



# JUDICIAL COUNCIL OF CALIFORNIA

EXECUTIVE AND  
PLANNING COMMITTEE

[www.courts.ca.gov/epmeetings.htm](http://www.courts.ca.gov/epmeetings.htm)  
[executiveandplanning@jud.ca.gov](mailto:executiveandplanning@jud.ca.gov)

## EXECUTIVE AND PLANNING COMMITTEE

### OPEN MEETING WITH CLOSED SESSION AGENDA

Open to the Public Unless Indicated as Closed (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

OPEN PORTION OF THIS MEETING IS BEING RECORDED

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**Date:** August 24, 2017  
**Time:** 12:10–1:10 p.m.  
**Public Call-In Number** 877-820-7831; passcode 846-8947 (listen only)

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Meeting materials for the open portion of the meeting will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

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#### **I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))**

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##### **Call to Order and Roll Call**

##### **Approval of Minutes**

Approve minutes of the July 6, 2017, Executive and Planning Committee open meeting with closed session, July 13, 2017, Executive and Planning Committee action by e-mail, and July 20, 2017, and August 18, 2017, Executive and Planning Committee closed meetings.

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#### **II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))**

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##### **Written Comment**

In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to [executiveandplanning@jud.ca.gov](mailto:executiveandplanning@jud.ca.gov) or mailed or delivered to Judicial Council of California, 2860 Gateway Oaks Drive, Suite 400, Sacramento, California, 95833, Attention: Donna Ignacio Only written comments received by 12:10 a.m. on Wednesday, August 23, 2017, will be provided to committee members prior to the start of the meeting.

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**III. DISCUSSION AND POSSIBLE ACTION ITEMS**

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**Item 1**

**Subordinate Judicial Officer Exception – Request from the Superior Court of Los Angeles County (Action Required)**

Review request from the Superior Court of Los Angeles County for an exception to the conversion of two vacant subordinate judicial officer positions to judgeships.

Presenters: Ms. Leah Rose-Goodwin and Mr. David Smith

**Item 2**

**Request to Amend Annual Agenda (Action Required)**

Review request from the Tribal Court-State Court Forum to approve amendment to its 2017 Annual Agenda.

Presenters: Hon. Dennis M. Perluss and Ms. Ann Gilmour

**Item 3**

**Agenda Setting for the September 14–15 Judicial Council Meeting (Action Required)**

Review draft reports and set the agenda for the Judicial Council meeting in September.

Presenters: Various

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**IV. ADJOURNMENT**

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**Adjourn to Closed Session**

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**V. CLOSED SESSION (CAL. RULES OF COURT, RULE 10.75(D))**

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**Item 1**

**Pursuant to California Rules of Court, rule 10.75(d)(1)**

***Advisory Body Nominations Discussion***

Review nominations for an advisory body and develop recommendations to be submitted to the Chief Justice.

**Adjourn Closed Session**



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## EXECUTIVE AND PLANNING COMMITTEE

### MINUTES OF OPEN MEETING WITH CLOSED SESSION

Thursday, July 6, 2017

12:10 to 1:10 p.m.

Teleconference

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**Committee Members Present:** Justice Douglas P. Miller (Chair); Judge Marla O. Anderson, (Vice Chair); Presiding Judges Daniel J. Buckley and Jeffrey B. Barton; Judges Samuel K. Feng, Gary Nadler, and David M. Rubin; Mr. Richard D. Feldstein, and Ms. Donna D. Melby

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**Committee Members Absent:** Judge Marla O. Anderson (Vice Chair)

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**Other Attendees:** Hon. Lorna A. Alksne

**Committee Staff Present:** Ms. Jody Patel and Ms. Amber Barnett

**Staff Present:** Mr. Patrick Ballard, Mr. Harvinder Baraich, Ms. Suzanne Blihovde, Ms. Francine Byrne, Mr. Robert Cabral, Ms. Roma Cheadle, Mr. Oliver Cheng, Ms. Lucy Fogarty, Ms. Cristina Foti, Mr. Jay Fraser, Ms. Jessica Craven Goldstein, Mr. Bruce Greenlee, Ms. Bonnie Hough, Ms. Shelly Labotte, Mr. Charles Martel, Ms. Anna Maves, Ms. Susan McMullan, Mr. Patrick O'Donnell, Ms. Leah Rose-Goodwin, Mr. Robert Oyung, Mr. Grant Parks, Mr. John Prestianni, Mr. Jagandeep Singh, Ms. Laura Speed, Mr. Zlatko Theodorovic and Mr. Don Will

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#### OPENING MEETING

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##### **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 voted to approve the following minutes:

- April 27, 2017, Executive and Planning Committee meeting
- May 18, 2017, Executive and Planning Committee closed meeting
- June 26, 2017, Executive and Planning Committee meeting

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**DISCUSSION AND ACTION ITEMS**

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**Item 1**

**Agenda Setting for the July 27-28 Judicial Council Meeting (Action Required)**

Review draft reports and set the agenda for the Judicial Council meeting in July.

***Action: The committee reviewed draft reports and set the agenda for the Judicial Council meeting in July.***

***The committee also reviewed the non-final audit report during the open session and determined that the proposed closed session was not needed.***

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**ADJOURNMENT**

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There being no further business, the meeting was adjourned at 12:30 p.m.

Approved by the advisory body on \_\_\_\_\_.



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Minutes of Action by E-mail Between Meetings for  
Executive and Planning Committee

**E-mail Proposal**

As part of the agenda setting for Judicial Council meetings, the Executive and Planning Committee was asked to review the report for new consent item Judicial Council Administration: Request for Delegation to Administrative Director for Approval of Americans with Disabilities Act Grievance Procedure for approval to be included on the July 27-28, Judicial Council business meeting agenda.

**Notice**

On July 12, 2017, a notice was posted advising that the Executive and Planning Committee was proposing to act by email between meetings under California Rules of Court, rule 10.75(o)(1)(B).

**Action Taken**

Members voted unanimously to approve the new item for the consent agenda of the July 27-28, 2017 Judicial Council business meeting.

Approved by the advisory body on \_\_\_\_\_.



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EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF CLOSED MEETING

Thursday, July 20, 2017

12:00–12:30 p.m.

Teleconference

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**Committee Members Present:** Justice Douglas P. Miller (Chair) and Judge Marla O. Anderson (Vice Chair); Justice Harry E. Hull, Jr.; Presiding Judge Daniel J. Buckley; Judges Samuel K. Feng, and Gary Nadler; and Ms. Donna D. Melby

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**Committee Members Absent:** Presiding Judge Jeffrey B. Barton, Judge David M. Rubin, and Mr. Richard D. Feldstein

**Committee Staff Present:** Ms. Jody Patel and Ms. Amber Barnett

**Staff Present:** Ms. Roma Cheadle

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CLOSED SESSION

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**Call to Order and Roll Call**

The chair called the meeting to order at 12:00 p.m. and committee staff took roll call.

**Item 1**

**Pursuant to California Rules of Court, rule 10.75 (d)(1)**

***Nominations for Judicial Council Appointments***

Review nominations and develop a recommendation to be submitted to the Chief Justice regarding an appointment to the Judicial Council.

***Action: The committee developed a recommendation for submission to the Chief Justice.***

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ADJOURNMENT

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There being no further business, the meeting was adjourned at 12:36 p.m.

Approved by the advisory body on \_\_\_\_\_.



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EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF CLOSED MEETING

Friday, August 18, 2017

12:00–1:00 p.m.

Teleconference

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**Committee Members Present:** Justice Douglas P. Miller (Chair); Judge Marla O. Anderson (Vice Chair); Presiding Judge Daniel J. Buckley; Judges Samuel K. Feng and David M. Rubin; and Mr. Richard D. Feldstein

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**Committee Members Absent:** Justice Harry E. Hull, Jr., Presiding Judge Jeffrey B. Barton, Judge Gary Nadler and Ms. Donna D. Melby

**Committee Staff Present:** Ms. Jody Patel and Ms. Amber Barnett

**Staff Present:** Ms. Roma Cheadle

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CLOSED SESSION

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**Call to Order and Roll Call**

The chair called the meeting to order at 12:00 p.m. and committee staff took roll call.

**Item 1**

**Pursuant to California Rules of Court, rule 10.75 (d)(1)**

***Advisory Body Nominations Discussions***

Review nominations for advisory bodies and develop recommendations to be submitted to the Chief Justice.

***Action: The committee developed recommendations for submission to the Chief Justice.***

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ADJOURNMENT

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There being no further business, the meeting was adjourned at 12:30 p.m.

Approved by the advisory body on \_\_\_\_\_.



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455 Golden Gate Avenue • San Francisco, California 94102-3688  
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

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### MEMORANDUM

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**Date**

August 1, 2017

**To**

Members of the Executive and Planning  
Committee

**From**

Leah Rose-Goodwin, Manager  
David Smith, Senior Research Analyst  
Office of Court Research, Budget Services

**Subject**

Request for an Exception to the Conversion  
of Two Subordinate Judicial Officer  
Positions in the Superior Court of Los  
Angeles County

**Action Requested**

Approve Staff Recommendation

**Deadline**

August 24, 2017

**Contact**

David Smith  
415-865-7696 phone  
david.smith@jud.ca.gov

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**Executive Summary**

Judicial Council staff recommend that the Executive and Planning Committee (E&P) confirm the request from the Superior Court of Los Angeles County for an exception to the conversion of two vacant subordinate judicial officer (SJO) positions to judgeships. The court seeks this exception to conversion in order to restore commissioners to small claims and unlawful detainer courtrooms that were closed during the recession.

**Recommendation**

Judicial Council staff recommend that E&P confirm the request from the Superior Court of Los Angeles County for an exception to the conversion of two vacant SJO positions to judgeships.

**Previous Council Action**

The 2002 report of the Subordinate Judicial Officer Working Group led the Judicial Council to sponsor legislation to restore an appropriate balance between judges and SJOs in the trial courts. The 2002 report found that many courts had created SJO positions out of necessity in response to the dearth in the creation of new judgeships during the 1980s and 1990s. As a result, many SJOs



were working as temporary judges. This imbalance between judges and SJOs was especially critical in the area of family and juvenile law.<sup>1</sup>

In 2007, the Judicial Council approved a methodology for evaluating the workload appropriate to SJOs relative to the number of SJOs working in the courts. In the same year, the Legislature passed Assembly Bill 159, which adopted the Judicial Council's methodology. This resulted in a list of 25 courts in which a total of 162 SJO positions would be converted. Government Code section 69615(c)(1)(A) allows for the annual conversion of up to 16 SJO vacancies upon authorization by the Legislature in courts identified by the Judicial Council as having SJOs in excess of the workload appropriate to SJOs.<sup>2</sup>

Subsequent council action established and refined guidelines for expediting the conversion of SJO vacancies. These guidelines included:

- The adoption of four trial court allocation groups and a schedule that distributes the 16 annual SJO conversions across these groups in numbers that are proportional to the total number of conversions for which the groups are eligible;
- The delegation of authority to E&P for confirming SJO conversions;
- The establishment of guidelines for courts to notify the council of SJO vacancies and timelines for the redistribution of SJO conversions across the allocation groups; and
- The establishment of criteria for E&P to use in evaluating and granting requests by courts to temporarily defer the conversion of SJO vacancies to judgeships.<sup>3</sup>

In support of these actions, Judicial Council staff refreshed the workload data in 2015 to update and refine the allotment of SJO positions among eligible courts. A list of SJO positions was established as a result of the updated workload assessment, and all courts that were still eligible for SJO conversions were notified of any changes in their status.<sup>4</sup>

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<sup>1</sup> See Judicial Council of Cal., Subordinate Judicial Officer Working Group Rep., *Subordinate Judicial Officers: Duties and Titles* (July 2002), [www.courts.ca.gov/7476.htm](http://www.courts.ca.gov/7476.htm).

<sup>2</sup> See Judicial Council of Cal., *Update of the Judicial Workload Assessment and New Methodology for Selecting Courts with Subordinate Judicial Officers for Conversion to Judgeships* (Feb. 14, 2007), [www.courts.ca.gov/documents/022307item9.pdf](http://www.courts.ca.gov/documents/022307item9.pdf), and the update of this report and SJO allocation list, Judicial Council of Cal., *Subordinate Judicial Officers: Update of Conversions Using More Current Workload Data* (Aug. 11, 2015), [www.courts.ca.gov/documents/jc-20150821-itemL.pdf](http://www.courts.ca.gov/documents/jc-20150821-itemL.pdf).

<sup>3</sup> See Judicial Council of Cal., *Subordinate Judicial Officers: Update of the Policy for Deferrals of Conversions to Judgeships* (Aug. 26, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4625050&GUID=80FC1733-CB19-4468-9822-E63668EBC1C4>.

<sup>4</sup> See Judicial Council of Cal., *Subordinate Judicial Officers: Update of Conversions Using More Current Workload Data* (Aug. 21, 2015), [www.courts.ca.gov/documents/jc-20150821-itemL.pdf](http://www.courts.ca.gov/documents/jc-20150821-itemL.pdf).

In relation to the establishment of guidelines for use by E&P in confirming requests by courts to temporarily except SJO vacancies from conversion, the following criteria were adopted:<sup>5</sup>

- **Assessed judicial need** and the impact the deferral will have on it;
- **Vacancies and anticipated vacancies of judicial officers** and the impact that the deferral will have on the court's ability to manage its workload;
- **Workload growth in the court** and the impact the deferral will have on the court's ability to effectively manage it;
- **Economic hardship that is disruptive of court operations** and the impact the deferral will have on the court's ability to effectively manage its financial resources and workload; and
- **Operational hardship** and the impact the deferral will have on moderating its effects.

In addition to expanding the criteria under which an exception could be granted, council policy directs courts seeking a temporary exception to conversion to choose among three options for deferral. Courts with vacant SJO positions that are eligible for conversion may:

1. Request a permanent reduction in the number of authorized SJO positions rather than convert the position or fill it with another SJO.
  - Courts choosing this option have the opportunity, at some future date, to seek authority for an increase in the number of SJOs if justified by workload assessment that is based on existing council policies regarding the number and type of SJO positions.
2. Seek a deferral of the conversion and choose to fill the position with a subordinate judicial officer.
  - Courts choosing this option can convert a position at a later date if the court's workload qualifies it for such a conversion, the court has a vacant SJO position, and a conversion under Government Code section 69615 is available at that time.
3. Seek a one-year deferral of the conversion, leaving the SJO position vacant during that time.
  - Courts choosing this option must report back to E&P at the end of the one-year deferral period to indicate whether they wish to convert the vacant position or seek a permanent reduction in the number of authorized SJO positions. The

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<sup>5</sup> See Judicial Council of Cal., *Subordinate Judicial Officers: Update of the Policy for Deferrals of Conversions to Judgeships* (Aug. 26, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4625050&GUID=80FC1733-CB19-4468-9822-E63668EBC1C4>.

subsequent conversion of a deferred SJO position will depend on the availability of authorized conversions under Government Code section 69615.

### **Rationale for Recommendation**

The Superior Court of Los Angeles County is eligible for a total of 79 of the 162 conversions authorized by the Legislature and has converted 63 positions, with the last set of conversions occurring on June 27, 2017 (for FY 2016–2017).

The court is the sole member of Allocation Group 1, which is allotted 7 conversions each year. The confirmation of the present request would result in the temporary exception to the conversion of two commissioner positions. The court seeks these exceptions to conversion in order to restore one commissioner to a courtroom hearing small claims cases and, after appointment as temporary judge by the court, one commissioner to a courtroom hearing unlawful detainer cases. The court indicates that reopening these courtrooms is an important step in restoring access to justice to all areas within Los Angeles County for these case types. Further, granting these exceptions would allow the court reasonable certainty and clarity concerning its capacity to appropriately address judicial workload in these two areas over the next few years.

Council policies concerning SJO conversions grant E&P the authority to confirm conversions, as well as evaluate and grant requests by courts to temporarily defer vacancies from conversion. Because this request falls within the scope of the current policy on exceptions, yet is consistent with the spirit of the statute governing SJO conversions, it is staff's recommendation that the request be granted.

### **Comments, Alternatives Considered, and Policy Implications**

This proposal, which complies with council policy on SJO conversions, was not circulated for comment.

### **Implementation Requirements, Costs, and Operational Impacts**

If this temporary exception to SJO conversions is granted by E&P, the court would incur no new costs, and the requirement for eventual conversion of the aforementioned positions would continue to be in effect. The granting of a temporary exception to SJO conversions in the court is designed to help minimize the adverse operational impact that state funding cuts have had on the court's budget. Hence, the operational impact is projected to be minimal.

### **Attachment**

1. Attachment A: June 19, 2017, letter from Presiding Judge Daniel J. Buckley, Superior Court of Los Angeles County, to Justice Douglas Miller, Chair, Executive and Planning Committee, regarding an exception to the conversion of SJO positions to judgeships.



# The Superior Court

STANLEY MOSK COURTHOUSE  
111 NORTH HILL STREET  
LOS ANGELES, CALIFORNIA 90012  
CHAMBERS OF  
**DANIEL J. BUCKLEY**  
PRESIDING JUDGE

TELEPHONE  
(213) 633-0400

June 19, 2017

The Honorable Douglas P. Miller, Chair  
Judicial Council's Executive and Planning Committee  
455 Golden Gate Avenue  
San Francisco, California 94102-3688

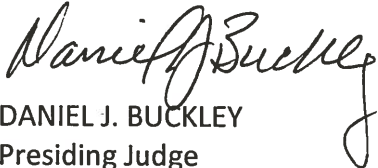
Re: Request for Exception to Conversion of Two Vacant Commissioner Positions

Dear Justice Miller:

In the current fiscal year, the Los Angeles Superior Court has converted five commissioner vacancies to judgeships, out of a total of seven conversions scheduled. Since 2008, the Court has converted a total of 63 commissioner vacancies.

I am writing to seek an exception to the final two subordinate judicial officer conversions scheduled for fiscal year 2016-17. I plan to fill the two vacancies immediately with commissioners so that I may restore unlawful detainer and small claims courtrooms that were closed during the recession. This will allow the Court to provide one unlawful detainer and small claims courtroom in each judicial district within Los Angeles County. This is an important step in restoring access to justice to all geographic areas for these important case types.

Very truly yours,

  
DANIEL J. BUCKLEY  
Presiding Judge

DJB:BB:rm

c: Hon. Kevin C. Brazile, Assistant Presiding Judge, Los Angeles Superior Court  
Ms. Sherri R. Carter, Executive Officer/Clerk, Los Angeles Superior Court  
Ms. Sylvia White-Irby, Judicial and Executive Support Administrator, Los Angeles Superior Court  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California  
Ms. Leah Rose Goodwin, Office of Court Research, Judicial Council of California



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### MEMORANDUM

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Date	Action Requested
July 25, 2017	Approve an Addition to the Tribal Court – State Court Forum Annual Agenda
To	Deadline
Executive and Planning Committee Hon. Douglas P. Miller, Chair	August 24, 2017
From	Contact
Tribal Court–State Court Forum Hon. Dennis M. Perluss, Co-Chair Hon. Abby Abinanti, Co-Chair	Ann Gilmour, 415-865-4207 ann.gilmour@jud.ca.gov
Subject	
Request to Approve Addition to Annual Agenda	

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#### Executive Summary

On March 21, 2017 the California ICWA Compliance Task Force published its report to the California Attorney General’s Bureau of Children’s Justice. The report includes a number of recommendations that are within the purview of the Judicial Branch such as recommendations for judicial education and revisions to rules of court. The Tribal Court – State Court Forum (Forum) requests approval to amend the Forum’s annual agenda to add an item authorizing the Forum to review the California ICWA Compliance Task Force report and make recommendations on implementation as appropriate.

#### Action Requested

The Tribal Court – State Court Forum asks that Executive and Planning approve amending its 2017 Annual Agenda to add:

Item 8 H. (iii) Review the recommendations in the California ICWA Compliance Task Force Report to the California Attorney General’s Bureau of Children’s Justice 2017 and make

recommendations for legislative and rules and forms revisions and other implementation steps as appropriate.

#### Basis for Request

On March 21, 2017, the California ICWA Compliance Task Force published its report to the California Attorney General's Bureau of Children's Justice. The report sets out a number of areas in which the Task Force states that California is failing to comply with the requirements of the Indian Child Welfare Act. The report includes a number of recommendations for improved compliance that are within the purview of the Judicial Branch. These recommendations include:

- Recommendation 1: Remediation of Tribal Inequity in California Courts:
  - Tribal Access to Records - Tribes should be guaranteed access to paperwork, pleadings and minutes; Sanctions for non-production; and Tribes should be treated as governmental entity exempt from copying fees.
  - Appointment of Counsel or Resources to Retain Counsel for Tribes
  - Waiver of Pro Hac Vice for Out-of-State Tribal Attorneys
  - Right of Tribes to Participate (pages 94-96)
  
- Recommendation 6: Judicial Competency  
The Judicial Council should amend California Rule of Court 10.462 to include ICWA training for bench officers that is sufficient and ongoing to preside over ICWA cases and how they are different from other child custody proceedings. (page 97);
  
- Recommendation 7: ICWA Competency for Advocates, Party Representatives and Social Workers  
Revise the Rules of Court to effectively mandate ICWA competency for legal counsel, social workers, CASAs, and others. Expand the Rule to require compliance with specific substantive, procedural and cultural components of the ICWA. (page 97);
  
- Recommendation 15: Enforce and Implement the Judicial Council Strategic Plan and Operational Plan.  
The Judicial Council adopted a Strategic Plan for California's Judicial Branch in 2006. In 2008, an Operational Plan was adopted to accomplish the goals identified in the Strategic Plan. Of the six goals, each of which is important, two stand out for Tribes: Goal I: Access, Fairness and Diversity, and Goal IV: Quality of Justice and Service to the Public. Tribes should be a part of the discussion and implementation of these goals, as well as the others, to ensure this population is heard by our judiciary. (page 99)
  
- Recommendation 16: Consolidated Courts  
The model where all ICWA cases are heard in a single department, and by a single bench officer, creates an economy of scale. It may not be feasible in all counties, particularly small counties, but it could be limited to counties which annually reach a threshold number of ICWA. (page 100)

- **Recommendation 17: Concurrent Jurisdiction Court**  
We recommend that the Judicial Council provide technical support to tribes and counties in the development of concurrent jurisdiction courts. (page 100)

The Tribal Court – State Court Forum annual agenda currently encompasses some related items including:

- **Item 2: Policy Recommendation: Rules and Forms – ICWA**  
Review newly adopted *Regulations for State Courts and Agencies in Indian Child Custody Proceedings* (as published in the Federal Register on March 20, 2015, (Vol. 80 FR No. 54 14880)) and approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December, 30, 2016, (Vol. 81 FR No. 251 96476) for possible amendments to Title 5. Family and Juvenile rules relating to the ICWA;
- **Item 3: Policy Recommendation: Rule and Forms – Juvenile Records**  
Revise California Rules of Court, rule 5.552 to conform to the requirements of subdivision (f) of section 827 of the Welfare and Institutions Code, which was added effective January 1, 2015, to clarify the right of an Indian child’s tribe to have access to the juvenile court file of a case involving that child. At that time, no changes were made to California Rules of Court, rule 5.552, which implements section 827 of the Welfare and Institutions Code. Contrary to section 827 as amended, rule 5.552 continues to require that representatives of an Indian child’s tribe petition the juvenile court if the tribe wants access to the juvenile court file. This inconsistency has created confusion.
- **Item 8 H. (ii): Policy Recommendation: H. Other**  
Make a recommendation to the California State Bar Association to waive pro hac vice fees for out-of-state counsel representing tribes in ICWA cases.
- **Item 10. B (ii) Increase Tribal/State Partnerships: B. Education and technical assistance to promote partnerships and understanding of tribal justice systems**  
Make a recommendation to Judicial Council staff to provide technical assistance to evaluate the joint jurisdictional court and to courts wishing to replicate the model.

These do not encompass all of the areas within the purview of the Judicial Branch where the California ICWA Compliance Task Force Report to the California Attorney General’s Bureau of Children’s Justice 2017 has recommended action.

### **Tribal Court – State Court Forum Annual Agenda request**

The Tribal Court – State Court Forum asks that Executive and Planning approve adding to its 2017 Annual Agenda:

- Item 8 H. (iii) Review the recommendations in the California ICWA Compliance Task Force Report to the California Attorney General’s Bureau of Children’s Justice 2017 and make

recommendations for legislative and rules and forms revisions and other implementation steps as appropriate.

A proposed amended annual agenda is attached with the proposed addition highlighted at pages 10 through 11.

**Link to Report**

1. California ICWA Compliance Task Force Report to the California Attorney General's Bureau of Children's Justice 2017 (<https://turtletalk.files.wordpress.com/2017/03/icwa-compliance-task-force-final-report-2017.pdf>)



**Tribal Court–State Court Forum (forum)**  
**Annual Agenda—2017**

**Approved by E&P: March 23, 2017 [Amendment approved April 24, 2017]**

**I. ADVISORY BODY INFORMATION**

<b>Chair:</b>	Hon. Abby Abinanti, Chief Judge, Yurok Tribal Court and Hon. Dennis M. Perluss, Presiding Justice, Court of Appeal, Second Appellate District, Division Seven
<b>Staff:</b>	Ms. Ann Gilmour, Attorney II, Center for Families, Children & the Courts
<b>Advisory Body’s Charge:</b> <p>The forum makes recommendations to the Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps.</p> <p>In addition to the general duties and responsibilities applicable to all advisory committees as described in rule 10.34, the forum must:</p> <ol style="list-style-type: none"><li>1. Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;</li><li>2. Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases, and the sharing of services among jurisdictions;</li><li>3. Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court–state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions;</li><li>4. Recommend appropriate activities needed to support local tribal court–state court collaborations; and</li><li>5. Make proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff.</li></ol> <p>[Excerpted from California Rules of Court, rule 10.60]</p>	

### **Advisory Body’s Membership:**

Twenty-nine positions—29 members representing the following categories:

- Thirteen tribal court judges (nominated by their tribal leadership, representing 13 of the 23 tribal courts currently operating in California; these courts serve approximately 39 tribes)
- Director of the California Attorney General’s Office of Native American Affairs (ex officio)
- Tribal Advisor to the California Governor (ex officio)
- One appellate justice
- Seven chairs or their designees of the following Judicial Council advisory committees:
  - Access and Fairness Advisory Committee
  - Governing Committee of the Center for Judicial Education and Research (CJER)
  - Civil and Small Claims Advisory Committee
  - Criminal Law Advisory Committee
  - Family and Juvenile Law Advisory Committee
  - Probate and Mental Health Advisory Committee
  - Traffic Advisory Committee
- Five trial court judicial officers (selected from local courts in counties where tribal courts are situated and one from Los Angeles\*)
- One retired judge (advisory)

\*Judge D. Zeke Zeidler, who was originally appointed as the designee of the Access and Fairness Advisory Committee, is finishing out his term, which expires on September 14, 2017.

**Subgroups/Working Groups:** Participate in the joint ad hoc rules and forms subcommittee to implement *Tactical Plan for Technology, 2017-2018*.<sup>1</sup>

### **Advisory Body’s Key Objectives for 2017:**

1. Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.
2. Increase Tribal/State partnerships that identify issues of mutual concern and proposed solutions.
3. Make recommendations to committees developing judicial education institutes, multi-disciplinary symposia, distance learning, and other educational materials to include content on federal Indian law and its impact on state courts, including interjurisdictional issues.

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<sup>1</sup> This addition to the Annual Agenda was approved by the Executive and Planning Committee on April 27, 2017.

## II. ADVISORY BODY PROJECTS

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p><b>Policy Recommendations:</b></p> <p><b>A. Legislation</b></p> <p><i>Major Tasks:</i></p> <p>(i) Indian Child Welfare Act (ICWA): Review newly adopted <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015 (Vol. 80 FR No. 54 14880) approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December, 30, 2016 (Vol. 81 FR No. 251 96476), and statewide Indian Child Welfare Task Force Report on the Indian Child Welfare for possible recommendations to the Judicial Council for sponsored legislation or legislative positions on bills</p>	1(a)	<p>Judicial Council Direction:</p> <p>Strategic Plan Goal I: Access, Fairness, and Diversity</p> <p>Operational Plan Objective 2: Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</p> <p>Strategic Plan Goal II: Independence and Accountability. Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Modernization of Management and Administration Operational Plan Objective 5</p>	January 1, 2019	Recommendations submitted to the Judicial Council for consideration by the Legislature and the Governor.

<sup>2</sup> All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

<sup>3</sup> For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>that will be introduced to comply with the federal law.</p> <p>(ii) Judge-to-Judge Communications: Develop legislative proposal modeled after California Code of Civil Procedure section 1740, which authorizes a state court, after notice to all parties, to attempt to resolve any issues raised regarding a tribal court judgment by contacting the tribal court judge who issued the judgment. The proposal would also require a court to permit the parties to participate in the judge-to-judge communication and to prepare a record of any communication with the tribal court.</p> <p>(iii) Make recommendation to implement a streamlined process to recognize and enforce non-money judgments issued by a tribal court (incremental strategy building on the success of council-sponsored legislation, SB 406, see page 16 for status of project).</p> <p>(iv) Explore use of state funding in connection with the service of process or notices for state court domestic violence restraining</p>	2	<p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence Operational Plan Objective 4</p> <p>Origin of Project: Forum</p> <p>Resources: Forum and Policy Coordination and Liaison Committee (PCLC)</p> <p>Judicial Council Staffing: Center for Families, Children &amp; the Courts (CFCC) and Governmental Affairs</p> <p>Key Objective Supported: 1</p>		

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	orders to pay for service of tribal protection orders.				
2.	<p><b>Policy Recommendation:</b>  <b>B. Rules and Forms – ICWA</b></p> <p>Review newly adopted <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015, (Vol. 80 FR No. 54 14880) and approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December, 30, 2016, (Vol. 81 FR No. 251 96476) for possible amendments to Title 5. Family and Juvenile rules relating to the ICWA.</p>	1(a)	<p>Judicial Council Direction:  Strategic Plan Goal II:  Operational Plan Objective 3</p> <p>Strategic Plan Goal III:  Operational Plan Objective 5</p> <p>Strategic Plan Goal VI:  Operational Plan Objective 4</p> <p>Origin of Project: Federal Law</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>	January 1, 2018	Rule and form recommendations that comply with federal rules and guidelines implementing ICWA
3.	<p><b>Policy Recommendation:</b>  <b>C. Rule and Forms – Juvenile Records</b></p> <p>Revise California Rules of Court, rule 5.552 to conform to the requirements of subdivision (f) of section 827 of the Welfare and Institutions Code, which was added effective January 1, 2015, to clarify the right of an Indian child’s tribe to have access to the</p>	1(a)	<p>Judicial Council Direction:  Strategic Plan Goal II:  Operational Plan Objective 3</p> <p>Strategic Plan Goal III:  Operational Plan Objective 5</p> <p>Strategic Plan Goal VI:  Operational Plan Objective 4</p> <p>Origin of Project: Justice partners have commented that the rule is</p>	January 1, 2018	Rule recommendations that comply with statute.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	juvenile court file of a case involving that child. At that time, no changes were made to California Rules of Court, rule 5.552, which implements section 827 of the Welfare and Institutions Code. Contrary to section 827 as amended, rule 5.552, continues to require that representatives of an Indian child's tribe petition the juvenile court if the tribe wants access to the juvenile court file. This inconsistency has created confusion.		<p>contrary to statute and has created confusion.</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>		
4.	<p><b>Policy Recommendation: D. Rule and Forms – Child Support</b></p> <p>Revise California Rule of Court, rule 5.372 in response to the need for consistent procedures for determining the orderly transfer of title IV-D child support cases from the state court to the tribal court when there is concurrent subject matter jurisdiction. Since implementation of the rule of court, over 40 cases have been considered for transfer between the state courts in Humboldt and Del Norte counties and the Yurok Tribal Court. The Yurok Tribe intends to seek transfer of cases currently under the jurisdiction of state court in the</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: This proposal grew out of the cross-court educational exchange convened by Judge Abinanti and Judge Wilson. Representatives of the State Department of Child Support Services, local county child support agencies, the tribal child support program, the tribal court, the state</p>	January 1, 2018	Rule recommendations that implement federal law.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>following counties: Lake, Mendocino, Shasta, Siskiyou, and Trinity. In addition, at least one other tribe located in Southern California is expected to soon begin handling title IV-D child support cases. Based on the experience with the transfers that have taken place so far, the participants of a cross-court educational exchange have suggested amendments to rule 5.732 to streamline the process, reduce confusion, and ensure consistency and efficient use of court resources.</p>		<p>courts, and Judicial Council staff met to review the case transfer procedures; and justice partners proposed a number of revisions to improve the transfer process.</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>		
5.	<p><b>Policy Recommendation: E. Rules and Forms – Public Access to Electronic Court Records.<sup>4</sup></b></p> <p>Participate in the joint ad hoc subcommittee to work with the Information Technology Advisory Committee (ITAC) and others to develop rules, standards, and guidelines for online access to court records for parties, their attorneys, and justice partners as set out in the Judicial Council’s <i>Tactical Plan for Technology, 2017-2018</i>.</p>	1 (a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: Request of the Information Technology Advisory Committee.</p>		

<sup>4</sup> This addition to the Annual Agenda was approved by the Executive and Planning Committee on April 27, 2017.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
6.	<p><b>Policy Recommendation:</b>  <b>F. Tribal Access to the Child Abuse Central Index (Index)</b></p> <p>The Index is used to aid law enforcement investigations and prosecutions, and to provide notification of new child abuse investigation reports involving the same suspects and/or victims. Information is also used to help screen applicants for licensing or employment in child care facilities, foster homes, and adoptive homes. The purpose of allowing access to this information on a statewide basis is to quickly provide authorized agencies, including tribal agencies, with relevant information regarding individuals with a known or suspected history of abuse or neglect. While tribal agencies can obtain information from the Index, they cannot readily submit information to the Index.</p> <p>This practice poses several problems: (1) suspected or known abusers may remain in the home of a child posing safety risks; (2) unnecessary duplication of effort by agencies; (3) delays in entry into the Index due to double investigations; and (4) barriers to sharing information among tribal and nontribal agencies that</p>	2	<p>Judicial Council Direction:  Strategic Plan Goal II:  Operational Plan Objective 3</p> <p>Strategic Plan Goal III:  Operational Plan Objective 5</p> <p>Strategic Plan Goal VI:  Operational Plan Objective 4</p> <p>Origin of Project: California Indian Legal Services brought this topic of mutual concern to tribal and state courts to the forum's attention at one of its meetings.  Resources: Forum and California Department of Justice</p> <p>Judicial Council Staffing: CFCC</p> <p>Key Objective Supported: 1</p>	2017	<p>California Department of Justice to give tribal access to the Index and local tribal and county child welfare agencies to share relevant information from the Index.</p>



#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	should be working together to protect children. The forum recommends exploring executive branch action to permit tribal access to the Index.				
7.	<p><b>Policy Recommendations:</b>  <b>G. Technological Initiatives</b></p> <p><i>Major Tasks:</i></p> <ul style="list-style-type: none"> <li>(i) Recommend Judicial Council continue giving tribal courts access to the California Courts Protective Order Registry (CCPOR).</li> <li>(ii) Explore development of an electronic application to improve inquiry and notice under ICWA.</li> </ul>	2	<p>Judicial Council Direction:  Strategic Plan Goal II:  Operational Plan Objective 3</p> <p>Strategic Plan Goal III:</p> <p>Operational Plan Objective 5:  Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Strategic Plan Goal VI:</p> <p>Operational Plan Objective 4:  Implement new tools to support the electronic exchange of court information while balancing privacy and security.</p> <p>Origin of Project: Forum</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC and Information Technology</p>	Ongoing	<ul style="list-style-type: none"> <li>(i) State and tribal courts will be able to see each other's protective orders, to avoid conflicting orders, and to promote enforcement of these orders.</li> <li>(ii) Application will be developed and will improve inquiry and notice practices under ICWA.</li> </ul>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Collaborations: Stanford Design Center  Key Objective Supported: 1		
8.	<b>Policy Recommendation: H. Other</b>  <i>Major Tasks:</i> (i) Prepare a request to the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics to amend the canons to permit with appropriate safeguards a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court. (ii) Make recommendation to the California State Bar Association to waive pro hac vice fees for out-of-state counsel representing tribes in ICWA cases.  (iii) Review the recommendations in the California ICWA Compliance Task Force Report to the California Attorney General’s Bureau of Children’s Justice 2017 and make recommendations for legislative and rules and forms revisions and other	2	Judicial Council Direction: Strategic Plan Goal II Operational Plan Objective 3  Origin of Project: Forum cochair  Resources: Forum and California Supreme Court’s Advisory Committee on the Code of Judicial Ethics  Judicial Council Staffing: CFCC  Collaborations:  Key Objective Supported: 2 Increase Tribal/State partnerships that identify issues of mutual concern and proposed solutions.	2017	Request prepared and submitted.  Amended canon permitting judges who sit concurrently on tribal court and a state court to fundraise on behalf of a tribal court.
	(iii) Review the recommendations in the California ICWA Compliance Task Force Report to the California Attorney General’s Bureau of Children’s Justice 2017 and make recommendations for legislative and rules and forms revisions and other	2	Judicial Council Direction: Committee charge under rule 10.60  Origin of Project: California ICWA Compliance Task Force Report to the California Attorney General’s Bureau of Children’s Justice 2017.	2019	

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>implementation steps as appropriate.</p>		<p>Judicial Council Staffing: CFCC</p> <p>Collaborations:</p> <p>Key Objective Supported:</p> <ul style="list-style-type: none"> <li>• Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;</li> <li>• Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases, and the sharing of services among jurisdictions; and</li> <li>• Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court–state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions.</li> </ul>		

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
9.	<p><b>Increase Tribal/State Partnerships:</b>  <b>A. Sharing Resources and Communicating Information About Partnerships</b></p> <p><i>Major Tasks:</i></p> <p>(i) Identify Judicial Council and other resources that may be appropriate to share with tribal courts.</p> <p>(ii) Identify tribal justice resources that may be appropriate to share with state courts.</p> <p>(iii) Identify grants for tribal/state court collaboration.</p> <p>(iv) Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter.</p> <p>(v) Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues.</p>	2	<p>Judicial Council Direction:  Strategic Plan Goal I: Access, Fairness, and Diversity</p> <p>Operational Plan Objectives 1, 2, 4:</p> <ul style="list-style-type: none"> <li>• Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard.</li> <li>• Expand the availability of legal assistance, advice and representation for litigants with limited financial resources.</li> </ul> <p>Strategic Plan Goal IV: Quality of Justice and Service to the Public.</p> <p>Operational Plan Objectives 1, 3:</p> <ul style="list-style-type: none"> <li>• Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</li> <li>• Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public.</li> </ul>	Ongoing	Increased Tribal/State partnerships for sharing resources and communicating information.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>		
10.	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>B. Education and technical assistance to promote partnerships and understanding of tribal justice systems</b></p> <p><i>Major Tasks:</i></p> <p>(i) Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address domestic violence and child custody issues in Indian country.</p> <p>(ii) Make recommendation to Judicial Council staff to provide technical assistance to evaluate the joint jurisdictional court and to courts wishing to replicate the model.</p>	2	<p>Judicial Council Direction:</p> <p>Strategic Plan Goal I Operational Plan Objectives 1, 2, 4</p> <p>Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>	Ongoing	Increased Tribal/State partnerships for educational and technical assistance.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>(iii) Make recommendation to the Judicial Council staff to continue developing civic learning opportunities for youth that exposes them to opportunities and careers in tribal and state courts.</p> <p>(iv) Make recommendation to explore, at the option of tribes, opportunities for state and federal court judges to serve as a tribal court judge.</p>				
11.	<p><b>Increase Tribal/State Partnerships: C. Tribal/State collaborations that increase resources for courts</b></p> <p>Develop and implement strategy to seek resources for tribal/state collaborations.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Origin of Projects: Forum</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>	Ongoing	Tribal/State collaborations that increase resources for courts.
12.	<p><b>Education: A. Judicial Education</b></p> <p><i>Major Tasks:</i></p> <p>(i) In collaboration with the CJER Curriculum Committees, consult on and participate in making</p>	2	<p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1: Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-</p>	Ongoing, completion date depends on funding.	CJER toolkits, located on the Judicial Resources Network, will be updated to include federal Indian law. Ten-minute educational video to be posted online and shared

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>recommendations to revise the CJER online toolkits so that they integrate resources and educational materials from the forum’s online federal Indian law toolkit. Forum judges are working together with committee representatives from the following curriculum committees: (1) Access, Ethics, and Fairness, (2) Civil, (3) Criminal, (4) Family, (5) Juvenile Dependency and Delinquency, and (6) Probate.</p> <p>(ii) Develop a ten-minute mentor video on the Information Bulletin relating to the recognition and enforcement of tribal protection orders, issued by the California Office of the Attorney General. This Information Bulletin was the culmination of work by the forum in partnership with the California Department of Justice (DOJ), the California State Sheriffs’ Association, the U.S. Attorney General’s Office, and other justice partners.</p>		<p>appointed temporary judges) and court staff.</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012)</p> <p>Resources: CJER, Forum, and DOJ</p> <p>Judicial Council Staffing: CFCC and CJER</p> <p>Key Objective Supported: 3</p>		<p>statewide with justice partners.</p>
13.	<p><b>Education:</b> <b>B. Education –Documentary</b></p> <p>Having consulted on and participated in the production of a</p>	2	<p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1</p>	2017	<p>Wide distribution of the film and use of training materials that complement the film.</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	documentary about tribal justice systems in California, the forum will be exploring ways to use the film to educate judges and justice partners on tribal justice systems. The forum will consider consulting on the development of online curriculum to complement the film.		<p>Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012)</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Key Objective Supported: 3</p>		
14.	<p><b>Education</b></p> <p><b>C. Truth and Reconciliation</b></p> <p>Consider collaboration among the three branches of state government in partnership with tribal governments to promote a truth and reconciliation project that acknowledges California's history, as described in Professor Benjamin Madley's book, <i>An American Genocide: The United States and the California Indian Catastrophe</i>, with respect to indigenous peoples, fosters an understanding of our shared history, and lays a foundation for reconciliation, which promotes a call to action.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal I Operational Plan Objectives 1, 2, 4</p> <p>Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1</p> <p>Origin of Projects: Forum Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Tribal Governments and State Government</p> <p>Key Objective Supported: 2</p>		



### III. STATUS OF 2016 PROJECTS:

[List each of the projects that were included in the 2016 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1.	<p><b>Policy Recommendations:</b></p> <p><b>A. Legislative Study</b>  <a href="#">SB 406</a>, Judicial Council-sponsored legislation, included a “sunset” provision (Code of Civ. Proc. § 1742) providing that the legislation will expire on January 1, 2018, unless legislative action is taken to extend it.</p> <p><b>B. Promote Policy</b>            The California Department of Public Health would not issue a birth certificate based on a tribal parentage order. The forum worked with the executive branch to issue an agency directive that would recognize tribal parentage orders.</p>	<p>A. October 6, 2016/Study completed and upon recommendation by the California Law Review Commission, Legislature is likely to remove the sunset provision.</p> <p>B. February 9, 2016/California Department of Public Health – Vital Records (CDPH-VR) issued an All County Letter clarifying its policy regarding the acceptance of Tribal Court Orders relating to adjudications of facts of parentage.</p>
2.	<p><b>Policy Recommendation:</b></p> <p><b>C. Rules and Forms–Indian Child Welfare Act (ICWA)</b></p> <p>1. In response to the California Supreme Court decision in <i>In re Abbigail A.</i> (2016) (Cal.5<sup>th</sup> 83), the forum recommend amending California Rules of Court, rule 5.482, by deleting subdivision (c) of that rule, which the Supreme Court held is invalid. The Family and Juvenile Law Advisory Committee and Probate and Mental Health Advisory Committee joined in this recommendation, and on July 29, 2016, the Judicial Council adopted this recommendation.</p> <p>2. Forum reviewed pending <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015, (Vol. 80 FR No. 54 14880) and approved <a href="#">Bureau of Indian Affairs Guidelines</a> (as published in the Federal Register on December 30, 2016, (Vol. 81 FR No. 251 96476) for possible amendments to Title 5. Family and Juvenile rules relating to ICWA.</p>	<p>1. July 29, 2016/Effective date of August 15, 2016</p> <p>2. Ongoing</p>

3.	<p><b>Policy Recommendations:</b></p> <p><b>D. Technological Initiatives</b></p> <ol style="list-style-type: none"> <li>1. Consulted with the California Attorney General’s Office regarding access to California Law Enforcement Telecommunications System (CLETS) by tribal courts. This consultation, which included federal and other state justice partners, resulted in an Informational Bulletin issued by the California Department of Justice. This Information Bulletin clarifies that verification of a tribal protection order in any statewide database (e.g., CLETS) is not a precondition to recognition and enforcement of these orders.</li> <li>2. Recommended Judicial Council staff continue giving tribal courts access to the California Courts Protective Order Registry (CCPOR).</li> <li>3. Due to lack of staffing resources, the forum did not explore the development of an electronic application to improve inquiry and notice under ICWA.</li> </ol>	<ol style="list-style-type: none"> <li>1. November 29, 2016/Information Bulletin issued by the California Department of Justice.</li> <li>2. Ongoing</li> <li>3. Project will be undertaken next year if prioritized by the forum.</li> </ol>
4.	<p><b>Policy Recommendation:</b></p> <p><b>E. Other</b></p> <p>Due to lack of staffing resources and competing priorities, the forum did not prepare a request to the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics to amend the canons to permit a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court.</p>	<p>Project will be undertaken next year if prioritized by the forum.</p>
5.	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>A. Sharing Resources and Communicating Information About Partnerships</b></p> <ol style="list-style-type: none"> <li>1. Disseminated information to tribal court judges and state court judges on a monthly basis through the Forum E-Update, a monthly electronic newsletter with information on the following: <ul style="list-style-type: none"> <li>• Grant opportunities;</li> <li>• Publications;</li> </ul> </li> </ol>	<p>Ongoing</p>

	<ul style="list-style-type: none"> <li>• News stories; and</li> <li>• Educational events.</li> </ul> <p>2. Fostered tribal court/state court partnerships, such as the Superior Court of Los Angeles County’s Indian Child Welfare Act Roundtable and the Bay Area Collaborative of American Indian Resources—court-coordinated community response to ICWA cases in urban areas.</p>	
6.	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>B. Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems</b></p> <ol style="list-style-type: none"> <li>1. Continue to provide the <a href="#">State/Tribal Education, Partnerships, and Services (S.T.E.P.S.) to Justice—Domestic Violence</a> and <a href="#">Child Welfare</a> programs and provide local educational and technical assistance services.</li> <li>2. Continue the first joint jurisdictional court in California. The Superior Court of El Dorado County, in partnership with the Shingle Springs Band of Miwok Indians, is operating a family wellness court. Next year, will provide technical assistance to evaluate the joint jurisdictional court. (See <a href="#">Court Manual</a>).</li> <li>3. Establish partnership between the Superior Court of Humboldt County and the Yurok Tribal Court to develop a civics learning opportunity for youth in the region.</li> </ol>	Ongoing
7.	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>C. Tribal/State Collaborations that Increase Resources for Courts</b></p> <p>Obtained funding from the U.S. Department of Justice, Office on Violence Against Women, which is administered through the California Office of Emergency Services (Cal OES). This funding pays for the <a href="#">S.T.E.P.S. to Justice—Domestic Violence</a> and associated travel expenses for judges to participate in cross-court educational exchanges. These exchanges are judicially led and shaped by the host judges (one tribal court judge and one state court judge) and enable the judges to continue the dialogue on</p>	Ongoing

	<p>domestic violence and elder abuse in tribal communities, which began as part of a statewide needs assessment. At these exchanges, judges utilize a checklist of problems and solutions identified through the needs assessment to determine how they can work together to address these issues locally.</p> <p>Obtained funding from the California Department of Social Services. This funding pays for the associated travel expenses for forum members to improve compliance with ICWA.</p>	
8.	<p><b>Education</b></p> <p><b>A. Judicial Education</b></p> <ol style="list-style-type: none"> <li>1. Made recommendations to CJER to incorporate federal Indian law into all appropriate educational publications and programming for state court judges and advise on content; revisions to include federal Indian law; and the inter-jurisdictional issues that face tribal and state courts.</li> <li>2. Convened a cross-court educational exchange at Hopland for over 60 participants on behalf of the Superior Court of Mendocino County and the Northern California Intertribal Court System. The focus was domestic violence prevention and child welfare.</li> <li>3. Participated in a meeting convened by the National Council of Juvenile and Family Court Judges to develop resources to address ICWA and domestic violence cross-over issues in Indian country.</li> <li>4. Hosted a national gathering of tribal/state court forums at the Second Appellate District of the Court of Appeal in Los Angeles.</li> <li>5. Held annual in-person meeting, which also serves as an educational program.</li> <li>6. Presented to the California Commission on Access to Justice.</li> <li>7. Convened a cross-court educational exchange in Klamath on child support.</li> </ol>	<ol style="list-style-type: none"> <li>1. Ongoing, completion date depends on resources to incorporate recommendations.</li> <li>2. December 2016</li> <li>3. April 2016</li> <li>4. June 2016</li> <li>5. June 2016</li> <li>6. September 2016</li> <li>7. October 2016</li> </ol>

	<p>8. Prepared a judicial job aid on the new federal regulations and guidelines on ICWA.</p> <p>9. Sponsored two judicial educational programs:</p> <p>(1) Pre-Institute ICWA Roundtable This roundtable brought together California tribal and state court judges as well as nationally known experts to explore, through interactive case scenarios, legal topics such as new federal mandates under ICWA, recent case law developments, and how to avoid reversals in these cases. The focus was on practical implications of recent development to juvenile child welfare courts in California. The roundtable complemented the Juvenile Law Institute workshop on ICWA</p> <p>(2) Juvenile Law Institute Workshop on ICWA This workshop covered the new comprehensive federal ICWA regulations, which became effective December 12, 2016. In addition, the workshop discussed significant recent cases, including two important California Supreme Court cases, and highlighted important practice changes as a result of the new federal requirements.</p>	<p>8. November 2016</p> <p>9. December 5, 2016</p>
9.	<p><b>Education</b></p> <p><b>D. Documentary</b></p> <p>Consult on and participate in the production of a documentary describing tribal justice systems and highlighting collaboration between these systems and the state justice system.</p>	<p>February 2017/Documentary is completed. Accepted for distribution through Corporation for Public Broadcasting, Point of View series. Submission to film festivals pending.</p>
10.	<p><b>Education</b></p> <p><b>E. ICWA Roundtable</b></p> <p>Cosponsored the Pre-Institute ICWA Roundtable (see item 8 above) in collaboration with CASEY Family Programs and the National American Indian Judges Association.</p>	<p>December 5, 2016</p>

#### IV. Subgroups/Working Groups - Detail

**Subgroups/Working Groups:** *None*



# Judicial Council of California

455 Golden Gate Ave.  
San Francisco, CA  
94102-3688

## Meeting Agenda

## Judicial Council

Meeting materials are available through the hyperlinked reports on this agenda.

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

*Requests for ADA accommodation should be directed to*

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Thursday, September 14, 2017

San Francisco

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### **CLOSED SESSION (RULE 10.6(B))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE**

Session 1:00 – 1:30 p.m.

Transitional Break 1:30 – 1:40 p.m.

### **OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA**

Session 1:40 – 2:45 p.m.

#### **Call to Order**

#### **Chief Justice's Report**

*10 minutes*

#### **Judicial Council Member Statewide Updates**

**17-147** Judicial Council Member Statewide Updates

**Summary:** Judicial Council members present an update on statewide judicial branch initiatives outside of internal committee or other advisory body work.

*20 minutes*

#### **Judicial Council Members' Liaison Reports**

**17-125** Judicial Council Members' Liaison Reports

*15 minutes*

#### **DISCUSSION AGENDA**

**[17-060](#)** Adoption and Permanency Month: Judicial Council Resolution (Action Required)

**Summary:** The Family and Juvenile Law Advisory Committee recommends adopting a

resolution proclaiming November to be Court Adoption and Permanency Month. As it has since 1999, in observance of National Adoption Month, the Judicial Council can recognize the ongoing efforts of California's juvenile courts and their justice partners to provide children and families with access to fair, understandable judicial proceedings leading to timely, well-informed, and just permanency outcomes. The resolution will also give courts the opportunity to hold special events finalizing adoptions from foster care and raising community awareness of the importance of finding safe, stable, and permanent homes for every child or youth in foster care.

**Speakers:**

Hon. Jerilyn L. Borack, Co-Chair, Family and Juvenile Law Advisory Committee  
Adoptive Family (Mike, Kellie, and son Drew)

*20 minutes*

**Adjournment (approx. 2:45 p.m.)**

*Note: the following presentation will be held in the Milton Marks Conference Center Auditorium (lower level of the Ronald M. George State Office Complex).*

**DISTINGUISHED SERVICE AWARDS**

*The Judicial Council honors the recipients of its annual Distinguished Service Award for significant contributions to court administration in California.*

2017 Judicial Council Distinguished Service Award Honorees

Hon. Erica R. Yew

Hon. Mark A. Juhas

Hon. Jeffrey W. Johnson

Mr. Snorri A. Ogata

Bet Tzedek





# Judicial Council of California

455 Golden Gate Ave.  
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## Meeting Agenda

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Friday, September 15, 2017

San Francisco

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### OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA

Session 8:50 – 11:20 a.m.

#### Call to Order

#### Public Comment

*30 minutes*

*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 at:*

<http://www.courts.ca.gov/28045.htm>

- 1) Submit advance requests to speak by 4:00 p.m., Tuesday, September 12.
- 2) Submit written comments for this meeting by 1:00 p.m. on Wednesday, September 13.

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

[judicialcouncil@jud.ca.gov](mailto:judicialcouncil@jud.ca.gov)

*Postal mail or delivery in person:*

*Judicial Council of California*

*455 Golden Gate Avenue*

*San Francisco, California 94102-3688*

*Attention: Donna Ignacio*

#### Approval of Minutes

**17-122**

Minutes of the July 27-28, 2017, Judicial Council meeting

*5 minutes*

**Administrative Director's Report**

- 17-123** Administrative Director's Report  
*10 minutes*

**Judicial Council Committee Presentations**

- 17-124** Judicial Council Committee Reports  
**Summary:** Executive and Planning Committee  
Hon. Douglas P. Miller, Chair  
Policy Coordination and Liaison Committee  
Hon. Kenneth K. So, Chair  
Rules and Projects Committee  
Hon. Harry E. Hull, Jr., Chair  
Judicial Council Technology Committee  
Hon. Marsha G. Slough, Chair  
Judicial Branch Budget Committee  
Hon. David M. Rubin, Chair  
*30 minutes*

**Judicial Council Members' Liaison Reports**

- 17-172** Judicial Council Members' Liaison Reports  
*15 minutes*

**CONSENT AGENDA**

*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 Roma Cheadle at 415-865-7640 at least 48 hours before the meeting.*

- [17-130](#) Jury Instructions: Additions and Revisions to Criminal Jury Instructions (Action Required)

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

- [17-132](#) Equal Access Fund: Distribution of Funds for Partnership Grants and IOLTA-Formula Grants (Action Required)

**Summary:** The Legal Services Trust Fund Commission of the State Bar reports in Equal Access Fund: Distribution of Funding for IOLTA-Formula Grants and Partnership Grants Under the Budget Act of 2016 that the Budget Act of 2017 includes an estimated \$25,599,900 in the Equal Access Fund for distribution to legal services providers and support centers. Equal Access Fund monies are

distributed primarily in two parts: IOLTA (Interest on Lawyer Trust Accounts) -formula grants and partnership grants (with a small amount also distributed for administration). The commission requests approval to distribute \$23,039,910 in IOLTA-formula grants for fiscal year 2017-2018, according to the statutory formula in the state Budget Act, and \$2,856,479 in partnership grants for 2018. It further requests approval of the commission's findings that the proposed budget for each individual grant complies with statutory and other relevant guidelines.

[17-135](#)**Criminal Procedure: Firearms Relinquishment (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends that the Judicial Council approve optional form CR-210, *Prohibited Persons Relinquishment Form Findings*. Form CR-210 is a form that courts may use to make appropriate findings concerning firearms relinquishment in criminal cases under Penal Code section 29810, which was amended by Proposition 63.

[17-136](#)**Criminal Law: Felony Sentencing (Action Required)****Summary:**

The Criminal Law Advisory Committee proposes amendments to specified criminal sentencing rules of the California Rules of Court to (1) reflect amendments and updates related to changes in California's Determinate Sentencing Law, indeterminate sentences, and sentencing enhancements; (2) reflect statutory amendments enacted as part of the Criminal Justice Realignment Act; (3) provide guidance to courts on the referral of cases to probation for investigation reports; (4) clarify the use of risk/needs assessments in a probation officer's presentence report; (5) add the reporting requirements of Penal Code section 29810(c)(2) to the contents of a probation officer's presentence report; and (6) make nonsubstantive technical amendments.

[17-137](#)**Criminal Procedure: Motion and Order to Vacate Conviction or Sentence (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends two new optional forms to assist self-represented individuals and the courts in implementing recent legislation that permits criminally convicted individuals no longer in custody to file a motion to vacate a conviction or sentence and withdraw the plea of guilty or nolo contendere. The legislation provides for motions based on prejudicial errors related to immigration consequences or newly discovered evidence of actual innocence. The forms also provide for a motion under an existing statute that offers similar relief for a comparable judicial error related to immigration consequences.

[17-138](#)**Collaborative Justice: Recommended Allocations of Fiscal Year 2017-2018 Substance Abuse Focus Grants (Action Required)****Summary:**

The Collaborative Justice Courts Advisory Committee recommends funding court programs using grants from the Collaborative Justice Courts Substance Abuse Focus Grant Program, through the California Collaborative and Drug Court Projects in the Budget Act of 2017 [item 0250-101-0001], and the

Dependency Drug Court Augmentation to the grants of the Substance Abuse Focus Grant Program, through the federal Court Improvement Program funds for fiscal year (FY) 2017-2018 [item 0250-101-0890]. The committee recommends funding programs in 49 courts for FY 2017-2018 with these annual grants distributed by the Judicial Council to expand or enhance promising collaborative justice programs around the state.

[17-139](#)

**Criminal Procedure: Plea Form, with Explanations and Waiver of Rights-Felony (Action Required)**

**Summary:**

The Criminal Law Advisory Committee recommends revising the optional form for taking guilty pleas in felony cases, which includes advisements of criminal defendants' rights. The proposed revisions (1) respond to recent case law that confirmed the scope of the advisement regarding the court's approval of the plea agreement and underscored the importance of accurately conveying the advisement on form CR-101, and (2) add an advisement regarding the effect of a violation of the terms and conditions of mandatory supervision. These proposed revisions circulated for public comment during the spring 2017 comment cycle. In response to recent case law issued after the comment cycle, the committee also recommends revising the form to enhance the advisement of waiver of right to jury trial. To ensure that a form reflecting each of the legal developments is available to courts as soon as possible, the committee seeks approval of all of the proposed revisions, without a prior period of public comment for the additional revisions to the advisement of waiver of right to jury trial. The committee will seek circulation of the form for public comment on revisions to the advisement of waiver of right to jury trial in the winter 2018 cycle and propose any further revisions based on comments received, to be effective September 1, 2018.

[17-140](#)

**Civil Protective Orders: Requests for Immediate Orders (Action Required)**

**Summary:**

The Civil and Small Claims Advisory Committee proposes revisions to all civil protective order request forms to clarify that any "immediate order" being sought on those forms is a temporary restraining order (TRO) and to allow parties requesting TROs to indicate whether the request is being made "with notice" to the other party.

[17-141](#)

**Criminal Procedure: Court-Appointed Expert's Report in Mental Competency Proceeding (Action Required)**

**Summary:**

The Criminal Law Advisory Committee recommends amending rule 4.130 of the California Rules of Court relating to mental competency proceedings in criminal cases to implement recommendations from the Judicial Council's mental health task forces. The proposal amends this rule to identify the information that must be included in a court-appointed expert's report on a criminal defendant's competency to stand trial.

[17-142](#) Criminal Procedure: Use of Risk/Needs Assessments at Sentencing (Action Required)

**Summary:** The Criminal Law Advisory Committee recommends approval of a new standard of judicial administration. The new standard provides guidance to judges on the appropriate uses of the results of risk/needs assessments at criminal sentencing.

[17-143](#) Civil Practice and Procedure: Writ of Execution Forms (Action Required)

**Summary:** The Civil and Small Claims Advisory Committee recommends revisions to two forms and approval of a new information sheet to facilitate use of the *Writ of Execution* (form EJ-130). The committee's recommendation responds to suggestions received over several years, including suggestions made in response to proposed revisions to form EJ-130 that were circulated for comment in 2016.

[17-144](#) Civil Protective Orders: Modification and Termination (Action Required)

**Summary:** The Civil and Small Claims Advisory Committee recommends the adoption of 16 new forms for requests and orders for the modification or termination of civil restraining orders. There are four sets of parallel forms to improve access to the courts in proceedings to prevent civil harassment, elder and dependent adult abuse, private postsecondary school violence, and workplace violence.

[17-145](#) Civil Protective Orders: Response and Firearms Relinquishment Exemption (Action Required)

**Summary:** The Civil and Small Claims Advisory Committee recommends revising civil restraining order forms to allow the court the discretion to make exceptions to the statutory firearms relinquishment order if a firearm is required by the respondent's employment. The committee also proposes revisions to the response forms to requests for restraining orders to provide space on the forms so that if a responding party disagrees with an order requested by the petitioner, he or she may provide an explanation. The existing forms may be misleading in proceedings governed by statutes that specifically provide that the responding party may file a response with an explanation. This explanatory information would also be helpful to the judicial officer.

[17-148](#) Access to Visitation Grant Program: Midyear Funding Reallocation for Fiscal Year 2017-2018 (Action Required)

**Summary:** The Family and Juvenile Law Advisory Committee recommends approving the reallocation and distribution of unused Access to Visitation Grant funds for the contract period of fiscal year (FY) 2017-2018 (April 1, 2017, to March 31, 2018). Under established procedures adopted by the Judicial Council and described in the standard contract agreement with each superior court, funding will be distributed to those eligible courts currently receiving Access to Visitation Grant funds through the midyear reallocation process based on a documented need for additional funding when unused funds become available through a grantee court's withdrawal from the program and/or when a court

does not spend its full grant award. Family Code section 3204(b)(2) requires the Judicial Council to determine the funding allocation awards to the superior courts.

[17-153](#)

Rules and Forms: Miscellaneous Technical Changes (Action Required)

**Summary:**

Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court, Judicial Council forms, and the Uniform Bail and Penalty Schedules resulting from typographical errors and changes resulting from legislation and previous rule amendments and form revisions. Judicial Council staff recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

[17-154](#)

Appellate Procedure: Designation of the Record in Limited Civil Cases (Action Required)

**Summary:**

The Appellate Advisory Committee recommends revising the form that appellants in limited civil cases may use to designate the record on appeal. The revisions are intended to (1) clarify the consequences for an appellant of choosing not to designate a record of the oral proceedings in the trial court, (2) make it easier for the appellant to identify what portions of an electronic recording the appellant wants transcribed, and (3) provide spaces where the appellant can indicate that he or she has chosen one of the permissible alternatives to a deposit for a court reporter's transcript. The committee also recommends making nonsubstantive revisions to the information sheet about limited civil appeals to reflect these changes.

[17-155](#)

Appellate Procedure: Payment for Partially Prepared Reporters' Transcripts (Action Required)

**Summary:**

The Appellate Advisory Committee recommends amending the rules regarding the preparation of reporters' transcripts in misdemeanor and infraction appeals to add language providing for payment of court reporters for portions of transcripts prepared at the point appeals are abandoned or dismissed out of funds deposited by appellants.

[17-156](#)

Appellate Procedure: Service of Briefs in Misdemeanor Cases (Action Required)

**Summary:**

To ensure that defendants in misdemeanor appeals are kept apprised of the arguments being made in their cases, the Appellate Advisory Committee recommends amending the rule regarding service of briefs in misdemeanor appeals. The rule would be amended to add provisions requiring the defendant's appellate counsel to send to the defendant a copy of each brief and requiring the People to serve an extra copy of their briefs on defendant's appellate counsel.

[17-157](#)

Appellate Procedure: Settled Statements in Unlimited Civil Cases (Action Required)

**Summary:**

The Appellate Advisory Committee recommends amending the rule regarding settled statements in Court of Appeal proceedings to remove the requirement for

obtaining a court order to use this procedure in certain circumstances, approving a new optional form for appellants to use in preparing proposed statements, and revising the form for designating the record on appeal to conform to these changes. The rule amendments and new form are intended to make the settled statements procedure in unlimited civil cases less burdensome for appellants and the courts.

[17-158](#)

Appellate Procedure: Verification of Writ Petitions (Action Required)

**Summary:**

To clarify that, under statute, all petitions for writs of mandate, certiorari, prohibition, and habeas corpus must be verified, the Appellate Advisory Committee recommends adding a provision indicating verification is required to all of the rules in title 8 of the California Rules of Court relating to such writ petitions that do not already include such a provision.

[17-159](#)

Court Interpreters: Noncertified and Nonregistered Spoken Language Interpreter Qualifications (Action Required)

**Summary:**

The Court Interpreters Advisory Panel (CIAP) recommends repealing the rule that establishes the procedures for provisional qualification and temporary use of noncertified and nonregistered interpreters in criminal and juvenile cases and revoking the information form that describes these procedures. CIAP recommends replacing them with a new rule that generally addresses the appointment of spoken language interpreters in all cases and a new information form that addresses the procedures for appointment of provisionally qualified and temporary interpreters in all cases. Additional changes to the rule and revisions to the form regarding the qualifications of noncertified and nonregistered interpreters would encourage noncertified and nonregistered interpreters to pursue certified and registered status. CIAP also recommends adopting a new form regarding the temporary use of such interpreters. These changes would implement legislation that took effect January 1, 2015, clarify existing processes, and effectuate provisions in the *Strategic Plan for Language Access in the California Courts* (the Language Access Plan).

[17-160](#)

Indian Child Welfare Act: Tribal Access to Court Records (Action Required)

**Summary:**

The Family and Juvenile Law Advisory Committee and Tribal Court-State Court Forum jointly recommend amending the rule regarding the confidentiality of juvenile court records to conform to the current statutory language in the Welfare and Institutions Code. These amendments will eliminate discrepancies between the rule and statutory requirements that practitioners and court staff advised were causing confusion.

[17-161](#)

Juvenile Law: Title IV-E Findings and Orders (Action Required)

**Summary:**

The Family and Juvenile Law Advisory Committee proposes amending three rules of court and revising 18 juvenile law forms designed to assist the courts in documenting required findings and orders in out-of-home placement cases. The proposed changes are designed to bring these rules and forms into compliance



with recent legislation.

[17-162](#)

**Family & Juvenile Law: Stepparent Adoption and Postadoption Contact by Siblings (Action Required)**

**Summary:**

The Family and Juvenile Law Advisory Committee recommends amending rule 5.451 of the California Rules of Court and revising five Judicial Council forms for use in adoption proceedings. The proposed changes conform them to new legislation relating to postadoption contact by siblings of dependent children or youth in delinquency and stepparent adoptions. Other proposed changes correct inaccuracies and outdated material in the forms.

[17-163](#)

**Family Law: Transfers of Title IV-D Child Support Cases Between State and Tribal Court (Action Required)**

**Summary:**

The Family and Juvenile Law Advisory Committee (committee) and the Tribal Court-State Court Forum (forum) propose amendments to rule 5.372 governing discretionary transfer of title IV-D child support cases between state courts and tribal courts in cases of concurrent jurisdiction. The amendments would allow transfers from the tribal court to the state court, clarify the contents and procedures for motions to transfer, and modify the factors and procedures for ruling on motions to transfer. These proposed amendments are based on suggestions received from those involved in transfers between the state courts in Humboldt and Del Norte Counties and the Yurok Tribal Court.

[17-164](#)

**Juvenile Law: Court Appointed Special Advocates (Action Required)**

**Summary:**

The Family and Juvenile Law Advisory Committee recommends amending the rule that establishes requirements for Court Appointed Special Advocate (CASA) programs to clarify the relationship between these programs and the court and to comply with legislation which authorized appointment of CASAs for delinquent youth and nonminor dependents. The committee also recommends approval of a new form to enable CASA programs to obtain consent from the nonminor dependent before reviewing the nonminor dependent's court file.

[17-165](#)

**Court Facilities: Report Back on Utility and Maintenance Costs Reduction and Revised Energy Conservation Guidelines (Action Required)**

**Summary:**

The action plan adopted by the Judicial Council in May 2017-to address the Court Facilities Trust Fund's (CTFF) funding shortfall of \$10.3 million in FY 2017-2018-targeted cutting 10 percent of operations and maintenance costs and utility costs in trial court facilities statewide. Progress toward realizing a 10 percent reduction in operations and maintenance costs continues as council staff negotiate with onsite service providers, delegated trial courts, and counties. Progress continues toward a 10 percent reduction in utility costs through energy-efficiency projects and behavioral changes. As part of the effort to affect behavioral changes that quickly impact utility costs and realize savings, the Trial Court Facility Modification Advisory Committee (TCFMAC)



recommends that Judicial Council adopt the revised energy conservation guidelines. As every dollar saved in utility costs can be applied to trial court facilities operations and maintenance, the TCFMAC advocates for quick action on energy conservation and efficiency in order to protect CFTF funds.

[17-166](#)

Juvenile Law: Psychotropic Medication (Action Required)

**Summary:**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 5.640, relating to the administration of psychotropic medications to children who are dependents or wards of the court; adopt one form; and revise nine forms to address suggestions received from stakeholders who assisted with the implementation of recent statutory changes to the requirements for court authorization of psychotropic medication for foster children and others affected by this rule and these forms.

[17-169](#)

Rules and Forms: Technical Changes to Title of Supreme and Appellate Court Clerks (Action Required)

**Summary:**

Recent legislation changes the title of the clerk or clerk/administrator of the Supreme Court and courts of appeal to “clerk/executive officer.” Judicial Council staff recommends making conforming revisions to the clerk’s title everywhere it appears in the rules of court.

[17-170](#)

Court Facilities: Delegation of Authority for Disposition of Equity Interests (Action Required)

**Summary:**

Following the completion of construction of new courthouses, and at other times for operational reasons, courts vacate court facilities that are no longer suitable to the needs of the judicial branch. Often the vacated court facilities are located in buildings where the counties are the owner of record, but the Judicial Council remains liable for, and obligated to pay its share of the cost of operations and maintenance of its equity interest in the closed court facilities. To eliminate the continuing liability and cost associated with permanently closed court facilities in county-owned buildings, the Facilities Policies Working Group recommends delegating to the Administrative Director the authority to dispose of the Judicial Council’s equity interest in such facilities where the counties are the owner of record.

[17-171](#)

Court Facilities: Disposition of West Los Angeles Courthouse (Action Required)

**Summary:**

The West Los Angeles Courthouse facility in Los Angeles County has been permanently closed and is unsuitable to the needs of the judicial branch. The City of Los Angeles has expressed an interest in acquiring the closed court facility while the County of Los Angeles has previously notified the Judicial Council that it is not interested in acquiring the West Los Angeles Courthouse facility. The local court supports the disposition of this facility. To eliminate the council’s continuing liability and expense in holding this permanently closed court facility and to realize the value of those assets in a fair market value sales transaction, the Facilities Policies Working Group recommends that the Judicial

Council authorize and approve the sale of this courthouse facility as nonsurplus property and direct council staff to take all actions necessary to dispose of the West Los Angeles Courthouse facility.

## DISCUSSION AGENDA

### [17-133](#) Judicial Branch Administration: FI\$Cal Deployment for Judicial Council of California (Action Required)

**Summary:** Staff of the Judicial Council recommend moving forward with the deployment of the Financial Information System for California (FI\$Cal) to replace the existing Oracle Financial System for budget, accounting, and procurement. Funding for the project was included in the Budget Act of 2017. The planned date that the system will be available for use is July 1, 2018.

**Speakers:** Mr. Doug Kauffroath, Branch Accounting and Procurement  
Mr. Zlatko Theodorovic, Budget Services

*20 minutes*

### [17-146](#) Civil Practice and Procedure: Request for Entry of Default (Action Required)

**Summary:** The Civil and Small Claims Advisory Committee recommends adopting a new mandatory form for requesting entry of default and default judgment in cases subject to the Fair Debt Buying Practices Act, which imposes a number of requirements that debt buyers who purchase chargedoff consumer debt must meet in order to pursue collection efforts and seek a default judgment against the debtor. The committee also recommends revising the current form for requesting entry of default and default judgment in all other civil cases, and amending the rule regarding default judgment to include references to the new form. The new form will assist litigants and courts by listing the extensive statutory requirements for a default judgment under the act. Both forms also include a revised declaration of nonmilitary service.

**Speakers:** Hon. Ann I. Jones, Vice-chair, Civil and Small Claims Advisory Committee  
Ms. Christy Simons, Legal Services

*20 minutes*

### [17-149](#) Judicial Vacancies: Implementation of Assembly Bill 103 (Stats. 2017, ch. 17); Reallocation of Vacant Judgeships (Action Required)

**Summary:** The Policy Coordination and Liaison Committee recommends approving the reallocation of two judgeships in the Superior Courts of Santa Clara and Alameda Counties-those that have been vacant for the longest period of time-so that they may be transferred to the Superior Courts of San Bernardino and Riverside Counties, respectively, in accordance with Assembly Bill 103.

**Speakers:** Hon. Kenneth K. So, Chair, Policy Coordination and Liaison Committee

*10 minutes*

[17-167](#)

## Trial Court Allocations: Trial Court Trust Fund Funds Held on Behalf of the Trial Courts (Action Required)

**Summary:**

The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council approve four new requests and five amended requests for Trial Court Trust Fund (TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, a court may request funding reduced as a result of a court exceeding its 1 percent fund balance cap be retained in the TCTF for the benefit of that court. The total estimated amount requested by the trial courts that would be reduced from their 2017-2018 allocations for exceeding the cap is \$771,409. The council will be informed of any final adjustments to the estimated amounts after 2016-2017 year-end.

**Speakers:**

Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee  
Mr. Zlatko Theodorovic, Budget Services

10 minutes

**INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**[17-094](#)

## Statewide Traffic Amnesty Program Information

**Summary:**

The Judicial Council's Funds & Revenues Unit recommends that the council review and approve the attached report on the Statewide Traffic Amnesty Program for submittal to the Legislature, as required by Vehicle Code section 42008.8.

[17-096](#)

## Judicial Council Report to the Legislature: Cash Flow Loans Made to Courts

**Summary:**

Judicial Council staff recommends approval of the *Report on Cash Flow Loans Made to Courts in Fiscal Year 2016-2017*. Government Code section 68502.6 requires that the Judicial Council report to the Legislature annually on all cash flow loans made to the courts.

[17-099](#)

## Trial Courts: Court Realignment Data (Calendar Year 2016)

**Summary:**

Pursuant to Penal Code section 13155, commencing January 1, 2013, the Judicial Council must collect information from trial courts regarding the implementation of the 2011 Criminal Justice Realignment Legislation and submit the data annually to the California Department of Finance (DOF), the Board of State and Community Corrections (BSCC), and the Joint Legislative Budget Committee (JLBC) by September 1. This is the fifth annual court realignment data report to the DOF, BSCC, and JLBC. The Court Realignment Data (Calendar Year 2016) will be included as Attachment A to the report.

[17-100](#)

## Judicial Branch Semiannual Contract Reporting Requirement: Executed Contracts and Vendor Payments for the Period of January 1 through June 30, 2017

**Summary:**

Public Contract Code section 19209 and the Judicial Branch Contracting

Manual require that the Judicial Council submit a report semiannually to the Joint Legislative Budget Committee and the State Auditor listing (1) all vendors or contractors receiving payments from any judicial branch entity and their associated distinct contracts, and (2) for every vendor or contractor receiving more than one payment, the amount of the payment, type of good or service provided, and judicial branch entity receiving the good or service. Therefore, the Judicial Council staff submitted this 12th semiannual report on August 1, 2017, which listed all judicial branch entity contracts that were amended during the reporting period covering January 1 through June 30, 2017.

[17-126](#)

**Trial Courts: Annual Investment Report for Fiscal Year 2016-2017**

**Summary:**

This *Trial Courts: Annual Investment Report for Fiscal Year 2016-2017* covers the period of July 1, 2016, through June 30, 2017, and provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under agenda item 10, Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

[17-134](#)

**Court Security: Report on Trial Court Screening Equipment Replacement for Fiscal Year 2016-2017**

**Summary:**

The Screening Equipment Replacement Program has been in operation since fiscal year 2006-2007 and provides \$2.286 million in funding from the Trial Court Trust Fund to replace outdated or malfunctioning screening equipment in the trial courts. Each year the Administrative Director approves the list of entrance screening equipment to be funded that year through this program. This report updates the council on the entrance screening equipment that was replaced in fiscal year 2016-2017 using that funding.

[17-152](#)

**Court Facilities: Trial Court Facility Modification Quarterly Activity Report for Quarter 4 of Fiscal Year 2016-2017**

**Summary:**

The Trial Court Facility Modification Advisory Committee (TCFMAC) has completed its facility modification funding for the third quarter of fiscal year 2016-2017. In compliance with the *Trial Court Facility Modifications Policy*, the advisory body is submitting its *Trial Court Facility Modification Quarterly Activity Report: Quarter 4, Fiscal Year 2016-2017* as information for the council. This report summarizes the activities of the TCFMAC from April 1, 2017, to June 30, 2017.

[17-168](#)

Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Report No. 43)

**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 43rd report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, four superior courts-San Francisco, San Diego, Ventura, and Fresno Counties-have issued new notices.

**There were no Circulating Orders since the last business meeting.**

**Appointment Orders**

**17-150** Appointment Orders since the last business meeting.

**Adjournment (approx. 11:20 a.m.)**