	Los Angeles	Alhambra Courthouse	19-I1	2	Electrical - Interior and Exterior Finishes - Install 5 interior lights and 2 receptacles with dedicated circuits for the main entrance security screening. Court needs to relocate the court's main entrance.	\$ 2,741	\$ 2,357	86.00
50	FM-0052179	Los Angeles	Beverly Hills Courthouse	19-AQ1	2	Plumbing - Sump Pump # 2 in basement 1 is deteriorated and not functioning properly. As of now only the backup pump is working in the system and this is not sufficient in the event of heavy rain.	\$ 4,847	\$ 3,854	79.52
51	FM-0052184	Los Angeles	Pasadena Courthouse	19-J1	2	Plumbing - Install 2 new shut off valves and rebuild 4" watts backflow preventer. Currently shut off valves #1 & #2 are frozen and the backflow preventer must be rebuilt for certification.	\$ 4,938	\$ 3,425	69.35
52	FM-0052185	Los Angeles	Michael D. Antonovich Antelope Valley Courthouse	19-AZ1	2	Plumbing / Install a new OS&Y valve on a Febco 825YD 8" backflow device and test for certification. Currently the backflow is leaking too much to test and must be replaced. Once backflow is replaced, the certification must be completed.	\$ 6,983	\$ 5,133	73.51



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53	FM-0052186	Los Angeles	Michael D. Antonovich Antelope Valley Courthouse	19-AZ1	2	Plumbing / Depressurize system, drain building, rebuild domestic backflow device, refill, and air out pipes at every bathroom in building. Currently this device has failed the Level IV PM and must be rebuilt for compliance.	\$ 2,620	\$ 1,926	73.51
54	FM-0052188	Los Angeles	Alhambra Courthouse	19-I1	2	Interior Finishes / Install a galvanized gray steel hand railing in Clerk's office 234 on the step floor approximately 4 feet long by 42 inches high to prevent people from tripping or falling. Currently there is not a railing installed to help prevent the clerks from tripping and/or falling on the floor which could cause serious injuries to the personnel.	\$ 3,000	\$ 3,000	100.00
55	FM-0052196	Los Angeles	Torrance Courthouse	19-C1	2	Grounds and Parking Lot - Install bumper post in front of building, per Sheriff's request. Security and safety issue.	\$ 6,034	\$ 5,457	90.43
56	FM-0052200	Los Angeles	Airport Courthouse	19-AU1	2	Plumbing - Replace bad copper pipe and install expansion joint for extra movement in pipe. Water is leaking from pipe onto floor, leak will get worse if not repaired properly.	\$ 5,857	\$ 4,520	77.17
57	FM-0052208	Los Angeles	Burbank Courthouse	19-G1	2	Exterior Finish / Replace rear entry door that is beyond repair. Currently the rear door of the courthouse has rusted out and is no longer operational.	\$ 2,800	\$ 2,541	90.76
58	FM-0052212	Los Angeles	Airport Courthouse	19-AU1	2	Elevators, Escalators, & Hoists - Replace hoist ropes and shackles on elevator #9. Employee elevator #9 hoist way ropes are breaking/splintering and have bad spots in ropes, need to be replaced. Elevator is unsafe to operate and is out of service.	\$ 9,533	\$ 7,357	77.17
59	FM-0052221	Los Angeles	El Monte Courthouse	19-O1	2	Fire Protection - Replace 10" backflow and valves. Test device upon completion. 10" valve on fire main backflow device failed Level IV PM and requires replacement.	\$ 14,978	\$ 8,705	58.12
60	FM-0052239	Los Angeles	Van Nuys Courthouse East	19-AX1	2	Elevators, Escalators, & Hoists - Furnish, remove and install new electronic door edge on elevator #3. Test car operations and return back to service. Doors edge sensor has failed and will not close door car cannot be operated. Car at this time has been locked out on the 6th floor for safety issues.	\$ 4,295	\$ 3,854	89.74
61	FM-0052241	Los Angeles	Van Nuys Courthouse East	19-AX1	2	Elevators, Escalators, & Hoists - Restore Elevator #3 and put back into operation, replace hoist machine fan motor on Elevator #3, clean all old carbon from fan before reinstalling and adjusting motor. Public Elevator #3 needed new hoist fan motor. Car was in basement with doors closed.	\$ 2,414	\$ 2,166	89.74
62	FM-0052245	Los Angeles	Edmund D. Edelman Children's Court	19-Q1	2	Elevator emergency handheld phones do not work properly, they have bad reception, feedback and static, hard to hear. Replace with new ADA compliant phones.	\$ 10,174	\$ 7,121	69.99
63	FM-0052247	Los Angeles	Metropolitan Courthouse	19-T1	2	Plumbing - Disable and remove (10) drinking fountains from 3rd floor courtrooms; per court administrators request.	\$ 4,940	\$ 4,940	100.00
64	FM-0052250	Los Angeles	Compton Courthouse	19-AG1	1	Electrical - Replace inoperative 42 year old, 1000 amp Automatic Transfer Switch (ATS). ATS Failed to return to city power after and unplanned city power outage.	\$ 55,578	\$ 36,754	66.13
65	FM-0052258	Los Angeles	Compton Courthouse	19-AG1	1	Plumbing - Water leak from cracked plastic pipe in cafeteria. 15 gallons of Water remediation, set up 10'x4' critical containment, disinfect 180 square feet of flooring. testing for ACM completed per protocol. Dehumidifiers utilized to remove moisture form affected areas.	\$ 13,628	\$ 9,012	66.13
66	FM-0052275	Los Angeles	Alhambra Courthouse	19-I1	1	HVAC - AHU #5 - Remove and replace a transformer and mag starter to restore the unit and put back into operation. AHU #5 had failed due to an electrical issue causing temperature and air flow issues in the basement level.	\$ 4,494	\$ 3,865	86.00
67	FM-0052278	Los Angeles	Van Nuys Courthouse East	19-AX1	1	Plumbing - Water remediation, set up containment, containment area approximately 3' X 5' X 8' double walled. Removed and replaced 10ft of 2" cast drain line, 1 "Y", 1 bend, 1 santee, 1 hanger and 14 no hubs. Cleaned, bagged materials and wiped containment clean, set up dehumidifiers and fans to remove moisture in the leak affected area over weekend. Once area was dry applied plaster on ceiling. ACM testing performed air clearance testing. Water leaking thru ceiling coming from 1st floor, safety	\$ 9,192	\$ 8,249	89.74



	FM NUMBER	LOCATION	FACILITY NAME	BUILDING ID	PRIORITY	SHORT TITLE	PRELIMINARY ESTIMATE	FACILITY MODIFICATION PROGRAM SHARE OF PRELIMINARY ESTIMATE	FACILITY MODIFICATION PROGRAM SHARE % OF COST
68	FM-0052280	Los Angeles	Stanley Mosk Courthouse	19-K1	2	Escalator - Coil and Brake - Remove and replace the coil and break to one escalator, work requires special rigging and the removal of the motor and gear box to access the break and coil. Currently the escalator has been taken out of service and work must be completed to bring it back to working conditions.	\$ 17,010	\$ 16,544	97.26
69	FM-0052281	Los Angeles	Norwalk Courthouse	19-AK1	1	Plumbing - Water remediation - Set up containments, demolish wall tiles around the mop sink and portion of the wall. Remove and replace the leaking faucet and cracked mop sink. Replace the damaged drywall (approximately 40sf) and install new wall tile. Leaky faucet, in a 2nd floor janitorial closet, dripped water through a cracked mop sink and into the 1st floor main lock up.	\$ 8,555	\$ 7,274	85.03
70	FM-0052282	Los Angeles	Whittier Courthouse	19-AO1	1	Elevators, Escalators, & Hoists - Earthquake Reset - Remove and replace a selector cable, solenoid, and circuit board to restore normal operation to public elevator #2. Elevator #1 and #2 stopped operating after an earthquake. Earthquake safeties were reset to restore operation but public elevator #2 failed to start up due to malfunctioning parts.	\$ 4,546	\$ 3,929	86.43
71	FM-0052285	Los Angeles	San Fernando Courthouse	19-AC1	2	HVAC - Install new Refrigerant Monitor System in Chiller Room. Refrigerant leak detector in not operating and needs to be replaced.	\$ 34,295	\$ 28,605	83.41
72	FM-0052292	Los Angeles	Chatsworth Courthouse	19-AY1	1	Fire Protection - Fire Panel - Remove and replace the air pressure and maintenance switches to the fire panel, the zone 2 for the lock up pre-action system was activated and the main fire panel would not clear it back to normal.	\$ 3,500	\$ 2,933	83.80
73	FM-0052293	Los Angeles	Edmund D. Edelman Children's Court	19-Q1	2	Grounds and Parking Lot - Remove, dispose and replace approx. 516 l/ft. of Polyurethane expansion joint and backer rod filler at concrete slab in courthouse patio. Due to sprinklers that overrun, or occasional heavy rain, pooled water sips through cement junctures and leaks into the ceiling and offices of the County Counsel. Need to treat/seal this junctures to prevent standing water from sipping through and causing damage to underneath ceiling and offices.	\$ 14,428	\$ 10,098	69.99
74	FM-0052294	Los Angeles	Pasadena Courthouse	19-J1	1	Plumbing - Removal of overflowing sewage from the pit and mechanical room floor. 1600 gallons of liquid waste and 1 barrel of solid waste was removed from the site to a licensed disposal site. Removed 4" to 5" of waste from the approximately 64 Sq. Ft. elevator pit. Cleaned and disinfected the area. Installed temporary pump system to remove waste from the pit, due to lead time on new grinder pumps and motors. Replace failed pumps and motors with a new Grinder Pump System. Basement sewage pumps we	\$ 69,908	\$ 48,481	69.35
75	FM-0052295	Los Angeles	Parking Structure Lot 48 Van Nuys Court Complex	19-AX6	2	Grounds and Parking Lot - Parking Structure, remove, clean and fill 85 LF of rubber expansion material on parking roof. Rubber expansion filling will be sized cut and fit into place. Parking has broken and missing rubber expansion materials on roof. Trip and fall hazards.	\$ 8,928	\$ 8,012	89.74
76	FM-0052296	Los Angeles	Parking Structure Lot 48 Van Nuys Court Complex	19-AX6	2	Plumbing - Remove existing failed 2.5" backflow and install new 2.5" double check backflow with new copper pipe and fittings. Level 4 PM failed backflow test.	\$ 8,151	\$ 7,315	89.74
77	FM-0052298	Los Angeles	Santa Clarita Courthouse	19-AD1	2	Plumbing - Water remediation, set up containment in the employee lounge to prevent exposure to court personnel, perform ACM testing of the affected area, containment and abatement. Water on employee lounge floor next to wall and also on jury restroom floor next to employee lounge.	\$ 3,379	\$ 2,987	88.39
78	FM-0052299	Los Angeles	Airport Courthouse	19-AU1	2	Fire Protection - Perform overhaul of basement Fire Pump. Currently the fire pump is not working properly and did not pass the level IV PM.	\$ 4,832	\$ 3,729	77.17



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79	FM-0052301	Los Angeles	Parking Structure Lot 48 Van Nuys Court Complex	19-AX6	2	Fire Protection - Hydro test all 28 fire hoses and remove and replace 1 - 1 1/2" fire hose valve, 1- 2 1/2" fire hose valve and 1 - 2 1/2" X 1" nipple, all 3 are damaged and leaking. Level 2 PM failed - main fire system hose valves and fire hoses SWO# 2425223. Once work is complete, retest hose valve.	\$ 2,836	\$ 2,545	89.74
80	FM-0052302	Los Angeles	Van Nuys Courthouse West	19-AX2	2	Fire Protection - Drain system on 10th and 8th floor. Remove and replace 3 failed pressure control valves, 2 on 10th and 1 on 8th floor, refill system and valves after work is complete. Level 2 PM failed, main fire system pressure control valves are damaged and leaking.	\$ 7,964	\$ 6,409	80.48
81	FM-0052310	Los Angeles	Norwalk Courthouse	19-AK1	1	Interior Finishes - Water remediation, set up containment, cleaned up wet ceiling tiles that dropped on the ground and setup containers to catch dripping water. Wipe and clean interior of containment, HEPA vacuumed work area inside of containment. Removed wet ceiling tiles and bagged debris for disposal. Dehumidifiers and fans were placed to expedite the drying process in the affected area. Replace affected ceiling tiles, and cleaned carpeting. Rain water penetrated thru the roof and into the Judges chambers	\$ 8,013	\$ 6,813	85.03
82	FM-0052312	Los Angeles	Parking Structure Lot 59- Whittier Admin CTR	19-AO2	1	Electrical - Replaced 2 door locks and 2 latches. Replaced missing circuit breakers and wiring to restore electrical power to the parking structure. Vandals broke into the electrical room and stole circuit breakers and wires from multiple electrical panels. Due to this vandalism act the parking structure had no lighting.	\$ 6,860	\$ 5,929	86.43
83	FM-0052313	Los Angeles	Metropolitan Courthouse	19-T1	1	Elevator - Replace failed bayonet on the elevator door. Currently public elevator #9 is out of service due to the door bayonet falling off, not allowing the doors to open or close.	\$ 5,555	\$ 5,252	94.54
84	FM-0052314	Los Angeles	Airport Courthouse	19-AU1	2	Fire Protection / Update fire panel and repair deficiencies found during level IV PM (Attached in the Notes & Documents section of SWO). Currently the fire panel is not compliant and this work must be completed before the retest can be performed for the Level IV PM.	\$ 3,737	\$ 2,884	77.17
85	FM-0052315	Los Angeles	East Los Angeles Courthouse	19-V1	2	HVAC / Rebuild cooling tower pump #1 including the replacement of the shaft seal. Currently the cooling tower pump #1 is leaking from the shaft seal which could cause a flood if it fails completely.	\$ 6,345	\$ 4,931	77.72
86	FM-0052317	Los Angeles	Torrance Courthouse	19-C1	1	Fire Protection - Install one PCL460 Pyrochem kitchen hood system. Need to upgrade Fire Suppression/Kitchen hood system up current code. Was out of compliance, impacting kitchen operation.	\$ 4,738	\$ 4,738	100.00
87	FM-0052322	Los Angeles	Santa Clarita Courthouse	19-AD1	1	COUNTY MANAGED - Replace failed 3/4" copper water line in ceiling. Demo and install new drywall in jury room and employee lounge. Demo and install new floor tiles in jury room. Paint employee lounge and jury room.	\$ 36,183	\$ 36,183	100.00
88	FM-0052323	Los Angeles	Chatsworth Courthouse	19-AY1	2	Plumbing - Replace Pressure Reducing Valve. Secured and Shut-off Main Water to the building, drained entire building of domestic water, once work was completed opened the shut-off valve and slowly refilled the entire building, walked entire building and checked all domestic water fixtures (toilet and urinal flush valves, sinks, etc.) assured that all the air was let out of the system and that all fixtures worked properly, verified no water leaks within the system. Main water pipe is shaking,	\$ 4,856	\$ 4,069	83.80
89	FM-0052336	Los Angeles	Pasadena Courthouse	19-J1	2	HVAC - Chiller Compressor Has Seized - Remove and replace one failed 350 Ton OEM York compressor, piping kit and O-ring kit. Remove and replace two oil filters, oil seals and filter driers. Leak check chiller with nitrogen. Install 10 new gallons of OEM oil. Evacuate system and prepare unit for new refrigerant charge. Install new R-22 refrigerant, startup and test chiller operations. The compressor needs to be replaced; it is completely locked up and not operational.	\$ 162,538	\$ 112,720	69.35



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90	FM-0052338	Los Angeles	Alhambra Courthouse	19-I1	1	HVAC - Air Compressor - Remove and replace the failed 5HP/80Gal compressor #1 and restore building to normal operations. Air compressor is not operational and has caused temperature issues in all building levels	\$ 11,433	\$ 9,832	86.00
91	FM-0052341	Los Angeles	Van Nuys Courthouse West	19-AX2	1	Interior Finishes - Water remediation - Set up containments and air movers at the 2nd, 3rd and 4th floor. Removed 12" x 80" of wet drywall on 4th fl and drilled holes in wall to help dry water between walls. Re-set 2 wall hung toilets that were leaking on 4th fl lock up, replaced bands and seals to both toilets. Containment areas were wiped clean and HEPA vacuumed. Replaced drywall, mud and sand wall. Replaced cove base on 4th and 3rd fl. Painted 4th fl hallway. Removed and replaced 85 ceiling tiles on 2nd fl and shampooed carpet.	\$ 10,662	\$ 8,581	80.48
92	FM-0052342	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	1	Plumbing - Replace failed piping on incoming steam supply from central plant to the building. Work required to maintain steam supply to building HVAC system.	\$ 38,865	\$ 28,830	74.18
93	FM-0052345	Los Angeles	Van Nuys Courthouse West	19-AX2	2	Fire Protection - Remove defective water level assembly and sensor probes in water storage tank. Install new sensor probes and adjust the new assembly to proper settings, test to insure proper operations when complete. High and low water sensors failed to operate during tank inspection on PM SWO 2422905. Inspection found sensor probes corroded away and need to be replaced.	\$ 2,809	\$ 2,261	80.48
94	FM-0052346	Los Angeles	Chatsworth Courthouse	19-AY1	2	Plumbing - Water Conditioning System - Remove and replace water treatment tanks. Water Conditioning System is leaking at upper neck connection by plastic top could cause a major leak.	\$ 11,522	\$ 9,655	83.80
95	FM-0052347	Los Angeles	Metropolitan Courthouse	19-T1	2	HVAC - Remove failed ABB drive, install new VFD drive and interview to existing bypass. The VFD was placed on bypass and could not maintain the proper static air pressure throughout floor #6.	\$ 4,000	\$ 3,782	94.54
96	FM-0052353	Los Angeles	Van Nuys Courthouse West	19-AX2	1	Grounds and Parking Lot - Removed damaged curtain and installed new curtain and miller edge, hauled away old damaged curtain, made all necessary adjustments. Sheriff inmate bus hit bottom rail of sally door. Door was open due to damaged door and could not be closed. Security issue.	\$ 11,195	\$ 9,010	80.48
97	FM-0052354	Los Angeles	Van Nuys Courthouse West	19-AX2	1	Plumbing - Replace Leaking 2 1/2" Pipe - Shut off the water to the entire building and drain the system to perform the necessary work. Remove and replace one 10' section of 2 1/2" galvanized pipe with new 2 1/2" copper pipe, add one new 2 1/2" butter fly shut off valve.	\$ 9,141	\$ 7,357	80.48
98	FM-0052355	Los Angeles	El Monte Courthouse	19-O1	1	Elevators, Escalators, & Hoists - Elevator Door Edges - Remove and replace the elevator car door edges and place the elevator back into service. Public Elevator #2 was stuck and would not respond due to malfunctioning door edges on the car doors.	\$ 4,789	\$ 2,783	58.12
99	FM-0052356	Los Angeles	Compton Courthouse	19-AG1	2	Plumbing - Need to bypass all 5 Cooling Units to be able to provide water to drinking fountains. All 5 cooling units will be abandon in place. Currently all 5 Cooling units for drinking fountains have failed and causing no drinking water to be available for public.	\$ 7,596	\$ 5,023	66.13
100	FM-0052358	Los Angeles	Compton Courthouse	19-AG1	1	Plumbing - Replace defective stainless steel water closet. Currently lock-up cell 10D has a defective stainless steel water closet that is leaking onto the floor creating a slip hazard.	\$ 3,535	\$ 2,338	66.13
101	FM-0052359	Los Angeles	Van Nuys Courthouse West	19-AX2	1	HVAC - Failing Cooling Towers - Found low oil pressure in chiller and low water level in both cooling towers. Also found both 3" valves to be bad and not making up water. Added oil to chiller #1 and set up 4 hoses to help fill towers till parts came in. Removed and replaced both 3" valves and installed one new float. Removed and installed second float to east tower. Checked operations, calibrated and checked water levels on both towers.	\$ 10,444	\$ 8,405	80.48
102	FM-0052361	Los Angeles	Parking Booth-Edelman Court	19-Q2	2	Fire Protection - Replace 10 corroded sprinklers head, replace 7 defective pressure gages, replace hanger and replace 10 escutcheons. Stand pipes is out of code.	\$ 3,628	\$ 2,539	69.99



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103	FM-0052362	Los Angeles	Edmund D. Edelman Children's Court	19-Q1	2	Fire Protection - Fire Pump - Re-pack the seals in the fire pump and restore the pump shafts sleeves, packing glands, and packing bowls. Fire pump leaks every time it runs, need to re-pack seals.	\$ 2,926	\$ 2,048	69.99
104	FM-0052363	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	1	HVAC - Leaking Seals in Chilled Water Pumps #2 and #3 - Remove each water pump and send off to have them re-built; re-install pumps once returned and balance the system. Chilled water circulating pumps were leaking water from the shaft seal.	\$ 16,291	\$ 11,207	68.79
105	FM-0052364	Los Angeles	Long Beach Courthouse	19-Y1	2	Fire/Life/Safety - Main fire panel - Remove and replace the defective fire alarm bells at eight (8) locations throughout the building Identified in the State Fire Marshals findings during the annual inspection.	\$ 2,200	\$ 1,663	75.59
106	FM-0052365	Los Angeles	Torrance Courthouse	19-C1	2	Electrical - Insufficient Lighting - Demo existing track lights fixture and install six new 4ft light fixtures and conduit. Work requires concrete anchors into the floor deck above and seismic bracing. Lighting lumens are insufficient for work or egress.	\$ 3,413	\$ 3,086	90.43
107	FM-0052366	Los Angeles	Inglewood Courthouse	19-F1	2	Fire Protection - Replace non-functioning heat exchanger for Fire Pump #2. Currently the fire pump can not be run or the engine will overheat. This work must be completed due to the safety issue to the court.	\$ 11,540	\$ 8,604	74.56
108	FM-0052367	Los Angeles	Van Nuys Courthouse East	19-AX1	1	Plumbing - Water leak was found after hours. Water remediation, set up containment, dried leak affected area, approximately 250 SF, set up equipment to dry and clean air. Remove and replace damaged 144 SF of ceiling tiles. Water leak through acoustic ceiling tiles onto the floor on public side of 7th floor by Dept L. Slip hazard.	\$ 3,190	\$ 2,863	89.74
109	FM-0052368	Los Angeles	Burbank Courthouse	19-G1	1	Fire/Life/Safety - Exterior Shell - Remove and replace eroded concrete and re-secure the handrail to its foundation. Currently the railing at the rear exit of the building has weakened in spots and has separated from its foundation.	\$ 4,438	\$ 4,028	90.76
110	FM-0052369	Los Angeles	Mental Health Court	19-P1	2	HVAC - Failed 25 Ton Refrigerant Compressor - Remove and replace one failed 25 Ton Chiller Refrigerant Compressor, 3 pole Branch Circuit Breaker, in line Filter Drier and Three Phase Magnetic Starter. Work requires that the existing refrigerant be captured and stored until it used to re-charge the system when the work is complete.	\$ 16,020	\$ 11,424	71.31
111	FM-0052371	Los Angeles	San Fernando Courthouse	19-AC1	1	Elevators, Escalators, & Hoists - Rebuild Generator Elevator, #4, taken out of service, has a bad generator motor.	\$ 27,461	\$ 22,905	83.41
112	FM-0052374	Los Angeles	Michael D. Antonovich Antelope Valley Courthouse	19-AZ1	2	Plumbing - Remove asphalt in employee parking lot, excavate a 4'x5' section to access the main, and install a new 2 way cleanout. After clean out is installed, hydro jet line, and camera to ensure line is cleaned out. 6" main sewer line keeps backing up creating a stoppage 2 times a month. Unable to fit hydro jet due to many turns in the line.	\$ 5,403	\$ 3,972	73.51
113	FM-0052375	Los Angeles	Van Nuys Courthouse East	19-AX1	1	Elevators, Escalators, & Hoists - Elevator Doors Closed and Not Responding - Removed advancing motor, replace failed contacts and re-installed the motor, tested operations and returned elevator back to service.	\$ 3,132	\$ 3,132	100.00
114	FM-0052381	Los Angeles	Parking Booth-Edelman Court	19-Q2	2	Elevators, Escalators, & Hoists - Replace the existing door operating equipment. Doors are not opening, due to broken parts and bad motor.	\$ 31,612	\$ 22,125	69.99
115	FM-0052385	Los Angeles	Norwalk Courthouse	19-AK1	1	Plumbing - Setup containment area in the affected areas. Dehumidifiers and fans were placed to remove moisture in the affected area. Replaced elbow flush connection and couplings and returned toilet back to normal working conditions. A malfunctioning elbow flush connection and couplings were leaking, causing water to penetrate thru 6th floor pipe chase into the 5th floor, in room # 507. Safety and health hazards.	\$ 3,665	\$ 3,665	100.00



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116	FM-0052387	Los Angeles	Torrance Courthouse	19-C1	1	Plumbing - Opened wall to find source of leak, replace failed domestic hot water pipe inside wall. Contents of storage room as well as walls, floor, and ceiling were contaminated. Remediation/Restoration/Dispose of all contaminated items.	\$ 24,866	\$ 24,866	100.00
117	FM-0052392	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	1	HVAC - Water remediation, set up containments. Restored coil to stop leak, replaced blower wheels, bearings, and shaft. Replaced damaged ceiling tiles. ACM sampling in affected area. Water leaking from ceiling, a blower wheel broke up and metal debris punctured the cooling coil. Water flooded the air handler room and leaked into the room below.	\$ 32,662	\$ 22,468	68.79
118	FM-0052393	Los Angeles	Compton Courthouse	19-AG1	1	Plumbing - 10th fl court room drinking fountain malfunctioned and leaked into 9th floor court room & jury bench room. Replace damaged ceiling tiles. Water remediation, set up containments, dehumidifiers and fans were placed to remove moisture in the leak affected area. ACM sampling.	\$ 22,376	\$ 22,376	100.00
119	FM-0052394	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	1	HVAC - Replaced two defective 3 inch isolation valves, 40ft of 3 inch copper pipe and fittings. Removed ACM insulation. Insulated chilled water pipes. AHU #14-3 Air Handler leaked water from a deteriorated chilled water pipe. Chilled water isolation valves would not close properly and bypassed water.	\$ 29,784	\$ 20,488	68.79
120	FM-0052408	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	1	Plumbing - Remove damaged toilet and install new floor mount cell toilet, secure and assure it is working properly. This work was completed as a P1 emergency due to the toilet leaking when flushed, which could have caused a flood to the lower floors.	\$ 2,931	\$ 2,931	100.00
121	FM-0052409	Los Angeles	Metropolitan Courthouse	19-T1	1	Plumbing - Extract water and sanitize 1st floor public lobby, 1st floor men's public restroom, level A parking, and storage room. Turn off water to men's restroom and replace angle stop to urinal. Work required to remediate flooding into several rooms of the courthouse	\$ 6,416	\$ 6,066	94.54
122	FM-0052411	Los Angeles	East Los Angeles Courthouse	19-V1	1	Plumbing - Removed the pumps from the facility one at a time to prevent impacting the domestic water service to the building. Pumps were rebuilt off site and returned to the building. Installed both rebuilt pumps. Domestic water booster pump #1 was seized up and would not operate. Domestic water booster pump #2 was operating with noise coming from the bearings.	\$ 3,877	\$ 3,013	77.72
123	FM-0052412	Los Angeles	Mental Health Court	19-P1	2	Electrical - Replace/install new lighting fixtures throughout building exterior. The building over night is very dark due to poor lighting, creating a safety issue to employees and the public.	\$ 5,371	\$ 3,830	71.31
124	FM-0052414	Los Angeles	Santa Monica Courthouse	19-AP1	2	Interior Finishes - Demo a partition wall at Department S in support of Court Facilities reconfiguration of space. Due to the amount of cases being sent to Dept. S, the courtroom needs to be reconfigured in order to maximize the usage of the space and facilitate the increasing number of courts customers.	\$ 9,967	\$ 9,967	100.00
125	FM-0052427	Los Angeles	Bellflower Courthouse	19-AL1	1	HVAC - Removed the VFD that malfunctioned and installed a new VFD. The supply fan motor VFD for AHU #5 malfunctioned and was not repairable. The Jury Assembly Room and the Public Defenders Office were affected and not getting supply air. This impacted court operations.	\$ 3,991	\$ 3,111	77.94
126	FM-0052708	Los Angeles	Parking Structure Lot 48 Van Nuys Court Complex	19-AX6	1	Grounds and Parking Lot - Installed 2 new submersible pumps into the pit and re-piped the new pumps into the storm drain system for the structure; including new isolation valves and check valves. A third submersible pump was purchased for backup. New Duplex controls system was installed, water proof Hub panel installed and rewired with new breakers. Flood in Judge's level parking caused by severe rain storms and sump pump failure and damage to the electrical panel and control systems.	\$ 36,553	\$ 32,803	89.74



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127	FM-0052714	Los Angeles	Pasadena Courthouse	19-J1	1	HVAC - The burners in boiler #3 were replaced to restore operation and heating to the building. This is the most cost efficient option to restore heating since boilers #1, #2, & #3 will be replaced in the coming weeks. There was no heating in the building. Boiler #2 leaks water from a cracked heat exchanger and boiler #3 had deteriorated burners. Boiler #2 not repairable due to malfunctioning hot water isolation valves. The valves do not close completely. Water bypasses the valves.	\$ 3,407	\$ 2,363	69.35
128	FM-0052719	Los Angeles	Norwalk Courthouse	19-AK1	2	Interior Finishes - Marble Toilet Partition - Remove and replace a broken marble partition panel connecting two toilet stalls, work will require new mounting material and polish and seal all edges of the stone. A partition stone in the center stall has been vandalized and broken in-half, and is not able to be used by the public. The second stall door has less support due to the missing section. These represent a major safety hazard.	\$ 4,607	\$ 3,917	85.03
129	FM-0052723	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	2	Plumbing / Remove trash from sump pump pit confined space. Currently the sump pump pit is full of debris and must be removed to prevent pumps from getting damaged.	\$ 3,510	\$ 2,415	68.79
130	FM-0052724	Los Angeles	Metropolitan Courthouse	19-T1	2	Elevators - Install blank inserts in public elevators # 1-9 to prevent the passengers from pushing buttons on the floors that the elevator is not intended to stop. Currently the passengers are constantly pushing elevator floor buttons that are not intended to stop on, causing the elevator to time out. Also on various occasions, the elevator has got to floors where they were not intended, allowing the public to bypass weapons inspection screening.	\$ 5,425	\$ 5,129	94.54
131	FM-0052725	Los Angeles	Metropolitan Courthouse	19-T1	2	Elevator - Replace 1100 feet of ropes/cable for public elevator #3 . Currently the elevator cable is badly rusted and rouged and is compromising the strength of the cable.	\$ 14,999	\$ 14,180	94.54
132	FM-0052729	Los Angeles	Metropolitan Courthouse	19-T1	2	Elevators - Replace failed hardware and components identified during annual Elevator Recall testing of (13) elevators as required by the Fire Marshall.	\$ 8,256	\$ 7,805	94.54
133	FM-0052731	Los Angeles	Airport Courthouse	19-AU1	1	Electrical - Replace Main 400 Amp Breaker in Emergency Electrical panel 2EHB. This work was completed as a P1 emergency due to the emergency electrical panel 2EHB main 400 amp breaker tripped and would not reset. The emergency electrical panel supplies the power to the fire panel and emergency lighting on the 1st and 2nd floors.	\$ 6,848	\$ 5,285	77.17
134	FM-0052732	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	1	HVAC - Remove damaged shaft and parts, installed new bearing, shaft, blower wheels and tested return fan for proper operation. AHU 8-1 had broken shaft on return fan, this work is required for AHU to work properly.	\$ 14,868	\$ 10,228	68.79
135	FM-0052734	Los Angeles	Glendale Courthouse	19-H1	2	Holding Cell - Removed Chipped, damage and peeling paint from walls, benches and ceiling. Apply primer and re-paint holding cell allowing enough time for areas to dry. Remove floor tiles in lock up with full containment. Apply adhesive and new floor tiles. Men and women's holding cells have chipped. damaged, pilling paint on walls, benches and ceiling causing a health and safety issue. Main Area of Lock up have damage floor tiles causing a tripping hazard and health and safety issue.	\$ 8,818	\$ 8,818	100.00
136	FM-0052735	Los Angeles	Norwalk Courthouse	19-AK1	2	Interior Finishes - Patch holes in stone, insert wire mesh in voids, remove debris, and ensure no sharp edges in stone panels. Currently the stone panels in the panel hallways are cracked and have sharp edges which can be a danger to the public.	\$ 8,260	\$ 7,023	85.03
137	FM-0052736	Los Angeles	Torrance Courthouse	19-C1	2	Fire Protection - Install two new batteries, one new power supply, and one duct detector. Currently the duct detector in the AHU room is defective and must be replaced.	\$ 3,590	\$ 3,057	85.14



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138	FM-0052737	Los Angeles	Glendale Courthouse	19-H1	2	Fire Protection - Install pendent sprinkler head in basement restroom, currently no coverage in restroom. Replace corroded 4" OS&Y valve on riser in basement. Lower sprinkler head in basement room for proper coverage , light fixture is blocking head. Hydro test hoses.	\$ 5,471	\$ 4,953	90.54
139	FM-0052738	Los Angeles	San Fernando Courthouse	19-AC1	1	Plumbing / isolate water supply to the facility, drain the hot water system, remove the damaged piping, install new piping, restore water to the facility, bleed the air from the water system, verify all fixtures in the facility are functioning, insolate the new piping, clean the area. This work was completed as a P1 emergency due to the hot water tank supply line leaking water, causing a safety hazard.	\$ 3,600	\$ 3,003	83.41
140	FM-0052739	Los Angeles	Glendale Courthouse	19-H1	2	Holding Cell - Furnish and Install 3 custom fences on existing gate. Align for proper operation; lubricate all moving points of friction. Check to insure proper operation. Fence on holding cells are loose and wires are cut causing a safety hazard	\$ 6,138	\$ 6,138	100.00
141	FM-0052754	Los Angeles	Alhambra Courthouse	19-I1	1	Elevators, Escalators, & Hoists - Elevator phone system. Re-programmed phones to dial 24 hour number. Checked for proper operation Elevator phone lines are not be directed to the Fujitec answering center but to another division within Fujitec. In an event of an entrapment the emergency answering center would be out of reach.	\$ 3,637	\$ 3,128	86.00
142	FM-0052757	Los Angeles	Norwalk Courthouse	19-AK1	1	Plumbing - Water remediation, set up containments, disinfect affected areas. Dehumidifiers and fans were placed to remove moisture in the leak affected area. Ran plumbing snake through the affected drain and cleared the blockage. Standing water in the 2nd floor D.A.'s office and water leaking through the ceiling into the 1st fl corridor and room 104. Cause of flood was a urinal in the 2nd fl men's restroom affecting the 2nd f D.A.'s offices, 1st fl Hallway, and rooms 104 A and 101.	\$ 86,406	\$ 73,471	85.03
143	FM-0052758	Los Angeles	Compton Courthouse	19-AG1	1	Plumbing - Two leaking sections in a 6 inch pipe replaced to prevent flooding and damage to court. Specifically, cut and remove, provide and install 20 feet of 6 inch copper piping, one 6 inch Victaulic copper isolation valve with gear operation, six 6 inch Victaulic copper couplings with EHP Gasket, two 6 inch adjustable band hangers with felt, one roto-hammer chain-wheel for new 6inch valve, 30 feet of new chain with master link for new chain-wheel.	\$ 10,338	\$ 10,338	100.00
144	FM-0052759	Los Angeles	Pomona Courthouse South	19-W1	2	Fire Protection - Isolate Fire Pump system, place building system in test mode, replace two (2) 4 inch Check Valves and put the system back into operation. Fire Pump System Loop Check Valves are leaking, causing the Fire Pump to send false signal to Fire Alarm Panel of General Alarm and Check Operations.	\$ 4,556	\$ 4,152	91.14
145	FM-0052764	Los Angeles	Pomona Courthouse North	19-W2	2	Elevators, Escalators, & Hoists - Preliminary Order: 1. Shorten or adjust the hoist ropes. 2. Test operation under seismic or emergency conditions. The state inspector issued a regulatory compliance to repair two deficiencies on elevator #1.	\$ 4,578	\$ 4,406	96.25
146	FM-0052765	Los Angeles	Pomona Courthouse South	19-W1	2	Elevators, Escalators, & Hoists - Preliminary Order: 1. Shorten or adjust the hoist ropes. 2. Test operation under seismic or emergency conditions. The state inspector issued a regulatory compliance to for two deficiencies on elevator #4.	\$ 4,578	\$ 4,172	91.14
147	FM-0052767	Los Angeles	Michael D. Antonovich Antelope Valley Courthouse	19-AZ1	1	HVAC - Refurbish Chiller #. Chiller #1 has a bad shaft seal and it is leaking refrigerant. Additionally it is leaking refrigerant at the oil temp. control valve and oil cooler supply port.	\$ 59,277	\$ 43,575	73.51
148	FM-0052768	Los Angeles	Michael D. Antonovich Antelope Valley Courthouse	19-AZ1	1	HVAC - Remove and replace (2) motor bearings, Remove and replace the seized purge pump, shaft seal bearings, purge and return filters, oil seals and required O-Rings. Remove and replace restricted valves (two 3/4" ball valves).	\$ 52,069	\$ 38,276	73.51



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149	FM-0052777	Los Angeles	Clara Shortridge Foltz Criminal Justice Center	19-L1	2	Interior Finishes - Removal and disposal of plaster from locker room ceiling (10x7 feet) due to water damage and build back and paint. Currently the ceiling is exposed and the room is not in use.	\$ 4,007	\$ 2,756	68.79
150	FM-0052786	Los Angeles	Van Nuys Courthouse East	19-AX1	1	Elevator - Elevator Motor - Restore the existing exciter motor for Elevator #4 to manufactures specifications. This work was completed as a P1 emergency due to the elevator not responding and sitting on the 1st for with it's doors open.	\$ 2,531	\$ 2,271	89.74
151	FM-0052837	Los Angeles	El Monte Courthouse	19-O1	2	Electrical - NTC-AQ 350 Kw Generator - Replace - Generator is too close to the school to run. Notice of Violation received from SCAMQD.	\$ 385,000	\$ 223,762	58.12
152	FM-0052181	Madera	Madera County Superior Court	20-A1	2	HVAC - The compressor has no oil pressure and needs to be replaced. The compressor refrigerant valves will be shut off and the compressor refrigerant recovered. A new Semi-Hermetic Compressor will be installed along with a new crank case heater. The system will be started up and the system topped off with customer supplied R-22 refrigerant - The chiller is only running on 3 compressors and with the summer heat approaching, the chiller will have a hard time keeping up with the cooling demand.	\$ 10,793	\$ 7,771	72.00
153	FM-0052187	Madera	Madera County Superior Court	20-A1	2	HVAC - Replace failed copper refrigerant line between the TXV and the Evaporator. This will require recovering the entire refrigerant out of the system and replacing the copper line. The system will be pulled in a vacuum and leak checked. The refrigerant dryer will be replaced and old refrigerant reinstalled, any additional refrigerant needed will be supplied by Pride - To meet EPA regulation on leak repairs	\$ 3,524	\$ 2,537	72.00
154	FM-0052135	Mendocino	County Courthouse	23-A1	2	HVAC - Replace - Remove and replace malfunctioning actuator	\$ 2,634	\$ 1,781	67.62
155	FM-0052137	Mendocino	County Courthouse	23-A1	1	HVAC - Emergency replacement -Remove and replace leaking steam pipes on make up water supply on boilers 1 & 2.	\$ 7,228	\$ 4,888	67.62
156	FM-0052324	Mendocino	County Courthouse	23-A1	2	Fire Sprinklers - Correct Deficiencies - Install signage for the control vale at riser 1, 2 and 3. Replace broken standpipe 2-1/2 gate valve located at the roof top level. Provide labor and material to replace fifteen (15) loaded/painted/bent sprinkler heads	\$ 4,252	\$ 2,875	67.62
157	FM-0052383	Merced	New Downtown Merced Courthouse	24-A8	2	Security - Cut hole into existing wall to install a 3' X 4' mirrored glass window - For added security the supervisor needs to see the counter area from	\$ 4,689	\$ 4,689	100.00
158	FM-0052386	Merced	New Downtown Merced Courthouse	24-A8	2	Security - Sound proofing judges conference room by install R-15 blow fill in 450sqft wall that has 3 1/2" cavities - Do to privacy issues in between the judges chamber and judges conference room you can hear conversations through the walls	\$ 4,211	\$ 4,211	100.00
159	FM-0052747	Merced	Old Court	24-A1	2	Utilities - Install approximately 150' of new underground poly gas line that will connect the existing regulator to two connection points on the building - The existing gas service is leaking and has been shut off by PG&E. The Court currently does not have gas or a heat source.	\$ 40,047	\$ 40,047	100.00
160	FM-0049233	Monterey	Marina Courthouse	27-B1	2	Roof - Replace built up portion of the roof north side (1600 SF), shingled portion of the roof, and missing shingles on the exterior walls - due to deterioration and blisters indicating possible water intrusion and damage.	\$ 42,287	\$ 42,287	100.00



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161	FM-0052228	Monterey	Salinas Courthouse-North Wing	27-A1	1	Security - P1 - Removed old door hardware with burned out actuator- Installed new crash bar hardware with key card access to the door on the left- New electrical controller above T-Bar ceiling- New mechanical crash bar hardware on right hand door- Modified hardware mounting holes on doors due to the crash bars dimension- Powered doors electrical controller and tested secure card reader- Door is now secure and poses no security threat.	\$ 4,384	\$ 4,384	100.00
162	FM-0052252	Monterey	Salinas Courthouse-North Wing	27-A1	2	Electrical - Inadequate Lighting - Replace (5) recessed down lights with 2x2 reflective lighting fixtures to produce more lighting in the closed area. Current lighting in public hallway is dark and is creating a safety concern for the judges and staff when entering the secured area from the hallway lobby	\$ 3,465	\$ 3,465	100.00
163	FM-0052253	Monterey	Salinas Courthouse-North Wing	27-A1	2	Elevator/Lifts/Hoists - Wheel Chair Lift - Remove and replace failed Vonduprin door latch safety and rewire as needed. Perform start up and full operational testing and return to service.	\$ 4,237	\$ 4,237	100.00
164	FM-0052376	Monterey	Salinas Courthouse-North Wing	27-A1	2	Fire Life Safety - Replace failed fire pump bearing packing - after hours work needed - This is allowing a loss of sprinkler system water and effects the performance of the fire pump.	\$ 4,009	\$ 4,009	100.00
165	FM-0052407	Monterey	Salinas Courthouse-North Wing	27-A1	2	Elevator 1 and 4. Identified failed ram packing at time of service. There is a active hydraulic fluid leak in both elevators.	\$ 13,233	\$ 13,233	100.00
166	FM-0052761	Monterey	Marina Courthouse	27-B1	2	Interior Finishes - Install 1300 square feet of 1" thick Fabric wrapped acoustical panels inside existing wall molding in courtroom. The echoing while speaking is effecting the judges concentration while making decisions.	\$ 10,759	\$ 10,759	100.00
167	FM-0052771	Monterey	Salinas Courthouse-North Wing	27-A1	2	HVAC - Replace (1) failed evaporator coil for the electrical room. Room is hitting the 80s is temperature.	\$ 2,362	\$ 2,362	100.00
168	FM-0052710	Napa	Criminal Court Building	28-A1	2	HVAV - Replace failed compressor #1 lockout control module	\$ 3,397	\$ 3,397	100.00
169	FM-0052105	Orange	Central Justice Center	30-A1	2	HVAC - VFD for AH16 remove existing defective starter and replace with 25hp ABB VFD and transducer for control of AH16. Presently AH16 is in the on position and cannot be shut off due to defective starter. Courtrooms C-48 thru C-54 affected.	\$ 8,446	\$ 7,700	91.17
170	FM-0052106	Orange	Central Justice Center	30-A1	2	Plumbing - Install a new steam valve with new nut and bold and gasket kit, presently valve is leaking and is causing a safety issue for staff having to work next to the unit.	\$ 8,278	\$ 7,547	91.17
171	FM-0052107	Orange	North Justice Center	30-C1	2	HVAC - Chiller 1 and associated cooling tower for Phases I and II are not tied in to the Building Automation System (BAS). This work will include installation of new Schneider-Electric programmable MR controllers, new current sensors with control relays for monitoring system status and providing stop/start via the BAS rather than manually. New BAPI temperature sensors will also be installed as part of this project. Once installed, everything will be tested and programmed into the BAS.	\$ 4,092	\$ 3,695	90.31
172	FM-0052143	Orange	West Justice Center	30-D1	2	Install bypass valve and circulation pump to Ajax Boiler to maintain supply/return water temperature to prevent further damage to firebox & door flange due to condensation, per manufacturer's recommendation. See SWO 1314081 for details.	\$ 5,793	\$ 5,253	90.68
173	FM-0052177	Orange	Harbor Justice Center-Newport Beach Facility	30-E1	2	Electrical - Add GFI to main breaker for code compliance - Remove the existing failed Shunnt Trip breaker from the 2000amp service and replace with a refurbished ground fault relay, includes test and certification.	\$ 9,848	\$ 8,304	84.32
174	FM-0052178	Orange	Harbor Justice Center-Newport Beach Facility	30-E1	2	Grounds and Parking Lot - Lifting concrete has caused a 1.5" level change in the ADA parking path of travel. This lifting concrete is also a trip hazard for the public.	\$ 24,002	\$ 20,238	84.32



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175	FM-0052182	Orange	West Justice Center	30-D1	2	Secure motor of exit gate by installing a lockable stainless steel arm cover to top of operator. Install magnetic lock to swing gate to prevent gate from opening if motor is inoperable. This request is due to a security breach in which an individual removed the swing arm and accessed the secure parking during overtime business hours. See Sheriff Incident Report and SWO 1338403 for details.	\$ 3,612	\$ 3,612	100.00
176	FM-0052192	Orange	West Justice Center	30-D1	2	Roof - Degraded Roofing - Remove approximately 550 SF of degraded and wrinkled roof system down to the substrate. Fill in area with fiber board to match existing roof, install 2ply composite sheets set in with cold adhesive and retrofit drain. Broadcasted new granules to match existing roof.	\$ 10,875	\$ 9,861	90.68
177	FM-0052209	Orange	North Justice Center	30-C1	2	Exterior - Concrete Renovation - Demo broken and loose concrete spalls at expansion joints, fill voids with Emaco Polymer Concrete Grout. Fill large cracks in facade and spaulding by injecting epoxy. Demo large 3'x3'x1" patch in SE wall, fill with Emaco Polymer Concrete Grout flush with surface of concrete. Paint all damaged areas to match. This is a safety issue - areas of spalling appear ready to drop.	\$ 22,254	\$ 20,098	90.31
178	FM-0052227	Orange	Central Justice Center	30-A1	2	Plumbing - Remediation and abatement related to P1 Flood SWO 1338385 – ACM testing and associated abatement of the VCT tile and the ceiling and wall drywall per the testing report, replace the existing carpet that has been severely damaged from the flood water, remove and replace the failed couplings on both the supply and return lines for the hot and cold coils. The flood damage occurred in the 2nd and 3rd floor secure hallway and courtroom space as well as the 2nd floor Victim Witness space; the Victim Witness space is currently closed and has impacted the operations of the court.	\$ 96,411	\$ 87,898	91.17
179	FM-0052229	Orange	West Justice Center	30-D1	2	Hazardous Material - Asbestos Abatement - Signs of delaminating of sprayed on acoustic ceiling is occurring in Department W12 Courtroom (approx. 2425 sq. ft.). Samples of acoustic ceiling material contained from 8% to 12% Chrysotile asbestos. SWO 1335104 & 1335241 was issued after particles of acoustic ceiling fell during a lamp change.	\$ 30,155	\$ 27,345	90.68
180	FM-0052231	Orange	West Justice Center	30-D1	2	Grounds - Sidewalk Flooding - Install an overflow drain to divert excess collected rain water from gravel laden planter to northeast planters. Although modifications to the planter were made under FM 1314023, planter became waterlogged after heavy rain. Drainage problem is due to the difficult soil conditions (heavy compacted clay) that make drainage slow or fails to drain at all.	\$ 6,965	\$ 6,316	90.68
181	FM-0052271	Orange	Betty Lou Lamoreaux Justice Center	30-B1	2	Plumbing - Replace two 2 1/2" three piece ball valves on 3rd and 4th floors and one 1" ball valve and one 3/4" ball valves on the 2nd floor. Valves are stuck and non operational. Install two 3/4" shut off valves and replace Simmons cartridge for the shower. Functioning valves are necessary to isolate leaks, complete repairs and avoid turning the building water off which will affect operations.	\$ 6,107	\$ 4,883	79.95
182	FM-0052289	Orange	Central Justice Center	30-A1	2	Doors - Emergency Exit Roll Up Gate - Remove and replace one (1) damaged, non repairable 20' x 10' roll up gate in the basement. In case of an emergency there is no way to evacuate the vehicles in the basement.	\$ 10,336	\$ 9,423	91.17
183	FM-0052330	Orange	Betty Lou Lamoreaux Justice Center	30-B1	2	Interior Finishes - Reconfigure the existing space to create three offices, one storage room, ADA compliant public counter with glass, minor electrical, HVAC, Fire Sprinkler, carpet and paint work. Work is needed to relocate the Domestic Violence Assistance Program staff from the 6th floor space to proceed with the Courtroom project under SWO 1283239	\$ 85,000	\$ 85,000	100.00



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184	FM-0052334	Orange	West Justice Center	30-D1	2	Electrical - Remove and replace antiquated duplex pump system controls for ground/storm water pumping stations that have far exceeded its lifespan and parts are no longer available to make the necessary repairs. The new duplex pump control panel will provide a reliable alternating operation of two pumps with automatic override control.	\$ 10,354	\$ 9,389	90.68
185	FM-0052390	Orange	West Justice Center	30-D1	2	Remove eroded soil from drainage field (approx. 325 sq. ft.) along east side of courthouse and replace with 1" gravel, 2 inches thick to prevent ground and surface water from penetrating or damaging building.	\$ 3,120	\$ 2,829	90.68
186	FM-0052400	Orange	Central Justice Center	30-A1	2	Plumbing - Pipe and Flange Leak - Replace a 2' section of 4" hot water line and replace one leaking flange, at this time the hot water line is leaking and is corroded around flange.	\$ 7,491	\$ 6,830	91.17
187	FM-0052405	Orange	West Justice Center	30-D1	2	Interior Finishes - Asbestos Abatement - Signs of delaminating of sprayed on acoustic ceiling has occurred in Department W12 Courtroom (approx. 2425 sq. ft.). FM request: SWO 1341102 was issued to abate ceiling after samples of acoustic ceiling material tested positive for asbestos (samples contained from 8% to 12% Chrysotile asbestos). As recommended, acoustical ceiling spray of the same type throughout the facility should be considered for removal before delimitation occurs.	\$ 334,444	\$ 303,274	90.68
188	FM-0052406	Orange	Betty Lou Lamoreaux Justice Center	30-B1	2	Plumbing -REGULATORY COMPLIANCE FAILURE. Replace Domestic Water Backflow #2 4305, piping Tee (1) and piping 90's (2) with new Wilkins 375AR. Backflow #2 failed the Backflow Prevention Device test under PM SWO 2397152. Replacement of the device is necessary due to the age of the device (23 years old), prior failure in 2013, to avoid repair costs and ensure the device functions properly.	\$ 6,700	\$ 5,357	79.95
189	FM-0052415	Orange	Betty Lou Lamoreaux Justice Center	30-B1	2	Plumbing - REGULATORY COMPLIANCE FAILURE. Replace Domestic Water Backflow #1 3881, piping Tee (1) and piping 90's (2) with new Wilkins 375AR. Backflow #1 failed the Backflow Prevention Device test under PM SWO 2397150. Replacement of the device is necessary due to the age of the device (23 years old), prior failure in 2013, to avoid repair costs and ensure the device functions properly.	\$ 6,700	\$ 5,357	79.95
190	FM-0052418	Orange	Central Justice Center	30-A1	2	Plumbing - Remove and replace 12" of 4" domestic cold water line. Cut out the old line and install the new section of pipe and associated fittings. The cold water line is leaking and has damaged the ceiling in basement.	\$ 4,190	\$ 3,820	91.17
191	FM-0052721	Orange	West Justice Center	30-D1	2	HVAC - Phase II Cooling Tower - Remove existing deteriorated distribution hot water basin from Cooling Tower 2 and replace with new galvanized basin. During PM 2369098, hot water basin was found to be rusted and corroded through. Attached pictures show extreme rust and corrosion, as well as the placement of the areas completely deteriorated through. A temporary patch was fitted under work order 1334393.	\$ 12,883	\$ 11,682	90.68
192	FM-0052726	Orange	Central Justice Center	30-A1	2	Remove and replace leaking clay valve located in basement mechanical room. The valve regulates pressure for the domestic water to the tower at the Central Justice Center. If the valve fails domestic water will not be able to be pumped into the tower for domestic use.	\$ 2,300	\$ 2,097	91.17
193	FM-0052730	Orange	Central Justice Center	30-A1	2	Fire Protection - Remove and replace 35 existing outdated, painted sprinkler heads located in sub-basement holding areas, they are old and on the verge of failing. Champion Fire will replace the fire sprinkler heads with new chrome 401 type pendant 155 degree fire sprinkler heads and escutcheons. All work will be done after-hours.	\$ 3,850	\$ 3,510	91.17



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194	FM-0052742	Orange	West Justice Center	30-D1	2	Hazardous Material - Remove Abandoned Halon Suppression System - Remove all equipment and devices associated with the Halon system once used to support emergency communication equipment using C-16 certified contractor. Hard wire smoke and heat detector directly to the main fire panel and install 3 sprinkler heads to existing sprinkler system. The Halon system failed LEVEL III PM in January, re: SWO 1324561. Supporting documentation was obtained from Orange County Fire Authority.	\$ 4,000	\$ 3,627	90.68
195	FM-0052748	Orange	Central Justice Center	30-A1	2	Grounds and Parking Lot - Replace broken tension barrel to exit gate to judges basement parking area. Currently the gate has to be manually raised and lowered affecting court operations	\$ 5,599	\$ 5,105	91.17
196	FM-0052752	Orange	North Justice Center	30-C1	2	HVAC - Fall Protection - Design, build, and install custom service platforms w/catwalks and fall protection to access the tops of the Cooling Towers during routine and preventative maintenance. Current conditions require two techs instead of one performing any work utilizing a temporary plywood bridge and tie offs. Working conditions are extremely dangerous. Access ladder with safety cage to elevated catwalk and platform on each tower will be installed as required by OSHA.	\$ 171,186	\$ 154,598	90.31
197	FM-0052769	Orange	West Justice Center	30-D1	2	Exterior - Fire Escape - Replace and treat against rust, damaged fire escape components to prevent deterioration and failure. The fire escape was replaced in 2006 but was not properly treated to prevent rapid deterioration from weather. It consists of open steel frame and deck with concrete treads and landings. Evidence of invasive rust is present throughout.	\$ 5,204	\$ 4,719	90.68
198	FM-0052267	Riverside	Family Law Court	33-A1	1	HVAC - Chiller - Remove and replace failed rooftop building chiller with a new 185 ton unit. A crane will be required to remove and replace the chiller. Both compressors of the existing chiller failed within a week of each other. Additional work includes installation of additional chilled water storage to eliminate short-cycling.	\$ 250,000	\$ 250,000	100.00
199	FM-0052426	Riverside	Larson Justice Center	33-C1	2	Fire Protection - Freight Elevator WON Fire Door - Remove and replace failed door motor and batteries of the third floor freight elevator WON door. Work will restore door to original function as mandated by the State Fire Marshall.	\$ 5,635	\$ 4,554	80.81
200	FM-0052838	Riverside	Family Law Court	33-A1	2	HVAC - Replace the 1.5 Million BTU Boiler, which has failed the recent Source testing.	\$ 103,350	\$ 103,350	100.00
201	FM-0052333	Sacramento	Juvenile Courthouse	34-C2	2	HVAC - Chiller - Restore chiller tubes in Chillers 1 and 2 to factory condition - Chemical treatment and de-scaling required at the condenser section of chiller - no cooling for building	\$ 3,519	\$ 3,519	100.00
202	FM-0052783	Sacramento	Gordon Schaber Sacramento Superior Court	34-A1	1	HVAC - Replace failed 7 Ton elevator room dual HVAC unit with 7.5 ton dual unit. System maintains temps for the elevator equipment/computers & insulate penthouse ceiling and 2 walls not insulated already. Air lift old/new units in place, remove abandoned cooling unit. Existing unit is 20 yrs old and repair is not economically feasible.	\$ 49,000	\$ 49,000	100.00
203	FM-0052206	San Bernardino	Victorville Courthouse- Dept. N-1	36-L1	2	Elevators, Escalators, & Hoists - Rebuild limit bar, replace failed limit switches, and locate short in down circuit. Currently the wheel chair lift V-4 is non-operational creating a possible ADA compliance issue.	\$ 4,967	\$ 3,191	64.25
204	FM-0052255	San Bernardino	San Bernardino Courthouse - Annex	36-A2	1	Elevator/Lifts/Hoists - Breaker - Electrical contractor to replace failed breaker with burnt terminal. Elevator contractor to test for proper operation and return car to service when complete.	\$ 3,664	\$ 3,502	95.58
205	FM-0052266	San Bernardino	Fontana Courthouse	36-C1	2	Interior Finishes - Install containment curbs across the door thresholds and epoxy coat the floors of both hydraulic elevator mechanical rooms in order to contain a possible future hydraulic oil spill to the mechanical rooms and prevent it from seeping into or through the concrete floors. Code required.	\$ 8,927	\$ 7,335	82.17



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206	FM-0052269	San Bernardino	Barstow Courthouse	36-J1	2	Interior Finishes - Install containment curbs across the door threshold and epoxy coat the floor of the hydraulic elevator mechanical room in order to contain a possible future hydraulic oil spill to the mechanical room and prevent it from seeping into or through the concrete floor. Code required.	\$ 6,640	\$ 5,175	77.93
207	FM-0052270	San Bernardino	San Bernardino Courthouse	36-A1	2	Electrical - Install (2) wall mount LED fixtures to provide additional lighting for the Judges parking lot and (3) LED pole mount fixtures (including pole) to provide additional lighting for the pedestrian walkway leading to the Judges parking lot. The current lighting level in some spots associated with these areas is as low as .08fc (foot-candles) and must be increased to assure the safety of Judges accessing the lot from the new Courthouse.	\$ 13,360	\$ 13,360	100.00
208	FM-0052272	San Bernardino	Rancho Cucamonga Courthouse	36-F1	2	COUNTY MANAGED - HVAC- Chiller#1 & 2. Replacement of both chillers and control panels due to failures. One chiller has completely failed and is offline. Other chiller will not meet cooling demands in the summer on its own. Chillers are 30 years old. Project scope includes but is not limited to the replacement of (2) Trane centrifugal chillers, Controls and mechanical components as per the SOW.	\$ 696,360	\$ 696,360	100.00
209	FM-0052404	San Bernardino	Rancho Cucamonga Courthouse	36-F1	2	COUNTY MANAGED - Fire Sprinklers - Replace approximately 200 fire sprinklers throughout the facility. The existing fire sprinklers were found to be non compliant in a recent 5 year inspection by local authorities.	\$ 31,754	\$ 31,754	100.00
210	FM-0052728	San Bernardino	New San Bernardino Courthouse	36-R1	1	Grounds and Parking Lot - Sheriff's vehicle struck the South bus bay roll-up door requiring immediate service in order to secure it. The following components are damaged and need to be replaced: (8) door slats, (1) bottom door bar, (1) weather stripping, and (1) stainless guide grill. The sally port bus bay roll-up door was hit by a sheriff's vehicle and is out of operation, safety and security issue. Will pursue reimbursement from the County	\$ 6,244	\$ 6,244	100.00
211	FM-0052749	San Bernardino	Juvenile Dependency Courthouse	36-P1	2	Roof - Replace 10X30 ft. section of roof per 2014 survey including damaged counter flashing and glue membrane spills which are pulling granules from the roof system. Work is needed to prevent roof leaks, causing damage to building structure and interior	\$ 7,865	\$ 4,289	54.53
212	FM-0052770	San Bernardino	Barstow Courthouse	36-J1	1	Plumbing - Replace 100 gallon domestic hot water heater that is leaking from the tank. The existing hot water heater is over 20 years old and is at end of life.	\$ 6,922	\$ 5,394	77.93
213	FM-0052778	San Bernardino	Fontana Courthouse	36-C1	2	Exterior Shell - Roof - Exterior wall has cracked masonry joints in multiple locations, apply acrylic urethane sealer, and replace several deteriorated sections of roof totaling approximately 300SF. This work is necessary to prevent future leaks that were observed during the last rains.	\$ 5,393	\$ 4,483	83.13
214	FM-0052784	San Bernardino	Fontana Jury Assembly Building	36-C3	2	Exterior shell - Exterior walls have cracked masonry joints in multiple locations. Apply acrylic urethane sealer to masonry. This work is necessary to prevent future leaks that were observed during the last rain.	\$ 5,056	\$ 5,056	100.00
215	FM-0052303	San Diego	Juvenile Court	37-E1	2	Plumbing - Remove and dispose of existing water heater. Replace with 100 gallon, 275 MBH, Natural Gas Vertical water heater and connections. Pinhole leak in existing water heater.	\$ 7,180	\$ 5,358	74.62
216	FM-0052318	San Diego	County Courthouse	37-A1	1	Elevators, Escalators, & Hoists - Replaced blown fuse and bad amplifier PCB. Judge's Elevators seven and eight were not operating.	\$ 2,292	\$ 2,292	100.00
217	FM-0052339	San Diego	North County Regional Center - Vista Center	37-F2	1	Plumbing - Remediate Foul Odor - Replace the leaking joints in the 3" vent pipe. Staff in business offices, Family Law Services, Interpreters Offices, Juvenile Services and Family Court Services all reported a foul odor. Access through ceiling sections of the restrooms and Child Care Center.	\$ 4,025	\$ 4,025	100.00



	FM NUMBER	LOCATION	FACILITY NAME	BUILDING ID	PRIORITY	SHORT TITLE	PRELIMINARY ESTIMATE	FACILITY MODIFICATION PROGRAM SHARE OF PRELIMINARY ESTIMATE	FACILITY MODIFICATION PROGRAM SHARE % OF COST
218	FM-0052360	San Diego	South County Regional Center	37-H1	2	Elevators, Escalators, & Hoists - Refurbish Court Elevator Brake Pad Lining - Remove brake shoes from machine, refurbish the pads in order to remove any, and all foreign substance from the pad surface. Re-install the brake shoes and adjust for proper operation. This phase of the work includes the work to install the rated load in the elevator plus 125% and test for accurate braking. There is a lubricant on the brake shoe lining that has caused slippage of the brakes.	\$ 3,414	\$ 3,414	100.00
219	FM-0052715	San Diego	East County Regional Center	37-I1	1	Elevators, Escalators, & Hoists - Remove the Generator from the mounting of elevator #8 and replace with a refurbished generator. Make required modifications to the floor mounting brackets and wiring to accommodate the new generator. Make required operational adjustments to the new generator to allow for proper operation. Judge's elevator #8 was stuck.	\$ 21,519	\$ 21,519	100.00
220	FM-0052717	San Diego	Kearny Mesa Traffic Court	37-C1	2	Furniture and Equipment - Re-spring the seat mechanism to 35 chairs to prevent a trip hazard. There are 35 chairs in which the spring mechanism is broken and the chair will not return to a folded position on its own. The broken chairs need to be fixed due to a recent accident in which a defendant tripped over one of the unfolded chairs and hit her face on a wooden armrest.	\$ 7,456	\$ 7,456	100.00
221	FM-0052720	San Diego	County Courthouse	37-A1	2	HVAC - Open heat exchanger one, hydro tube bundle, plug tube passes that are leaking. Replace all gaskets, hydro and check for leaks. If unit holds hydro align heat exchanger to HHW loop. Heat exchanger one, sprung a leak, losing chemicals and contaminating condensate return system. Number 2 is barely keeping up with the demands of the heating loop. It is presently taking all night to come back up to set temperature.	\$ 5,400	\$ 4,181	77.42
222	FM-0052722	San Diego	Hall of Justice	37-A2	1	COUNTY MANAGED - Fire Life Safety - Emergency work required to Fire Damper and Fire Damper Motors as a result of the City of San Diego fire inspection deficiency notice.	\$ 18,068	\$ 18,068	100.00
223	FM-0052760	San Diego	Juvenile Court	37-E1	2	Plumbing - Replace two backflow preventer assemblies and re-secure to piping. Backflow devices are severely corroded and leaking.	\$ 8,635	\$ 6,443	74.62
224	FM-0052776	San Diego	East County Regional Center	37-I1	2	HVAC - Replace non operational Chillgard monitoring system with new Chilltech LE Series Refrigeration Monitoring Device. The Chillgard monitoring system which operates with a gas sensor that determines the refrigerant concentration for the system and outputs electrical analog signal proportionate to the concentration is not operating. This is a safety hazard, the chiller units will not shut down if there was a refrigerant leak.	\$ 7,358	\$ 4,982	67.71
225	FM-0052787	San Diego	County Courthouse	37-A1	2	Interior Finishes - Restore existing concrete ceiling, shoring of spalling areas in sub-basement as noted in SFM 2012 report. Deteriorated/inadequate lathe and plaster on ceiling and absorber pier support beams in north sub-basement. Area needs to be shored to prevent falling plaster and/or risk of falling.	\$ 10,786	\$ 8,351	77.42
226	FM-0052136	San Francisco	Civic Center Courthouse	38-A1	2	Interior Finishes - Correct damage in Dept 302, 303 and 206 affected by a fire sprinkler piping leak; vacuum water; expose affected drywall/insulation for drying; operate blowers, dehumidifiers; clean affected carpet; replace ceiling tiles (Dept 206); patch/paint drywall (closets) in 302, 303 and 206 (ceiling).	\$ 13,755	\$ 13,755	100.00
227	FM-0052103	San Mateo	Municipal Court Building - Northern Branch	41-C1	2	Plumbing - Pipe leak - Evacuate water, dry effected areas, replace several damaged ceiling tiles and remove and replace 80 sf of damaged drywall.	\$ 2,805	\$ 2,805	100.00
228	FM-0052205	San Mateo	Hall of Justice	41-A1	2	Plumbing - Remediate water leak from sink - Remove loose paint from walls and remove swollen drywall, approximately 40SF, set de-humidifiers and air movers to dry the walls and ceilings, remove and replace 12 LF of rubber cove base and 40 SF of drywall and paint the damaged area.	\$ 12,133	\$ 6,394	52.70



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229	FM-0052237	San Mateo	Central Branch	41-B1	2	Electrical - Replace existing non positional exterior light fixtures (6) with motion sensor LED lights - reduced usage facility has become a social gathering location w/trash and vandalism	\$ 5,136	\$ 5,136	100.00
230	FM-0052238	San Mateo	Central Branch	41-B1	2	Grounds and Parking Lot - Install new bollards and security cable across both driveways - padlocks to be used at either end: one side keyed to court Primus the other side keyed alike for SMPD and SMFD - metal parts to be stainless steel - bollards to be painted safety yellow - reduced usage facility has become a social gathering location w/trash and vandalism - locals are using the parking lot to park their cars creating a liability issue. AOC to install appropriate signage at each driveway.	\$ 5,503	\$ 5,503	100.00
231	FM-0052325	San Mateo	Hall of Justice	41-A1	2	Water damage remediation - Extract standing water from affected areas (55 Gal) - dry out all moisture - move furniture (Desk and 7 file cabinets) to access affected areas - remove / replace damaged: ceiling tiles (300), base board (30 Ft), and duct insulation (above the ceiling) (40 ft, 24" duct. -Relief valve on the floor above failed, allowing water to flood the area below.	\$ 22,601	\$ 11,911	52.70
232	FM-0052264	Santa Barbara	Santa Maria Courts Building A + B	42-F3	2	HVAC - Forced Air Heating Units - Remove and replace 2 each failing FAU's. Failing FAU's causing Condenser to freeze up and system not providing adequate Cooling and Heating to Department 5 Courtroom and Judge's Chambers.	\$ 8,697	\$ 2,003	23.03
233	FM-0052279	Santa Barbara	Santa Barbara Figueroa Division	42-B1	1	HVAC - Replace inoperable compressor - Remove and replace the failed HVAC compressor in the IT Server room.	\$ 4,020	\$ 4,020	100.00
234	FM-0052283	Santa Barbara	Santa Maria Juvenile Court (New)	42-H1	2	HVAC - HVAC Unit #7 - Remove and replace a faulty inducer fan motor, igniter and front burner plate. HVAC unit #7 has faulty inducer fan motor, igniter and front burner plate. Unit malfunction not providing heating and cooling to the lobby of the Santa Maria Juvenile Center.	\$ 2,726	\$ 1,807	66.30
235	FM-0052328	Santa Barbara	Santa Maria Courts Building G	42-F5	1	HVAC - restore leaks found in Chiller #1 - Leaks found during routine PM of Chiller #1, Circuit #1 on the unloaders of each compressor (2.) Chiller operating at 50% capacity causing excess strain on Chiller #2.	\$ 7,069	\$ 6,821	96.49
236	FM-0052423	Santa Barbara	Santa Barbara Figueroa Division	42-B1	2	Fire/Life/Safety - Elevator - Auto Dial Telephone - Install a new autodial telephone for Elevator recall safety requirement. The existing phone does not allow for proper communication with Elevator monitoring vendor due to age of system installed. Unit is not code compliant.	\$ 3,622	\$ 3,622	100.00
237	FM-0052424	Santa Barbara	Santa Maria Courts Building C + D	42-F1	2	Fire/Life/Safety - Elevator - Auto Dial Telephone - Install a new autodial telephone for Elevator recall safety requirement. The existing phone does not allow for proper communication with Elevator monitoring vendor due to age of system installed. Unit is not code compliant.	\$ 3,622	\$ 1,981	54.70
238	FM-0052395	Santa Clara	Hall of Justice East	43-A1	2	HVAC - Chiller Compressor - Remove and replace one (1) failed 80 ton chiller compressor in the 7th floor penthouse. Work will require the use of a crane. Replace the electronic expansion and discharge check valves. Electrical, wiring, and startup of the new compressor and existing chiller is included. Refrigerant recovery of approximately 50lbs. Perform acid contamination test on the refrigerant prior to recharging.	\$ 78,680	\$ 78,680	100.00
239	FM-0052138	Santa Clara	Sunnyvale Courthouse	43-F1	2	Plumbing - Clear (20feet) of clogged main sewer line. Install new (1) two way clean out in patio area. Jury Assembly Restroom is currently closed for use	\$ 3,940	\$ 3,940	100.00
240	FM-0052149	Santa Clara	Morgan Hill Courthouse	43-N1	1	Fire protection regulatory compliance failure - Remove, replace and re-certify BF03 OM00019234 and BF04 OM00020617. Work to include, replacing (1) 8" gate valve, rebuilding (1) 8" back flow and (1) 3/4" back flow.	\$ 5,645	\$ 5,645	100.00
241	FM-0052174	Santa Clara	Downtown Superior Court	43-B1	1	Electrical - Replace (3) failed breaker's - During the planned Electrical Preventive Maintenance Service, the breakers failed during the load testing due to age and worn contact points	\$ 15,420	\$ 15,420	100.00



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242	FM-0052175	Santa Clara	Santa Clara Courthouse	43-G1	2	HVAC Chiller - replace failed head pressure controller (1) valve and (1) actuator. Run and test operations. Chiller has failed and there is not AC in the building. Work completed after hours.	\$ 9,293	\$ 9,293	100.00
243	FM-0052203	Santa Clara	Old Courthouse	43-B2	2	Electrical - Replace (2) lights and (2) ballast. Boom truck required to complete this work, these light poles shine on the front of the building. Perimeter safety and security is impaired	\$ 2,799	\$ 2,799	100.00
244	FM-0052262	Santa Clara	Morgan Hill Courthouse	43-N1	2	Fire Protection - Replace (1) failed FM200 storage tank, with (1) new initiator and cylinder valve assembly	\$ 11,653	\$ 11,653	100.00
245	FM-0052263	Santa Clara	Old Courthouse	43-B2	2	Irrigation - Leaking Shut Off Valve - Remove and replace the 2" shut off valve and assembly, once complete, test & certify the backflow prevention assembly and submit the results to the appropriate agency	\$ 2,540	\$ 2,540	100.00
246	FM-0052265	Santa Clara	Hall of Justice (East)	43-A1	2	Fire/Life/Safety - Fire Roll Up Doors - Replace five (5) 3' x 8' failed Rolling Steel Fire Doors, work also requires the removal and replacement of five (5) Fire Releasing Devices with Battery Backup into the existing door and restring four (4) existing doors	\$ 112,420	\$ 112,420	100.00
247	FM-0052344	Santa Clara	Palo Alto Courthouse	43-D1	2	Exterior Shell - Sally Port Door - Remove and replace (1) failed gear head motor operator for the south sally port vehicle roll door.	\$ 4,178	\$ 4,178	100.00
248	FM-0052348	Santa Clara	Hall of Justice (West)	43-A2	1	HVAC - Chiller #1 Electronic Expansion Valve and Compressor Control Board - Remove and replace the failed EXV and I/O board to bring chiller #1 to a fully operational state to provide required cooling to building. The physical location of the EXV requires that the refrigerant be captured and the coil removed to access EXV, once replaced, the coil will be re-installed and the refrigerant lines re-charged.	\$ 14,203	\$ 14,203	100.00
249	FM-0052351	Santa Clara	Old Courthouse	43-B2	2	Electrical - Emergency Generator - Remove and replace the leaking radiator, (2) radiator coolant hoses, (1) air filter, (1) fan belt, fill with 50/50 mix of coolant. Run/test and return unit to full service	\$ 8,150	\$ 8,150	100.00
250	FM-0052352	Santa Clara	Sunnyvale Courthouse	43-F1	2	Fire Protection - Leaking Alarm Valve - Remove and replace (1) 4" failed Alarm valve, trim piping, and retard chamber. Currently valve is leaking causing potential for flooding.	\$ 7,676	\$ 7,676	100.00
251	FM-0052357	Santa Clara	Hall of Justice (East)	43-A1	2	Plumbing - Water Softener has failed - Cut into pieces and remove the existing water softener from the Penthouse, cap existing connections on water softener system and bypass the piping for domestic water. The existing softener has been decommissioned for some time and has corroded. Work will require the use of a crane and off hours schedule.	\$ 9,578	\$ 9,578	100.00
252	FM-0052396	Santa Clara	Hall of Justice (West)	43-A2	2	HVAC - Replace failed ACU #4 split system Compressor Failed - Unit is specific cooling for the PBX equipment - Replacement required to provide required equipment cooling.	\$ 3,473	\$ 3,473	100.00
253	FM-0052401	Santa Clara	Morgan Hill Courthouse	43-N1	2	Plumbing - Replace (3) feet of 1 1/2 copper pipe found in Domestic Water - Leak found during routine Rounds above the T-Bar.	\$ 2,812	\$ 2,812	100.00
254	FM-0052709	Santa Clara	Hall of Justice (West)	43-A2	2	Plumbing - Replace failed & corroded galvanized suction piping with Schedule 80 PVC for the sump pump. Pump is suctioning air an shutting pump down. Water level rises causing sewage flood. Cycle system for normal operation.	\$ 11,739	\$ 11,739	100.00
255	FM-0052740	Santa Clara	Palo Alto Courthouse	43-D1	2	Elevator, Escalators & Hoists - Wheel chair lift failing and unsafe. Replace (1) failed power inverter and (1) hand held controller for wheelchair lift. Work is required by code.	\$ 3,141	\$ 2,074	66.04
256	FM-0052746	Santa Clara	Hall of Justice (East)	43-A1	2	Elevator - Elevator #7 - Replace (1) failed mechanical starter contactor assembly. Provide and install a new Solid-State Starter to control motor starting and limit the inflow of current. The new starter shall be wired, adjusted, and tested for smooth operation	\$ 5,979	\$ 5,979	100.00
257	FM-0052716	Shasta	Main Courthouse	45-A1	1	HVAC - Restore BAS in building - BAS offline due to system failure	\$ 160,000	\$ 111,536	69.71



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258	FM-0052140	Solano	Hall of Justice	48-A1	2	Interior finishes - Replace three failed high security locksets and two failed door closers complete with keys for doors into secure areas - Work to be performed afterhours	\$ 6,389	\$ 6,389	100.00
259	FM-0052142	Solano	Hall of Justice	48-A1	2	Elevators, Escalators, & Hoists - Replace failed emergency phone in public elevator #1	\$ 1,095	\$ 797	72.82
260	FM-0052378	Solano	Law And Justice Center	48-A2	2	HVAC - Leaking Control Valves - Remove and replace one (1) Hot Water Control Valve and one (1) Isolation Valve, work requires replacement of several damaged ceiling tiles as well.	\$ 5,290	\$ 5,290	100.00
261	FM-0052183	Stanislaus	Modesto Main Courthouse	50-A1	1	Plumbing - Black Water Remediation - Isolate the cause of the black water spill, remove debris from the sump pump and hydro-jet the sewer main to the building. Remove and replace approximately 32 SF of drywall and 8 ceiling tiles, extract water, clean and sanitize flooring and pressure wash the gutter in front of the court. All restrooms, drinking fountains, sinks etc. overflowing black water and all restrooms are out of order.	\$ 5,000	\$ 4,990	99.80
262	FM-0052305	Stanislaus	Modesto Main Courthouse	50-A1	2	HVAC - Labor and Programming to replace 4 failed control modules for damper operation of AHU serving Hall of Records.	\$ 7,100	\$ 5,525	77.82
263	FM-0052750	Stanislaus	Modesto Main Courthouse	50-A1	1	HVAC - Oil Equalizer Pipe - The 1" oil equalizer pipe has spilt apart between the two circuit 1B compressors causing the loss of all charged R-22 refrigerant and a portion of its refrigerant oil. The P1 is required to re-gain cooling of the courthouse and not interfere with Court operations.	\$ 4,022	\$ 3,130	77.82
264	FM-0052176	Tulare	South County Justice Center	54-I1	2	Security - Replace existing damaged motor operator and four damaged slats and double angle bottom bar on the Sallyport rollup gate - The Tulare County Sheriff's Office bus hit the Sallyport rollup gate before the gate had been completely raised, damaging the gate beyond repair and rendering the gate inoperable. The Tulare County Sheriff's Office is submitting a claim with Tulare County Risk Management for reimbursement to AOC.	\$ 6,319	\$ 6,319	100.00
265	FM-0052380	Yuba	Yuba County Courthouse	58-A1	2	COUNTY MANAGED - Abate tile and replace carpet: Abate VAT (vinyl asbestos floor tile). The approx. 11,700 Sq Ft of tile flooring under carpet is lifting, broken and pulverized which poses a health risk. Remove and re-install court seating. Move furniture in the affected areas. Install carpet & baseboard coving in the affected Courtrooms and Chambers. Conduct pre/post-construction air quality tests as required.	\$ 125,000	\$ 125,000	100.00
							\$ 8,418,471	\$ 7,075,625	



JUDICIAL COUNCIL
OF CALIFORNIA

TRIAL COURT FACILITY MODIFICATION
ADVISORY COMMITTEE

Attachment B

Court-Funded Facilities Requests (CFR)
Quarter 1, Fiscal Year 2014-2015

ITEM #	CFR NUMBER	COUNTY	BUILDING ID	FACILITY NAME	LEASE, LICENSE, OR FM	REQUEST TYPE	CFR DESCRIPTION	CFR TERM	FUND SOURCE	CURRENT YEAR COSTS (Includes existing costs prior to CFR term)	BUDGET YEAR COSTS	TOTAL CFR COMMITMENT (CFR Term)	REVIEW NOTES - OREFM, JBCPO, & FSO
1	10-CFR009	Fresno	All	All	Establish Annual Budget	One-Time	Establish an annual budget for Rule 10.810 projects and non-allowable projects less than \$15k each. The costs that the court's proposed funding contribution would cover is described as miscellaneous crafts and trades work as needed throughout the fiscal year.	NA	Operating Budget	\$ 119,000	\$ 119,000	\$ 119,000	No Concerns
2	22-CFR012	Mariposa	22-B2	Vault Number 5	Lease Extension	Ongoing	7/1/14 - 6/30/16 - Lease extension due to space constraints at the 1854 Historic Courthouse, all closed case files have been stored in this offside records storage facility since 2004. The court is seeking new leases for its current storage vaults. This will enable the Court to assign one vault for criminal and traffic, one vault for civil, family and juvenile, and one vault for confidential and collections records. This request is deemed urgent because without the storage vaults, there would be no space for record storage that is fire-safe and secured.	2 years	Operating Funds	\$ 2,340	\$ 2,340	\$ 4,680	No Concerns
3	22-CFR013	Mariposa	22-B1	Vault Number 9	Lease Extension	Ongoing	7/1/14 - 6/30/16 - Lease Extension due to space constraints at the 1854 Historic Courthouse, all closed case files have been stored in this offside records storage facility since 2004. The court is seeking new leases for its current storage vaults. This will enable the Court to assign one vault for criminal and traffic, one vault for civil, family and juvenile, and one vault for confidential and collections records. This request is deemed urgent because without the storage vaults, there would be no space for record storage that is fire-safe and secured.	2 years	Operating Funds/AB 1058 Grant	\$ 2,340	\$ 2,340	\$ 4,680	No Concerns
4	22-CFR014	Mariposa	22-TBD	Vault Number 10	New Lease	Ongoing	7/1/14 - 6/30/16 - Due to space constraints at the 1854 Historic Courthouse, all closed case files have been stored in this offside records storage facility since 2004. The court is seeking new leases for its current storage vaults. This will enable the Court to assign one vault for criminal and traffic, one vault for civil, family and juvenile, and one vault for confidential and collections records. This request is deemed urgent because without the storage vaults, there would be no space for record storage that is fire-safe and secured.	2 years	Operating Funds	\$ 2,340	\$ 2,340	\$ 4,680	No Concerns
5	36-CFR025	San Bernardino	36-N1	790 S. Gifford	New Lease	Ongoing	9/1/14-8/31/19 New Lease for initial term of five years with one three year option to extend the term of the lease. The request is deemed urgent because the AOC Office of Real Estate and Facilities Management is negotiating the new lease to include the required seismic retrofit certification from lessor.	5 years	Operating Budget	\$ 120,252	\$ 82,643	\$ 558,220	No Concerns



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Quarter 1, Fiscal Year 2014-2015

ITEM #	CFR NUMBER	COUNTY	BUILDING ID	FACILITY NAME	LEASE, LICENSE, OR FM	REQUEST TYPE	CFR DESCRIPTION	CFR TERM	FUND SOURCE	CURRENT YEAR COSTS (Includes existing costs prior to CFR term)	BUDGET YEAR COSTS	TOTAL CFR COMMITMENT (CFR Term)	REVIEW NOTES - OREFM, JBCPO, & FSO
6	36-CFR026	San Bernardino	36-N3, N4, N5, N6	Records Center Storage	New Lease	Ongoing	9/1/14-8/31/19 New Lease for initial term of five years with one three year option to extend the term of the lease. The request is deemed urgent because the AOC Office of Real Estate and Facilities Management is negotiating the new lease to include the required seismic retrofit certification from lessor.	5 years	Operating Budget	\$ 323,563	\$ 216,108	\$ 1,631,655	No Concerns
7	36-CFR027	San Bernardino	36-TBD	Rancho Training Center	New Lease	Ongoing	9/1/14-8/31/19 New Lease for initial term of five years with two five year options to renew. The request is deemed urgent because the current facility lease expired on 3/31/14 and is now on a month-to-month basis to allow AOC and Court to find a new location better suited to the technology, logistic, and hospitality needs of the Court.	5 years	Operating Budget	\$ 32,568	\$ 28,529	\$ 180,298	No Concerns
8	42-CFR007	Santa Barbara	42-TBD	Garden Street Parking Lot	New Lease	Ongoing	7/1/2014-6/30/2019 - New Lease for five years with 3 one-year options to renew. This request is deemed urgent because without this parking space there would be no space available for jury parking. This lease has been in place since 2007, an audit finding recognized that only the JCC can enter into a lease with the County for these services and the Court was directed to submit a CFR.	5 Years	Operating Budget	\$ 36,000	\$ 36,000	\$ 180,000	No Concerns
9	42-CFR008	Santa Barbara	42-H1	Santa Maria Juvenile Court (new)	Facility Modification	One-Time	There is a need for a jury box, so jurors can observe the trial. A multiple defendant gang related high security trial is scheduled to commence in November 2014. There are 6 defendants. The court has explored other available spaces in the community in which to try the case, the cost of tenante improvements and security has proven to be prohibitive. This request is deemed urgent due to the scheduled trial date.	NA	Fund Balance	\$ 20,000	\$ -00	\$ 20,000	No Concerns
10	54-CFR007	Tulare	54-G1	Family Law Facilitator	Lease Extension	Ongoing	8/1/14-7/31/17 - Lease Extension for self help resource center. 3 year lease with a two year option to extend. This request is deemed urgent due to no other space available for self help center.	3 years	Operating Budget and Grant Funds	\$ 39,746	\$ 41,140	\$ 127,290	No Concerns



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 19, 2015

Title	Agenda Item Type
Trial Courts: Report on Expedited Jury Trials	Information Only
Submitted by	Date of Report
Jody Patel, Chief of Staff	January 30, 2015
Curtis L. Child, Chief Operating Officer	Contact
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Executive Summary

This report provides data regarding the number of expedited jury trials that have been conducted in the California trial courts since the enactment of the Expedited Jury Trial Act and the dispositions achieved in those cases.

Previous Council Action

The Expedited Jury Trial Act (Assem. Bill 2284 [Evans]; Stats. 2010, ch. 674), which went into effect on January 1, 2011, established a new expedited jury trial process. This alternative, streamlined method for handling civil actions was designed to promote the speedy and economic resolution of cases and to conserve judicial resources.

Although not directly sponsored by the Judicial Council, Assembly Bill 2284 was the result of efforts encouraged and coordinated by the council. For several years before the bill's enactment, groups in the legal community had been discussing ways to make the litigation of civil cases

with smaller amounts in controversy more efficient. In light of those discussions and given the state's economic circumstances, a Small Civil Cases Working Group was formed at the request of the Chief Justice and the Administrative Director of the Courts. It was comprised of members of the council's Civil and Small Claims Advisory Committee and members of the plaintiff and defense bars, as well as liaisons from the insurance industry, business groups, and a consumer organization. The group's charge included consideration of innovative program models, including, but not limited to, summary jury trial programs, which could be implemented in California to enhance settlements and promote more effective and efficient administration of civil cases. The working group developed a proposal for new rules of court establishing expedited jury trial procedures and presented the proposal to the Civil and Small Claims Advisory Committee. At that committee's recommendation, the Rules and Projects Committee of the Judicial Council approved the circulation of the proposed rules for public comment in spring 2010.

While the proposal was out for comment, AB 2284—originally introduced to provide a general legislative authorization for developing rules governing an expedited jury trial program—was amended at the urging of several stakeholder groups that had taken part in the Small Civil Cases Working Group. The amended bill included the key elements from the rules proposal, codifying them in statute to establish the Expedited Jury Trials Act. The Judicial Council supported the legislation and, upon its enactment, adopted rules from the original proposal that were not included in the legislation. The Expedited Jury Trial Act contains a five-year sunset provision under which the act will automatically be repealed effective January 1, 2016, if it is not extended by statute.

Expedited Jury Trials in California Courts

In light of the approaching sunset of the Expedited Jury Trial Act, Judicial Council staff has gathered information as to how the act has been used in the trial courts.

Overview of Expedited Jury Trial Process

An expedited jury trial (EJT) is a streamlined jury trial—generally lasting only one day. It is intended to be quicker and less expensive than a traditional jury trial, saving time and money for all involved: litigants, lawyers, courts, and jurors. An EJT differs from a regular jury trial in the following key ways:

- *Shorter trial length.* Each side has 3 hours to put on all its witnesses, show the jury its evidence, and argue its case;
- *Smaller jury.* The jury consists of 8 jurors instead of 12, with no alternates;
- *Faster jury selection process.* The parties exercise fewer peremptory challenges (3 per side); and
- *Swifter finality.* All parties must waive their rights to appeal. In order to help keep down the costs of litigation, there are no appeals following an expedited jury trial except in very limited circumstances.

Data Requested

To assist in determining how the EJT program has been used, some basic data about EJTs was requested of the California superior courts statewide. Data was requested for the period beginning January 1, 2011, and ending August 31, 2014. Courts were asked whether EJTs had been used in any cases during the reporting period and, if so, requested some basic information about those cases.

1. Date of the filing;
2. Date that the parties requested an EJT;
3. Date the court granted/denied the consent order allowing parties to use an EJT;
4. Case numbers for these cases; and
5. Type of dispositions in cases where parties agreed to use EJT (including settlement prior to jury verdict).

Summary of Data Received

Response Rate. Thirty-nine of the 58 superior courts (67%) reported data on the use of EJTs. Of those 39 courts, 25 (64%) reported that EJTs had not been used in any cases during the reporting period. Fourteen courts (36%) reported that EJTs had been used in one or more cases during the reporting period.

- The 25 courts that reported no EJTs were: the Superior Courts of Butte, Calaveras, Colusa, Contra Costa, Del Norte, Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Modoc, Plumas, San Benito, Santa Cruz, Shasta, Sierra, Sutter, Tehama, Trinity, Yolo, and Yuba counties.
- The 14 courts that reported one or more EJTs were: the Superior Courts of Alameda, Los Angeles, Monterey, Orange, Riverside, San Bernardino, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Solano, Tulare, and Ventura counties.

Percentage of EJTs. Table 1 shows the total number of jury trials and EJTs that took place during the reporting period in each of the 14 courts that reported one or more EJTs. As this table shows, these courts reported a total of 156 EJTs over the entire reporting period. This represents 4.3% of the total civil jury trials that took place in these courts during the reporting period.¹ For individual courts, the percentage of EJTs ranged from 2% to 9% of the jury trials during the reporting period.

¹ The 156 EJTs represent 4.0% of the all the jury trials in all 39 reporting courts.

Table 1. Percentage of Expedited Jury Trials Compared to Standard Jury Trials

Court	Civil Jury Trials ¹				EJTs (Jan. 1, 2011–Aug. 31, 2014) ²	% of EJTs
	FY 2010-11	FY 2011-12	FY 2012-13	Total		
Alameda	64	56	45	165	9	5%
Los Angeles	479	623	542	1,644	62	4%
Monterey	9	11	11	31	1	3%
Orange ²	246	253	187	686	32	5%
Riverside	54	49	50	153	6	4%
San Bernardino	66	95	92	253	7	3%
San Francisco	83	43	92	218	18	8%
San Joaquin	26	33	29	88	6	7%
San Mateo	21	11	31	63	1	2%
Santa Barbara	14	16	18	48	1	2%
Santa Clara	19	23	47	89	2	2%
Solano	3	12	8	23	2	9%
Tulare	10	10	10	30	1	3%
Ventura	68	36	38	142	8	6%
Total	1,162	1,271	1,200	3,633	156	4.3%

¹ The *Court Statistics Report (CSR)* was used to report the number of Civil Jury Trials for most courts.

² For Orange, the *Jury Data Report* was used to report Civil Jury Trials in FY 2010–2011 and FY 2011–2012; CSR data was not available.

Dispositions in EJTs. Based on a 2005 *Civil Justice Survey of State Courts*, plaintiffs won in 53% of jury trials overall.³ Although our data reflects a similar pattern, it is difficult to say with certainty whether EJT dispositions match dispositions in overall jury trials due to the small reporting numbers and because many courts had two or fewer EJTs in the reporting period. However, if we look only at those courts with greater than 10 EJTs, the percentage breakdown reflects 55% judgment for plaintiff and 45% judgment for defendant. Additionally, if we look at the court with the highest reported number of EJTs ($n=62$), the breakdown shifts slightly but still reflects an almost 50/50 breakdown at 52% judgment for defendant and 48% judgment for plaintiff.

² The Expedited Jury Trials Act took effect January 1, 2011, so to best capture the data, this report looks at each calendar year. Other civil jury data is reported by fiscal year.

³ Langton & Cohen, *Civil Bench and Jury Trials in State Courts, 2005*, (2008, rev. 2009) Bureau of Justice Statistics Special Report, NCJ 223851, Washington, DC: United States Department of Justice, Office of Justice Programs.

Table 2. Disposition Data on Judgment for Plaintiff/Defendant Only (Courts with > 10 EJTs)

Court	EJTs	Judgment for Plaintiff		Judgment for Defendant		Judgment	
		Total	%	Total	%	Total	%
Courts w/ > 10 EJT¹	112	52	55%	43	45%	95	85%
1 Court (= 62 EJT)²	62	29	48%	31	52%	60	97%

¹ This includes those courts that reported more than 10 EJTs (72% of all reported EJTs).

² This includes a single court that reported 62 EJTs (40% of all reported EJTs).

Next Steps

The stakeholders who urged the enactment of the Expedited Jury Trial Act in 2010 are expected to return to the Legislature in the near future to request that the sunset provision be extended or removed. This report provides information regarding the experience of the trial courts under the act, and may be useful in the Legislature’s evaluation of the act.

Attachments

1. Attachment A: Expedited Jury Trial & Jury Trial Data Reporting Summary
2. Attachment B: Expedited Jury Trial—Disposition Summary

Expedited Jury Trials -Summary of Reported Disposition Data¹

January 1, 2011 through August 31, 2014

Court	EJTs	Withdrawn	Settlement, before trial	Settlement, during trial	Dismissal	Judgment for Plaintiff, punitive damages awarded	Judgment for Plaintiff, no punitive damages awarded	Judgment for Plaintiff, unknown	Judgment for Defendant	Mistrial	Other	Don't know
Alameda	9	0	0	0	0	0	6	0	3	0	0	0
Alpine	0	0	0	0	0	0	0	0	0	0	0	0
Amador												
Butte	0	0	0	0	0	0	0	0	0	0	0	0
Calaveras	0	0	0	0	0	0	0	0	0	0	0	0
Colusa	0	0	0	0	0	0	0	0	0	0	0	0
Contra Costa	0	0	0	0	0	0	0	0	0	0	0	0
Del Norte	0	0	0	0	0	0	0	0	0	0	0	0
El Dorado												
Fresno												
Glenn												
Humboldt	0	0	0	0	0	0	0	0	0	0	0	0
Imperial	0	0	0	0	0	0	0	0	0	0	0	0
Inyo	0	0	0	0	0	0	0	0	0	0	0	0
Kern												
Kings	0	0	0	0	0	0	0	0	0	0	0	0
Lake	0	0	0	0	0	0	0	0	0	0	0	0
Lassen	0	0	0	0	0	0	0	0	0	0	0	0
Los Angeles	62	0	0	0	0	0	0	29	31	0	2	0
Madera	0	0	0	0	0	0	0	0	0	0	0	0
Marin												
Mariposa	0	0	0	0	0	0	0	0	0	0	0	0
Mendocino	0	0	0	0	0	0	0	0	0	0	0	0
Merced												
Modoc	0	0	0	0	0	0	0	0	0	0	0	0
Mono												
Monterey	1	0	1	0	0	0	0	0	0	0	0	0
Napa												
Nevada												
Orange	32	0	0	0	9	0	14	0	8	0	1	0
Placer												
Plumas	0	0	0	0	0	0	0	0	0	0	0	0
Riverside	6	0	0	0	1	1	4	0	0	0	0	0
Sacramento												
San Benito	0	0	0	0	0	0	0	0	0	0	0	0
San Bernardino	7	0	0	0	0	0	0	0	0	0	0	7
San Diego												
San Francisco	18	0	2	2	0	0	9	0	4	0	1	0
San Joaquin	6	0	0	0	3	0	2	0	0	0	1	0
San Luis Obispo												
San Mateo	1	0	0	0	0	1	0	0	0	0	0	0
Santa Barbara	1	0	0	0	0	0	1	0	0	0	0	0
Santa Clara	2	0	0	0	0	0	0	2	0	0	0	0
Santa Cruz	0	0	0	0	0	0	0	0	0	0	0	0
Shasta	0	0	0	0	0	0	0	0	0	0	0	0
Sierra	0	0	0	0	0	0	0	0	0	0	0	0
Siskiyou												
Solano	2	0	0	1	0	1	0	0	0	0	0	0
Sonoma												
Stanislaus												
Sutter	0	0	0	0	0	0	0	0	0	0	0	0
Tehama	0	0	0	0	0	0	0	0	0	0	0	0
Trinity	0	0	0	0	0	0	0	0	0	0	0	0
Tulare	1	0	0	0	0	0	1	0	0	0	0	0
Tuolumne												
Ventura	8	0	0	0	0	0	0	4	3	0	0	1
Yolo	0	0	0	0	0	0	0	0	0	0	0	0
Yuba	0	0	0	0	0	0	0	0	0	0	0	0
Total	156	0	3	3	13	3	37	35	49	0	5	8

¹ Courts with values left blank did not report EJT data.